LODI CITY COUNCIL

Carnegie Forum
305 West Pine Street, Lodi

TM

AGENDA – REGULAR MEETING

Date: **March 2, 2016**
Time: **Closed Session 6:30 p.m.**
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:
Jennifer M. Ferraiolo
City Clerk
Telephone: (209) 333-6702

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

C-1 Call to Order / Roll Call

C-2 Announcement of Closed Session

a) Conference with Adele Post, Human Resources Manager, and Jordan Ayers, Deputy City Manager (Labor Negotiators), Regarding Lodi City Mid-Management Association, AFSCME General Services and Maintenance & Operators, International Brotherhood of Electrical Workers, Police Mid-Managers, Lodi Police Officers Association, Lodi Police Dispatchers Association, Fire Mid-Managers, Lodi Professional Firefighters, and Unrepresented Confidential Employees; and Conference with Adele Post, Human Resources Manager, and Stephen Schwabauer, City Manager (Labor Negotiators), Regarding Unrepresented Executive Management Pursuant to Government Code §54957.6 (CM)

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

B-1 National Nutrition Month Proclamation (CLK)

B-2 Fix a Leak Week Proclamation (PW)

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

C-1 Receive Register of Claims in the Amount of $2,725,243.61 (FIN)

C-2 Approve Minutes (CLK)
a) February 9 and February 16, 2016 (Shirtsleeve Sessions)
b) February 17, 2016 (Regular/Special Joint Meeting)

C-3 Approve Specifications and Authorize Advertisement for Bids for 2016 Extruded Traffic Stripes, Various City Streets (PW)

C-4 Approve Specifications and Authorize Advertisement for Bids for Well 23 Granular Activated Carbon Replacement Project (PW)

Res. C-5 Adopt Resolution Approving Purchase of Ultra Violet Disinfection Equipment for White Slough Water Pollution Control Facility from DC Frost Associates, Inc., of Walnut Creek ($145,471) (PW)

Res. C-6 Adopt Resolution Authorizing City Manager to Execute Professional Services Agreement with Garland/DBS, Inc., of Cleveland, Ohio, for Hutchins Street Square Roof Repair Project Phase 2 ($157,685) (PW)

Res. C-7 Adopt Resolution Authorizing City Manager to Execute Professional Services Agreement with Terracon, of Lodi, for Construction Testing and Inspection Services ($574,610) and Amendment No. 1 to Professional Services Agreement with Michael Baker International, Inc., of Rancho Cordova, for Labor Compliance Monitoring ($24,000) for Grade Separation, Harney Lane at Union Pacific Railroad, Overhead Project (PW)

Res. C-8 Adopt Resolution Authorizing City Manager to Execute a Multi-Year Professional Services Agreement for Electric Utility Rate Analysis Services with EES Consulting, of Kirkland, Washington ($90,000) (EU)

Res. C-9 Adopt Resolution Authorizing City Manager to Execute Financial Documents with Tienda Drive Senior Apartments, L.P., Eden Housing, Inc., and Eden Development, Inc., for the Tienda Drive Senior Housing Project at 2245 and 2255 Tienda Drive (CD)

Res. C-10 Adopt Resolution Authorizing Submittal of Application for Payment Programs and Related Authorizations by the Public Works Management Analyst with the Department of Resources Recycling and Recovery (PW)

C-11 Adopt Parks, Recreation, and Cultural Services Strategic Action Plan (PRCS)

C-12 Set Public Hearing for March 16, 2016, to Consider Adopting a Resolution Approving the 2016/17 Draft Annual Action Plan and the Amendment of the 2015/16 Annual Action Plan (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.

Public comment may only be made on matters within the Lodi City Council's jurisdiction (Government Code Section 54954.3, Lodi City Council Protocol Manual Section 6.3l). The Council cannot take action or deliberate on items that are not on this agenda unless there is an emergency and the need to take action on that emergency arose after this agenda was posted (Government Code Section 54954.2(b)(2)). All other items may only be referred for review to staff or placement on a future 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 Appointments to the Site Plan and Architectural Review Committee (CLK)

I. Regular Calendar

Res. I-1 Adopt Resolution Approving Fiscal Year 2015/16 Mid-Year Budget Adjustments (CM)

I-2 Discuss Recreation Commission's Recommendation for One-Eighth Cent Sales Tax Measure on November 2016 Ballot to Benefit Parks and Provide Direction (PRCS)

Res. I-3 Adopt Resolution Approving the New Classification and Salary Range of Events Coordinator and Approving the Reclassification of One Senior Administrative Clerk to Events Coordinator (CM)

Res. I-4 Adopt Resolution Approving the New Classification and Salary Range of Utility Billing Specialist and Approving the Reclassification of Three Customer Service Representatives to the Position of Utility Billing Specialist (CM)

Res. I-5 Adopt Resolution Approving Amendments to the Job Description and Salary Range of City Planner and Approving the Reclassification of One Senior Planner to City Planner (CM)

Res. I-6 Adopt Resolution Approving Classification, Job Description, and Salary Range for the Position of Electric Utility Resource Analyst (CM)

J. Ordinances – None

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.

_____
Jennifer M. Ferraiolo
City Clerk

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 72 hours prior to the meeting date. Language interpreter requests must be received at least 72 hours in advance of the meeting to help ensure availability. Contact Jennifer M. Ferraiolo at (209) 333-6702. Solicitudes de interpretación de idiomas deben ser recibidas por lo menos con 72 horas de anticipación a la reunión para ayudar a asegurar la disponibilidad. Llame a Jennifer M. Ferraiolo (209) 333-6702.

Meetings of the Lodi City Council are telecast on SJTV, Channel 26. The City of Lodi provides live and archived webcasts of regular City Council meetings. The webcasts can be found on the City's website at www.lodi.gov by clicking the meeting webcasts link.

AGENDA ITEM B-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: National Nutrition Month Proclamation

MEETING DATE: March 2, 2016

PREPARED BY: City Clerk

RECOMMENDED ACTION: Mayor Chandler will present a proclamation proclaiming the month of March 2016 as "National Nutrition Month" in the City of Lodi.

BACKGROUND INFORMATION: The Mayor has been requested to present a proclamation proclaiming the month of March 2016 as "National Nutrition Month" in the City of Lodi. Lodi Memorial Hospital Clinical Nutrition Supervisor Chad Edwards, MS, RD, CNSC, will be at the meeting to accept the proclamation.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

_____
Jennifer M. Ferraiolo
City Clerk

JMF/PMF

APPROVED: _____
Stephen Schwabauer, City Manager

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AGENDA ITEM B-02

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Presentation of Proclamation Proclaiming March 14 to 20, 2016, as "Fix a Leak Week" in Lodi

MEETING DATE: March 2, 2016

PREPARED BY: Interim Public Works Director

RECOMMENDED ACTION: Presentation of proclamation proclaiming March 14 to 20, 2016, as "Fix a Leak Week" in Lodi.

BACKGROUND INFORMATION: This year marks the U.S. Environmental Protection Agency's WaterSense program's eighth "National Fix a Leak Week," a time to remind Americans to check their household fixtures and irrigation systems for leaks.

Common types of leaks found in the home include leaking toilet flappers, dripping faucets, showerheads, and other leaking valves. Fixing easily-corrected household water leaks can save homeowners the amount of water used to fill a backyard swimming pool each year and 10 percent or more on their utility costs.

Approximately four percent of the nation's electricity consumption is used moving or treating water and wastewater. One of the best ways to save energy across the country and in our own homes is to use water more efficiently.

The City of Lodi Public Works Department's Water Conservation Program is designed to reduce demands on the City's water supply by increasing the efficiency of water use within its service area and has been a WaterSense promotional partner since 2010.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

Charles E. Swimley, Jr.
Interim Public Works Director

Prepared by Kathryn E. Garcia, Compliance Engineer

CES/KG/trb
Attachment

APPROVED: _____
Stephen Schwabauer, City Manager

AGENDA ITEM C-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Receive Register of Claims through February 11, 2016 in the total amount of $2,725,243.61

MEETING DATE: March 2, 2016

PREPARED BY: Financial Services Manager

RECOMMENDED ACTION: Receive the attached Register of Claims for $2,725,243.61

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of $2,725,243.61 through 2/11/16. Also attached is Payroll in the amount of $1,294,133.54

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: As per attached report.

_____
Ruby R. Paiste
Financial Services Manager

RRP/mlm

Attachments

APPROVED: _____
Stephen Schwabauer, City Manager

Council Report
City of Lodi, CA - v10.5 Live
1/29/2016 through 2/11/2016

Fund				Amount
100 - General Fund				1,704,924.56
120 - Library Fund				10,548.55
140 - Expendable Trust				70,185.62
200 - Parks Rec & Cultural Services				87,404.47
214 - LPD-OTS Grants				46.66
270 - Comm Dev Special Rev Fund				7,446.40
301 - Gas Tax-2105 2106 2107				36,372.83
302 - Gas Tax -2103				127,420.00
303 - Measure K Funds				13,062.74
305 - TDA - Streets				20,000.00
315 - Prop.1B-Local Streets & Roads				2,221.50
350 - H U D				11,557.39
403 - Vehicle Replacement Fund - PD				3,124.21
431 - Capital Outlay/General Fund				11,796.72
432 - Parks & Rec Capital				53,306.65
500 - Electric Utility Fund				76,094.81
501 - Utility Outlay Reserve Fund				106.79
508 - Environmental Compliance				5,632.00
530 - Waste Water Utility Fund				72,586.65
531 - Waste Wtr Util-Capital Outlay				131,973.51
560 - Water Utility Fund				56,142.84
561 - Water Utility-Capital Outlay				62,562.30
590 - Central Plume				5,512.76
600 - Dial-a-Ride/Transportation				6,958.06
601 - Transit Capital				3,749.28
603 - Prop 1B - TSSSDRA				1,846.65
604 - Low Carbon Transit Operation				93.95
650 - Internal Service/Equip Maint				30,046.92
655 - Employee Benefits				105,545.91
660 - General Liabilities				17.09
665 - Worker's Comp Insurance				51.59
801 - L&L Dist Z1-Almond Estates				6,904.20
Total				2,725,243.61

Council Report: Payroll
City of Lodi, CA - v10.5 Live
Pay Period 1/31/2016

Fund	Description	Amount
100	General Fund	746,355.47
120	Library Fund	21,671.59
200	Parks Rec & Cultural Services	105,238.63
214	LPD-OTS Grants	1,203.99
270	Comm Dev Special Rev Fund	30,573.77
301	Gas Tax-2105 2106 2107	30,330.79
500	Electric Utility Fund	175,723.69
530	Waste Water Utility Fund	133,629.08
560	Water Utility Fund	19,977.84
600	Dial-a-Ride/Transportation	8,732.33
650	Internal Service/Equip Maint	18,240.65
655	Employee Benefits	2,455.71
Report Total		**1,294,133.54**

AGENDA ITEM C-02

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approve Minutes
a) February 9, 2016 (Shirtsleeve Session)
b) February 16, 2016 (Shirtsleeve Session)
c) February 17, 2016 (Regular/Special Joint Meeting)

MEETING DATE: March 2, 2016

PREPARED BY: City Clerk

RECOMMENDED ACTION: Approve the following minutes as prepared:
a) February 9, 2016 (Shirtsleeve Session)
b) February 16, 2016 (Shirtsleeve Session)
c) February 17, 2016 (Regular/Special Joint Meeting)

BACKGROUND INFORMATION: Attached are copies of the subject minutes marked Exhibit A through C, respectively.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

Jennifer M. Ferraiolo
City Clerk

Attachments

APPROVED: _____
Stephen Schwabauer, City Manager

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LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, FEBRUARY 9, 2016

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, February 9, 2016, commencing at 7:00 a.m.

Present: Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Kuehne, and Mayor Chandler
Absent: Council Member Nakanishi
Also Present: City Manager Schwabauer, City Attorney Magdich, and City Clerk Ferraiolo

NOTE: Mayor Pro Tempore Kuehne left the meeting at 7:51 a.m.

B. Topic(s)

B-1 Discuss Framework for Long-Range Budget Policies (CM)

Deputy City Manager Jordan Ayers summarized that last week's Shirtsleeve Session focused on the budget and reserve policies, while this week's topic discusses concepts for long-range budget policies. He stated that this process will take three steps: 1) Council feedback and direction on proposed policy issues; 2) policy adoption by Council; and 3) implementation of the policies. Mr. Ayers stated that staff will return in late summer or early fall with proposed policies for Council consideration and adoption, after which Council can choose to implement the policies at either the 2016/17 mid-year budget review or at the 2017/18 budget adoption.

Mr. Ayers provided a PowerPoint presentation regarding the framework for long-range budget policies. Specific topics of discussion included goal, Capital Improvement Plan, capital replacement - vehicles, capital replacement - facilities, capital replacement - information technology, Other Post-Employment Benefits (OPEB) funding, pension stabilization, and recommended priorities.

Mayor Pro Tempore Kuehne questioned if staff would be providing Council with the funding priorities for the monies set aside for street rehabilitation and other projects prior to any funds being spent. Council Member Mounce further clarified the question, asking if staff would provide that information to Council during budget review prior to the final printing of the approved budget. Mr. Ayers stated the purpose of a Capital Improvement Plan is to set forth the priorities over the next five years and the schedule for those projects, all of which will be a part of the published budget document. City Manager Schwabauer added that, during the budget presentations at Shirtsleeve Sessions and Regular Council meetings, staff will include this information in order for Council to ask questions, make comments, and request amendments.

Mr. Ayers responded to a question that was posed at the previous Shirtsleeve Session regarding useful life of vehicles, stating that the City's criteria is set forth in the Comprehensive Annual Financial Report, which is 5 to 15 years, depending on the nature of the vehicle.

In response to Mayor Pro Tempore Kuehne, Mr. Ayers stated that the tax concept is not applicable to the City; therefore, there is no tax depreciation associated with vehicles. The City utilizes a straight line depreciation, and he used the example that a $20,000 vehicle with a four-year lifespan would need $4,000 set aside each year for replacement.

Council Member Mounce appreciated staff's effort in creating appropriate equations to ensure all assets can be repaired or replaced, but she expressed concern with how the City will ultimately

achieve this goal, particularly with the pension issue and the set-aside funding for assets that were never covered in the past. Mr. Schwabauer stated that staff acknowledges this goal is larger than the near-term ability to accomplish, but he stressed the importance in ascertaining the needs so the City can systematically meet its goals. In response to Council Member Mounce, Mr. Ayers stated that former City Manager Blair King created the vehicle replacement fund and money was set aside, although it is an insufficient amount. Council Member Mounce requested information on how much money was set aside in the vehicle replacement fund and for Parks and Recreation for the last five years. Mr. Ayers stated that the current projection as of June 30, 2016, is $1.1 million set aside for general fund functions, and he stated he would provide a breakdown for the last five years.

In response to Mayor Pro Tempore Kuehne regarding the previous question, Mr. Ayers reiterated that $1.1 million is set aside at this time, but the amount necessary is $4.1 million, i.e. $3.1 million short.

Mr. Ayers stated that the useful lifespan for major systems relating to facilities would be 15 to 20 years and for information technology equipment 3 to 10 years, depending on the equipment.

Council Member Mounce requested that Mr. Ayers clarify for the media that the City of Lodi does not provide healthcare for retirees. Mr. Ayers stated that the City pays $130 per employee per month for healthcare as mandated by the California Public Employees Retirement System (Cal-PERS) and converts sick leave to healthcare for those employees hired prior to 1995, the amount of which depends on the sick leave balance per employee. In further response, Mr. Ayers confirmed that those employees can choose to convert their sick leave to cash; however, a majority opt to convert to healthcare. He further reiterated that the City no longer offers the sick leave conversion program to employees; it ended in 1995.

Mr. Ayers reported that fully funding an OPEB trust fund with an assumption of a 4 percent rate of return at 10 years would require a $1.3 million contribution; at 15 years $800,000; and at 20 years $540,000 and that the general fund is 70 percent of the cost. He stated that, if Council would like to proceed, staff could return with a Request for Proposal process to set up a trust fund. For a pension stabilization fund with a liability of $91 million following the same assumption, it would be 10 years at an additional contribution of $7.5 million; 20 years at an additional $3 million; and 30 years at an additional $1.6 million, with the general fund costs at 70 percent.

In response to Mayor Pro Tempore Kuehne, Mr. Ayers stated that the City does not currently have a third-party trust for OPEB or pension stabilization, but it does have third-party bank accounts that are operated by a third-party administrator for workers compensation and liability insurance. There are no third-party trusts addressing unfunded liabilities.

In response to Council Member Mounce, Mr. Ayers confirmed that the funding set aside for groundwater contamination is held by the local treasury and from a financial reporting standard, it is shown as a restricted fund. Unfortunately, OPEB cannot be handled similarly because it does not count toward the unfunded liability if it is held by the local treasury; it must be structured as a trust.

In response to Mayor Chandler, Mr. Schwabauer explained that withdrawing from Cal-PERS would come at a significant cost to the City by adding $300,000 to $400,000 on the current $91 million liability. He did not see any possibility of Lodi acquiring enough funds to buy out of Cal-PERS.

In response to Mayor Pro Tempore Kuehne, Mr. Ayers stated that maintenance is not included in facility replacement; it is only for capital improvements and not general upkeep and repairs.

Council Member Mounce requested information on what it would take for Lodi to opt out of the healthcare offered by Cal-PERS and reported that the League of California Cities is working on a project to offer market place insurance for cities, which would provide greater control for employees over their healthcare choices at a lower cost to them and cities. She suggested

looking into leaving Cal-PERS or offering a combination of the two programs. Mr. Schwabauer stated he would look into the matter.

C. Comments by Public on Non-Agenda Items

Myrna Wetzel provided a presentation on the importance of rain barrels for collecting water runoff from gutters for use on lawns and gardens. Since the installation of her rain barrel, Ms. Wetzel reported that she has collected 200 gallons of water. She estimated that if 6,000 Lodi households installed rain barrels and each collected a minimum of 50 gallons of water, it would represent a savings of 300,000 gallons of water. She urged the City to consider incentives to residents to buy and install rain barrels, including a rebate program for those who are interested.

In response to Mayor Chandler, Ms. Wetzel stated that she plans to use her collected water on the trees, bushes, and plants in her yard, adding that she recently purchased a hand siphon to assist in her irrigation efforts. Ms. Wetzel presented Council with an article entitled, "Harvesting Rainwater" (filed) for Council's information. Mayor Chandler agreed this is a sound concept and stated the State is reviewing all options for collection and reuse of stormwater.

Council Member Mounce requested the City Manager create a rebate program proposal for rain barrels for Council consideration or a program in which the City purchases barrels in bulk for resale to citizens at a reduced rate. City Manager Schwabauer confirmed the City currently offers water efficiency programs, but it does not include rain barrels at this time. He will research options and return to Council.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 7:52 a.m.

ATTEST:

Jennifer M. Ferraiolo
City Clerk

LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, FEBRUARY 16, 2016

The February 16, 2016, Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was canceled.

ATTEST:

Jennifer M. Ferraiolo
City Clerk

LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, FEBRUARY 17, 2016

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of February 17, 2016, was called to order by Mayor Chandler at 6:34 p.m.

Present: Council Member Mounce, Mayor Pro Tempore Kuehne, and Mayor Chandler
Absent: Council Member Johnson, and Council Member Nakanishi
Also Present: City Manager Schwabauer, City Attorney Magdich, and Deputy City Clerk Farris

C-2 Announcement of Closed Session

a) Conference with Adele Post, Human Resources Manager, and Jordan Ayers, Deputy City Manager (Labor Negotiators), Regarding Lodi City Mid-Management Association, AFSCME General Services and Maintenance & Operators, International Brotherhood of Electrical Workers, Police Mid-Managers, Lodi Police Officers Association, Lodi Police Dispatchers Association, Fire Mid-Managers, Lodi Professional Firefighters, and Unrepresented Confidential Employees; and Conference with Adele Post, Human Resources Manager, and Stephen Schwabauer, City Manager (Labor Negotiators), Regarding Unrepresented Executive Management Pursuant to Government Code §54957.6 (CM)

C-3 Adjourn to Closed Session

At 6:34 p.m., Mayor Chandler adjourned the meeting to a Closed Session to discuss the above matter. The Closed Session adjourned at 6:48 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:00 p.m., Mayor Chandler reconvened the City Council meeting, and City Attorney Magdich disclosed the following action. Item C-2a was discussion only with no reportable action.

A. Call to Order / Roll Call

The Regular/Special Joint City Council meeting of February 17, 2016, was called to order by Mayor Chandler at 7:00 p.m.

Present: Council Member Mounce, Council Member Nakanishi, Mayor Pro Tempore Kuehne, and Mayor Chandler
Absent: Council Member Johnson
Also Present: City Manager Schwabauer, City Attorney Magdich, and Deputy City Clerk Farris

B. Presentations - None

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

Council Member Mounce made a motion, second by Mayor Pro Tempore Kuehne, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:
The above motion carried by the following vote:

Ayes: Council Member Mounce, Council Member Nakanishi, Mayor Pro Tempore Kuehne, and Mayor Chandler
Noes: None
Absent: Council Member Johnson

C-1 Receive Register of Claims in the Amount of $7,293,520.85 (FIN)

Claims were approved in the amount of $7,293,520.85.

C-2 Approve Minutes (CLK)

The minutes of February 2, 2016 (Shirtsleeve Session) and February 3, 2016 (Regular Meeting) were approved as written.

C-3 Accept Quarterly Report of Purchases between $10,000 and $20,000 (CM)

Accepted the Quarterly Report of Purchases between $10,000 and $20,000.

C-4 Accept Quarterly Investment Report as Required by the City of Lodi Investment Policy (CM)

Accepted the Quarterly Investment Report as required by the City of Lodi Investment Policy.

C-5 Accept Donation of Kiwanis Picnic Shelter at Lodi Lake Park from Kiwanis Club of Greater Lodi (PRCS)

Accepted the donation of the Kiwanis picnic shelter at Lodi Lake Park from the Kiwanis Club of Greater Lodi.

C-6 Adopt Resolution Awarding Contract for 2016 Pavement Crack Sealing, West Lodi Avenue, to Telfer Pavement Technology, LLC, of McClellan ($42,891) (PW)

Adopted Resolution No. 2016-16 awarding the contract for 2016 Pavement Crack Sealing, West Lodi Avenue, to Telfer Pavement Technology, LLC, of McClellan, in the amount of $42,891.

C-7 Adopt Resolution Awarding Contract for Central Plume - Mid Plume PCE/TCE Groundwater Treatment Project to Water Rock Construction Corporation, of Alameda ($445,000) (PW)

Adopted Resolution No. 2016-17 awarding the contract for Central Plume - Mid Plume PCE/TCE Groundwater Treatment Project to Water Rock Construction Corporation, of Alameda, in the amount of $445,000.

C-8 Adopt Resolution Authorizing City Manager to Execute Task Order No. 39 with West Yost Associates, of Davis, for Engineering Design and Construction Management Services for White Slough Water Pollution Control Facility Improvements ($469,300) (PW)

Adopted Resolution No. 2016-18 authorizing the City Manager to execute Task Order No. 39 with West Yost Associates, of Davis, for engineering design and construction management services for White Slough Water Pollution Control Facility improvements in the amount of $469,300.

C-9 Adopt Resolution Authorizing City Manager to Execute Agreement with Partners for a Safer America (PD)

Adopted Resolution No. 2016-19 authorizing the City Manager to execute an agreement with Partners for a Safer America.

C-10 Adopt Resolution Authorizing City Manager to Execute Agreement for Copy Machine Equipment and Maintenance with Ricoh, USA ($104,000) (PD)

Adopted Resolution No. 2016-20 authorizing the City Manager to execute an agreement for copy machine equipment and maintenance with Ricoh, USA, in the amount of $104,000.

C-11 Adopt Resolution Authorizing City Manager to Apply for Grant Administered by Department of Alcoholic Beverage Control (PD)

Adopted Resolution No. 2016-21 authorizing the City Manager to apply for a grant administered by the Department of Alcoholic Beverage Control.

C-12 Adopt Resolution Selecting State Route 99/Turner Road Interchange Improvements as Project Nomination for San Joaquin Council of Governments' One Voice Trip (PW)

Adopted Resolution No. 2016-22 selecting State Route 99/Turner Road Interchange Improvements as the project nomination for the San Joaquin Council of Governments' One Voice Trip.

C-13 Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Opposition for SB 876 (Liu): Enforcement of Local Ordinances (CLK)

This item was pulled by Council Members Nakanishi and Mounce for comment.

Council Member Nakanishi commented that the State mandates what local governments must do, but they do not provide the funding.

Council Member Mounce explained that this law would enable homeless people to take up residence in city plazas, parks, and even the easements in front of homes; if the city owns the property, the homeless can live there and there is nothing the local jurisdiction can do about it. She further explained the League of California Cities has been instrumental in bringing control back to local governments; the homeless issue is a local issue, and the City of Lodi, along with the Salvation Army, is doing an amazing job; the League of California Cities does not support the State telling cities what to do with their communities; the intent of the bill is good because it is trying to find housing for the homeless, but the State should not dictate how local jurisdictions police their own communities. Council Member Mounce encouraged citizens to call Senator Galgiani and urge her to vote no on SB 876.

Mayor Chandler thanked Council Member Mounce for her comments and agreed that Lodi is doing a very good job making progress on homelessness. He stated that there is a Homeless Solutions Committee and it has two subcommittees, one looking at short-range solutions and the other looking at longer-range solutions, on which he and Mayor Pro Tempore Kuehne serve; they have been reaching out to other communities that have successful programs in place; and the Salvation Army and the Lodi Community Foundation have both done a terrific job. He stated that he agrees with Council Member Mounce in that the City is making good progress on its own and should have the authority to deal with this problem locally and not have State mandates thrust upon it.

Council Member Mounce made a motion, second by Mayor Pro Tempore Kuehne, to authorize the Mayor, on behalf of the City Council, to send a letter of opposition for SB 876 (Liu): Enforcement of Local Ordinances.

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Mounce, Council Member Nakanishi, Mayor Pro Tempore Kuehne, and Mayor Chandler
Noes: None
Absent: Council Member Johnson

C-14 Set Public Hearing for March 16, 2016, to Consider Resolution Adopting Pre-Approved Proposition 218 Consumer Price Index-Based Annual Adjustment to Rates for Solid Waste Collection (PW)

Set public hearing for March 16, 2016, to consider a resolution adopting pre-approved Proposition 218 Consumer Price Index-Based annual adjustment to rates for solid waste collection.

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. Public comment may only be made on matters within the Lodi City Council's jurisdiction (Government Code Section 54954.3, Lodi City Council Protocol Manual Section 6.3l). The Council cannot take action or deliberate on items that are not on this agenda unless there is an emergency and the need to take action on that emergency arose after this agenda was posted (Government Code Section 54954.2(b)(2)). All other items may only be referred for review to staff or placement on a future Council agenda.

Michael Harris invited Council members and the public to attend Yoga in the Morning and Roots, Wine and Reggae on Saturday at noon at the Lodi Events Center.

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

Council Member Nakanishi reported that the Stockton Record recently had an article about the City of Stockton raising water rates due to a decrease in revenue that occurred in conjunction with water rationing; fortunately, the City of Lodi is not in that position. He also commented on the public perception that water is being wasted when fire hydrants are opened for cleaning, but the stagnant water must be released. He also reminded everyone that it is important to use water judiciously. City Manager Stephen Schwabauer clarified that the flushing of the City's water system is driven by the amount of time that the water sits in pipes and that it is an issue of taste and odor, not water quality.

Council Member Mounce shared a complaint from a citizen regarding watering and overspray on the median located on Ham Lane, south of Kettleman Lane. She asked Interim Public Works Director Charlie Swimley to check into why the City is watering during the winter and to correct the overspray; the City should not be wasting water while asking citizens to conserve.
Mr. Swimley responded that median sprinklers were turned off late in the fall but he will check into both the timers and the overspray issue.

Council Member Mounce reported she received a complaint from the owner of French at Heart and Garden, a downtown business, who has been ticketed for parking longer than the permitted time, even though she is displaying a handicap placard. Council Member Mounce asked staff to investigate why this person is being ticketed and to perhaps find a better place for her to park. City Attorney Janice Magdich responded that vehicles displaying a handicap placard are not subject to the posted time limits, provided the person parking is the holder of the handicap placard; she will ask the Police Department to check on the issue.

Council Member Mounce also reported that she spent yesterday morning at the Finance Department due to the concerns expressed about the level of service when paying utility bills. She stated that she spoke with the people who were in line to pay their bills and some of the things she learned were: some people pay by cash and need a receipt; the online bill-paying option does not take American Express or Discover Card; some like to talk to the clerks; but most were customers with shutoff notices. She further stated that it was not a very busy day, despite being the day after a holiday weekend; there was no line at times, although the line started to grow when someone had an issue and took a long time at the window. She reported that suggestions she received from the public included: having more clerks; not scheduling due dates on days the City is closed; and making furlough a day other than Friday. Council Member Mounce noted that 75 percent of the customers were young women with children on a fixed income. She suggested having a greeter/ombudsman to help people and direct them to the right place. Council Member Mounce further stated she will go to Finance again at lunchtime and at the end of the day. She thanked City employees and stated that they are working hard and doing a great

job.

Council Member Mounce offered congratulations for a successful Wine and Chocolate Festival. She expressed concerns that, as Lodi is promoted as a destination place, it should be a healthy place. She remarked on the growing gang issue on the east side and expressed hope that the City would be able to add police officers to keep residents and tourists safe. She stated she spent time downtown during the festival and was concerned with homeless people who were screaming and yelling, and the clothes the homeless had left in a doorway; there are things the City could be doing better. Council Member Mounce stated that if the City is going to invite people to come, its house should be clean.

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

None.

G. Public Hearings

G-1 Public Hearing to Consider the Appeal of Bella Terra Plaza / Rio Valley Charter School for Reconsideration of the Planning Commission Project Indecision (CD)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Chandler called for the public hearing to consider the appeal of Bella Terra Plaza / Rio Valley Charter School for reconsideration of the Planning Commission project indecision.

Senior Planner Craig Hoffman reviewed the items provided in the staff report and explained that Rio Valley Charter School requested a Use Permit to relocate its facility to Bella Terra Plaza. He further explained the charter school is authorized by Lodi Unified School District (LUSD) and consists mostly of homeschool students who come to the site for tutoring and meetings with credentialed teachers. Mr. Hoffman noted that, on January 13, the Planning Commission held a duly-noticed public hearing at which Planning Commissioners and the public had the opportunity to ask questions about the charter school's use of the site and the current state of the proposed property. He further noted that representatives of the charter school were present at the public hearing, but, due to an emergency, the property owner's representative was unable to attend, and a number of questions and concerns regarding the property were unable to be answered. He reported that, following a robust discussion, the Planning Commission's vote ended in a three-to-three tie. Mr. Hoffman stated that staff, charter school representatives, and property owner representative were present at the Council meeting to answer questions and that he would refer any questions regarding the Alcoholic Beverage Control (ABC) license to the City Attorney.

Council Member Nakanishi commented that the information presented in the staff report was very thorough, with good arguments on both sides. In response to his question regarding the ABC licenses near the proposed school, Mr. Hoffman reported that three of the Planning Commissioners felt there was not a violation and that the school could make the decision as to whether the property suited its needs. Of the other three Planning Commissioners, two were concerned about the current status of the property and Chair Heinitz had concerns about the alcohol and some of the other tenants, and ultimately those three Commissioners did not feel they had the answers to move forward with the project. Council Member Nakanishi stated he would approve the Use Permit because the charter school is important, and the City could not be held liable because the managers of the school are responsible for placement of their school. In response to Council Member Nakanishi, Mr. Hoffman confirmed staff's recommendation was for approval of the Use Permit and staff feels the concerns regarding the condition of the property is more of an issue between the owner and tenants and not the City; the City does not get involved in their lease. Council Member Nakanishi reiterated that he would vote for approval of the Use Permit.

Mayor Chandler asked for an interpretation of the ABC license issue from the City Attorney. City Attorney Janice Magdich stated the question had been raised as to whether or not a school can be located within 600 feet of businesses that have alcohol licenses. She noted that alcohol

licenses are issued by the ABC, not by the City, although the City does issue Use Permits for alcohol. She further noted there is nothing in State law or Lodi Municipal Code to prohibit the charter school from locating within any parameter of a business with an alcohol license; the sale of alcohol and the type of businesses selling alcohol, whether it be a liquor store or a restaurant selling alcohol in conjunction with serving food, are issues to take into account, along with the other issues of traffic control, noise, etc., in deciding if the proposed use of a charter school is compatible with the current uses.

In response to the City Attorney's opinion, Mr. Hoffman added that the restaurants that serve alcohol are open for lunch and dinner but the charter school closes by 3:00 p.m.

Mayor Chandler opened the hearing for public comment.

Rocky Bianchi, a resident of Chianti Drive, stated he has concerns regarding the condition of the building; tenants have made improvements to the building which are not necessarily to code; the second floor windows are required to be obscured glass but currently there is clear glass; there is a sliding glass door on the second floor; the recent winter storm caused a roof leak at Impact Sports, which is adjacent to the proposed site; the attorney at the Planning Commission stated that a tie vote is a "no" vote; if the school is located near a business serving alcohol, parents may drink while waiting for their children; neighbors are concerned that students will be loitering; at the Planning Commission meeting, Dr. Grill stated students need to be signed in and out by the parents, but the parent handbook makes it seem students are able to sign themselves in and out of the school; the handbook also states that students' schedules vary, and staff is not responsible for students' behavior once they leave the campus; the Use Permit is requesting 40 to 50 parking spaces, which is going to be a challenge; and residents do not want parking in the neighborhood.

Yvonne Sheffield, a resident on Chianti Drive, stated she has worked in public education in the past and is concerned about the alcohol issue; the rule seems contradictory; rules and laws should not be broken; and she would rather see the students somewhere with less temptation.

In response to Mayor Chandler, Ms. Magdich clarified that the Business and Professions Code, which regulates the issuance of licenses by the ABC, states that it is discretionary to issue a license for alcohol sales within 600 feet of a school; it is not a prohibition. The Lodi Municipal Code does not have a prohibition either.

In further response, Mr. Hoffman stated there have been conditions added to the project to address some of the concerns of neighbors - the second story windows will need to be obscured prior to occupancy, dropping students off in the alley is prohibited, loitering is prohibited - and failure to comply with these conditions can cause the Use Permit to be referred back to the Planning Commission; the Planning Commission can ask to check on the Use Permit at any time; and the permit can be revoked for violation of the conditions.

Council Member Nakanishi stated this is a difficult situation, but the school board has made the decision and Council should not go against it. He suggested the citizens go to the LUSD school board with their concerns.

In response to Mayor Pro Tempore Kuehne, Mr. Hoffman clarified the Planning Commission is able to review compliance with the Use Permit conditions at any time and that a particular time frame is not set forth in the permit.

Susan Sheffield, a Chianti Drive resident, stated she was at the Planning Commission meeting but her question relates to a recent article in the Lodi News-Sentinel in which the charter school principal stated she wants the school at Bella Terra Plaza because it is near the bus lines. Ms. Sheffield questioned why the bus lines are needed if parents are dropping off their students. Ms. Sheffield also stated the attorney at the Planning Commission meeting informed them that a tie was the same as a "no" vote. She expressed concerned about the school, in not knowing how it is run; about the bus lines; about the lack of supervision of the students; and about the ages of children attending the school.

Ms. Magich confirmed that the three-to-three tie is a "no" vote, but the applicants are appealing that decision.

Dr. Marcie Grill, principal of Rio Valley Charter School, spoke in favor of the Use Permit. She stated there are many misconceptions about charter schools and the type of children served. She stressed the school is not a continuation school; it is a publicly-funded charter school authorized for the past five years by LUSD and recently authorized for another five years; it offers Advanced Placement courses through Pacific Charter Institute; it gives students and families a choice and it is not her job to judge why students do not choose traditional school; and it serves students outside of the county as well. Dr. Grill further explained the school serves as a tutoring center and has 300 students, but half are home-schooled and come to the facility only to sign up for classes or for testing. She explained the school began looking for a new site as its facility was divided into two buildings at the old site, and the Chamber of Commerce suggested Bella Terra Plaza, which previously housed Venture Academy, a charter school operated through San Joaquin County. Dr. Grill stressed that Rio Valley Charter School wants to be part of making Lodi better and would love to be part of the challenge of cleaning up the center. She further explained the school serves a diverse population, with many immigrant families and young mothers, and some of the students ride the bus. Dr. Grill noted the school has not received complaints of fights or loitering in the last five years; they would be glad to be part of a tenant association and willing to be part of a discussion regarding hiring a security guard; she envisions Bella Terra Plaza as being family friendly; and Impact Sports is very supportive of the school moving to the center. She expressed confusion at the alcohol licenses being such an issue as the Children's Museum is located adjacent to bars, as opposed to restaurants, and additionally, the charter school students are gone before the restaurant patrons arrive in the evening. Dr. Grill explained parking is not a problem; on most days only 17 cars would be at the school, and for the once-a-month conference days, there would be a maximum of 22 to 25 cars.

Shawn Nejad, representative for the property owner, spoke in favor of the Use Permit. He explained that he was out of the country at the time of the Planning Commission meeting, and the representative who had planned to attend was called away at the last minute for a family emergency. He stated he has managed the property for the last eight years. In response to complaints about the condition of the property, he stated they investigated possible mold issues at Bella Terra Plaza, but no mold was found; the second story windows will be fixed and he will submit copies of the bids; one tenant had trouble with the roof leaking following the recent rain, but it is being repaired; large centers will have problems but the center is in excellent condition; the massage parlor has been located in the center for five years and there have been no issues with the law; the property owner has 100 centers; and the site in question was previously a gym with a substantial number of clients, so the parking demand was greater with the previous tenant than with the proposed charter school. He submitted corroborating documents (filed).

Council Member Mounce commented the neighbors of Bella Terra Plaza are unhappy, and they would not be unhappy if the center had been managed properly, as there are issues with the windows, doors, and leaky roofs. In response to Council Member Mounce, Mr. Hoffman stated the center was developed with four parking spaces per 1,000 feet of maintained space.

Mr. Bianchi spoke again regarding the parking. He stated when the center first opened, there were approximately 200 parking spaces, but some are currently fenced off for use by Caltrans staff. He questioned the current number of parking spaces. He commented the maintenance of the buildings in the center is a very sensitive subject and that he does not feel the relationship between the property management and the neighborhood is as strong as it once was.

There being no further public comments, Mayor Chandler closed the public hearing.

Mayor Pro Tempore Kuehne commented he has six children and his family has experienced a variety of different types of schools, including home, public, private, charter, etc. He further stated his former spouse ran Venture Academy and no complaints were received from the tenants of Bella Terra Plaza. He noted Rio Valley Charter School is accredited and has been in operation for a while; and he is impressed with the information he received about the school, particularly the math lab, tutoring center, and dance and art programs. Mayor Pro Tempore

Kuehne stated he sees no problem with the use, as there was no problem with the previous charter school at that location.

Council Member Mounce stated she lives close to Joseph Serna Charter School and there are traffic issues, so she appreciates the concern of neighbors. She acknowledged the school is doing outstanding work. In response to Council Member Mounce's question, Dr. Grill responded the school is already partially "homeless" as it was already supposed to have taken possession of the proposed site; one of the two suites has already been leased so a new tenant, so it has lost approximately 1,800 square feet; and it is renting the remaining suite on a temporary basis at a higher rate.

Council Member Mounce stated the neighbors were there first, so they must be kept happy. She further stated she is concerned about the parking and other problems and cannot support the Use Permit until these issues are resolved.

Mayor Chandler stated he has no further comments other than to thank the Planning Commission and the people attending.

Council Member Nakanishi stated he would vote against the school's Use Permit if the issue is brought back to Council for failure to maintain the Use Permit conditions.

City Manager Schwabauer clarified that LUSD does not weigh in on the locations of charter schools, as that is the City's responsibility. He noted that every school that has applied for a Use Permit in a neighborhood has been appealed to Council, but once approved, the schools have not been a problem.

There being no further public comments, Mayor Chandler closed the public hearing.

Mayor Pro Tempore Kuehne made a motion, second by Mayor Chandler, to adopt Resolution No. 2016-23 approving the request of Bella Terra Plaza, LLC, for a Use Permit to allow the Rio Valley Charter School in an existing tenant space at 1110 West Kettleman Lane.

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Nakanishi, Mayor Pro Tempore Kuehne, and Mayor Chandler
Noes: Council Member Mounce
Absent: Council Member Johnson

H. Communications

H-1 Monthly Protocol Account Report (CLK)

Council Member Mounce made a motion, second by Mayor Pro Tempore Kuehne, to approve the Monthly Protocol Account Report through January 31, 2016.

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Mounce, Council Member Nakanishi, Mayor Pro Tempore Kuehne, and Mayor Chandler
Noes: None
Absent: Council Member Johnson

I. Regular Calendar

I-1 Receive and File City's Annual Financial Report (Fiscal Year 2014/15) by Macias, Gini & O'Connell, LLP (CM)

Deputy City Manager Jordan Ayers provided a PowerPoint presentation regarding the 2014/15 Comprehensive Annual Financial Report (CAFR). Specific topics of discussion included auditor's

opinion, audit process, status of City's financial position, highlights of financial records, impact of Government Accounting Standards Board (GASB) 68, single audit, and management letter.

Mr. Ayers stated the CAFR is a report on the actual revenues and expenses that were recorded for last year. He offered his thanks and congratulations to Financial Services Manager Ruby Paste, Supervising Accountant Derrick Cotton, and Scott Brunner, of Macias, Gini & O'Connell, who served as the lead auditor.

Mr. Ayers explained there were some difficulties putting together the information this year due to switching to the Tyler Financial System, but the process will be much easier moving forward.

In response to Council Member Mounce, Mr. Ayers agreed that the State mandated reimbursement of $963,000 was a big driver in the revenues coming in stronger.

In response to Mayor Pro Tempore Kuehne, Mr. Ayers responded that the vehicle license fee is the tax on license fees on vehicles registered within the City. City Manager Stephen Schwabauer clarified that is the annual fee on vehicles.

Mr. Ayers noted the Transient Occupancy Tax was higher the past year, due in part to the Amgen tour, which is estimated to have brought in approximately $45,000.

In response to the information relating to new GASB reporting regulations, Council Member Mounce commented that, some years ago, a board member from GASB interviewed the League of California Cities board members regarding the most prudent way to reflect pension liabilities, and the general consensus of the League representatives was they wanted it on financial statements; it adds a level of transparency. Mr. Ayers clarified this information has been included in the past, but it was listed in the notes, rather than on the face of the balance sheet.

In response to Council Member Nakanishi, Mr. Ayers stated that, in the existing rate model, the City projects what expenses should be, and CalPERS has provided estimates of the City's rates through either 2020 or 2021; that is an increasing expense. Council Member Nakanishi questioned if Lodi is in a better position than most cities, in relation to pension liability. Mr. Schwabauer responded that he cannot speak to where other communities are but a community's unfunded pension liability will be tied to items that might not seem obvious; the obligation is referred to in CalPERS terms as either a "high volatility city" or a "low volatility city." He explained that a low volatility city is a young city that does not have years of pension liabilities and that changed earlier to 3 percent at 50 for safety retirements. Lodi went to 3 percent at 50 in the early 2000s, so there are still long-time employees whose pensions were paid at 2 1/2 percent at 50 who will now retire at 3 percent at 50. Lodi is an old community and went to 3 percent at 50 later, so it is probably on the higher end due to both of those things.

Council Member Mounce commented that a report was done rating all California cities on pension liabilities and Lodi was rated in the top 100 - at 98, but still on the list. She stated the reason it is experiencing such a huge slope in pension liability through 2021 is due to the smoothing concept by which CalPERS is trying to fund its backlog of unfunded liability. She noted CalPERS states its return on investment is 7 1/2 percent but it has not reached 4 percent.

Council Member Nakanishi commented that all cities will have to handle this crisis; it is a matter of how Lodi handles it; and Lodi has been very prudent in financial management. Mr. Schwabauer agreed that Council has been fiscally responsible; the City has no lifetime medical or significant deferred liability. He further stated PERS is a deferred liability that all cities in the State of California are dealing with and ultimately cities are counting on the State to deal with the issue on a greater level than it has. He agreed the Council has made sound decisions that have put Lodi in a position where it will be able to deal with this issue.

Council Member Mounce commented she is pleased the City is taking care of issues she has brought up in the past, and while she is still concerned with Information Technology disaster preparedness, she is pleased with the progress so far. She stated she is also pleased the City paid down $7.5 million of its bond debt this year. She noted the process of implementing new

software this year has been difficult and staff is doing an outstanding job. In response to Council Member Mounce's question regarding the outlook of the City's new software, Mr. Brunner stated, as indicated by Mr. Ayers, staff had some issues getting the information they needed, which delayed the completion of the CAFR, but it should be more timely in the future.

Council Member Mounce commented she believes it is important for the public to know that when outside auditors do this type of work, it is important they have a sense of what our community is about, so she is supportive of taking advantage of the opportunity to stay with Macias, Gini & O'Connell, as well as having its Information Technology department review the City's new software.

In response to Council Member Nakanishi, Mr. Ayers stated the undesignated $620,000 is available for Council discretion.

In response to Mayor Pro Tempore Kuehne, Mr. Ayers stated a Request for Proposal process was used three years ago, and Macias, Gini & O'Connell was selected as the City's auditor at that point; the same firm was used for the prior eight years; the three-year contract is now ending, but there is the option of two one-year extensions.

Alex Aliferas commented he is concerned because the stock market and other financial indicators are not looking good, and if the market continues at the current rate, then CalPERS is not going to meet the target return rate. He also expressed his desire to see pension reform.

Mayor Pro Tempore Kuehne made a motion, second by Council Member Mounce, to receive and file the City's Annual Financial Report (Fiscal Year 2014/15) by Macias, Gini & O'Connell, LLP.

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Mounce, Council Member Nakanishi, Mayor Pro Tempore Kuehne, and Mayor Chandler
Noes: None
Absent: Council Member Johnson

I-2 Adopt Resolutions and Approve Documents and Actions Regarding the Partial Advance Refunding of the 2007 Series A Wastewater Certificates of Participation:

Mayor Chandler announced Item No. I-2 is a joint action of the Lodi City Council and the Lodi Public Financing Authority.

Deputy City Manager Jordan Ayers introduced the Wastewater Fund 2007 Series A refinancing team of financial advisor Alex Pop-Lazic, of Lamont Financial Services; bond counsel Chris Lynch, of Jones Hall; and underwriter Juan Fernandez, of JP Morgan.

Mr. Ayers stated the bonds the City is working to refinance are the Wastewater 2007 Series A Certificates of Participation, which were issued in 2007 to refund some prior bonds, as well as create some new money for some improvements at the treatment plant. He further stated the original issue amount was $30.3 million with $29.3 currently outstanding, with payoff in 2037. He explained that of the outstanding amount, the City is able to refund approximately $21.4 million, with lower rates but the same payoff timeline; the preliminary estimates are for approximately $3.5 million in savings to the City's wastewater users.

Council Member Nakanishi expressed his support.

Council Member Mounce made a motion, second by Mayor Pro Tempore Kuehne, to adopt Resolution No. 2016-24 of the City Council approving documents and actions related to the refinancing of the 2007 Series A Wastewater Certificates of Participation and the City's related wastewater revenue installment obligation and to adopt Resolution No. LPFA2016-01 of the Lodi Public Financing Authority authorizing the issuance and sale of 2016 Refunding Wastewater Revenue Bonds to partially advance refund the 2007 Series A Wastewater Certificates of

Participation and the City's related wastewater revenue installment payment obligation, and approving related documents and official actions.

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Mounce, Council Member Nakanishi, Mayor Pro Tempore Kuehne, and Mayor Chandler
Noes: None
Absent: Council Member Johnson

J. Ordinances - None

K. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 8:55 p.m.

ATTEST:

Pamela M. Farris
Deputy City Clerk

AGENDA ITEM C-03

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approve Specifications and Authorize Advertisement for Bids for 2016 Extruded Traffic Stripes, Various City Streets

MEETING DATE: March 2, 2016

PREPARED BY: Interim Public Works Director

RECOMMENDED ACTION: Approve specifications and authorize advertisement for bids for 2016 Extruded Traffic Stripes, Various City Streets.

BACKGROUND INFORMATION: Since 2009, the City has been using extruded thermoplastic traffic stripes rather than sprayed thermoplastic. The extruded thermoplastic material has proven to be the superior product. Although extruded thermoplastic costs approximately 15 percent more than sprayed thermoplastic, it is expected to last 67 percent longer (five years vs. three years).

The streets included in this project include portions of Beckman Road, Lockeford Street, Victor Road, Pine Street, Lodi Avenue, Central Avenue, Vine Street, Almond Drive, Fairmont Avenue, California Street, Holly Drive, Loma Drive, Mills Avenue, and Woodhaven Lane. A recap of the types of lane line markings and quantities for this project is shown below:

LANE LINE TYPE	MILES
4" Broken White	4.2
4" Broken Yellow	7.0
6" Broken White	1.1
Double 4" Yellow	6.6
4" Solid White	1.1
6" Solid White	4.6
8" Solid White	1.0
Continuous Left	2.2
Total Miles	**27.8**

The proposed locations are shown in Exhibit A. The specifications are on file in the Public Works Department. The planned bid opening date is March 30, 2016. The project estimate is $79,000.

FISCAL IMPACT: This project will extend the useful life of the lane lines which will reduce overall maintenance costs.

FUNDING AVAILABLE: Funding will be identified at project award.

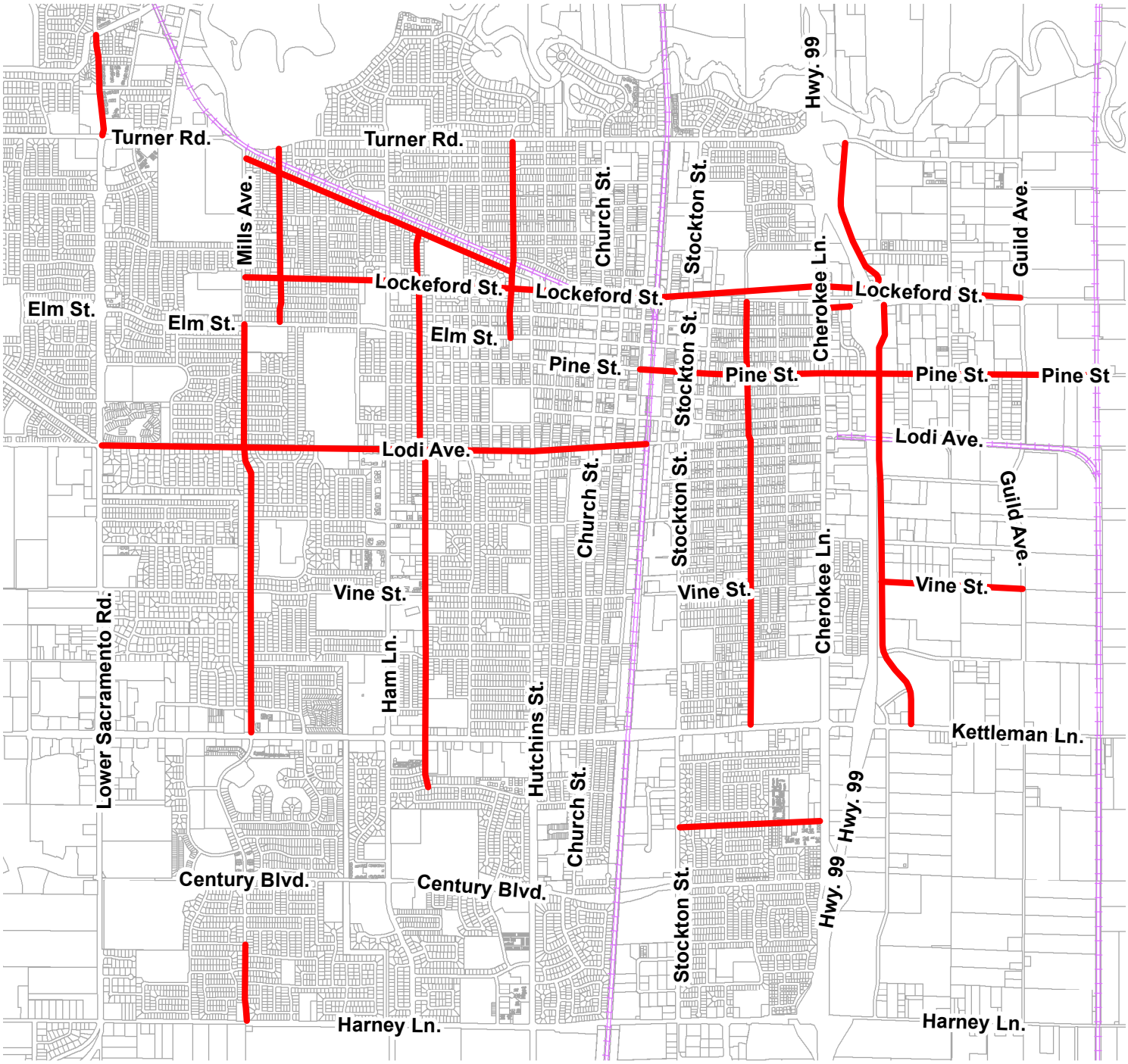
Charles E. Swimley, Jr
Interim Public Works Director

Prepared by Sean Nathan, Associate Engineer
CES/SN/tdb
Attachment
cc: Utility Manager

APPROVED: _____
Stephen Schwabauer, City Manager

EXHIBIT A

2016 Extruded Traffic Stripe Locations



Project Locations

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AGENDA ITEM C-04

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approve Specifications and Authorize Advertisement for Bids for Well 23 Granular Activated Carbon Replacement Project

MEETING DATE: March 2, 2016

PREPARED BY: Interim Public Works Director

RECOMMENDED ACTION: Approve specifications and authorize advertisement for bids for Well 23 Granular Activated Carbon Replacement Project.

BACKGROUND INFORMATION: Granular activated carbon (GAC) is utilized at certain City well sites to adsorb dibromochloropropane (DBCP) contaminates in the drinking water. Over time, the carbon loses its adsorptive capacity and must be replaced. While replacement intervals vary depending upon the concentration of DBCP and well run times, staff anticipates one of the seven GAC facilities serving the water system to need carbon replacement each year. Well 23 is currently providing safe drinking water that meets all State and federal drinking water requirements. However, recent test results indicate the GAC in the treatment system has lost its adsorptive capacity and is in need of treatment.

Well No. 23 is located at 55 East Harney Lane. The GAC treatment system at this location has been in service since 1998. The well site contains two vessels with 30,000 pounds of GAC each. The total amount of GAC to be replaced is 60,000 pounds.

The specifications are on file in the Public Works Department. The project estimate is $160,000 and the planned bid opening date is March 30, 2016.

FISCAL IMPACT: The funds for this project will be coming from the Water Utility Fund's DBCP Operations and Maintenance account which is funded, in part, under the terms of the DBCP settlement.

FUNDING AVAILABLE: Funding will be identified at project award.

_____
Charles E. Swimley, Jr.
Interim Public Works Director

Prepared by Lyman Chang, Interim City Engineer
CES/LC/jr

cc: Utilities Manager

APPROVED: _____
Stephen Schwabauer, City Manager

AGENDA ITEM C-05

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving Purchase of Ultra Violet Disinfection Equipment for White Slough Water Pollution Control Facility from DC Frost Associates, Inc., of Walnut Creek ($145,471)

MEETING DATE: March 2, 2016

PREPARED BY: Interim Public Works Director

RECOMMENDED ACTION: Adopt resolution approving purchase of ultra violet disinfection equipment for White Slough Water Pollution Control Facility from DC Frost Associates, Inc., of Walnut Creek, in the amount of $145,471.

BACKGROUND INFORMATION: The ultra violet (UV) system disinfects the City's tertiary treated wastewater and is regulated by the California Regional Water Quality Control Board. More than 10 years ago, the City of Lodi switched from chlorine gas to UV disinfection for safety and water quality reasons.

The system consists of two UV channels with five banks of UV lamps in each channel. Each bank contains 176 UV lamps, for a total of 1,760 lamps in the system. Regulatory requirements allow each lamp to remain in service for a maximum of 8,000 hours. There is one set of wipers for each lamp and one ballast for every two lamps. The lamps, wipers, ballasts, and additional components need to be checked daily for proper operation. Staff must regularly replace ballasts, lamps (due to either failure or service life), and wipers to maintain compliance.

By nature, the City's UV system is complex and expensive to maintain. For now, it remains a reliable component of the City's wastewater treatment facility. In 2015, the City commissioned Carollo Engineers, Inc., of Sacramento, to evaluate the current UV system. The evaluations compared 10-year and 20-year life cycle costs for five alternatives that ranged from retrofitting the existing facility with new, more-efficient components, to complete replacement. The evaluation suggests replacing the existing system, requiring a capital investment of over $4 million dollars. Considering the system is operating reliably and parts remain available, staff has elected to continue operating the existing system and reassess the need to replace the system in two to five years.

DC Frost Associates, Inc., is a sole-source vendor (Exhibit A). Per Lodi Municipal Code Section 3.20.070, Bidding, the bidding process may be dispensed when City Council determines that the purchase, or method of purchase, is in the best interests of the City. Staff recommends purchase of UV equipment from DC Frost Associates, Inc.

APPROVED: _____

Stephen Schwabauer, City Manager

FISCAL IMPACT: If the UV system is not properly maintained, WSWPCF may not meet discharge permit requirements, resulting in fines or penalties.

FUNDING AVAILABLE: Funds are budgeted for this project in the WSWPCF Plant Operations (53053003) for Fiscal Year 2015/16.

_____
Jordan Ayers
Deputy City Manager/Internal Services Director

_____
Charles E. Swimley, Jr.
Interim Public Works Director

Prepared by Karen Honer, Wastewater Plant Superintendent
CES/KDH/trb
Attachments

Cc: Rebecca Areida-Yadav, Management Analyst

Exhibit A

TROJAN UV
WATER CONFIDENCE™

December 29, 2015

Lodi-White Slough Water Pollution Control Facility
12751 N. Thornton Road
Lodi, CA
95242

Ms. Karen Honer

RE: Trojan System UV3000Plus™ Replacement Parts

In the Engineered Submittal Package for the Trojan System UV3000Plus™ , Trojan provided an equipment performance guarantee stating that the system will meet the required level of disinfection provided that the system is operated and maintained in accordance with recommendations made by Trojan Technologies.

In order for this equipment guarantee to be maintained, it is imperative that the appropriate components and replacement parts be used in the system. There are key replacement parts and system components that directly influence the performance and reliability of the system. Among these critical replacement parts are the UV lamps, sleeves, electronic ballasts, wiper seals, printed circuitry etc. Without using lamps, ballasts, and other components that are approved and validated by Trojan Technologies, we cannot guarantee that the system will provide the required germicidal output. Subsequently, we cannot guarantee that the required UV dose is being delivered, if lamp output, ballast efficiency and system programming is unknown.

In order to keep the equipment performance guarantee intact, is it recommended that specialized system components be purchased and contracted from DC Frost & Associates, Inc., a wholly owned subsidiary of the Coombs-Hopkins Company, who is the Trojan authorized representative for the state of California. Trojan purchases only validated system components (lamps, ballasts etc.) from our suppliers and only those components meeting our performance standards are passed on the customer.

If you have any questions regarding this matter, or require any additional information please do not hesitate to contact me.

Best regards,
TROJAN TECHNOLOGIES

Judy Georgijev

Judy Georgijev
Municipal Territory Representative

Cc: Catherine Frost

QUOTATION

DC FROST ASSOCIATES, INC. a wholly owned subsidary of Coombs-Hopkins
2855 Mitchell Drive, Suite 215 • Walnut Creek, CA 94598
(800) 964-9733 Fax (925) 939-4457

TO: City of Lodi White Slough WPCF
Judy Leyva
Phone #: 209-333-6749
Cell #:
Fax #:
Email: jleyva@lodi.gov

NUMBER: WC- 25651 -Q

DATE: February 1, 2016

PAGE: 1 of 1

EQUIPMENT: Trojan MODEL: UV3000Plus REF #: 510327

We are pleased to offer our quotation on the equipment listed herein for the above project.

ITEM	QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL PRICE
A	500	Lamp GA64T6 Amalgam, part #302509	$157.83	$78,915.00
B	419	Sleeve, Quartz, part #316136	$62.93	$26,367.67
C	8	Ballast Kit, part #915378	$409.40	$3,275.20
D	35	O-Ring, Sleeve Sealing, 10-pack, part #316144P	$5.50	$192.50
E	2	Filter Element, 10Micron ABS Synth, part #907384	$37.00	$74.00
F	20	Hydraulic Cylinder, part #326411	$1,238.00	$24,760.00
G	100	Wiper Seal, part #327021	$7.20	$720.00
H	12"	Tube, 1/4 Ø Viton, (12" minimum purchase), part #327030	$1.70	$20.40
I	1	Fitting, Inter-wiper, 90°, 10-pack, part #327066P	$39.00	$39.00
J	1	Fitting, Inter-wiper, straight, 10-pack, part #327027P	$22.00	$22.00
K	2	Acti-Clean Gel, 4x1 gal containers, part #901507	$155.00	$310.00
		Guaranteed price for: Lamps, Sleeves and Ballasts through 12/31/16.		
			Sub Total	$134,695.77
		Sales Tax:	San Joaquin, County of 8.0000%	$10,775.66
		Freight Terms:	F.O.B. Factory, Prepay and Add	
			Grand Total	$145,471.43

Submittals/Drawings: na weeks after receipt of order with complete information.
Shipment: 2 weeks after receipt of purchase order or approved drawings.
Prices quoted herein are firm for your acceptance for a period of thirty (30) days.
If prices quoted herein do not include sales or use tax, such taxes, if required, are to be paid by the purchaser.
This quotation and any resulting order will be subject to our standard terms of sale.
PAYMENT TERMS: Net 30 days

BY: Blanca Ruiz-Mercado

Not To Exceed $160,000

RESOLUTION NO. 2016-____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING THE PURCHASE OF ULTRA VIOLET
EQUIPMENT FOR WHITE SLOUGH WATER
POLLUTION CONTROL FACILITY FROM
DC FROST ASSOCIATES, INC., OF WALNUT CREEK

==========

WHEREAS, White Slough Water Pollution Control Facility uses ultra violet (UV) system functions as a disinfectant for the tertiary treated wastewater, as directed by the California Regional Water Quality Control Board; and

WHEREAS, the UV system is complex, requiring annual operational costs for parts, equipment replacement, and continuous staff hours to maintain; and

WHEREAS, DC Frost Associates, Inc., is a sole-source vendor; and

WHEREAS, per Lodi Municipal Code Section 3.20.070, Bidding, the bidding process may be dispensed when City Council determines that the purchase, or method of purchase, is in the best interests of the City; and

WHEREAS, staff recommends approving the purchase of ultra violet equipment for White Slough Water Pollution Control Facility from DC Frost Associates, Inc., of Walnut Creek, in the amount of $145,471.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the purchase of ultra violet equipment for White Slough Water Pollution Control Facility from DC Frost Associates, Inc., of Walnut Creek, California, in the amount of $145,471.

Dated: March 2, 2016

==========

I hereby certify that Resolution No. 2016-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 2, 2016, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. FERRAIOLO
City Clerk

AGENDA ITEM C-06

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Authorizing City Manager to Execute Professional Services Agreement with Garland/DBS, Inc., of Cleveland, OH, for Hutchins Street Square Roof Repair Project Phase 2 ($157,685)

MEETING DATE: March 2, 2016

PREPARED BY: Interim Public Works Director

RECOMMENDED ACTION: Adopt resolution authorizing City Manager to execute Professional Services Agreement with Garland/DBS, Inc., of Cleveland, OH, for Hutchins Street Square Roof Repair Project Phase 2, in the amount of $157,685.

BACKGROUND INFORMATION: Hutchins Street Square (Facility) was last renovated in 1998. The flat roof areas of the Facility total approximately 50,000 square feet. The existing flat area roofing system consists of a single-ply, Polyvinyl Chloride (PVC) membrane that is in poor condition and subject to occasional leaks requiring isolated repairs.

In November 2013, the City requested Garland/DBS, Inc. perform a roof evaluation of the Facility to determine its condition and to provide alternatives for addressing deficiencies. The City has chosen to restore the roofing system with an estimated cost of $350,000. The project will be performed in phases to match funding availability. As shown in Exhibit A, Phase 1 (Areas A and B) was completed last year at a cost of $49,976 and Phase 2 (Area C) is the second of five phases.

The restoration material is manufactured by the Garland/DBS, Inc. and utilizes a urethane and polyester compound to provide a protective coating on the existing roof membrane. The final product would provide the City with a 10-year warranty on the existing roofing system.

Garland/DBS, Inc. was the successful bidder for U.S. Communities Contract No. 10330 for competitively bid roofing services. Using the U.S. Communities line item cost, the bid price of $164,258 is the maximum price an agency would be charged for the restoration services. To compare the U. S. Community price with local restoration prices, Garland/DBS, Inc. requested a quote from Waterproofing Associates, Inc., of Lodi, the company that performed the restoration services for the Phase 1 project.

For this project, the DBS/Garland, Inc. will subcontract roof restoration services to Waterproofing Associates of Lodi. The local price of $157,685 is $6,573 lower than the U.S. Communities line item costs. The price includes project delivery services and a 10-year roof system that is warranted by the Garland/DBS, Inc.

By using the U.S. Communities contract, the formal bidding process has already been performed, allowing staff to more efficiently procure labor and materials for specialty type work (such as roofing) while maintaining compliance with purchasing requirements. The Professional Services Agreement includes all insurance and bonding requirements included in City construction contracts.

APPROVED: _____

Stephen Schwabauer, City Manager

Per Lodi Municipal Code Section 3.20.045, State and Local Agency Contracts, the bidding process may be waived when it is advantageous for the City, with appropriate approval by City Manager and City Council, to use contracts that have been awarded by other California public agencies, provided that their award was in compliance with their formally-adopted bidding or negotiation procedures.

Staff recommends Council adopt a resolution authorizing the City Manager to execute a Professional Services Agreement with Garland/DBS, Inc., of Cleveland, OH, for the Hutchins Street Square Roof Repair Project Phase 2, in the amount of $157,685.

FISCAL IMPACT: Restoring leaky roofs will reduce repair costs for the interior spaces damaged by water.

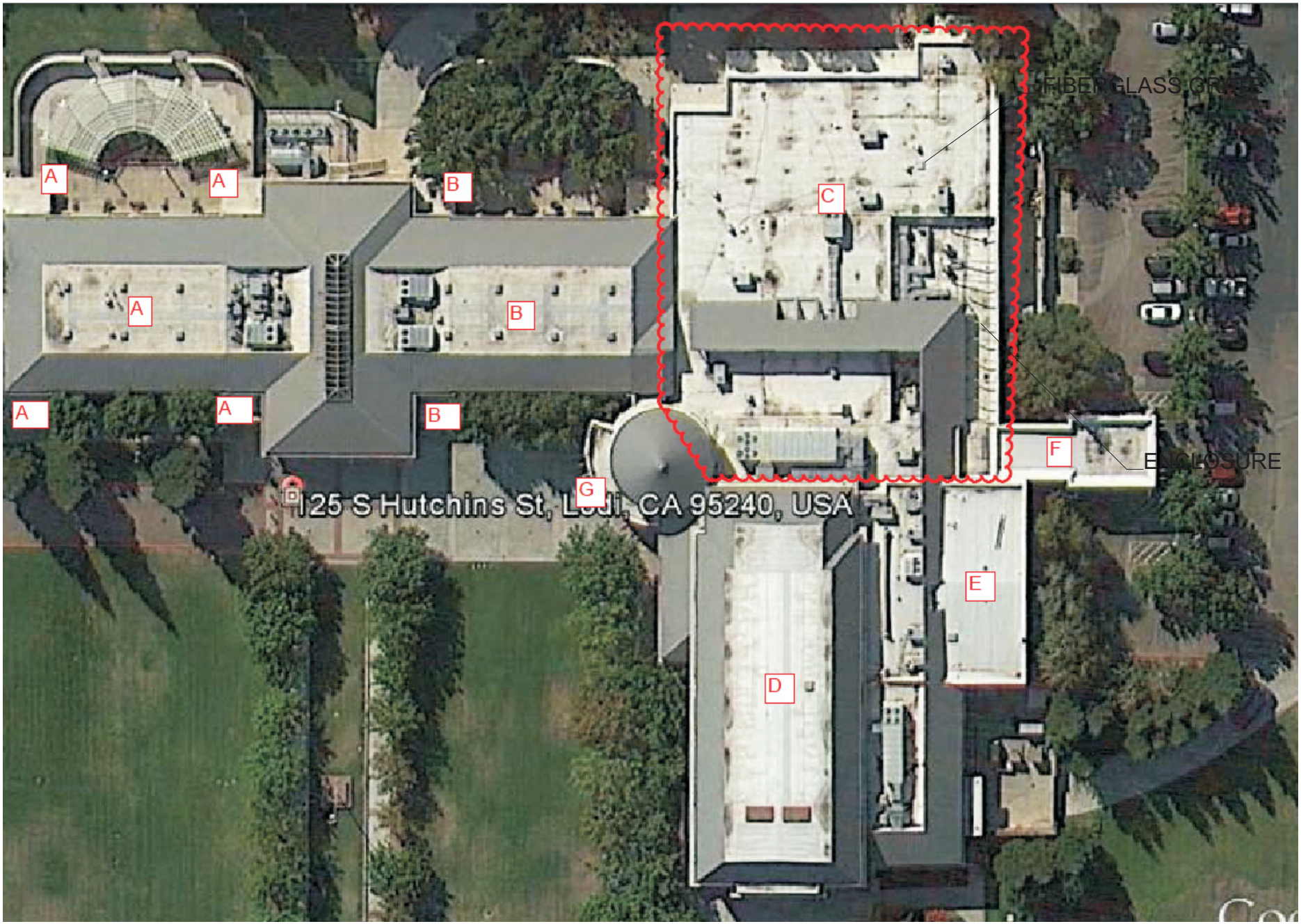
FUNDING AVAILABLE: Facilities Capital Outlay Fund (43199000) Fiscal Year 2015/16.

_____
Jordan Ayers
Deputy City Manager/Internal Services Director

_____
Charles E. Swimley, Jr.
Interim Public Works Director

Prepared by Lyman Chang, Interim Deputy Public Works Director/City Engineer
CES/LC/tdb
Attachments

Cc Park and Recreation and Cultural Services Director
Management Analyst – Areida-Yadav
Garland /DBS, Inc.



EXHIBT A
Hutchins Street Square Roofing Restoration Project - Roof Subarea

AGREEMENT FOR PROFESSIONAL SERVICES

ARTICLE 1
PARTIES AND PURPOSE

Section 1.1 Parties

THIS AGREEMENT is entered into on _____, 2016, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and GARLAND/DBS, INC. (hereinafter "CONTRACTOR").

Section 1.2 Purpose

CITY selected the CONTRACTOR to provide the services required in accordance with attached Scope of Services, Exhibit A, attached and incorporated by this reference.

CITY wishes to enter into an agreement with CONTRACTOR for HUTCHINS STREET SQUARE ROOF SECTION C RESTORATION (hereinafter "Project") as set forth in the Scope of Services attached here as Exhibit A. CONTRACTOR acknowledges that it is qualified to provide such services to CITY.

ARTICLE 2
SCOPE OF SERVICES

Section 2.1 Scope of Services

CONTRACTOR, for the benefit and at the direction of CITY, shall perform the Scope of Services as set forth in Exhibit A.

Section 2.2 Time For Commencement and Completion of Work

CONTRACTOR shall commence work pursuant to this Agreement, upon receipt of a written notice to proceed from CITY or on the date set forth in Section 2.6, whichever occurs first, and shall perform all services diligently and complete work under this Agreement based on a mutually agreed upon timeline or as otherwise designated in the Scope of Services.

CONTRACTOR shall submit to CITY such reports, diagrams, drawings and other work products as may be designated in the Scope of Services.

CONTRACTOR shall not be responsible for delays caused by the failure of CITY staff to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project shall not be counted against CONTRACTOR's contract performance period. Also, any delays due to

weather, vandalism, acts of God, etc., shall not be counted. CONTRACTOR shall remain in contact with reviewing agencies and make all efforts to review and return all comments.

Section 2.3 Meetings

CONTRACTOR shall attend meetings as may be set forth in the Scope of Services.

Section 2.4 Staffing

CONTRACTOR acknowledges that CITY has relied on CONTRACTOR's capabilities and on the qualifications of CONTRACTOR's principals and staff as identified in its proposal to CITY. The Scope of Services shall be performed by CONTRACTOR, unless agreed to otherwise by CITY in writing. CITY shall be notified by CONTRACTOR of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel at CITY's sole discretion and shall be notified by CONTRACTOR of any changes of CONTRACTOR's project staff prior to any change.

CONTRACTOR represents it is prepared to and can perform all services within the Scope of Services (Exhibit A) and is prepared to and can perform all services specified therein. CONTRACTOR represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature are legally required for CONTRACTOR to practice its profession, and that CONTRACTOR shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals, and shall indemnify, defend and hold harmless CITY against any costs associated with such licenses, permits, qualifications, insurance and approvals which may be imposed against CITY under this Agreement.

Section 2.5 Subcontracts

Unless prior written approval of CITY is obtained, CONTRACTOR shall not enter into any subcontract with any other party for purposes of providing any work or services covered by this Agreement.

Section 2.6 Term

The term of this Agreement commences on March 7, 2016 and terminates upon the completion of the Scope of Services or on March 6, 2017, whichever occurs first.

ARTICLE 3
COMPENSATION

Section 3.1 Compensation

CONTRACTOR's compensation for all work under this Agreement shall conform to the provisions of the Fee Proposal, attached hereto as Exhibit B and incorporated by this reference.

CONTRACTOR shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

Section 3.2 Prevailing Wage

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.

Section 3.3 Contractor Registration – Labor Code §1725.5

No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

Section 3.4 Contract Bonds

CONTRACTOR shall furnish two good and sufficient bonds:

1. A faithful performance bond in the amount of one hundred percent (100%) of the contract price; and
2. A labor and materials bond in the amount of fifty percent (50%) of the contract price.

These bonds will be required at the time the signed contract is returned to the City.

Section 3.5 Method of Payment

CONTRACTOR shall submit invoices for completed work on a monthly basis, or as otherwise agreed, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the Scope

of Services said work is attributable. CONTRACTOR's compensation for all work under this Agreement shall not exceed the amount of the Fee Proposal.

Section 3.6 Costs

The Fee Proposal shall include all reimbursable costs required for the performance of the Scope of Services. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved in advanced and in writing, by CITY.

Section 3.7 Auditing

CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under this Agreement. Upon request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONTRACTOR agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONTRACTOR agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

ARTICLE 4
MISCELLANEOUS PROVISIONS

Section 4.1 Nondiscrimination

In performing services under this Agreement, CONTRACTOR shall not discriminate in the employment of its employees or in the engagement of any sub CONTRACTOR on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

Section 4.2 ADA Compliance

In performing services under this Agreement, CONTRACTOR shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

Section 4.3 Indemnification and Responsibility for Damage

CONTRACTOR to the fullest extent permitted by law, shall indemnify and hold harmless CITY, its elected and appointed officials, directors, officers, employees and volunteers from and against any claims, damages, losses, and expenses (including reasonable attorney's fees and costs), arising out of performance of the services to be performed under this Agreement, provided that any such claim, damage, loss, or expense is caused by the negligent acts, errors or omissions of CONTRACTOR, any subcontractor employed directly by CONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, except those injuries or damages arising out of the active negligence, sole negligence, or sole willful misconduct of the City of Lodi, its elected and appointed officials, directors, officers, employees and volunteers. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, CONTRACTOR shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs. The defense and indemnification obligations required by this Agreement are undertaken in addition to, and shall not in any way be limited by the insurance obligations set forth herein.

Section 4.4 No Personal Liability

Neither the City Council, nor any other officer or authorized assistant or agent or City employee shall be personally responsible for any liability arising under this Agreement.

Section 4.5 Responsibility of CITY

CITY shall not be held responsible for the care or protection of any material or parts of the work described in the Scope of Services prior to final acceptance by CITY, except as expressly provided herein.

Section 4.6 Insurance Requirements for CONTRACTOR

CONTRACTOR shall take out and maintain during the life of this Agreement, insurance coverage as set forth in Exhibit C attached hereto and incorporated by this reference.

Section 4.7 Successors and Assigns

CITY and CONTRACTOR each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the

others. CONTRACTOR shall not assign or transfer any interest in this Agreement without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

Section 4.8 Notices

Any notice required to be given by the terms of this Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To CITY: City of Lodi
221 West Pine Street
P.O. Box 3006
Lodi, CA 95241-1910
Attn: Lyman Chang

To CONTRACTOR: Garland/DBS, Inc.
3800 East 91st Street
Cleveland, OH 44105
Attn: Matt Egan

Section 4.9 Cooperation of CITY

CITY shall cooperate fully and in a timely manner in providing relevant information it has at its disposal relevant to the Scope of Services.

Section 4.10 CONTRACTOR is Not an Employee of CITY

CONTRACTOR agrees that in undertaking the duties to be performed under this Agreement, it shall act as an independent contractor for and on behalf of CITY and not an employee of CITY. CITY shall not direct the work and means for accomplishment of the services and work to be performed hereunder. CITY, however, retains the right to require that work performed by CONTRACTOR meet specific standards without regard to the manner and means of accomplishment thereof.

Section 4.11 Termination

CITY may terminate this Agreement, with or without cause, by giving CONTRACTOR at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase. Upon termination, CONTRACTOR shall be entitled to payment as set forth in the attached Exhibit B to the extent that the work has been performed. Upon termination, CONTRACTOR shall immediately suspend all work on the Project and deliver any

documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONTRACTOR with third parties in reliance upon this Agreement.

Section 4.12 Confidentiality

CONTRACTOR agrees to maintain confidentiality of all work and work products produced under this Agreement, except to the extent otherwise required by law or permitted in writing by CITY. CITY agrees to maintain confidentiality of any documents owned by CONTRACTOR and clearly marked by CONTRACTOR as "Confidential" or "Proprietary", except to the extent otherwise required by law or permitted in writing by CONTRACTOR. CONTRACTOR acknowledges that CITY is subject to the California Public Records Act.

Section 4.13 Applicable Law, Jurisdiction, Severability, and Attorney's Fees

This Agreement shall be governed by the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be venued with the San Joaquin County Superior Court. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in force and effect. In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

Section 4.14 City Business License Requirement

CONTRACTOR acknowledges that Lodi Municipal Code Section 3.01.020 requires CONTRACTOR to have a city business license and CONTRACTOR agrees to secure such license and pay the appropriate fees prior to performing any work hereunder.

Section 4.15 Captions

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent hereunder.

Section 4.16 Integration and Modification

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered

hereunder. This Agreement may not be modified or altered except in writing, signed by both parties.

Section 4.17 Contract Terms Prevail

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

Section 4.18 Severability

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

Section 4.19 Ownership of Documents

All documents, photographs, reports, analyses, audits, computer media, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of CITY. Upon CITY's request, CONTRACTOR shall allow CITY to inspect all such documents during CONTRACTOR's regular business hours. Upon termination or completion of services under this Agreement, all information collected, work product and documents shall be delivered by CONTRACTOR to CITY within ten (10) calendar days.

CITY agrees to indemnify, defend and hold CONTRACTOR harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were intended.

Section 4.20 Authority

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

Section 4.21 Federal Transit Funding Conditions

☐ If the box at left is checked, the Federal Transit Funding conditions attached as Exhibit D apply to this Agreement. In the event of a conflict between the terms of this Agreement or any of its other exhibits, and the Federal Transit Funding Conditions, the Federal Transit Funding Conditions will control.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement as of the date first above written.

CITY OF LODI, a municipal corporation

ATTEST:

_____	_____
JENNIFER M. FERRAIOLO City Clerk	STEPHEN SCHWABAUER City Manager
APPROVED AS TO FORM: JANICE D. MAGDICH, City Attorney	GARLAND/DBS, INC.
By: _____	By: _____ Name: MATT EGAN Title:

Attachments:
Exhibit A – Scope of Services
Exhibit B – Fee Proposal
Exhibit C – Insurance Requirements
Exhibit D – Federal Transit Funding Conditions (if applicable)

Funding Source: **GFCAP-0012.Const.ExtLabor 43199000.77020**
(Business Unit & Account No.)

Doc ID:K:\WP\PROJECTS\PSA's\2016\Garland DBS PSA

CA:Rev.08.2015

Exhibit A/B

Garland/DBS, Inc.
3800 East 91st Street
Cleveland, OH 44105
Phone: (800) 762-8225
Fax: (216) 883-2055

ROOFING MATERIAL AND SERVICES PROPOSAL

City of Lodi
Hutchins Square
Roof Section C Roof Restoration
Date Submitted: 02/01/2016
Proposal #: 25-CA-150339
MICPA # 14-5903
California General Contractor License #: 949380
City of Lodi, California - General Contractor License #: 20011

Please Note: The following estimate is being provided according to the pricing established under the Master Intergovernmental Cooperative Purchasing Agreement (MICPA) with Cobb County, GA and U.S. Communities. This estimate should be viewed as the maximum price an agency will be charged under the agreement. Garland/DBS, Inc. administered a competitive bid process for the project with the hopes of providing a lower market adjusted price whenever possible.

Scope of Work: Hutchins Square Roof Section C Roof Restoration

1. Preparation of existing roof system for restoration.
2. Pressure wash existing roofing system with high pressure water and cleaning solvent as specified, allow a minimum of 24 hours to properly dry prior to proceeding.
3. Repair all damaged / deteriorated, membrane at edge flashing and through field along with all details, curb flashings, pipe flashings, etc. with a three course method of urethane, polyester, urethane. 1 gal per sq, polyester, 1 gal per sq.
4. Install WhiteKnight Urethane Coating per specification at a total rate of 1 gallon per square allow to completely dry to all seams, penetrations, and transitions.
5. Install WhiteKnight Urethane Coating per specification at a total rate of 2 gallons per square allow to completely dry over the entire roof area.

Line Item Pricing

Item #	Item Description	Unit Price	Quantity	Unit	Extended Price
15.23	RESTORATIONS - RECOATING OF EXISTING ROOF SYSTEMS : ELASTOMERIC URETHANE COATING FOR SMOOTH OR MINERAL SURFACED MODIFIED ROOFS Power wash & Clean with TSP or Simple Green; Use Portable Blowers the Clear the Roof of Moisture; Install Base Coat / Top Coat as Specified (Urethane 2 Gallons per Sq.)	$ 5.43	25000	SF	$ 135,750
	Sub Total Prior to Multipliers:				**$ 135,750**
PWM	**Prevailing Wage Multiplier:** San Joaquin County, CA -	21.0%		%	$ 28,508
	TOTAL:				**$ 164,258**

Hutchins Square Roof Section C Roof Restoration:

Total Maximum Price of Line Items under the MICPA:	**$ 164,258**
Proposal Price Based Upon Market Experience:	**$ 157,685**

Potential issues that could arise during the construction phase of the project will be addressed via unit pricing for additional work beyond the scope of the specifications. This could range anywhere from wet insulation, to the replacement of deteriorated wood nailers. Proposal pricing valid through 12/31/2016.

If you have any questions regarding this proposal, please do not hesitate to call me at my number listed below.

Respectfully Submitted,

Matt Egan

Matt Egan
Garland/DBS, Inc.
(216) 430-3662

Exhibit C

Insurance Requirements for Contractor The Contractor shall take out and maintain during the life of this Agreement, insurance coverage as listed below. These insurance policies shall protect Contractor and any subcontractor performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, or by any subcontractor, or by anyone directly or indirectly employed by either of them, and the amount of such insurance shall be as follows:

1. COMPREHENSIVE GENERAL LIABILITY
   $1,000,000 Each Occurrence
   $2,000,000 General Aggregate

2. COMPREHENSIVE AUTOMOBILE LIABILITY
   $1,000,000 Combined Single Limit
   Such insurance shall cover liability arising out of any vehicle (including, owned, hired and non-hired vehicles) operated in performing any and all services pursuant to this Agreement. Coverage shall be written on ISO form CA 00 01 12 90, or a later version, that provides liability coverage at least as broad as this form.

All limits are to be designated strictly for the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers. All deductibles or self-insured retentions (SIR) must be disclosed to City's Risk Manager for approval and shall not reduce the limits of liability set forth hereinabove. Insurance policies containing any deductible or SIR provision shall provide, or be endorsed to provide, that the deductible or SIR may be satisfied by either the Named Insured(s) or the City of Lodi.

It is required that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth above, shall be available to City as an additional insured. Furthermore, the requirements for coverage and limits shall be (i) the minimum coverage and limits specified in these insurance requirements; or (ii) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Contractor; whichever is greater.

Contractor agrees and stipulates that any insurance coverage provided to the City of Lodi shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810 et seq.).

A copy of the certificate(s) of insurance with the following endorsements shall be furnished to the City:

(a) Additional Named Insured Endorsement
Pursuant to a separate endorsement (ISO form CG 2010 (11/85) or a later version, that provides liability coverage at least as broad as this form) such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers as additional named insureds. An additional named insured endorsement is also required for Auto Liability.

(b) Primary and Non-Contributory Insurance Endorsement
Additional insurance coverage under the Contractor's policy shall be "primary and non-contributory" and will not seek contribution from City's insurance or self-insurance and shall be at least as broad as ISO form CG 20 01 04 13.

NOTE: (1) The street address of the **CITY OF LODI** must be shown along with (a) and (b) above: 221 West Pine Street, Lodi, California, 95240; (2) The insurance certificate must state, on its face or as an endorsement, a description of the project that it is insuring.

(c) Waiver of Subrogation
Include a waiver of subrogation against the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers. A waiver is required for General Liability and Auto Liability.

(d) Limits of Coverage
The limits of insurance coverage required may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance of Contractor shall contain, or be endorsed to contain, a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect the City as a named insured.

(e) Severability of Interest Clause
The term "insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the company's liability.

(f) Notice of Cancellation or Change in Coverage Endorsement
This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 West Pine St., Lodi, CA 95240.

(g) Continuity of Coverage
All policies shall be in effect on or before the first day of the Term of this Agreement. At least thirty (30) days prior to the expiration of each insurance policy, Contractor shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the minimum requirements of this Agreement. Contractor shall provide proof of continuing insurance on at least an annual basis during the Term. If Contractor's insurance lapses or is discontinued for any reason, Contractor shall immediately notify the City and immediately obtain replacement insurance.

(h) Failure to Comply
If Contractor fails or refuses to obtain and maintain the required insurance, or fails to provide proof of coverage, the City may obtain the insurance. Contractor shall reimburse the City for premiums paid, with interest on the premium paid by the City at the maximum allowable legal rate then in effect in California. The City shall notify Contractor of such payment of premiums within thirty (30) days of payment stating the amount paid, the name(s) of the insurer(s), and rate of interest. Contractor shall pay such reimbursement and interest on the first (1st) day of the month following the City's notice. Notwithstanding and other provision of this Agreement, if Contractor fails or refuses to obtain or maintain insurance as required by this agreement, or fails to provide proof of insurance, the City may terminate this Agreement upon such breach. Upon such termination, Contractor shall immediately cease use of the Site or facilities and commence and diligently pursue the removal of any and all of its personal property from the site or facilities.

(i) Qualified Insurer(s)
All insurance required by the terms of this Agreement must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the AM Best Ratings Guide, and which are acceptable to the City. Non-admitted surplus lines carriers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet City requirements.

Workers Compensation Insurance The Contractor shall take out and maintain during the life of this Agreement, Worker's Compensation Insurance for all of Contractor's employees employed at the site of the project and, if any work is sublet, Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this Agreement at the site of the project is not protected under the Worker's Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide insurance for the protection of said employees. **A waiver of subrogation is required for workers compensation insurance.** This policy may not be canceled nor the coverage reduced without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 West Pine St., Lodi, CA 95240.

NOTE: The City reserves the right to obtain a full certified copy of any insurance policy or endorsements required. Failure to exercise this right shall not constitute a waiver of the City's right to exercise after the effective date.

RESOLUTION NO. 2016-____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH GARLAND/DBS, INC., OF CLEVELAND, OHIO, FOR THE HUTCHINS STREET SQUARE ROOF REPAIR PROJECT

==========

WHEREAS, in November 2013, the City requested Garland/DBS, Inc., perform a roof evaluation of Hutchins Street Square to determine its condition and to provide alternatives for addressing deficiencies; and

WHEREAS, the City has chosen to restore the roofing system with an estimated cost of $350,000, to be performed in two phases, with phase one being completed last year; and

WHEREAS, the restoration material is manufactured by the Garland/DBS, Inc., and utilizes a urethane and polyester compound to provide a protective coating on the existing roof membrane, providing the City with a 10-year warranty on the existing roofing system; and

WHEREAS, Garland/DBS, Inc., was the successful bidder for U.S. Communities Contract No. 10330 for competitively-bid roofing services; and

WHEREAS, to assure the lowest price possible, Garland/DBS, Inc., administered a local competitive bid process to compare the U.S. Community price with the local bid environment; and

WHEREAS, by using the U.S. Communities contract, the formal bidding process has already been performed, allowing staff to more efficiently procure labor and materials for specialty type work (such as roofing) while maintaining compliance with purchasing requirements; and

WHEREAS, per Lodi Municipal Code Section 3.20.045, State and Local Agency Contracts, the bidding process may be waived when it is advantageous for the City, with appropriate approval by City Manager and City Council, to use contracts that have been awarded by other California public agencies, provided that their award was in compliance with their formally-adopted bidding or negotiation procedures; and

WHEREAS, staff recommends Council authorize the City Manager to execute a Professional Services Agreement with Garland/DBS, Inc., of Cleveland, Ohio, for the Hutchins Street Square Roof Repair Project, in the amount of $157,685.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a Professional Services Agreement with Garland/DBS, Inc., of Cleveland, Ohio, for the Hutchins Street Square Roof Repair Project, in the amount of $157,685.

Dated: March 2, 2016

==========

I hereby certify that Resolution No. 2016-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 2, 2016, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. FERRAIOLO
City Clerk

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Authorizing City Manager to Execute Professional Services Agreement with Terracon, of Lodi, for Construction Testing and Inspection Services ($574,610), and Amendment No. 1 to Professional Services Agreement with Michael Baker International, Inc., of Rancho Cordova, for Labor Compliance Monitoring ($24,000), for Grade Separation Harney Lane at Union Pacific Railroad Overhead Project

MEETING DATE: March 2, 2016

PREPARED BY: Interim Public Works Director

RECOMMENDED ACTION: Adopt resolution authorizing City Manager to execute Professional Services Agreement with Terracon, of Lodi, for construction testing and inspection services, in the amount of $574,610, and Amendment No. 1 to Professional Services Agreement with Michael Baker International, Inc., of Rancho Cordova, for labor compliance monitoring, in the amount of $24,000, for Grade Separation Harney Lane at Union Pacific Railroad Overhead Project.

BACKGROUND INFORMATION: At the November 18, 2015 City Council meeting, Council awarded DeSilva Gates Construction, LP, of Dublin, a contract for construction of the Grade Separation Harney Lane at Union Pacific Railroad Overhead Project (Project). Due to the complex nature of the Project, consultants possessing specialized expertise are needed to monitor certain portions of the construction process.

The Project requires construction of large overhead structures made of concrete and steel. Special inspections and materials testing of these structures is needed to assure the construction is properly performed. City staff recently solicited proposals for testing and inspection services from three qualified firms. Three proposals were received and evaluated by a selection committee made up of the Interim Public Works Director, the Interim City Engineer/Deputy Public Works Director, and the Construction Project Manager. Terracon received the highest ranking and was selected to perform the required testing and inspection services during construction. Services will be billed on a not-to-exceed, time-and-materials basis.

This Project will require substantial labor compliance monitoring and reporting. Labor compliance monitoring and reporting is required on all federally funded projects. The service includes tracking all employee payroll documents as well as performing on site interviews with employees to confirm wages and benefits are in accordance with prevailing wage determinations. Michael Baker International, Inc., currently provides labor compliance services to the Public Works Transit and Neighborhood Services Divisions. Amendment No. 1 expands the existing Professional Services Agreement to provide labor compliance services related to project funding requirements for the Project. Services will be billed on a not-to-exceed, time-and-materials basis.

APPROVED: _____

Stephen Schwabauer, City Manager

Both of these services will be required during the course of construction. Minor clearing and grubbing work has started and actual construction is anticipated to begin in April 2016. Project completion is expected in October 2017.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Funding for these items was appropriated on November 18, 2015. (30799000.77020)

Jordan Ayers
Deputy City Manager/Internal Services Director

Charles E. Swimley, Jr.
Interim Public Works Director

CES/GW/tdb
Attachments
cc: Gary Wiman, Construction Project Manager
Terracon
Michael Baker International, Inc.

AGREEMENT FOR PROFESSIONAL SERVICES

ARTICLE 1
PARTIES AND PURPOSE

Section 1.1 Parties

THIS AGREEMENT is entered into on _____, 2016, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and TERRACON (hereinafter "CONTRACTOR").

Section 1.2 Purpose

CITY selected the CONTRACTOR to provide the services required in accordance with attached Scope of Services, Exhibit A, attached and incorporated by this reference.

CITY wishes to enter into an agreement with CONTRACTOR for construction testing and inspection services (hereinafter "Project") as set forth in the Scope of Services attached here as Exhibit A. CONTRACTOR acknowledges that it is qualified to provide such services to CITY.

ARTICLE 2
SCOPE OF SERVICES

Section 2.1 Scope of Services

CONTRACTOR, for the benefit and at the direction of CITY, shall perform the Scope of Services as set forth in Exhibit A.

Section 2.2 Time For Commencement and Completion of Work

CONTRACTOR shall commence work pursuant to this Agreement, upon receipt of a written notice to proceed from CITY or on the date set forth in Section 2.6, whichever occurs first, and shall perform all services diligently and complete work under this Agreement based on a mutually agreed upon timeline or as otherwise designated in the Scope of Services.

CONTRACTOR shall submit to CITY such reports, diagrams, drawings and other work products as may be designated in the Scope of Services.

CONTRACTOR shall not be responsible for delays caused by the failure of CITY staff to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project shall not be counted against CONTRACTOR's contract performance period. Also, any delays due to

weather, vandalism, acts of God, etc., shall not be counted. CONTRACTOR shall remain in contact with reviewing agencies and make all efforts to review and return all comments.

Section 2.3 Meetings

CONTRACTOR shall attend meetings as may be set forth in the Scope of Services.

Section 2.4 Staffing

CONTRACTOR acknowledges that CITY has relied on CONTRACTOR's capabilities and on the qualifications of CONTRACTOR's principals and staff as identified in its proposal to CITY. The Scope of Services shall be performed by CONTRACTOR, unless agreed to otherwise by CITY in writing. CITY shall be notified by CONTRACTOR of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel at CITY's sole discretion and shall be notified by CONTRACTOR of any changes of CONTRACTOR's project staff prior to any change.

CONTRACTOR represents it is prepared to and can perform all services within the Scope of Services (Exhibit A) and is prepared to and can perform all services specified therein. CONTRACTOR represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature are legally required for CONTRACTOR to practice its profession, and that CONTRACTOR shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals, and shall indemnify, defend and hold harmless CITY against any costs associated with such licenses, permits, qualifications, insurance and approvals which may be imposed against CITY under this Agreement.

Section 2.5 Subcontracts

Unless prior written approval of CITY is obtained, CONTRACTOR shall not enter into any subcontract with any other party for purposes of providing any work or services covered by this Agreement.

Section 2.6 Term

The term of this Agreement commences on April 1, 2016 and terminates upon the completion of the Scope of Services or on March 31, 2018, whichever occurs first.

ARTICLE 3
COMPENSATION

Section 3.1 Compensation

CONTRACTOR's compensation for all work under this Agreement shall conform to the provisions of the Fee Proposal, attached hereto as Exhibit B and incorporated by this reference.

CONTRACTOR shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

Section 3.2 Method of Payment

CONTRACTOR shall submit invoices for completed work on a monthly basis, or as otherwise agreed, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the Scope of Services said work is attributable. CONTRACTOR's compensation for all work under this Agreement shall not exceed the amount of the Fee Proposal.

Section 3.3 Costs

The Fee Proposal shall include all reimbursable costs required for the performance of the Scope of Services. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved in advanced and in writing, by CITY.

Section 3.4 Auditing

CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under this Agreement. Upon request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONTRACTOR agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONTRACTOR agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

ARTICLE 4
MISCELLANEOUS PROVISIONS

Section 4.1 Nondiscrimination

In performing services under this Agreement, CONTRACTOR shall not discriminate in the employment of its employees or in the engagement of any sub CONTRACTOR on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

Section 4.2 ADA Compliance

In performing services under this Agreement, CONTRACTOR shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

Section 4.3 Indemnification and Responsibility for Damage

CONTRACTOR to the fullest extent permitted by law, shall indemnify and hold harmless CITY, its elected and appointed officials, directors, officers, employees and volunteers from and against any claims, damages, losses, and expenses (including reasonable attorney's fees and costs), arising out of performance of the services to be performed under this Agreement, provided that any such claim, damage, loss, or expense is caused by the negligent acts, errors or omissions of CONTRACTOR, any subcontractor employed directly by CONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, except those injuries or damages arising out of the active negligence, sole negligence, or sole willful misconduct of the City of Lodi, its elected and appointed officials, directors, officers, employees and volunteers. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, CONTRACTOR shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs. The defense and indemnification obligations required by this Agreement are undertaken in addition to, and shall not in any way be limited by the insurance obligations set forth herein.

Section 4.4 No Personal Liability

Neither the City Council, nor any other officer or authorized assistant or agent or City employee shall be personally responsible for any liability arising under this Agreement.

Section 4.5 Responsibility of CITY

CITY shall not be held responsible for the care or protection of any material or parts of the work described in the Scope of Services prior to final acceptance by CITY, except as expressly provided herein.

Section 4.6 Insurance Requirements for CONTRACTOR

CONTRACTOR shall take out and maintain during the life of this Agreement, insurance coverage as set forth in Exhibit C attached hereto and incorporated by this reference.

Section 4.7 Successors and Assigns

CITY and CONTRACTOR each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others. CONTRACTOR shall not assign or transfer any interest in this Agreement without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

Section 4.8 Notices

Any notice required to be given by the terms of this Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To CITY: City of Lodi
221 West Pine Street
P.O. Box 3006
Lodi, CA 95241-1910
Attn: Gary Wiman

To CONTRACTOR: Terracon
902 Industrial Way
Lodi, CA 95240
Attn: Troy M. Schiess

Section 4.9 Cooperation of CITY

CITY shall cooperate fully and in a timely manner in providing relevant information it has at its disposal relevant to the Scope of Services.

Section 4.10 CONTRACTOR is Not an Employee of CITY

CONTRACTOR agrees that in undertaking the duties to be performed under this Agreement, it shall act as an independent contractor for and on behalf of CITY and not an employee of CITY. CITY shall not direct the work and means for accomplishment of

the services and work to be performed hereunder. CITY, however, retains the right to require that work performed by CONTRACTOR meet specific standards without regard to the manner and means of accomplishment thereof.

Section 4.11 Termination

CITY may terminate this Agreement, with or without cause, by giving CONTRACTOR at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase. Upon termination, CONTRACTOR shall be entitled to payment as set forth in the attached Exhibit B to the extent that the work has been performed. Upon termination, CONTRACTOR shall immediately suspend all work on the Project and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONTRACTOR with third parties in reliance upon this Agreement.

Section 4.12 Confidentiality

CONTRACTOR agrees to maintain confidentiality of all work and work products produced under this Agreement, except to the extent otherwise required by law or permitted in writing by CITY. CITY agrees to maintain confidentiality of any documents owned by CONTRACTOR and clearly marked by CONTRACTOR as "Confidential" or "Proprietary", except to the extent otherwise required by law or permitted in writing by CONTRACTOR. CONTRACTOR acknowledges that CITY is subject to the California Public Records Act.

Section 4.13 Applicable Law, Jurisdiction, Severability, and Attorney's Fees

This Agreement shall be governed by the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be venued with the San Joaquin County Superior Court. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in force and effect. In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

Section 4.14 City Business License Requirement

CONTRACTOR acknowledges that Lodi Municipal Code Section 3.01.020 requires CONTRACTOR to have a city business license and CONTRACTOR agrees to secure such license and pay the appropriate fees prior to performing any work hereunder.

Section 4.15 Captions

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent hereunder.

Section 4.16 Integration and Modification

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by both parties.

Section 4.17 Contract Terms Prevail

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

Section 4.18 Severability

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

Section 4.19 Ownership of Documents

All documents, photographs, reports, analyses, audits, computer media, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of CITY. Upon CITY's request, CONTRACTOR shall allow CITY to inspect all such documents during CONTRACTOR's regular business hours. Upon termination or completion of services under this Agreement, all information collected, work product and documents shall be delivered by CONTRACTOR to CITY within ten (10) calendar days.

CITY agrees to indemnify, defend and hold CONTRACTOR harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were intended.

Section 4.20 Authority

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

Section 4.21 Federal Transit Funding Conditions

☐ If the box at left is checked, the Federal Transit Funding conditions attached as Exhibit D apply to this Agreement. In the event of a conflict between the terms of this Agreement or any of its other exhibits, and the Federal Transit Funding Conditions, the Federal Transit Funding Conditions will control.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement as of the date first above written.

CITY OF LODI, a municipal corporation

ATTEST:

JENNIFER M. FERRAIOLO
City Clerk

STEPHEN SCHWABAUER
City Manager

APPROVED AS TO FORM:
JANICE D. MAGDICH, City Attorney

By: _____

TERRACON

By: _____
Name: Troy M. Schiess
Title: Materials Department Manager

Attachments:
Exhibit A – Scope of Services
Exhibit B – Fee Proposal
Exhibit C – Insurance Requirements
Exhibit D – Federal Transit Funding Conditions (if applicable)

Funding Source: **PWST-0009.Const.ExtLabor 30799000.77020**
(Business Unit & Account No.)

Doc ID:K:\WP\PROJECTS\PSA's\2016\Terracon HLGS.doc

CA:Rev.01.2015

Exhibit A

Provide Construction Testing and Inspection Services as stated in the Request For Proposal dated 10/21/15, the construction contract documents and CALTRANS requirements.

CITY OF LODI
DEPARTMENT OF PUBLIC WORKS

REQUEST FOR PROPOSALS

for

Construction Testing and Inspection Services

for the

GRADE SEPARATION HARNEY LANE at UPRR OVERHEAD

PROJECT

Federal ID #STPL-5154 (040)

Please Submit Proposals to:
City of Lodi
Public Works Department
P.O. Box 3006
(221 West Pine Street)
Lodi, CA 95241 (95240)

Attn: Gary R. Wiman, Construction Project Manager

Deadline for Submittal of Proposals
No later than 5:00 p.m. on Friday, November 20, 2015

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INTRODUCTION

Harney Lane is a two-lane east-west urban collector near the City of Lodi's southern city limit. It intersects the Union Pacific Railroad approximately ¾ miles west of State Route 99. The City of Lodi recently adopted a Specific Plan for Harney Lane which reclassified it as a four-lane divided expressway. The City of Lodi is also planning several improvement projects along the Harney Lane corridor between Lower Sacramento Road to the west and State Route 99 to the east. This combined with the improvements to Harney Lane at State Route 99 that were recently constructed will increase the usage of Harney Lane. Keeping the existing at-grade railroad crossing along Harney Lane would cause significant traffic congestion, with a compound effect on surrounding intersections and the State Route 99/ Harney Lane interchange. The construction of a railroad grade separation at this location will be an integral piece of the planned improvements to Harney Lane.

The City of Lodi ("City") is soliciting sealed proposals from qualified firms to provide Construction Testing and Inspection Services for the **Grade Separation Harney Lane at UPRR Overhead Project**. The Scope of Services shall include, but is not limited to: the furnishing of quality assurance testing, laboratory and related inspection services during the construction. This work will include all coordination with the City of Lodi, Caltrans, Design Engineers and contractor. The purpose of this procurement is to select the most qualified firm to enter into a contract with the City to provide Construction Testing and Inspection Services for construction of the **Grade Separation Harney Lane at UPRR Overhead Project.**

The City is seeking consultants with previous experience in grade separation project work, depth of resources, and sensitivity to the local and regulatory issues. Firms should have knowledge of the City's Standard Plans and Design Standards, as well as knowledge of the BNSF/UPRR Guidelines for Railroad Grade Separation Projects, AASHTO Design Guidelines, Caltrans Highway Design Manual, Caltrans Bridge Design Manuals, Caltrans Standard Plans, and Caltrans Standard Specifications.

RFP documents package can be obtained via email by requesting them at either gwiman@lodi.gov or Pwdept@lodi.gov. A PDF file of the RFP will be emailed.

SCHEDULE

The City has established the following dates for this RFP:

RFP released	October 22, 2015
Proposals due	November 20, 2015
Proposals evaluated by review team	November 23- December 10, 2015
Interviews of short-listed firms (if necessary)	December 15, 2015
Award recommendation to City Council	January 20, 2016
Contract Execution/Work Commences	February 1, 2016

This schedule is subject to change and can be affected by various intervening events.

PREVAILING WAGE REQUIREMENTS

The services described herein are considered "public works" as defined by California Labor Code Section 1720 et seq. Any Consultant awarded a contract as the result of this RFP shall be responsible for compliance with all applicable prevailing wage laws, as well as any and all

applicable state or federal wage laws, for services under the Consultant's contract.

PROPOSAL FORMAT

Each response to this RFP shall include the information described in this section. Provide the information in the order specified and use tabs to identify the different sections of your proposal. Failure to include all of the elements specified may be cause for rejection. Additional information may be provided but should be succinct and relevant to the goals of this RFP. Excessive information **will not** be considered favorably. Document pages shall be 8-1/2 inches by 11 inches in size or folded to such a size. Proposals shall have a **maximum of 30** pages, not including the cover letter, index and resumes, and shall contain the following elements, in the order given:

Cover Letter with the following information:

1. Title of this Request for Proposal
2. Name and mailing address of firm (include physical location if mailing address is a P.O. Box)
3. Contact person, telephone number, fax number and e-mail address
4. A statement that the submitting firm will perform the services as described in the Scope of Work.
5. Acknowledgement that all proposals may be considered public information. Subsequent to award of this RFP, all or part of any submittal may be released to any person or firm who may request it. Therefore, proposers shall specify in their Cover Letter if any portion of their submittal should be treated as proprietary and not releasable as public information. Proposers should be aware that all such requests may be subject to legal review and challenge. **Note: Cost proposals shall be treated as proprietary and shall not be released as public information.**

Signatory Requirements - The Cover Letter must be signed by an officer empowered by the proposing firm to sign such material and thereby commit the proposing firm to the obligations contained in the RFP response. Further, the signing and submission of a response shall indicate the intention of the proposer to adhere to the provisions described in this RFP and a commitment to enter into a binding contract.

- Proposals which are submitted on behalf of a Corporation shall have the correct corporate name thereon and the actual signature of the authorized officer of the corporation written (not typed) below the corporate name. The title of the office held by the person signing for the corporation shall appear below the signature of the officer.
- Proposals which are submitted by an individual doing business under a firm name ("dba") shall be signed in the name of the individual doing business under the proper firm name and style.

PROPOSAL SUBMITTAL INSTRUCTIONS

- One (1) original and three (3) copies of your Proposal and one (1) copy of your Cost Proposal in a separate sealed envelope, shall be received by the City of Lodi Public Works Department not later than the date and time indicated on the cover

page of this RFP. Faxed and/or emailed proposals shall not be accepted. All proposals shall be submitted in a sealed envelope or container, and clearly marked with the RFP title.

- Proposals must be submitted ONLY to:

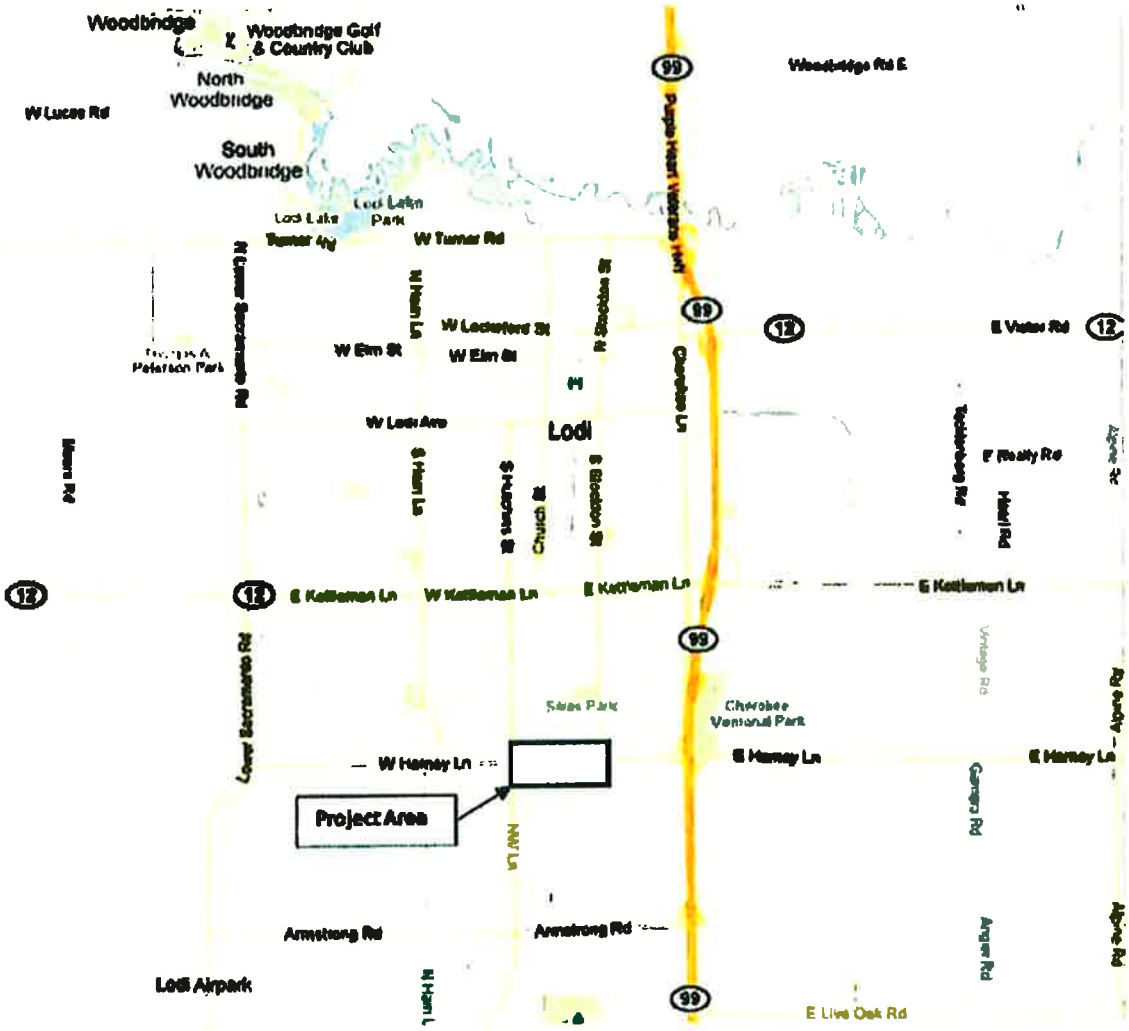
  City of Lodi Public Works Department
  Attn: Gary R. Wiman, Construction Project Manager
  P.O. Box 3006
  (221 West Pine Street)
  Lodi, CA 95241-1910 (95240)

- Late proposals will not be accepted or considered. The City of Lodi shall not be responsible for proposals delivered to a person or location other than that specified in this RFP.
- All proposals, whether selected or rejected, shall become the property of the City of Lodi and will not be returned.
- All costs associated with proposal preparation shall be borne by the proposer.
- All proposals shall remain firm for one hundred eighty (180) days following the closing date for the receipt of proposals.

The Project Location is identified in the project location map included herein as Figure 1.

Figure 1
Vicinity Map

Grade Separation: Harney Lane at Union Pacific Railroad



PART A
Information

SECTION 1. NOTICE

Notice is hereby given that the City of Lodi will receive Qualification Statements and Pricing Proposals for the furnishing of quality assurance testing, laboratory and related inspection services during the construction of the **Grade Separation Harney Lane at UPRR Overhead Project**. Each firm is requested to provide a proposal consisting of two sealed envelopes, one marked "QUALIFICATIONS" and the other marked "RFP PRICING PROPOSAL". Questions regarding this proposal and scope of work should be directed to Gary R. Wiman, Project Manager, at (209) 333-6706. Qualifications and Proposals **are due by 5:00 p.m. on Friday, November 20, 2015.**

The **Grade Separation Harney Lane at UPRR Overhead Project** will be Federally funded, any Consultant awarded the contract must work with the City to be sure all required forms, certifications, licenses and documentation is cohesive with the timing and requirements as set forth in the Federal funding guidelines.

RFP Documents: RFP documents package can be obtained via email by requesting them at either gwiman@lodi.gov or Pwdept@lodi.gov. A PDF file of the RFP will be emailed.

SECTION 2. PROJECT SCOPE

Projects contemplated under this agreement include the **Grade Separation Harney Lane at UPRR Overhead Project**, including the construction of a new three-span, cast in place, post tensioned concrete box girder approximately 248 feet long and 88 feet wide to grade separate Harney Lane at the Union Pacific Rail Road track. Work includes signal modifications (temporary & permanent), drainage and utility installation, street lighting, landscaping, construction of raised medians, curb gutter and sidewalk, and other incidental and related work, in accordance with Plans and Specifications for **Grade Separation Harney Lane at UPRR Overhead Project.** The project plans (drawings) and specifications and working details and other contract documents are on file with the Director of Public Works, City Hall, 221 West Pine Street, Lodi.

Construction is expected to begin in February 2016, and last for approximately 18 months.

Be advised that the City may elect to use the testing firm on other City construction projects during this time. Selected firm will be required to honor pricing submitted as a part of this proposal.

SECTION 3. QUALIFICATION CONSULTANT

The Consultant is required to demonstrate an ability to perform with a high level of expertise in order to be found qualified. Failure to submit such information will result in the rejection of the proposal. The following information must be submitted by the Consultant in a separately sealed envelope marked "QUALIFICATION". No pricing information will be included with the Qualification, but will be provided in a second separately sealed envelope marked "RFP PRICING PROPOSAL".

1. Information demonstrating adequate financial resources to perform the contract or the ability to obtain them as required for performance (example being a copy of the company financial statement).
2. Information demonstrating ability to meet the performance schedule of the contract as compared with other business commitments. Include a listing of all ongoing and planned work in addition to the **Grade Separation Harney Lane at UPRR Overhead Project.** List current number of employed field staff at the Office serving this project.

3. Information demonstrating a satisfactory record of professionalism and performance. The Consultant will provide information answering the following questions:

   a. Has the Consultant ever been terminated for default? Explain.
   b. Has the Consultant provided testing services of similar scale and scope (list three or more equivalent projects within the last ten years)?
   c. Has a Caltrans approved testing laboratory (Soils, concrete and Asphalt) within 100 miles of the project. Provide date of last inspection by Caltrans.
   d. Has a current AMRL certification?
   e. Is the Consultant recognized by the ICC Joint Committee on Special Inspection?
   f. Who are the designated supervising staff P.E. and Project Manager? Provide resumes and an organizational chart showing all staff that will work on the project.
   g. Provide resumes of currently employed certified (ICC, RCI, AWS, CALTRANS, etc.) staff inspectors who may be assigned to this project.

5. Information demonstrating a satisfactory record of integrity. Provide a list of client reference names, telephone numbers, and applicable projects.

6. Information demonstrating they have the necessary construction and technical equipment and facilities or ability to obtain them. List laboratory location where work for this project will be administered. List laboratory location where materials for this project will be tested.

SCOPE OF WORK

The Consultant shall have the ability to deliver a wide range of services including, but not limited to: Construction Inspection, testing and laboratory testing as required by the contract documents, building codes, Caltrans and funding sources. The Consultant will report to and assist the Construction Project Manager, who will act as the Resident Engineer for this project.

A sample contract is provided as Attachment 1.

Listed below are tasks the consultant is expected to incorporate in the proposed scope of services. It is not intended that the tasks included below comprise a comprehensive list or are the only tasks required for this project. Each consultant firm should, based on its expertise, develop a comprehensive and detailed scope of services necessary to complete the deliverables listed in this section of the RFP.

Table of Contents of material included in the proposal - This index must include a clear definition of the material and be identified by sequential page numbers.

Organization Chart - Provide your firm's organization chart designating specific staff members to be assigned to this contract. Include the firm's organizational structure and size variation of employees in the past five years. Also provide a project-specific organizational chart identifying services which would be completed by your firm's staff and those provided by subconsultants.

Experience of Firm and References - Provide a summary of the firm's experience with similar projects, including the date and a brief description of the project. The description is to include, at a minimum, an outline of the complexities of the project, the firm's approach to the project. Related experience to high-profile, fast-track, public-sensitive, local agency projects of similar size and magnitude should be included in this summary. Provide no more than three project references for related projects, including date of project, consultant staff that worked on the

project, contact person and phone number. Preference is given to project references that have directly worked with proposed staff.

Proposed Staff - Provide a brief summary of the qualifications/experience of each team member and how the experience applies to this project, preferably not more than one page per team member, to include length of service with the firm and resume.

Provide names of project manager and individuals authorized to negotiate contract on behalf of consulting firm.

Required Statements - Include statements of assurance for the following requirements:

- Non-substitution for the designated members of the proposed staff members without prior approval by the City
- Conflict of Interest
- Ability to fulfill the indemnification and insurance requirements contained in the sample contract (Attachment 1). Please note that actual Certificates of Insurance are not required as part of your submittal.
- A Disadvantaged Business contract goal of **15%** has been determined for this project. The required Federal forms are listed below. These forms shall be filled out and **submitted with the proposal**. Copies and instructions are provided in Attachment 2.
    - Exhibit 10-I Notice to Proposers DBE Information
    - Exhibit 10-K Certification of Financial Management System and Contract Costs
    - Exhibit 10-01 Local Agency Consultant DBE Commitment (Consultant Contracts)
    - Exhibit 10-Q Disclosure of Lobbying Activities
    - Exhibit 10-U Consultant in Management Position Conflict of Interest and Confidentiality Statement
    - Exhibit 12-B Bidder's List of Subcontractors (DBE and Non-DBE) - Part I and Part II
    - Exhibit 15-H UDBE Information - Good Faith Efforts
- The following Federal forms are required upon execution of agreement with Consultant. Copies and instructions are provided in Attachment 3.
    - Exhibit 10-02 Local Agency Consultant DBE Information
    - Exhibit 17-F Final Report - Utilization of DBEs
    - Exhibit 17-O DBE Certification Status Change

SECTION 4. RFP PRICING DOCUMENTS

RFP pricing shall be delivered in a separately sealed envelope marked "RFP PRICING PROPOSAL" and shall be made upon the special proposal (RFP Pricing Form) with all items completely filled out; numbers shall be stated in figures, the signature of the proposer shall be in longhand. The completed form should be without modifications, interlineations, alterations, or erasures. No qualification information will be contained in the RFP Pricing envelope. Do not qualify pricing. Qualified pricing will be rejected **as non-responsive.** Pricing is required to be prepared in accordance with Federal and State guidelines showing companies CPA audited overhead rates per Title 48 Code of Federal Regulations (CFR), Part 31, Contracts Cost Principles and Procedures. Each individual proposed for the project should include a detailed cost/pricing table per California ADM 2033 (rev. 10/12) showing their labor rates, fringe, overhead, and fee. Attach additional sheets as may be required to provide this information. The

Consultant shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the City Contract Manager.

The City of Lodi has determined that this project falls under the guidelines for prevailing wage requirements. All personnel working on this project are entitled to the prevailing wage as set by the State of California Department of Industrial relations. By submission of this proposal:

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 Contractor.

The City of Lodi requires the submission of certified payroll records monthly with the billing request. Each pricing proposal shall be in accordance with the attached sample contract and scope of work, and with applicable codes.

Cost Proposal- Submit one (1) copy of proposed hourly rate(s), with not-to-exceed totals for each of the tasks identified in the Scope of Work. The Cost Proposal shall be submitted in a separate sealed envelope, clearly marked with the name of your firm, the name of the project, and identified as "Cost Proposal". The Cost Proposal does not apply to the page count. Cost proposals shall be treated as proprietary and shall not be released as public information. Cost proposals of those firms not awarded the RFP shall be destroyed.

SECTION 5. SUBMISSION OF PROPOSALS

Proposals including two separately sealed envelopes marked "QUALIFICATION STATEMENTS" and "RFP PRICING PROPOSAL" shall be submitted to the City of Lodi at the place indicated in the Request For Proposal. It is the sole responsibility of the proposer to see that his proposal is received in proper time.

All proposals shall be submitted under separately sealed cover, plainly identified as "Request for Proposals for Testing Services - **Grade Separation Harney Lane at UPRR Overhead Project** " and addressed as directed in this Notice. Failure to do so may result in a premature opening of, or a failure to open such proposals. Proposals which are not properly marked may be disregarded. Oral, telephonic, or telegraphic proposals are invalid and will not receive consideration.

The City reserves the right to reject any and all proposals and/or waive any irregularity in any proposal received. No respondent may withdraw his proposal for a period of sixty days after the date set for submission of the proposals.

The proposer shall carefully examine the instructions contained herein and satisfy himself as to the conditions with which he must comply prior to submitting his proposal, and to the conditions affecting the award of contract.

SECTION 6. WITHDRAWAL OF PROPOSALS

Any proposal may be withdrawn at any time prior to the time fixed in the public notice for the submission of proposals, provided that a request in writing, executed by the proposer or his duly authorized representative, for the withdrawal of such proposal is filed with the City's Public Works Department. An oral, telegraphic or telephonic request to withdraw a proposal is not acceptable. The withdrawal of a proposal shall not prejudice the right of a Consultant to file a new proposal.

SECTION 7. IRREGULAR PROPOSALS

Proposals may be rejected if they show any alteration of form, additions not called for, conditional bids, incomplete proposals, erasures, or irregularities of any kind. If proposal amount is changed after the amount is originally inserted, the change should be initialed. If the Qualification contains pricing information, the proposal may be rejected. **Proposals demonstrating rates less than the required prevailing wage rate for a particular service will not be accepted.** Rates shall include, but not be limited to, all costs associated with the service being provided, including tools, transportation and reporting. Billing will only be for hours actually on site or performing the required tests. No minimum hours will be recognized.

SECTION 8. AWARD OF CONTRACT

The right is reserved to reject any and all proposals.

The award of the contract, if it is to be awarded, will be to the most qualified proposer whose proposal complies with all the requirements prescribed. Such award, if made, will be made within sixty days after the submission of the proposals.

SECTION 9. EXECUTION OF CONTRACT

The contract shall be signed by the successful proposer in duplicate counterpart and returned within five days of receipt, not including Saturdays, Sundays, and legal holidays. No contract shall be binding upon the City until it has been signed and executed by the Contractor and the City. Once fully executed, the City will issue a copy of the contract.

End of Part A

PART B
REQUEST FOR PROPOSAL PRICING FORM

Proposals are due no later than 5:00 p.m. on:
November 20, 2015

Location:
City of Lodi
Public Works Department
Attn: Gary R. Wiman, Construction Project Manager
221 West Pine Street
P.O. Box 3006
Lodi, CA 95241-1910

Proposer:

The undersigned hereby proposes and agrees to furnish any and all required labor, material, transportation, insurance, and incidentals necessary to provide quality assurance testing and inspecting services pertaining to the **Grade Separation Harney Lane at UPRR Overhead Project** in accordance with the terms and conditions of the Request for Proposal on file at the City of Lodi, Public Works Department. Proposer declares that the only persons or parties interested in this proposal as principals are those named herein; that this proposal is made without collusion with any other person, firm, or corporation; that the undersigned will contract with the City of Lodi to provide these services in the manner and time prescribed; and that the undersigned will take in full payment therefore an amount based on the unit prices specified herein below for the various services, the total value of said services for the not-to-exceed sum of _____ Dollars.

It is understood and agreed that the quantities of services under each item are approximate, being given as a basis of comparison of proposals, and the right is reserved by the City to increase or decrease the amount of work under any item as may be required by the City, in accordance with this agreement.

It is further understood and agreed that the total amount of money set forth for each item of work, or as the total amount proposed for the project, does not constitute an agreement to pay a lump sum for these services. The quantities may be increased or decreased depending on the job requirements.

IMPORTANT NOTICE

If the proposer is a corporation, state legal name of corporation, also names of president, secretary, treasurer, and manager thereof. If a co-partnership, state true name of firm. If an individual, state first and last name in full.

Firm Name: _____

By: _____

Dated: _____

NOTE: All items must be completed for proposal to be considered valid.

Item	Description	Qty.	Unit	Field Unit Price	Lab Unit Price	Total Cost
1	Soils/Asphalt					
	Engineered Fill Observation	800	Hr.			
	Density (Curve) Cal 216	25	Ea.			
	Soil Compaction Testing – Nuclear gauge	800	Hr.			
	Footing Verification Inspection	100	Hr.			
	Road Subgrade/Agg. base compaction Testing	100	Hr.			
	CTM 202 Sieve Analysis	10	Ea.			
	CTM 217 Sand Equivalent	10	Ea.			
	CTM 229 Aggregate Durability	10	Ea.			
	CTM 301 R Value	5	Ea.			
	CTM 382 Asphalt Content Ignition Oven	10	Ea.			
	CTM 309 Max. Specific Gravity HMA Mix	10	Ea.			
	CTM 308 Max. Specific Gravity of Compacted Mix	10	Ea.			
	HMA Mix Design Review	5	Ea.			
	Asphalt Compaction Testing - Nuclear Gauge	80	Hr.			
	CTM 375 Asphalt Compaction Testing – Field Coring	40	Hr.			
	Subtotal					

Item	Description	Qty.	Unit	Field Unit Price	Lab Unit Price	Total Cost
2	Cast-In-Place Concrete					
	Mix Design Review - ACI 301	5	Ea.			
	Cement Sampling - ASTM C 183	5	Ea.			
	CTM 521 Compressive Strength Concrete Specimen	80 sets	4 cyl.			
	Tensile/Bend Test - ASTM 615-90	40	Ea.			
	Elongation and Yield/Tensile Strength	40	Ea.			
	Reinforcement Placement Inspection	300	Hr.			
	Drilled Dowel Testing (AASHTO T-237)	40	Hr.			
	Concrete Placement Inspection including CTM 539, 540, 504, 518, 543, 556 and 557 as required	400	Hr.			
	Concrete Core Testing - ASTM C42 (incl. coring)	10	Ea.			
	Drilled In Anchor Testing	40	Hr.			
	Post Tension Cable Placement	200	Hr.			
	Post Tensioning Inspection	60	Hr.			
	Pick Up and Delivery of samples (separate trips only)	40	Ea./Set			
	Subtotal					

Item	Description	Qty.	Unit	Field Unit Price	Lab Unit Price	Total Cost
3	**Masonry**					
	Mortar Testing - UBC Std. 21-16	25	Ea./Set			
	Grout Testing UBC Std. 21-18	25	Ea./Set			
	Mix Design Review/Report	3	Ea.			
	Tensile/Bend Test ASTM 615-90	10	Ea.			
	Masonry Placement Inspection, UBC 1701.5, 7.2	200	Hr.			
	CMU Block or Brick Testing	4	Set of 4			
	Prisms - UBC Std. 21-17	4	Ea.			
	Subtotal					
4	**Structural Steel**					
	Shop Visual Welding	200	Hr.			
	Field Visual Welding	200	Hr.			
	Shop Fabrication Inspection	200	Hr.			
	Field Bolting (Torque) Inspection w/Reports	100	Hr.			
	Metal Deck Welding	80	Hr.			
	Ultrasonic Testing	100	Hr.			
	Subtotal					
5	**Other**					
	NOT USED					
	Subtotal					

Item	Description	Qty.	Unit	Field Unit Price	Lab Unit Price	Total Cost
6	**Professional Services**					
	Senior Staff Engineer	20	Hr.			
	Field Technician	100	Hr.			
	Lab Technician	80	Hr.			
	Subtotal					
7	**Miscellaneous**					
	Premium Diff. for OT	100	Hr.			
	Out-of-Town Inspection (beyond 50 miles)	40	Hr.			
	Mileage (beyond 50 miles)	500	Mile			
	Subsistence (beyond 50 miles)	10	Day			
	Subtotal					
	Grand Total					

End of Part B

PART C
SCOPE OF SERVICES

A. General Requirements

1. Consultant to be a fully qualified testing laboratory meeting the requirements of ASTM E-329 Sections 3 through 8, and Section 11, and recognized by the ICC Joint Committee on Special Inspection and Approved by Caltrans.
2. Consultant shall attend all meetings and conferences as requested by the City or its agent.
3. Cost considerations are not to be considered as justification for breach of sound principles of quality assurance, inspection, and testing.
4. Consultant shall establish and maintain procedures to ensure that persons performing work are certified and skilled in methods and practices needed to assure required quality levels. Remove and replace (at no additional cost to the City) personnel who do not possess the required skills or who are not efficiently and effectively performing their assignments. Provide the Project Manager with resumes of all personnel assigned to the project.
5. Consultant shall be responsible for the quality of the services provided, and shall maintain the necessary facilities and equipment required to satisfy the testing specifications.
6. Consultant shall request a clarification from the Project Manager for missing or ambiguous information or requirements. In the case of conflict in the plans, specifications and/or codes, the more stringent inspection or testing requirement shall apply.
7. Consultant may need to subcontract for certain specialized testing or inspection services. The use of such subconsultant will require prior City approval.
8. The following attachments will form a part of this contract:
   - Specification Section 01400 - Quality Control
   - Specification Section 01410 - Testing
   - Request and Approval for Testing Services (Form)
   - Detail Breakdown (Billing Report)

B. Scope

1. The scope of tests and inspections is based on the requirements of 2006 CALTRANS Standards, other referenced code requirements, and the **Grade Separation Harney Lane at UPRR Overhead Project** plans and specifications. The services to be provided will be as directed by the City's representative. The Consultant will meet or communicate with the representative and/or construction Contractor periodically to plan and schedule testing and inspection services.
2. The authorization to provide specific services will be issued by the Project Manager using a Testing Services Work Order (Request and Approval for Testing Services form). These work orders will be issued by the City's representative periodically throughout the construction period, as construction activities dictate. The Contractor will not be authorized to place orders directly with the testing firm. The City will not pay for the services placed by the Contractor. The Request and Approval for Testing Services form describes the required test, location and date required. It will be requested by the Contractor and forwarded to the City representative for approval. Upon completion of the testing/inspection, the Consultant will sign and date the forms, which will be verified by the City's representative. The Consultant will make a copy of the completed form, which will be attached to the Consultant's billing each month. These serve as the Special Inspector's Time Card and must be signed by the Project Manager each day. The time cards will be used to validate each month's hourly billing.
3. Off-site inspections are to be handled identical to the above except that Special Inspectors shall fax or electronically mail time cards to the owner's representative each day, without exceptions.

4. The Consultant will maintain a monthly status report of the budget quantities and costs; quantities and costs expended through previous report period, quantities and costs this report period, and total quantities and costs to date. The status report will be submitted with the monthly billing.

C. Time

Services shall start upon execution of the agreement and issuance of the first work order.

The duration of the Consultant contract will be for a period of TWENTY-FOUR (24) months at the established item prices.

D. Notice

The Consultant will be given one working day's notice prior to starting any new inspection/testing service.

E. Conflict of Interest

The Consultant cannot contract directly with construction Contractor for any testing services concerning this City project.

F. Item Prices

1. The City is not limited to the use of funds as estimated per item. Unused funds from one item price may roll up to other items as required so long as the total contract award does not exceed 125% of the total proposal price.
2. Any service required, but not referenced in the Proposal for Services listing, to be charged to client using similar unit price for actual hours worked (not "List Price").

G. Reimbursement

1. The Consultant will only be paid for actual hours worked except for a one-hour minimum for show-up time.
2. Travel Costs: The cost of mileage and subsistence charges to and from the project site is included in the item prices. Travel and subsistence charges to factories and fabrication plants in excess of a 50-mile radius from the job site will be reimbursable by the City only when the City has issued prior written approval thereof. The City will reimburse the Consultant for mileage or airfare whichever is less expensive. The following will apply to determine applicable costs. Travel time will be reimbursed at a field technician level. Actual costs with no overhead or profit will be reimbursed. This level of reimbursement should be reflected in the submitted Proposal for Services.
3. Reproduction and Mailing: Reproduction and mailing costs for reports and test results shall be supplied in the quantity specified in the specification and included as part of the above-listed item prices. Reproduction and shipping costs for additional copies will be reimbursed by the City at actual cost when the City has issued prior written approval therefore.

H. Subconsultants

Consultant's subconsultants' time shall be paid at Consultant's cost, which should be reflected in the item prices of the submitted Proposal for Services. Prevailing wage requirements must be met.

I. Billing

The Consultant will submit to the Project Manager no later than the first of each month (for services up to the 25th) a computed "Request and Approval for Testing Services" form for all services with each billing. The Consultant will prepare a summary contract form with each billing which provides the following information for each line item of work and for the total contract:

> "Item, Description, Budgeted Quantity, Unit, Unit Price, Total Budgeted, Previously Billed Units, Current Billing Units, Total Current Billing."

End of Part C

EVALUATION CRITERIA

The following evaluation criteria and rating schedule will be used to determine the most highly qualified firm for this project:

Evaluation Criteria	Maximum Points
Understanding of the work to be done	15
Experience with similar kinds of work	20
Quality of staff available for the work to meet project schedule	25
Capability of Laboratory to meet project schedule	10
Familiarity with state and federal procedures	10
Financial responsibility	10
Demonstrated Technical Ability	10
Total Possible Points	100

SELECTION PROCEDURE

Proposals will be reviewed for responsiveness, and responsive proposals will be screened by a selection committee in accordance with the above criteria. The top two firm(s) submitting the highest rated proposal(s) *may* be invited for interviews. The proposed project manager and project engineer shall represent the firm at the interview.

The City reserves the right to make an award without further discussion of the submittal with the offeror. Therefore, the proposal should be submitted initially on the most favorable terms that the firm or individual might propose.

The City reserves the right to award a contract to the firm that presents the best qualifications and whose proposal best accomplishes the desired results.

The City reserves the right to reject any or all proposals, or to waive minor defects and/or irregularities in said proposals, or to negotiate minor deviations with the successful firm(s). The City shall be the sole judge of the materiality of any such defect or irregularity.

GENERAL TERMS AND CONDITIONS

Exceptions: If the Proposer takes exceptions to the specifications, terms and conditions of this RFP or the Draft Contract, or as amended by any addenda subsequently issued, they must do so in writing. Said exceptions must be submitted with the Proposer's response to this RFP. Failure to do so shall signify acceptance of all specifications, terms and conditions and General Provisions of this RFP and the resulting contract.

Standard Contract: Upon completion of the evaluation and recommendation for award, the selected firm will be required to execute a consultant services agreement, a sample of which is included as Attachment 1. Proposers are advised to carefully review the attached contract. Any proposed exceptions, alterations, or amendments shall be clearly specified in a separate letter in your submittal, the nature of which may affect the evaluation of your submittal and the perceived ability to successfully award a contract to your firm/individual.

Independent Contractor: At all times the Consultant shall represent himself/herself to be an independent contractor offering such services to the general public and shall not represent himself/herself, or his/her employees, to be an employee of the City of Lodi.

Ownership of Information: All reports, documentation, and material developed or acquired by the Consultant as a direct requirement specified herein shall become the property of the City of Lodi. The Consultant agrees and understands that all discussions with the Consultant and all information gained by the Consultant as a result of the Consultant's performance under the contract, shall be confidential and that no reports, documentation, or material prepared as required by the contract shall be released to the public without the prior written consent of the City.

Non-Appropriation: The City may terminate any resulting contract at the end of any fiscal year, June 30th, without further liability other than payment of debt incurred during such fiscal year, should funds not be appropriated by its governing body to continue services for which the contract was intended.

Conflict of Interest: The Consultant shall warrant that no official or employee of the City has an interest, has been employed or retained to solicit or aid in the procuring of the resulting contract, nor that any such person will be employed in the performance of such contract without immediate divulgence of such fact to the City.

Non-Collusion: Firms submitting proposals shall warrant that their offer is made without any previous understanding, agreement or connection with any person, firm or corporation submitting a separate proposal for the same project and is in all respects fair, without outside control, collusion, fraud or otherwise illegal action. This condition shall not apply to proposals which are submitted by firms who have partnered with others to submit a cooperative proposal that clearly identifies a primary consultant and the associated subconsultants.

Indemnification and Insurance Requirements: The indemnification and insurance requirements are provided in Attachment 1.

INQUIRIES

All general inquiries regarding the RFP process or proposal submission must be directed to:

Gary R. Wiman, Construction Project Manager
City of Lodi Public Works Department
P.O. Box 3006
(221 West Pine Street)
Lodi, CA 95241-1910 (95240)
Email: gwiman@lodi.gov / Phone: 209-333-6706

Email is the preferred method of receiving inquiries.

ATTACHMENTS

1. Sample Contract with Indemnification and Insurance Requirements
2. Required Federal Form Submittals
3. Federal Forms Required upon Execution of Agreements
4. Specification Section 01400 - Quality Control
5. Specification Section 01410 – Testing
6. Request and Approval for Testing Services (Form)
7. Detail Breakdown (Billing Report)

Attachment 1

Sample Contract with Indemnification and Insurance Requirements

AGREEMENT FOR PROFESSIONAL SERVICES

ARTICLE 1
PARTIES AND PURPOSE

Section 1.1 Parties

THIS AGREEMENT is entered into on _____, 2015, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and _____ (hereinafter "CONTRACTOR").

Section 1.2 Purpose

CITY selected the CONTRACTOR to provide the services required in accordance with attached Scope of Services, Exhibit A, attached and incorporated by this reference.

CITY wishes to enter into an agreement with CONTRACTOR for _____ (hereinafter "Project") as set forth in the Scope of Services attached here as Exhibit A. CONTRACTOR acknowledges that it is qualified to provide such services to CITY.

ARTICLE 2
SCOPE OF SERVICES

Section 2.1 Scope of Services

CONTRACTOR, for the benefit and at the direction of CITY, shall perform the Scope of Services as set forth in Exhibit A.

Section 2.2 Time For Commencement and Completion of Work

CONTRACTOR shall commence work pursuant to this Agreement, upon receipt of a written notice to proceed from CITY or on the date set forth in Section 2.6, whichever occurs first, and shall perform all services diligently and complete work under this Agreement based on a mutually agreed upon timeline or as otherwise designated in the Scope of Services.

CONTRACTOR shall submit to CITY such reports, diagrams, drawings and other work products as may be designated in the Scope of Services.

CONTRACTOR shall not be responsible for delays caused by the failure of CITY staff to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project shall not be counted against CONTRACTOR's contract performance period. Also, any delays due to weather, vandalism, acts of God, etc., shall not be counted. CONTRACTOR shall

remain in contact with reviewing agencies and make all efforts to review and return all comments.

Section 2.3 Meetings

CONTRACTOR shall attend meetings as may be set forth in the Scope of Services.

Section 2.4 Staffing

CONTRACTOR acknowledges that CITY has relied on CONTRACTOR's capabilities and on the qualifications of CONTRACTOR's principals and staff as identified in its proposal to CITY. The Scope of Services shall be performed by CONTRACTOR, unless agreed to otherwise by CITY in writing. CITY shall be notified by CONTRACTOR of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel at CITY's sole discretion and shall be notified by CONTRACTOR of any changes of CONTRACTOR's project staff prior to any change.

CONTRACTOR represents it is prepared to and can perform all services within the Scope of Services (Exhibit A) and is prepared to and can perform all services specified therein. CONTRACTOR represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature are legally required for CONTRACTOR to practice its profession, and that CONTRACTOR shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals, and shall indemnify, defend and hold harmless CITY against any costs associated with such licenses, permits, qualifications, insurance and approvals which may be imposed against CITY under this Agreement.

Section 2.5 Subcontracts

Unless prior written approval of CITY is obtained, CONTRACTOR shall not enter into any subcontract with any other party for purposes of providing any work or services covered by this Agreement.

Section 2.6 Term

The term of this Agreement commences on , 20 and terminates upon the completion of the Scope of Services or on , 20 , whichever occurs first.

ARTICLE 3
COMPENSATION

Section 3.1 Compensation

CONTRACTOR's compensation for all work under this Agreement shall conform to the provisions of the Fee Proposal, attached hereto as Exhibit B and incorporated by this reference.

CONTRACTOR shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

Section 3.2 Prevailing Wage

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.

Section 3.3 Contractor Registration – Labor Code §1725.5

No contractor or subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

Section 3.4 Method of Payment

CONTRACTOR shall submit invoices for completed work on a monthly basis, or as otherwise agreed, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the Scope of Services said work is attributable. CONTRACTOR's compensation for all work under this Agreement shall not exceed the amount of the Fee Proposal.

Section 3.5 Costs

The Fee Proposal shall include all reimbursable costs required for the performance of the Scope of Services. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved in advanced and in writing, by CITY.

Section 3.6 Auditing

CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under this Agreement. Upon request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONTRACTOR agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONTRACTOR agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

ARTICLE 4
MISCELLANEOUS PROVISIONS

Section 4.1 Nondiscrimination

In performing services under this Agreement, CONTRACTOR shall not discriminate in the employment of its employees or in the engagement of any sub CONTRACTOR on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

Section 4.2 ADA Compliance

In performing services under this Agreement, CONTRACTOR shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

Section 4.3 Indemnification and Responsibility for Damage

CONTRACTOR to the fullest extent permitted by law, shall indemnify and hold harmless CITY, its elected and appointed officials, directors, officers, employees and volunteers from and against any claims, damages, losses, and expenses (including reasonable attorney's fees and costs), arising out of performance of the services to be performed under this Agreement, provided that any such claim, damage, loss, or expense is caused by the negligent acts, errors or omissions of CONTRACTOR, any subcontractor employed directly by CONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, except those injuries or damages arising out of the active negligence, sole negligence, or sole willful misconduct of the City of Lodi, its elected and appointed officials, directors, officers,

employees and volunteers. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, CONTRACTOR shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs. The defense and indemnification obligations required by this Agreement are undertaken in addition to, and shall not in any way be limited by the insurance obligations set forth herein.

Section 4.4 No Personal Liability

Neither the City Council, nor any other officer or authorized assistant or agent or City employee shall be personally responsible for any liability arising under this Agreement.

Section 4.5 Responsibility of CITY

CITY shall not be held responsible for the care or protection of any material or parts of the work described in the Scope of Services prior to final acceptance by CITY, except as expressly provided herein.

Section 4.6 Insurance Requirements for CONTRACTOR

CONTRACTOR shall take out and maintain during the life of this Agreement, insurance coverage as set forth in Exhibit C attached hereto and incorporated by this reference.

Section 4.7 Successors and Assigns

CITY and CONTRACTOR each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others. CONTRACTOR shall not assign or transfer any interest in this Agreement without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

Section 4.8 Notices

Any notice required to be given by the terms of this Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To CITY: City of Lodi
221 West Pine Street
P.O. Box 3006
Lodi, CA 95241-1910
Attn: Gary Wiman

To CONTRACTOR:

Section 4.9 Cooperation of CITY

CITY shall cooperate fully and in a timely manner in providing relevant information it has at its disposal relevant to the Scope of Services.

Section 4.10 CONTRACTOR is Not an Employee of CITY

CONTRACTOR agrees that in undertaking the duties to be performed under this Agreement, it shall act as an independent contractor for and on behalf of CITY and not an employee of CITY. CITY shall not direct the work and means for accomplishment of the services and work to be performed hereunder. CITY, however, retains the right to require that work performed by CONTRACTOR meet specific standards without regard to the manner and means of accomplishment thereof.

Section 4.11 Termination

CITY may terminate this Agreement, with or without cause, by giving CONTRACTOR at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase. Upon termination, CONTRACTOR shall be entitled to payment as set forth in the attached Exhibit B to the extent that the work has been performed. Upon termination, CONTRACTOR shall immediately suspend all work on the Project and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONTRACTOR with third parties in reliance upon this Agreement.

Section 4.12 Confidentiality

CONTRACTOR agrees to maintain confidentiality of all work and work products produced under this Agreement, except to the extent otherwise required by law or permitted in writing by CITY. CITY agrees to maintain confidentiality of any documents owned by CONTRACTOR and clearly marked by CONTRACTOR as "Confidential" or "Proprietary", except to the extent otherwise required by law or permitted in writing by

CONTRACTOR. CONTRACTOR acknowledges that CITY is subject to the California Public Records Act.

Section 4.13 Applicable Law, Jurisdiction, Severability, and Attorney's Fees

This Agreement shall be governed by the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be venued with the San Joaquin County Superior Court. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in force and effect. In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

Section 4.14 City Business License Requirement

CONTRACTOR acknowledges that Lodi Municipal Code Section 3.01.020 requires CONTRACTOR to have a city business license and CONTRACTOR agrees to secure such license and pay the appropriate fees prior to performing any work hereunder.

Section 4.15 Captions

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent hereunder.

Section 4.16 Integration and Modification

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by both parties.

Section 4.17 Contract Terms Prevail

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

Section 4.18 Severability

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

Section 4.19 Ownership of Documents

All documents, photographs, reports, analyses, audits, computer media, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of CITY. Upon CITY's request, CONTRACTOR shall allow CITY to inspect all such documents during CONTRACTOR's regular business hours. Upon termination or completion of services under this Agreement, all information collected, work product and documents shall be delivered by CONTRACTOR to CITY within ten (10) calendar days.

CITY agrees to indemnify, defend and hold CONTRACTOR harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were intended.

Section 4.20 Authority

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

Section 4.21 Federal Transit Funding Conditions

☐ If the box at left is checked, the Federal Transit Funding conditions attached as Exhibit D apply to this Agreement. In the event of a conflict between the terms of this Agreement or any of its other exhibits, and the Federal Transit Funding Conditions, the Federal Transit Funding Conditions will control.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement as of the date first above written.

CITY OF LODI, a municipal corporation

ATTEST:

_____
JENNIFER M. FERRAIOLA
City Clerk

_____
STEPHEN SCHWABAUER
City Manager

APPROVED AS TO FORM:
JANICE D. MAGDICH, City Attorney

By: _____

By: _____
Name:
Title:

Attachments:
Exhibit A – Scope of Services
Exhibit B – Fee Proposal
Exhibit C – Insurance Requirements
Exhibit D – Federal Transit Funding Conditions (if applicable)

Funding Source: _____
(Business Unit & Account No.)

Doc ID:

CA:Rev.01.2015

Exhibit C

Insurance Requirements for Consultant The Contractor shall take out and maintain during the life of this Agreement, insurance coverage as listed below. These insurance policies shall protect Contractor and any subcontractor performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, or by any subcontractor, or by anyone directly or indirectly employed by either of them, and the amount of such insurance shall be as follows:

1. **COMPREHENSIVE GENERAL LIABILITY**
   $1,000,000 Each Occurrence
   $2,000,000 General Aggregate

2. **COMPREHENSIVE AUTOMOBILE LIABILITY**
   $1,000,000 Combined Single Limit
   Such insurance shall cover liability arising out of any vehicle (including, owned, hired and non-hired vehicles) operated in performing any and all services pursuant to this Agreement. Coverage shall be written on ISO form CA 00 01 12 90, or a later version, that provides liability coverage at least as broad as this form.

All limits are to be designated strictly for the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers. All deductibles or self-insured retentions (SIR) must be disclosed to City's Risk Manager for approval and shall not reduce the limits of liability set forth hereinabove. Insurance policies containing any deductible or SIR provision shall provide, or be endorsed to provide, that the deductible or SIR may be satisfied by either the Named Insured(s) or the City of Lodi.

It is required that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth above, shall be available to City as an additional insured. Furthermore, the requirements for coverage and limits shall be (i) the minimum coverage and limits specified in these insurance requirements; or (ii) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Contractor, whichever is greater.

Contractor agrees and stipulates that any insurance coverage provided to the City of Lodi shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810 et seq.).

A copy of the certificate(s) of insurance with the following endorsements shall be furnished to the City:

(a) Additional Named Insured Endorsement
Pursuant to a separate endorsement (ISO form CG 2010 (11/85) or a later version, that provides liability coverage at least as broad as this form) such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers as additional named insureds. An additional named insured endorsement is also required for Auto Liability.

(b) Primary and Non-Contributory Insurance Endorsement
Additional insurance coverage under the Contractor's policy shall be "primary and non-contributory" and will not seek contribution from City's insurance or self-insurance and shall be at least as broad as ISO form CG 20 01 04 13.

NOTE: (1) The street address of the **CITY OF LODI** must be shown along with (a) and (b) above: 221 West Pine Street, Lodi, California, 95240; (2) The insurance certificate must state, on its face or as an endorsement, a description of the project that it is insuring.

(c) Waiver of Subrogation
Include a waiver of subrogation against the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers. A waiver is required for General Liability and Auto Liability.

(d) Limits of Coverage
The limits of insurance coverage required may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance of Contractor shall contain, or be endorsed to contain, a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect the City as a named insured.

(e) Severability of Interest Clause
The term "insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the company's liability.

(f) Notice of Cancellation or Change in Coverage Endorsement
This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 West Pine St., Lodi, CA 95240.

(g) Continuity of Coverage
All policies shall be in effect on or before the first day of the Term of this Agreement. At least thirty (30) days prior to the expiration of each insurance policy, Contractor shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the minimum requirements of this Agreement. Contractor shall provide proof of continuing insurance on at least an annual basis during the Term. If Contractor's insurance lapses or is discontinued for any reason, Contractor shall immediately notify the City and immediately obtain replacement insurance.

(h) Failure to Comply
If Contractor fails or refuses to obtain and maintain the required insurance, or fails to provide proof of coverage, the City may obtain the insurance. Contractor shall reimburse the City for premiums paid, with interest on the premium paid by the City at the maximum allowable legal rate then in effect in California. The City shall notify Contractor of such payment of premiums within thirty (30) days of payment stating the amount paid, the name(s) of the insurer(s), and rate of interest. Contractor shall pay such reimbursement and interest on the first (1st) day of the month following the City's notice. Notwithstanding and other provision of this Agreement, if Contractor fails or refuses to obtain or maintain insurance as required by this agreement, or fails to provide proof of insurance, the City may terminate this Agreement upon such breach. Upon such termination, Contractor shall immediately cease use of the Site or facilities and commence and diligently pursue the removal of any and all of its personal property from the site or facilities.

(i) Qualified Insurer(s)
All insurance required by the terms of this Agreement must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the AM Best Ratings Guide, and which are acceptable to the City. Non-admitted surplus lines carriers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet City requirements.

Workers Compensation Insurance The Contractor shall take out and maintain during the life of this Agreement, Worker's Compensation Insurance for all of Contractor's employees employed at the site of the project and, if any work is sublet, Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this Agreement at the site of the project is not protected under the Worker's Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide insurance for the protection of said employees. **A waiver of subrogation is required for workers compensation insurance.** This policy may not be canceled nor the coverage reduced without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 West Pine St., Lodi, CA 95240.

NOTE: The City reserves the right to obtain a full certified copy of any insurance policy or endorsements required. Failure to exercise this right shall not constitute a waiver of the City's right to exercise after the effective date.

Attachment 2

Required Federal Forms Submittals

EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

The Agency has established a DBE goal for this Contract of 15 %

OR

The Agency has not established a goal for this Contract. However, proposers are encouraged to obtain DBE participation for this contract.

1. TERMS AS USED IN THIS DOCUMENT

- The term "Disadvantaged Business Enterprise" or "DBE" means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Code of Federal Regulations (CFR), Part 26.5.
- The term "Agreement" also means "Contract."
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term "Small Business" or "SB" is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

A. DBEs and other small businesses are strongly encouraged to participate in the performance of Contracts financed in whole or in part with federal funds (See 49 CFR 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs"). The Consultant must ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer must not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF DBE INFORMATION

If there is a DBE goal on the contract, Exhibit 10-O1 *Consultant Proposal DBE Commitment* must be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. All DBE participation will be counted towards the contract goal; therefore, all DBE participation shall be collected and reported.

Exhibit 10-O2 *Consultant Contract DBE Information* must be included with the Request for Proposal. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer's responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department's DBE program developed pursuant to the regulations. Particular attention is directed to the following:

A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).

B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.

C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:

1. The proposer is a DBE and will meet the goal by performing work with its own forces.
2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.

D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.

E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.

F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.

G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

5. RESOURCES

A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.

B. Access the CUCP database from the Department of Transportation, Office of Business and Economic Opportunity Web site at: http://www.dot.ca.gov/hq/bep/.

1. Click on the link in the left menu titled *Disadvantaged Business Enterprise*;
2. Click on Search for a DBE Firm link;
3. Click on *Access to the DBE Query Form* located on the first line in the center of the page.

Searches can be performed by one or more criteria. Follow instructions on the screen.

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS THE DBE GOAL UNDER THE FOLLOWING CONDITIONS:

A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.

B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the

purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.

D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

EXHIBIT 10-K CONSULTANT CERTIFICATION OF CONTRACT COSTS AND FINANCIAL MANAGEMENT SYSTEM

(Note: If requesting to utilize the Safe Harbor Indirect Cost Rate submit Attachment 1 of DLA-OB 13-07 - Safe Harbor Indirect Cost Rate for Consultant Contracts found at http://www.dot.ca.gov/hq/LocalPrograms/DLA_OB/DLA_OB.htm in lieu of this form.)

Certification of Final Indirect Costs:

Consultant Firm Name: _____

Indirect Cost Rate: _____ * for fiscal period _____

*Fiscal period covered for Indirect Cost Rate developed (not the contract period).

Local Government: _____

Contract Number: _____ Project Number: _____

I, the undersigned, certify that I have reviewed the proposal to establish final indirect cost rates for the fiscal period as specified above and to the best of my knowledge and belief:

1. All costs included in this proposal to establish final Indirect Cost Rates are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of Title 48, Code of Federal Regulations (CFR), Part 31.
2. This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR, Part 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization, and Indirect Cost Rates have been disclosed as of the date of proposal preparation noted above.

Certification of Financial Management System:

I, the undersigned, certify to the best of my knowledge and belief that our Financial Management System meets the standards for financial reporting, accounting records, internal and budget control as set forth in the FAR of Title 49, CFR, Part 18.20 to the extent applicable to Consultant.

Certification of Dollar Amount for all A&E Contracts:

I, the undersigned, certify that the approximate dollar amount of all A&E contracts awarded by Caltrans or a California local agency to this firm within the last three (3) calendar years for all State DOT and Local Agencies is $ _____ and the number of states in which the firm does business is _____.

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are reasonable, allowable and allocable to the contract in accordance with the cost principles of the FAR of Title 48, CFR, Part 31. Allowable direct costs to a Government contract shall be:

1. Compliant with Generally Accepted Accounting Principles (GAAP) and standards promulgated by the Cost Accounting Standards Board (when applicable).
2. Compliant with the terms of the contract and is incurred specifically for the contract.
3. Not prohibited by 23 CFR, Chapter 1, Part 172 – Administration of Engineering and Design Related Service Contracts to the extent requirements are applicable to Consultant.

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files.

Subconsultants (if applicable)
Proposed Contract Amount (or amount not to exceed if on-call contract): $ _____

Prime Consultants (if applicable)
Proposed **Total** Contract Amount (or amount not to exceed if on-call contract): $ _____

Prime, list all subconsultants and proposed subcontract dollar amounts (attach additional page if necessary):

_____ $ _____
_____ $ _____
_____ $ _____
_____ $ _____
_____ $ _____

Consultant Certifying (Print Name and Title):

Name: _____

Title: _____

Consultant Certification Signature **: _____

Date of Certification (mm/dd/yyyy): _____

Consultant Contact Information:

Email: _____

Phone number: _____

**An individual executive or financial officer of the consultant's organization at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the Indirect Cost Rate proposal submitted in conjunction with the contract.

Note: *Per 23 U.S.C. 112(b)(2)(B), Subconsultants must comply with the FAR Cost Principles contained in 48 CFR, Part 31. 23 CFR Part 172.3 Definitions state: Consultant means the individual or firm providing engineering and design related services as a party to the contract. Therefore, subconsultants as parties of a contract must complete a certification and send originals to A&I and keep copies in Local Agency Project Files.*

Distribution: 1) Original to Caltrans Audits and Investigations
2) Retained in Local Agency Project Files

EXHIBIT 10-O1 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: 15%

3. Project Description: _____

4. Project Location: _____

5. Consultant's Name: _____ 6. Prime Certified DBE: ☐

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %

Local Agency to Complete this Section

17. Local Agency Contract Number: _____

18. Federal-Aid Project Number: _____

19. Proposed Contract Execution Date: _____

Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.

20. Local Agency Representative's Signature _____ 21. Date _____

22. Local Agency Representative's Name _____ 23. Phone _____

24. Local Agency Representative's Title _____

11. TOTAL CLAIMED DBE PARTICIPATION %

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.

12. Preparer's Signature _____ 13. Date _____

14. Preparer's Name _____ 15. Phone _____

16. Preparer's Title _____

DISTRIBUTION: Original – Included with consultant's proposal to local agency.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT PROPOSAL DBE COMMITMENT

CONSULTANT SECTION

1. Local Agency - Enter the name of the local or regional agency that is funding the contract.
2. Contract DBE Goal - Enter the contract DBE goal percentage as it appears on the project advertisement.
3. Project Description - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
4. Project Location - Enter the project location as it appears on the project advertisement.
5. Consultant's Name - Enter the consultant's firm name.
6. Prime Certified DBE - Check box if prime contractor is a certified DBE.
7. Description of Work, Services, or Materials Supplied - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
8. DBE Certification Number - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
9. DBE Contact Information - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
10. DBE % - Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
11. Total Claimed DBE Participation % - Enter the total DBE participation claimed. If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
12. Preparer's Signature - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
13. Date - Enter the date the DBE commitment form is signed by the consultant's preparer.
14. Preparer's Name - Enter the name of the person preparing and signing the consultant's DBE commitment form.
15. Phone - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
16. Preparer's Title - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

17. Local Agency Contract Number - Enter the Local Agency contract number or identifier.
18. Federal-Aid Project Number - Enter the Federal-Aid Project Number.
19. Proposed Contract Execution Date - Enter the proposed contract execution date.
20. Local Agency Representative's Signature - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
21. Date - Enter the date the DBE commitment form is signed by the Local Agency Representative.
22. Local Agency Representative's Name - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
23. Phone - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
24. Local Agency Representative Title - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

1. Type of Federal Action:

☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:

☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:

☐ a. initial
b. material change

For Material Change Only:
year ____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity

☐ Prime ☐ Subawardee
Tier _____, if known

Congressional District, if known

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, if known

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, if applicable _____

8. Federal Action Number, if known:

9. Award Amount, if known:

10. Name and Address of Lobby Entity
(If individual, last name, first name, MI)

11. Individuals Performing Services
including address if different from No. 10a
(If individual, last name, first name, MI)

(attach Continuation Sheet(s) if necessary)

12. Amount of Payment (check all that apply)
$ _____ ☐ actual ☐ planned

13. Form of Payment (check all that apply):
☐ a. cash
☐ b. in-kind; specify: nature _____
Value _____

14. Type of Payment (check all that apply)
☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e deferred
☐ f. other, specify _____

15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11:

16. Continuation Sheet(s) attached: **Yes** ☐ **No** ☐ (attach Continuation Sheet(s) if necessary)

17. Information requested through this form is authorized by Title 31 U S C Section 1352 This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U S C. 1352 This information will be reported to Congress semiannually and will be available for public inspection Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ Date: _____

Authorized for Local Reproduction

Standard Form - LLL

Federal Use Only:

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files

INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient at the initiation or receipt of covered federal action or a material change to previous filing pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is or has been secured to influence, the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to: subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, state, and zip code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant. or loan award number, the application/proposal control number assigned by the federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered federal action where there has been an award or loan commitment by the Federal agency, enter the federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered federal action.
11. Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
12. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
13. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
14. Check all boxes that apply. If other, specify nature.
15. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with federal officials. Identify the federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
16. Check whether or not a continuation sheet(s) is attached.
17. The certifying official shall sign and date the form, and print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30-minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503. SF-LLL-Instructions Rev. 06-04

EXHIBIT 10-U CONSULTANT IN MANAGEMENT POSITION CONFLICT OF INTEREST AND CONFIDENTIALITY STATEMENT

RFP/RFQ PROCUREMENT NUMBERS: _____

PROJECT NAME:

_____

APPLICABILITY: Applicable to local agency consultants in management positions that exercise authority over the Architect & Engineering Selection Panel from which the local agency has or plans to have one or more consultant contracts containing Federal or State funds.

☐ I am an employee of a consultant under contract to the local agency that is responsible for the procuring and administering of one or more consultant contracts containing either Federal or State funds.

☐ I am in a management position with the local agency, my title is listed below and I have attached my duty statement.

☐ The procedures followed to procure and execute the contract, between the local agency and the consulting firm of which I am employed, comply with all Federal and State requirements. Also this contract has a specific beginning and ending date.

☐ I hereby certify as follows:

1. I will not directly or indirectly participate in, manage, or oversee any consultant selection procurement process in which the consulting firm of which I am employed is competing as a consultant or subconsultant.
2. I will not directly or indirectly influence any employee, staff member, or other individual participating in any consultant selection procurement process in which the consulting firm of which I am employed is as a consultant or subconsultant.
3. I will not directly or indirectly participate in, manage, or oversee any local agency contract that is with the consulting firm of which I am employed, regardless of whether the involvement of my employer in the contract is as a consultant or subconsultant. Among other things, this includes my not being involved in managing the work; and not approving changes in the schedule, scope, deliverables or invoices.
4. I understand that if I am involved in any local agency contract that is with the consulting firm of which I am employed, in violation of 1. or 2. above, that local agency contract will no longer be eligible for Federal or State reimbursement because of my involvement.

☐ I certify that I have read **49 CFR 18.36(b)(3)** below and I agree not to participate in selection, or in the award or administration of a contract supported by Federal or State funds if a conflict of interest, real or apparent, would be involved. **Note:** Caltrans is the Grantee and the local agency is the sub-grantee.

49CFR 18.36(b)(3)

(3) Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer or agent of the grantee or subgrantee shall participate in selection, or in the award or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

(i) The employee, officer, or agent,

(ii) Any member of his immediate family,

(iii) His or her partner, or

(iv) An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award. The grantee's or subgrantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements. Grantee and subgrantees may set minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards or conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the grantee's and subgrantee's officers, employees, or agents, or by contractors or their agents. The awarding agency may in regulation provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

☐ I fully understand that it is unlawful for a person to utilize any organization name (i.e. local agency) or auxiliary organization information, which is not a matter of public record, for personal gain.

☐ I fully understand that any violation of the above could be a basis for ineligibility of reimbursement of State or Federal project funds.

Date: _____

Signed: _____

Name: _____

Title: _____

Dept./Local Agency: _____

Employer: _____

REVIEW BY SUPERVISOR OF CONSULTANT IN MANAGEMENT POSITION

I have reviewed the foregoing "Conflict of Interest and Confidentiality Statement" and will ensure:

☐ that the foregoing named local agency consultant who is under contract and in a management position with our local agency, abides by the foregoing terms and conditions;

☐ that should the foregoing named local agency consultant, who is under contract and in a management position with our local agency, violate any of the foregoing terms and conditions,

the Caltrans DLAE will be notified and such violation will be considered a breach of ethics and could be a basis for ineligibility of State or Federal project funds.

Date: _____ Signed: _____

Name: _____

Title: _____

Dept./Local Agency: _____

Employer: _____

REVIEWED/CONCURRENCE BY DISTRICT LOCAL ASSISTANCE ENGINEER

I have reviewed the foregoing "Conflict of Interest and Confidentiality Statement" and Supervisor's statement.

☐ Based upon the foregoing, I concur that the consultant, who is under contract and in a management position with the local agency, does not appear to present a conflict of interest. The local agency and the consultant should be considered eligible for Federal and State reimbursement.

☐ Based upon the foregoing, I do not concur as I believe that the consultant, who is under contract and in a management position with the local agency, does appear to present a conflict of interest.

☐ The consultant's time is not considered eligible for either Federal or State reimbursement.

☐ The local agency is not considered eligible for either Federal or State reimbursement.

Date: _____ (DLAE) Signed: _____

Name: _____

Distribution: 1) Copy to: DLAE for each Federal/State funded project
2) Copy to be returned to Local Agency by DLAE with signature

EXHIBIT 12-B BIDDER'S LIST OF SUBCONTRACTORS (DBE AND NON-DBE)

PART I

The bidder shall list all subcontractors (both DBE and non-DBE) in accordance with Section 2-1.054 of the Standard Specifications and per Title 49, Section 26.11 of the Code of Federal Regulations. This listing is required in addition to listing DBE Subcontractors elsewhere in the proposal. **Photocopy this form for additional firms.**

Firm Name/ Address/ City, State, ZIP	Phone/ Fax	Annual Gross Receipts	Description of Portion of Work to be Performed	Local Agency Use Only (Certified DBE?)
Name	*Phone*	☐ < $1 million		☐ YES
		☐ < $5 million		☐ NO
Address		☐ < $10 million		*If YES list DBE #:*
	Fax	☐ < $15 million		
City State ZIP		☐ > $15 million		Age of Firm (Yrs.)
Name	*Phone*	☐ < $1 million		☐ YES
		☐ < $5 million		☐ NO
Address		☐ < $10 million		*If YES list DBE #:*
	Fax	☐ < $15 million		
City State ZIP		☐ > $15 million		Age of Firm (Yrs.)
Name	*Phone*	☐ < $1 million		☐ YES
		☐ < $5 million		☐ NO
Address		☐ < $10 million		*If YES list DBE #:*
	Fax	☐ < $15 million		
City State ZIP		☐ > $15 million		Age of Firm (Yrs.)
Name	*Phone*	☐ < $1 million		☐ YES
		☐ < $5 million		☐ NO
Address		☐ < $10 million		*If YES list DBE #:*
	Fax	☐ < $15 million		
City State ZIP		☐ > $15 million		Age of Firm (Yrs.)

Distribution: 1) Original - Local Agency File

EXHIBIT 12-B BIDDER'S LIST OF SUBCONTRACTORS (DBE AND NON-DBE)

PART II

The bidder shall list all subcontractors who provided a quote or bid but were not selected to participate as a subcontractor on this project. This is required for compliance with Title 49, Section 26 of the Code of Federal Regulations. Photocopy this form for additional firms.

Firm Name/ Address/ City, State, ZIP	Phone/ Fax	Annual Gross Receipts	Description of Portion of Work to be Performed	Local Agency Use Only (Certified DBE?)
Name	*Phone*	☐ < $1 million		☐ YES
		☐ < $5 million		☐ NO
Address		☐ < $10 million		*If YES list DBE #:*
	Fax	☐ < $15 million		
City State ZIP		☐ > $15 million		Age of Firm (Yrs.)
Name	*Phone*	☐ < $1 million		☐ YES
		☐ < $5 million		☐ NO
Address		☐ < $10 million		*If YES list DBE #:*
	Fax	☐ < $15 million		
City State ZIP		☐ > $15 million		Age of Firm (Yrs.)
Name	*Phone*	☐ < $1 million		☐ YES
		☐ < $5 million		☐ NO
Address		☐ < $10 million		*If YES list DBE #:*
	Fax	☐ < $15 million		
City State ZIP		☐ > $15 million		Age of Firm (Yrs.)
Name	*Phone*	☐ < $1 million		☐ YES
		☐ < $5 million		☐ NO
Address		☐ < $10 million		*If YES list DBE #:*
	Fax	☐ < $15 million		
City State ZIP		☐ > $15 million		Age of Firm (Yrs.)

Distribution: 1) Original – Local Agency File

EXHIBIT 15-H DBE INFORMATION —GOOD FAITH EFFORTS

DBE INFORMATION - GOOD FAITH EFFORTS

Federal-aid Project No. _____ Bid Opening Date _____

The _____established a Disadvantaged Business Enterprise (DBE) goal of _____% for this project. The information provided herein shows that a good faith effort was made.

Lowest, second lowest and third lowest bidders shall submit the following information to document adequate good faith efforts. Bidders should submit the following information even if the "Local Agency Bidder DBE Commitment" form indicates that the bidder has met the DBE goal. This will protect the bidder's eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a DBE firm was not certified at bid opening, or the bidder made a mathematical error.

Submittal of only the "Local Agency Bidder DBE Commitment" form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

The following items are listed in the Section entitled "Submission of DBE Commitment" of the Special Provisions:

A. The names and dates of each publication in which a request for DBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

Publications	Dates of Advertisement

B. The names and dates of written notices sent to certified DBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the DBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

Names of DBEs Solicited	Date of Initial Solicitation	Follow Up Methods and Dates

C. The items of work which the bidder made available to DBE firms including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder with its own forces) into economically feasible units to facilitate DBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate DBE participation was made available to DBE firms.

Items of Work	Bidder Normally Performs Item (Y/N)	Breakdown of Items	Amount ($)	Percentage Of Contract

D. The names, addresses and phone numbers of rejected DBE firms, the reasons for the bidder's rejection of the DBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each DBE if the selected firm is not a DBE:

Names, addresses and phone numbers of rejected DBEs and the reasons for the bidder's rejection of the DBEs:

_____
_____
_____
_____

Names, addresses and phone numbers of firms selected for the work above:

_____
_____
_____
_____

E. Efforts made to assist interested DBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the plans, specifications and requirements for the work which was provided to DBEs:

_____
_____
_____
_____

F. Efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate:

_____

_____

_____

_____

G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

Name of Agency/Organization	Method/Date of Contact	Results

H. Any additional data to support a demonstration of good faith efforts (use additional sheets if necessary):

_____

_____

NOTE: USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.

Attachment 3

Federal Forms Required upon Execution of Agreements

EXHIBIT 10-O2 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: _____ 2. Contract DBE Goal: 15%

3. Project Description: _____

4. Project Location: _____

5. Consultant's Name: _____ 6. Prime Certified DBE: ☐ 7. Total Contract Award Amount: _____

8. Total Dollar Amount for **ALL** Subconsultants: _____ 9. Total Number of **ALL** Subconsultants: _____

10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount

Local Agency to Complete this Section

20. Local Agency Contract Number: _____

21. Federal-Aid Project Number: _____

22. Contract Execution Date: _____

Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.

23. Local Agency Representative's Signature _____ 24. Date _____

25. Local Agency Representative's Name _____ 26. Phone _____

27. Local Agency Representative's Title _____

14. TOTAL CLAIMED DBE PARTICIPATION $ _____ % _____

IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.

15. Preparer's Signature _____ 16. Date _____

17. Preparer's Name _____ 18. Phone _____

19. Preparer's Title _____

DISTRIBUTION: 1. Original – Local Agency
2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – CONSULTANT CONTRACT DBE COMMITMENT

CONSULTANT SECTION

1. **Local Agency** - Enter the name of the local or regional agency that is funding the contract.
2. **Contract DBE Goal** - Enter the contract DBE goal percentage as it appears on the project advertisement.
3. **Project Description** - Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc).
4. **Project Location** - Enter the project location as it appears on the project advertisement.
5. **Consultant's Name** - Enter the consultant's firm name.
6. **Prime Certified DBE** - Check box if prime contractor is a certified DBE.
7. **Total Contract Award Amount** - Enter the total contract award dollar amount for the prime consultant.
8. **Total Dollar Amount for ALL Subconsultants** – Enter the total dollar amount for all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
9. **Total number of ALL subconsultants** – Enter the total number of all subcontracted consultants. SUM = (DBEs + all Non-DBEs). Do not include the prime consultant information in this count.
10. **Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
11. **DBE Certification Number** - Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
12. **DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
13. **DBE Dollar Amount** - Enter the subcontracted dollar amount of the work to be performed or service to be provided. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
14. **Total Claimed DBE Participation - $**: Enter the total dollar amounts entered in the "DBE Dollar Amount" column. **%**: Enter the total DBE participation claimed ("Total Participation Dollars Claimed" divided by item "Total Contract Award Amount"). If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information - Good Faith Efforts of the LAPM).
15. **Preparer's Signature** - The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
16. **Date** - Enter the date the DBE commitment form is signed by the consultant's preparer.
17. **Preparer's Name** - Enter the name of the person preparing and signing the consultant's DBE commitment form.
18. **Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
19. **Preparer's Title** - Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

20. **Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
21. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
22. **Contract Execution Date** - Enter the date the contract was executed.
23. **Local Agency Representative's Signature** - The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
24. **Date** - Enter the date the DBE commitment form is signed by the Local Agency Representative.
25. **Local Agency Representative's Name** - Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
26. **Phone** - Enter the area code and phone number of the person signing the consultant's DBE commitment form.
27. **Local Agency Representative Title** - Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

EXHIBIT 17-F FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONTRACTORS

1. Local Agency Contract Number	2. Federal-Aid Project Number	3. Local Agency	4. Contract Completion Date

5. Contractor/Consultant	6. Business Address	7. Final Contract Amount

8. Contract Item Number	9. Description of Work, Service, or Materials Supplied	10. Company Name and Business Address	11. DBE Certification Number	12. Contract Payments		13. Date Work Completed	14. Date of Final Payment
				Non-DBE	DBE		
15. ORIGINAL DBE COMMITMENT AMOUNT $			16. TOTAL				

List all first-tier subcontractors/subconsultants and DBEs regardless of tier whether or not the firms were originally listed for goal credit. If actual DBE utilization (or item of work) was different than that approved at the time of award, provide comments on an additional page. List actual amount paid to each entity. If no subcontractors/subconsultants were used on the contract, indicate on the form.

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT			
17. Contractor/Consultant Representative's Signature	18. Contractor/Consultant Representative's Name	19. Phone	20. Date
I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED			
21. Local Agency Representative's Signature	22. Local Agency Representative's Name	23. Phone	24. Date

DISTRIBUTION: Original – Local Agency, Copy – Caltrans District Local Assistance Engineer Include with Final Report of Expenditures

ADA NOTICE: For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 445-1233, Local Assistance Procedures Manual TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS – FINAL REPORT-UTILIZATION OF DISADVANTAGED BUSINESS ENTERPRISES (DBE) AND FIRST-TIER SUBCONTRACTORS

1. **Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
2. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
3. **Local Agency** - Enter the name of the local or regional agency that is funding the contract.
4. **Contract Completion Date** - Enter the date the contract was completed.
5. **Contractor/Consultant** - Enter the contractor/consultant's firm name.
6. **Business Address** - Enter the contractor/consultant's business address.
7. **Final Contract Amount** - Enter the total final amount for the contract.
8. **Contract Item Number** - Enter contract item for work, services, or materials supplied provided. Not applicable for consultant contracts.
9. **Description of Work, Services, or Materials Supplied** - Enter description of work, services, or materials provided. Indicate all work to be performed by DBEs including work performed by the prime contractor/consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
10. **Company Name and Business Address** - Enter the name, address, and phone number of all subcontracted contractors/consultants. Also, enter the prime contractor/consultant's name and phone number, if the prime is a DBE.
11. **DBE Certification Number** - Enter the DBE's Certification Identification Number. Leave blank if subcontractor is not a DBE.
12. **Contract Payments** - Enter the subcontracted dollar amount of the work performed or service provided. Include the prime contractor/consultant if the prime is a DBE. The Non-DBE column is used to enter the dollar value of work performed by firms that are not certified DBE or for work after a DBE becomes decertified.
13. **Date Work Completed** - Enter the date the subcontractor/subconsultant's item work was completed.
14. **Date of Final Payment** - Enter the date when the prime contractor/consultant made the final payment to the subcontractor/subconsultant for the portion of work listed as being completed.
15. **Original DBE Commitment Amount** - Enter the "Total Claimed DBE Participation Dollars" from Exhibits 15-G or 10-O2 for the contract.
16. **Total** - Enter the sum of the "Contract Payments" Non-DBE and DBE columns.
17. **Contractor/Consultant Representative's Signature** - The person completing the form on behalf of the contractor/consultant's firm must sign their name.
18. **Contractor/Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
19. **Phone** - Enter the area code and telephone number of the person signing the form.
20. **Date** - Enter the date the form is signed by the contractor's preparer.
21. **Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify that the contracting records and on-site performance of the DBE(s) has been monitored.
22. **Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
23. **Phone** - Enter the area code and telephone number of the person signing the form.
24. **Date** - Enter the date the form is signed by the Local Agency Representative.

EXHIBIT 17-O DISADVANTAGED BUSINESS ENTERPRISES (DBE) CERTIFICATION STATUS CHANGE

1. Local Agency Contract Number	2. Federal-Aid Project Number	3. Local Agency	4. Contract Completion Date

5. Contractor/Consultant	6. Business Address	7. Final Contract Amount

8. Contract Item Number	9. DBE Contact Information	10. DBE Certification Number	11. Amount Paid While Certified	12. Certification/ Decertification Date (Letter Attached)	13. Comments

If there were no changes in the DBE certification of subcontractors/subconsultants, indicate on the form.

I CERTIFY THAT THE ABOVE INFORMATION IS COMPLETE AND CORRECT			
14. Contractor/Consultant Representative's Signature	15. Contractor/Consultant Representative's Name	16. Phone	17. Date
I CERTIFY THAT THE CONTRACTING RECORDS AND ON-SITE PERFORMANCE OF THE DBE(S) HAS BEEN MONITORED			
18. Local Agency Representative's Signature	19. Local Agency Representative's Name	20. Phone	21. Date

DISTRIBUTION: Original – Local Agency, Copy – Caltrans District Local Assistance Engineer. Include with Final Report of Expenditures

ADA NOTICE: For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 445-1233, Local Assistance Procedures Manual TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS –DISADVANTAGED BUSINESS ENTERPRISES (DBE) CERTIFICATION STATUS CHANGE

1. **Local Agency Contract Number** - Enter the Local Agency contract number or identifier.
2. **Federal-Aid Project Number** - Enter the Federal-Aid Project Number.
3. **Local Agency** - Enter the name of the local or regional agency that is funding the contract.
4. **Contract Completion Date** - Enter the date the contract was completed.
5. **Contractor/Consultant** - Enter the contractor/consultant's firm name.
6. **Business Address** - Enter the contractor/consultant's business address.
7. **Final Contract Amount** - Enter the total final amount for the contract.
8. **Contract Item Number** - Enter contract item for work, services, or materials supplied provided. Not applicable for consultant contracts.
9. **DBE Contact Information** - Enter the name, address, and phone number of all DBE subcontracted contractors/consultants.
10. **DBE Certification Number** - Enter the DBE's Certification Identification Number.
11. **Amount Paid While Certified** - Enter the actual dollar value of the work performed by those subcontractors/subconsultants during the time period they are certified as a DBE.
12. **Certification/Decertification Date (Letter Attached)** - Enter either the date of the Decertification Letter sent out by the Office of Business and Economic Opportunity (OBEO) or the date of the Certification Certificate mailed out by OBEO.
13. **Comments** - If needed, provide any additional information in this section regarding any of the above certification status changes.
14. **Contractor/Consultant Representative's Signature** - The person completing the form on behalf of the contractor/consultant's firm must sign their name.
15. **Contractor/Consultant Representative's Name** - Enter the name of the person preparing and signing the form.
16. **Phone** - Enter the area code and telephone number of the person signing the form.
17. **Date** - Enter the date the form is signed by the contractor's preparer.
18. **Local Agency Representative's Signature** - A Local Agency Representative must sign their name to certify
that the contracting records and on-site performance of the DBE(s) has been monitored.
19. **Local Agency Representative's Name** - Enter the name of the Local Agency Representative signing the form.
20. **Phone** - Enter the area code and telephone number of the person signing the form.
21. **Date** - Enter the date the form is signed by the Local Agency Representative.

Attachment 4

Specification Section 01400
Quality Control

SECTION 01400 - QUALITY CONTROL

PART 1 - GENERAL

1.01 DESCRIPTION

A. This Section describes the requirements for quality control.

1.02 DUTIES AND RESPONSIBILITIES OF OWNER'S REPRESENTATIVE

A. The Owner's Representative and the Owner have the right, but not the duty, to monitor and inspect all work performed by the Contractor to ensure performance of the work to the Contract Documents and Specifications. All work shall be subject to inspection and test by the Owner's Representative and the Owner at all reasonable times and at all places prior to acceptance. Any such inspection and test is for the sole benefit of the Owner and shall not relieve the Contractor of responsibility for providing quality control measures to assure that the work strictly complies with the contract requirements. No inspection or test by the Owner or Owner's Representative shall be construed as constituting or implying an acceptance.

1.03 CONTRACTOR'S DUTIES AND RESPONSIBILITIES

A. The Contractor is responsible for the quality of the work performed under this Contract as well as the quality of the material, equipment, and supplies furnished by it to be incorporated into the work. The Contractor will provide, for approval, a quality-control plan within 30 days after the Notice to Proceed for approval by the Owner. The plan will include but not be limited to procurement, delivery and installation of material and equipment. The plan will provide specific tests and performance testing requirements for each stage for each subcontractor and the General Contractor. Logs and forms for tracking all steps will be provided and will be signed by the inspectors.

B. The Contractor shall designate a Quality Control Representative who will be on site at all times while the respective Contractor's work is in progress and will have the authority and responsibility to accept or reject items of work. The Contractor's Quality Control Representative may delegate his duties but the primary responsibility and authority rests with the Contractor.

C. The Contractor's Quality Control Representative shall coordinate the submittal of all shop drawings, product data, and samples to the Owner's Representative. Any submittal that is a change to the Contract requirements shall be identified as such and transmitted to the Owner's Representative. No work requiring submittal of a shop drawing, product data, or sample shall be commenced until the submittal has been reviewed and accepted by the Owner's Representative and the Engineer.

D. The Contractor shall cooperate with an approved material testing laboratory to perform testing of materials as required by the Contract Drawings and Specifications, or the Owner's Representative. The Contractor shall provide a two-working-day notice when testing/inspection is required. The Contractor will request all tests and inspections in accordance with the Specifications and the Owner's Representative for requesting tests and inspections. The Contractor will not contact the testing firms directly without going through the Owner's Representative.

E. The Contractor's Quality Control Representative shall review his drawings, procurement documents, and Contracts to ensure that the technical information provided and all work performed is in accordance with the latest revisions of the Contract Drawings and Specifications.

F. The Contractor's Quality Control Representative shall perform an inspection upon receipt at the site of all materials, equipment, and supplies. Items which are damaged or not in conformance with the respective submittals, quality standards, Contract Drawings and Specifications will be identified and segregated from accepted items. Items thus identified shall not be incorporated into the work until corrective action acceptable to the Owner's Representative/Owner is completed. Items determined unsalvageable will be removed from the job site.

G. The Contractor will establish a performance-testing plan for all equipment and electrical systems. The testing plan will include test and report forms for each type of application and will be approved by the Owner's Representative. The performance testing of the equipment and system will be documented and approved by the Owner's Representative. Copies of the approved performance tests will be required for project closeout as required by Section 01700 - Project Closeout.

H. The Contractor's Quality Control Representative and subcontractors will attend a weekly Quality Control (QC) meeting. The Contractor will provide a list of current controlling activities for that week and bring an outlined specification section to the meeting noting areas applicable for inspection/testing for the controlling activities. All requests for testing will be provided for the current week and all notices of non-compliance will be reviewed.

I. The Contractor will provide copies of his quality control inspection reports each day. Format of the report will be approved by the Owner's Representative. The Contractor will maintain a photo record of at least six locations plus special areas of interest each week. The photos will be provided to the Owner's Representative the following Monday of each week.

1.04 INSPECTION AND TESTING

A. Inspection Plan: The Contractor will use a four-point inspection plan for each separate feature of work to be performed under this Contract; i.e., work described by each section of the technical provisions section of the Specifications. This plan consists of the following:

1. Preparatory Inspection: Prior to commencing the work, the Contractor's Quality Control Representative shall meet with the Owner's Representative and check the following items as a minimum for conformance:

   a. Approval of shop drawings and submittals.

   b. Approval of Inspection and test reports of materials and equipment to be utilized.

   c. Completion of previous operation.

   d. Availability of materials and equipment required.

   e. Notification of Owner's Representative, when applicable.

   f. Other preparatory steps dependent upon the particular operation.

   g. Quality assurance.

   h. Safety or environmental precautions to be observed.

2. Initial Inspection: Upon completion of a representative sample of a given feature of work, the Contractor's Quality Control Representative shall meet with the Owner's Representative and check the following items as a minimum for conformance:

   a. Workmanship to established quality standards.

   b. Configuration to Contract Drawings and Specifications.

   c. Construction methods, equipment, and tools utilized.

   d. Materials and articles utilized.

   e. Adequacy of testing methods.

   f. Adequacy of shop drawings.

   g. Adequacy of safety or environmental precautions.

3. Follow-up Inspections: The Contractor's Quality Control Representative shall inspect the work daily to assure the continuing conformance of the work to the workmanship standards established during the preparatory and initial inspections. Follow-up inspections will be on a daily basis. If the Contractor has not complied with the inspection notification as to defective work, the Owner's Representative will issue a notice of noncompliance.

4. Completion Inspection: Upon completion of a given feature of the work, the Contractor's Quality Control Representative shall meet with the Owner's Representative and City of Lodi Public Works Inspector to perform an inspection of the completed work. At least 24 hours notice will be required for inspections. Nonconforming items shall be identified and corrected prior to commencement of the next operation.

B. Should the Contractor fail to correct work in a reasonable time, the Owner's Representative will issue a Notice of Noncompliance. This is a two-part notice/reply form. The Owner's Representative will specify the noncompliant item on Part One and the Contractor shall respond on Part Two, indicating the fix once it has been accomplished. The Contractor will maintain a log of all notices of noncompliance which shall contain the following information: Notice number, description, specification section, date issued, date response from the Contractor, date corrected, number of days to correct, and remarks. The Contractor will present six copies of this log at the weekly meetings and shall keep it currently updated. Upon compliance with the notice of noncompliance, the Owner's Representative will officially notify the Contractor.

C. Operation and Check Out Testing: The Contractor shall provide personnel and equipment to perform the operational tests and checkout of the equipment, facilities, or equipment constructed, fabricated, or installed under this Contract. The Owner's Representative will coordinate and witness all such tests. Notification shall be given at least two days in advance of the scheduled tests. Refer to requirements for operating and maintenance data and training specified in Section 01730.

D. Substantial and Final Inspection. The Owner's Representative will coordinate all final inspections of the work. Request for finalizing portions of the work performed under this Contract shall be made to the Owner's Representative at least 15 days in advance of the inspection. Prior to requesting a substantial completion inspection, all tests of the equipment and systems and training shall be completed. Refer to Section 01700 for detailed requirements for substantial completion and final completion inspections for project closeout. The Contractor will be provided with a punch list from the Owner indicating items over and above those shown on the Contractor's punch list. The Owner will only provide

two inspections: substantial completion and final completion. Others will be at the Contractor's expense. The Owner will provide a handwritten punch list to the Contractor. The Contractor will enter and maintain a computerized punch list based on the Owner's punch list in a format approved by the Owner's Representative with one copy of the computerized list within five working days upon receipt of the Owner's list and update it on a weekly basis.

The Contractor will at each weekly meeting during the closeout period provide an annotated punch list indicating those items which have been completed and are ready for inspection. The Contractor will maintain and keep this list current and provide a copy to the Owner's Representative each week until all items are complete. Prior to the request for substantial completion and throughout the life of the project, the Contractor will maintain a testing and inspection schedule. This schedule will be provided at each weekly meeting indicating the tests or inspections which will be required during the following week. Based on this schedule, the Contractor will provide the Required Request for Testing forms.

1.05 VERIFICATION OF TEST REPORTS

A. The Testing Laboratory will submit a verified report in duplicate covering all of the tests which are required to be made during the progress of the Project. Such report shall be furnished at least quarterly and each time that work on the Project is suspended, covering the tests up to that time, and at the completion of the Project, covering all tests.

1.06 OWNER'S INSPECTOR

A. An inspector employed by the Owner in accordance with the requirements referenced may be assigned to the work.

B. The work of construction in all stages of progress will be subject to the personal, continuous observation of the Inspector. He shall have free access to any and all parts of the work at any time. Furnish the Inspector reasonable facilities for obtaining such information as necessary to keep him fully informed, respecting the progress and manner of the work and the character of the materials. Inspection of the work shall not relieve the Contractor from any obligation to fulfill this contract.

1.07 SPECIFIC TESTS AND INSPECTIONS

A. As required by code, as specified in individual sections and section 01410.

END OF SECTION

Attachment 5

Specification Section 01410
Testing

SECTION 01410 - TESTING

PART 1 - GENERAL

1.01 DESCRIPTION:

A. This Section summarizes which tests and inspections will be performed by the Contractor, and which will be performed by the Owner's Representatives. The detailed tests and inspections required to be performed by the Contractor may be found in the individual Sections of these Specifications.

1.02 OWNER'S TESTING AGENCY:

A. For the purpose of meeting Architect/Engineer and City requirements, the OWNER will employ and pay for a testing agency, identified in the various Specifications Sections as "the "Testing Agency", to perform tests, inspections, and sampling of the following work after start of construction:

1. Concrete Sampling and Testing
2. Soils sampling and compaction Testing
3. Asphalt Sampling, compaction and testing
4. CMU (Masonry) sampling and testing
5. other as required

B. The OWNER's employment of the testing agency shall in no way relieve the Contractor of his obligations to perform the work in accordance with Contract requirements (see 1.05).

C. The Owner will backcharge the Contractor for costs incurred in the event the Contractor's poor quality control of any material requires excessive repeated testing by the Owner's Testing Agency.

1.03 QUALITY ASSURANCE:

A. Qualifications of Testing Agents: Agencies, bureaus, or laboratories shall be acceptable to the Architect and meet the requirements ASTM E-329. Failure of Materials and Equipment Tested or Inspected:

1. The Contractor shall be charged for retesting and reinspection resulting from the Contractor's noncompliance with the Contract as evidenced by tests and inspections by the Owner's Testing Agency.

1.04 TESTING AGENCY'S DUTIES:

A. Cooperate with Owner's Representative and the Contractor. Provide qualified personnel promptly upon notice.

B. Perform required inspection, sampling and testing of materials and methods of construction.

1. Comply with specified standards, other recognized authorities as specified.

2. Check for compliance with Contract Documents.

C. Promptly notify the Owner's Representative and the Contractor of observed irregularities or deficiencies in the work.

D. Promptly submit reports to the following:

1. One (1) copy to the Owner's Representative.

2. One (1) copy to the City of Lodi Public Works Department.

E. Reports shall include the date issued and date of test, project title and number, testing agency's name and address, name and signature of inspector, date of inspection or sampling, record of temperature and weather, identification of product and Specification Section, location in Project, type of inspection or test, reference to applicable standards and codes, and observation regarding compliance with Contract Documents.

F. Perform additional services as required by the Owner.

G. The testing agency is not authorized to release, revoke, alter or enlarge on the requirements of the Contract Documents, approve or accept any portion of the work, or perform any of the Contractor's duties.

1.05 CONTRACTOR'S RESPONSIBILITIES:

A. Initiate and coordinate tests and inspections required by Contract Documents and public authorities having jurisdiction of the work.

B. Notify the OWNER'S Testing Agency through the Owner's Representative in sufficient time in advance so that the Laboratory may arrange for inspection or testing.

C. When changes of construction schedule are necessary during construction, coordinate all such changes with the Testing Agency as required.

E. Provide access, facilities, tools, and labor necessary for duties to be performed at the site by the Testing Agency and Inspector, including furnishing ladders, hoisting, lighting, water supply and like services.

F. Provide and maintain, for the sole use of the Testing Agency, adequate facilities for the safe storage of materials.

G. Furnish and deliver samples of materials to be tested at no extra cost to Owner. Test samples will be selected by the Inspector or Testing Agency and not by the Contractor.

H. Reports:

1. Have the Testing firm independently furnish copies of each test and inspection report, signed and certified by the Testing Agency Supervising Engineer as follows:

a. Owner's Representative: two (2) copies.

2. Promptly process and distribute (within 48 hours) required copies of test reports and related instructions to assure necessary retesting and replacement of materials with the least possible delay in progress of the work.

3. The reports shall include detailed information relative to progress and condition of work, including variances from the Contract Documents, and stipulating dates, hours, locations of the tests and inspections, as applicable.

I. Records:

1. Maintain correct records on an appropriate form for all inspections and tests performed, instructions received from the Owner or testing agency, and actions taken as a result of those instructions.

2. These records shall include evidence that the required inspections or tests have been performed (including type and number of inspections or tests, nature of defects, causes for rejection, etc.), proposed or directed remedial action, and corrective action taken.

3. Document inspections and tests as required by each Section of the Specifications.

J. If laws, ordinances, rules, regulations, or orders of public agency having jurisdiction require work to be inspected, tested or approved by some authority other than the Owner, or Contractor, the Contractor shall give required notices and make arrangements, deliver to the Owner the certificates of inspection, test, or approval of such public agency, and pay costs therefore unless otherwise provided in the Contract Documents.

K. Completed Work: Should the Owner require tests and inspections for work completed before final acceptance of entire work, furnish necessary facilities, labor, and materials to uncover or remove work in question to extent necessary.

1. If such work is found defective due to fault of the Contractor, the Contractor shall defray expense of removal, test, and inspections, and satisfactory reconstruction. Time extension may not be granted.

2. If such work is found to conform with requirements of the Contract, the Contractor shall be reimbursed by the Owner for facilities, labor and materials required for removal, and costs of satisfactory reconstruction in accordance with Contract amounts for extra work. Reasonable time extension shall be granted.

1.06 TEST PROCEDURES:

A. Testing:

1. Testing Agency will perform tests according to method(s) of test specified in these Specifications or required by current rules and regulations.

2. If no procedure or test method is specified, testing shall conform to material specification references unless otherwise directed by the Owner.

3. The Testing Agency will tag, seal, label, record, or otherwise suitably identify the materials for testing. No materials shall be used in the work until the test reports are submitted and approved, excepting only the materials specified to be placed or installed prior to testing.

B. Retesting:

1. Repeat applicable tests at specified intervals, when:

a. The source of supply is changed.

b. The characteristics of the materials change or vary.

c. Unsatisfactory test results are received.

2. Quantity and nature of additional testing, if required, will be determined by the Owner.

3. Additional tests shall be taken in the presence of the Owner's Engineer.

4. Proof of non-compliance will make the Contractor liable for any corrective action which the Owner feels is prudent, including complete removal and replacement of defective materials.

5. Nothing contained herein is intended to imply that the Contractor does not have the right to have tests performed on any material at any time for his own information and job control so long as the Owner does not assume responsibility for costs or for giving them consideration when appraising quality of materials.

1.07 NOT USED

1.08 CODE COMPLIANCE TESTING:

A. Inspections and tests required by codes or ordinances, or by a plan approval authority, and which are made by a legally constituted authority, shall be the responsibility of and shall be backcharged to the Contractor.

1.09 CONTRACTOR'S CONVENIENCE TESTING:

A. Inspection and testing performed exclusively for the Contractor's convenience shall be the sole responsibility of the Contractor.

PART 2 - PRODUCTS:

Not used.

PART 3 - EXECUTION:

Not used.

Forms:
Inspection Request Form

END OF SECTION

Attachment 6
Request For Testing Services Form

CITY OF LODI

REQUEST AND APPROVAL FOR TESTING/INSPECTION SERVICES

PROJECT: GRADE SEPARATION HARNEY LANE AT UPRR

DATE:

TESTING/INSPECTION AGENCY:

SPEC. REF:

CONTRACTOR:

DWG. REF:

REQUESTED BY:

Federal Project # STPL-5154 (040)

ITEM	TYPE OF TEST/INSPECTION	LOCATION, TIME & DATE	RESULTS
1.			
2.			
3.			
4.			

I have personally checked for compliance with contract documents and certify this to be ready for inspection:

Signature _____ Date: _____

Contractor Representative

TEST/INSPECTIONS PERFORMED BY:_____.

Signature _____ Date: _____

Testing/Inspection Agency Representative

COMMENTS:

TOTAL HOURS

(City Use Only)

CITY AUTHORIZATION:_____.

Attachment 7
Detail Breakdown (Billing Report)

Grade Separation Harney Lane At UPRR Overhead Project
Testing and Inspection Services
Monthly Billing Report

Item	Description	Qty.	Unit	Unit Price	Total Budgeted	Previously Billed Units	Billed Units This Month	Total Current Billing Due
1	**Soils/Asphalt**							
	Engineered Fill Observation	800	Hr.					
	Density (Curve) Cal 216	25	Ea.					
	Soil Compaction Testing – Nuclear gauge	800	Hr.					
	Footing Verification Inspection	100	Hr.					
	Road Subgrade/Agg. base compaction Testing	100	Hr.					
	CTM 202 Sieve Analysis	10	Ea.					
	CTM 217 Sand Equivalent	10	Ea.					
	CTM 229 Aggregate Durability	10	Ea.					
	CTM 301 R Value	5	Ea.					
	CTM 382 Asphalt Content Ignition Oven	10	Ea.					
	CTM 309 Max. Specific Gravity HMA Mix	10	Ea.					
	CTM 308 Max. Specific Gravity of Compacted Mix	10	Ea.					
	HMA Mix Design Review	5	Ea.					
	Asphalt Compaction Testing - Nuclear Gauge	80	Hr.					
	CTM 375 Asphalt Compaction Testing – Field Coring	40	Hr.					
	Subtotal							
2	**Cast-In-Place Concrete**							
	Mix Design Review - ACI 301	5	Ea.					
	Cement Sampling - ASTM C 183	5	Ea.					
	CTM 521 Compressive Strength Concrete Specimen	80 sets	4 cyl.					
	Tensile/Bend Test - ASTM 615-90	40	Ea.					
	Elongation and Yield/Tensile Strength	40	Ea.					
	Reinforcement Placement Inspection	300	Hr.					
	Drilled Dowel Testing (AASHTO T-237)	40	Hr.					
	Concrete Placement Inspection including CTM 539, 540, 504, 518, 543, 556 and 557 as required	400	Hr.					

10/21/15

Exhibit B

Grade Separation Harney Lane At UPRR Overhead Project
Testing and Inspection Services
Monthly Billing Report

Item	Description	Qty.	Unit	Unit Price	Total Budgeted	Previously Billed Units	Current Billed Units	Total Current Billing Due
	Concrete Core Testing - ASTM C42 (incl. coring)	10	Ea.					
	Drilled in Anchor Testing	40	Hr.					
	Post Tension Cable Placement	200	Hr.					
	Post Tensioning Inspection	60	Hr.					
	Pick Up and Delivery (separate trips only)	40	Ea./Set					
	Subtotal							
3	**Masonry**							
	Mortar Testing - UBC Std. 21-16	25	Ea./Set					
	Grout Testing UBC Std. 21-18	25	Ea./Set					
	Mix Design Review/Report	3	Ea.					
	Tensile/Bend Test ASTM 615-90	10	Ea.					
	Masonry Placement Inspection, UBC 1701.5, 7.2	200	Hr.					
	CMU Block or Brick Testing	4	Set of 4					
	Prisms - UBC Std. 21-17	4	Ea.					
	Subtotal							
4	**Structural Steel**							
	Shop Visual Welding	200	Hr.					
	Field Visual Welding	200	Hr.					
	Shop Fabrication Inspection	200	Hr.					
	Field Bolting (Torque) Inspection w/Reports	100	Hr.					
	Metal Deck Welding	80	Hr.					
	Ultrasonic Testing	100	Hr.					
	Subtotal							
5	**Other**							
	NOT USED							
	Subtotal							
6	**Professional Services**							
	Senior Staff Engineer	20	Hr.					
	Field Technician	100	Hr.					
	Lab Technician	80	Hr.					
	Subtotal							

Grade Separation Harney Lane At UPRR Overhead Project
Testing and Inspection Services
Monthly Billing Report

Item	Description	Qty.	Unit	Unit Price	Total Budgeted	Previously Billed Units	Current Billed Units	Total Current Billing Due
7	**Miscellaneous**							
	Premium Diff. for OT	100	Hr.					
	Out-of-Town Inspection (beyond 50 miles)	40	Hr.					
	Mileage (beyond 50 miles)	500	Mile					
	Subsistence (beyond 50 miles)	10	Day					
	Subtotal							
	Grand Total							

PART B
REQUEST FOR PROPOSAL PRICING FORM

Proposals are due no later than 5:00 p.m. on:
November 20, 2015

Location:
City of Lodi
Public Works Department
Attn: Gary R. Wiman, Construction Project Manager
221 West Pine Street
P.O. Box 3006
Lodi, CA 95241-1910

Proposer:

The undersigned hereby proposes and agrees to furnish any and all required labor, material, transportation, insurance, and incidentals necessary to provide quality assurance testing and inspecting services pertaining to the **Grade Separation Harney Lane at UPRR Overhead Project** in accordance with the terms and conditions of the Request for Proposal on file at the City of Lodi, Public Works Department. Proposer declares that the only persons or parties interested in this proposal as principals are those named herein; that this proposal is made without collusion with any other person, firm, or corporation; that the undersigned will contract with the City of Lodi to provide these services in the manner and time prescribed; and that the undersigned will take in full payment therefore an amount based on the unit prices specified herein below for the various services, the total value of said services for the not-to-exceed sum of 514,610.00 Dollars.

It is understood and agreed that the quantities of services under each item are approximate, being given as a basis of comparison of proposals, and the right is reserved by the City to increase or decrease the amount of work under any item as may be required by the City, in accordance with this agreement.

It is further understood and agreed that the total amount of money set forth for each item of work, or as the total amount proposed for the project, does not constitute an agreement to pay a lump sum for these services. The quantities may be increased or decreased depending on the job requirements.

IMPORTANT NOTICE

If the proposer is a corporation, state legal name of corporation, also names of president, secretary, treasurer, and manager thereof. If a co-partnership, state true name of firm. If an individual, state first and last name in full.

Firm Name: Terracon

By: Garret Hubbart, [signature]

Dated: 11/19/15

Terracon

Item	Description	Qty	Unit	Field Unit Price	Lab Unit Price	Total Cost
1	**Soil/Asphalt**					
	Engineering Fill Observation	800	Hr.	$ 120.00		$ 96,000.00
	Density (Curve) Cal 216	25	Ea		$ 200.00	$ 5,000.00
	Soil Compaction Testing -Nuclear Gauge	800	Hr.	$ 120.00		$ 96,000.00
	Footing Verification Inspection	100	Hr.	$ 130.00		$ 13,000.00
	Road Subgrade/Agg Base Compaction Testing	100	Hr.	$ 120.00		$ 12,000.00
	CTM 202 Sieve Analysis	10	Ea.		$ 75.00	$ 750.00
	CTM 217 San Equivalent	10	Ea.		$ 120.00	$ 1,200.00
	CTM 229 Aggregate Durability	10	Ea.		$ 160.00	$ 1,600.00
	CTM 301 R Value	5	Ea.		$ 270.00	$ 1,350.00
	CTM 382 Asphalt Content Ignition Oven	10	Ea.		$ 160.00	$ 1,600.00
	CTM 309 Max Specific Gravity HMA Mix	10	Ea.		$ 165.00	$ 1,650.00
	CTM 308 Max Specific Gravity of Compacted Mix	10	Ea.		$ 50.00	$ 500.00
	HMA Mix Design Review	5	Ea.		$ 250.00	$ 1,250.00
	Asphalt Compaction Testing - Nuclear Gauge	80	Hr.	$ 120.00		$ 9,600.00
	CTM 375 Asphalt Compaction Testing - Field Coring	40	Hr.	$ 165.00		$ 6,600.00
					Subtotal	**$ 248,100.00**

Terracon

Item	Description	Qty	Unit	Field Unit Price	Lab Unit Price	Total Cost
2	**Cast-in-Place-Concrete**					
	Mix Design Review - ACI 301	5	Ea.		$ 200.00	$ 1,000.00
	Cement Sampling - ASTM C 183	5	Ea.		$ 200.00	$ 1,000.00
	CTM 521 Compressive Strength Concrete Specimen	80 sets	4 cyl.		$ 112.00	$ 8,960.00
	Tensile/Bend Test - ASTM 615-90	40	Ea.		$ 145.00	$ 5,800.00
	Elongation and Yield/Tensile Strength	40	Ea.		$ 20.00	$ 800.00
	Reinforcement Placement Inspection	300	Hr.	$ 130.00		$ 39,000.00
	Drilled Dowel Testing (AASHTO T-237)	40	Hr.	$ 130.00		$ 5,200.00
	Concrete Placement Inspection including: CTM 539,540,504,518,543,556,and 557 as required.	400	Hr.	$ 130.00		$ 52,000.00
	Concrete Core Testing - ASTM C42 (Including coring)	10	Ea.		$ 120.00	$ 1,200.00
	Drilled in Anchor Testing	40	Hr.	$ 130.00		$ 5,200.00
	Post Tension Cable Placement	200	Hr.	$ 130.00		$ 26,000.00
	Post Tensioning Inspection	60	Hr.	$ 130.00		$ 7,800.00
	Pickup and Delivery of Samples (separate trips only)	40	Ea./set	$ 5.00	$ -	$ 200.00
					Subtotal	**$ 154,160.00**

Terracon

Item	Description	Qty	Unit	Field Unit Price	Lab Unit Price	Total Cost
3	**Masonry**					
	Mortar Testing - UBC STd. 21-16	25	Set		$ 84.00	$ 2,100.00
	Grout Testing UBC Std. 21-28	25	Set		$ 84.00	$ 2,100.00
	Mix Design Review/Report	3	Ea.		$ 200.00	$ 600.00
	Tensile Bend Test ASTM 615-90	10	Ea.		$ 165.00	$ 1,650.00
	Masonry Placement Inspection, UBC 1701.5, 7.2	200	Hr.	$ 130.00		$ 26,000.00
	CMU Block or Brick Testing	4	Set of 4		$ 740.00	$ 2,960.00
	Prisms - UBC Std. 21-17	4	Ea.		$ 185.00	$ 740.00
					Subtotal	**$ 36,150.00**
Item	**Description**	**Qty**	**Unit**	**Field Unit Price**	**Lab Unit Price**	**Total Cost**
4	**Structural Steel**					
	Shop Visual Welding	200	Hr.	$ 105.00		$ 21,000.00
	Field Visual Welding	200	Hr.	$ 130.00		$ 26,000.00
	Shop Fabrication Inspection	200	Hr.	$ 105.00		$ 21,000.00
	Field Bolting (Torque) Inspection w/ Reports	100	Hr.	$ 130.00		$ 13,000.00
	Metal Deck Welding	80	Hr.	$ 130.00		$ 10,400.00
	Ultrasonic Testing	100	Hr.	$ 130.00		$ 13,000.00
					Subtotal	**$ 104,400.00**
Item	**Description**	**Qty**	**Unit**	**Field Unit Price**	**Lab Unit Price**	**Total Cost**
5	**NOT USED**					

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Item	Description	Qty	Unit	Field Unit Price	Lab Unit Price	Total Cost
6	**Professional Services**					
	Senior Staff Engineer	20	Hr.	$ 145.00		$ 2,900.00
	Field Technician	100	Hr.	$ 120.00		$ 12,000.00
	Lab Technician	80	Hr.	$ 95.00		$ 7,600.00
					Subtotal	**$ 22,500.00**
Item	**Description**	**Qty**	**Unit**	**Field Unit Price**	**Lab Unit Price**	**Total Cost**
7	**Miscellaneous**					
	Premium Diff. For OT	100	Hr.	$ 40.00		$ 4,000.00
	Out-of-Town Inspection (beyond 50 miles)	40	Hr.	$ 90.00		$ 3,600.00
	Mileage (beyond 50 miles)	500	Mile	$ 0.70		$ 350.00
	Subsistenance (beyond 50 miles)	10	Day	$ 135.00		$ 1,350.00
					Subtotal	**$ 9,300.00**
					Grand Total	**$ 574,610.00**

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4 February 2016

Proposal Number: PNA150413

Mr. Gary Wiman
Construction Project Manager
City of Lodi
221 W. Pine Street
Lodi, CA 95240

Re: Proposal to Provide Construction Materials Testing and Inspection Services

Dear Mr. Wiman:

Terracon is pleased to submit a proposal to provide materials testing and inspection services for the Grade Separation Harney Lane at UPRR Overhead project located in Lodi, California. We have extensive experience providing construction materials testing and inspection services.

Terracon has offices based in Lodi, Sacramento, and Concord, California, and provides a wide range of engineering services including geotechnical, materials, foundation and structural engineering, geophysical exploration, environmental and geosciences, forensic investigations, pool engineering, and aquatic design. We continue to view our company as a vital and growing consulting firm of engineers and scientists, providing multiple related service lines to clients at local, regional, and national levels. All of our services are delivered on a timely basis with high value and attention to client needs.

Benefits to working with Terracon include:

- *Responsiveness:* Acting quickly to meet your deadlines, our employee owners are always available to you. With convenient locations across the country, we're able to quickly mobilize a workforce to respond to accelerated schedules and your changing needs.
- *Resourcefulness:* Applying new processes, methodologies, and techniques allows us to take a proactive approach to solving project challenges and deliver your projects better and faster. With our nationwide network of offices, we can initiate services easily on one or multiple projects simultaneously.
- *Reliability:* With vast experience working in local conditions, Terracon is a dependable partner throughout the life of your project. We deliver practical and constructible solutions, while avoiding delays, surprises, and costly mistakes down the road.

We are confident that Terracon will provide the City of Lodi with a high level of service and look forward to working with you. Should you have any questions regarding the attached proposal, please contact me at (209) 367-3701 or email me at tmschiess@terracon.com. Thank you for your time and consideration.

Sincerely,
Terracon,

Troy M. Schiess, PE 71404
Materials Department Manager

Project Name: Grade Separation Harney Lane at UPRR Overhead

Proposal No. PNA150413

Service	Rate
Group 1	
Lead Project Inspector – Regular Time (8hr shift)	$1080/shift
Lead Project Inspector - Overtime	$164/hour
Lead Project Inspector – Double-time	$195/hour
Group 2	
Building/Construction Inspector – Regular Time (8hr shift)	$1030/shift
Building/Construction Inspector –Overtime	$160/hour
Building/Construction Inspector – Double-time	$192/hour
Group 3	
Inspector/Technician – Regular Time (8hr shift)	$910/shift
Inspector/Technician – Overtime	$137/hour
Inspector/Technician – Double-time	$161/hour

Additional services requested beyond what is outlined in the above proposal will be invoiced per our attached fee schedule. Time shall be billed from portal to portal. Weekends and holidays will be charged in 4 and / hour increments. Overtime and doublet-time, if any, will be applied per the California Labor Law

Prevailing Wage Requirement: Public works contract provisions require the Contractor and its subcontractors to pay all workers employed on the project no less than the specified general prevailing wage rates for the work classification in which they are performing.

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2016 Schedule of Services and Fees

Environmental, Geotechnical, Structural, Pool Engineering, Aquatic Design, and Materials Services

ENGINEERING SERVICES

Senior Principal Engineer	250.00/hr
Principal Engineer/Geologist	225.00/hr
Associate Engineer/Geologist	190.00/hr
Senior Engineer / Geologist / Scientist	175.00/hr
Project Engineer / Geologist/ Scientist	165.00/hr
Staff Engineer / Geologist / Scientist	135.00/hr
Expert Consulting	275.00/hr
Expert Testimony	495.00/hr
Asphalt Concrete Consulting	145.00/hr
ICC Inspector (Reinforcing Steel, Masonry, Concrete, Structural Steel, Post Tension, Fireproofing)	85.00/hr
AC/Soils Inspector with Nuclear Gauge	89.00/hr
Certified Field/Shop Welding Inspector (AWS/CWI)	105.00/hr
DSA Masonry Inspector	105.00/hr
CAD Designer	100.00/hr
CAD Drafter	88.00/hr
Accountant	95.00/hr
Administrative Assistant	65.00/hr

HOT MIX ASPHALT (HMA) SERVICES

HMA Placement Inspector	92.00/hr
HMA Density Process Control	92.00/hr
HMA Density Cores	110.00/hr
HMA Data Cores	110.00/hr
HMA Production Inspector	92.00/hr
HMA Design Review	200.00/ea
Lead Project Inspector	Request Quote
Building/Construction Project Inspector	Request Quote
Caltrans Certified Laboratory Technician	92.00/hr
CTM125 Sample Hwy Material	92.00/hr
Quality Control Manager	150.00/hr
Quality Control Plan	500.00/ea

EXPLORATION

GEOPHYSICAL

Seismic Refraction 1D-3D, Seismic Source DAQlink III, 24 Channel Acquisition System, 2 man crew	280.00/hr
Multi-Channel Analysis of Surface Waves 1D-3D, Seismic Source DAQlink III, 24 Channel Acquisition System, 2 man crew	280.00/hr
Ground Penetrating Radar, special antennas may warrant additional charge	225.00/hr
In-situ Soil Resistivity Testing, Mini-res tester	185.00/hr
Post Processing and Analysis	165.00/hr

DRILLING

Drilling/Sampling (Track mounted rigs, 2-person crew)	275.00/hr
Drilling/Sampling (Simco 2400 and Mobile B24 truck mounted, Minute Man, 2 person crew)	225.00/hr
Drilling/Sampling (CME75 Auger)	285.00/hr
Drilling/Sampling (CME75 Mud Rotary w/desander)	325.00/hr
Drilling and Sampling (CME75 Rock Coring)	Request Quote
Borehole Grouting	285.00/hr

Hand-Auger Soil Sample (1-person Crew)	135.00/hr
Coring 1 Man Crew w/o Trailer (Quote will be given upon request for second operator)	145.00/hr
Coring 1 Man Crew w/Trailer (Quote will be given upon request for second operator)	165.00/hr
Bit Charges per 6" max core length, 4" max core diameter	34.00/ea
Support Truck not including mileage (500 gallon water tank)	250.00/day
2"x6" Stainless-Steel Tubes and Caps, recycled	10.00/each
Permitting Fees	Cost + 20%
Bailers (disposable)	10.00/ea
Sampling Supplies (gloves, water, rope, etc.)	25.00/day
Photo-ionization Detector (PID)	125.00/day
Water Level Indicator	30.00/day
ph/Conductivity/Temp Meter	50.00/day
Dissolved Oxygen Meter	50.00/day
Steam Cleaner	100.00/day
Cement Pump and Mixer	100.00/day
Drums	75.00/ea
Drilling Supplies	Cost + 25%
Laboratory Analysis	Cost + 30%

GEOTECHNICAL SOILS AND AGGREGATES

Direct Shear Test:	
Unconsolidated – Undrained	140.00/point
Consolidated – Undrained	165.00/point
Consolidated – Drained	185.00/point
Triaxial Compression Test	
Unconsolidated Undrained Triax D2850	185.00/point
Consolidated Undrained Triax D4767	Request Quote
Consolidated – Drained	Request Quote
Consolidated – Undrained with Pore Pressure Measurements	Request Quote
Consolidation Test:	
Swell Only	200.00/ea
Consolidation without Time Rate	340.00/ea
Consolidation with Time Rate, per load increment (additional charge)	120.00/ea

LABORATORY

HOT MIX ASPHALT (HMA)

Job Mix Formula (Reduced Rate for Multiple JMF's)	Request Quote
CTM 202 Sieve Course Agg	60.00/ea
CTM 202 Sieve Fine Agg	75.00/ea
CTM 202 Sieve Ignition Sample	140.00/ea
CTM 202 Batch Plant Gradation Report	50.00/ea
CTM 204 Plasticity Index	125.00/ea
CTM 205 Determining % Crushed Particles	185.00/ea
CTM 206 Bulk SpG & Absor Coarse Agg	70.00/ea
CTM 207 Bulk SpG (SDD) Fine Agg	90.00/ea
CTM 211 LA Rattler	Request Quote
CTM 214 Sodium Sulfate Soundness (per Sieve)	150.00/ea
CTM 217 Sand Equivalent	140.00/ea
CTM 226 Moisture Content of Aggregates by oven drying	40.00/ea

2016 Schedule of Services and Fees (Continued)

CTM 227 Cleanness Coarse Agg	165.00/ea
CTM 229 Durability Index	200.00/ea
CTM 234 - AASHTO T304 Fine Angularity	200.00/ea
CTM 235 - ASTM D4791 Flat and Elongated Particles	200.00/ea
CTM 304 AC Sample Preparation	50.00/ea
CTM 308 Bulk Spec Grav Bit Mix (Cores and Briquettes)	30.00/ea
CTM 309 Theo Spec Gav Bit Mix	165.00/ea
CTM 366 Stabilometer Value (Set of 3)	300.00/ea
CTM 370 Moisture Content of Bit. Mix by Microwave	50.00/ea
CTM 371 Tensile Strength Ratio Field Mix	850.00/ea
CTM 382 Ignition Furnace Asphalt Content	160.00/ea
CTM 382 Ignition Furnace Calibration (1 per new source)	400.00/ea
CTM 382 Ignition Furnace Calibration with lime	500.00/ea
LP-1 Theo Max SpG Mix with Dif AC Cont	150.00/ea
LP-2, 3, & 4 - HMA Volumetrics (VMA, VFA, DP) Calculations Report	75.00/ea
LP-10 Sampling and Testing CRM	200.00/ea
ASTM D2974 Organic Matter	80.00/ea
ASTM D5334 Thermal Resistivity	600.00/ea
MARSHALL MIX DESIGN	
Marshall Mix Design	Request Quote
ASTM D1559 Stability & Flow	110.00/ea
ASTM D1075 Immersion & Compression Retained Strength	110.00/ea
ASTM D2726 Unit Weight	30.00/ea
ASTM D2172 Extraction	300.00/ea
ASTM D2172 Extraction with Gradation	440.00/ea
ASTM D2041, D2172 Max. Specific Gravity of Bituminous Mix.	150.00/ea
AGGREGATES	
ASTM C88 Sodium or Magnesium Sulphate Soundness (per sieve size)	135.00/ea
ASTM C40 Injurious Impurity Matter	75.00/ea
ASTM C29 Unit Weight (aggregate)	80.00/ea
CTM 212 Unit Weight (aggregates)	80.00/ea
CTM 217 Sand Equivalent Test	120.00/ea
C128 Specific Gravity, Fine	70.00/ea
C127 Specific Gravity, Coarse	90.00/ea
C535 Los Angeles Rattler Test (500 revolutions)	300.00/ea
CTM 227 Cleanness Value, Coarse Aggregate	165.00/ea
CTM 229 Durability Index: *Fine & Coarse Aggregate*	200.00/ea
C142 Percent Friable Particles	165.00/ea
Cal Trans Class II Aggregate Base Conformance Test (R-Value, Gradation, SE, Durability)	695.00/ea
SOILS	
Atterberg Limit D4318	125.00/ea
Permeability Falling Head	280.00/ea
Specific Gravity Determination ASTM D854	90.00/ea
C136 Sieve Analysis Fine	115.00/ea
C136 Sieve Analysis Course	
Wash 200 D1140	80.00/ea
Hydrometer ASTM D422	230.00/ea

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2016 Schedule of Services and Fees (Continued)

Laboratory Maximum Dry Density/Optimum Moisture Content Determination	
4" mold AASHTO T99, ASTM D698	235.00/ea
6" mold AASHTO T99, ASTM D698	245.00/ea
4" mold AASHTO T180, ASTM D1557	235.00/ea
6" mold AASHTO T180, ASTM D1557	245.00/ea
CTM 216 Relative Compaction, Untreated and Treated Soils	220.00/ea
CTM 301 R-Value Untreated Samples	325.00/ea
CTM 301 R-Value Treated Samples	325.00/ea
pH Test	60.00/ea
pH-Lime Determination Test	175.00/ea
Resistivity and pH Test CTM 643	200.00/ea
Swell Test (Expansion Index) ASTM D4829	215.00/ea
CTM 373 Unconfined Compressive Lime treated Specimen	300.00/ea
Compressive Strength Cement	300.00/ea
Compressive Strength Lime	300.00/ea
Percent Lime/Cement Design, based on compressive strength (includes R-value, pH Lime Determination and Unconfined Compressive Strength)	1600.00/ea
Unconfined Compression Test ASTM D2166	120.00/ea
MASONRY BRICK/BLOCK/TILE	
Compression Tests on Core Specimens (includes prep) ASTM C42	75.00/ea
Shear Tests Masonry Core	145.00/ea
Compression Tests: (Same price for untested "hold" specimens)	
Compression Test Grout Molds	28.00/ea
Compression Test Mortar Cylinder	28.00/ea
Compression 2"x4" Cylinder Molds	15.00/ea
Compression Masonry Prism (2-block, mortared & grouted)	185.00/ea
Concrete Masonry Unit: (Same price for untested "hold" specimens)	
Compression Test Masonry Unit 8"x8"x16"	185.00/ea
Masonry Absorption Tests ASTM C140	105.00/ea
Masonry Shrinkage (Volume Change)	185.00/ea
Masonry Lineal Shrinkage with Absorption	260.00/ea
Masonry Shrinkage with Absorption and Compression	420.00/ea
CONCRETE	
Concrete Mix Design Review	200.00/ea
Additional Concrete Mix Design (using same materials)	150.00/ea
Concrete Mix Design with Trial Batch & Concrete Cylinder Compression Tests	Request Quote
Floor Flatness Testing	135.00/hr
Floor Flatness Report	450.00/ea
Unit Weight Fireproofing	50.00/ea
Compression Test Concrete Cylinders *(same price for untested "hold" specimens)*	28.00/ea
Flexural Strength, Concrete Beams, 6"x6"x24 ASTM C78	125.00/ea
Cylinder Molds (6"x12")	7.00/ea
Cement Content of Hardened Portland Cement Concrete ASTM C85	Request Quote
Shrink Bar Testing (3 bars per set) ASTM C157	420.00/set
Compression Tests on Core Specimens (includes prep) ASTM C42	75.00/ea
Calcium Chloride Moisture Test Kit (includes calculations)	80.00/ea

STEEL AWS/ASTM/ASME/ANSI/API

Structural Steel

Tensile & Bend Tests:	
Reinforcement Steel Tensile & Bend <5	135.00/ea
Reinforcement Steel Tensile & Bend 6 to 9	165.00/ea
Reinforcement Steel No. 10 and larger	205.00/ea, plus machining cost +20%
High-strength Bolt, Nut & Washer Testing	350.00/set
Rockwell Hardness Test	70.00/ea
HSB Torque Wrench Calibration	320.00/ea
Welder Qualification and Weld Procedure Qualifications:	
Weld Procedure Qualifications	750.00/ea
Welder Qualification Plate Groove Weld- 1G, 2G, 3G, 4G	130.00/ea
Welder Qualification Pipe Groove Weld – 1G, 2G, 5G, 6G, 6GR	225.00/ea
Welder Qualification Plate Fillet Weld – 1F, 2F, 3F, 4F	75.00/ea
Welder Qualification Pipe Fillet Weld – 1F, 2F, 4F, 5F	95.00/ea
WPS Test Plate (set)	65.00/ea
WPS Test Pipe (set)	85.00/ea

NON-DESTRUCTIVE TESTING

High Strength Bolt (HSB) Testing	125.00/hr
Bolt Pull/Load Testing	115.00/hr
Rebar Pull Testing	115.00/hr
Ceiling Wire Pull Testing	140.00/hr
NDT GPR (for reinforcement locating only, other uses refer to Geophysical services)	165.00/hr
Pachometer	140.00/hr

STANDARD POOL ENGINEERING SERVICES

The fees quoted include response to plan check.

Remodel Plan [Engineer site visit may be required]	800.00/min
Remodel Pool Plan (typical in-ground) [Engineer excavation inspection required]	800.00/min
Residential Pool Plan (drilled piers) [Geotechnical investigation report required]	Request Quote 3,100.00/min
Commercial Pool Plan (typical in-ground) [Geotechnical investigation report required]	Request Quote 1,500.00/min
Commercial Pool Plan (drilled pier) [Geotechnical investigation report required]	Request Quote 3,500.00/min
Commercial/Vault Pool Plan	Request Quote 2,000.00/min
On-Site Steel and/or Excavation Observation	400.00/min
Custom Swimming Pool Detail	500.00/min
Custom Retaining Wall Design (1 height)	500.00/min
Additional Heights	200.00/ea
Structural Design Computation copies	20.00/ea
Additional Plan Sheets	15.00/ea
Consulting Letter	185.00/min
Patio Corner/Trellis Design	Request Quote 900.00/min
Forensic Site Visit	Request Quote 600.00/min
Full Service Aquatic Design	Request Quote
Epoxy Injection	1,800/min first 10', 60.00/ft. after

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2016 Schedule of Services and Fees (Continued)

MISCELLANEOUS

Automobile Mileage	0.90/mile
Subsistence and Lodging	cost + 20%
Equipment Rental	cost + 20%
Field Report Preparation	50.00/each
Pad Certification Report	150.00/each
Final Letter (Testing/Inspections)	200.00/each
Additional Copy of Report (wet-signed)	50.00/each
Miscellaneous Item Charge	Cost +20%/each
Air & Ground Transportation	Cost +20%/each
CAD – Prints	10.00/sheet

Exhibit C

Insurance Requirements for Consultant The Contractor shall take out and maintain during the life of this Agreement, insurance coverage as listed below. These insurance policies shall protect Contractor and any subcontractor performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, or by any subcontractor, or by anyone directly or indirectly employed by either of them, and the amount of such insurance shall be as follows:

1. COMPREHENSIVE GENERAL LIABILITY
   $1,000,000 Each Occurrence
   $2,000,000 General Aggregate

2. COMPREHENSIVE AUTOMOBILE LIABILITY
   $1,000,000 Combined Single Limit
   Such insurance shall cover liability arising out of any vehicle (including, owned, hired and non-hired vehicles) operated in performing any and all services pursuant to this Agreement. Coverage shall be written on ISO form CA 00 01 12 90, or a later version, that provides liability coverage at least as broad as this form.

All limits are to be designated strictly for the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers. All deductibles or self-insured retentions (SIR) must be disclosed to City's Risk Manager for approval and shall not reduce the limits of liability set forth hereinabove. Insurance policies containing any deductible or SIR provision shall provide, or be endorsed to provide, that the deductible or SIR may be satisfied by either the Named Insured(s) or the City of Lodi.

It is required that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth above, shall be available to City as an additional insured. Furthermore, the requirements for coverage and limits shall be (i) the minimum coverage and limits specified in these insurance requirements; or (ii) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Contractor; whichever is greater.

Contractor agrees and stipulates that any insurance coverage provided to the City of Lodi shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810 et seq.).

A copy of the certificate(s) of insurance with the following endorsements shall be furnished to the City:

(a) Additional Named Insured Endorsement
Pursuant to a separate endorsement (ISO form CG 2010 (11/85) or a later version, that provides liability coverage at least as broad as this form) such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers as additional named insureds. An additional named insured endorsement is also required for Auto Liability.

(b) Primary and Non-Contributory Insurance Endorsement
Additional insurance coverage under the Contractor's policy shall be "primary and non-contributory" and will not seek contribution from City's insurance or self-insurance and shall be at least as broad as ISO form CG 20 01 04 13.

NOTE: (1) The street address of the **CITY OF LODI** must be shown along with (a) and (b) above: 221 West Pine Street, Lodi, California, 95240; (2) The insurance certificate must state, on its face or as an endorsement, a description of the project that it is insuring.

(c) Waiver of Subrogation
Include a waiver of subrogation against the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers. A waiver is required for General Liability and Auto Liability.

(d) Limits of Coverage
The limits of insurance coverage required may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance of Contractor shall contain, or be endorsed to contain, a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect the City as a named insured.

(e) Severability of Interest Clause
The term "insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the company's liability.

(f) Notice of Cancellation or Change in Coverage Endorsement
This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 West Pine St., Lodi, CA 95240.

(g) Continuity of Coverage
All policies shall be in effect on or before the first day of the Term of this Agreement. At least thirty (30) days prior to the expiration of each insurance policy, Contractor shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the minimum requirements of this Agreement. Contractor shall provide proof of continuing insurance on at least an annual basis during the Term. If Contractor's insurance lapses or is discontinued for any reason, Contractor shall immediately notify the City and immediately obtain replacement insurance.

(h) Failure to Comply
If Contractor fails or refuses to obtain and maintain the required insurance, or fails to provide proof of coverage, the City may obtain the insurance. Contractor shall reimburse the City for premiums paid, with interest on the premium paid by the City at the maximum allowable legal rate then in effect in California. The City shall notify Contractor of such payment of premiums within thirty (30) days of payment stating the amount paid, the name(s) of the insurer(s), and rate of interest. Contractor shall pay such reimbursement and interest on the first (1st) day of the month following the City's notice. Notwithstanding and other provision of this Agreement, if Contractor fails or refuses to obtain or maintain insurance as required by this agreement, or fails to provide proof of insurance, the City may terminate this Agreement upon such breach. Upon such termination, Contractor shall immediately cease use of the Site or facilities and commence and diligently pursue the removal of any and all of its personal property from the site or facilities.

(i) Qualified Insurer(s)
All insurance required by the terms of this Agreement must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the AM Best Ratings Guide, and which are acceptable to the City. Non-admitted surplus lines carriers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet City requirements.

Workers Compensation Insurance The Contractor shall take out and maintain during the life of this Agreement, Worker's Compensation Insurance for all of Contractor's employees employed at the site of the project and, if any work is sublet, Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this Agreement at the site of the project is not protected under the Worker's Compensation Statute, the Contractor shall provide and shall cause each subcontractor to provide insurance for the protection of said employees. **A waiver of subrogation is required for workers compensation insurance.** This policy may not be canceled nor the coverage reduced without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 West Pine St., Lodi, CA 95240.

NOTE: The City reserves the right to obtain a full certified copy of any insurance policy or endorsements required. Failure to exercise this right shall not constitute a waiver of the City's right to exercise after the effective date.

AMENDMENT NO. 1

Michael Baker International, Inc.
Professional Services Agreement

THIS AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT, is made and entered this ____ day of _____, 2016, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and MICHAEL BAKER INTERNATIONAL, INC. (hereinafter "CONSULTANT").

W I T N E S S E T H:

1. WHEREAS, CONSULTANT and CITY entered into a Professional Services Agreement (Agreement) on May 26, 2015, and Consent to Assign on January 27, 2016, as set forth in Exhibit 1 (attached); and

2. WHEREAS, CITY requested to amend the Scope of Services as set forth in Exhibit 2 (attached); and

3. WHEREAS, CITY requested to amend the fees to increase the existing not to exceed amount by $24,000, for a total, not to exceed $43,999, as set forth in Exhibit 3 (attached); and

4. WHEREAS, CITY requested to amend said Agreement to extend the term through March 30, 2018; and

5. WHEREAS, CONSULTANT agrees to said amendment.

NOW, THEREFORE, the parties agree to amend the Scope of Services, Fees, and Term of the Agreement. All other terms and conditions of the Agreement remain unchanged.

IN WITNESS WHEREOF, CITY and CONSULTANT have executed this Amendment No. 1 on _____, 2016.

CITY OF LODI, a municipal corporation
Hereinabove called "CITY"

_____
STEPHEN SCHWABAUER
City Manager

MICHAEL BAKER INTERNATIONAL, INC.
Hereinabove called "CONSULTANT"

_____
Name:
Title:

Attest:

_____
JENNIFER M. FERRAIOLO, City Clerk

Approved as to Form:

_____
JANICE D. MAGDICH
City Attorney

Exhibit 1

CONSENT TO ASSIGNMENT- CONTRACT #6460

MICHAEL BAKER INTERNATIONAL, INC.– PAYROLL AND LABOR COMPLIANCE REVIEW SERVICES

THIS CONSENT TO ASSIGNMENT OF PROFESSIONAL SERVICES AGREEMENT, is made and entered this 27th day of January, 2016, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and MICHAEL BAKER INTERNATIONAL, INC., (hereinafter "CONSULTANT").

W I T N E S S E T H :

1. WHEREAS, Pacific Municipal Consultants and CITY entered into a Professional Services Agreement (Agreement) on March 24, 2015, as set forth in Exhibit 1 (attached);

2. WHEREAS, Pacific Municipal Consultants wishes to assign the Agreement to Michael Baker International, Inc.; and

3. WHEREAS, CITY consents to said assignment;

NOW, THEREFORE, the City provides approval to Pacific Municipal Consultants to assign and agrees to and CONSULTANT accepts the assignment of the Agreement set forth in Exhibit 1. All other terms and conditions, including compensation, shall remain as set forth in the Agreement as set forth in Exhibit 1.

IN WITNESS WHEREOF, CITY and CONSULTANT have executed this Amendment No. 1 on January 27, 2016.

CITY OF LODI, a municipal corporation

STEPHEN SCHWABAUER
City Manager

MICHAEL BAKER INTERNATIONAL, INC.
hereinabove called "CONSULTANT"

Name: Kevin Gustert
Title: Vice President

Attest:

JENNIFER M. FERRAIOLO
City Clerk

PACIFIC MUNICIPAL CONSULTANTS

PHILIP O. CARTER
Vice-President

Approved as to Form:

JANICE D. MAGDICH
City Attorney

Exhibit 1

COPY

AGREEMENT FOR PROFESSIONAL SERVICES

ARTICLE 1
PARTIES AND PURPOSE

Section 1.1 Parties

THIS AGREEMENT is entered into on March 24, 2015, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and Pacific Municipal Consultants (PMC) (hereinafter "CONSULTANT").

Section 1.2 Purpose

CITY selected the CONSULTANT to provide the services required in accordance with attached Scope of Services, Exhibit A, attached and incorporated by this reference.

CITY wishes to enter into an agreement with CONSULTANT for assistance in documenting and ensuring contract compliance with State and Federal regulations (hereinafter "Project") as set forth in the Scope of Services attached here as Exhibit A. CONSULTANT acknowledges that it is qualified to provide such services to CITY.

ARTICLE 2
SCOPE OF SERVICES

Section 2.1 Scope of Services

CONSULTANT, for the benefit and at the direction of CITY, shall perform the Scope of Services as set forth in Exhibit A.

Section 2.2 Time For Commencement and Completion of Work

CONSULTANT shall commence work pursuant to this Agreement, upon receipt of a written notice to proceed from CITY or on the date set forth in Section 2.6, whichever occurs first, and shall perform all services diligently and complete work under this Agreement based on a mutually agreed upon timeline or as otherwise designated in the Scope of Services.

CONSULTANT shall submit to CITY such reports, diagrams, drawings and other work products as may be designated in the Scope of Services.

CONSULTANT shall not be responsible for delays caused by the failure of CITY staff to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project shall not be counted against CONSULTANT's contract performance period. Also, any delays due to weather, vandalism, acts of God, etc., shall not be counted. CONSULTANT shall

remain in contact with reviewing agencies and make all efforts to review and return all comments.

Section 2.3 Meetings

CONSULTANT shall attend meetings as may be set forth in the Scope of Services.

Section 2.4 Staffing

CONSULTANT acknowledges that CITY has relied on CONSULTANT's capabilities and on the qualifications of CONSULTANT's principals and staff as identified in its proposal to CITY. The Scope of Services shall be performed by CONSULTANT, unless agreed to otherwise by CITY in writing. CITY shall be notified by CONSULTANT of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel at CITY's sole discretion and shall be notified by CONSULTANT of any changes of CONSULTANT's project staff prior to any change.

CONSULTANT represents it is prepared to and can perform all services within the Scope of Services (Exhibit A) and is prepared to and can perform all services specified therein. CONSULTANT represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature are legally required for CONSULTANT to practice its profession, and that CONSULTANT shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals, and shall indemnify, defend and hold harmless CITY against any costs associated with such licenses, permits, qualifications, insurance and approvals which may be imposed against CITY under this Agreement.

The City acknowledges and agrees that the Consultant has invested considerable time and money that would be difficult to quantify in the training and development of Consultant's employees. Therefore, without receiving the Consultant's written permission, the City agrees not to hire, retain or contract with any employee of Consultant who performs services for the City under this Agreement for a period of one year from the date this Agreement is terminated.

Section 2.5 Subcontracts

Unless prior written approval of CITY is obtained, CONSULTANT shall not enter into any subcontract with any other party for purposes of providing any work or services covered by this Agreement.

Section 2.6 Term

The term of this Agreement commences on March 30, 2015 and terminates upon the completion of the Scope of Services or on March 30, 2017, whichever occurs first.

Section 2.7 Option to Extend Term of Agreement

At its option, City may extend the terms of this Agreement for an additional two (2) one (1)-year extensions; provided, City gives contractor no less than thirty (30) days written notice of its intent prior to expiration of the existing term. In the event City exercises any option under this paragraph, all other terms and conditions of this Agreement continue and remain in full force and effect.

The total duration of this Agreement, including the exercise of any option under this paragraph, shall not exceed four (4) years.

ARTICLE 3
COMPENSATION

Section 3.1 Compensation

CONSULTANT's compensation for all work under this Agreement shall conform to the provisions of the Fee Proposal, attached hereto as Exhibit B and incorporated by this reference.

CONSULTANT shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

Section 3.2 Method of Payment

CONSULTANT shall submit invoices for completed work on a monthly basis, or as otherwise agreed, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the Scope of Services said work is attributable. CONSULTANT's compensation for all work under this Agreement shall not exceed the amount of the Fee Proposal. CITY shall make payment within thirty (30) days receipt of each properly submitted invoice.

Section 3.3 Costs

The Fee Proposal shall include all reimbursable costs required for the performance of the Scope of Services. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved in advanced and in writing, by CITY.

Section 3.4 Auditing

CITY reserves the right to periodically audit all charges made by CONSULTANT to CITY for services under this Agreement. Upon request, CONSULTANT agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONSULTANT agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONSULTANT agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONSULTANT further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

ARTICLE 4
MISCELLANEOUS PROVISIONS

Section 4.1 Nondiscrimination

In performing services under this Agreement, CONSULTANT shall not discriminate in the employment of its employees or in the engagement of any sub CONSULTANT on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

Section 4.2 ADA Compliance

In performing services under this Agreement, CONSULTANT shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

Section 4.3 Indemnification and Responsibility for Damage

CONSULTANT to the fullest extent permitted by law, shall indemnify and hold harmless CITY, its elected and appointed officials, directors, officers, employees and designated volunteers from and against any claims, damages, losses, and expenses (including reasonable attorney's fees), arising out of performance of the services to be performed under this Agreement, to the extent any such claim, damage, loss, or expense is caused by the negligent acts, errors or omissions of CONSULTANT, any subcontractor employed directly by CONSULTANT, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, except those

injuries or damages arising out of the active negligence or willful misconduct of the City of Lodi or its officers or agents.

Section 4.4 No Personal Liability

Neither the City Council, nor any other officer or authorized assistant or agent or City employee shall be personally responsible for any liability arising under this Agreement.

Section 4.5 Responsibility of CITY

CITY shall not be held responsible for the care or protection of any material or parts of the work described in the Scope of Services prior to final acceptance by CITY, except as expressly provided herein.

Section 4.6 Insurance Requirements for CONSULTANT

CONSULTANT shall take out and maintain during the life of this Agreement, insurance coverage as set forth in Exhibit C attached hereto and incorporated by this reference.

Section 4.7 Successors and Assigns

CITY and CONSULTANT each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others. CONSULTANT shall not assign or transfer any interest in this Agreement without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

Section 4.8 Notices

Any notice required to be given by the terms of this Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To CITY:	City of Lodi 221 West Pine Street P.O. Box 3006 Lodi, CA 95241-1910 Attn: Julia Tyack, Transportation Planner
To CONSULTANT:	Pacific Municipal Consultants (PMC) Attn: Philip O. Carter, President 2729 Prospect Park Drive, Suite 220 Rancho Cordova, CA 95670

Section 4.9 Cooperation of CITY

CITY shall cooperate fully and in a timely manner in providing relevant information it has at its disposal relevant to the Scope of Services.

Section 4.10 CONSULTANT is Not an Employee of CITY

CONSULTANT agrees that in undertaking the duties to be performed under this Agreement, it shall act as an independent CONSULTANT for and on behalf of CITY and not an employee of CITY. CITY shall not direct the work and means for accomplishment of the services and work to be performed hereunder. CITY, however, retains the right to require that work performed by CONSULTANT meet specific standards without regard to the manner and means of accomplishment thereof.

Section 4.11 Termination

CITY or CONSULTANT may terminate this Agreement, with or without cause, by giving the other party at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase. Upon termination, CONSULTANT shall be entitled to payment as set forth in the attached Exhibit B to the extent that the work has been performed. Upon termination, CONSULTANT shall immediately suspend all work on the Project and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONSULTANT with third parties in reliance upon this Agreement.

Section 4.12 Confidentiality

CONSULTANT agrees to maintain confidentiality of all work and work products produced under this Agreement, except to the extent otherwise required by law or permitted in writing by CITY. CITY agrees to maintain confidentiality of any documents owned by CONSULTANT and clearly marked by CONSULTANT as "Confidential" or "Proprietary", except to the extent otherwise required by law or permitted in writing by CONSULTANT. CONSULTANT acknowledges that CITY is subject to the California Public Records Act.

Section 4.13 Applicable Law, Jurisdiction, Severability, and Attorney's Fees

This Agreement shall be governed by the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be venued with the San Joaquin County Superior Court. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in force and effect. In the

event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

Section 4.14 City Business License Requirement

CONSULTANT acknowledges that Lodi Municipal Code Section 3.01.020 requires CONSULTANT to have a city business license and CONSULTANT agrees to secure such license and pay the appropriate fees prior to performing any work hereunder.

Section 4.15 Captions

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent hereunder.

Section 4.16 Integration and Modification

This Agreement represents the entire understanding of CITY and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by both parties.

Section 4.17 Contract Terms Prevail

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

Section 4.18 Severability

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

Section 4.19 Ownership of Documents

All documents, photographs, reports, analyses, audits, computer media, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of CITY. Upon CITY's request, CONSULTANT shall allow CITY to inspect all such documents during CONSULTANT's regular business hours. Upon termination or completion of services under this Agreement, all information collected, work product and documents shall be delivered by CONSULTANT to CITY within ten (10) calendar days.

CITY agrees to indemnify, defend and hold CONSULTANT harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were intended.

Section 4.20 Authority

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

Section 4.21 Federal Transit Funding Conditions

☒ If the box at left is checked, the Federal Transit Funding conditions attached as Exhibit D apply to this Agreement. In the event of a conflict between the terms of this Agreement or any of its other exhibits, and the Federal Transit Funding Conditions, the Federal Transit Funding Conditions will control.

IN WITNESS WHEREOF, CITY and CONSULTANT have executed this Agreement as of the date first above written.

CITY OF LODI, a municipal corporation

ATTEST:

JENNIFER M. FERRAIOLO
City Clerk

STEPHEN SCHWABAUER
for City Manager

APPROVED AS TO FORM:
JANICE D. MAGDICH, City Attorney

By: _____

PACIFIC MUNICIPAL CONSULTANTS (PMC)

By: _____
Name: PHILIP O. CARTER
Title: Vice President

Attachments:
Exhibit A – Scope of Services
Exhibit B – Fee Proposal
Exhibit C – Insurance Requirements
Exhibit D – Federal Transit Funding Conditions (if applicable)

Funding Source: **Various Federal Project Accounts**
(Business Unit & Account No.)

Doc ID:WP\Projects\PSAs\PMC2015

CA:rev.01.2015

Exhibit A/B

PMC®

January 28, 2015

Julia Tyack, Transportation Planner
CITY OF LODI
221 West Pine Street
Lodi, CA 95240
jtyack@lodi.gov

RE: REQUEST FOR PROPOSALS – PAYROLL AND LABOR COMPLIANCE REVIEW

Dear Ms. Tyack:

Thank you for your request for PMC's qualifications to provide labor compliance services to the City of Lodi in its state- and federally funded public works projects. PMC is an experienced consultant that provides talented and hard-working staff to supplement local resources. PMC has supported the City's Community Development Block Grant (CDBG) program since 2006. This includes providing labor compliance monitoring services.

PROJECT UNDERSTANDING AND SCOPE OF WORK

PMC would be pleased to provide the scope of labor compliance services as described in your request dated January 21, 2015. This will include documenting and ensuring contractor compliance with state and federal regulations, including Davis Bacon prevailing wage requirements on City capital improvement projects. Tasks may include but are not limited to employee interviews (using HUD-11), payroll review for compliance with prevailing wages, and timely communication with the prime contractor to obtain correct documents from both the prime contractor and subcontractors. PMC will also attend preconstruction meetings as requested to prepare the prime contractor for required payroll compliance documents.

If desired, PMC will also assist with selecting and providing wage decisions, collecting and reviewing the required 10-day documentation, calculating and ordering wage restitution, and compiling information for and completing any required reports. Site visits by PMC will be scheduled to interview employees and also to observe and note the work being completed. Employee interviews and site visit notes will be used to examine certified payroll reports.

PROJECT PERSONNEL

The staff describe below will be providing services to the City.

JENNIFER GASTELUM, SERVICE AREA LEAD

Ms. Gastelum has more than 14 years of experience in housing, planning, and project management. As the service area lead for housing and community development, she will provide general oversight.

ROB SRONCE, PROJECT MANAGER AND LABOR COMPLIANCE OFFICER

Mr. Sronce has over 20 years of housing and community development experience, with 11 years of direct experience working with HUD and HCD staff to administer federal and state housing and community development grants. In that time, he has designed, developed, and implemented housing programs for several agencies as an employee and as a consultant. Mr. Sronce currently provides on-site assistance to the City of Lodi's CDBG program including labor compliance monitoring. He also provides labor compliance services to the City of Rancho Cordova.

RELEVANT FIRM EXPERIENCE

PMC has provided labor compliance services to the following clients:

- City of Lodi
- City of Rancho Cordova
- The Wayfarer Center of Woodland
- City of Elk Grove
- City of Corona (third-party review)
- County of Monterey (third-party review)
- City of Walnut Creek
- City of Citrus Heights
- City of Rio Vista

REFERENCES

Please find below three references for labor compliance services. Additional references are available on request.

Joseph Wood, Manager
Neighborhood Services Division
City of Lodi
(209) 333-6711

Jessica Hayes, Housing Services and Development Specialist
City of Rancho Cordova
(916) 851-8761

Scott Thurmond, Executive Director
Friends of the Mission, Woodland
(916) 416-0901

HOURLY RATES

Below are hourly billing rates for the listed personnel. PMC bills in quarter-hour increments and invoices on a monthly basis.

- Jennifer Gastelum, Service Area Lead $135
- Rob Sronce, Project Manager and Labor Compliance Officer $110

Sincerely,

Philip O. Carter
President

Robert Sronce
Project Manager

POC:rs:sw:jm

P:\California, State of\Lodi, City of\P13-1047 Labor Compliance

Not to Exceed $19,999

JENNIFER GASTELUM

Service Area Lead

Ms. Gastelum brings over 13 years of experience to projects throughout California, Nevada, and Washington. She is experienced in managing the preparation of Housing Elements, Housing Condition Survey Reports, Consolidated Plans, Action Plans, Analysis of Impediments to Fair Housing Choice, and other housing policy documents. Her most recent housing policy experience includes Housing Element updates for over two dozen California cities as well as Consolidated Plans for many jurisdictions throughout California.

Ms. Gastelum recently served as the labor compliance officer on The Crossings @ New Rancho project, an 18-unit multifamily affordable rental construction project, and is currently overseeing Energy Efficiency and Conservation Block Grant (EECBG) program monitoring and reporting assistance for the City of Elk Grove.

RELEVANT PROJECT EXPERIENCE

Imperial County, HOME Grant Administration. Currently manages Imperial County's HOME-funded First-Time Homebuyers Program.

City of Rancho Cordova, CDBG. Provides as-needed technical assistance and guidance to the City in the administration of its housing and community development programs, including programs funded by CDBG and housing impact fees.

City of Citrus Heights, CDBG. Provides on-call technical assistance to the City for its CDBG and housing programs, including guidance on eligibility, environmental review, and reporting.

Monterey County, CDBG, NSP, HOME, CalHOME. Provides technical assistance and guidance to the County on its state housing and community development grants. Efforts include record-keeping and reporting systems, compliance, and program development.

EDUCATION

BS, City and Regional Planning
College of Architecture and Environmental Design, California Polytechnic State University, San Luis Obispo

AA, American River Junior College, Sacramento

PROFESSIONAL AFFILIATIONS AND AWARDS

American Planning Association (APA)

California Chapter of the American Planning Association (CCAPA)

Parsons Infrastructure and Technology, Inc., Excellence in Action Award, September 2003

American Planning Association, 2000 Student Project Award, City of Atascadero Draft General Plan, 2000

ROBERT S. SRONCE

Project Manager and Labor Compliance Officer

Mr. Sronce has over 20 years of housing and community development experience, with 10 years of direct experience working with HUD and HCD staff to administer federal and state housing and community development grants. In that time, he has designed, developed, and implemented housing programs for several agencies as an employee and as a consultant

EDUCATION

BS, Community Studies, University of California, Davis

HUD-Certified HOME Program Specialist

RELEVANT PROJECT EXPERIENCE

City of Lodi. On-site staffing to support the City's CDBG program including labor compliance services. This includes day-to-day management of subrecipients, reporting, planning and compliance. Currently provides labor compliance monitoring services to the City.

City of Rancho Cordova. Provides as-needed technical assistance and guidance to the City in the administration of its housing and community development programs, including programs funded by CDBG and housing impact fees. Currently provides labor compliance services.

Wayfarer Center of Woodland. Provided labor compliance monitoring services for the rehabilitation of the commercial kitchen at Walter's House, a mission of the Wayfarer Center. Walter's House provides residential treatment for alcoholism and drug addiction.

City of Corona. Provided technical assistance and program support in support of the City's NSP, CDBG, and HOME programs, including oversight and management of subgrantees as well as compliance, research, planning, and implementation. Reviewed labor compliance done by a third party.

City of Elk Grove. Provided as-needed technical assistance and guidance to the City in the administration of its housing and community development programs. Part of the team assisting the City to implement its federal NSP-funded programs.

Monterey County. Provided technical assistance and guidance to the County on its state housing and community development grants. Efforts included record-keeping and reporting systems, compliance, and program development. Reviewed labor compliance done by a third party.

EXHIBIT C

Insurance Requirements for Consultant The Consultant shall take out and maintain during the life of this Agreement, insurance coverage as listed below. These insurance policies shall protect Consultant and any subcontractor performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from Consultant's operations under this Agreement, whether such operations be by Consultant, or by any subcontractor, or by anyone directly or indirectly employed by either of them, and the amount of such insurance shall be as follows:

1. COMPREHENSIVE GENERAL LIABILITY
   $1,000,000 Each Occurrence
   $2,000,000 Aggregate

2. COMPREHENSIVE AUTOMOBILE LIABILITY
   $1,000,000 Combined Single Limit
   Such insurance shall cover liability arising out of any vehicle (including, owned (if any), hired and non-hired vehicles) operated in performing any and all services pursuant to this Agreement. Coverage shall be written on ISO form CA 00 01 12 90, or a later version of this form, or an equivalent form providing equivalent liability coverage.

3. PROFESSIONAL LIABILITY / ERRORS AND OMISSIONS
   $1,000,000 Per Claim

All limits are to be designated strictly for the City of Lodi, its elected and appointed boards, commissions, officers, employees, and designated volunteers. All deductibles or self-insured retentions (SIR) must be disclosed to City's Risk Manager for approval and shall not reduce the limits of liability set forth hereinabove. Insurance policies containing any deductible or SIR provision shall provide, or be endorsed to provide, that the deductible or SIR may be satisfied by either the Named Insured(s) or the City of Lodi.

It is required that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth above, shall be available to City as an additional insured. Furthermore, the requirements for coverage and limits shall be (i) the minimum coverage and limits specified in these insurance requirements; or (ii) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Consultant; whichever is greater.

Consultant agrees and stipulates that any insurance coverage provided to the City of Lodi shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810 et seq.).

A copy of the certificate(s) of insurance with the following endorsements shall be furnished to the City:

(a) Additional Named Insured Endorsement
Pursuant to a separate endorsement (ISO form CG 2010 (11/85) or equivalent form) such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed boards, commissions, officers, employees, and designated volunteers as additional named insureds.

(b) Primary and Non-Contributory Insurance Endorsement
Additional Insurance coverage under the Consultant's policy shall be "primary and non-contributory" and will not seek contribution from City's insurance or self-insurance and shall be at least as broad as ISO form CG 20 01 04 13.

NOTE: (1) The street address of the **CITY OF LODI** must be shown along with (a) and (b) above: 221 West Pine Street, Lodi, California, 95240; (2) The insurance certificate must state, on its face or as an endorsement, a description of the project that it is insuring.

Insurance Requirements for Consultant (continued)

(c) Limits of Coverage
The limits of insurance coverage required may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance of Consultant shall contain, or be endorsed to contain, a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect the City as a named insured.

(d) Completed Operations Endorsement
For three years after completion of project, a certificate of insurance with a Completed Operations Endorsement, CG 20 37 07 04, will be provided to the City of Lodi.

(e) Severability of Interest Clause
The term "insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the company's liability.

(f) Notice of Cancellation or Change in Coverage Endorsement
This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 West Pine St., Lodi, CA 95240.

(g) Continuity of Coverage
All policies shall be in effect on or before the first day of the Term of this Agreement. At least thirty (30) days prior to the expiration of each insurance policy, Consultant shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the minimum requirements of this Agreement. Consultant shall provide proof of continuing insurance on at least an annual basis during the Term. If Consultant's insurance lapses or is discontinued for any reason, Consultant shall immediately notify the City and immediately obtain replacement insurance.

(h) Failure to Comply
If Consultant fails or refuses to obtain and maintain the required insurance, or fails to provide proof of coverage, the City may obtain the insurance. Consultant shall reimburse the City for premiums paid, with interest on the premium paid by the City at the maximum allowable legal rate then in effect in California. The City shall notify Consultant of such payment of premiums within thirty (30) days of payment stating the amount paid, the name(s) of the insurer(s), and rate of interest. Consultant shall pay such reimbursement and interest on the first (1st) day of the month following the City's notice. Notwithstanding and other provision of this Agreement, if Consultant fails or refuses to obtain or maintain insurance as required by this agreement, or fails to provide proof of insurance, the City may terminate this Agreement upon such breach. Upon such termination, Consultant shall immediately cease use of the Site or facilities and commence and diligently pursue the removal of any and all of its personal property from the site or facilities.

(i) Qualified Insurer(s)
All insurance required by the terms of this Agreement must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the AM Best Ratings Guide, and which are acceptable to the City. Non-admitted surplus lines carriers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet City requirements.

Workers Compensation Insurance The Consultant shall take out and maintain during the life of this Agreement, Worker's Compensation Insurance for all of Consultant's employees employed at the site of the project and, if any work is sublet, Consultant shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Consultant. In case any class of employees engaged in hazardous work under this Agreement at the site of the project is not protected under the Worker's Compensation Statute, the Consultant shall provide and shall cause each subcontractor to provide insurance for the protection of said employees. **A waiver of subrogation is required for workers compensation insurance.** This policy may not be canceled nor the coverage reduced without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 West Pine St., Lodi, CA 95240.

NOTE: The City reserves the right to obtain a full certified copy of any insurance policy or endorsements required. Failure to exercise this right shall not constitute a waiver of the City's right to exercise after the effective date.

Exhibit D

Services – Federal Clauses
(under $25,000)

The following clauses are included with the City of Lodi Professional Service Agreement.

1. Access to Records

The following access to records requirements apply to this Contract:

I Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

II Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at $100,000.

III. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

IV. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

V. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

VI The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.36(i)(11).

VII. FTA does not require the inclusion of these requirements in subcontracts

2. Federal Changes

CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Department of Transportation, Federal Transit Administration, Master Agreement (FTA MA (20) dated October 1, 2013), between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. CONTRACTOR's failure to so comply shall constitute a material breach of this contract.

3. No Government Obligation to Third Parties

I. CITY OF LODI and CONTRACTOR acknowledge and agree that, not withstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to CITY OF LODI , CONTRACTOR, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

II The CONTRACTOR agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the SUBCONTRACTOR who will be subject to its provisions.

4. Program Fraud and False or Fraudulent Statements or Related Acts.

I. The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq . and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate.

II. The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the CONTRACTOR, to the extent the Federal Government deems appropriate.

III. The CONTRACTOR agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the SUBCONTRACTOR who will be subject to the provisions.

5. Civil Rights

The following requirements apply to the underlying contract:

I. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the CONTRACTOR agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

II. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

- Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

- Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

- Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

III. The CONTRACTOR also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

6. Disadvantaged Business Enterprise (DBE)

City of Lodi Assurance

The CITY OF LODI shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT) assisted contract or in the administration of its Disadvantaged Business Enterprise (DBE) program or the requirements of 49 CFR part 26.

The CITY OF LODI will take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts.

It is the policy of the CITY OF LODI to ensure nondiscrimination in the award and administration of DOT-assisted contracts and to create a level playing field on which DBEs can compete fairly for contracts and subcontracts relating to the CITY OF LODI construction, procurement and professional services activities.

Contractor Assurance

Pursuant to 49 CFR Part 26, the CONTRACTOR is required to make the following assurance in its agreement with the CITY OF LODI and to include this assurance in any agreements it makes with subcontractors in the performance of this contract:

> "The Contractor or Subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure of the

Contractor or Subcontractor to carry out these requirements is a material breach of contract, which may result in the termination of contract by the CITY OF LODI, or any such remedy the CITY OF LODI may deem appropriate."

The City's DBE Program, as required by 49 CFR Part 26, as approved by DOT, is incorporated by reference in this section.

Implementation of this DBE Program is a legal obligation and failure to carry out its terms shall be treated as a violation of this contract. Upon notification of failure to carry out its approved program, the DOT and/or the Federal Transit Administration (FTA) may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq).

7. Prompt Payment

I. Prompt Progress Payment to Subcontractors

Attention is directed to the provisions in Federal Regulations (49 CFR 26.29) concerning payment to subcontractors. The contractor shall make prompt and regular incremental acceptances of portions, as determined by the CITY OF LODI of the contract work and pay retainage to the prime contractor based on these acceptances.

II. Prompt Payment of Payment of Withheld Funds to Subcontractors

The contractor shall return all monies withheld in retention from all subcontractors within thirty (30) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the CITY OF LODI. Federal Regulation (49 CFR 26.29) requires that any delay or postponement of payment over 30 day may take place only for good cause and with the CITY OF LODI's prior written approval. Any violation of this provision shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code.

This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance; and/or noncompliance by a subcontractor. This provision applies to both DBE and non-DBE subcontractors

8. Incorporation of FTA 4220.1F Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any CITY OF LODI request, which would cause CITY OF LODI to be in violation of the FTA terms and conditions.

9. Termination

Upon written notice, CONTRACTOR agrees that the Federal Government may suspend or terminate all or part of the Federal financial assistance provided herein if CONTRACTOR has violated the terms of the Grant Agreement or Cooperative Agreement, or if the Federal Government determines that the purposes of the statute authorizing the Project would not be adequately served by the continuation of Federal financial assistance for the Project. Any failure to make reasonable progress on the Project or other violation of the Grant Agreement or Cooperative Agreement that endangers substantial performance of the Project shall provide sufficient grounds for the Federal Government to terminate the Grant Agreement or Cooperative Agreement. Termination of any Federal financial assistance for the Project will not invalidate obligations properly incurred by CONTRACTOR before the termination date, to the extent those obligations cannot be canceled. If, however, the Federal Government determines that CONTRACTOR

has willfully misused Federal assistance funds by failing to make adequate progress, failing to make reasonable and appropriate use of the Project real property, facilities, or equipment, or has failed to comply with the terms of the Grant Agreement or Cooperative Agreement, the Federal Government reserves the right to require CONTRACTOR to refund the entire amount of Federal funds provided for the Project or any lesser amount as the Federal Government may determine. Expiration of any Project time period established for the Project does not, by itself, constitute an expiration or termination of the Grant Agreement or Cooperative Agreement

I. Termination for Convenience: CITY OF LODI may terminate this contract, in whole or in part, at any time by written notice to the CONTRACTOR. The CONTRACTOR shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to CITY OF LODI to be paid the CONTRACTOR. If the CONTRACTOR has any property in its possession belonging to CITY OF LODI, the CONTRACTOR will account for the same, and dispose of it in the manner CITY OF LODI directs.

II. Termination for Default: If the CONTRACTOR does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the CONTRACTOR fails to perform in the manner called for in the contract, or if the CONTRACTOR fails to comply with any other provisions of the contract, CITY OF LODI may terminate this contract for default. Termination shall be effected by serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by CITY OF LODI that the CONTRACTOR had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or beyond the control of the CONTRACTOR, CITY OF LODI, after setting up a new delivery of performance schedule, may allow the CONTRACTOR to continue work, or treat the termination as a termination for convenience.

III. Termination for Cost-Type Contracts: CITY OF LODI may terminate this contract, or any portion of it, by serving a notice of termination on the CONTRACTOR. The notice shall state whether the termination is for convenience of CITY OF LODI or is for the default of the CONTRACTOR. If the termination is for default, the notice shall state the manner in which the CONTRACTOR has failed to perform the requirements of the contract. The CONTRACTOR shall account for any property in its possession paid for from funds received from CITY OF LODI, or property supplied to the CONTRACTOR by CITY OF LODI. If the termination is for default, CITY OF LODI may fix the fee, if the contract provides for a fee, to be paid the CONTRACTOR in proportion to the value, if any, of the work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to CITY OF LODI and the parties shall negotiate the termination settlement to be paid the CONTRACTOR.

10. Energy Conservation

CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 *et seq.*

11. Access Requirements for Persons with Disabilities

CONTRACTOR agrees to comply with all applicable requirements of the Americans with Disabilities Act (ADA) of 1990. as amended, 42 U.S.C. 12101 et. seq., Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; 49 U.S.C. 5301(d); and all regulations promulgated to implement the ADA and Section 504 of the Rehabilitation Act of 1973, as amended, as may be applicable to CONTRACTOR.

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

N/A

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

1. Type of Federal Action:

☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:

☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:

☐ a. initial
b. material change

For Material Change Only:
year ____ quarter
date of last report _____

4. Name and Address of Reporting Entity

☐ Prime ☐ Subawardee
Tier _____, if known

Congressional District, if known

5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:

Congressional District, if known

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, if applicable _____

8. Federal Action Number, if known:

9. Award Amount, if known:

10. Name and Address of Lobby Entity
(If individual, last name, first name, MI)

11. Individuals Performing Services (including address if different from No. 10a)
(last name, first name, MI)

(attach Continuation Sheet(s) if necessary)

12. Amount of Payment (check all that apply)

$ _____ ☐ actual ☐ planned

13. Form of Payment (check all that apply):

☐ a. cash
☐ b. in-kind; specify: nature _____
Value _____

14. Type of Payment (check all that apply)

☐ a. retainer
☐ b. one-time fee
☐ c. commission
☐ d. contingent fee
☐ e deferred
☐ f. other, specify _____

15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s),or member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) if necessary)

16. Continuation Sheet(s) attached: Yes ☐ No ☐ N/A

17. Information requested through this form is authorized by Title 31 U.S.C Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352 This information will be reported to Congress semiannually and will be available for public inspection Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: [signature]
Print Name: Philip C. Carter
Title: Vice President
Telephone No.: (916) 361 8581 Date: 3-13-05

Authorized for Local Reproduction

Federal Use Only:

Standard Form - LLL

Standard Form LLL Rev 04-28-06

Distribution: Orig- Local Agency Project Files

INSTRUCTIONS FOR COMPLETING EXHIBIT 10-Q DISCLOSURE OFLOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime federal recipient at the initiation or receipt of covered federal action or a material change to previous filing pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered federal action for which lobbying activity is or has been secured to influence, the outcome of a covered federal action.
2. Identify the status of the covered federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the informationpreviously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e g., the first subawardee of the prime is the first tier. Subawards include but are not limited to: subcontracts, subgrants, and contract awards under grants.
5. If the organization filing the report in Item 4checks "Subawardee" then enter the full name, address, city, state, and zip code of the prime federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the federal program name or description for the covered federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate federal identifying number available for the federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant. or loan award number, the application/proposal control number assigned by the federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered federal action where there has been an award or loan commitment by the Federal agency, enter the federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in Item 4 to influence the covered federal action.
11. Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
12. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (Item 4) to the lobbying entity (Item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
13. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
14. Check all boxes that apply. If other, specify nature.
15. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with federal officials. Identify the federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
16. Check whether or not a continuation sheet(s) is attached.
17. The certifying official shall sign and date the form, and print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30-minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for ~~reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.SF-LLL-Instructions Rev. 06-04~~

FHWA-1273 – Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Nonsegregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Compliance with Governmentwide Suspension and Debarment Requirements
XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services)

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency

and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals instead the payrolls shall only need to include an individually identifying number for each employee (e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at http://www dol gov/esa/whd/forms/wh347instr htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5 12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U S Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same

prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
(2) the prime contractor remains responsible for the quality of the work of the leased employees;
(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places

where it is readily available to all persons concerned with the project:

18 U.S.C 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and

information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (https://www.epls.gov/), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed $100,000 and that all such recipients shall certify and disclose accordingly.

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME:	**City of Lodi Public Works Dept. Payroll & Labor Compliance Review Assistance**
DEPARTMENT:	**Public Works**
CONTRACTOR	**Pacific Municipal Consultants (PMC)**
AWARD AMOUNT:	**$19,999.00**
DATE OF RECOMMENDATION:	**2/13/15**

BIDS OR PROPOSALS RECEIVED:

Pacific Municipal Consultants (PMC)	$110.00	Per Hour
Contractor Compliance & Monitoring, Inc. (CCMI)	$85.00-$120.00	Per Hour

"NO BID" or NO RESPONSE RECEIVED:

PrevailingWageExperts.com
Vistacore.com
Labor Compliance Services, LLC
Gonzales-White Consulting Service, LLC

BACKGROUND INFORMATION & BASIS FOR AWARD:

Transportation Planner discussed the project scope with staff from each company. In addition, a Scoring Committee (Transportation Manager, Deputy Public Works Director, and Transportation Planner) reviewed each bidder based on experience/ size of staff/ references; project understanding and scope of work; as well as proposed cost. To clarify, the cost for the main staff member on the project from each firm would be $110/hr (PMC) and $85-120/hr (CCMI). After full analysis, it was determined that Pacific Municipal Consultants (PMC) was the preferred consultant.

FUNDING: Various Federal Project Accounts

Prepared by: Julia Tyack

Title: Transportation Planner

Reviewed by: P. Fernandez

Exhibit 2

Michael Baker
INTERNATIONAL

We Make a Difference

February 4, 2016

Julia Tyack, Transportation Planner
CITY OF LODI
221 West Pine Street
Lodi, CA 95240
jtyack@lodi.gov

RE: HARNEY LANE GRADE SEPARATION – LABOR COMPLIANCE

Dear Ms. Tyack:

Michael Baker International is pleased to provide this proposal to assist with the Harney Lane grade separation. The following is a list of tasks that we will complete.

SCOPE OF WORK

TASK 1. ATTEND PRECONSTRUCTION MEETINGS AND VERIFY CONTRACTOR'S LICENSE STATUS.

Michael Baker will attend the preconstruction meeting to provide contractors and their subcontractors with materials and information on applicable federal and state labor standards requirements and to answer questions regarding labor standards monitoring procedures and required forms. Michael Baker will also take this opportunity to gather contact information from all of the contractors to ensure regular communication throughout the course of the project. We will obtain verification that all contractor licenses are current and confirm that contractors are excluded from the federal debarment list.

TASK 2. CONDUCT EMPLOYEE INTERVIEWS.

Once the project is under way, Michael Baker will conduct Exhibit 16-N employee interviews to verify worker classifications and wage payments. These interviews must be completed regularly throughout the course of the project. We will coordinate these interviews with the contractors and subcontractors at the work site to minimize the downtime associated with employee interviews.

TASK 3. MONITOR LABOR STANDARDS COMPLIANCE ON THE PROJECT.

Michael Baker will ensure that the City is in compliance with all requirements regarding labor standards, including compliance with federal and state prevailing wage requirements. Michael Baker will work closely with contractors and subcontractors (especially those unfamiliar with prevailing wage requirements) throughout the project.

Michael Baker staff will review all certified payroll reports. Where deficiencies are found, Michael Baker is available to work directly with the contractor to make corrections and confirm restitution. We will inform the City whenever a contractor or subcontractor is found to be out of compliance.

TASK 4. MAINTAIN LABOR STANDARDS COMPLIANCE DOCUMENTATION.

Michael Baker will maintain the files in accordance with the requirements of the program.

We will monitor any changes or developments regarding federal or state labor standards that may occur during the term of the project, and will immediately inform the City and contractors of any changes that occur.

TASK 5. ASSIST WITH PROGRESS PAYMENTS.

When a progress or final payment is requested by the contractor, Michael Baker will coordinate with the City to ensure that all weekly payrolls have been reviewed for labor standards and prevailing wage compliance before a payment is made to the contractor. This ensures that there are no surprises when the contractor makes a retention request.

TASK 6. RESPOND TO REQUESTS FOR INFORMATION.

Michael Baker staff will be available to the City and the contractors to answer any requests for information that may arise pertaining to federal and state labor standards compliance. Michael Baker staff is knowledgeable on labor standards law, and will try to provide contractors with all the information they need throughout the project.

PROJECT TEAM

JENNIFER GASTELUM, PROJECT DIRECTOR

Ms. Gastelum has more than 15 years of experience in housing, planning, and project management. She is experienced in administering various federal grant programs, including CDBG, Neighborhood Stabilization Program, CalHome, and HOME. Ms. Gastelum will provide general oversight to the project.

CYNTHIA WALSH, PROJECT MANAGER AND LABOR COMPLIANCE OFFICER

Ms. Walsh is experienced with state and federal grant programs and specializes in labor standards compliance. She possesses extraordinary administrative and organizational skills, a necessity for labor compliance. Ms. Walsh will serve as the project manager and, as primary contact for the City, will also be responsible for monitoring labor compliance through the review of certified payroll reports. She will also be the primary point of contact for the prime contractor, and will be responsible for reporting, coordination, and record-keeping.

JESSICA HAYES, ASSISTANT PROJECT MANAGER AND SENIOR GRANTS MANAGEMENT SPECIALIST

Ms. Hayes is experienced with state and federal grant programs and will serve as the assistant project manager for the City. She will assist Ms. Walsh with monitoring labor compliance through the review of certified payroll reports.

PATRICE CLEMONS, ASSOCIATE LABOR COMPLIANCE SPECIALIST

Ms. Clemons currently manages CDBG programs for the cities of Lodi and Grass Valley. Her duties include preparing reports, processing financial requests, maintaining records, tracking expenses and revenue, and monitoring. Additionally, Ms. Clemons has conducted HUD-11 employee interviews and reviewed certified payroll reports for compliance with federal standards.

Exhibit 3

FEE

Michael Baker will provide the proposed scope of services for a fee of $24,000.

BILLING AND PAYMENT

Michael Baker will bill according to the percentage of work completed. Progress billing will be monthly, with payment due on receipt.

HOURLY RATES

Staff	Hourly Rate
Jennifer Gastelum, Project Director/Service Area Lead	$135
Cynthia Walsh, Project Manager/Labor Compliance Officer	$110
Jessica Hayes, Assistant Project Manager/Senior Grants Management Specialist	$105
Patrice Clemons, Associate Labor Compliance Specialist	$85

If you have any questions regarding this proposal, please contact Jennifer Gastelum at (916) 231-2268.

Sincerely,

Kevin Gustorf, PE
Vice President

Jennifer Gastelum
Service Area Lead

RESOLUTION NO. 2016-_____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH TERRACON, OF LODI, FOR CONSTRUCTION TESTING AND INSPECTION SERVICES AND AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH MICHAEL BAKER INTERNATIONAL, INC., OF RANCHO CORDOVA, FOR LABOR COMPLIANCE MONITORING FOR GRADE SEPARATION HARNEY LANE AT UNION PACIFIC RAILROAD OVERHEAD PROJECT

==========

WHEREAS, at the November 18, 2015 City Council meeting, Council awarded DeSilva Gates Construction, LP, of Dublin, a contract for construction of the Grade Separation Harney Lane at Union Pacific Railroad Overhead Project; and

WHEREAS, City staff solicited Request for Qualification and Proposals for testing and inspection services and Terracon received the highest marks and was selected to perform the required testing and inspection services during construction; and

WHEREAS, Michael Baker International, Inc., currently provides labor compliance services to the Public Works Transit and Neighborhood Services Divisions; and

WHEREAS, these services will be required during the course of the construction project, which is anticipated to begin in April 2016, with completion in October 2017; and

WHEREAS, staff recommends authorizing the City Manager to execute a Professional Services Agreement with Terracon, of Lodi, for construction testing and inspection services, in the amount of $574,610; and

WHEREAS, staff recommends authorizing the City Manager to execute Amendment No. 1 to the Professional Services Agreements with Michael Baker International, Inc., of Rancho Cordova, for labor compliance monitoring, in the amount of $24,000.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a Professional Services Agreement with Terracon, of Lodi, California, for construction testing and inspection services, in the amount of $574,610, for Grade Separation Harney Lane at Union Pacific Railroad Overhead Project; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute Amendment No. 1 to the Professional Services Agreement with Michael Baker International, Inc., of Rancho Cordova, California, for labor compliance monitoring, in the amount of $24,000, for Grade Separation Harney Lane at Union Pacific Railroad Overhead Project.

Dated: March 2, 2016

==========

I hereby certify that Resolution No. 2016-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 2, 2016, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. FERRAIOLO
City Clerk

AGENDA ITEM C-08

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Authorizing the City Manager to Execute a Multi-year Professional Services Agreement for Electric Utility Rate Analysis Services with EES Consulting of Kirkland, Washington ($90,000)

MEETING DATE: March 2, 2016

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to execute a multi-year professional services agreement for electric utility rate analysis services with EES Consulting of Kirkland, Washington in an amount not to exceed $90,000.

BACKGROUND INFORMATION: On January 15, 2014, the Lodi City Council approved a professional services agreement with EES Consulting for $78,560 to conduct an electric utility rate study. EES completed the work and, as a result, staff recommended a 5-percent rate increase for all electric utility customers that became effective January 1, 2015.

In addition, staff requested EES's assistance to evaluate the impact of the changing electric utility business model to its current rate structure. Staff have presented preliminary findings to the City Council at meetings on September 29, 2015 and January 12, 2016, and continue to work toward a final recommendation. However, all funds from the original contract with EES have been exhausted and EES's services are still needed to complete this work and evaluate all options to develop a more simplified, revenue neutral recommendation for City Council's consideration.

Finally, a number of factors will continue to impact how electric utilities charge their customers, including but not limited to, solar and renewable power requirements. EES brings the expertise of rate making industry standards and changes to continue to assist the electric utility with these issues. As a result, staff are proposing to enter into a three-year contract with EES to provide rate analysis services on an as-needed basis to evaluate the impact associated with these issues at a not-to-exceed cost of $30,000 per year or $90,000 over the three-year period.

FISCAL IMPACT: Not-to-exceed $30,000 per year or $90,000 over three years.

FUNDING AVAILABLE: Included in FY2015/16 Budget Account No. 50060001.72450.

_____
Jordan Ayers
Deputy City Manager/Internal Services Director

_____
Elizabeth A. Kirkley
Electric Utility Director

PREPARED BY: Melissa Price, Rates & Resources Manager
EAK/MP/lst

APPROVED: _____
Stephen Schwabauer, City Manager

AGREEMENT FOR PROFESSIONAL SERVICES

ARTICLE 1
PARTIES AND PURPOSE

Section 1.1 Parties

THIS AGREEMENT is entered into on , 2016, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and EES CONSULTING (hereinafter "CONTRACTOR").

Section 1.2 Purpose

CITY selected the CONTRACTOR to provide the services required in accordance with attached Scope of Services, Exhibit A, attached and incorporated by this reference.

CITY wishes to enter into an agreement with CONTRACTOR for electric utility rate analysis services (hereinafter "Project") as set forth in the Scope of Services attached here as Exhibit A. CONTRACTOR acknowledges that it is qualified to provide such services to CITY.

ARTICLE 2
SCOPE OF SERVICES

Section 2.1 Scope of Services

CONTRACTOR, for the benefit and at the direction of CITY, shall perform the Scope of Services as set forth in Exhibit A.

Section 2.2 Time For Commencement and Completion of Work

CONTRACTOR shall commence work pursuant to this Agreement, upon receipt of a written notice to proceed from CITY or on the date set forth in Section 2.6, whichever occurs first, and shall perform all services diligently and complete work under this Agreement based on a mutually agreed upon timeline or as otherwise designated in the Scope of Services.

CONTRACTOR shall submit to CITY such reports, diagrams, drawings and other work products as may be designated in the Scope of Services.

CONTRACTOR shall not be responsible for delays caused by the failure of CITY staff to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project shall not be counted against CONTRACTOR's contract performance period. Also, any delays due to

weather, vandalism, acts of God, etc., shall not be counted. CONTRACTOR shall remain in contact with reviewing agencies and make all efforts to review and return all comments.

Section 2.3 Meetings

CONTRACTOR shall attend meetings as may be set forth in the Scope of Services.

Section 2.4 Staffing

CONTRACTOR acknowledges that CITY has relied on CONTRACTOR's capabilities and on the qualifications of CONTRACTOR's principals and staff as identified in its proposal to CITY. The Scope of Services shall be performed by CONTRACTOR, unless agreed to otherwise by CITY in writing. CITY shall be notified by CONTRACTOR of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel at CITY's sole discretion and shall be notified by CONTRACTOR of any changes of CONTRACTOR's project staff prior to any change.

CONTRACTOR represents it is prepared to and can perform all services within the Scope of Services (Exhibit A) and is prepared to and can perform all services specified therein. CONTRACTOR represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature are legally required for CONTRACTOR to practice its profession, and that CONTRACTOR shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals, and shall indemnify, defend and hold harmless CITY against any costs associated with such licenses, permits, qualifications, insurance and approvals which may be imposed against CITY under this Agreement.

Section 2.5 Subcontracts

Unless prior written approval of CITY is obtained, CONTRACTOR shall not enter into any subcontract with any other party for purposes of providing any work or services covered by this Agreement.

Section 2.6 Term

The term of this Agreement commences on January 1, 2016 and terminates upon the completion of the Scope of Services or on December 31, 2018, whichever occurs first.

ARTICLE 3
COMPENSATION

Section 3.1 Compensation

CONTRACTOR's compensation for all work under this Agreement shall conform to the provisions of the Fee Proposal, attached hereto as Exhibit B and incorporated by this reference.

CONTRACTOR shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

Section 3.2 Method of Payment

CONTRACTOR shall submit invoices for completed work on a monthly basis, or as otherwise agreed, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the Scope of Services said work is attributable. CONTRACTOR's compensation for all work under this Agreement shall not exceed the amount of the Fee Proposal.

Section 3.3 Costs

The Fee Proposal shall include all reimbursable costs required for the performance of the Scope of Services. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved in advanced and in writing, by CITY.

Section 3.4 Auditing

CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under this Agreement. Upon request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONTRACTOR agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement. CONTRACTOR agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

ARTICLE 4
MISCELLANEOUS PROVISIONS

Section 4.1 Nondiscrimination

In performing services under this Agreement, CONTRACTOR shall not discriminate in the employment of its employees or in the engagement of any sub CONTRACTOR on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

Section 4.2 ADA Compliance

In performing services under this Agreement, CONTRACTOR shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

Section 4.3 Indemnification and Responsibility for Damage

CONTRACTOR to the fullest extent permitted by law, shall indemnify and hold harmless CITY, its elected and appointed officials, directors, officers, employees and volunteers from and against any claims, damages, losses, and expenses (including reasonable attorney's fees and costs), arising out of performance of the services to be performed under this Agreement, provided that any such claim, damage, loss, or expense is caused by the negligent acts, errors or omissions of CONTRACTOR, any subcontractor employed directly by CONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, except those injuries or damages arising out of the active negligence, sole negligence, or sole willful misconduct of the City of Lodi, its elected and appointed officials, directors, officers, employees and volunteers. CITY may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If CITY chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, CONTRACTOR shall pay all of the costs related thereto, including without limitation reasonable attorney fees and costs. The defense and indemnification obligations required by this Agreement are undertaken in addition to, and shall not in any way be limited by the insurance obligations set forth herein.

Section 4.4 No Personal Liability

Neither the City Council, nor any other officer or authorized assistant or agent or City employee shall be personally responsible for any liability arising under this Agreement.

Section 4.5 Responsibility of CITY

CITY shall not be held responsible for the care or protection of any material or parts of the work described in the Scope of Services prior to final acceptance by CITY, except as expressly provided herein.

Section 4.6 Insurance Requirements for CONTRACTOR

CONTRACTOR shall take out and maintain during the life of this Agreement, insurance coverage as set forth in Exhibit C attached hereto and incorporated by this reference.

Section 4.7 Successors and Assigns

CITY and CONTRACTOR each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others. CONTRACTOR shall not assign or transfer any interest in this Agreement without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

Section 4.8 Notices

Any notice required to be given by the terms of this Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To CITY: City of Lodi
221 West Pine Street
P.O. Box 3006
Lodi, CA 95241-1910
Attn: Melissa Price, Rates & Resources Manager

To CONTRACTOR: EES CONSULTING
ANNE FALCON, SENIOR ASSOCIATE
570 KIRKLAND WAY, SUITE 100
KIRKLAND, WA 98033

Section 4.9 Cooperation of CITY

CITY shall cooperate fully and in a timely manner in providing relevant information it has at its disposal relevant to the Scope of Services.

Section 4.10 CONTRACTOR is Not an Employee of CITY

CONTRACTOR agrees that in undertaking the duties to be performed under this Agreement, it shall act as an independent contractor for and on behalf of CITY and not an employee of CITY. CITY shall not direct the work and means for accomplishment of

the services and work to be performed hereunder. CITY, however, retains the right to require that work performed by CONTRACTOR meet specific standards without regard to the manner and means of accomplishment thereof.

Section 4.11 Termination

CITY may terminate this Agreement, with or without cause, by giving CONTRACTOR at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase. Upon termination, CONTRACTOR shall be entitled to payment as set forth in the attached Exhibit B to the extent that the work has been performed. Upon termination, CONTRACTOR shall immediately suspend all work on the Project and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONTRACTOR with third parties in reliance upon this Agreement.

Section 4.12 Confidentiality

CONTRACTOR agrees to maintain confidentiality of all work and work products produced under this Agreement, except to the extent otherwise required by law or permitted in writing by CITY. CITY agrees to maintain confidentiality of any documents owned by CONTRACTOR and clearly marked by CONTRACTOR as "Confidential" or "Proprietary", except to the extent otherwise required by law or permitted in writing by CONTRACTOR. CONTRACTOR acknowledges that CITY is subject to the California Public Records Act.

Section 4.13 Applicable Law, Jurisdiction, Severability, and Attorney's Fees

This Agreement shall be governed by the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be venued with the San Joaquin County Superior Court. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in force and effect. In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

Section 4.14 City Business License Requirement

CONTRACTOR acknowledges that Lodi Municipal Code Section 3.01.020 requires CONTRACTOR to have a city business license and CONTRACTOR agrees to secure such license and pay the appropriate fees prior to performing any work hereunder.

Section 4.15 Captions

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent hereunder.

Section 4.16 Integration and Modification

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by both parties.

Section 4.17 Contract Terms Prevail

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

Section 4.18 Severability

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

Section 4.19 Ownership of Documents

All documents, photographs, reports, analyses, audits, computer media, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of CITY. Upon CITY's request, CONTRACTOR shall allow CITY to inspect all such documents during CONTRACTOR's regular business hours. Upon termination or completion of services under this Agreement, all information collected, work product and documents shall be delivered by CONTRACTOR to CITY within ten (10) calendar days.

CITY agrees to indemnify, defend and hold CONTRACTOR harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were intended.

Section 4.20 Authority

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

Section 4.21 Federal Transit Funding Conditions

☐ If the box at left is checked, the Federal Transit Funding conditions attached as Exhibit D apply to this Agreement. In the event of a conflict between the terms of this Agreement or any of its other exhibits, and the Federal Transit Funding Conditions, the Federal Transit Funding Conditions will control.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement as of the date first above written.

CITY OF LODI, a municipal corporation

ATTEST:

JENNIFER M. FERRAIOLO
City Clerk

STEPHEN SCHWABAUER
City Manager

APPROVED AS TO FORM:
JANICE D. MAGDICH, City Attorney

By: _____

EES CONSULTING

By: _____
Name: ANNE FALCON
Title: SENIOR ASSOCIATE

Attachments:
Exhibit A – Scope of Services
Exhibit B – Fee Proposal
Exhibit C – Insurance Requirements
Exhibit D – Federal Transit Funding Conditions (if applicable)

Funding Source: **50060001.72450**
(Business Unit & Account No.)

Doc ID:

CA:Rev.01.2015

Scope of Work – Exhibit A

The City of Lodi (City) has requested a scope for rate analysis assistance from EES Consulting, Inc. The scope of work for this project has been developed based on the EES Consulting's experience developing financial plans and rate studies for publicly owned utilities.

The term for this contract is three years. EES Consulting will perform requested analysis and tasks upon request by City staff.

The work to be performed includes, but is not limited to:

- Analysis of electric billing data
- Rate comparisons to other California utilities
- Rate impacts to various customers and customer classes
- Research related to rate setting and cost allocation for electric utilities
- Analysis of City revenues and rate options

EES will present results and make recommendations to the utility's management staff as requested.

The aforementioned scope of services will remain in effect until December 31, 2018. This proposal may be modified with the mutual agreement of EES and the City.

Compensation – Exhibit B

The total budget for this contract is a not-to-exceed time and materials at $30,000 per year for rate assistance.

EES Consulting will charge the following billing rates:

President	$195
Manager/Senior Associate	190
Senior Engineer	190
Senior Project Manager	185
Project Manager	180
Senior Analyst/Engineer	175
Analyst/Engineer	170
Senior Administrative Assistant	120

The aforementioned rates will remain in effect until December 31, 2018.
Materials and expenses will be billed at cost.

EXHIBIT C

Insurance Requirements for Consultant The Consultant shall take out and maintain during the life of this Agreement, insurance coverage as listed below. These insurance policies shall protect Consultant and any subcontractor performing work covered by this Agreement from claims for damages for personal injury, including accidental death, as well as from claims for property damages, which may arise from Consultant's operations under this Agreement, whether such operations be by Consultant, or by any subcontractor, or by anyone directly or indirectly employed by either of them, and the amount of such insurance shall be as follows:

1. COMPREHENSIVE GENERAL LIABILITY
   $1,000,000 Each Occurrence
   $2,000,000 Aggregate

2. COMPREHENSIVE AUTOMOBILE LIABILITY
   $1,000,000 Each Occurrence
   Such insurance shall cover liability arising out of any vehicle (including, owned, hired and non-hired vehicles) operated in performing any and all services pursuant to this Agreement. Coverage shall be written on ISO form CA 00 01 12 90, or a later version of this form, or an equivalent form providing equivalent liability coverage

3. PROFESSIONAL LIABILITY / ERRORS AND OMISSIONS
   $1,000,000 Each Occurrence

All limits are to be designated strictly for the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers. All deductibles or self-insured retentions (SIR) must be disclosed to City's Risk Manager for approval and shall not reduce the limits of liability set forth hereinabove. Insurance policies containing any deductible or SIR provision shall provide, or be endorsed to provide, that the deductible or SIR may be satisfied by either the Named Insured(s) or the City of Lodi.

It is required that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits set forth above, shall be available to City as an additional insured. Furthermore, the requirements for coverage and limits shall be (i) the minimum coverage and limits specified in these insurance requirements; or (ii) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Consultant; whichever is greater.

Consultant agrees and stipulates that any insurance coverage provided to the City of Lodi shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810 et seq.).

A copy of the certificate(s) of insurance with the following endorsements shall be furnished to the City:

(a) Additional Named Insured Endorsement
Pursuant to a separate endorsement (ISO form CG 2010 (11/85) or equivalent form) such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed boards, commissions, officers, agents, employees, and volunteers as additional named insureds.

(b) Primary and Non-Contributory Insurance Endorsement
Additional insurance coverage under the Consultant's policy shall be "primary and non-contributory" and will not seek contribution from City's insurance or self-insurance and shall be at least as broad as ISO form CG 20 01 04 13.

NOTE: (1) The street address of the **CITY OF LODI** must be shown along with (a) and (b) above: 221 West Pine Street, Lodi, California, 95240; (2) The insurance certificate must state, on its face or as an endorsement, a description of the project that it is insuring.

Insurance Requirements for Consultant (continued)

(c) Limits of Coverage
The limits of insurance coverage required may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance of Consultant shall contain, or be endorsed to contain, a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect the City as a named insured.

(d) Severability of Interest Clause
The term "insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the company's liability.

(e) Notice of Cancellation or Change in Coverage Endorsement
This policy may not be canceled nor the coverage reduced by the company without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 West Pine St., Lodi, CA 95240.

(f) Continuity of Coverage
All policies shall be in effect on or before the first day of the Term of this Agreement. At least thirty (30) days prior to the expiration of each insurance policy, Consultant shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the minimum requirements of this Agreement. Consultant shall provide proof of continuing insurance on at least an annual basis during the Term. If Consultant's insurance lapses or is discontinued for any reason, Consultant shall immediately notify the City and immediately obtain replacement insurance.

(g) Failure to Comply
If Consultant fails or refuses to obtain and maintain the required insurance, or fails to provide proof of coverage, the City may obtain the insurance. Consultant shall reimburse the City for premiums paid, with interest on the premium paid by the City at the maximum allowable legal rate then in effect in California. The City shall notify Consultant of such payment of premiums within thirty (30) days of payment stating the amount paid, the name(s) of the insurer(s), and rate of interest. Consultant shall pay such reimbursement and interest on the first (1st) day of the month following the City's notice. Notwithstanding and other provision of this Agreement, if Consultant fails or refuses to obtain or maintain insurance as required by this agreement, or fails to provide proof of insurance, the City may terminate this Agreement upon such breach. Upon such termination, Consultant shall immediately cease use of the Site or facilities and commence and diligently pursue the removal of any and all of its personal property from the site or facilities.

(h) Qualified Insurer(s)
All insurance required by the terms of this Agreement must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the AM Best Ratings Guide, and which are acceptable to the City. Non-admitted surplus lines carriers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet City requirements.

Workers Compensation Insurance The Consultant shall take out and maintain during the life of this Agreement, Worker's Compensation Insurance for all of Consultant's employees employed at the site of the project and, if any work is sublet, Consultant shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Consultant. In case any class of employees engaged in hazardous work under this Agreement at the site of the project is not protected under the Worker's Compensation Statute, the Consultant shall provide and shall cause each subcontractor to provide insurance for the protection of said employees. A waiver of subrogation is required for workers compensation insurance. This policy may not be canceled nor the coverage reduced without 30 days' prior written notice of such cancellation or reduction in coverage to the Risk Manager, City of Lodi, 221 West Pine St., Lodi, CA 95240.

NOTE: The City reserves the right to obtain a full certified copy of any insurance policy or endorsements required. Failure to exercise this right shall not constitute a waiver of the City's right to exercise after the effective date.

RESOLUTION NO. 2016-____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE A MULTI-YEAR PROFESSIONAL SERVICES AGREEMENT FOR ELECTRIC UTILITY RATE ANALYSIS SERVICES WITH EES CONSULTING, OF KIRKLAND, WASHINGTON

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WHEREAS, on January 15, 2014, the Lodi City Council approved a professional services agreement with EES Consulting ("EES") for $78,560 to conduct an electric utility rate study; and

WHEREAS, EES completed the work and, as a result, staff recommended and City Council approved a five-percent rate increase for all electric utility customers that became effective January 1, 2015; and

WHEREAS, staff requested EES's assistance to evaluate the impact of the changing electric utility business model to its current rate structure; and

WHEREAS, staff has presented preliminary findings to the City Council at meetings on September 29, 2015 and January 12, 2016, and continues to work toward a final recommendation; and

WHEREAS, all funds from the original contract with EES have been exhausted and EES's services are still needed to complete this work and evaluate all options to develop a more simplified, revenue neutral recommendation for City Council's consideration; and

WHEREAS, a number of factors will continue to impact how electric utilities charge their customers, including, but not limited to, solar and renewable power requirements, and EES brings the expertise of rate making industry standards and changes to continue to assist the electric utility with these issues.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby authorizes the City Manager to execute a multi-year professional services agreement with EES Consulting, of Kirkland, Washington, for electric utility rate analysis services on an as-needed basis in an amount not to exceed $30,000 per year or $90,000 over three years.

Dated: March 2, 2016

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I hereby certify that Resolution No. 2016-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 2, 2016, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. FERRAIOLO
City Clerk

AGENDA ITEM C-09

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Authorizing the City Manager to Execute Financial Documents with Tienda Drive Senior Apartments, L.P., Eden Housing, Inc., and Eden Development, Inc. for the Tienda Drive Senior Housing Project at 2245 and 2255 Tienda Drive

MEETING DATE: March 2, 2016

PREPARED BY: Community Development Director

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to execute financial documents with Tienda Drive Senior Apartments, L.P., Eden Housing, Inc., and Eden Development, Inc. for the Tienda Drive Senior Housing Project at 2245 and 2255 Tienda Drive.

BACKGROUND INFORMATION: The financial documents referenced below are necessary to close escrow of the construction loans for the Tienda Drive senior housing project, to be known as Tienda Drive Senior Apartments.

HISTORY

On April 1, 2009, the City Council authorized the City Manager to negotiate with Eden Housing, Inc. for an agreement to develop an affordable senior housing project at the property identified as 2245 Tienda Drive.

On August 5, 2009, the City Council subsequently authorized the City Manager to execute an Exclusive Right to Negotiate (ERN) Agreement with Eden Housing. The ERN also served as the document to demonstrate the requisite site control in its application to the State of California Department of Housing and Community Development (HCD) for Home Investment Partnerships Act (HOME) funding.

The next stage in the process toward the future development of the proposed senior housing project came on October 21, 2009, when the City Council authorized the City Manager to execute an Option Agreement for Eden Housing's purchase of the subject property at 2245 Tienda Drive. That Option Agreement also served as the documentation to demonstrate requisite site control for Eden's application to the U.S. Department of Housing and Urban Development (HUD) 202 Program, which provides funding specifically for affordable senior housing development.

On April 7, 2010, the City Council authorized the City Manager to execute a Purchase and Development Agreement with Eden Housing, which then led to Eden Housing's purchase of the subject property in July 2010.

APPROVED: _____

Stephen Schwabauer, City Manager

Since acquiring the property, Eden Housing has been pursuing the necessary construction financing for the project, which included at least four rounds of applications to the State HCD for HOME program funding, each time missing the cut for an award of funding.

In March of 2014, Eden Housing began applying to the State of California's Low-Income Housing Tax Credit (LIHTC) Program to secure funding for construction of the project. In late 2015, Eden Housing was finally awarded tax credits for the project and they have secured an investor for those tax credits through Wells Fargo Bank, N.A. for the construction loan.

All parties involved in the project are currently working together to prepare and execute the documents necessary to allow for the construction loan to close by the tax-credit deadline on March 21, 2016.

PROJECT FUNDING

As is the standard for most affordable housing projects of this size, the total funding for the project is layered and comes from a number of agencies and institutions, each with certain statutory and regulatory conditions that will ensure that the property remains affordable senior housing for at least a 55-year term.

The City was the first to commit over $1.1M in Community Development Block Grant (CDBG) and HOME Program funds to Eden Housing for land acquisition, pre-development and some development costs for this project. As those commitments were through our previous allocations of Urban County funds, the loan and regulatory agreements and the promissory note were all drawn between Eden Housing, Inc. and San Joaquin County. The County still remains the Responsible Entity for those funds and not the City of Lodi.

Eden Housing was awarded $740,000 in Mental Health Services Act (MHSA) Program funding through the California Housing Finance Agency (CalHFA), and $790,000 of Affordable Housing Program (AHP) funding from Wells Fargo National Bank through the Federal Home Loan Bank of San Francisco, for additional construction/permanent loan financing.

Based upon the City's current Reduced Impact Fee Schedule, the total amount of Impact Fees due for this project is $782,103.16. However, Eden Housing has calculated the full Impact Fee amount of $1,276,639.16 into their finance projections for the project, which is what the Impact Fees would total once the current reduced fee schedule goes away in 2018.

In order to assist Eden Housing with balancing the financing for this project, the City has agreed to accept the full $1.2M in Impact Fees from Eden, and will lend back the $494,536 of additional impact fees that Eden Housing has agreed to pay up front when the project is started.

Finally, the tax credit financing from Wells Fargo Bank, N.A. is providing up to $16.8M for the project's construction costs.

REQUIRED ACTION

Part of this process, which is also standard for affordable housing projects of this nature, is to transfer the property ownership and loan responsibilities to a Partnership as follows:

Partnership:	Tienda Drive Senior Apartments, L.P.
Managing General Partner of the Partnership:	Tienda Drive Senior Apartments, LLC.
Sole Member of the MGP:	Eden Investments, Inc., a California nonprofit public benefit corporation

Developer/Guarantor: Eden Housing, Inc., a California nonprofit public benefit corporation

The City Council is being asked to adopt a resolution authorizing the City Manager to execute all documents required to close escrow on the construction financing, which include but are not limited to the following:

- Assignment and Amendment of the Purchase and Development Agreement, by and between Tienda Drive Senior Apartments, L.P. (hereinafter "Partnership"), Eden Housing, Inc., and the City of Lodi (hereinafter "City");
- $494,536.00 Promissory Note, in favor of the City;
- $494,536.00 Dead of Trust, from the Partnership and accepted by City;
- Regulatory Agreement and Declaration of Restrictive Covenants, by and between City and Partnership;
- Assignment and Amendment of that Purchase and Development Agreement, by and between City, Partnership, and Eden Housing, Inc.;
- Memorandum of Development Agreement, by and between City, Partnership, and Eden Housing, Inc.;
- Release and Termination, by and between City and Eden Housing, Inc.
- Release and Termination, by and between City and Eden Development, Inc.
- Estoppel Certificate from the City to Wells Fargo Affordable Housing Community Development Corporation;
- Subordination Agreement, by and between the City, Partnership and the Wells Fargo Bank, N.A.;
- Subordination Agreement, by and between the City, Partnership and California Housing Finance Agency;
- Subordination Agreement, by and between by the City, Partnership and San Joaquin County;
- Request for Notice from City directed to Wells Fargo Bank, National Association;
- Request for Notice from City directed to California Housing Finance Agency;
- Request for Notice from City directed to County of San Joaquin; and
- Escrow Instructions from City directed to North American Title Company.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

Steven Schwabauer
Community Development Director

SS/jw
Attachments

RESOLUTION NO. 2016-____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE FINANCIAL DOCUMENTS WITH TIENDA DRIVE SENIOR APARTMENTS, L.P, EDEN HOUSING, INC., AND EDEN DEVELOPMENT, INC., FOR THE TIENDA DRIVE SENIOR HOUSING PROJECT AT 2245 AND 2255 TIENDA DRIVE

==========

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute all documents required to allow Tienda Drive Senior Apartments, L.P., a California limited partnership, Eden Housing, Inc., a California nonprofit public benefit corporation, and Eden Development, Inc., a California nonprofit public benefit corporation to close escrow on the construction financing for the Tienda Drive Senior Housing Project located at 2245 and 2255 Tienda Drive, to be known as the Tienda Drive Senior Apartments, with any non-substantial changes recommended by the City Attorney. Those documents include, but are not limited to, the following, which are collectively attached hereto as Exhibit A:

- Assignment and Amendment of the Purchase and Development Agreement, by and between Tienda Drive Senior Apartments, L.P. (hereinafter "Partnership"), Eden Housing, Inc., and the City of Lodi (hereinafter "City");
- $494,536.00 Promissory Note, in favor of the City;
- $494,536.00 Dead of Trust, from the Partnership and accepted by City;
- Regulatory Agreement and Declaration of Restrictive Covenants, by and between City and Partnership;
- Assignment and Amendment of that Purchase and Development Agreement, by and between City, Partnership, and Eden Housing, Inc.;
- Memorandum of Development Agreement, by and between City, Partnership, and Eden Housing, Inc.;
- Release and Termination, by and between City and Eden Housing, Inc.
- Release and Termination, by and between City and Eden Development, Inc.
- Estoppel Certificate from the City to Wells Fargo Affordable Housing Community Development Corporation;
- Subordination Agreement, by and between the City, Partnership and the Wells Fargo Bank, N.A.;
- Subordination Agreement, by and between the City, Partnership and California Housing Finance Agency;
- Subordination Agreement, by and between by the City, Partnership and San Joaquin County;
- Request for Notice from City directed to Wells Fargo Bank, National Association;
- Request for Notice from City directed to California Housing Finance Agency;
- Request for Notice from City directed to County of San Joaquin; and
- Escrow Instructions from City directed to North American Title Company.

BE IT FURTHER RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute and deliver any and all other documents and instruments and to do and cause to be done any and all acts and things necessary or advisable for carrying out the transactions contemplated by this Resolution.

Dated: March 2, 2016

==========

I hereby certify that Resolution No. 2016-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 2, 2016, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. FERRAIOLO
City Clerk

Exhibit A

ASSIGNMENT AND AMENDMENT OF THAT PURCHASE AND DEVELOPMENT AGREEMENT

Tienda Drive Senior Apartments, 2245 and 2255 Tienda Drive, Lodi, CA

This Assignment and Amendment of that Purchase and Development Agreement ("**Assignment and Amendment**") is dated as of March 2, 2016 (the "**Effective Date**"), by and among Tienda Drive Senior Apartments, L.P., a California limited partnership, its successors and assigns ("**Owner**" or "**Buyer**"), Eden Housing, Inc., a California nonprofit public benefit corporation, as Owner's predecessor in interest as described below ("**Eden**"), and the City of Lodi, a California municipal corporation ("**City**").

RECITALS

A. Owner will acquire that certain property located at 2245 and 2255 Tienda Drive in the City of Lodi, California, more particularly described as Exhibit A (the "**Property**") from its sponsor Eden. Eden purchased the Property on July 30, 2010 from the City pursuant to that certain Purchase and Development Agreement between the City and Eden dated as of July 28, 2010 (the "**Original Purchase and Development Agreement**"), a memorandum of which was recorded July 30, 2010 as Document No 2010-098833 of San Joaquin County Records (the "**Memorandum of Purchase of Development Agreement**"). The City and Eden entered into the Original Purchase and Development Agreement to govern (i) the purchase of the Property by Eden from the City and (ii) the development on the Property of two projects consisting of a total of 78 rental housing units affordable to very low and lower income senior households, two manager's units, and related improvements (the "**Senior Project**") by Eden or its approved successors and assigns.

B. The purpose of this Assignment and Amendment is first to assign all Eden's rights and obligations under the Original Purchase and Development Agreement to Owner and Owner's assumption of the assigned rights and obligations from Eden, which is required for the committed construction and permanent financing for the Senior Project, and second to amend the Original Purchase and Development Agreement to amend and/or amend and restate certain terms and conditions in the original document related to the development and financing of the Senior Project which will now be constructed, owned and operated as one project consisting of seventy-nine (79) units of rental housing affordable to low income senior households designed for the physical and social needs of senior tenants, as well as one manager's unit and related improvements (the "**Development**").

C. The Original Purchase and Development Agreement, as assigned to and assumed by Owner and as amended herein by the City and Owner shall hereafter be referred to as the "**Development Agreement**."

NOW THEREFORE, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

SECTION ONE: COMPLETED PROVISIONS; ASSIGNMENT, ASSUMPTION AND CITY CONSENT; DEFINED TERMS

1.1 Satisfaction of Provisions. Eden, the Buyer, and City agree that the following provisions of the Original Purchase and Development Agreement have either been fully satisfied and completed or are no longer applicable to the Development, and are of no further force or effect

from and after the Effective Date and that no further action by any party shall be required and no default thereunder shall be claimed by any party: Sections 2.1, 3.1 - 3.7, 3.9, 5.1, 5.2, 5.6, 8.3.1 – 8.3.9, 8.11, 11.1.1, 12.23, and 12.24, Article 4, all provisions referring to HUD or Tax-exempt bond financing, HUD 202 financing, including Exhibit I, and any other financing sources not identified in Exhibit C and Exhibit D, attached hereto and incorporated herein and all provisions referring to CDBG and HOME Program requirements.

1.2 Assignment and Assumption. Eden hereby assigns to Buyer all of Eden's development rights and all of its right, title and interest in and obligations under the Development Agreement, and Buyer hereby accepts the above assignment and assumes, agrees and undertakes to perform all of the obligations set forth in the Development Agreement.

1.3 City Consent. The City hereby consents to the assignment by Eden and the assumption by the Buyer of the Development Agreement.

1.4 Final Plans. The City will have received and approved the Final Plans for the Development prior to the issuance of the building permits or the "permit ready letter."

SECTION TWO: DEFINED TERMS AND UPDATED EXHIBITS

2.1 Defined Terms. All terms not otherwise defined above or elsewhere herein, shall have the meanings set forth in the Original Purchase and Development Agreement.

2.1.1 "Buyer" or "Owner" now means Tienda Drive Senior Apartments, L.P., a California limited partnership, its successors and assigns.
2.1.2 "Certificate of occupancy" shall mean the second or later of the two certificates of occupancy issued to Borrower by the City approving the two buildings in the Development for occupancy.
2.1.3 "Development" now has the meaning set forth in Recital B.
2.1.4 "Effective Date" now means the date first set forth above in this Assumption and Amendment.
2.1.5 "Parties" or "parties" now means Owner, Eden and the City.
2.1.6 "Property" now means the real property described in Exhibit A, which is the same property previously described in Exhibits A-1 and A-2. The Parties acknowledge that the reference to "Pages 79 and 80" in Exhibits A-1 and A-2 was a scrivener's error and should have been "Page 79." The Parties hereby agree that all references to "Pages 79 and 80" in any Loan Document is to be read as "Page 79."
2.1.7 "Note" now means the Promissory Note for the City Loan, a draft of which is attached hereto and incorporated herein as Exhibit L.

2.2 Exhibits: Exhibits A, C, D, E, F, G and H attached hereto and incorporated herein, shall replace in their entirety Exhibits A, C, D, E, F, G and H attached to the Original Purchase and Development Agreement, respectively. Exhibit L and M attached hereto and incorporated herein is hereby added to the Development Agreement. Exhibits B, I and J of the Original Purchase and Development Agreement are hereby omitted from the Development Agreement:

Exhibit A: Legal Description
Exhibit C: Approved Development Budget.
Exhibit D: Financing Plan
Exhibit E: Schedule of Performance
Exhibit F: Scope of Development

Exhibit G: Site Plan
Exhibit H: Insurance Requirements
Exhibit K: Memorandum of Development Agreement
Exhibit L: Form of Promissory Note for City Loan
Exhibit M: Investor Limited Partner Required Provisions

3. SECTION THREE: CITY LOAN

In order to assist with the financing of the Development, the City has approved a construction and permanent loan in the principal amount of Four Hundred Ninety-Four Thousand Five Hundred Thirty-Six Dollars ($494,536.00) (the "**City Loan**") to Buyer funded from a portion of the local development impact fees paid by Buyer on or prior to the closing of the City Loan.

3.1 City Loan Terms. Subject to satisfaction of the conditions set forth in Section 3.3 below and for the purposes set forth in Section 3.2 below, the City shall make the City Loan which shall be a nonrecourse loan, bearing zero percent (0%) interest, payable only from residual receipts, and maturing on the 55th anniversary of the date the final certificate of occupancy is issued for the Development, on such additional terms as may be more fully set forth in this Assignment and Amendment and/or the Promissory Note in substantially the form attached hereto as Exhibit L.

3.2 Use of Funds. Buyer shall use the City Loan proceeds for predevelopment and construction costs, which may include but not be limited to: surveyor, consultant and legal fees; and costs related to the closing of the Loan (such as title, escrow and other closing costs and fees).

3.3 Conditions for Disbursement. The City shall disburse the Loan proceeds to Buyer when all the following conditions to disbursement have been satisfied:

3.3.1 Executed City Loan Documents. The Buyer has delivered to the City an executed original of this Assignment and Amendment and the Promissory Note, and certified copies of the recorded documents listed in subsection 3.3.2 below.

3.3.2 Recorded Documents. The recording of the Deed of Trust securing the City Loan, a Memorandum of Development Agreement in the form attached as Exhibit K, and the Regulatory Agreement and Declaration of Restrictive Covenants restricting the use of the Property in accordance with Section 7.2 of the Development Agreement.

3.3.3 Title Policy. The issuance by a title company satisfactory to the City of an ALTA loan policy of title insurance ("City Title Policy") in the amount of the City Loan, insuring the City that the lien of the City Deed of Trust is subject only to such liens, conditions, encumbrances, restrictions, easements and exceptions as the City may approve in writing and containing such endorsements as the City may reasonably require, with the cost of the City Title Policy to be paid by the Buyer.

3.3.4 Formation Documents. The Buyer has delivered to the City a copy of each of the following: (i) the amended and restated limited partnership agreement with the investor limited partner of the Buyer; (ii) certificate of limited partnership; and (iii) formation documents of the general partner and the member of the general partner; and (iv) authorizing resolutions reasonably requested by the City.

3.3.5 Insurance Coverage. The Buyer has delivered to the City evidence of insurance coverage in accordance with the City's current insurance requirements set forth in Exhibit H.

3.3.6 Construction Contract and Bonds. The Buyer has delivered to the City copies of the following Development documents: Final plans and specifications for the Development; the general contractor's construction contract that the Buyer has entered into for construction of the

Development; and one hundred percent (100%) labor and material (payment) bonds and performance bonds.

3.3.7 Updated Approved Development Budget. The Buyer has delivered to City an updated Approved Development Budget (Exhibit C) showing that the undisbursed proceeds of the Loan, together with other funds or firm commitments for funds that the Buyer has obtained in connection with the Development, are not less than the amount necessary to pay for the construction of the Development.

3.3.8 Land Use Approvals and Building Permit. The Buyer has secured all land use approvals for the Development and the building permits for the Development have been issued or are ready to issue.

3.3.9 Construction Loans/Limited Partner Investment. The Buyer's other construction loans and limited partnership investment shall be substantially ready to close, meaning substantially all documents are submitted to escrow or executed by Buyer.

3.3.10 Draw Request. The City has received a written draw request from the Buyer setting forth the proposed uses of funds consistent with the Approved Development Budget, the amount of funds needed, and, where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. When a disbursement is requested to pay the general contractor in connection with improvements on the Property, the written request shall be accompanied by (i) certification by the Buyer's architect reasonably acceptable to the City that the work for which disbursement is requested has been completed; (ii) a copy of the inspection report prepared by the construction lender's inspector, and (iii) lien releases and/or mechanics lien title insurance endorsements reasonably acceptable to the City. The Buyer shall deliver to Buyer's other construction lenders copies of all disbursement requests following approval and execution by the City.

The City acknowledges that Buyer's senior construction lender shall require the Loan fully disbursed prior to the senior construction lender's disbursement of the senior construction loan. Buyer and the City anticipate the City Loan to be disbursed in one disbursement through escrow for the construction loan closing.

3.4 No Obligation to Disburse Proceeds Upon Default. Notwithstanding any other provision herein, the City shall have no obligation to disburse or authorize the disbursement of any portion of the City Loan proceeds following the failure of any of the Buyer's representations and warranties made in connection with the City Loan to be true and correct in all material respects when made or the occurrence of an Event of Default under the Development Agreement or any of the City Loan Documents, which remains uncured beyond any applicable cure period.

SECTION FOUR: OTHER PROVISIONS

4.1 Further Amendments. The parties agree that the following sections in the Original Purchase and Development Agreement (the "**Development Agreement**") are hereby modified, deleted, restated and/or replaced as provided below:

2.1 Representations and Warranties. As of the Effective Date, Buyer hereby represents and warrants to Seller as follows:

2.2.1 Organization. Buyer is a duly organized, validly existing limited partnership, is in good standing under the laws of the State of California, and has the power and authority to own its property and carry on its business as now being conducted.

2.1.2 Authority of the Buyer. Buyer has full power and authority to execute and deliver this Development Agreement and the necessary documents or instruments, pursuant to this Development Agreement and to perform and observe the terms and provisions of all of the above.

2.1.3 Authority of Persons Executing Documents. This Development Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Development Agreement have been or will be executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of Buyer, and all actions required under the Buyer's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Development Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Development Agreement, have been duly taken.

2.1.4 Valid Binding Agreements. This Development Agreement and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of the Buyer enforceable against it in accordance with their respective terms.

2.1.5 No Breach of Law or Agreement. Neither the execution nor delivery of this Development Agreement nor any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Development Agreement, nor the performance of any provision, condition, covenant or other terms hereof or thereof, will conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency binding on Buyer, or any provision of the organization documents of Buyer, or will conflict with or constitute a breach of or a default under any agreement to which Buyer is a party, or will result in the creation or imposition of any lien upon any assets or property of Buyer, other than liens established pursuant hereto.

2.1.6 Compliance With Laws; Consent and Approvals. The construction of the Development will comply with all applicable laws, ordinances, rules and regulations of federal, state and local governments and agencies and with all applicable directions as of time of building permit issuance, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency.

2.1.7 Pending Proceedings. Buyer is unaware of a known default under any law or regulation or under any order of any court, board, commission or agency, and there are no known claims, actions, suits or proceedings pending or, to the knowledge of Buyer, threatened against or affecting Buyer, at law or in equity, before or by any court, board, commission or agency which might, if determined adversely to Buyer, materially affect Buyer's ability to perform its obligations contemplated by this Development Agreement.

2.1.9 Taxes. Buyer and its subsidiaries have filed all federal and other material tax returns and reports required to be filed, and have paid all federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their income or their properties otherwise due and payable, except those which are being contested in good faith by appropriate proceeds and for which adequate reserves have been provided in accordance with generally accepted accounting principles. Buyer has no knowledge of a proposed tax assessment against Buyer or any of its subsidiaries

that could, if made, be reasonably expected to have a material adverse effect upon the assets, liabilities (actual or contingent), operations, condition (financial or otherwise) or prospects of Buyer and its subsidiaries, taken as a whole, which would be expected to result in a material impairment of the ability of Buyer to perform under this Agreement.

6.3.9 Certificate of Completion. The following is added at the end of Section 6.3.9: "Upon the execution, delivery and recordation of the Certificate of Completion, Buyer shall have no further obligations under Article 6 of this Agreement."

7.3 Regulatory Agreement. The Regulatory Agreement referenced in Section 7.3 shall hereafter refer to the Regulatory Agreement entered into with the City, and not the County.

8.3 Records. All references to HUD's right to inspect and copy all books, records and accounts are no longer applicable and shall hereafter be disregarded for any and all purposes under the Development Agreement.

8.6.1. Maintenance and Damage. Any lien arising under the terms and conditions of Section 8.6.1 relating to maintenance and damage of the Development shall be subject to and subordinate to mortgages, deeds of trust or other security interests executed for the sole purpose of obtaining funds to develop the Property as authorized herein.

9.1.4.6 Right of Seller to Cure Security Interest Default. All costs and expenses incurred by Seller in curing a default shall be reasonable and any lien arising under the terms and conditions of Section 9.1.4.6 relating to funds expended by the City to cure a default shall be subject and subordinate to mortgages, deeds of trust or other security interest executed for the sole purpose of obtaining funds to develop the Property as authorized herein.

12.9 Notices. Address of Buyer is hereby changed to:

Tienda Drive Senior Apartments, L.P.
c/o Eden Investments, Inc.
22645 Grand Street
Hayward, CA 94541-5031
Attention: President
Facsimile: (510) 582-6523

With a copy to Owner's investor limited partner at the address set forth in Exhibit M.

12.22 Investor Limited Partner Provisions. The provisions required by Borrower's investor limited partner set forth in Exhibit M attached hereto are hereby incorporated by this reference herein and made a part hereof.

12.24 Memorandum of Development Agreement. Concurrently with the closing of the City Loan, the parties shall record the Memorandum of Development Agreement in the form attached hereto as Exhibit K.

12.25 Approval of the City. Any approval rights of the City under the Development Agreement shall not be unreasonably withheld, conditioned or delayed.

IN WITNESS WHEREOF, the Parties have executed this Assignment and Amendment of that Purchase and Development Agreement as of the date first written above.

CITY OF LODI, a California municipal corporation

By: _____
Stephen Schwabauer, City Manager

Attest:

_____
Jennifer M. Ferraiolo, City Clerk

Approved as to form:

_____
Janice D. Magdich, City Attorney

[Signatures continue on the next page; the balance of this page is intentionally left blank.]

TIENDA DRIVE SENIOR APARTMENTS, L.P., a California limited partnership

By: Tienda Drive Senior Apartments LLC, General Partner

By: Eden Investments, Inc., sole member/manager

By: _____
Linda Mandolini, President

EDEN HOUSING, INC., a California nonprofit public benefit corporation

By: _____
Linda Mandolini, President

Exhibit A: LEGAL DESCRIPTION OF PROPERTY

Real property in the City of LODI, County of SAN JOAQUIN, State of CALIFORNIA, described as follows:

PARCEL 1 AND PARCEL 2 AS SHOWN ON THE PARCEL MAP FILED FOR RECORD ON MAY 21, 2010 IN BOOK 25 OF PARCEL MAPS, AT PAGE 79, SAN JOAQUIN COUNTY RECORDS.

APN: 027-410-24 and 027-410-25

Combined Exhibit C: Approved Development Budget
and Exhibit D: Financing Plan
on following page

TIENDA DRIVE SENIOR APARTMENTS
Preliminary Budget (2/18/16)

SOURCES:	
San Joaquin County CDBG and HOME	1,124,669
MHSA Loan	740,000
City Loan	494,536
AHP	790,000
LP Equity	19,594,895
Deferred Developer Fee	550,092
Construction Loan	16,712,940
Total	**40,007,132**
USES:	
Land Acquisition	630,000
Acquisition Legal/title and holding costs	35,000
Unit Construction	13,752,580
Solar PV	200,000
Escalation Contingency	1,438,508
Owner's Hard Cost Contingency	769,554
Impact Fees	1,276,639
Permits	103,958
Architecture	855,000
Survey and Engineering	161,300
Construction Management	75,000
Soft Cost Contingency	110,000
Predevelopment Interest	40,000
Construction Period Taxes	70,000
Construction Loan Interest	657,884
Construction Lender Costs and Legal	75,000
Construction Loan Fee	100,278
Owner Legal	116,000
Market Study	20,000
Syndication Consultant	40,000
MHSA Fees	21,110
Course of Construction Insurance	125,000
Marketing	80,000
Furniture	80,000
Audit	20,000
Title - construction closing	30,000
Title - perm loan closing	5,000
Reserves	
Services Reserve	709,000
Operating Reserve	209,379
Tax Credit Allocation Committee Fees	88,002

Developer Fee	1,400,000
Construction Loan Repayment	16,712,940
Total	**40,007,132**

-

Exhibit E: Schedule of Performance

Completion of the Predevelopment Activities set forth in Article 5	No later than March 21, 2016
Close of Construction Financing Commencement of Construction	No later than March 21, 2016. Within 21 days after the Close of Construction Financing or the earlier of the construction commencement date required by the California Tax Credit Allocation Committee or other Project financing source.
Construction Completion	Within 24 months of commencement of construction.
100% Occupancy	Within 6 months of construction completion.

Exhibit F: Scope of Development
(Project Name and Description)

Tienda Drive Senior Apartments: The new construction of two wood-framed apartment buildings, each building is to two-stories, and elevator-served. The buildings will consist of 80 units targeting low-income seniors aged 62 and over. The unit mix includes 79 one-bedrooms and 1 two-bedroom manager's unit. Eight (8) units will be set aside for formerly homeless individuals diagnosed with a mental illness. The property will also feature a central 1,200 square foot community room with kitchen. Additional common amenities include two laundry rooms, courtyard space, and on-site management and social services.

Exhibit G: Site Plan
on following page

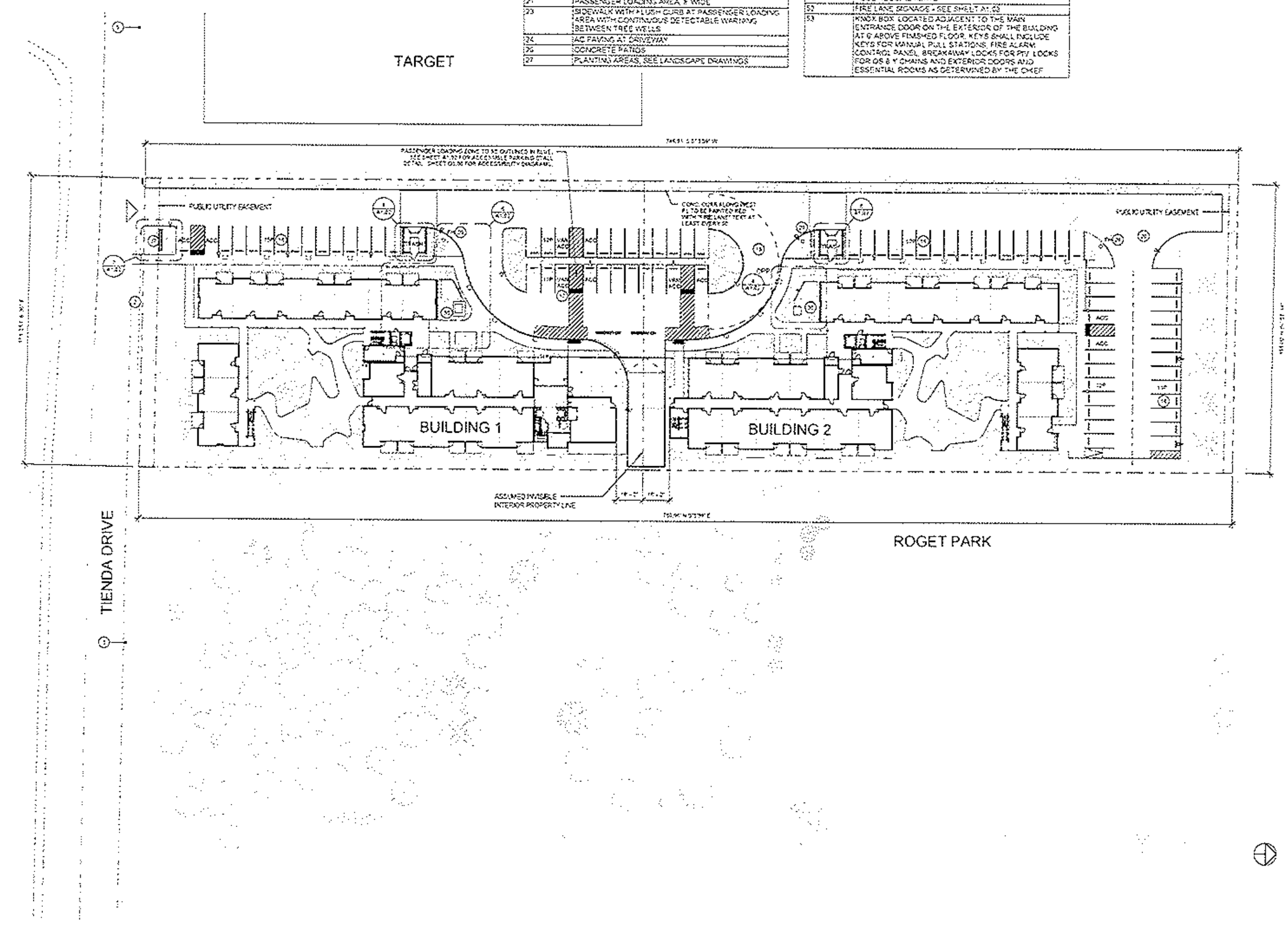
SITE PLAN KEYNOTES

KEYNOTES (STATIC)- SITE PLAN	
KEYNOTE	DESCRIPTION
1	EXISTING CURB CUT AT TIENDA DRIVE
2	EXISTING CONCRETE SIDEWALK, PER PUBLIC WORKS REVIEW COMMENT #16, REVIEW AND REPLACE BROKEN SIDEWALK FRONTING THE SUBJECT PARCELS IN COMPLIANCE WITH STANDARD PLAN 117
3	EXISTING STREETLIGHT AT TIENDA DRIVE
4	EXISTING TRANSFORMER AT BACK OF SIDEWALK
5	EXISTING FIRE HYDRANT AT TIENDA DRIVE
6	EXISTING 7-0" HIGH MASONRY WALL ADJACENT TO TARGET
7	EXISTING WOOD FENCE AT REAR PROPERTY LINE. NO NEW FENCING PROPOSED AT THIS LOCATION
9	TYPICAL ONE BEDROOM SENIOR HOUSING UNIT
10	COVERED OUTDOOR AREA
11	COVERED EXTERIOR CORRIDOR
12	COVERED EXTERIOR EXIT STAIR
16	TYPICAL PARKING STALL, 9'-6" X 20'-0" PER CITY STANDARD
17	ACCESSIBLE PARKING STALLS WITH CODE COMPLIANT SIGNAGE
18	PEDESTRIAN CROSSING PAINTED ON AC PAVING
19	TURN AROUND FOR EMERGENCY VEHICLES PER CITY STANDARD (SHOWN SHADED)
20	"T" TURN AROUND FOR EMERGENCY VEHICLES, PER CITY STANDARD, (SHOWN SHADED)
21	PASSENGER LOADING AREA, 8' WIDE
23	SIDEWALK WITH FLUSH CURB AT PASSENGER LOADING AREA WITH CONTINUOUS DETECTABLE WARNING BETWEEN TREE WELLS
24	AC PAVING AT DRIVEWAY
26	CONCRETE PATIOS
27	PLANTING AREAS, SEE LANDSCAPE DRAWINGS

KEYNOTES (STATIC)- SITE PLAN	
KEYNOTE	DESCRIPTION
28	BOLLARD
29	FIRE HYDRANT. INSTALL PER CITY OF LODI STANDARD DETAILS. LAYOUT TO COMPLY WITH 2013 CFC, SECTION 312 AND CITY OF LODI FIRE PREVENTION STANDARD C-02
30	PAD MOUNTED TRANSFORMERS S.E.D. (PROVIDE CONC PAD PER PG&E REQUIREMENTS)
33	BACK FLOW PREVENTER AT WATER SERVICE
34	AC UNITS LOCATED AT GRADE. APPROX. 30" TALL SCREENED BY WOOD FENCING
36	WASTE HANDLING ENCLOSURE. 9' TALL MASONRY WALL WITH CEMENT PLASTER FINISH AND ASPHALT SHINGLE ROOFING TO MATCH BUILDINGS
38	MONUMENT SIGN. BRONZE LETTERS ON 36" HIGH WOOD FENCE, WITH UPLIGHTS
39	FENCE TYPE A. 36" WOOD FENCING AT REAR PATIOS AND EQUIPMENT SCREENS
40	FENCE TYPE B. 36" WOOD FENCING AT PROPERTY LINE BETWEEN SENIOR HOUSING AND PUBLIC PARK
41	WOOD FENCE 6'-0" TALL, S.L.D.
42	WOOD SCREEN, 4'-6" S.L.D.
43	ADA TACTILE WARNING SURFACE
50	MAIN SWITCHBOARD, S.E.D. (CONC PAD PER PG&E REQUIREMENTS
51	METERING BOARD, S.E.D. (PROVIDE CONC. PAD PER PG&E REQUIREMENTS
52	FIRE LANE SIGNAGE - SEE SHEET A1.03
53	KNOX BOX LOCATED ADJACENT TO THE MAIN ENTRANCE DOOR ON THE EXTERIOR OF THE BUILDING AT 6' ABOVE FINISHED FLOOR. KEYS SHALL INCLUDE KEYS FOR MANUAL PULL STATIONS, FIRE ALARM CONTROL PANEL, BREAKAWAY LOCKS FOR PIV LOCKS FOR OS & Y CHAINS AND EXTERIOR DOORS AND ESSENTIAL ROOMS AS DETERMINED BY THE CHIEF

ACCESSIBLE PARKING SCHEDULE

	PARKING STALLS PROVIDED
RESIDENTIAL UNITS = 40 TOTAL	40 TOTAL
ACCESSIBLE UNITS = 5	5 (1:1 RATIO PER CBC 11B-208.2.3.1)
VAN ACCESSIBLE STALLS	2 (PER CBC 11B-208.2.4)
NONRESIDENT	4 (PER CBC 11B-208.2.3.3)
OTHER	1
TOTAL	12



SITE PLAN 1

SEE SHEETS A1.1a & A1.1b FOR ENLARGED SITE PLANS WITH NOTES & DIMENSIONS.

GENERAL NOTES

[illegible]

SITE PLAN NOTES

[illegible]

PYATOK
1611 TELEGRAPH AVE, SUITE 200
OAKLAND, CA 94612
p 510.465.7010 | f 510.465.8575
www.pyatok.com

Landscape
Bruce Jett Associates, Inc
Theatre Square, Suite 218
Orinda, CA 94563
925 254 5422

Civil
Baumbach & Piazza Inc
323 W. Elm Street
Lodi, CA 95240
209 368 6618

Structural
Harris & Sloan Consulting Group, Inc.
2295 Gateway Oaks Dr., Suite 165
Sacramento, CA 95833
916 921 2800

Mechanical & Plumbing
MHC Engineers
150 6th Street,
San Francisco, CA 94103
415 512 7141

Electrical
Salazar Consulting Engineers
5560 West Las Positas Blvd., Suite 15
Pleasanton, CA 94588
925 621 5201

TIENDA DRIVE SENIOR HOUSING

2245 Tienda Drive
Lodi, CA 95242

Eden Housing, Inc.
22645 Grand Street
Hayward, CA 94541

Revision Schedule

Rev. No.	Issue	Date
[illegible]	[illegible]	[illegible]

Stamp

Job Number	0906
Drawn by	[illegible]
Checked by	CC
Date	[illegible]
Scale	As indicated

Title
SITE PLAN

Sheet
A1.00

– PRELIMINARY –
Not-For-Construction

Exhibit H: City Insurance Requirements
on following pages

Insurance Requirements to be provided by the City of Lodi prior to the close of escrow.

Exhibit K: Memorandum of Development Agreement

North American Title Company
Escrow No. 54605-1032123-10

RECORDING REQUESTED BY &
WHEN RECORDED MAIL TO:

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

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE § 27383

APN 027-410-24 & 027-410-25

MEMORANDUM OF DEVELOPMENT AGREEMENT

(2245 and 2255 Tienda Drive, Lodi, CA)

This Memorandum of Development Agreement dated as of March 2, 2016, modifies that Memorandum of Purchase and Development Agreement recorded July 30, 2010 as Document No. 2010-098833 of San Joaquin County Records (the "**Original Purchase and Development Agreement**") to disclose that unrecorded Assignment and Amendment of that Purchase and Development Agreement of even date herewith, by and among Tienda Drive Senior Apartments, L.P., a California limited partnership ("**Owner**"), Eden Housing, Inc., as Owner's predecessor in interest, and the City of Lodi, a California municipal corporation ("**City**").

The real property in the City of Lodi, County of San Joaquin, State of California, described as follows:

PARCEL 1 AND PARCEL 2 AS SHOWN ON THE PARCEL MAP FILED FOR RECORD ON MAY 21, 2010 IN BOOK 25 OF PARCEL MAPS, AT PAGE 79, SAN JOAQUIN COUNTY RECORDS

(the "Property") shall be developed, owned, maintained, and operated pursuant to the terms of the above-referenced Original Purchase and Development Agreement, as amended by the Assignment and Amendment of that Purchase and Development Agreement, hereinafter referred to as the "**Development Agreement**."

This Memorandum of Development Agreement, which may be executed in counterparts, is executed as of the date written above.

TIENDA DRIVE SENIOR APARTMENTS, L.P.,
a California limited partnership

By: Tienda Drive Senior Apartments LLC, General Partner
By: Eden Investments, Inc., sole member/manager

By: _____

CITY OF LODI, a California municipal corporation

By: _____
Stephen Schwabauer, City Manager

Attest:_____
Jennifer M. Ferraiolo, City Clerk

Approved as to form:

_____
Janice D. Magdich, City Attorney

EDEN HOUSING, INC., a California nonprofit public benefit corporation

By: _____

Exhibit L: Form of Promissory Note for City Loan
on following pages

PROMISSORY NOTE
SECURED BY DEED OF TRUST

$494,536.00
Lodi, California

March 2, 2016

FOR VALUE RECEIVED, TIENDA DRIVE SENIOR APARTMENTS, L.P., a California limited partnership (the "Borrower"), having its offices at 22645 Grand Street, Hayward, CA 94541, hereby promises to pay the CITY OF LODI, a California municipal corporation (the "City"), the principal amount of Four Hundred Ninety-Four Thousand Five Hundred Thirty-Six Dollars ($494,536.00) or so much thereof as may be advanced by the City from time to time pursuant to the Development Agreement referred to below, in the manner provided below. No interest shall accrue on the outstanding principal balance of this Note, except as provided in Section 4 below.

This Promissory Note (this "**Note**") has been executed and delivered pursuant to and in accordance with that certain Assignment and Amendment dated as of the date hereof, and executed by and between Borrower and City, which Assignment and Amendment amends that certain Purchase and Development Agreement dated as of June 28, 2010 between the City and Eden Housing, Inc., which was assumed by Borrower. The Purchase and Development Agreement, as amended, is referred to herein as the "Development Agreement." This Note is subject to the terms and conditions of the Development Agreement which is by this reference incorporated herein. Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Development Agreement.

1. Payments.

a. Annual Payments. Commencing on the May 1st following the issuance of the final Certificate of Occupancy, and continuing every May 1st thereafter until the full repayment of the Loan or the maturity date (defined below), Borrower shall pay to the City, the City's Proportionate Share of Residual Receipts (defined below).

i. "City's Proportionate Share of Residual Receipts" shall mean the City's proportion of the "Lenders' Share of Residual Receipts" (defined below) payable to the City, which shall be the principal amount of the Loan actually disbursed divided by the sum of the original principal amounts actually disbursed of all loans approved by the City as part of the Financing and payable on a "residual receipts" basis which may also be called "net cash flow," "surplus cash," or other similar term. The "Lenders' Share of Residual Receipts" shall mean fifty percent (50%) of the Residual Receipts and the "Borrower's Share of Residual Receipts" shall be retain fifty percent (50%) of the Residual Receipts.

As of the date of this Note, the prorata percentage sharing of the Lender's Share of Residual Receipts, assuming full disbursement of the following loans, is expected to be: CalHFA: 31.37% based on a $740,000.00 MHSA loan; County: 47.67% based on the $1,124,669.15 County loan; and City of Lodi: ("City") 20.96% based on a $494,536.00 City loan.

ii. "Residual Receipts" in a particular calendar year shall mean the amount by which Gross Revenue exceeds Annual Operating Expenses.

iii. "Annual Operating Expenses" with respect to a particular calendar year shall mean the following costs reasonably and actually incurred for operation and maintenance of the Project to the extent that they are consistent with an annual independent audit performed by a certified public accountant using generally accepted accounting principles: property taxes and assessments imposed on the Project; debt service currently due on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Project) on loans associated with the development of the Project; CalHFA 0.42% MHSA servicing fee; property management fees and reimbursements, not to exceed fees and reimbursements which are standard in the industry; partnership management fees and asset management fees including all fees paid to Borrower's investor limited partner, if any, in the amount of Thirty-Three Thousand Five Hundred Dollars ($33,500) increasing by three percent (3%) annually during the fifteen year Tax Credit compliance period and after the expiration of the fifteen year compliance period, in the amount of Twenty-Five Thousand Dollars ($25,000) which amount will increase by three percent (3%) annually commencing on the first anniversary of the expiration of the tax credit compliance period, and such other reasonable fees as may be approved by the City at the time the tax credit syndication occurs; organizational costs (e.g., annual franchise tax payments) and costs associated with accounting, tax preparation and legal fees of Borrower incurred in the ordinary course of business; premiums for property damage and liability insurance; utility services not paid for directly by tenants, including water, sewer, and trash collection; maintenance and repair of the Project; any annual license or certificate of occupancy fees required for operation of the Project; security services; advertising and marketing; cash deposited into reserves for capital replacements of the Project in an amount required by the Project financing and the tax credit syndication (or any greater amount approved by the City); cash deposited into a reasonable operating reserve required by the Project financing and the tax credit syndication (or any greater amount approved by the City); payment of any previously unpaid portion of the Developer Fee not exceeding a cumulative developer fee in the maximum amount of One Million Four Hundred Thousand Dollars ($1,400,000); on-site service provider fees and reimbursements for tenant social services at the Project; extraordinary operating costs specifically approved by the City; payments of deductibles in connection with casualty insurance claims not normally paid from reserves, the amount of uninsured losses actually replaced, repaired or restored, and not normally paid from reserves, and other ordinary and reasonable operating expenses not listed above. Annual Operating Expenses shall not include the following: depreciation, amortization, depletion or other non-cash expenses; any amount expended from a reserve account; and any capital cost with respect to the Project, as determined by the accountant for the Project.

iv. "Gross Revenue" with respect to a particular calendar year shall mean all revenue, income, receipts, and other consideration actually received from operation and leasing of the Project. Gross Revenue shall include, but not be limited to: all rents, fees and charges paid by tenants, Section 8 payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; the proceeds of business interruption or similar insurance; the proceeds of casualty insurance not used to rebuild the Project; and condemnation awards for a taking of part or all of the Project for a temporary period not used to restore the Project following such condemnation. Gross Revenue

shall not include tenants' security deposits, loan proceeds, capital contributions or similar advances.

c. Statement. No later than May 1st of each year following the issuance of the certificate of occupancy for the Project, Borrower shall provide to the City Borrower's calculation of Residual Receipts for the previous calendar year, accompanied by such supporting documentation as the City may reasonably request, including without limitation, an independent audit prepared for the Project by a certified public accountant in accordance with generally accepted accounting principles. No later than December 1st of each year following issuance of the final certificate of occupancy for the Project, Borrower shall provide to the City a projected budget for the following calendar year which shall include an estimate of Residual Receipts.

d. Application of Payments. Payments shall be applied first to accrued interest, if any, and then to the outstanding principal balance.

e. Term. Notwithstanding any other provision of this Note, principal and interest, if any, payable pursuant to this Note shall be fully repaid within fifty-five (55) years from the date the final certificate of occupancy is issued for the Project, but in no event shall the maturity date be later than July 15, 2073 (the "Maturity Date").

3. Deed of Trust. This Note is secured by that Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust") of even date herewith which shall be recorded on the Property in the Official Records of the County of San Joaquin.

4. Default Rate. Upon the occurrence of an Event of Default (defined below), interest shall automatically accrue without notice at a rate equal to the lesser of the maximum rate permitted by law or ten percent (10%) per annum (the "Default Rate"). When Borrower is no longer in default, the Default Rate shall no longer apply, and the interest rate shall once again be the zero percent (0%) rate specified in the first paragraph of this Note. The imposition or acceptance of the Default Rate shall in no event constitute a waiver of a default under this Note or prevent City from exercising any of its other rights or remedies.

5. Manner and Place of Payment. Payments shall be mailed to the City of Lodi, P.O. Box 3006, Lodi, CA 95241-1910, or delivered to City Hall, located at 221 West Pine Street, Lodi, CA 95240, or at such other place as the holder hereof may inform Borrower in writing, in lawful money of the United States.

6. Waiver; Attorneys' Fees. Borrower waives presentment for payment, demand, protest, and notices of dishonor and of protest; the benefits of all waiveable exemptions; and all defenses and pleas on the grounds of any extension(s) of the time of payment or of any due date under the Note, in whole or in part, whether before or after maturity and with or without notice. Borrower hereby agrees to pay all costs and expenses, including reasonable attorney's fees, which may be incurred by the holder hereof in the enforcement of the Note, the Development Agreement, Regulatory Agreement, and the Deed of Trust or any term or provision of any of such documents.

7. Acceleration. The entire balance of the obligation shall be immediately due and payable in the event Borrower fails to make payments due under this Note following not less

than fifteen (15) day notice and cure period or in the Event of Default as defined in and subject to applicable notice and cure provisions in the Development Agreement, the Deed of Trust, Regulatory Agreement, or in the event the Project is refinanced, sold, transferred or conveyed in any manner, or if Borrower reorganizes, modifies its structure or transfers the Project as a portion of its assets without the written consent of or otherwise approved by the City. This loan is not assumable without the prior written approval of the City, except by an affiliate of Eden Housing, Inc. Neither acceptance by the City of the payments provided for herein nor any failure by the City to pursue its legal and equitable remedies upon default shall constitute a waiver of the City's right to require prompt payments when due of all principal and interest, if any, owing or to declare a default and exercise all of its rights under this Note, the Deed of Trust, Regulatory Agreement, and Development Agreement.

8. Prepayment. Borrower shall have the right to prepay without penalty all or any part of the obligation evidenced by this Note.

9. Nonrecourse Obligation. Except as expressly provided in the second paragraph of this section 9, the Borrower, the Borrower's officers, directors, partners, employees and agents, shall not have any direct or indirect personal liability for payment of the principal of, or interest, if any, on this Note or the performance of the covenants of the Trustor under the Deed of Trust securing this Note. The sole recourse of the City with respect to the principal of, or interest, if any, on this Note and defaults by the Borrower in the performance of its covenants under the Deed of Trust shall be to the property securing the indebtedness evidenced by this Note. No judgment, or execution thereon, entered in any action, legal or equitable, on this Note or the Deed of Trust shall be enforced personally against the Borrower, its officers, directors, partners, employees or agents, but may be enforced only against the property described in the Deed of Trust and such other or further security as, from time to time, may be hypothecated for this Note; provided, however, that nothing contained in the foregoing limitation of liability shall (a) limit or impair the enforcement against all such security for this Note by the City, or (b) be deemed in any way to impair the right of the City to assert the unpaid principal amount of this Note as demand for money within the meaning and intendment of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest, if any, on this Note and the performance of Borrower's obligations under the Deed of Trust, except as hereafter set forth; nothing contained herein is intended to relieve the Borrower of personal liability for (1) fraud or willful misrepresentation; (2) the failure to pay taxes, assessments or other charges which may create liens on the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (3) the fair market value of any personal property or fixtures removed or disposed of by Borrower other than in accordance with the Deed of Trust; (4) the misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property; (5) the Borrower's indemnification obligations, if any, under the Development Agreement; and (6) payment to the City or any senior lender any rental income or other income arising with respect to the Property received by the Borrower and not applied in accordance with the Deed of Trust or Development Agreement or other Project loan documents evidencing other Project loans approved by the City, after the City has given notice to the Borrower of the occurrence of an Event of Default.

10. Assignment. The City's rights under this Note may be assigned by the City in its sole discretion.

11. No Offset. The Borrower hereby waives any rights of offset it now has or may hereafter have against the City, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this Note.

TIENDA DRIVE SENIOR APARTMENTS, L.P., a California limited partnership
By: Tienda Drive Senior Apartments LLC, its General Partner
By: Eden Investments, Inc., its sole Member/Manager

By: _____
Linda Mandolini, President

Approved as to form:

City of Lodi, a California municipal corporation

By_____
Janice D. Magdich, City Attorney

EXHIBIT M

INVESTOR LIMITED PARTNER REQUIRED PROVISIONS

This Exhibit M is attached to and made a part of the Assignment and Amendment of that Purchase and Development Agreement by and among Tienda Drive Senior Apartments, L.P., a California limited partnership ("Borrower"), Eden Housing, Inc., a California nonprofit public benefit corporation, and the City of Lodi, a California municipal corporation (referred to as the "Lender" in this Exhibit M). The Borrower (sometimes referred to in this exhibit as the "Partnership"), through its limited partner, is providing equity for the development of the Project. The agreement of limited partnership governing the Borrower, as it may be amended and/or amended and restated from time to time, is referred to herein as the "Partnership Agreement." All capitalized terms used, but not defined, in this Exhibit M shall have the meaning ascribed to such term in the Development Agreement.

The Low Income Housing Tax Credit financing for the development of the Project requires the admission of an investor limited partner in Borrower ("Limited Partner"), and as a condition to becoming a limited partner in the Borrower which benefits Borrower and Lender, Limited Partner requires that the Lender and Borrower grant certain protections to Limited Partner under the Development Agreement and the documents evidencing or securing the City Loan, including without limitation, the Promissory Note, Deed of Trust, and the Regulatory Agreement and Declaration of Restrictive Covenants between Borrower and the Lender (collectively, the "City Documents").

Lender and Borrower hereby agree that (i) each the following covenants, terms and conditions shall be part of and shall modify or supplement each of the City Documents notwithstanding any term or provision set forth in any of the City Documents to the contrary, and (ii) that in the event of any inconsistency or conflict between the covenants, terms and conditions of the City Documents and this Exhibit M, including without limitation the terms and provisions set forth in Article 10 and Article 12 of the Original Purchase and Development Agreement, that each of the following covenants, terms and conditions set forth herein in this Exhibit M shall supersede, control and prevail:

1.For so long as Wells Fargo Affordable Housing Community Development Corporation (together with its affiliates) is the Limited Partner prior to exercising remedies under the City Documents, Lender will give Limited Partner a copy of any written notice it gives to Borrower under the City Documents at the following address:

Wells Fargo Affordable Housing Community
Development Corporation, MAC D1053-170
301 South College Street, 17th Floor
Charlotte, NC 28288
Attention: Director of Asset Management

With copy to:

Joel Hjelmaas, Counsel
Wells Fargo Bank, N.A.
MAC X2401-06T
1 Home Campus, 6th Floor
Des Moines, IA 50328-0001

Or such other address that the Limited Partner shall send to Lender in accordance with Section 12.9 of the Development Agreement.

Changes of addresses for Notices and any changes in the Limited Partner or a change to an entity other than Wells Fargo Affordable Housing Community Development Corporation shall be effective without an amendment to this Exhibit M, or if an amendment is required by the Lender, such amendment may be approved by the City Manager or his or her designee, and such amendment need not be recorded to be effective.

2. Limited Partner shall have the same right as Borrower to cure or remedy any default hereunder within the cure period provided to Borrower extended by an additional sixty (60) days; provided however, if the default is of such nature that the Limited Partner reasonably determines that it is necessary to replace the general partner of Borrower in order to cure such default, then the cure period shall be extended until the date sixty (60) days following the removal of the general partner of Borrower, and such cure shall be accepted or rejected on the same basis as if tendered by Borrower.

3. If Limited Partner presents payment or otherwise cures a monetary or non-monetary default within the cure periods set forth in the City Documents, Lender will accept such action as curing the respective default under the City Documents.

4. For so long as Wells Fargo Affordable Housing Community Development Corporation (together with its affiliates) is the Limited Partner, Lender agrees that the Limited Partner may sell, transfer, assign or otherwise dispose of all or any part of its interest in Borrower to an entity controlled by an affiliate of Wells Fargo Bank, N.A., without Lender's prior written consent, and such transfer, assignment or other disposition will not trigger an Event of Default or any due on sale or acceleration provisions under the City Documents.

5. Lender will permit Limited Partner to remove the general partner of Borrower in accordance with Borrower's partnership agreement, provided that Lender gives its prior written approval that the substitute general partner is acceptable to Lender in its reasonable discretion. An affiliate of Wells Fargo Bank, National Association is an acceptable substitute general partner, and does not require Lender's prior written approval. Such transfers will not trigger an Event of Default or any due on sale or acceleration provisions under the City Documents.

6. Lender will permit insurance and condemnation proceeds to be used to rebuild the Project provided that sufficient funds are available from other sources to effectively rebuild the Project.

7. Lender has not and will not cross-default or cross-collateralize the City with any loan made with respect to another property.

8. Lender will not materially modify the City Documents without Limited Partner's prior written consent.

9. No Third Party Beneficiaries. Wells Fargo Affordable Housing Community Development Corporation, its affiliates, successors and assigns, as the Limited Partner of the Borrower, is a third party beneficiary to the Development Agreement, pursuant to the terms and conditions thereof.

PROMISSORY NOTE
SECURED BY DEED OF TRUST

$494,536.00
Lodi, California

March 2, 2016

FOR VALUE RECEIVED, TIENDA DRIVE SENIOR APARTMENTS, L.P., a California limited partnership (the "Borrower"), having its offices at 22645 Grand Street, Hayward, CA 94541, hereby promises to pay the CITY OF LODI, a California municipal corporation (the "City"), the principal amount of Four Hundred Ninety-Four Thousand Five Hundred Thirty-Six Dollars ($494,536.00) or so much thereof as may be advanced by the City from time to time pursuant to the Development Agreement referred to below, in the manner provided below. No interest shall accrue on the outstanding principal balance of this Note, except as provided in Section 4 below.

This Promissory Note (this "**Note**") has been executed and delivered pursuant to and in accordance with that certain Assignment and Amendment dated as of the date hereof, and executed by and between Borrower and City, which Assignment and Amendment amends that certain Purchase and Development Agreement dated as of June 28, 2010 between the City and Eden Housing, Inc., which was assumed by Borrower. The Purchase and Development Agreement, as amended, is referred to herein as the "Development Agreement." This Note is subject to the terms and conditions of the Development Agreement which is by this reference incorporated herein. Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Development Agreement.

1. Payments.

a. Annual Payments. Commencing on the May 1st following the issuance of the final Certificate of Occupancy, and continuing every May 1st thereafter until the full repayment of the Loan or the maturity date (defined below), Borrower shall pay to the City, the City's Proportionate Share of Residual Receipts (defined below).

i. "City's Proportionate Share of Residual Receipts" shall mean the City's proportion of the "Lenders' Share of Residual Receipts" (defined below) payable to the City, which shall be the principal amount of the Loan actually disbursed divided by the sum of the original principal amounts actually disbursed of all loans approved by the City as part of the Financing and payable on a "residual receipts" basis which may also be called "net cash flow," "surplus cash," or other similar term. The "Lenders' Share of Residual Receipts" shall mean fifty percent (50%) of the Residual Receipts and the "Borrower's Share of Residual Receipts" shall be retain fifty percent (50%) of the Residual Receipts.

As of the date of this Note, the prorata percentage sharing of the Lender's Share of Residual Receipts, assuming full disbursement of the following loans, is expected to be: CalHFA: 31.37% based on a $740,000.00 MHSA loan; County: 47.67% based on the $1,124,669.15 County loan; and City of Lodi: ("City") 20.96% based on a $494,536.00 City

loan.

ii. "Residual Receipts" in a particular calendar year shall mean the amount by which Gross Revenue exceeds Annual Operating Expenses.

iii. "Annual Operating Expenses" with respect to a particular calendar year shall mean the following costs reasonably and actually incurred for operation and maintenance of the Project to the extent that they are consistent with an annual independent audit performed by a certified public accountant using generally accepted accounting principles: property taxes and assessments imposed on the Project; debt service currently due on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Project) on loans associated with the development of the Project; CalHFA 0.42% MHSA servicing fee; property management fees and reimbursements, not to exceed fees and reimbursements which are standard in the industry; partnership management fees and asset management fees including all fees paid to Borrower's investor limited partner, if any, in the amount of Thirty-Three Thousand Five Hundred Dollars ($33,500) increasing by three percent (3%) annually during the fifteen year Tax Credit compliance period and after the expiration of the fifteen year compliance period, in the amount of Twenty-Five Thousand Dollars ($25,000) which amount will increase by three percent (3%) annually commencing on the first anniversary of the expiration of the tax credit compliance period, and such other reasonable fees as may be approved by the City at the time the tax credit syndication occurs; organizational costs (e.g., annual franchise tax payments) and costs associated with accounting, tax preparation and legal fees of Borrower incurred in the ordinary course of business; premiums for property damage and liability insurance; utility services not paid for directly by tenants, including water, sewer, and trash collection; maintenance and repair of the Project; any annual license or certificate of occupancy fees required for operation of the Project; security services; advertising and marketing; cash deposited into reserves for capital replacements of the Project in an amount required by the Project financing and the tax credit syndication (or any greater amount approved by the City); cash deposited into a reasonable operating reserve required by the Project financing and the tax credit syndication (or any greater amount approved by the City); payment of any previously unpaid portion of the Developer Fee not exceeding a cumulative developer fee in the maximum amount of One Million Four Hundred Thousand Dollars ($1,400,000); on-site service provider fees and reimbursements for tenant social services at the Project; extraordinary operating costs specifically approved by the City; payments of deductibles in connection with casualty insurance claims not normally paid from reserves, the amount of uninsured losses actually replaced, repaired or restored, and not normally paid from reserves, and other ordinary and reasonable operating expenses not listed above. Annual Operating Expenses shall not include the following: depreciation, amortization, depletion or other non-cash expenses; any amount expended from a reserve account; and any capital cost with respect to the Project, as determined by the accountant for the Project.

iv. "Gross Revenue" with respect to a particular calendar year shall mean all revenue, income, receipts, and other consideration actually received from operation and leasing of the Project. Gross Revenue shall include, but not be limited to: all rents, fees and charges paid by tenants, Section 8 payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; the proceeds of business interruption or similar insurance; the proceeds of casualty insurance not

used to rebuild the Project; and condemnation awards for a taking of part or all of the Project for a temporary period not used to restore the Project following such condemnation. Gross Revenue shall not include tenants' security deposits, loan proceeds, capital contributions or similar advances.

c. Statement. No later than May 1st of each year following the issuance of the certificate of occupancy for the Project, Borrower shall provide to the City Borrower's calculation of Residual Receipts for the previous calendar year, accompanied by such supporting documentation as the City may reasonably request, including without limitation, an independent audit prepared for the Project by a certified public accountant in accordance with generally accepted accounting principles. No later than December 1st of each year following issuance of the final certificate of occupancy for the Project, Borrower shall provide to the City a projected budget for the following calendar year which shall include an estimate of Residual Receipts.

d. Application of Payments. Payments shall be applied first to accrued interest, if any, and then to the outstanding principal balance.

e. Term. Notwithstanding any other provision of this Note, principal and interest, if any, payable pursuant to this Note shall be fully repaid within fifty-five (55) years from the date the final certificate of occupancy is issued for the Project, but in no event shall the maturity date be later than July 15, 2073 (the "Maturity Date").

3. Deed of Trust. This Note is secured by that Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust") of even date herewith which shall be recorded on the Property in the Official Records of the County of San Joaquin.

4. Default Rate. Upon the occurrence of an Event of Default (defined below), interest shall automatically accrue without notice at a rate equal to the lesser of the maximum rate permitted by law or ten percent (10%) per annum (the "Default Rate"). When Borrower is no longer in default, the Default Rate shall no longer apply, and the interest rate shall once again be the zero percent (0%) rate specified in the first paragraph of this Note. The imposition or acceptance of the Default Rate shall in no event constitute a waiver of a default under this Note or prevent City from exercising any of its other rights or remedies.

5. Manner and Place of Payment. Payments shall be mailed to the City of Lodi, P.O. Box 3006, Lodi, CA 95241-1910, or delivered to City Hall, located at 221 West Pine Street, Lodi, CA 95240, or at such other place as the holder hereof may inform Borrower in writing, in lawful money of the United States.

6. Waiver; Attorneys' Fees. Borrower waives presentment for payment, demand, protest, and notices of dishonor and of protest; the benefits of all waiveable exemptions; and all defenses and pleas on the grounds of any extension(s) of the time of payment or of any due date under the Note, in whole or in part, whether before or after maturity and with or without notice. Borrower hereby agrees to pay all costs and expenses, including reasonable attorney's fees, which may be incurred by the holder hereof in the enforcement of the Note, the Development Agreement, Regulatory Agreement, and the Deed of Trust or any term or provision of any of such documents.

7. Acceleration. The entire balance of the obligation shall be immediately due and payable in the event Borrower fails to make payments due under this Note following not less than fifteen (15) day notice and cure period or in the Event of Default as defined in and subject to applicable notice and cure provisions in the Development Agreement, the Deed of Trust, Regulatory Agreement, or in the event the Project is refinanced, sold, transferred or conveyed in any manner, or if Borrower reorganizes, modifies its structure or transfers the Project as a portion of its assets without the written consent of or otherwise approved by the City. This loan is not assumable without the prior written approval of the City, except by an affiliate of Eden Housing, Inc. Neither acceptance by the City of the payments provided for herein nor any failure by the City to pursue its legal and equitable remedies upon default shall constitute a waiver of the City's right to require prompt payments when due of all principal and interest, if any, owing or to declare a default and exercise all of its rights under this Note, the Deed of Trust, Regulatory Agreement, and Development Agreement.

8. Prepayment. Borrower shall have the right to prepay without penalty all or any part of the obligation evidenced by this Note.

9. Nonrecourse Obligation. Except as expressly provided in the second paragraph of this section 9, the Borrower, the Borrower's officers, directors, partners, employees and agents, shall not have any direct or indirect personal liability for payment of the principal of, or interest, if any, on this Note or the performance of the covenants of the Trustor under the Deed of Trust securing this Note. The sole recourse of the City with respect to the principal of, or interest, if any, on this Note and defaults by the Borrower in the performance of its covenants under the Deed of Trust shall be to the property securing the indebtedness evidenced by this Note. No judgment, or execution thereon, entered in any action, legal or equitable, on this Note or the Deed of Trust shall be enforced personally against the Borrower, its officers, directors, partners, employees or agents, but may be enforced only against the property described in the Deed of Trust and such other or further security as, from time to time, may be hypothecated for this Note; provided, however, that nothing contained in the foregoing limitation of liability shall (a) limit or impair the enforcement against all such security for this Note by the City, or (b) be deemed in any way to impair the right of the City to assert the unpaid principal amount of this Note as demand for money within the meaning and intendment of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest, if any, on this Note and the performance of Borrower's obligations under the Deed of Trust, except as hereafter set forth; nothing contained herein is intended to relieve the Borrower of personal liability for (1) fraud or willful misrepresentation; (2) the failure to pay taxes, assessments or other charges which may create liens on the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (3) the fair market value of any personal property or fixtures removed or disposed of by Borrower other than in accordance with the Deed of Trust; (4) the misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property; (5) the Borrower's

indemnification obligations, if any, under the Development Agreement; and (6) payment to the City or any senior lender any rental income or other income arising with respect to the Property received by the Borrower and not applied in accordance with the Deed of Trust or Development Agreement or other Project loan documents evidencing other Project loans approved by the City, after the City has given notice to the Borrower of the occurrence of an Event of Default.

10. Assignment. The City's rights under this Note may be assigned by the City in its sole discretion.

11. No Offset. The Borrower hereby waives any rights of offset it now has or may hereafter have against the City, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this Note.

TIENDA DRIVE SENIOR APARTMENTS, L.P., a California limited partnership
By: Tienda Drive Senior Apartments LLC, its General Partner
By: Eden Investments, Inc., its sole Member/Manager

By: _____
Linda Mandolini, President

Approved as to form:

City of Lodi, a California municipal corporation

By_____
Janice D. Magdich, City Attorney

North American Title Company
Escrow No. 54605-1032123-10

RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

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

EXEMPT FROM RECORDING FEES PER GOVERNMENT CODE § 27383

APN 027-410-24 & 027-410-25

Space above this line for Recorder's use.

DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING

(Construction and Permanent)

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING ("**Deed of Trust**") is made as of March 2, 2016, by Tienda Drive Senior Apartments, L.P., a California limited partnership ("**Trustor**") to North American Title Company as trustee ("**Trustee**"), for the benefit of the City of Lodi, a California municipal corporation ("**Beneficiary**").

RECITALS

A. Trustor owns fee simple title to the land commonly identified as 2245 and 2255 Tienda Drive in the City of Lodi, San Joaquin County, California, more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "**Land**"). Trustor intends to construct, own and operate an affordable senior residential development on the Land (the "**Project**" or "**Improvements**").

B. Beneficiary and Trustor have entered into a Development Agreement (defined in that Memorandum of Development Agreement dated as of March 2, 2016 and recorded concurrently herewith), pursuant to which Beneficiary has agreed to provide a loan to Trustor in the amount of Four Hundred Ninety-Four Thousand Five Hundred Thirty-Six Dollars ($494,536.00) (the "**Loan**") for the purpose of assisting with the financing of the Project. To evidence Trustor's obligation to repay the Loan, Trustor has delivered to Beneficiary a Promissory Note dated as of March 2, 2016, in the original principal amount of $494,536.00 (the "**Note**").

C. As a condition precedent to the making of the Loan, Beneficiary has required that Trustor enter into this Deed of Trust and grant to Trustee for the benefit of Beneficiary, a lien and security interest in the Property (defined below) to secure repayment of the Note and performance of Trustor's obligations under the Loan Documents (defined below).

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows.

1. Grant in Trust. In consideration of the foregoing and for the purpose of securing payment and performance of the Secured Obligations defined and described in Section 2, Trustor hereby irrevocably and unconditionally grants, conveys, transfers and assigns to Trustee, in trust for the benefit of Beneficiary, with power of sale and right of entry and possession, all estate, right, title and interest which Trustor now has or may later acquire in and to the Land, and all of the following, whether presently owned or hereafter acquired:

a. All buildings, structures, and improvements, now or hereafter located or constructed on the Land ("**Improvements**" or "**Project**");

b. All appurtenances, easements, rights of way, pipes, transmission lines or wires and other rights used in connection with the Land or the Improvements or as a means of access thereto, whether now or hereafter owned or constructed or placed upon or in the Land or Improvements and all existing and future privileges, rights, franchises and tenements of the Land, including all minerals, oils, gas and other commercially valuable substances which may be in, under or produced from any part of the Land, and all water rights, rights of way, gores or strips of land, and any land lying in the streets, ways, and alleys, open or proposed, in front of or adjoining the Land and Improvements (collectively, "**Appurtenances**");

c. All machinery, equipment, fixtures, goods and other personal property of the Trustor, whether moveable or not, now owned or hereafter acquired by the Trustor and now or hereafter located at or used in connection with the Land, the Improvements or Appurtenances, and all improvements, restorations, replacements, repairs, additions or substitutions thereto (collectively, "**Equipment**");

d. All existing and future leases, subleases, licenses, and other agreements relating to the use or occupancy of all or any portion of the Land or Improvements (collectively, "**Leases**"), all amendments, extensions, renewals or modifications thereof, and all rent, royalties, or other payments which may now or hereafter accrue or otherwise become payable thereunder to or for the benefit of Trustor, including but not limited to security deposits (collectively, "**Rents**");

e. All insurance proceeds and any other proceeds from the Land, Improvements, Appurtenances, Equipment, Leases, and Rents, including without limitation, all deposits made with or other security deposits given to utility companies, all claims or demands relating to insurance awards which the Trustor now has or may hereafter acquire, including all advance payments of insurance premiums made by Trustor, and all condemnation awards or payments now or later made in connection with any condemnation or eminent domain proceeding ("**Proceeds**");

f. All revenues, income, rents, royalties, payments and profits produced by the Land, Improvements, Appurtenances and Equipment, whether now owned or hereafter acquired by Trustor ("**Gross Revenues**");

g. All architectural, structural and mechanical plans, specifications, design documents and studies produced in connection with development of the Land and construction of the Improvements (collectively, "**Plans**"); and

h. All interests and rights in any private or governmental grants, subsidies, loans or other financing provided in connection with development of the Land and construction of the Improvements (collectively, "**Financing**").

All of the above-referenced interests of Trustor in the Land, Improvements, Project, Appurtenances, Equipment, Leases, Rents, Proceeds, Gross Revenues, Plans and Financing as hereby conveyed to Trustee or made subject to the security interest herein described are collectively referred to herein as the "**Property**." The Property shall not include the Operating Reserve funded under the partnership agreement of Trustor.

2. Obligations Secured. This Deed of Trust is given for the purpose of securing payment and performance of the following (collectively, the "**Secured Obligations**"): (i) all present and future indebtedness evidenced by the Note and any amendment and/or restatement thereof, including principal, interest and all other amounts payable under the terms of the Note; (ii) all present and future obligations of Trustor to Beneficiary under the Loan Documents (defined below); (iii) all additional present and future obligations of Trustor to Beneficiary under any other agreement or instrument acknowledged by Trustor (whether existing now or in the future) which states that it is or such obligations are, secured by this Deed of Trust; (iv) all obligations of Trustor to Beneficiary under all modifications, supplements, amendments, renewals, or extensions of any of the foregoing, whether evidenced by new or additional documents; and (v) reimbursement of all amounts advanced by or on behalf of Beneficiary to protect Beneficiary's interests under this Deed of Trust or any other Loan Document as such may be modified, supplemented, amended, renewed or extended. The Note, the Development Agreement, this Deed of Trust, and the Regulatory Agreements and Declaration of Restrictive Covenants dated of even date herewith that shall be recorded concurrently herewith against the Land for the benefit of Beneficiary, and any and all amendments, restatements, modifications and extensions of any of the foregoing are hereafter collectively referred to as the "**Loan Documents**."

3. Assignment of Rents, Issues, and Profits. Trustor hereby irrevocably, absolutely, presently and unconditionally assigns to Beneficiary the Rents, royalties, issues, profits, revenue, income and proceeds of the Property. This is an absolute assignment and not an assignment for security only. Beneficiary hereby confers upon Trustor a license to collect and retain such Rents, royalties, issues, profits, revenue, income and proceeds as they become due and payable prior to any Event of Default hereunder. Upon the occurrence of any such Event of Default, Beneficiary may terminate such license without notice to or demand upon Trustor and without regard to the adequacy of any security for the indebtedness hereby secured, and may either in person, by agent, or by a receiver to be appointed by a court, enter upon and take possession of the Property or any part thereof, and sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, to any indebtedness secured hereby, and in such order as Beneficiary may determine. Beneficiary's right to the rents, royalties, issues, profits, revenue, income and proceeds of the Property does not depend upon whether or not Beneficiary takes possession of the Property. The entering upon and taking possession of the Property, the collection of such rents, issues, and profits, and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. If an Event of Default occurs while Beneficiary is in possession of all or part of the Property and/or is collecting and applying Rents as permitted under this Deed of Trust,

Beneficiary, Trustee and any receiver shall nevertheless be entitled to exercise and invoke every right and remedy afforded any of them under this Deed of Trust and at law or in equity, including the right to exercise the power of sale granted hereunder. Regardless of whether or not Beneficiary, in person or by agent, takes actual possession of the Land or the Improvements, Beneficiary shall not be deemed to be a "mortgagee in possession," shall not be responsible for performing any obligation of Trustor under any Lease, shall not be liable in any manner for the Property, or the use, occupancy, enjoyment or operation of any part of it unless due to the willful misconduct or gross negligence of Beneficiary, and shall not be responsible for any waste committed by Trustor, lessees or any third parties, or for dangerous or defective condition of the Property or any negligence in the management, repair or control of the Property. Absent Beneficiary's written consent, Trustor shall not accept prepayment of Rents for any rental period exceeding one month.

4. Security Agreement. The parties intend for this Deed of Trust to create a lien on the Property, and an absolute assignment of the Rents and Leases, all in favor of Beneficiary. The parties acknowledge that some of the Property may be determined under applicable law to be personal property or fixtures. To the extent that any Property may be or be determined to be personal property, Trustor as debtor hereby grants to Beneficiary as secured party a security interest in all such Property to secure payment and performance of the Secured Obligations. This Deed of Trust constitutes a security agreement under the California Uniform Commercial Code, as amended or recodified from time to time (the "**UCC**"), covering all such Property. To the extent such Property is not real property encumbered by the lien granted above, and is not absolutely assigned by the assignment set forth above, it is the intention of the parties that such Property shall constitute "proceeds, products, offspring, rents, or profits" (as defined in and for the purposes of Section 552(b) of the United States Bankruptcy Code, as such section may be modified or supplemented) of the Land and Improvements.

5. Financing Statements. Pursuant to the UCC, Trustor, as debtor, hereby authorizes Beneficiary, as secured party, to file such financing statements and amendments thereof and such continuation statements with respect thereto as Beneficiary may deem appropriate to perfect and preserve Beneficiary's security interest in the Property and Rents, without requiring any signature or further authorization by Trustor. If requested by Beneficiary, Trustor shall pay all fees and costs that Beneficiary may incur in filing such documents in public offices and in obtaining such record searches as Beneficiary may reasonably require. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall not be construed as in any way derogating from or impairing this Deed of Trust or the rights or obligations of the parties under it.

Everything used in connection with the Property and/or adapted for use therein and/or which is described or reflected in this Deed of Trust is, and at all times and for all purposes and in all proceedings both legal or equitable shall be regarded as part of the estate encumbered by this Deed of Trust irrespective of whether (i) any such item is physically attached to the Improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with Beneficiary, or (iii) any such item is referred to or reflected in any such financing statement so filed at any time. Similarly, the mention in any such financing statement of (1) rights in or to the proceeds of any fire and/or hazard insurance policy, or (2) any award in eminent domain proceedings for a taking or for lessening of value, or (3) Trustor's interest as lessor in any present

or future lease or rights to income growing out of the use and/or occupancy of the property conveyed hereby, whether pursuant to lease or otherwise, shall not be construed as in any way altering any of the rights of Beneficiary as determined by this instrument or impugning the priority of Beneficiary's lien granted hereby or by any other recorded document. Such mention in any financing statement is declared to be solely for the protection of Beneficiary in the event any court or judge shall at any time hold, with respect to the matters set forth in the foregoing clauses (1), (2), and (3), that notice of Beneficiary's priority of interest is required in order to be effective against a particular class of persons, including but not limited to the federal government and any subdivisions or entity of the federal government.

6. Fixture Filing. This Deed of Trust is intended to be and constitutes a fixture filing pursuant to the provisions of the UCC with respect to all of the Property constituting fixtures, is being recorded as a fixture financing statement and filing under the UCC, and covers property, goods and equipment which are or are to become fixtures related to the Land and the Improvements. Trustor covenants and agrees that this Deed of Trust is to be filed in the real estate records of San Joaquin County and shall also operate from the date of such filing as a fixture filing in accordance with Section 9502 and other applicable provisions of the UCC. This Deed of Trust shall also be effective as a financing statement covering minerals or the like (including oil and gas) and accounts subject to the UCC, as amended. Trustor shall be deemed to be the "debtor" and Beneficiary shall be deemed to be the "secured party" for all purposes under the UCC.

7. Trustor's Representations, Warranties and Covenants; Rights and Duties of the Parties.

7.1 Representations and Warranties. Trustor represents and warrants that: (i) Trustor lawfully possesses and holds a fee simple interest in the Land and the Improvements when constructed or installed, (ii) Trustor has good and marketable title to all of the Property; (iii) other than as limited by the Loan Documents, Trustor has the full and unlimited power, right and authority to encumber the Property and assign the Rents; (iv) subject only to encumbrances of record and senior liens permitted pursuant to the Loan Documents as shown on the title policy approved by Beneficiary or otherwise approved in writing by Beneficiary ("**Permitted Encumbrances**"), this Deed of Trust creates a valid lien on Trustor's entire interest in the Property; (v) except with respect to Permitted Encumbrances, Trustor owns the Property free and clear of all deeds of trust, mortgages, security agreements, reservations of title or conditional sales contracts, (vi) there is no financing statement affecting the Property on file in any public office other than as disclosed in writing to Beneficiary or with respect to the financing of the Property as shown on the title policy approved by Beneficiary; and (vii) the correct address of Trustor's principal office is specified in Section 10.2.

7.2 Condition of Property. Trustor represents and warrants that except as disclosed to Beneficiary in writing, as of the date hereof: (i) Trustor has not received any notice from any governmental authority of any threatened or pending zoning, building, fire, or health code violation or violation of other governmental regulations concerning the Property that has not previously been corrected, and no condition on the Land violates any health, safety, fire, environmental, sewage, building, or other federal, state or local law, ordinance or regulation; (ii) no contracts, licenses, leases or commitments regarding the maintenance or use of the Property or allowing any third party rights to use the Property are in force; (iii) there are no threatened or pending actions, suits, or administrative proceedings against or affecting the Property or any

portion thereof or the interest of Trustor in the Property; (iv) there are no threatened or pending condemnation, eminent domain, or similar proceedings affecting the Property or any portion thereof; (v) Trustor has not received any notice from any insurer of defects of the Property which have not been corrected; (vi) there are no natural or artificial conditions upon the Land or any part thereof that could result in a material and adverse change in the condition of the Land; (vii) all information that Trustor has delivered to Beneficiary, either directly or through Trustor's agents, is accurate and complete; and (viii) Trustor or Trustor's agents have disclosed to Beneficiary all material facts concerning the Property.

7.3 Authority. Trustor represents and warrants that this Deed of Trust and all other documents delivered or to be delivered by Trustor in connection herewith: (a) have been duly authorized, executed, and delivered by Trustor; (b) are binding obligations of Trustor; and (c) do not violate the provisions of any agreement to which Trustor is a party or which affects the Property. Trustor further represents and warrants that there are no pending, or to Trustor's knowledge, threatened actions or proceedings before any court or administrative agency which may adversely affect Trustor's ownership of the Property.

7.4 Payment and Performance of Secured Obligations. Trustor shall promptly pay when due the principal and any interest due on the indebtedness evidenced by the Note, and shall promptly pay and perform all other obligations of Trustor arising in connection with the Secured Obligations or the Loan Documents in accordance with the respective terms thereof.

7.5 Use of Loan Proceeds; Preservation and Maintenance of Property; Compliance with Laws. Trustor covenants that it shall use the Loan Proceeds solely for purposes authorized by the Loan Documents. Trustor covenants that it shall keep the Land and Improvements in good repair and condition, and from time to time shall make necessary repairs, renewals and replacements thereto so that the Property shall be preserved and maintained. Trustor covenants to comply with all federal, state and local laws, regulations, ordinances and rules applicable to the Property and the Project, including without limitation all applicable requirements of state and local building codes and regulations, and all applicable statutes and regulations relating to accessibility for the disabled. Trustor shall not remove, demolish or materially alter any Improvement without Beneficiary's consent, shall complete or restore promptly and in good and workmanlike manner any building, fixture or other improvement which may be constructed, damaged, or destroyed thereon, and shall pay when due all claims for labor performed and materials furnished therefor. Trustor shall use the Land and the Improvements solely for purposes authorized by the Loan Documents, shall not commit or allow waste of the Property, and shall not commit or allow any act upon or use of the Property which would violate any applicable law or order of any governmental authority, nor shall Trustor bring on or keep any article on the Property or cause or allow any condition to exist thereon which could invalidate or which would be prohibited by any insurance coverage required to be maintained on the Property pursuant to the Loan Documents.

7.6 Restrictions on Conveyance and Encumbrance; Acceleration. It shall be an Event of Default hereunder if the Property, any part thereof, or interest therein is sold, assigned, conveyed, transferred, hypothecated, leased, licensed, or encumbered in violation of the Loan Documents or if any other Transfer (as defined in the Assignment and Amendment of that Purchase and Development Agreement) occurs in violation of the Loan Documents. If any such Transfer shall occur in violation of such requirements, without limiting the provisions of

Section 8 hereof, all obligations secured by this Deed of Trust, irrespective of the maturity dates of such obligations, shall at the option of Beneficiary, and without demand, immediately become due and payable, subject to any applicable cure period.

7.7 Inspections; Books and Records. Beneficiary and its agents and representatives shall have the right at any reasonable time upon reasonable notice to Trustor to enter upon the Land and inspect the Property to ensure compliance with the Loan Documents. Trustor shall maintain complete and accurate books of account and other records (including copies of supporting bills and invoices) adequate to document the use of the Loan Proceeds and the operation of the Property, together with copies of all written contracts, Leases and other instruments which affect the Property. The books, records, contracts, Leases and other instruments shall be subject to examination and inspection by Beneficiary at any reasonable time following two business days prior notice.

7.8 Charges, Liens, Taxes and Assessments. Trustor shall pay before delinquency all taxes, levies, assessments and other charges affecting the Property that are (or if not paid may become) a lien on all or part of the Property. Trustor may, at Trustor's expense, contest the validity or application of any tax, levy, assessment or charge affecting the Property by appropriate legal proceedings promptly initiated and conducted in good faith and with due diligence, provided that (i) Beneficiary is reasonably satisfied that neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, or lost as a result of such contest, and (ii) Trustor shall have posted a bond or furnished other security as may reasonably be required from time to time by Beneficiary; and provided further that Trustor shall timely make any payment necessary to prevent a lien foreclosure, sale, forfeiture or loss of the Property.

7.9 Subrogation. Beneficiary shall be subrogated to the liens of all encumbrances, whether released of record or not, which are discharged in whole or in part by Beneficiary in accordance with this Deed of Trust.

7.10 Hazard, Liability and Workers' Compensation Insurance. At all times during the term hereof, at Trustor's expense, Trustor shall keep the Improvements and personal property now existing or hereafter located on the Property insured against loss by fire, vandalism and malicious mischief by a policy of standard fire and extended all-risk insurance. The policy shall be written on a full replacement value basis and shall name Beneficiary as loss payee as its interest may appear. The full replacement value of the improvements to be insured shall be determined by the company issuing the policy at the time the policy is initially obtained. Not more frequently than once every two (2) years, either the Trustor or the Beneficiary shall have the right to notify the other party that it elects to have the replacement value redetermined by the insurance company. Subject to the rights of any senior lienholder, the proceeds collected under any insurance policy may be applied by Beneficiary to any indebtedness secured hereby and in such order as Beneficiary may determine, or at the option of Beneficiary, the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. Notwithstanding anything to the contrary set forth herein, provided that Trustor is not in default under any Loan Document, Trustor shall be permitted to use the proceeds of insurance to rebuild the Improvements.

7.10.1 Trustor shall at all times during the term hereof, maintain a comprehensive general liability insurance policy in an amount not less than One Million Dollars ($1,000,000) each occurrence, Two Million Dollars ($2,000,000) annual aggregate, together with Three Million Dollars ($3,000,000) excess liability coverage or such other policy limits as Beneficiary may require in its reasonable discretion, including coverage for bodily injury, property damage, products, completed operations and contractual liability coverage. Such policy or policies shall be written on an occurrence basis and shall name the Beneficiary as an additional insured. Trustor shall maintain workers' compensation insurance as required by law.

7.10.2 Trustor shall file with Beneficiary prior to the commencement of the term hereof, certificates (or such other proof as Beneficiary may require, including without limitation, copies of the required insurance policies) evidencing each of the insurance policies and endorsements thereto as required by this Section, and such certificates (or policies) shall provide that at least thirty (30) days' prior written notice shall be provided to Beneficiary prior to the expiration, cancellation or change in coverage under each such policy.

7.10.3 If any insurance policy required hereunder is canceled or the coverage provided thereunder is reduced, Trustor shall, within fifteen (15) days after receipt of written notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with Beneficiary a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, Beneficiary may, without further notice and at its option, procure such insurance coverage at Trustor's expense, and Trustor shall promptly reimburse Beneficiary for such expense upon receipt of billing from Beneficiary.

7.10.4 The insurance policies required hereunder shall be issued by insurance companies authorized to do business in the State of California with a financial rating of at least "A VII" status as rated in the most recent edition of A.M. Best Ratings Guide. Each policy of insurance shall contain an endorsement requiring the insurer to provide at least thirty (30) days written notice to Beneficiary prior to change in coverage, cancellation or expiration thereof. If any insurance policy required pursuant to the Loan Documents is canceled or the coverage provided thereunder is reduced, Trustor shall, within ten (10) days after receipt of written notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with Beneficiary a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, Beneficiary may, without further notice and at its option, procure such insurance coverage at Trustor's expense, and Trustor shall promptly reimburse Beneficiary for such expense upon receipt of billing from Beneficiary.

7.11 Hazardous Materials. Trustor represents and warrants that except as disclosed to Beneficiary in writing, as of the date hereof to the best knowledge of Trustor: (i) the Land is free and has always been free of Hazardous Materials (as defined below) and is not and has never been in violation of any Environmental Law (as defined below); (ii) there are no buried or partially buried storage tanks located on the Land; (iii) Trustor has received no notice, warning, notice of violation, administrative complaint, judicial complaint, or other formal or informal notice alleging that conditions on the Land are or have ever been in violation of any Environmental Law or informing Trustor that the Land is subject to investigation or inquiry regarding Hazardous Materials on the Land or the potential violation of any Environmental Law;

(iv) there is no monitoring program required by the Environmental Protection Agency or any other governmental agency concerning the Land; (v) no toxic or hazardous chemicals, waste, or substances of any kind have ever been spilled, disposed of, or stored on, under or at the Land, whether by accident, burying, drainage, or storage in containers, tanks, holding areas, or any other means; (vi) the Land has never been used as a dump or landfill; and (vii) Trustor has disclosed to Beneficiary all information, records, and studies in Trustor's possession or reasonably available to Trustor relating to the Land concerning Hazardous Materials.

Trustor shall not cause or permit any Hazardous Material (as defined below) to be brought upon, kept, stored or used in, on, under, or about the Land by Trustor, its agents, employees, contractors or invitees except for incidental supplies ordinarily used in connection with the construction, rehabilitation, repair, and operation of residential developments and in compliance with all applicable laws, and shall not cause any release of Hazardous Materials into, onto, under or through the Land. If any Hazardous Material is discharged, released, dumped, or spilled in, on, under, or about the Land and results in any contamination of the Land or adjacent property, or otherwise results in the release or discharge of Hazardous Materials in, on, under or from the Land, Trustor shall promptly take all actions at its sole expense as are necessary to comply with all Environmental Laws (as defined below).

To the fullest extent permitted by law, Trustor shall indemnify, defend (with counsel reasonably acceptable to Beneficiary), and hold Beneficiary and its elected and appointed officials, officers, agents and employees (collectively, "**Indemnitees**") harmless from and against any and all loss, claim, liability, damage, demand, judgment, order, penalty, fine, injunctive or other relief, cost, expense (including reasonable fees and expenses of attorneys, expert witnesses, and other professionals advising or assisting Beneficiary), action, or cause of action (all of the foregoing, hereafter individually "**Claim**" and collectively "**Claims**") arising in connection with the breach of Trustor's covenants and obligations set forth in this Section 7.11 or otherwise arising in connection with the presence or release of Hazardous Materials in, on, under, or from the Property. The foregoing indemnity includes, without limitation, all costs of investigation, assessment, containment, removal, remediation of any kind, and disposal of Hazardous Materials, all costs of determining whether the Land is in compliance with Environmental Laws, all costs associated with bringing the Land into compliance with all applicable Environmental Laws, and all costs associated with claims for damages or injury to persons, property, or natural resources.

Without limiting the generality of the foregoing, Trustor shall, at Trustor's own cost and expense, do all of the following:

a. pay or satisfy any judgment or decree that may be entered against any Indemnitee or Indemnitees in any legal or administrative proceeding incident to any matters against which Indemnitees are entitled to be indemnified under this Deed of Trust;

b. reimburse Indemnitees for any expenses paid or incurred in connection with any matters against which Indemnitees are entitled to be indemnified under this Deed of Trust; and

c. reimburse Indemnitees for any and all expenses, including without limitation out-of-pocket expenses and fees of attorneys and expert witnesses, paid or incurred in connection with the enforcement by Indemnitees of their rights under this Deed of Trust, or in monitoring and participating in any legal or administrative proceeding.

Trustor's obligation to indemnify the Indemnitees shall not be limited or impaired by any of the following, or by any failure of Trustor to receive notice of or consideration for any of the following: (i) any amendment or modification of any Loan Document; (ii) any extensions of time for performance required by any Loan Document; (iii) any provision in any of the Loan Documents limiting Beneficiary's recourse to property securing the Secured Obligations, or limiting the personal liability of Trustor, or any other party for payment of all or any part of the Secured Obligations; (iv) the accuracy or inaccuracy of any representation and warranty made by Trustor under this Deed of Trust or by Trustor or any other party under any Loan Document, (v) the release of Trustor or any other person, by Beneficiary or by operation of law, from performance of any obligation under any Loan Document; (vi) the release or substitution in whole or in part of any security for the Secured Obligations; and (vii) Beneficiary's failure to properly perfect any lien or security interest given as security for the Secured Obligations.

The provisions of this Section 7.11 shall be in addition to any and all other obligations and liabilities that Trustor may have under applicable law, and each Indemnitee shall be entitled to indemnification under this Section without regard to whether Beneficiary or that Indemnitee has exercised any rights against the Property or any other security, pursued any rights against any guarantor or other party, or pursued any other rights available under the Loan Documents or applicable law. The obligations of Trustor to indemnify the Indemnitees under this Section shall survive any repayment or discharge of the Secured Obligations, any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, and any release of record of the lien of this Deed of Trust.

Without limiting any of the remedies provided in this Deed of Trust, Trustor acknowledges and agrees that each of the provisions in this Section 7.11 is an environmental provision (as defined in Section 736(f)(2) of the California Code of Civil Procedure) made by Trustor relating to real property security (the "**Environmental Provisions**"), and that Trustor's failure to comply with any of the Environmental Provisions will be a breach of contract that will entitle Beneficiary to pursue the remedies provided by Section 736 of the California Code of Civil Procedure ("**Section 736**") for the recovery of damages and for the enforcement of the Environmental Provisions. Pursuant to Section 736, Beneficiary's action for recovery of damages or enforcement of the Environmental Provisions shall not constitute an action within the meaning of Section 726(a) of the California Code of Civil Procedure or constitute a money judgment for a deficiency or a deficiency judgment within the meaning of Sections 580a, 580b, 580d, or 726(b) of the California Code of Civil Procedure.

"**Hazardous Materials**" means any substance, material or waste which is or becomes regulated by any federal, state or local governmental authority, and includes without limitation (i) petroleum or oil or gas or any direct or indirect product or by-product thereof; (ii) asbestos and any material containing asbestos; (iii) any substance, material or waste regulated by or listed (directly or by reference) as a "hazardous substance", "hazardous material", "hazardous waste", "toxic waste", "toxic pollutant", "toxic substance", "solid waste" or "pollutant or contaminant" in or pursuant to, or similarly identified as hazardous to human health or the environment in or pursuant to, the Toxic Substances Control Act [15 U.S.C. Section 2601, *et seq.*]; the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. Section 9601, *et seq.*], the Hazardous Materials Transportation Authorization Act [49 U.S.C. Section 5101, *et seq.*], the Resource Conservation and Recovery Act [42 U.S.C. Section 6901, *et seq.*], the Federal Water Pollution Control Act [33 U.S.C. Section 1251], the Clean Air Act [42 U.S.C.

Section 7401, *et seq.*], the California Underground Storage of Hazardous Substances Act [California Health and Safety Code Section 25280, *et seq.*], the California Hazardous Substances Account Act [California Health and Safety Code Section 25300, *et seq.*], the California Hazardous Waste Act [California Health and Safety Code Section 25100, *et seq.*], the California Safe Drinking Water and Toxic Enforcement Act [California Health and Safety Code Section 25249.5, *et seq.*], and the Porter-Cologne Water Quality Control Act [California Water Code Section 13000, *et seq.*], as they now exist or are hereafter amended, together with any regulations promulgated thereunder; (iv) any substance, material or waste which is defined as such or regulated by any "Superfund" or "Superlien" law, or any Environmental Law; or (v) any other substance, material, chemical, waste or pollutant identified as hazardous or toxic and regulated under any other federal, state or local environmental law, including without limitation, asbestos, polychlorinated biphenyls, petroleum, natural gas and synthetic fuel products and by-products.

"**Environmental Law**" means all federal, state or local statutes, ordinances, rules, regulations, orders, decrees, judgments or common law doctrines, and provisions and conditions of permits, licenses and other operating authorizations regulating, or relating to, or imposing liability or standards of conduct concerning (i) pollution or protection of the environment, including natural resources; (ii) exposure of persons, including employees and agents, to any Hazardous Material (as defined above) or other products, raw materials, chemicals or other substances; (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or commercial activities; (iv) the manufacture, use or introduction into commerce of chemical substances, including without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal; or (iv) the use, release or disposal of toxic or hazardous substances or Hazardous Materials or the remediation of air, surface waters, groundwaters or soil, as now or may at any later time be in effect, including but not limited to the Toxic Substances Control Act [15 U.S.C. 2601, et seq.]; the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. Section 9601, et seq.], the Hazardous Materials Transportation Authorization Act [49 U.S.C. Section 5101, et seq.], the Resource Conservation and Recovery Act [42 U.S.C. 6901, et seq.], the Federal Water Pollution Control Act [33 U.S.C. Section 1251], the Clean Air Act [42 U.S.C. Section 7401, et seq.], the California Underground Storage of Hazardous Substances Act [California Health and Safety Code Section 25280, et seq.], the California Hazardous Substances Account Act [California Health and Safety Code Section 25300, et seq.], the California Hazardous Waste Act [California Health and Safety Code Section 25100, et seq.], the California Safe Drinking Water and Toxic Enforcement Act [California Health and Safety Code Section 25249.5, et seq.], and the Porter-Cologne Water Quality Control Act [California Water Code Section 13000, et seq.], as they now exist or are hereafter amended, together with any regulations promulgated thereunder.

7.12 Notice of Claims; Defense of Security; Reimbursement of Costs.

a. Notice of Claims. Trustor shall provide written notice to Beneficiary of any uninsured or partially uninsured loss affecting the Property through fire, theft, liability, or property damage in excess of an aggregate of Fifty Thousand Dollars ($50,000) within five (5) business days of the occurrence of such loss. Trustor shall use its best efforts to ensure that Beneficiary shall receive timely notice of, and shall have a right to cure, any default under any other financing document or other lien affecting the Property and shall use best efforts to ensure that provisions mandating such notice and allowing such right to cure shall be included in all

such documents. Within three (3) business days of Trustor's receipt thereof, Trustor shall provide Beneficiary with a copy of any notice of default Trustor receives in connection with any financing document secured by the Property or any part thereof.

b. Defense of Security. At Trustor's sole expense, Trustor shall protect, preserve and defend the Property and title to and right of possession of the Property, the security of this Deed of Trust and the rights and powers of Beneficiary and Trustee created under it, against all adverse claims.

c. Compensation; Reimbursement of Costs. Trustor agrees to pay all reasonable fees, costs and expenses charged by Beneficiary or Trustee for any service that Beneficiary or Trustee may render in connection with this Deed of Trust, including without limitation, fees and expenses related to provision of a statement of obligations or related to a reconveyance. Trustor further agrees to pay or reimburse Beneficiary for all costs, expenses and other advances which may be incurred or made by Beneficiary or Trustee in any efforts to enforce any terms of this Deed of Trust, including without limitation any rights or remedies afforded to Beneficiary or Trustee or both of them under Sections 7.18 and 8.2, whether or not any lawsuit is filed, or in defending any action or proceeding arising under or relating to this Deed of Trust, including reasonable attorneys' fees and other legal costs, costs of any disposition of the Property under the power of sale granted hereunder or any judicial foreclosure, and any cost of evidence of title.

d. Notice of Changes. Trustor shall give Beneficiary prior written notice of any change in the address of Trustor and the location of any property, including books and records pertaining to the Property.

7.13 Indemnification. Trustor shall indemnify, defend (with counsel reasonably acceptable to Beneficiary), and hold harmless the Trustee and the Indemnitees (as defined in Section 7.11) from and against all Claims arising directly or indirectly in any manner in connection with or as a result of (a) any breach of Trustor's covenants under any Loan Document, (b) any representation by Trustor in any Loan Document which proves to be false or misleading in any material respect when made, (c) injury or death to persons or damage to property or other loss occurring on the Land or in any improvement located thereon, whether caused by the negligence or any other act or omission of Trustor or any other person or by negligent, faulty, inadequate or defective design, building, construction or maintenance or any other condition or otherwise, (d) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnitee which relates to or arises out of the Property, or any Loan Document or any transaction contemplated thereby, or any failure of Trustor to comply with all applicable state, federal and local laws and regulations applicable to the Property, provided that no Indemnitee shall be entitled to indemnification under this Section for matters caused by such Indemnitee's gross negligence or willful misconduct. The obligations of Trustor under this Section shall survive the repayment of the Loan and shall be secured by this Deed of Trust. Notwithstanding any contrary provision contained herein, the obligations of Trustor under this Section shall survive any foreclosure proceeding, any foreclosure sale, any delivery of a deed in lieu of foreclosure, and any release or reconveyance of this Deed of Trust.

7.14. Limitation of Liability. Beneficiary shall not be directly or indirectly liable to Trustor or any other person as a consequence of any of the following: (i) Beneficiary's exercise

of or failure to exercise any rights, remedies or powers granted to Beneficiary in this Deed of Trust; (ii) Beneficiary's failure or refusal to perform or discharge any obligation or liability of Trustor under any agreement related to the Property or under this Deed of Trust; (iii) any waste committed by Trustor, the lessees of the Property or any third parties, or any dangerous or defective condition of the Property; or (iv) any loss sustained by Trustor or any third party resulting from any act or omission of Beneficiary in managing the Property after an Event of Default, unless the loss is caused by the willful misconduct, gross negligence, or bad faith of Beneficiary. Trustor hereby expressly waives and releases all liability of the types described in this Section 7.14 and agrees that Trustor shall assert no claim related to any of the foregoing against Beneficiary.

7.15 Insurance and Condemnation Proceeds. Subject to the rights of any senior lienholders, any award of damages in connection with any condemnation for public use of, or injury to the Property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply such moneys to any indebtedness secured hereby in such order as Beneficiary may determine, or at the option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice. Notwithstanding the foregoing, so long as the value of Beneficiary's lien is not impaired, insurance and/or condemnation proceeds shall be used to repair and/or restore the Project.

7.16 Release, Extension, Modification. At any time and from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust and the Note for endorsement, Trustee may release or reconvey all or any part of the Property, consent to the making of any map or plat of the Land or part thereof, join in granting any easement or creating any restriction affecting the Property, or join in any extension agreement or other agreement affecting the lien or charge hereof. At any time and from time to time, without liability therefor and without notice, Beneficiary may (i) release any person liable for payment of any Secured Obligation, (ii) extend the time for payment or otherwise alter the terms of payment of any Secured Obligation; (iii) accept additional real or personal property of any kind as security for any Secured Obligation, or (iv) substitute or release any property securing the Secured Obligations.

7.17 Reconveyance. Upon written request of Beneficiary stating that all of the Secured Obligations have been paid in full, and upon surrender of this Deed of Trust, and the Note, Trustee shall reconvey, without warranty, the Property or so much of it as is then held under this Deed of Trust. The recitals in any reconveyance executed under this Deed of Trust of any matters or facts shall be conclusive proof of the truthfulness thereof. Trustor shall pay all fees of Trustee and all recordation fees related to such reconveyance.

7.18 Cure; Protection of Security. Either Beneficiary or Trustee may cure any breach or default of Trustor, and if it chooses to do so in connection with any such cure, Beneficiary or Trustee may also enter the Property and/or do any and all other things which it may in its sole discretion consider necessary and appropriate to protect the security of this Deed of Trust. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Beneficiary or Trustee under, this Deed of Trust; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien which in Beneficiary's or Trustee's sole judgment is or may be senior in priority to this

Deed of Trust, such judgment of Beneficiary or Trustee to be conclusive as among Beneficiary, Trustee and Trustor; obtaining insurance and/or paying any premiums or charges for insurance required to be carried hereunder; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Beneficiary or Trustee. Beneficiary and Trustee may take any of the actions permitted under this Section 7.18 either with or without giving notice, except for notices required under applicable law or under the Loan Documents. Any amounts disbursed by Beneficiary pursuant to this paragraph shall become additional indebtedness secured by this Deed of Trust.

7.19 Limited Partner's Right to Cure. Trustor's limited partner shall have the right to cure any default of Trustor hereunder upon the same terms and conditions afforded to Trustor. Beneficiary shall provide any notice of default hereunder to the limited partner at the address set forth in Exhibit B attached hereto concurrently with the provision of such notice to Trustor, and as to the limited partner, the cure periods specified herein shall commence upon the date of delivery of such notice in accordance with Section 10.2. See additional limited partner required provisions set forth in Exhibit B attached hereto and incorporated by this reference herein and made a part hereof.

8. Default and Remedies.

8.1 Events of Default. Trustor acknowledges and agrees that an Event of Default shall occur under this Deed of Trust upon the occurrence of any one or more of the following events:

a. Beneficiary's declaration of an Event of Default under any Loan Document, subject to the expiration of any applicable cure period set forth in such document;

b. Trustor fails to perform any monetary obligation which arises under this Deed of Trust, and does not cure that failure within ten (10) days following written notice from Beneficiary or Trustee;

c. If Trustor's interest in the Property or any part thereof is voluntarily or involuntarily sold, transferred, leased, encumbered, or otherwise conveyed in violation of Section 7.6 hereof or if any other Transfer occurs in violation of the Assignment and Amendment of that Purchase and Development Agreement and Trustor fails to rescind such conveyance or otherwise cure such breach within the time period specified in paragraph j below;

d. Trustor fails to maintain the insurance coverage required hereunder or otherwise fails to comply with the requirements of Section 7.10 hereof and Trustor fails to cure such default within the applicable time specified in Section 7.10;

e. Subject to Trustor's right to contest such charges as provided herein, Trustor fails to pay taxes or assessments due on the Land or the Improvements or fails to pay any other charge that may result in a lien on the Land or the Improvements, and Trustor fails to cure such default within ten (10) days.

f. Any representation or warranty of Trustor contained in or made in connection with the execution and delivery of this Deed of Trust or in any certificate or

statement furnished pursuant hereto or in any other Loan Document proves to have been false or misleading in any material adverse respect when made;

g. If, pursuant to or within the meaning of the United States Bankruptcy Code or any other federal or state law relating to insolvency or relief of debtors ("**Bankruptcy Law**"), Trustor or any general partner thereof (i) commences a voluntary case or proceeding; (ii) consents to the entry of an order for relief against Trustor or any general partner thereof in an involuntary case; (iii) consents to the appointment of a trustee, receiver, assignee, liquidator or similar official for Trustor or any general partner thereof; (iv) makes an assignment for the benefit of its creditors; or (v) admits in writing its inability to pay its debts as they become due.

h. If a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that (i) is for relief against Trustor or any general partner thereof in an involuntary case, (ii) appoints a trustee, receiver, assignee, liquidator or similar official for Trustor or any general partner thereof or substantially all of such entity's assets, (iii) orders the liquidation of Trustor or any general partner thereof, or (iv) issues or levies a judgment, writ, warrant of attachment or similar process against the Property or the Project or any part thereof, and in each case the order or decree is not released, vacated, dismissed or fully bonded within 60 days after its issuance.

i. The holder of any other debt instrument secured by a mortgage or deed of trust on the Property or part thereof declares an event of default thereunder and exercises a right to declare all amounts due under that debt instrument immediately due and payable, subject to the expiration of any applicable cure period set forth in such holder's documents; or

j. Trustor fails to perform any obligation arising under this Deed of Trust other than one enumerated in this Section 8.1, and does not cure that failure either within ten (10) days after written notice from Beneficiary or Trustee in the event of a monetary default, or within thirty (30) days after such written notice in the event of a nonmonetary default, provided that in the case of a nonmonetary default that in Beneficiary's reasonable judgment cannot reasonably be cured within thirty (30) days, an Event of Default shall not arise hereunder if Trustor commences to cure such default within thirty (30) days and thereafter prosecutes such cure to completion with due diligence and in good faith and in no event later than sixty (60) days following receipt of notice of default or such longer period as Beneficiary may allow.

8.2 Remedies. Subject to the applicable notice and cure provisions set forth herein and the limited recourse provisions set forth in the Note, at any time after an Event of Default, Beneficiary and Trustee shall be entitled to invoke any and all of the rights and remedies described below, and may exercise any one or more or all, of the remedies set forth in any Loan Document, and any other remedy existing at law or in equity or by statute. All of Beneficiary's rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies. Beneficiary shall be entitled to collect all expenses incurred in pursuing the remedies provided hereunder, including without limitation reasonable attorneys' fees and costs.

a. Acceleration. Beneficiary may declare any or all of the Secured Obligations, including without limitation all sums payable under the Note and this Deed of Trust, to be due and payable immediately.

b. Receiver. Beneficiary may apply to any court of competent jurisdiction for, and obtain appointment of, a receiver for the Property.

c. Entry. Beneficiary, in person, by agent or by court-appointed receiver, may enter, take possession of, manage and operate all or any part of the Property, and may also do any and all other things in connection with those actions that Beneficiary may in its sole discretion consider necessary and appropriate to protect the security of this Deed of Trust. Such other things may include: taking and possessing copies of all of Trustor's or the then owner's books and records concerning the Property; entering into, enforcing, modifying, or canceling Leases on such terms and conditions as Beneficiary may consider proper; obtaining and evicting tenants; fixing or modifying Rents; collecting and receiving any payment of money owing to Trustor; completing any unfinished construction; and/or contracting for and making repairs and alterations. If Beneficiary so requests, Trustor shall assemble all of the Property that has been removed from the Land and make all of it available to Beneficiary at the site of the Land. Trustor hereby irrevocably constitutes and appoints Beneficiary as Trustor's attorney-in-fact to perform such acts and execute such documents as Beneficiary in its sole discretion may consider to be appropriate in connection with taking these measures, including endorsement of Trustor's name on any instruments.

d. UCC Remedies. Beneficiary may exercise any or all of the remedies granted to a secured party under the UCC.

e. Judicial Action. Beneficiary may bring an action in any court of competent jurisdiction to foreclose this Deed of Trust in the manner provided by law for foreclosure of mortgages on real property and/or to obtain specific enforcement of any of the covenants or agreements of this Deed of Trust.

f. Power of Sale. Under the power of sale hereby granted, Beneficiary shall have the discretionary right to cause some or all of the Property, including any Property which constitutes personal property, to be sold or otherwise disposed of in any combination and in any manner permitted by applicable law.

8.3 Power of Sale. If Beneficiary elects to invoke the power of sale hereby granted, Beneficiary shall execute or cause the Trustee to execute a written notice of such default and of its election to cause the Property to be sold to satisfy the obligations hereof, and shall cause such notice to be recorded in the office of the Recorder of each County wherein the Property or some part thereof is situated as required by law and this Deed of Trust.

Prior to publication of the notice of sale, Beneficiary shall deliver to Trustee this Deed of Trust and the Note or other evidence of indebtedness which is secured hereby, together with a written request for the Trustee to proceed with a sale of the Property, pursuant to the provisions of law and this Deed of Trust.

Notice of sale having been given as then required by law, and not less than the time then required by law having elapsed after recordation of such notice of default, Trustee, without demand on Trustor, shall sell the Property at the time and place fixed by it in the notice of sale, either as a whole or in separate parcels and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may, and at Beneficiary's request shall, postpone sale of all or any portion of the Property by

public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time and place fixed by the preceding postponement. Trustee shall deliver to the purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary, may purchase at such sale.

After deducting all costs, fees, and expenses of Trustee and of the trust hereby created, including reasonable attorneys' fees in connection with sale, Trustee shall apply the proceeds of sale to payment of all sums advanced or expended by Beneficiary or Trustee under the terms hereof and all outstanding sums then secured hereby, and the remainder, if any, to the person or persons legally entitled thereto.

Without limiting the generality of the foregoing, Trustor acknowledges and agrees that regardless of whether or not a default has occurred hereunder, if an Event of Default has occurred under the Loan Documents, and if in connection with such Event of Default Beneficiary exercises its right to foreclose on the Property, then: (i) Beneficiary shall be entitled to declare all amounts due under the Note immediately due and payable, and (ii) the proceeds of any sale of the Property in connection with such foreclosure shall be used to pay all Secured Obligations, including without limitation, the outstanding principal balance and all other amounts due under the Note.

At any foreclosure sale, any person, including Trustor, Trustee or Beneficiary, may bid for and acquire the Property or any part of it to the extent permitted by then applicable law. Instead of paying cash for such property, Beneficiary may settle for the purchase price by crediting the sales price of the property against the following obligations:

a. First, the portion of the Secured Obligations attributable to the expenses of sale, costs of any action and any other sums for which Trustor is obligated to pay or reimburse Beneficiary or Trustee under Section 7.12(c); and

b. Second, the remaining balance of all other Secured Obligations in any order and proportions as Beneficiary in its sole discretion may choose.

8.4 Trustor's Right to Reinstate. Notwithstanding Beneficiary's acceleration of the sums secured by this Deed of Trust, Trustor shall have the right to have any proceedings begun by Beneficiary to enforce this Deed of Trust discontinued at any time prior to five (5) days before sale of the Property pursuant to the power of sale contained in this Deed of Trust or at any time prior to entry of a judgment enforcing this Deed of Trust if: (a) Trustor pays Beneficiary all sums which would be then due under the Loan Documents if the Secured Obligations had no acceleration provision; (b) Trustor cures all breaches of any other covenants or agreements of Trustor contained in this Deed of Trust; (c) Trustor pays all reasonable expenses incurred by Beneficiary and Trustee in enforcing the covenants and agreements of Trustor contained in this Deed of Trust, and in enforcing Beneficiary's and Trustee's remedies as provided herein, including, but not limited to, reasonable attorney's fees; and (d) Trustor takes such action as Beneficiary may reasonably require to assure that the lien of this Deed of Trust, Beneficiary's interest in the Property and Trustor's obligation to pay the sums secured by this Deed of Trust shall continue unimpaired. Upon such payment and cure by Trustor, this Deed of Trust and the

obligations secured hereby shall remain in full force and effect as if no acceleration had occurred.

9. Trustor's Waivers. To the fullest extent permitted by law, Trustor waives: (a) all statutes of limitations as a defense to any action or proceeding brought against Trustor by Beneficiary; (b) the benefit of all laws now existing or which may hereafter be enacted providing for any appraisement, valuation, stay, extension, redemption or moratorium; (c) all rights of marshalling in the event of foreclosure; and (d) all presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, notices of acceptance of this Deed of Trust and of the existence, creation, or incurring of new or additional indebtedness, and demands and notices of every kind.

10. Miscellaneous Provisions.

10.1 Additional Provisions. The Loan Documents grant further rights to Beneficiary and contain further agreements and affirmative and negative covenants by Trustor which apply to this Deed of Trust and the Property.

10.2 Notices. Trustor requests that a copy of notice of default and notice of sale be mailed to Trustor at the address set forth below. That address is also the mailing address of Trustor as debtor under the UCC. Beneficiary's address set forth below is the address for Beneficiary as secured party under the UCC. Except for any notice required under applicable law to be given in another manner, all notices to be sent pursuant to this Deed of Trust shall be made in writing, and sent to the parties at their respective addresses specified below or to such other address as a party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:

a. personal delivery, in which case notice shall be deemed delivered upon receipt;

b. certified or registered mail, return receipt requested, in which case notice shall be deemed delivered two (2) business days after deposit, postage prepaid in the United States mail;

c. nationally recognized overnight courier, in which case notice shall be deemed delivered one (1) day after deposit with such courier; or

d. facsimile transmission, in which case notice shall be deemed delivered on transmittal, provided that a transmission report is generated reflecting the accurate transmission thereof.

Beneficiary: City of Lodi
221 West Pine Street
P.O. Box 3006
Lodi, CA 95241-1910
Attention: City Manager
Facsimile: (209) 333-0422

Trustor: Tienda Drive Senior Apartments, L.P.
c/o Eden Investments, Inc.
22645 Grand Street
Hayward, CA 94541-5031
Attention: President
Facsimile: (510) 582-6523

With a copy to Trustor's investor limited partner as set forth in Exhibit B attached hereto.

10.3 Binding on Successors. The terms, covenants and conditions of this Deed of Trust shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, transferees, and assigns of the Trustor, Beneficiary and Trustee; provided however this Section 10.3 does not waive the provisions of Section 7.6.

10.4 Substitution of Trustee. Beneficiary may from time to time or at any time substitute a trustee or trustees to execute the trust hereby created, and when any such substitution has been filed for record in the office of the Recorder of San Joaquin County, it shall be conclusive evidence of the appointment of such trustee or trustees, and such new trustee or trustees shall succeed to all of the powers and duties of the Trustee named herein.

10.5 Attorneys' Fees and Costs. In any action or proceeding to foreclose this Deed of Trust or to enforce any right of Beneficiary or of Trustee, Trustor shall pay to Beneficiary and Trustee all costs of such action or proceeding, including reasonable attorneys' fees.

10.6 Governing Law; Severability; Interpretation. This Deed of Trust shall be governed by the laws of the State of California without regard to principles of conflicts of laws. Trustor agrees that any controversy arising under or in relation to this Deed of Trust shall be litigated exclusively in the jurisdiction where the Land is located (the "Property Jurisdiction"). The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to the Loan Documents. Trustor irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation, and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. If any provision of this Deed of Trust is held unenforceable or void, that provision shall be deemed severable from the remaining provisions, and shall in no way affect the validity of this Deed of Trust. The captions used in this Deed of Trust are for convenience only and are not intended to affect the interpretation or construction of the provisions herein contained. In this Deed of Trust, whenever the context so requires, the singular number includes the plural.

10.7 Waiver, Modification and Amendment. Any waiver by Beneficiary of any obligation of Trustor hereunder must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from any delay or failure by Beneficiary or Trustee to take action on account of any default of Trustor. Consent by Beneficiary or Trustee to any act or omission by Trustor shall not be construed as a consent to any other or subsequent act or omission or to waive the requirement for Beneficiary's or Trustee's consent to be obtained in any future or other instance. No amendment to or modification of this Deed of Trust shall be effective unless and until such amendment or modification is in writing, executed by Trustor and

Beneficiary. Without limiting the generality of the foregoing, Beneficiary's acceptance of payment of any sum secured hereby after its due date shall not constitute a waiver by Beneficiary of its right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

10.8 Action by Beneficiary. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, or consent by the Beneficiary is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by Beneficiary's City Manager or by any person who shall have been designated by Beneficiary's City Manager without further approval by the governing board of Beneficiary.

10.9 Joint and Several Liability. If Trustor consists of more than one person or entity, each shall be jointly and severally liable for the faithful performance of all of Trustor's obligations under this Deed of Trust.

10.10 Time is of the Essence. Time is of the essence for each provision of this Deed of Trust.

10.11 Partial Subordination to Extended Use Agreement. Beneficiary acknowledges that Trustor and the California Tax Credit Allocation Committee ("CTCAC") intend to enter into an extended use agreement, which constitutes the extended low-income housing commitment described in Section 42(h)(6)(B) of the Internal Revenue Code (IRC), as amended. As of the date hereof, IRC Section 42(h)(6)(E)(ii) does not permit the eviction or termination of tenancy (other than for good cause) of an existing tenant of any low-income unit or any increase in the gross rent with respect to such unit not otherwise permitted under Section 42 for a period of three (3) years after the date the building is acquired by foreclosure or instrument in lieu of foreclosure. In the event the regulatory agreement required by CTCAC is recorded against the Property, Beneficiary agrees to comply with the provisions set forth in IRC Section 42(h)(6)(E)(ii).

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the date first written above.

TRUSTOR:

TIENDA DRIVE SENIOR APARTMENTS, L.P.,
a California limited partnership

By: Tienda Drive Senior Apartments LLC, General Partner

By: Eden Investments, Inc., sole member/manager

By: _____
Linda Mandolini, President

SIGNATURE MUST BE NOTARIZED.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS

COUNTY OF ALAMEDA)

On _____ before me, _____ , Notary Public,

_____

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(is), 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 _____

This area for official notarial seal.

Exhibit A

Legal Description of Land

Real property in the City of LODI, County of SAN JOAQUIN, State of CALIFORNIA, described as follows:

PARCEL 1 AND PARCEL 2 AS SHOWN ON THE PARCEL MAP FILED FOR RECORD ON MAY 21, 2010 IN BOOK 25 OF PARCEL MAPS, AT PAGE 79, SAN JOAQUIN COUNTY RECORDS.

APN: 027-410-24 and 027-410-25

EXHIBIT "B"

INVESTOR LIMITED PARTNER REQUIRED PROVISIONS

This Exhibit B is attached to and made a part of the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust") executed by Tienda Drive Senior Apartments, L.P., a California limited partnership (the "Trustor") for the benefit of the City of Lodi, a California municipal corporation (the "Beneficiary"), which secures a loan in the amount of Four Hundred Ninety-Four Thousand Five Hundred Thirty-Six Dollars ($494,536.00) (the "Loan") made by Beneficiary to Trustor. The Trustor (sometimes referred to in this Exhibit B as the "Partnership"), through its limited partner, is providing equity for the development of the Project. The agreement of limited partnership governing the Trustor, as it may be amended and/or amended and restated from time to time, is referred to herein as the "Partnership Agreement."

Beneficiary and Trustor agree that the following covenants, terms and conditions shall be part of and shall modify or supplement the "Loan Documents" (defined in Section 2 of the Deed of Trust), and that in the event of any inconsistency or conflict between the covenants, terms and conditions of the Loan Documents and this Exhibit B, the covenants, terms and conditions set forth below shall control and prevail.

Wells Fargo Affordable Housing Community Development Corporation (together with its affiliates, successors and assigns, "Limited Partner"), is being admitted as a limited partner of Trustor and as a condition to becoming a limited partner in the Trustor which benefits Trustor and Beneficiary, Limited Partner requires that the Beneficiary and Trustor grant certain protections to Limited Partner under Loan Documents evidencing or securing the Loan.

Beneficiary and Trustor agree to the following provisions, notwithstanding anything to the contrary set forth in the Loan Documents:

1. For so long as Wells Fargo Affordable Housing Community Development Corporation (together with its affiliates) is the Limited Partner, prior to exercising remedies under the Loan Documents, Beneficiary will give Limited Partner a copy of any written notice it gives to Trustor under the Loan Documents at the following address:

Wells Fargo Affordable Housing Community
Development Corporation, MAC D1053-170
301 South College Street, 17th Floor
Charlotte, NC 28288
Attn: Director of Asset Management

With a copy to:
Joel Hjelmaas, Counsel
Wells Fargo Bank, N.A.
MAC X2401-06T
1 Home Campus, 6th Floor
Des Moines, IA 50328-0001

Or such other address that the Limited Partner shall send to Beneficiary in accordance with Section 12.9 of the Development Agreement (defined in Recital B of the Deed of Trust).

Changes of addresses for Notices and any changes in the Limited Partner or a change to an entity other than Wells Fargo Affordable Housing Community Development Corporation shall be effective without an amendment to this Exhibit B, or if an amendment is required by the Beneficiary, such amendment may be approved by the City Manager or his or her designee, and such amendment need not be recorded to be effective.

2. Limited Partner shall have the same right as Trustor to cure or remedy any default hereunder within the cure period provided to Trustor extended by an additional sixty (60) days; provided however, if the default is of such nature that the Limited Partner reasonably determines that it is necessary to replace the general partner of Trustor in order to cure such default, then the cure period shall be extended until the date sixty (60) days following the removal of the general partner of Trustor, and such cure shall be accepted or rejected on the same basis as if tendered by Trustor.

3. If Limited Partner presents payment or otherwise cures a monetary or non-monetary default within the cure periods set forth in the Loan Documents, Beneficiary will accept such action as curing the respective default under the Loan Documents.

4. For so long as Wells Fargo Affordable Housing Community Development Corporation (together with its affiliates) is the Limited Partner, Beneficiary agrees that the Limited Partner may sell, transfer, assign or otherwise dispose of all or any part of its interest in Trustor to an entity controlled by an affiliate of Wells Fargo Bank, National Association, without Beneficiary's prior written consent, and such transfer, assignment or other disposition will not trigger an Event of Default or any due on sale or acceleration provisions under the Loan Documents.

5. Beneficiary will permit Limited Partner to remove the general partner of Trustor in accordance with Trustor's partnership agreement, provided that Beneficiary gives its prior written approval that the substitute general partner is acceptable to Beneficiary in its reasonable discretion. An affiliate of Wells Fargo Bank, National Association is an acceptable substitute general partner, and does not require Beneficiary's prior written approval. Such transfers will not trigger an Event of Default or any due on sale or acceleration provisions under the Loan Documents.

6. Beneficiary will permit insurance and condemnation proceeds to be used to rebuild the Project provided that sufficient funds are available from other sources to effectively rebuild the Project.

7. Beneficiary has not and will not cross-default or cross-collateralize the Loan with any loan made with respect to another property.

8. Beneficiary will not materially modify the Loan Documents without Limited Partner's prior written consent.

Approved as to form
City Attorney

Escrow No. 54605-1032123-10
North American Title Company

CERTIFICATE OF ACCEPTANCE OF DEED OF TRUST

THIS IS TO CERTIFY that this Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing from TIENDA DRIVE SENIOR APARTMENTS, L.P., a California limited partnership, as Trustor, to CITY OF LODI, a California municipal corporation, as Beneficiary, is hereby accepted pursuant to Resolution No. 2016-xxx, adopted by the City Council of the City of Lodi on March 3, 2016, and the CITY OF LODI, consents to the recordation of this Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing by and through its duly authorized officer.

DATED: _____

CITY OF LODI, a California municipal corporation

By: _____
STEPHEN SCHWAUABER, City Manager

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

CITY OF _____

On _____, _____ before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(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)

North American Title Company
Escrow No. 54605-1032123-10

Recording Requested by &
When Recorded, return to:

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

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE § 27383

APN 027-410-24 & 027-410-25

Space above this line for Recorder's use.

REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS

(Tienda Drive Senior Apartments, 2245 and 2255 Tienda Drive, Lodi, CA)

This Regulatory Agreement and Declaration of Restrictive Covenants (this "**Agreement**") is dated as of March 2, 2016, by and between the City of Lodi, a California municipal corporation ("**City**") and Tienda Drive Senior Apartments, L.P., a California limited partnership ("**Owner**"). City and Owner are hereinafter collectively referred to as the "**Parties**." This Agreement shall be effective as of the date this Agreement is recorded ("**Effective Date**").

RECITALS

A. Owner acquired that certain property located at 2245 and 2255 Tienda Drive in the City of Lodi, California, more particularly described as Exhibit A (the "**Property**") from its sponsor Eden Housing, Inc., a California nonprofit public benefit corporation ("**Eden**"). Eden acquired the Property from the City pursuant to that certain Purchase and Development Agreement between the City and Eden dated as of July 28, 2010. The Purchase and Development Agreement, assumed by Owner and amended by the City and Owner by that assignment and amendment of even date herewith, is referred to the "**Development Agreement**."

B. Owner acquired the Property for the purpose of constructing, owning, and operating seventy-nine (79) units of rental housing affordable to low income senior households designed for the physical and social needs of senior tenants, as well as one manager's unit, all landscaping, parking and related improvements (the "**Development**") in accordance with this Agreement and the Development Agreement.

C. In order to assist with the development and financing of the Development, the City approved a reduction in the local development impact fees for the Development and a $494,536.00 loan (the "**City Loan**") to the Owner funded by a portion of the impact fees paid or to be paid by the Owner. The assistance by the City is based upon the City's General Plan policy to "provide incentives, through the development review, permitting and fee processes, to

redevelop underutilized commercial properties located within the Mixed Use Corridors" that have been identified as incentive zones, especially projects that provide significant public benefit such as the subject Development. The City Loan, together with affordable housing funds obtained from other sources, will be used for the construction and operation of the Development and made the Development more competitive for the other affordable housing funding sources.

D. The Parties have agreed to enter into and record this Agreement in order to assure that the Development provides the significant public benefit of affordable senior housing. The Parties intend the covenants set forth in this Agreement to run with the land and to be binding upon Owner and Owner's successors and assigns for a period of not less than fifty-five (55) years.

NOW THEREFORE, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

1. **DEFINITIONS**. Capitalized terms not otherwise defined herein shall have the meanings set forth in this Section wherever used in this Agreement.

"**Actual Household Size**" means the actual number of persons in the applicable household.

"**Adjusted for Family Size Appropriate to the Unit**" shall be determined consistent with Section 50052.5(h) of the California Health and Safety Code and applicable federal rules, including the rules and regulations applicable to the use of federal low-income housing tax credits.

"**Adjusted Income**" means the total anticipated annual income of all persons in a household, as calculated in accordance with 25 California Code of Regulations Section 6914 or pursuant to a successor State housing program that utilizes a reasonably similar method of calculation of adjusted income. In the event that no such program exists, the City shall provide the Owner with a reasonably similar method of calculation of adjusted income as provided in said Section 6914.

"**Affordable Rent**" means that the gross monthly rent payable by the tenant does not exceed one-twelfth of thirty percent (30%) of the applicable AMI limit, Adjusted for Family Size Appropriate to the Unit, less a reasonable utility allowance.

"**Area Median Income**" or "**AMI**" means the area median income adjusted by actual household size for households in the County of San Joaquin, California, as published from time to time by HCD. If such income determinations are no longer published, or are not updated for a period of at least eighteen (18) months, then the City shall provide the Owner with other income determinations which are reasonably similar with respect to methods of calculation to those previously published by HCD.

"**Eligible Household**" means a senior household for which gross household income upon initial occupancy does not exceed the applicable maximum income level for a Restricted Unit as specified in Section 2.1 and meets Owner's other eligibility requirements set forth in the Management Plan.

"**HCD**" means the California Department of Housing and Community Development.

"**Low Income Household**" shall mean a household with an Adjusted Income that does not exceed sixty percent (60%) of Area Median Income.

"**Low Income Rent**" means the maximum allowed rent for a Low Income Unit pursuant to Section 2.3.1 below.

"**Low Income Units**" mean the Units in the Development to be made available and occupied by Low Income Households pursuant to Section 2.1 of this Agreement.

"**Note**" means the Promissory Note dated as of March 2, 2016, in the original principal amount of $494,536, executed by Owner in favor of the City evidencing the City Loan.

"**Regulations**" means Title 25 of the California Code of Regulations.

"**Rent**" means the total of monthly payments by the tenants of a Unit (other than the manager's Unit) for the following: (1) use and occupancy of the Unit and land and related improvements, including parking; (2) any separately charged fees or service charges assessed by the Owner which are required of all tenants, other than security deposits; (3) the cost of an adequate level of service for utilities paid by the tenant, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not telephone service, cable service or any other utility or service permitted to be excluded from the calculation of Rent pursuant to the terms of 25 California Code of Regulations Section 6918; and (4) any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than the Owner, and paid by the tenant. Owner and City will consider reasonable changes to this definition of Rent if required by other funding sources for the Development prior to the recordation of this Agreement.

"**Restricted Unit**" means a dwelling unit which is reserved for occupancy at an Affordable Rent by a household of not more than a specified household income in accordance with and as set forth in Section 2.1.

"**Units**" means the residential rental units to be constructed by the Owner on the Property.

2. USE AND AFFORDABILITY RESTRICTIONS. Owner hereby covenants and agrees, for itself and its successors and assigns, that the Property shall be used solely for the operation of an affordable residential rental development for senior households in compliance with the requirements set forth herein.

2.1 Affordability Requirements.

For a term of fifty-five (55) years commencing upon the date of issuance of a final certificate of occupancy or equivalent for the Development, forty-nine percent (49%) of the residential units in the Development shall be rented to and occupied by or, if vacant, available for occupancy by Low Income Households (the "**Restricted Units**"). The City and the Owner acknowledge that other financing sources for the Development may impose additional affordability restrictions on the Development.

In the event that recertification of tenant incomes indicates that the number of Restricted Units in the Development actually occupied by Eligible Households falls below the percentage

restricted in this Section 2.1, Owner shall rent the next available dwelling unit(s) in the Development to Eligible Household(s) until the required percentage is achieved.

2.2 Senior Occupancy. The Owner shall operate the Development as a senior housing development and as such shall require all Units in the Development, except for the resident manager's unit, if used as such, to be occupied or held available for occupancy to persons 62 years of age or older in accordance with applicable law. To the extent applicable and consistent with the age restriction of 62 years, the Development shall be operated at all times with: (a) the Unruh Act, including but not limited to California Civil Code Sections 51.2, 51.3 and 51.4 which relate to the requirements for lawful senior housing; (b) the United States Fair Housing Act, as amended, 42 U.S.C. Section 3607(b) and 24 CFR 100.304, which relate to lawful senior housing; (c) the California Fair Employment and Housing Act, Government Code Section 12900 et seq., which relates to lawful senior housing; and (d) any other applicable law or regulation. The Owner shall develop and implement appropriate age verification procedures to ensure compliance with the requirements of this Section. The Owner shall provide the City with a copy of its written verification procedures. The Owner agrees to indemnify, protect, hold harmless and defend (by counsel reasonably selected by the City) the City and its council members, officers and employees, from all suits, actions, claims, causes of action, costs, demands, judgments and liens arising out of the Owner's failure to comply with applicable legal requirements related to housing for seniors. The indemnity provisions of this Subsection shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

2.3 Allowable Rents for Restricted Units.

2.3.1 Low Income Rent. Subject to Section 2.4 below, the Rent charged to tenants of the Low Income Units shall not exceed one-twelfth (1/12th) of thirty percent (30%) of sixty percent (60%) of Area Median Income, adjusted for Assumed Household Size.

2.3.2 In calculating the allowable Rent for the Units, Assumed Household Size shall be the federally-mandated household size assumptions as set forth in federal statutes or regulations for programs also providing financial assistance to the Development ("**Assumed Household Size**").

2.3.3 The Rent may only be increased one time per year (unless otherwise approved in writing by the City) and the Rent level following an increase, or upon a new occupancy, shall not exceed the Rent level set forth in Subsection 2.3.1, as applicable. Households occupying Units shall be given at least thirty (30) days written notice prior to any increase in the Rent.

2.4 Increase Income of Tenant Household.

2.4.1 Increase Above Initial Qualifying Income. If upon recertification of tenant incomes, Owner determines that the household income of a tenant has increased and exceeds the income level for a Low Income Household or other applicable the applicable income category in which the tenant initially qualified under a regulatory agreement required by other Development financing, then upon expiration of the tenant's lease: (i) such tenant's unit shall continue to be considered as a unit in the initial applicable income category, (ii) upon ninety (90) days' written notice to the tenant, such tenant's rent may be increased to an Affordable Rent for

the income category for which the tenant qualifies, and (iii) Owner shall rent the next available residential unit at an Affordable Rent to a Low Income Household.

2.4.2 Non-Qualifying Household. If, upon recertification of tenant incomes, Owner determines that a tenant's household income has increased to exceed 80% of the Area Median Income, such tenant shall be permitted to continue to occupy the unit and upon expiration of the tenant's lease: (i) upon 90 days' written notice, such tenant's rent may be increased to the lesser of one-twelfth of thirty percent (30%) of the household's actual income or the fair market rent, (ii) the unit shall continue to be classified as satisfying the income category for which the tenant originally qualified, and (iii) when the tenant vacates the unit, the unit shall be rented at an Affordable Rent to an Eligible Household in order to achieve the affordability requirements of this Agreement.

In the event of inconsistency between the provisions of Sections 2.4.1 or 2.4.2 and the requirements applicable to the Development in connection with low-income housing tax credits or other financing or rent subsidies provided to the Development by a federal, State or other public agency, the requirements applicable pursuant to such tax credit and other financing or subsidy source shall prevail.

2.5 Lease Provisions. The Owner shall include in leases or rental agreements for all of the Restricted Units provisions which authorize the Owner to immediately terminate the tenancy of any household if one or more of its members misrepresents any fact material to that household's qualification to occupy any Restricted Unit. Each lease or rental agreement of an Restricted Unit shall also provide that the household is subject to annual certification in accordance with Section 3.1 below, and that, if the household's income increases above the applicable limits for household income which initially qualified that household for the Restricted Unit, such household's Rent will be subject to an increase.

2.6 Manager's Unit. One (1) dwelling unit in the Development may be used as resident manager's unit, and shall be exempt from the occupancy and rent restrictions set forth in this Agreement.

2.7 No Condominium Conversion. Owner shall not convert the Development to condominium or cooperative ownership or sell condominium or cooperative rights to the Development or any part thereof during the term of this Agreement.

2.8 Non-Discrimination. All of the Units shall be available for occupancy on a continuous basis to members of the general public, subject to income eligibility and senior housing criteria. The Owner shall not give preference to any particular class or group of persons in renting the Units. There shall be no discrimination against or segregation of a person or of a group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code, nor shall the Owner or any person claiming under or through the Owner establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Property. With respect to familial status, the third sentence of this Section 2.8 shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in the third sentence of this Section 2.8 shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil

Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to the third sentence of this Section 2.8. The Owner shall include a statement in all advertisements, notices, and signs for the availability of the Units for rent to the effect that the Owner is an Equal Housing Opportunity Provider.

Nothing in this Section 2.8 is intended to require the Owner to change the character, design, use, or operation of the Development from, or to require the Owner to obtain licenses or permits other than those required for, a rental housing development.

2.9 Section 8 Certificate Holders. The Owner will accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor. The Owner shall not apply selection criteria to Section 8 certificate or voucher holders that are more burdensome than criteria applied to all other prospective tenants, nor shall the Owner apply or permit the application of management policies or lease provisions with respect to the Development which have the effect of precluding occupancy of units by such prospective tenants.

3. REPORTING REQUIREMENTS.

3.1 Tenant Certification. Owner or Owner's authorized agent shall obtain from each household prior to initial occupancy of each Restricted Unit, and on every anniversary thereafter, a written certificate containing all of the following in such format and with such supporting documentation as City may reasonably require:

(a) The identity of each household member; and

(b) The total gross household income; and

(c) The number and type of calculated preference points, if applicable.

Owner shall retain such certificates for not less than five (5) years, and upon City's request, shall provide copies of such certificates to City and make the originals available for City inspection.

3.2 Annual Report; Inspections. By not later than April 30 of each year during the term of this Agreement, Owner shall submit an annual report ("**Annual Report**") to the City in form satisfactory to City, together with a certification that the Development is in compliance with the requirements of this Agreement. The Annual Report shall, at a minimum, include the following information for each dwelling unit in the Development as of the date of the Annual Report: (i) unit number; (ii) number of bedrooms; (iii) current rent and other charges, specifying the amount chargeable to the Tenant; and (iv) dates of any vacancies during the previous year; (v) number of people residing in the unit ; (vi) total gross household income of tenants; (vii) documentation of source of household income; and (viii) the information required by Section 3.1. The Annual Report shall include a site improvement and maintenance plan and shall include a report on the current waitlist, including number of households, unit size desired, typical wait period, and the number and percentage of Veteran households on the waitlist. Owner shall include with the Annual Report, an income recertification for each household, documentation verifying tenant eligibility, and such additional information as City may reasonably request from

time to time in order to demonstrate compliance with this Agreement. The Annual Report shall conform to the format requested by City; provided however, during such time that the Development is subject to a regulatory agreement restricting occupancy and/or rents pursuant to requirements imposed in connection with the use of state or federal low-income housing tax credits, Owner may satisfy the requirements of this Section by providing City with a copy of compliance reports required in connection with such financing.

Owner shall permit representatives of City to enter and inspect the Property, the Development, and records, during reasonable business hours in order to monitor compliance with this Agreement upon forty-eight (48) hours advance notice of such visit to Owner or to Owner's management agent.

3.3 Annual Budget. The Owner shall provide the City for its review and approval, not later than December 1 of each year, the annual budget for the upcoming calendar year, which shall be in a form acceptable to the City. Unless the proposed annual budget is disapproved in writing by the City within thirty (30) days, which disapproval shall state with reasonable specificity the basis for disapproval, it shall be deemed approved.

4. TERM OF AGREEMENT.

4.1 Term of Restrictions. This Agreement shall remain in effect through the 55th anniversary of the issuance of the final certificate of occupancy or equivalent for the Development, unless the term is extended by mutual agreement of the Parties.

4.2 Effectiveness Succeeds Conveyance of Property and Repayment of Loan. This Agreement shall remain effective and fully binding for the full term hereof, as such may be extended pursuant to Section 4.1, regardless of (i) any sale, assignment, transfer, or conveyance of the Property or the Development or any part thereof or interest therein, (ii) any payment, prepayment or extinguishment of the City Loan or Note, or (iii) any reconveyance of the Deed of Trust securing the Note.

4.3 Reconveyance. Upon the termination of this Agreement, the Parties agree to execute and record appropriate instruments to release and discharge this Agreement; provided, however, the execution and recordation of such instruments shall not be necessary or a prerequisite to the termination of this Agreement upon the expiration of the term as such may be extended pursuant to Section 4.1.

5. BINDING UPON SUCCESSORS; COVENANTS TO RUN WITH THE LAND. Owner hereby subjects its interest in the Property and the Development to the covenants and restrictions set forth in this Agreement. The City and Owner hereby declare their express intent that the covenants and restrictions set forth herein shall be deemed covenants running with the land and shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest, transferees, and assigns of Owner and City, regardless of any sale, assignment, conveyance or transfer of the Property, the Development or any part thereof or interest therein. Any successor-in-interest to Owner, including without limitation any purchaser, transferee or lessee of the Property or the Development (other than the tenants of the individual dwelling units within the Development) shall be subject to all of the duties and obligations imposed hereby for the full term of this Agreement. Each and every contract, deed, or other instrument affecting or conveying the Property or the Development or any part thereof, shall

conclusively be held to have been executed, delivered and accepted subject to the covenants, restrictions, duties and obligations set forth herein, regardless of whether such covenants, restrictions, duties and obligations are set forth in such contract, deed, or other instrument.

6. PROPERTY MANAGEMENT; REPAIR AND MAINTENANCE; MARKETING.

6.1 Management Responsibilities. Owner shall be responsible for all management functions with respect to the Property and the Development, including without limitation the selection of tenants, certification and recertification of household income and eligibility, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. City shall have no responsibility for management or maintenance of the Property or the Development.

6.2 Management Entity. City shall have the right to review and approve the qualifications of the management entity proposed by Owner for the Development. The contracting of management services to a management entity shall not relieve Owner of its primary responsibility for proper performance of management duties. City hereby approves Eden Housing Management, Inc. as the initial management entity for the Development.

6.3 Repair, Maintenance and Security. Throughout the term of this Agreement, Owner shall at its own expense, maintain the Property and the Development in good physical condition, in good repair, and in decent, safe, sanitary, habitable and tenantable living conditions in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations. Without limiting the foregoing, Owner agrees to maintain the Development and the Property (including without limitation, the residential units, common areas, meeting rooms, landscaping, driveways, parking areas and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property or at the Development. Owner shall prevent and/or rectify any physical deterioration of the Property and the Development and shall make all repairs, renewals and replacements necessary to keep the Property and the improvements located thereon in good condition and repair.

6.3.1 City's Right to Perform Maintenance. In the event that Owner breaches any of the covenants contained in Section 6.3, and such default continues for a period of fourteen (14) days after written notice from City (with respect to graffiti, debris, and waste material) or thirty (30) days after written notice from City (with respect to landscaping, building improvements and general maintenance), then City, in addition to any other remedy it may have under this Agreement or at law or in equity, shall have the right, but not the obligation, to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and the landscaped areas on the Property. All costs expended by City in connection with the foregoing, shall be paid by Owner to City upon demand.

6.4 Management Plan and Marketing Plan. Prior to the start of construction of the Development, Owner shall submit for City review and approval, a plan for managing the Property and a plan for marketing the Project (the "**Management and Marketing Plans**"). Upon request by the City, the Management and Marketing Plans shall be updated but not more frequently than two (2) years from the initial plans and every five (5) years thereafter. Updates and revisions to the Management and Marketing Plans may be subject to prior approval of Owner's investor limited partner or other project lenders before being implemented.

The Management and Marketing Plans shall describe the management team and shall address how the Owner and the management entity plan to manage and maintain the Property and the Development. The Management and Marketing Plan shall include the proposed management agreement and the form of rental agreement that Owner proposes to enter into with Development tenants. The Management and Marketing Plan shall address how Owner plans to market the Restricted Units to prospective Eligible Households, Owner's tenant selection criteria, and how Owner plans to certify the eligibility of Eligible Households. Owner shall abide by the terms of the Management and Marketing Plan in marketing, managing, and maintaining the Property and the Development, and throughout the term of this Agreement, shall submit proposed modifications to City for review and approval.

6.5 Approval of Amendments. If City has not responded to any submission of the Management and Marketing Plans, the proposed management entity, or a proposed amendment or change to any of the foregoing within thirty (30) days following City's receipt of such plan, proposal or amendment, the plan, proposal or amendment shall be deemed approved by City.

6.6 Fees, Taxes, and Other Levies. Owner shall be responsible for payment of all fees, assessments, taxes, charges, liens and levies applicable to the Property or the Development, including without limitation possessory interest taxes, if applicable, imposed by any public entity, and shall pay such charges prior to delinquency. However, Owner shall not be required to pay any such charge so long as (a) Owner is contesting such charge in good faith and by appropriate proceedings, (b) Owner maintains reserves adequate to pay any contested liabilities, and (c) on final determination of the proceeding or contest, Owner immediately pays or discharges any decision or judgment rendered against it, together with all costs, charges and interest. The Parties acknowledge that the Owner will apply for exemption from property tax under Revenue and Taxation Code Section 214.

6.7 Insurance Coverage. Throughout the term of this Agreement Owner shall at Owner's expense, maintain in full force and effect insurance coverage as specified in the Deed of Trust or Development Agreement and shall comply with all insurance requirements set forth in the Deed of Trust.

6.8 Property Damage or Destruction. If any part of the Development is damaged or destroyed, Owner shall repair or restore the same, consistent with the occupancy and rent restriction requirements set forth in this Agreement. Such work shall be commenced as soon as reasonably practicable after the damage or loss occurs and shall be completed within one year thereafter or as soon as reasonably practicable, provided that insurance proceeds are available to be applied to such repairs or restoration within such period and the repair or restoration is financially feasible. During such time that Development lenders or Owner's investor limited partner impose requirements that differ from the requirements of this Section the requirements of such lenders and investor limited partner shall prevail.

7. RECORDATION; SUBORDINATION. This Agreement shall be recorded in the Official Records of San Joaquin County. This Agreement shall be subordinated in priority only to the liens and encumbrances approved by the City pursuant to the Development Agreement or otherwise approved in writing by the City which shall not be unreasonably withheld.

8. TRANSFER.

8.1 Restrictions on Transfer. During the term of this Agreement, except as permitted pursuant to the Development Agreement or this Agreement, Owner shall not directly or indirectly, voluntarily, involuntarily or by operation of law make or attempt any total or partial sale, transfer, conveyance, assignment or lease (collectively, "**Transfer**") of the whole or any part of the Property, the Development, or the improvements located on the Property, without the prior written consent of the City, which approval shall not be unreasonably withheld. In addition, prior to the expiration of the term of this Agreement, except as expressly permitted by this Agreement or the Development Agreement, Owner shall not undergo any significant change of ownership without the prior written approval of City. For purposes of this Agreement, a "significant change of ownership" shall mean a transfer of the beneficial interest of more than twenty-five percent (25%) in aggregate of the present ownership and/or control of Owner, taking all transfers into account on a cumulative basis; provided however, neither the admission of an investor limited partner, nor the transfer by the investor limited partner to subsequent limited partners shall be restricted by this provision.

8.2 Permitted Transfers. Notwithstanding any contrary provision, the prohibitions on Transfer set forth herein shall not be deemed to prevent: (i) the granting of easements or permits to facilitate development of the Property; (ii) the dedication of any property required pursuant to the Development Agreement; (iii) the lease of individual dwelling units to tenants for occupancy as their principal residence in accordance with this Agreement or the lease of commercial space to commercial tenants, if applicable; (iv) assignments creating security interests for the purpose of financing the acquisition, construction, or permanent financing of the Development or the Property in accordance with the Development Agreement, or Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest; or (v) the Permitted Transfers or Pre-approved Transfers set forth in the Development Agreement or Transfers made in accordance with the provisions attached as Exhibit B to the Deed of Trust.

In addition, City shall not withhold its consent to the sale, transfer or other disposition of the Development, in whole or in part, provided that (a) the Development is and shall continue to be operated in compliance with this Agreement; (b) the transferee expressly assumes all obligations of Owner imposed by this Agreement; (c) the transferee executes all documents reasonably requested by the City with respect to the assumption of the Owner's obligations under this Agreement, and upon City's request, delivers to the City an opinion of its counsel to the effect that such document and this Agreement are valid, binding and enforceable obligations of such transferee; and (d) either (A) the transferee has at least three (3) years' experience in the ownership, operation and management of low-income multifamily rental housing projects of similar size to that of the Development, without any record of material violations of nondiscrimination provisions or other state or federal laws or regulations applicable to such projects, or (B) the transferee agrees to retain a property management firm with the experience and record described in subclause (A).

9. DEFAULT AND REMEDIES.

9.1 Events of Default. The occurrence of any one or more of the following events shall constitute an event of default hereunder ("**Event of Default**"):

(a) The occurrence of a Transfer in violation of Section 8 hereof;

(b) Owner's failure to maintain insurance on the Property and the Development as required hereunder, and the failure of Owner to cure such default within ten (10) days of notice of the default to Owner;

(c) Subject to Owner's right to contest the following charges, Owner's failure to pay taxes or assessments due on the Property or the Development or failure to pay any other charge that may result in a lien on the Property or the Development, and Owner's failure to cure such default within thirty (30) days of delinquency;

(d) A default has been declared under any loan secured by a mortgage, deed of trust or other security instrument recorded against the Property and remains uncured beyond any applicable cure period such that the holder of such security instrument has the right to accelerate repayment of such loan;

(e) A default arises under the Development Agreement, the Note, or the Deed of Trust and remains uncured beyond the expiration of any applicable cure period;

(f) Owner's default in the performance of any term, provision or covenant under this Agreement, and unless such provision specifies a shorter cure period for such default, the continuation of such default for thirty (30) days in the event of a monetary default or sixty (60) days in the event of a non-monetary default following the date upon which City shall have given written notice of the default to Owner, or if the nature of any such non-monetary default is such that it cannot be cured within sixty (60) days, Owner's failure to commence to cure the default within sixty (60) days and thereafter prosecute the curing of such default with due diligence and in good faith, but in no event longer than 120 days from receipt of the notice of default or such longer period of time as City may allow.

The limited partner of Owner shall have the right to cure any default of Owner hereunder upon the same terms and conditions afforded to Owner. City shall provide any notice of default hereunder to the limited partner in accordance with the terms of Exhibit B of the Deed of Trust concurrently with the provision of such notice to Owner, and as to the limited partner, the cure periods specified herein shall commence upon the date of delivery of such notice in accordance with Subsection 11.3.

9.2 Remedies. Upon the occurrence of an Event of Default and its continuation beyond any applicable cure period, City may proceed with any of the following remedies:

A. Bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief;

B. Accelerate and declare the balance of the Note and interest accrued thereon immediately due and payable and proceed with foreclosure under the Deed of Trust;

C. Pursue any other remedy allowed at law or in equity.

Each of the remedies provided herein is cumulative and not exclusive. The City may exercise from time to time any rights and remedies available to it under applicable law or in equity, in addition to, and not in lieu of, any rights and remedies expressly provided in this Agreement.

10. INDEMNITY. Notwithstanding any other provision in the Development Agreement or other documents executed in connection with the City Loan, Owner shall indemnify, defend (with counsel approved by City) and hold City and their respective elected and appointed officers, officials, employees, agents, and representatives (collectively, the "**Indemnitees**") harmless from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively "**Claims**") arising directly or indirectly, in whole or in part, as a result of or in connection with Owner's construction, management, or operation of the Property and the Development or any failure to perform any obligation as and when required by this Agreement. Owner's indemnification obligations under this Section 10 shall not extend to Claims resulting solely from the gross negligence or willful misconduct of any Indemnitee. The provisions of this Section 10 shall survive the expiration or earlier termination of this Agreement.

11. MISCELLANEOUS.

11.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both Parties.

11.2 No Waiver. Any waiver by City of any term or provision of this Agreement must be in writing. No waiver shall be implied from any delay or failure by City to take action on any breach or default hereunder or to pursue any remedy allowed under this Agreement or applicable law. No failure or delay by City at any time to require strict performance by Owner of any provision of this Agreement or to exercise any election contained herein or any right, power or remedy hereunder shall be construed as a waiver of any other provision or any succeeding breach of the same or any other provision hereof or a relinquishment for the future of such election.

11.3 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:

(i) personal delivery, in which case notice is effective upon delivery;

(ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt;

(iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service;

(iv) facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a nonbusiness day.

City: City of Lodi
221 West Pine Street
P.O. Box 3006
Lodi, CA 95241-1910
Attention: City Manager
Facsimile: (209) 333-0422

Owner: Tienda Drive Senior Apartments, L.P.
c/o Eden Investments, Inc.
22645 Grand Street
Hayward, CA 94541-5031
Attention: President
Facsimile: (510) 582-6523

With a copy to Owner's investor limited partner as provided in Exhibit B to the Deed of Trust.

11.4 Further Assurances. The Parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.

11.5 Parties Not Co-Venturers. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another.

11.6 Action by the City. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent or request by the City is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the City's City Manager or by any person who shall have been designated by the City Manager, without further approval by the City Council.

11.7 Non-Liability of City Officials, Officers, Directors, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to Owner or any successor in interest, in the event of any default or breach by the City, or for any amount of money which may become due to Owner or its successor or for any obligation of City under this Agreement. No director, officer, employee or agent of the Owner shall be personally liable to the City or any successor in interest, in the event of any default or breach by the Owner, or for any amount of money which may become due to the City or its successor or for any obligation of the Owner under this Agreement.

11.8 Headings; Construction. The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party.

11.9 Time is of the Essence. Time is of the essence in the performance of this Agreement.

11.10 Governing Law. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law.

11.11 Attorneys' Fees and Costs. If any legal or administrative action is brought to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

11.12 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.

11.13 Entire Agreement. This Agreement, together with the Development Agreement, the Note, the Deed of Trust, the three (3) subordination agreements dated as of March 2, 2016 executed by the City, Owner and Owner's lenders recorded concurrently herewith, and the unrecorded Estoppel Certificate dated as of the Effective Date executed by the City for the benefit Owner's investor limited partner identified in Exhibit B to the Deed of Trust contains the entire agreement of Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements between the Parties with respect thereto.

11.14 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

IN WITNESS WHEREOF, the Parties have executed this Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants as of the date first written above.

DEVELOPER

TIENDA DRIVE SENIOR APARTMENTS, L.P.,
a California limited partnership
By: Tienda Drive Senior Apartments LLC, General Partner
By: Eden Investments, Inc., sole member/manager

By: _____
Linda Mandolini, President

CITY

City of Lodi, a California municipal corporation

By: _____
Stephen Schwabauer, City Manager

Attest:_____
Jennifer M. Ferraiolo, City Clerk

Approved as to form:

_____
Janice D. Magdich, City Attorney

SIGNATURES MUST BE NOTARIZED.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS

COUNTY OF _____)

On _____ before me, _____ , Notary Public,

_____

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 _____

This area for official notarial seal.

Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS

COUNTY OF _____)

On _____ before me, _____ , Notary Public,

_____

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 _____

This area for official notarial seal.

Acknowledgment

Exhibit A

PROPERTY

Real property in the City of LODI, County of SAN JOAQUIN, State of CALIFORNIA, described as follows:

PARCEL 1 AND PARCEL 2 AS SHOWN ON THE PARCEL MAP FILED FOR RECORD ON MAY 21, 2010 IN BOOK 25 OF PARCEL MAPS, AT PAGE 79, SAN JOAQUIN COUNTY RECORDS.

APN: 027-410-24 and 027-410-25

ASSIGNMENT AND AMENDMENT OF THAT PURCHASE AND DEVELOPMENT AGREEMENT

Tienda Drive Senior Apartments, 2245 and 2255 Tienda Drive, Lodi, CA

This Assignment and Amendment of that Purchase and Development Agreement ("**Assignment and Amendment**") is dated as of March 2, 2016 (the "**Effective Date**"), by and among Tienda Drive Senior Apartments, L.P., a California limited partnership, its successors and assigns ("**Owner**" or "**Buyer**"), Eden Housing, Inc., a California nonprofit public benefit corporation, as Owner's predecessor in interest as described below ("**Eden**"), and the City of Lodi, a California municipal corporation ("**City**").

RECITALS

A. Owner will acquire that certain property located at 2245 and 2255 Tienda Drive in the City of Lodi, California, more particularly described as Exhibit A (the "**Property**") from its sponsor Eden. Eden purchased the Property on July 30, 2010 from the City pursuant to that certain Purchase and Development Agreement between the City and Eden dated as of July 28, 2010 (the "**Original Purchase and Development Agreement**"), a memorandum of which was recorded July 30, 2010 as Document No 2010-098833 of San Joaquin County Records (the "**Memorandum of Purchase of Development Agreement**"). The City and Eden entered into the Original Purchase and Development Agreement to govern (i) the purchase of the Property by Eden from the City and (ii) the development on the Property of two projects consisting of a total of 78 rental housing units affordable to very low and lower income senior households, two manager's units, and related improvements (the "**Senior Project**") by Eden or its approved successors and assigns.

B. The purpose of this Assignment and Amendment is first to assign all Eden's rights and obligations under the Original Purchase and Development Agreement to Owner and Owner's assumption of the assigned rights and obligations from Eden, which is required for the committed construction and permanent financing for the Senior Project, and second to amend the Original Purchase and Development Agreement to amend and/or amend and restate certain terms and conditions in the original document related to the development and financing of the Senior Project which will now be constructed, owned and operated as one project consisting of seventy-nine (79) units of rental housing affordable to low income senior households designed for the physical and social needs of senior tenants, as well as one manager's unit and related improvements (the "**Development**").

C. The Original Purchase and Development Agreement, as assigned to and assumed by Owner and as amended herein by the City and Owner shall hereafter be referred to as the "**Development Agreement**."

NOW THEREFORE, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

SECTION ONE: COMPLETED PROVISIONS; ASSIGNMENT, ASSUMPTION AND CITY CONSENT; DEFINED TERMS

1.1 Satisfaction of Provisions. Eden, the Buyer, and City agree that the following provisions of the Original Purchase and Development Agreement have either been fully satisfied and completed or are no longer applicable to the Development, and are of no further force or effect

from and after the Effective Date and that no further action by any party shall be required and no default thereunder shall be claimed by any party: Sections 2.1, 3.1 - 3.7, 3.9, 5.1, 5.2, 5.6, 8.3.1 – 8.3.9, 8.11, 11.1.1, 12.23, and 12.24, Article 4, all provisions referring to HUD or Tax-exempt bond financing, HUD 202 financing, including Exhibit I, and any other financing sources not identified in Exhibit C and Exhibit D, attached hereto and incorporated herein and all provisions referring to CDBG and HOME Program requirements.

1.2 Assignment and Assumption. Eden hereby assigns to Buyer all of Eden's development rights and all of its right, title and interest in and obligations under the Development Agreement, and Buyer hereby accepts the above assignment and assumes, agrees and undertakes to perform all of the obligations set forth in the Development Agreement.

1.3 City Consent. The City hereby consents to the assignment by Eden and the assumption by the Buyer of the Development Agreement.

1.4 Final Plans. The City will have received and approved the Final Plans for the Development prior to the issuance of the building permits or the "permit ready letter."

SECTION TWO: DEFINED TERMS AND UPDATED EXHIBITS

2.1 Defined Terms. All terms not otherwise defined above or elsewhere herein, shall have the meanings set forth in the Original Purchase and Development Agreement.

2.1.1 "Buyer" or "Owner" now means Tienda Drive Senior Apartments, L.P., a California limited partnership, its successors and assigns.
2.1.2 "Certificate of occupancy" shall mean the second or later of the two certificates of occupancy issued to Borrower by the City approving the two buildings in the Development for occupancy.
2.1.3 "Development" now has the meaning set forth in Recital B.
2.1.4 "Effective Date" now means the date first set forth above in this Assumption and Amendment.
2.1.5 "Parties" or "parties" now means Owner, Eden and the City.
2.1.6 "Property" now means the real property described in Exhibit A, which is the same property previously described in Exhibits A-1 and A-2. The Parties acknowledge that the reference to "Pages 79 and 80" in Exhibits A-1 and A-2 was a scrivener's error and should have been "Page 79." The Parties hereby agree that all references to "Pages 79 and 80" in any Loan Document is to be read as "Page 79."
2.1.7 "Note" now means the Promissory Note for the City Loan, a draft of which is attached hereto and incorporated herein as Exhibit L.

2.2 Exhibits: Exhibits A, C, D, E, F, G and H attached hereto and incorporated herein, shall replace in their entirety Exhibits A, C, D, E, F, G and H attached to the Original Purchase and Development Agreement, respectively. Exhibit L and M attached hereto and incorporated herein is hereby added to the Development Agreement. Exhibits B, I and J of the Original Purchase and Development Agreement are hereby omitted from the Development Agreement:

Exhibit A: Legal Description
Exhibit C: Approved Development Budget.
Exhibit D: Financing Plan
Exhibit E: Schedule of Performance
Exhibit F: Scope of Development

Exhibit G: Site Plan
Exhibit H: Insurance Requirements
Exhibit K: Memorandum of Development Agreement
Exhibit L: Form of Promissory Note for City Loan
Exhibit M: Investor Limited Partner Required Provisions

3. SECTION THREE: CITY LOAN

In order to assist with the financing of the Development, the City has approved a construction and permanent loan in the principal amount of Four Hundred Ninety-Four Thousand Five Hundred Thirty-Six Dollars ($494,536.00) (the "**City Loan**") to Buyer funded from a portion of the local development impact fees paid by Buyer on or prior to the closing of the City Loan.

3.1 City Loan Terms. Subject to satisfaction of the conditions set forth in Section 3.3 below and for the purposes set forth in Section 3.2 below, the City shall make the City Loan which shall be a nonrecourse loan, bearing zero percent (0%) interest, payable only from residual receipts, and maturing on the 55th anniversary of the date the final certificate of occupancy is issued for the Development, on such additional terms as may be more fully set forth in this Assignment and Amendment and/or the Promissory Note in substantially the form attached hereto as Exhibit L.

3.2 Use of Funds. Buyer shall use the City Loan proceeds for predevelopment and construction costs, which may include but not be limited to: surveyor, consultant and legal fees; and costs related to the closing of the Loan (such as title, escrow and other closing costs and fees).

3.3 Conditions for Disbursement. The City shall disburse the Loan proceeds to Buyer when all the following conditions to disbursement have been satisfied:

3.3.1 Executed City Loan Documents. The Buyer has delivered to the City an executed original of this Assignment and Amendment and the Promissory Note, and certified copies of the recorded documents listed in subsection 3.3.2 below.

3.3.2 Recorded Documents. The recording of the Deed of Trust securing the City Loan, a Memorandum of Development Agreement in the form attached as Exhibit K, and the Regulatory Agreement and Declaration of Restrictive Covenants restricting the use of the Property in accordance with Section 7.2 of the Development Agreement.

3.3.3 Title Policy. The issuance by a title company satisfactory to the City of an ALTA loan policy of title insurance ("City Title Policy") in the amount of the City Loan, insuring the City that the lien of the City Deed of Trust is subject only to such liens, conditions, encumbrances, restrictions, easements and exceptions as the City may approve in writing and containing such endorsements as the City may reasonably require, with the cost of the City Title Policy to be paid by the Buyer.

3.3.4 Formation Documents. The Buyer has delivered to the City a copy of each of the following: (i) the amended and restated limited partnership agreement with the investor limited partner of the Buyer; (ii) certificate of limited partnership; and (iii) formation documents of the general partner and the member of the general partner; and (iv) authorizing resolutions reasonably requested by the City.

3.3.5 Insurance Coverage. The Buyer has delivered to the City evidence of insurance coverage in accordance with the City's current insurance requirements set forth in Exhibit H.

3.3.6 Construction Contract and Bonds. The Buyer has delivered to the City copies of the following Development documents: Final plans and specifications for the Development; the general contractor's construction contract that the Buyer has entered into for construction of the

Development; and one hundred percent (100%) labor and material (payment) bonds and performance bonds.

3.3.7 Updated Approved Development Budget. The Buyer has delivered to City an updated Approved Development Budget (Exhibit C) showing that the undisbursed proceeds of the Loan, together with other funds or firm commitments for funds that the Buyer has obtained in connection with the Development, are not less than the amount necessary to pay for the construction of the Development.

3.3.8 Land Use Approvals and Building Permit. The Buyer has secured all land use approvals for the Development and the building permits for the Development have been issued or are ready to issue.

3.3.9 Construction Loans/Limited Partner Investment. The Buyer's other construction loans and limited partnership investment shall be substantially ready to close, meaning substantially all documents are submitted to escrow or executed by Buyer.

3.3.10 Draw Request. The City has received a written draw request from the Buyer setting forth the proposed uses of funds consistent with the Approved Development Budget, the amount of funds needed, and, where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred. When a disbursement is requested to pay the general contractor in connection with improvements on the Property, the written request shall be accompanied by (i) certification by the Buyer's architect reasonably acceptable to the City that the work for which disbursement is requested has been completed; (ii) a copy of the inspection report prepared by the construction lender's inspector, and (iii) lien releases and/or mechanics lien title insurance endorsements reasonably acceptable to the City. The Buyer shall deliver to Buyer's other construction lenders copies of all disbursement requests following approval and execution by the City.

The City acknowledges that Buyer's senior construction lender shall require the Loan fully disbursed prior to the senior construction lender's disbursement of the senior construction loan. Buyer and the City anticipate the City Loan to be disbursed in one disbursement through escrow for the construction loan closing.

3.4 No Obligation to Disburse Proceeds Upon Default. Notwithstanding any other provision herein, the City shall have no obligation to disburse or authorize the disbursement of any portion of the City Loan proceeds following the failure of any of the Buyer's representations and warranties made in connection with the City Loan to be true and correct in all material respects when made or the occurrence of an Event of Default under the Development Agreement or any of the City Loan Documents, which remains uncured beyond any applicable cure period.

SECTION FOUR: OTHER PROVISIONS

4.1 Further Amendments. The parties agree that the following sections in the Original Purchase and Development Agreement (the "**Development Agreement**") are hereby modified, deleted, restated and/or replaced as provided below:

2.1 Representations and Warranties. As of the Effective Date, Buyer hereby represents and warrants to Seller as follows:

2.2.1 Organization. Buyer is a duly organized, validly existing limited partnership, is in good standing under the laws of the State of California, and has the power and authority to own its property and carry on its business as now being conducted.

2.1.2 Authority of the Buyer. Buyer has full power and authority to execute and deliver this Development Agreement and the necessary documents or instruments, pursuant to this Development Agreement and to perform and observe the terms and provisions of all of the above.

2.1.3 Authority of Persons Executing Documents. This Development Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Development Agreement have been or will be executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of Buyer, and all actions required under the Buyer's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Development Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Development Agreement, have been duly taken.

2.1.4 Valid Binding Agreements. This Development Agreement and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of the Buyer enforceable against it in accordance with their respective terms.

2.1.5 No Breach of Law or Agreement. Neither the execution nor delivery of this Development Agreement nor any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Development Agreement, nor the performance of any provision, condition, covenant or other terms hereof or thereof, will conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency binding on Buyer, or any provision of the organization documents of Buyer, or will conflict with or constitute a breach of or a default under any agreement to which Buyer is a party, or will result in the creation or imposition of any lien upon any assets or property of Buyer, other than liens established pursuant hereto.

2.1.6 Compliance With Laws; Consent and Approvals. The construction of the Development will comply with all applicable laws, ordinances, rules and regulations of federal, state and local governments and agencies and with all applicable directions as of time of building permit issuance, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency.

2.1.7 Pending Proceedings. Buyer is unaware of a known default under any law or regulation or under any order of any court, board, commission or agency, and there are no known claims, actions, suits or proceedings pending or, to the knowledge of Buyer, threatened against or affecting Buyer, at law or in equity, before or by any court, board, commission or agency which might, if determined adversely to Buyer, materially affect Buyer's ability to perform its obligations contemplated by this Development Agreement.

2.1.9 Taxes. Buyer and its subsidiaries have filed all federal and other material tax returns and reports required to be filed, and have paid all federal and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their income or their properties otherwise due and payable, except those which are being contested in good faith by appropriate proceeds and for which adequate reserves have been provided in accordance with generally accepted accounting principles. Buyer has no knowledge of a proposed tax assessment against Buyer or any of its subsidiaries

that could, if made, be reasonably expected to have a material adverse effect upon the assets, liabilities (actual or contingent), operations, condition (financial or otherwise) or prospects of Buyer and its subsidiaries, taken as a whole, which would be expected to result in a material impairment of the ability of Buyer to perform under this Agreement.

6.3.9 Certificate of Completion. The following is added at the end of Section 6.3.9: "Upon the execution, delivery and recordation of the Certificate of Completion, Buyer shall have no further obligations under Article 6 of this Agreement."

7.3 Regulatory Agreement. The Regulatory Agreement referenced in Section 7.3 shall hereafter refer to the Regulatory Agreement entered into with the City, and not the County.

8.3 Records. All references to HUD's right to inspect and copy all books, records and accounts are no longer applicable and shall hereafter be disregarded for any and all purposes under the Development Agreement.

8.6.1. Maintenance and Damage. Any lien arising under the terms and conditions of Section 8.6.1 relating to maintenance and damage of the Development shall be subject to and subordinate to mortgages, deeds of trust or other security interests executed for the sole purpose of obtaining funds to develop the Property as authorized herein.

9.1.4.6 Right of Seller to Cure Security Interest Default. All costs and expenses incurred by Seller in curing a default shall be reasonable and any lien arising under the terms and conditions of Section 9.1.4.6 relating to funds expended by the City to cure a default shall be subject and subordinate to mortgages, deeds of trust or other security interest executed for the sole purpose of obtaining funds to develop the Property as authorized herein.

12.9 Notices. Address of Buyer is hereby changed to:

Tienda Drive Senior Apartments, L.P.
c/o Eden Investments, Inc.
22645 Grand Street
Hayward, CA 94541-5031
Attention: President
Facsimile: (510) 582-6523

With a copy to Owner's investor limited partner at the address set forth in Exhibit M.

12.22 Investor Limited Partner Provisions. The provisions required by Borrower's investor limited partner set forth in Exhibit M attached hereto are hereby incorporated by this reference herein and made a part hereof.

12.24 Memorandum of Development Agreement. Concurrently with the closing of the City Loan, the parties shall record the Memorandum of Development Agreement in the form attached hereto as Exhibit K.

12.25 Approval of the City. Any approval rights of the City under the Development Agreement shall not be unreasonably withheld, conditioned or delayed.

IN WITNESS WHEREOF, the Parties have executed this Assignment and Amendment of that Purchase and Development Agreement as of the date first written above.

CITY OF LODI, a California municipal corporation

By: _____
Stephen Schwabauer, City Manager

Attest:

_____
Jennifer M. Ferraiolo, City Clerk

Approved as to form:

_____
Janice D. Magdich, City Attorney

[Signatures continue on the next page; the balance of this page is intentionally left blank.]

TIENDA DRIVE SENIOR APARTMENTS, L.P., a California limited partnership

By: Tienda Drive Senior Apartments LLC, General Partner

By: Eden Investments, Inc., sole member/manager

By: _____
Linda Mandolini, President

EDEN HOUSING, INC., a California nonprofit public benefit corporation

By: _____
Linda Mandolini, President

Exhibit A: LEGAL DESCRIPTION OF PROPERTY

Real property in the City of LODI, County of SAN JOAQUIN, State of CALIFORNIA, described as follows:

PARCEL 1 AND PARCEL 2 AS SHOWN ON THE PARCEL MAP FILED FOR RECORD ON MAY 21, 2010 IN BOOK 25 OF PARCEL MAPS, AT PAGE 79, SAN JOAQUIN COUNTY RECORDS.

APN: 027-410-24 and 027-410-25

Combined Exhibit C: Approved Development Budget
and Exhibit D: Financing Plan
on following page

Exhibit E: Schedule of Performance

Completion of the Predevelopment Activities set forth in Article 5	No later than March 21, 2016
Close of Construction Financing	No later than March 21, 2016.
Commencement of Construction	Within 21 days after the Close of Construction Financing or the earlier of the construction commencement date required by the California Tax Credit Allocation Committee or other Project financing source.
Construction Completion	Within 24 months of commencement of construction.
100% Occupancy	Within 6 months of construction completion.

Exhibit F: Scope of Development
(Project Name and Description)

Tienda Drive Senior Apartments: The new construction of two wood-framed apartment buildings, each building is to two-stories, and elevator-served. The buildings will consist of 80 units targeting low-income seniors aged 62 and over. The unit mix includes 79 one-bedrooms and 1 two-bedroom manager's unit. Eight (8) units will be set aside for formerly homeless individuals diagnosed with a mental illness. The property will also feature a central 1,200 square foot community room with kitchen. Additional common amenities include two laundry rooms, courtyard space, and on-site management and social services.

Exhibit G: Site Plan
on following page

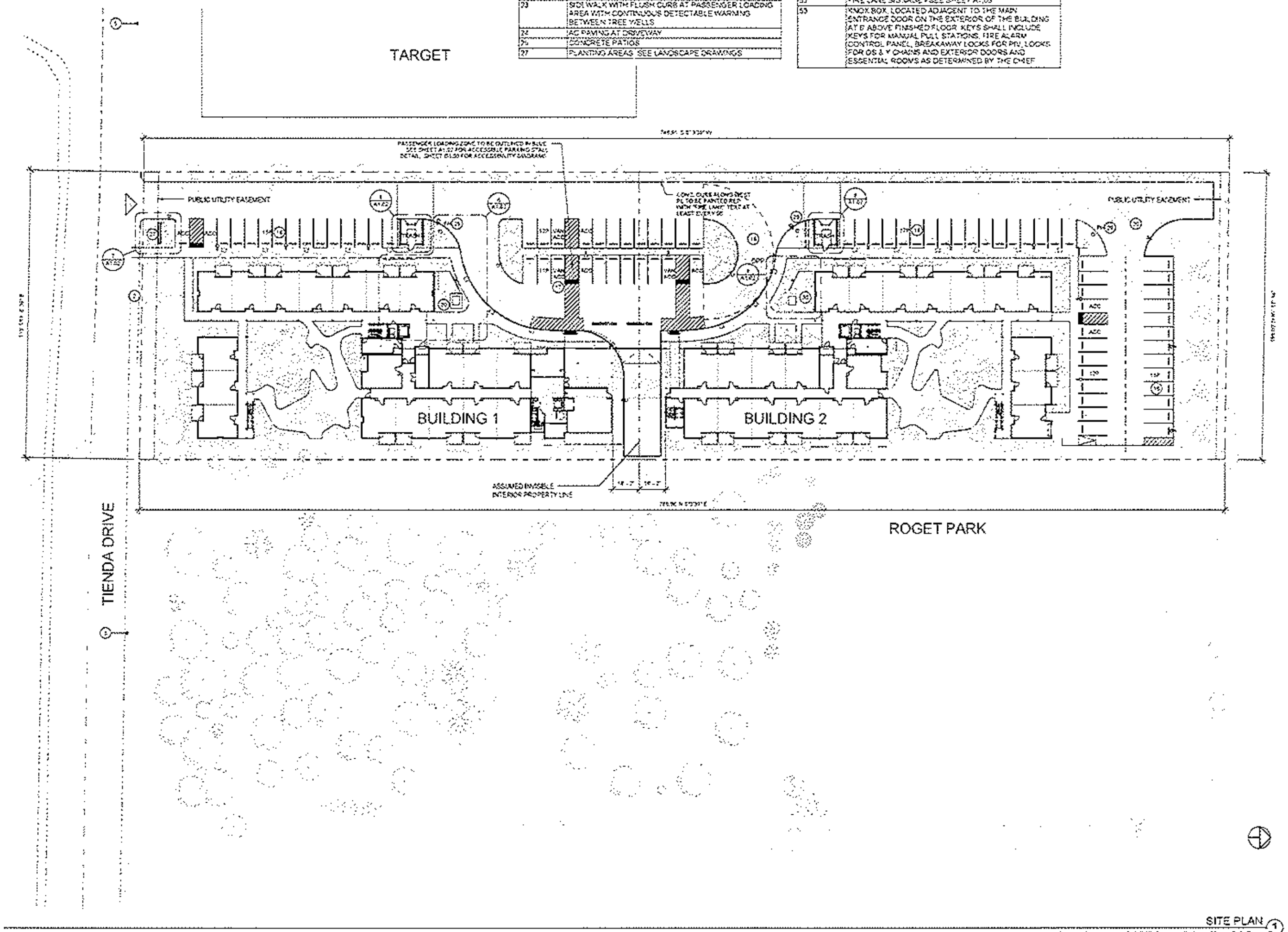
SITE PLAN KEYNOTES

KEYNOTES (STATIC)- SITE PLAN	
KEYNOTE	DESCRIPTION
1	EXISTING CURB CUT AT TIENDA DRIVE
2	EXISTING CONCRETE SIDEWALK, PER PUBLIC WORKS REVIEW COMMENT #16, REVIEW AND REPLACE BROKEN SIDEWALK FRONTING THE SUBJECT PARCELS IN COMPLIANCE WITH STANDARD PLAN 117
3	EXISTING STREETLIGHT AT TIENDA DRIVE
4	EXISTING TRANSFORMER AT BACK OF SIDEWALK
5	EXISTING FIRE HYDRANT AT TIENDA DRIVE
6	EXISTING 7-0" HIGH MASONRY WALL ADJACENT TO TARGET
7	EXISTING WOOD FENCE AT REAR PROPERTY LINE, NO NEW FENCING PROPOSED AT THIS LOCATION
9	TYPICAL ONE BEDROOM SENIOR HOUSING UNIT
10	COVERED OUTDOOR AREA
11	COVERED EXTERIOR CORRIDOR
12	COVERED EXTERIOR EXIT STAIR
16	TYPICAL PARKING STALL, 9'-0" X 20'-0" PER CITY STANDARD
17	ACCESSIBLE PARKING STALLS WITH CODE COMPLIANT SIGNAGE
18	PEDESTRIAN CROSSING PAINTED ON AC PAVING
19	TURN AROUND FOR EMERGENCY VEHICLES PER CITY STANDARD (SHOWN SHADED)
20	'T' TURN AROUND FOR EMERGENCY VEHICLES, PER CITY STANDARD (SHOWN SHADED)
21	PASSENGER LOADING AREA, 8' WIDE
23	SIDEWALK WITH FLUSH CURB AT PASSENGER LOADING AREA WITH CONTINUOUS DETECTABLE WARNING BETWEEN TREE WELLS
24	AC PAVING AT DRIVEWAY
25	CONCRETE PATIOS
27	PLANTING AREAS, SEE LANDSCAPE DRAWINGS

KEYNOTES (STATIC)- SITE PLAN	
KEYNOTE	DESCRIPTION
28	BOLLARD
29	FIRE HYDRANT. INSTALL PER CITY OF LODI STANDARD DETAILS. LAYOUT TO COMPLY WITH 2013 CFC, SECTION 312 AND CITY OF LODI FIRE PREVENTION STANDARD G-02
30	PAD MOUNTED TRANSFORMERS S.E.D. (PROVIDE CONC PAD PER PG&E REQUIREMENTS)
33	BACK FLOW PREVENTER AT WATER SERVICE
34	AC UNITS LOCATED AT GRADE, APPROX. 35" TALL SCREENED BY WOOD FENCING
36	WASTE HANDLING ENCLOSURE, 9' TALL MASONRY WALL WITH CEMENT PLASTER FINISH AND ASPHALT SHINGLE ROOFING TO MATCH BUILDINGS
38	MONUMENT SIGN, BRONZE LETTERS ON 36" HIGH WOOD FENCE, WITH UPLIGHTS
39	FENCE TYPE A, 36" WOOD FENCING AT REAR PATIOS AND EQUIPMENT SCREENS
40	FENCE TYPE B, 36" WOOD FENCING AT PROPERTY LINE, BETWEEN SENIOR HOUSING AND PUBLIC PARK
41	WOOD FENCE 6'-0" TALL, S.L.D.
42	WOOD SCREEN, 4'-6" S.L.D.
43	ADA TACTILE WARNING SURFACE
50	MAIN SWITCHBOARD, S.E.D. (CONC PAD PER PG&E REQUIREMENTS
51	METERING BOARD, S.E.D. (PROVIDE CONC. PAD PER PG&E REQUIREMENTS
52	FIRE LANE SIGNAGE - SEE SHEET A1.03
53	KNOX BOX, LOCATED ADJACENT TO THE MAIN ENTRANCE DOOR ON THE EXTERIOR OF THE BUILDING AT 6' ABOVE FINISHED FLOOR. KEYS SHALL INCLUDE KEYS FOR MANUAL PULL STATIONS, FIRE ALARM CONTROL PANEL, BREAKAWAY LOCKS FOR PIV, LOCKS FOR OS & Y CHAINS AND EXTERIOR DOORS AND ESSENTIAL ROOMS AS DETERMINED BY THE CHIEF

ACCESSIBLE PARKING SCHEDULE

	PARKING STALLS PROVIDED
RESIDENTIAL UNITS = [illegible] TOTAL	[illegible] TOTAL
ACCESSIBLE UNITS = 5	5 (1:1 RATIO PER CBC 11B-208.2.3.1)
VAN ACCESSIBLE STALLS	2 (PER CBC 11B-208.2.4)
NON-RESIDENT	4 (PER CBC 11B-208.2.3.3)
OTHER	1
TOTAL	10



SITE PLAN (1)

SEE SHEETS A1.1a & A1.1b FOR ENLARGED SITE PLANS WITH NOTES & DIMENSIONS.

GENERAL NOTES

1. ALL CONSTRUCTION AND INSTALLATION SHALL CONFORM TO THE FOLLOWING CODES

2013 CALIFORNIA BUILDING CODE (CBC)
2013 CALIFORNIA MECHANICAL CODE (CMC)
2013 CALIFORNIA PLUMBING CODE (CPC)
2013 CALIFORNIA ELECTRICAL CODE (CEC)
2013 CALIFORNIA ENERGY CODE
2013 CALIFORNIA GREEN BUILDING CODE (CAL GREEN)
2013 CALIFORNIA FIRE CODE
2013 NFPA 72 (NATIONAL FIRE ALARM CODE)
2013 NFPA 13 AND 13R (INSTALLATION OF FIRE SPRINKLER SYSTEMS)
2010 AMERICANS WITH DISABILITIES ACT ACCESSIBILITY GUIDELINES

THE FUNCTIONALITY STANDARDS SET FORTH IN TITLE 7 OF THE CALIFORNIA CIVIL CODE (THE "RIGHT TO REPAIR ACT"), THE MANUFACTURER'S REQUIREMENTS OR RECOMMENDATIONS FOR ANY INCORPORATED PRODUCTS, AND ANY OTHER GOVERNING CITY, LOCAL OR STATE CODES AND ORDINANCES. IN THE EVENT OF CONFLICT THE MOST STRINGENT REQUIREMENTS SHALL APPLY.

2. IN USING THESE PLANS FOR BIDDING OR CONSTRUCTION PURPOSES, ALL CONTRACTORS ARE REQUIRED TO REVIEW AND TREAT THEM AS A WHOLE IN ORDER TO IDENTIFY ALL REQUIREMENTS THAT DIRECTLY OR INDIRECTLY AFFECT THEIR PORTION OF THE WORK, EVEN REQUIREMENTS LOCATED IN SECTIONS DESIGNATED AS APPLICABLE TO OTHER TRADES. IN CASE OF CONFLICTS, THE AFFECTED CONTRACTOR IS REQUIRED TO EITHER OBTAIN DIRECTION FROM AN APPROPRIATE REPRESENTATIVE OF THE OWNER, OR OTHERWISE APPLY THE MORE STRINGENT LOCATIONS.

3. THESE PLANS ARE INTENDED TO SET FORTH THE REQUIREMENTS FOR CONSTRUCTION IN ONLY AN INDUSTRY-STANDARD LEVEL OF QUALITY AND DETAIL, AND THEY ARE INTENDED TO BE SUPPLEMENTED BY APPROPRIATE REQUESTS FOR CLARIFICATION AND INFORMATION. ERRORS AND OMISSIONS ARE TO BE EXPECTED AND ANTICIPATED, AND ALL CONTRACTORS ARE REQUIRED TO REVIEW THESE PLANS FOR ERRORS AND OMISSIONS, AND BRING THESE ERRORS AND OMISSIONS TO THE ATTENTION OF AN APPROPRIATE OWNER REPRESENTATIVE IN A TIMELY MANNER, AND ANY CONTRACTOR WHO FAILS TO DO SO BEFORE BIDDING OR OTHERWISE PROCEEDING ASSUMES THE RISK OF ANY CONSEQUENCES. SCALED DIMENSIONS SHOULD BE CONSIDERED ONLY APPROXIMATE, AND IN ANY EVENT ALL CONTRACTORS PROCEED AT THEIR OWN RISK IF THEY FAIL TO VERIFY AND FIELD MEASURE DIMENSIONS BEFORE PROCEEDING WITH ANY AFFECTED PROCUREMENT, FABRICATION OR CONSTRUCTION. SCHEMATIC PLANS ARE INTENDED ONLY TO DEMONSTRATE THE RELATIONSHIP AMONG COMPONENT PARTS, AND NOT TO DEPICT SPECIFIC LOCATIONS.

4. SUBMITTALS WILL BE REVIEWED BY THE ARCHITECT, IF AT ALL, ONLY PURSUANT TO THE INDUSTRY-STANDARD PROTOCOL SET FORTH IN AIA DOCUMENT A201, AND IN NO EVENT WILL THE SUBMITTAL REVIEW PROCESS RELIEVE OR LESSEN THE SUBMITTING CONTRACTOR'S RESPONSIBILITY FOR AN INAPPROPRIATE SUBMITTAL.

5. THE CONTRACTOR SHALL REVIEW AND VERIFY ALL DIMENSIONS OF BUILDING AND SITE AND NOTIFY THE ARCHITECT OF ANY DISCREPANCIES BEFORE PROCEEDING WITH CONSTRUCTION.

6. THE GENERAL CONTRACTOR SHALL VERIFY AND ASSUME RESPONSIBILITY FOR ALL DIMENSIONS AND SITE CONDITIONS. THE GENERAL CONTRACTOR SHALL INSPECT THE EXISTING PREMISES AND TAKE NOTE OF EXISTING CONDITIONS PRIOR TO SUBMITTING PRICES. NO CLAIM SHALL BE ALLOWED FOR DIFFICULTIES ENCOUNTERED WHICH COULD HAVE REASONABLY BEEN INFERRED FROM SUCH AN EXAMINATION.

7.–32. [illegible]

SITE PLAN NOTES

1.–8. [illegible]

PYATOK
1611 TELEGRAPH AVE, SUITE 200
OAKLAND, CA 94612

p 510 465 7010 | f 510 465 8575
www.pyatok.com

Landscape
Bruce Jett Associates, Inc
Theatre Square, Suite 218
Orinda, CA 94563
925 254 5422

Civil
Baumbach & Piazza Inc
323 W. Elm Street
Lodi, CA 95240
209 368 6618

Structural
Hanes & Sloan Consulting Group, Inc.
2295 Gateway Oaks Dr., Suite 155
Sacramento, CA 95833
916 921 7800

Mechanical & Plumbing
MHC Engineers
150 5th Street
San Francisco, CA 94103
415.512.7141

Electrical
Belden Consulting Engineers
5560 West Las Positas Blvd., Suite 15
Pleasanton, CA 94588
925 621 5301

TIENDA DRIVE SENIOR HOUSING
2245 Tienda Drive
Lodi, CA 95242

EDEN HOUSING
Eden Housing, Inc.
22645 Grand Street
Hayward, CA 94541

Revision Schedule

Rev. No.	Issue	Date
[illegible]	50% DD	[illegible]
[illegible]	100% DD	[illegible]
[illegible]	50% CD	[illegible]
[illegible]	90% CD	[illegible]
[illegible]	PERMIT SUBMITTAL 1	[illegible]
[illegible]	PERMIT SUBMITTAL 2	[illegible]
[illegible]	ASI ADDENDUM 1	[illegible]

Stamp

Job Number	0506
Drawn by	MB/JHRT
Checked by	CC
Date	2/22/16
Scale	As indicated

Title
SITE PLAN

Sheet
A1.00

– PRELIMINARY –
Not-For-Construction

Exhibit H: City Insurance Requirements
on following pages

Insurance Requirements to be provided by the City of Lodi prior to the close of escrow.

Exhibit K: Memorandum of Development Agreement

North American Title Company
Escrow No. 54605-1032123-10

RECORDING REQUESTED BY &
WHEN RECORDED MAIL TO:

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

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE § 27383

APN 027-410-24 & 027-410-25

MEMORANDUM OF DEVELOPMENT AGREEMENT

(2245 and 2255 Tienda Drive, Lodi, CA)

This Memorandum of Development Agreement dated as of March 2, 2016, modifies that Memorandum of Purchase and Development Agreement recorded July 30, 2010 as Document No. 2010-098833 of San Joaquin County Records (the "**Original Purchase and Development Agreement**") to disclose that unrecorded Assignment and Amendment of that Purchase and Development Agreement of even date herewith, by and among Tienda Drive Senior Apartments, L.P., a California limited partnership ("**Owner**"), Eden Housing, Inc., as Owner's predecessor in interest, and the City of Lodi, a California municipal corporation ("**City**").

The real property in the City of Lodi, County of San Joaquin, State of California, described as follows:

PARCEL 1 AND PARCEL 2 AS SHOWN ON THE PARCEL MAP FILED FOR RECORD ON MAY 21, 2010 IN BOOK 25 OF PARCEL MAPS, AT PAGE 79, SAN JOAQUIN COUNTY RECORDS

(the "Property") shall be developed, owned, maintained, and operated pursuant to the terms of the above-referenced Original Purchase and Development Agreement, as amended by the Assignment and Amendment of that Purchase and Development Agreement, hereinafter referred to as the "**Development Agreement**."

This Memorandum of Development Agreement, which may be executed in counterparts, is executed as of the date written above.

TIENDA DRIVE SENIOR APARTMENTS, L.P.,
a California limited partnership

By: Tienda Drive Senior Apartments LLC, General Partner
By: Eden Investments, Inc., sole member/manager

By: _____

CITY OF LODI, a California municipal corporation

By: _____
Stephen Schwabauer, City Manager

Attest:_____
Jennifer M. Ferraiolo, City Clerk

Approved as to form:

_____
Janice D. Magdich, City Attorney

EDEN HOUSING, INC., a California nonprofit public benefit corporation

By: _____

Exhibit L: Form of Promissory Note for City Loan
on following pages

PROMISSORY NOTE
SECURED BY DEED OF TRUST

$494,536.00
Lodi, California

March 2, 2016

FOR VALUE RECEIVED, TIENDA DRIVE SENIOR APARTMENTS, L.P., a California limited partnership (the "Borrower"), having its offices at 22645 Grand Street, Hayward, CA 94541, hereby promises to pay the CITY OF LODI, a California municipal corporation (the "City"), the principal amount of Four Hundred Ninety-Four Thousand Five Hundred Thirty-Six Dollars ($494,536.00) or so much thereof as may be advanced by the City from time to time pursuant to the Development Agreement referred to below, in the manner provided below. No interest shall accrue on the outstanding principal balance of this Note, except as provided in Section 4 below.

This Promissory Note (this "**Note**") has been executed and delivered pursuant to and in accordance with that certain Assignment and Amendment dated as of the date hereof, and executed by and between Borrower and City, which Assignment and Amendment amends that certain Purchase and Development Agreement dated as of June 28, 2010 between the City and Eden Housing, Inc., which was assumed by Borrower. The Purchase and Development Agreement, as amended, is referred to herein as the "Development Agreement." This Note is subject to the terms and conditions of the Development Agreement which is by this reference incorporated herein. Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the Development Agreement.

1. Payments.

a. Annual Payments. Commencing on the May 1st following the issuance of the final Certificate of Occupancy, and continuing every May 1st thereafter until the full repayment of the Loan or the maturity date (defined below), Borrower shall pay to the City, the City's Proportionate Share of Residual Receipts (defined below).

i. "City's Proportionate Share of Residual Receipts" shall mean the City's proportion of the "Lenders' Share of Residual Receipts" (defined below) payable to the City, which shall be the principal amount of the Loan actually disbursed divided by the sum of the original principal amounts actually disbursed of all loans approved by the City as part of the Financing and payable on a "residual receipts" basis which may also be called "net cash flow," "surplus cash," or other similar term. The "Lenders' Share of Residual Receipts" shall mean fifty percent (50%) of the Residual Receipts and the "Borrower's Share of Residual Receipts" shall be retain fifty percent (50%) of the Residual Receipts.

As of the date of this Note, the prorata percentage sharing of the Lender's Share of Residual Receipts, assuming full disbursement of the following loans, is expected to be: CalHFA: 31.37% based on a $740,000.00 MHSA loan; County: 47.67% based on the $1,124,669.15 County loan; and City of Lodi: ("City") 20.96% based on a $494,536.00 City

loan.

ii. "Residual Receipts" in a particular calendar year shall mean the amount by which Gross Revenue exceeds Annual Operating Expenses.

iii. "Annual Operating Expenses" with respect to a particular calendar year shall mean the following costs reasonably and actually incurred for operation and maintenance of the Project to the extent that they are consistent with an annual independent audit performed by a certified public accountant using generally accepted accounting principles: property taxes and assessments imposed on the Project; debt service currently due on a non-optional basis (excluding debt service due from residual receipts or surplus cash of the Project) on loans associated with the development of the Project; CalHFA 0.42% MHSA servicing fee; property management fees and reimbursements, not to exceed fees and reimbursements which are standard in the industry; partnership management fees and asset management fees including all fees paid to Borrower's investor limited partner, if any, in the amount of Thirty-Three Thousand Five Hundred Dollars ($33,500) increasing by three percent (3%) annually during the fifteen year Tax Credit compliance period and after the expiration of the fifteen year compliance period, in the amount of Twenty-Five Thousand Dollars ($25,000) which amount will increase by three percent (3%) annually commencing on the first anniversary of the expiration of the tax credit compliance period, and such other reasonable fees as may be approved by the City at the time the tax credit syndication occurs; organizational costs (e.g., annual franchise tax payments) and costs associated with accounting, tax preparation and legal fees of Borrower incurred in the ordinary course of business; premiums for property damage and liability insurance; utility services not paid for directly by tenants, including water, sewer, and trash collection; maintenance and repair of the Project; any annual license or certificate of occupancy fees required for operation of the Project; security services; advertising and marketing; cash deposited into reserves for capital replacements of the Project in an amount required by the Project financing and the tax credit syndication (or any greater amount approved by the City); cash deposited into a reasonable operating reserve required by the Project financing and the tax credit syndication (or any greater amount approved by the City); payment of any previously unpaid portion of the Developer Fee not exceeding a cumulative developer fee in the maximum amount of One Million Four Hundred Thousand Dollars ($1,400,000); on-site service provider fees and reimbursements for tenant social services at the Project; extraordinary operating costs specifically approved by the City; payments of deductibles in connection with casualty insurance claims not normally paid from reserves, the amount of uninsured losses actually replaced, repaired or restored, and not normally paid from reserves, and other ordinary and reasonable operating expenses not listed above. Annual Operating Expenses shall not include the following: depreciation, amortization, depletion or other non-cash expenses; any amount expended from a reserve account; and any capital cost with respect to the Project, as determined by the accountant for the Project.

iv. "Gross Revenue" with respect to a particular calendar year shall mean all revenue, income, receipts, and other consideration actually received from operation and leasing of the Project. Gross Revenue shall include, but not be limited to: all rents, fees and charges paid by tenants, Section 8 payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; the proceeds of business interruption or similar insurance; the proceeds of casualty insurance not

used to rebuild the Project; and condemnation awards for a taking of part or all of the Project for a temporary period not used to restore the Project following such condemnation. Gross Revenue shall not include tenants' security deposits, loan proceeds, capital contributions or similar advances.

c. Statement. No later than May 1st of each year following the issuance of the certificate of occupancy for the Project, Borrower shall provide to the City Borrower's calculation of Residual Receipts for the previous calendar year, accompanied by such supporting documentation as the City may reasonably request, including without limitation, an independent audit prepared for the Project by a certified public accountant in accordance with generally accepted accounting principles. No later than December 1st of each year following issuance of the final certificate of occupancy for the Project, Borrower shall provide to the City a projected budget for the following calendar year which shall include an estimate of Residual Receipts.

d. Application of Payments. Payments shall be applied first to accrued interest, if any, and then to the outstanding principal balance.

e. Term. Notwithstanding any other provision of this Note, principal and interest, if any, payable pursuant to this Note shall be fully repaid within fifty-five (55) years from the date the final certificate of occupancy is issued for the Project, but in no event shall the maturity date be later than July 15, 2073 (the "Maturity Date").

3. Deed of Trust. This Note is secured by that Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust") of even date herewith which shall be recorded on the Property in the Official Records of the County of San Joaquin.

4. Default Rate. Upon the occurrence of an Event of Default (defined below), interest shall automatically accrue without notice at a rate equal to the lesser of the maximum rate permitted by law or ten percent (10%) per annum (the "Default Rate"). When Borrower is no longer in default, the Default Rate shall no longer apply, and the interest rate shall once again be the zero percent (0%) rate specified in the first paragraph of this Note. The imposition or acceptance of the Default Rate shall in no event constitute a waiver of a default under this Note or prevent City from exercising any of its other rights or remedies.

5. Manner and Place of Payment. Payments shall be mailed to the City of Lodi, P.O. Box 3006, Lodi, CA 95241-1910, or delivered to City Hall, located at 221 West Pine Street, Lodi, CA 95240, or at such other place as the holder hereof may inform Borrower in writing, in lawful money of the United States.

6. Waiver; Attorneys' Fees. Borrower waives presentment for payment, demand, protest, and notices of dishonor and of protest; the benefits of all waiveable exemptions; and all defenses and pleas on the grounds of any extension(s) of the time of payment or of any due date under the Note, in whole or in part, whether before or after maturity and with or without notice. Borrower hereby agrees to pay all costs and expenses, including reasonable attorney's fees, which may be incurred by the holder hereof in the enforcement of the Note, the Development Agreement, Regulatory Agreement, and the Deed of Trust or any term or provision of any of such documents.

7. Acceleration. The entire balance of the obligation shall be immediately due and payable in the event Borrower fails to make payments due under this Note following not less than fifteen (15) day notice and cure period or in the Event of Default as defined in and subject to applicable notice and cure provisions in the Development Agreement, the Deed of Trust, Regulatory Agreement, or in the event the Project is refinanced, sold, transferred or conveyed in any manner, or if Borrower reorganizes, modifies its structure or transfers the Project as a portion of its assets without the written consent of or otherwise approved by the City. This loan is not assumable without the prior written approval of the City, except by an affiliate of Eden Housing, Inc. Neither acceptance by the City of the payments provided for herein nor any failure by the City to pursue its legal and equitable remedies upon default shall constitute a waiver of the City's right to require prompt payments when due of all principal and interest, if any, owing or to declare a default and exercise all of its rights under this Note, the Deed of Trust, Regulatory Agreement, and Development Agreement.

8. Prepayment. Borrower shall have the right to prepay without penalty all or any part of the obligation evidenced by this Note.

9. Nonrecourse Obligation. Except as expressly provided in the second paragraph of this section 9, the Borrower, the Borrower's officers, directors, partners, employees and agents, shall not have any direct or indirect personal liability for payment of the principal of, or interest, if any, on this Note or the performance of the covenants of the Trustor under the Deed of Trust securing this Note. The sole recourse of the City with respect to the principal of, or interest, if any, on this Note and defaults by the Borrower in the performance of its covenants under the Deed of Trust shall be to the property securing the indebtedness evidenced by this Note. No judgment, or execution thereon, entered in any action, legal or equitable, on this Note or the Deed of Trust shall be enforced personally against the Borrower, its officers, directors, partners, employees or agents, but may be enforced only against the property described in the Deed of Trust and such other or further security as, from time to time, may be hypothecated for this Note; provided, however, that nothing contained in the foregoing limitation of liability shall (a) limit or impair the enforcement against all such security for this Note by the City, or (b) be deemed in any way to impair the right of the City to assert the unpaid principal amount of this Note as demand for money within the meaning and intendment of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest, if any, on this Note and the performance of Borrower's obligations under the Deed of Trust, except as hereafter set forth; nothing contained herein is intended to relieve the Borrower of personal liability for (1) fraud or willful misrepresentation; (2) the failure to pay taxes, assessments or other charges which may create liens on the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (3) the fair market value of any personal property or fixtures removed or disposed of by Borrower other than in accordance with the Deed of Trust; (4) the misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property; (5) the Borrower's

indemnification obligations, if any, under the Development Agreement; and (6) payment to the City or any senior lender any rental income or other income arising with respect to the Property received by the Borrower and not applied in accordance with the Deed of Trust or Development Agreement or other Project loan documents evidencing other Project loans approved by the City, after the City has given notice to the Borrower of the occurrence of an Event of Default.

10. Assignment. The City's rights under this Note may be assigned by the City in its sole discretion.

11. No Offset. The Borrower hereby waives any rights of offset it now has or may hereafter have against the City, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this Note.

TIENDA DRIVE SENIOR APARTMENTS, L.P., a California limited partnership
By: Tienda Drive Senior Apartments LLC, its General Partner
By: Eden Investments, Inc., its sole Member/Manager

By: _____
Linda Mandolini, President

Approved as to form:

City of Lodi, a California municipal corporation

By_____
Janice D. Magdich, City Attorney

EXHIBIT M

INVESTOR LIMITED PARTNER REQUIRED PROVISIONS

This Exhibit M is attached to and made a part of the Assignment and Amendment of that Purchase and Development Agreement by and among Tienda Drive Senior Apartments, L.P., a California limited partnership ("Borrower"), Eden Housing, Inc., a California nonprofit public benefit corporation, and the City of Lodi, a California municipal corporation (referred to as the "Lender" in this Exhibit M). The Borrower (sometimes referred to in this exhibit as the "Partnership"), through its limited partner, is providing equity for the development of the Project. The agreement of limited partnership governing the Borrower, as it may be amended and/or amended and restated from time to time, is referred to herein as the "Partnership Agreement." All capitalized terms used, but not defined, in this Exhibit M shall have the meaning ascribed to such term in the Development Agreement.

The Low Income Housing Tax Credit financing for the development of the Project requires the admission of an investor limited partner in Borrower ("Limited Partner"), and as a condition to becoming a limited partner in the Borrower which benefits Borrower and Lender, Limited Partner requires that the Lender and Borrower grant certain protections to Limited Partner under the Development Agreement and the documents evidencing or securing the City Loan, including without limitation, the Promissory Note, Deed of Trust, and the Regulatory Agreement and Declaration of Restrictive Covenants between Borrower and the Lender (collectively, the "City Documents").

Lender and Borrower hereby agree that (i) each the following covenants, terms and conditions shall be part of and shall modify or supplement each of the City Documents notwithstanding any term or provision set forth in any of the City Documents to the contrary, and (ii) that in the event of any inconsistency or conflict between the covenants, terms and conditions of the City Documents and this Exhibit M, including without limitation the terms and provisions set forth in Article 10 and Article 12 of the Original Purchase and Development Agreement, that each of the following covenants, terms and conditions set forth herein in this Exhibit M shall supersede, control and prevail:

1.For so long as Wells Fargo Affordable Housing Community Development Corporation (together with its affiliates) is the Limited Partner prior to exercising remedies under the City Documents, Lender will give Limited Partner a copy of any written notice it gives to Borrower under the City Documents at the following address:

Wells Fargo Affordable Housing Community
Development Corporation, MAC D1053-170
301 South College Street, 17th Floor
Charlotte, NC 28288
Attention: Director of Asset Management

With copy to:

Joel Hjelmaas, Counsel
Wells Fargo Bank, N.A.
MAC X2401-06T
1 Home Campus, 6th Floor
Des Moines, IA 50328-0001

Or such other address that the Limited Partner shall send to Lender in accordance with Section 12.9 of the Development Agreement.

Changes of addresses for Notices and any changes in the Limited Partner or a change to an entity other than Wells Fargo Affordable Housing Community Development Corporation shall be effective without an amendment to this Exhibit M, or if an amendment is required by the Lender, such amendment may be approved by the City Manager or his or her designee, and such amendment need not be recorded to be effective.

2. Limited Partner shall have the same right as Borrower to cure or remedy any default hereunder within the cure period provided to Borrower extended by an additional sixty (60) days; provided however, if the default is of such nature that the Limited Partner reasonably determines that it is necessary to replace the general partner of Borrower in order to cure such default, then the cure period shall be extended until the date sixty (60) days following the removal of the general partner of Borrower, and such cure shall be accepted or rejected on the same basis as if tendered by Borrower.

3. If Limited Partner presents payment or otherwise cures a monetary or non-monetary default within the cure periods set forth in the City Documents, Lender will accept such action as curing the respective default under the City Documents.

4. For so long as Wells Fargo Affordable Housing Community Development Corporation (together with its affiliates) is the Limited Partner, Lender agrees that the Limited Partner may sell, transfer, assign or otherwise dispose of all or any part of its interest in Borrower to an entity controlled by an affiliate of Wells Fargo Bank, N.A., without Lender's prior written consent, and such transfer, assignment or other disposition will not trigger an Event of Default or any due on sale or acceleration provisions under the City Documents.

5. Lender will permit Limited Partner to remove the general partner of Borrower in accordance with Borrower's partnership agreement, provided that Lender gives its prior written approval that the substitute general partner is acceptable to Lender in its reasonable discretion. An affiliate of Wells Fargo Bank, National Association is an acceptable substitute general partner, and does not require Lender's prior written approval. Such transfers will not trigger an Event of Default or any due on sale or acceleration provisions under the City Documents.

6. Lender will permit insurance and condemnation proceeds to be used to rebuild the Project provided that sufficient funds are available from other sources to effectively rebuild the Project.

7. Lender has not and will not cross-default or cross-collateralize the City with any loan made with respect to another property.

8. Lender will not materially modify the City Documents without Limited Partner's prior written consent.

9. No Third Party Beneficiaries. Wells Fargo Affordable Housing Community Development Corporation, its affiliates, successors and assigns, as the Limited Partner of the Borrower, is a third party beneficiary to the Development Agreement, pursuant to the terms and conditions thereof.

North American Title Company
Escrow No. 54605-1032123-10

RECORDING REQUESTED BY &
WHEN RECORDED MAIL TO:

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

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE § 27383

APN 027-410-24 & 027-410-25

MEMORANDUM OF DEVELOPMENT AGREEMENT

(2245 and 2255 Tienda Drive, Lodi, CA)

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The real property in the City of Lodi, County of San Joaquin, State of California, described as follows:

PARCEL 1 AND PARCEL 2 AS SHOWN ON THE PARCEL MAP FILED FOR RECORD ON MAY 21, 2010 IN BOOK 25 OF PARCEL MAPS, AT PAGE 79, SAN JOAQUIN COUNTY RECORDS

(the "Property") shall be developed, owned, maintained, and operated pursuant to the terms of the above-referenced Original Purchase and Development Agreement, as amended by the Assignment and Amendment of that Purchase and Development Agreement, hereinafter referred to as the "**Development Agreement**."

This Memorandum of Development Agreement, which may be executed in counterparts, is executed as of the date written above.

TIENDA DRIVE SENIOR APARTMENTS, L.P.,
a California limited partnership

By: Tienda Drive Senior Apartments LLC, General Partner
By: Eden Investments, Inc., sole member/manager

By: _____
Linda Mandolini, President

CITY OF LODI, a California municipal corporation

By: _____
Stephen Schwabauer, City Manager

Attest:_____
Jennifer M. Ferraiolo, City Clerk

Approved as to form:

_____
Janice D. Magdich, City Attorney

EDEN HOUSING, INC., a California nonprofit public benefit corporation

By: _____
Linda Mandolini, President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS

COUNTY OF _____)

On _____ before me, _____ , Notary Public,

_____

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 _____

This area for official notarial seal.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS

COUNTY OF _____)

On _____ before me, _____ , Notary Public,

_____

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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STATE OF CALIFORNIA)SS

COUNTY OF _____)

On _____ before me, _____ , Notary Public,

_____

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 _____

This area for official notarial seal.

North American Title Company
Escrow No. 54605-1032123-10

RECORDING REQUESTED BY &
WHEN RECORDED MAIL TO:

Eden Housing, Inc.
22645 Grant Street
Hayward, CA 94541-5031
Attention: Neil Saxby

RELEASE AND TERMINATION

This Release and Termination ("Release") by Eden Housing, Inc., a California nonprofit public benefit corporation ("Eden") and the City of Lodi, a California municipal corporation (the "City") is dated as of March 2, 2016 for reference purposes only.

Eden, as the current owner of the property described in Exhibit A attached hereto (the "Property"), and the City declare that that certain instrument entitled "AGREEMENT" recorded in the Official Records of San Joaquin County on July 31, 1996 as Document No. 96079082 is hereby terminated, and upon the recordation of this Release in the Official Records of the County of San Joaquin, the Property shall be released from the encumbrance of the AGREEMENT.

The parties have executed this Release and Termination as of the day first above written. This Release may be signed in multiple counterparts.

EDEN HOUSING, INC.,

By: _____

CITY OF LODI, a California municipal corporation

By: _____
Stephen Schwabauer, City Manager

ATTEST:

By: _____
Jennifer M. Ferraiolo, City Clerk

APPROVED AS TO FORM:

By: _____
Janice D. Magdich, City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS

COUNTY OF _____)

On _____ before me, _____ , Notary Public,

_____

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 _____

This area for official notarial seal.

Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS

COUNTY OF _____)

On _____ before me, _____ , Notary Public,

_____

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 _____

This area for official notarial seal.

Acknowledgment

Exhibit A

PROPERTY

Real property in the City of LODI, County of SAN JOAQUIN, State of CALIFORNIA, described as follows:

PARCEL 1 AND PARCEL 2 AS SHOWN ON THE PARCEL MAP FILED FOR RECORD ON MAY 21, 2010 IN BOOK 25 OF PARCEL MAPS, AT PAGE 79, SAN JOAQUIN COUNTY RECORDS.

APN: 027-410-24 and 027-410-25

North American Title Company
Escrow No. 54605-1032123-10

RECORDING REQUESTED BY &
WHEN RECORDED MAIL TO:

Eden Development, Inc.
22645 Grant Street
Hayward, CA 94541-5031
Attention: Neil Saxby

RELEASE AND TERMINATION

(Option Agreement to Purchase Real Property)
(2245 and 2255 Tienda Drive, Lodi, CA)
(APN: 027-410-24 and 027-410-25)

This Release and Termination ("Release") by Eden Development, Inc. ("Eden Development") and the City of Lodi, a California municipal corporation (the "City") is dated as of March 2, 2016 for reference purposes only and shall be effective upon its recordation in the Official Records of the County of San Joaquin ("Official Records").

The City granted an option to Eden Development to purchase the property identified above and described in Exhibit A attached hereto, as set forth in an unrecorded Option Agreement to Purchase Real Property dated as of October 20, 2010 between the City as the then owner of the property and Eden Development as the optionee ("Option"), a memorandum of which was recorded in the Official Records on December 11, 2009 as Document # 2009-176922 (the "Memo of Option").

Eden Development and the City wish to terminate the Option and the Memo of Option and release and remove the Memo of Option from the Official Records.

NOW, THEREFORE, it is hereby declared and understood as follows:

The Option and the Memorandum of Option are hereby terminated, and the Property is hereby released from the encumbrance of the Memo of Option.

The parties to the Option and Memorandum of Option have executed this Release and Termination as of the day first above written. This Release may be signed in multiple counterparts.

Eden Development, Inc.,
a California nonprofit public benefit corporation

By: _____
Linda Mandolini, President

City of Lodi, a California municipal corporation

By: _____
Stephen Schwabauer, City Manager

Attest:_____
Jennifer M. Ferraiolo, City Clerk

Approved as to form:

_____
Janice D. Magdich, City Attorney

[SIGNATURES MUST BE NOTARIZED]

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS

COUNTY OF _____)

On _____ before me, _____ , Notary Public,

_____

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 _____

This area for official notarial seal.

Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS

COUNTY OF _____)

On _____ before me, _____ , Notary Public,

_____

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 _____

This area for official notarial seal.

Acknowledgment

Exhibit A

PROPERTY

Real property in the City of LODI, County of SAN JOAQUIN, State of CALIFORNIA, described as follows:

PARCEL 1 AND PARCEL 2 AS SHOWN ON THE PARCEL MAP FILED FOR RECORD ON MAY 21, 2010 IN BOOK 25 OF PARCEL MAPS, AT PAGE 79, SAN JOAQUIN COUNTY RECORDS.

APN: 027-410-24 and 027-410-25

ESTOPPEL CERTIFICATE

March ____, 2016

Wells Fargo Affordable Housing Community Development Corporation
MAC D1053-170
301 South College Street, 17th Floor
Charlotte, NC 29288

Re: Tienda Drive Senior Apartments, L.P. (the "Partnership")

Ladies and Gentlemen:

We refer to that certain loan in the amount of Four Hundred Ninety-Four Thousand Five Hundred Thirty-Six and No/100 Dollars ($494,536.00) made by us, the City of Lodi, a California municipal corporation (the "**City**"), and assigned by Eden Housing, Inc. ("**Eden**") to the Tienda Drive Senior Apartments, L.P. ("**Partnership**") as the borrower (the "**Loan**") evidenced and secured by various documents, including, without limitation, that certain that Promissory Note dated as of March 2, 2016, in the original principal amount of $494,536.00 by the Partnership evidencing the Loan, that certain Deed of Trust with Assignment of Rents, Security Agreement, and Fixture dated as of March 2, 2016, by the Partnership for the benefit of the City, securing the Loan, that certain Regulatory Agreement and Declaration of Restrictive Covenants dated as of March2, 2016 by the Partnership and the City, and that certain Purchase and Development Agreement dated as of July 28, 2010 by Eden and the City, which has been or will be assigned to the Partnership and amended by that certain Assignment and Amendment of that Purchase and Development Agreement dated as of March 2, 2016 among Eden, the Partnership and the City (the "**Development Agreement**") (collectively, the "**Loan Documents**") on property located at 2245 and 2255 Tienda Drive, Lodi, CA 95242 (the "**Property**").

The City understands that Wells Fargo Affordable Housing Community Development Corporation ("**Investor**") is being admitted as the investor limited partner of the Partnership and are about to make an installment of your equity investment in the Partnership, and have requested that the City execute this Estoppel Certificate (this "**Certificate**") in connection therewith.

The City approves the admission of the Investor to the Partnership as the investor limited partner of the Partnership and the admission of an affiliate of the Investor as a special limited partner in the Partnership (also referred to herein as "**Borrower**").

In connection with the Partnership's proposed development of the Property, the Partnership has or will obtain the following additional loans: (i) construction loan from Wells Fargo Bank, National Association, in an approximate amount of $16,771,698.00, (ii) construction and permanent loan from the County of San Joaquin in the amount of

$1,124,669.15; and (iii) construction and permanent loan from Wells Fargo Financial National Bank through the Affordable Housing Program in the amount of $790,000.00. The City approves of the additional financing set forth in this paragraph and the mortgage liens encumbering the Property that secure such additional financing.

The City hereby represents and warrants to you that to its actual knowledge:

1. the Loan Documents have not been further modified or amended and are in full force and effect, there is no default under the Loan Documents on the part of Borrower under the Loan Documents, nor does any condition exist which, with notice or the passage of time or both, would constitute a default, breach, event of default, or failure of condition under the Loan Documents;

2. each and every covenant, condition and obligation to funding required to be performed or satisfied has been or will be satisfied, completed and/or unconditionally waived upon the City's funding of the Loan through an escrow for the closing of the above-referenced loans ("**Closing**");

3. any matter required to be approved by the City as of the date hereof has been approved, including, without limitation, the existing liens of record shown of title at Closing and Eden Housing Management, Inc. as the initial property management agent;

4. the City acknowledges that the Investor is relying on the certifications herein in investing in the Partnership and making capital contributions pursuant to the Partnership Agreement;

5. the City approves the purchase option and right of first refusal granted to the general partner of Borrower under the Partnership Agreement;

6. Notwithstanding anything to the contrary that may be set forth in the Loan Documents, no approval of the City shall be required for (i) removal of the general partner of the Partnership by the Investor with an affiliate of Wells Fargo Bank, National Association pursuant to the Partnership Agreement or (ii) the transfer of limited partnership interests by the Investor pursuant to the Partnership Agreement. The Investor shall have the right, but not the obligation, to cure any default of the Partnership under any of the Loan Documents within the cure periods set forth therein. Notwithstanding the foregoing, if the Investor elects to remove the general partner of the Partnership in connection with any such cure, then so long as the Investor commences proceedings and diligently proceeds to remove such general partner, the cure period shall be extended for so long as reasonably necessary for the Investor to remove such general partner and effectuate the cure;

7. the undersigned has executed this Certificate with the knowledge and agreement that the City will be bound by the statements contained herein and that they may be relied upon by the Partnership, Investor, and their respective successors and assigns;

8. this Certificate may not be relied on by any party other than the addressee, in its capacity as Investor , the Partnership, and their respective successors and assigns without the prior written consent of the City;9. In the event of any conflict between the terms of the Loan Documents and the terms of this Certificate, the terms of this Certificate shall control; and

10. the person executing this Certificate on behalf of the City represents and warrants that: (i) the City is duly existing, (ii) the person executing this Certificate is duly authorized to execute and deliver the same on behalf of the City, (iii) the City has taken such formal action as may be required by law to bind the City, and the City is formally bound, to the provisions of this Certificate, and (iv) entering into this Certificate does not violate any provision of any other agreement to which the City is bound.

This Certificate shall be governed by the laws of the State of California,

Sincerely,

Stephen Schwabauer, City Manager

Attest:

Jennifer M. Ferriolo, City Clerk

Approved as to form:

Janice D. Magdich, City Attorney

WHEN RECORDED MAIL TO:

Wells Fargo Bank, National Association
MAC #A0119-183
333 Market Street, 18th Floor
San Francisco, California 94105
Attention: Loan Administration Manager
Loan No. 1015555

(SPACE ABOVE FOR RECORDER'S USE)

SUBORDINATION AGREEMENT
(City of Lodi)

THIS SUBORDINATION AGREEMENT (this "**Agreement**") is entered into this _____ day of _____March_____, 2016 by and among (i) WELLS FARGO BANK, N.A. (together with its successors and/or assigns, the "**Senior Lender**"), (ii) the CITY OF LODI, a California municipal corporation (the "**Subordinate Lender**"), and (iii) TIENDA DRIVE SENIOR APARTMENTS, L.P., a California limited partnership (the "**Borrower**").

RECITALS

A. The Senior Lender has made or is making a loan (the "**First Mortgage Loan**") to the Borrower in the original principal amount of $_[16,771,698]_____. The First Mortgage Loan is or will be secured by a first mortgage lien (the "**First Mortgage**") on a multifamily housing project located in San Joaquin County, California (the "**Property**"). The Property is more fully described in Exhibit A attached hereto. The Borrower's obligation to repay the First Mortgage Loan is evidenced by a Note dated __March_____, 2016 (the "**First Mortgage Note**").

B. The Borrower has requested the Senior Lender to permit the Subordinate Lender to make a subordinate loan to Borrower in the amount of $494,536.00 (the "**Subordinate Loan**") and to secure the Subordinate Loan by, among other things, placing a mortgage lien against the Property.

C. The Senior Lender has agreed to permit the Subordinate Lender to make the Subordinate Loan and to place a subordinate mortgage lien against the Property subject to all of the conditions contained in this Agreement.

NOW, THEREFORE, in order to induce the Senior Lender to permit the Subordinate Lender to make the Subordinate Loan to the Borrower and to place a subordinate mortgage lien against the Property, and in consideration thereof, the Senior Lender, the Subordinate Lender and the Borrower agree as follows:

1. Definitions.

In addition to the terms defined in the Recitals to this Agreement, for purposes of this Agreement the following terms have the respective meanings set forth below:

"**Affiliate**" means, when used with respect to a Person, any corporation, partnership, joint venture, limited liability company, limited liability partnership, trust or individual controlled by, under common control with, or which controls such Person (the term "**control**" for these purposes shall mean the ability, whether by the ownership of shares or other equity interests, by contract or otherwise, to elect a majority of the directors of a corporation, to make management decisions on behalf of, or independently to select the managing partner of, a partnership, or otherwise to have the power independently to remove and then select a majority of those individuals exercising managerial authority over an entity, and control shall be conclusively presumed in the case of the ownership of 50% or more of the equity interests).

"**Borrower**" means the Person named as such in the first paragraph of this Agreement and any other Person (other than the Senior Lender) who acquires title to the Property after the date of this Agreement.

"**Business Day**" means any day other than Saturday, Sunday or a day on which the Senior Lender is not open for business.

"**Default Notice**" means: (a) a copy of the written notice from the Senior Lender to the Borrower stating that a First Mortgage Loan Default has occurred under the First Mortgage Loan; or (b) a copy of the written notice from the Subordinate Lender to the Borrower stating that a Subordinate Loan Default has occurred under the Subordinate Loan. Each Default Notice shall specify the default upon which such Default Notice is based.

"**First Mortgage Loan Default**" means the occurrence of an "Event of Default" as that term is defined in the First Mortgage Loan Documents.

"**First Mortgage Loan Documents**" means the First Mortgage Note and all other documents evidencing, securing or otherwise executed and delivered in connection with the First Mortgage Loan.

"**Official Records**" means the Official Records of San Joaquin County, California.

"**Person**" means an individual, estate, trust, partnership, corporation, limited liability company, limited liability partnership, governmental department or agency or any other entity which has the legal capacity to own property.

"**Senior Lender**" means the Person named as such in the first paragraph on page 1 of this Agreement. When any other Person becomes the legal holder of the First Mortgage Note, such other Person shall automatically become the Senior Lender.

"**Subordinate Lender**" means the Person named as such in the first paragraph on page 1 of this Agreement and any other Person who becomes the legal holder of the Subordinate Note after the date of this Agreement.

"**Subordinate Development Agreement**" means that certain Purchase and Development Agreement, dated as of July 28, 2010, by and between Eden Housing, Inc. ("**Original Borrower**") and Subordinate Lender, as assigned and amended by that certain Assignment and Amendment of that Purchase and Development Agreement, dated as of March 2, 2016, by and among Original Borrower, as assignor, Borrower, as assignee, and Subordinate Lender.

"**Subordinate Loan Default**" means a default by the Borrower in performing or observing any of the terms, covenants or conditions in the Subordinate Loan Documents to be performed or observed by it, which continues beyond any applicable period provided in the Subordinate Loan Documents for curing the default.

"**Subordinate Loan Documents**" means the Subordinate Development Agreement, the Subordinate Note, the Subordinate Mortgage, the Subordinate Regulatory Agreement and all other documents evidencing, securing or otherwise executed and delivered in connection with the Subordinate Loan.

"**Subordinate Mortgage**" means that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, dated as of March 2, 2016, made by Borrower for the benefit of Subordinate Lender and recorded in the Official Records substantially concurrently herewith.

"**Subordinate Note**" means that certain Promissory Note Secured by Deed of Trust, dated as of March 2, 2016, made by Borrower in favor of Subordinate Lender in the original face principal amount of the Subordinate Loan.

"**Subordinate Regulatory Agreement**" means that certain Regulatory Agreement and Declaration of Restrictive Covenants, dated as of March 2, 2016, by and between Borrower and Subordinated Lender and recorded in the Official Records substantially concurrently herewith.

2. Permission to Place Mortgage Lien Against Property.

The Senior Lender agrees, notwithstanding the prohibition against inferior liens on the Property contained in the First Mortgage Loan Documents and subject to the provisions of this Agreement, to permit the Subordinate Lender to record the Subordinate Mortgage and other recordable Subordinate Loan Documents against the Property (which are subordinate in all respects to the lien of the First Mortgage) to secure the Borrower's obligation to repay the Subordinate Note and all other obligations, indebtedness and liabilities of the Borrower to the Subordinate Lender under and in connection with the Subordinate Loan. Such permission is subject to the condition that each of the representations and warranties made by the Borrower and the Subordinate Lender in Section 3 of this Agreement is true and correct on the date of this Agreement and on the date on which the proceeds of the Subordinate Loan are disbursed to the Borrower. If any of the

representations and warranties made by the Borrower and the Subordinate Lender in Section 3 is not true and correct on both of those dates, the provisions of the First Mortgage Loan Documents applicable to unpermitted liens on the Property shall apply.

3. Borrower's and Subordinate Lender's Representations and Warranties.

The Borrower and the Subordinate Lender each makes the following representations and warranties to the Senior Lender:

(a) [Intentionally Omitted]

(b) Relationship of Borrower to Subordinate Lender and Senior Lender. The Subordinate Lender is not an Affiliate of the Borrower and is not in possession of any facts which would lead it to believe that the Senior Lender is an Affiliate of the Borrower.

(c) Term. The term of the Subordinate Note does not end before the term of the First Mortgage Note.

(d) Subordinate Loan Documents. The executed Subordinate Loan Documents are substantially in the same forms as those submitted to, and approved by, Senior Lender prior to the date of this Agreement. Upon execution and delivery of the Subordinate Loan Documents, Borrower shall deliver to Senior Lender an executed copy of each of the Subordinate Loan Documents, certified to be true, correct and complete.

(e) Senior Loan Documents. The executed Senior Loan Documents are substantially in the same forms as, when applicable, those submitted to, and approved by, Senior Lender prior to the date of this Agreement. Upon execution and delivery of the Senior Loan Documents, Borrower shall deliver to Subordinate Lender an executed copy of each of the Senior Loan Documents, certified to be true, correct and complete.

4. Terms of Subordination.

(a) Agreement to Subordinate. The Senior Lender and the Subordinate Lender agree that: (i) the indebtedness evidenced by the Subordinate Loan Documents is and shall be subordinated in right of payment, to the extent and in the manner provided in this Agreement to the prior payment in full of the indebtedness evidenced by the First Mortgage Loan Documents, and (ii) the Subordinate Mortgage and the other Subordinate Loan Documents are and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the First Mortgage and the other First Mortgage Loan Documents and to all advances heretofore made or which may hereafter be made pursuant to the First Mortgage and the other First Mortgage Loan Documents (including but not limited to, all sums advanced for the purposes of (1) protecting or further securing the lien of the First Mortgage, curing defaults by the Borrower under the First Mortgage Loan Documents or for any other purpose expressly permitted by the First Mortgage, or (2) constructing, renovating, repairing, furnishing, fixturing or equipping the Property).

(b) Subordination of Subrogation Rights. The Subordinate Lender agrees that if, by reason of its payment of real estate taxes or other monetary obligations of the Borrower, or by reason of its exercise of any other right or remedy under the Subordinate Loan Documents, it acquires by right of subrogation or otherwise a lien on the Property which (but for this subsection) would be senior to the lien of the First Mortgage, then, in that event, such lien shall be subject and subordinate to the lien of the First Mortgage.

(c) Payments Before First Mortgage Loan Default. Until the Subordinate Lender receives a Default Notice of a First Mortgage Loan Default from the Senior Lender, the Subordinate Lender shall be entitled to retain for its own account all payments made under or pursuant to the Subordinate Loan Documents.

(d) Payments After First Mortgage Loan Default. The Borrower agrees that, after it receives notice (or otherwise acquires knowledge) of a First Mortgage Loan Default, it will not make any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Mortgage) without the Senior Lender's prior written consent. The Subordinate Lender agrees that, after it receives a Default Notice from the Senior Lender with written instructions directing the Subordinate Lender not to accept payments from the Borrower on account of the Subordinate Loan, it will not accept any payments under or pursuant to the Subordinate Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorney's fees, or any other sums secured by the Subordinate Mortgage) without the Senior Lender's prior written consent. If the Subordinate Lender receives written notice from the Senior Lender that the First Mortgage Loan Default which gave rise to the Subordinate Lender's obligation not to accept payments has been cured, waived, or otherwise suspended by the Senior Lender, the restrictions on payment to the Subordinate Lender in this Section 4 shall terminate, and the Senior Lender shall have no right to any subsequent payments made to the Subordinate Lender by the Borrower prior to the Subordinate Lender's receipt of a new Default Notice from the Senior Lender in accordance with the provisions of this Section 4(d).

(e) Remitting Subordinate Loan Payments to Senior Lender. If, after the Subordinate Lender receives a Default Notice from the Senior Lender in accordance with subsection (d) above, the Subordinate Lender receives any payments under the Subordinate Loan Documents, the Subordinate Lender agrees that such payment or other distribution will be received and held in trust for the Senior Lender and unless the Senior Lender otherwise notifies the Subordinate Lender in writing, will be promptly remitted, in kind to the Senior Lender, properly endorsed to the Senior Lender, to be applied to the principal of, interest on and other amounts due under the First Mortgage Loan Documents in accordance with the provisions of the First Mortgage Loan Documents. By executing this Agreement, the Borrower specifically authorizes the Subordinate Lender to endorse and remit any such payments to the Senior Lender, and specifically waives any and all rights to have such payments returned to the Borrower or credited against the Subordinate Loan. Borrower and Senior Lender acknowledge and agree that payments received by the Subordinate Lender, and remitted to the Senior Lender under this Section 4, shall not be applied or otherwise

credited against the Subordinate Loan, nor shall the tender of such payment to the Senior Lender waive any Subordinate Loan Default which may arise from the inability of the Subordinate Lender to retain such payment or apply such payment to the Subordinate Loan.

(f) Agreement Not to Commence Bankruptcy Proceeding. The Subordinate Lender agrees that during the term of this Agreement it will not commence, or join with any other creditor in commencing any bankruptcy reorganization, arrangement, insolvency or liquidation proceedings with respect to the Borrower, without the Senior Lender's prior written consent.

5. Default Under Subordinate Loan Documents.

(a) Notice of Default and Cure Rights. The Subordinate Lender shall deliver to the Senior Lender a Default Notice within five Business Days in each case where the Subordinate Lender has given a Default Notice to the Borrower. Failure of the Subordinate Lender to send a Default Notice to the Senior Lender shall not prevent the exercise of the Subordinate Lender's rights and remedies under the Subordinate Loan Documents, subject to the provisions of this Agreement. The Senior Lender shall have the right, but not the obligation, to cure any Subordinate Loan Default within 60 days following the date of such notice; provided, however that the Subordinate Lender shall be entitled, during such 60-day period, to continue to pursue its rights and remedies under the Subordinate Loan Documents to the extent permitted under Section 5(b). All amounts paid by the Senior Lender in accordance with the First Mortgage Loan Documents to cure a Subordinate Loan Default shall be deemed to have been advanced by the Senior Lender pursuant to, and shall be secured by the lien of, the First Mortgage.

(b) Subordinate Lender's Agreement to Standstill. If a Subordinate Loan Default occurs and is continuing, the Subordinate Lender agrees that, without the Senior Lender's prior written consent, it will not accelerate the Subordinate Loan, commence foreclosure proceedings with respect to the Property, collect rents, appoint (or seek the appointment of) a receiver or institute any other collection or enforcement action.

(c) Cross Default. The Borrower and the Subordinate Lender agree that a Subordinate Loan Default shall constitute a First Mortgage Loan Default under the First Mortgage Loan Documents and the Senior Lender shall have the right to exercise all rights or remedies under the First Mortgage Loan Documents in the same manner as in the case of any other First Mortgage Loan Default. If the Subordinate Lender notifies the Senior Lender in writing that any Subordinate Loan Default of which the Senior Lender has received a Default Notice has been cured or waived, as determined by the Subordinate Lender in its sole discretion, then provided that Senior Lender has not conducted a sale of the Property pursuant to its rights under the First Mortgage Loan Documents, any First Mortgage Loan Default under the First Mortgage Loan Documents arising solely from such Subordinate Loan Default shall be deemed cured, and the First Mortgage Loan shall be reinstated, provided, however, that the Senior Lender shall not be required to return or otherwise credit for the benefit of the Borrower any default rate interest or other default

related charges or payments received by the Senior Lender during such First Mortgage Loan Default.

6. Default Under First Mortgage Loan Documents.

(a) Notice of Default and Cure Rights. The Senior Lender shall deliver to the Subordinate Lender a Default Notice within five Business Days in each case where the Senior Lender has given a Default Notice to the Borrower. Failure of the Senior Lender to send a Default Notice to the Subordinate Lender shall not prevent the exercise of the Senior Lender's rights and remedies under the First Mortgage Loan Documents, subject to the provisions of this Agreement. The Subordinate Lender shall have the right, but not the obligation, to cure any such First Mortgage Loan Default as provided below. Subordinate Lender may have up to 30 days from the date of the Default Notice to cure any monetary default under the First Mortgage Loan Documents; provided, however, that the Senior Lender shall be entitled during such 30-day period to continue to pursue its remedies with respect to the Property. Subordinate Lender may have up to 60 days from the date of the Default Notice to cure a non-monetary default if during such 60-day period Subordinate Lender keeps current all payments required by the First Mortgage Loan Documents. In the event that such a non-monetary default creates an unacceptable level of risk relative to the Property, or Senior Lender's secured position relative to the Property, as determined by Senior Lender in its sole discretion, then Senior Lender may exercise during such 60-day period all available rights and remedies to protect and preserve the Property and the rents, revenues and other proceeds from the Property. All amounts paid by the Subordinate Lender to the Senior Lender to cure a First Mortgage Loan Default shall be deemed to have been advanced by the Subordinate Lender pursuant to, and shall be secured by the lien of, the Subordinate Mortgage.

(b) Cross Default. The Subordinate Lender agrees that, notwithstanding any contrary provision contained in the Subordinate Loan Documents, a First Mortgage Loan Default shall not constitute a default under the Subordinate Loan Documents if no other default occurred under the Subordinate Loan Documents until either (i) the Senior Lender has accelerated the maturity of the First Mortgage Loan, or (ii) the Senior Lender has taken affirmative action to exercise its rights under the First Mortgage to collect rent, to appoint (or seek the appointment of) a receiver or to foreclose on (or to exercise a power of sale contained in) the First Mortgage. At any time after a First Mortgage Loan Default is determined to constitute a default under the Subordinate Loan Documents, the Subordinate Lender shall be permitted to pursue its remedies for default under the Subordinate Loan Documents, subject to the restrictions and limitations of this Agreement. If at any time the Borrower cures any First Mortgage Loan Default to the satisfaction of the Senior Lender, as evidenced by written notice from the Senior Lender to the Subordinate Lender, any default under the Subordinate Loan Documents arising from such First Mortgage Loan Default shall be deemed cured and the Subordinate Loan shall be retroactively reinstated as if such First Mortgage Loan Default had never occurred.

7. Conflict.

The Borrower, the Senior Lender and the Subordinate Lender each agrees that, in the event of any conflict or inconsistency between the terms of the First Mortgage Loan Documents, the Subordinate Loan Documents and the terms of this Agreement, the terms of this Agreement shall govern and control solely as to the following: (a) the relative priority of the security interests of the Senior Lender and the Subordinate Lender in the Property; (b) the timing of the exercise of remedies by the Senior Lender and the Subordinate Lender under the First Mortgage and the Subordinate Mortgage, respectively; and (c) solely as between the Senior Lender and the Subordinate Lender, the notice requirements, cure rights, and the other rights and obligations which the Senior Lender and the Subordinate Lender have agreed to as expressly provided in this Agreement. Borrower acknowledges that the terms and provisions of this Agreement shall not, and shall not be deemed to: extend Borrower's time to cure any First Mortgage Loan Default or Subordinate Loan Default, as the case may be; give the Borrower the right to notice of any First Mortgage Loan Default or Subordinate Loan Default, as the case may be other than that, if any, provided, respectively under the First Mortgage Loan Documents or the Subordinate Loan Documents; or create any other right or benefit for Borrower as against Senior Lender or Subordinate Lender.

8. Rights and Obligations of the Subordinate Lender Under the Subordinate Loan Documents and of the Senior Lender under the First Mortgage Loan Documents.

Subject to each of the other terms of this Agreement, all of the following provisions shall supersede any provisions of the Subordinate Loan Documents covering the same subject matter:

(a) Protection of Security Interest. The Subordinate Lender shall not, without the prior written consent of the Senior Lender in each instance, take any action which has the effect of increasing the indebtedness outstanding under, or secured by, the Subordinate Loan Documents, except that the Subordinate Lender shall have the right to advance funds to cure First Mortgage Loan Defaults pursuant to Section 6(a) above and advance funds pursuant to the Subordinate Mortgage for the purpose of paying real estate taxes and insurance premiums, making necessary repairs to the Property and curing other defaults by the Borrower under the Subordinate Loan Documents.

(b) Condemnation or Casualty. In the event of: a taking or threatened taking by condemnation or other exercise of eminent domain of all or a portion of the Property (collectively, a "**Taking**"); or the occurrence of a fire or other casualty resulting in damage to all or a portion of the Property (collectively, a "**Casualty**"), at any time or times when the First Mortgage remains a lien on the Property the following provisions shall apply:

(1) The Subordinate Lender hereby agrees that its rights (under the Subordinate Loan Documents or otherwise) to participate in any proceeding or action relating to a Taking and/or a Casualty, or to participate or join in any settlement of, or to adjust, any claims resulting from a Taking or a Casualty shall be and remain subordinate in all respects to the Senior Lender's rights under the First Mortgage Loan Documents with respect thereto, and the Subordinate Lender shall

be bound by any settlement or adjustment of a claim resulting from a Taking or a Casualty made by the Senior Lender; provided, however, this subsection and/or anything contained in this Agreement shall not limit the rights of the Subordinate Lender to file any pleadings, documents, claims or notices with the appropriate court with jurisdiction over the proposed Taking and/or Casualty; and

(2) all proceeds received or to be received on account of a Taking or a Casualty, or both, shall be applied (either to payment of the costs and expenses of repair and restoration or to payment of the First Mortgage Loan) in the manner determined by the Senior Lender in its sole discretion; provided, however, that if the Senior Lender elects to apply such proceeds to payment of the principal of, interest on and other amounts payable under the First Mortgage Loan, any proceeds remaining after the satisfaction in full of the principal of, interest on and other amounts payable under the First Mortgage Loan shall be paid to, and may be applied by, the Subordinate Lender in accordance with the applicable provisions of the Subordinate Loan Documents, provided however, the Senior Lender agrees to consult with the Subordinate Lender in determining the application of Casualty proceeds, provided further however that in the event of any disagreement between the Senior Lender and the Subordinate Lender over the application of Casualty proceeds, the decision of the Senior Lender, in its sole discretion, shall prevail.

(c) No Modification of Subordinate Loan Documents. The Borrower and the Subordinate Lender each agrees that, until the principal of, interest on and all other amounts payable under the First Mortgage Loan Documents have been paid in full, it will not, without the prior written consent of the Senior Lender in each instance, increase the amount of the Subordinate Loan, increase the required payments due under the Subordinate Loan, decrease the term of the Subordinate Loan, increase the interest rate on the Subordinate Loan, or otherwise amend the Subordinate Loan terms in a manner that creates an adverse effect upon the Senior Lender under the First Mortgage Loan Documents. Any unauthorized amendment of the Subordinate Loan Documents or assignment of the Subordinate Lender's interest in the Subordinate Loan without the Senior Lender's consent shall be void *ab initio* and of no effect whatsoever and Subordinate Lender agrees that it shall not transfer or assign the Subordinate Loan or the Subordinate Loan Documents without the prior written consent of the Senior Lender.

9. Modification or Refinancing of First Mortgage Loan.

The Subordinate Lender consents to any agreement or arrangement in which the Senior Lender waives, postpones, extends, reduces or modifies any provisions of the First Mortgage Loan Documents, including any provision requiring the payment of money. Subordinate Lender further agrees that its agreement to subordinate hereunder shall extend to any new mortgage debt which is for the purpose of refinancing all or any part of the First Mortgage Loan (including reasonable and necessary costs associated with the closing and/or the refinancing) and, in the event of new mortgage debt, Subordinate Lender shall execute and deliver to Senior Lender a new subordination agreement on the same terms and conditions as this Subordination Agreement.

10. Default by the Subordinate Lender or Senior Lender.

If the Subordinate Lender or Senior Lender defaults in performing or observing any of the terms, covenants or conditions to be performed or observed by it under this Agreement, the other, non-defaulting lender shall have the right to all available legal and equitable relief.

11. Notices.

Each notice, request, demand, consent, approval or other communication (hereinafter in this Section referred to collectively as "**notices**" and referred to singly as a "**notice**") which the Senior Lender or the Subordinate Lender is required or permitted to give to the other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given if: (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered); or (b) sent by Federal Express (or other similar national overnight courier) designating early morning delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier); or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two days after mailing in the United States), addressed to the respective parties as follows:

SENIOR LENDER:	Wells Fargo Bank, N.A. MAC #A0119-183 333 Market Street, 18th Floor San Francisco, California 94105 Attention: Loan Administration Office
SUBORDINATE LENDER:	City of Lodi P.O. Box 3006 Lodi, California 95241-1910 Attention: City Manager

Either party may, by notice given pursuant to this Section, change the person or persons and/or address or addresses, or designate an additional person or persons or an additional address or addresses for its notices, but notice of a change of address shall only be effective upon receipt.

13. General.

(a) Assignment/Successors. This Agreement shall be binding upon the Borrower, the Senior Lender and the Subordinate Lender and shall inure to the benefit of the respective legal successors and assigns of the Senior Lender and the Subordinate Lender.

(b) No Partnership or Joint Venture. The Senior Lender's permission for the placement of the Subordinate Loan Documents does not constitute the Senior Lender as a joint venturer or partner of the Subordinate Lender. Neither party hereto shall hold itself out as a partner, agent or Affiliate of the other party hereto.

(c) Senior Lender's and Subordinate Lender's Consent. Wherever the Senior Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by the Senior Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement. Wherever the Subordinate Lender's consent or approval is required by any provision of this Agreement, such consent or approval may be granted or denied by the Subordinate Lender in its sole and absolute discretion, unless otherwise expressly provided in this Agreement.

(d) Further Assurances. The Subordinate Lender, the Senior Lender and the Borrower each agree, at the Borrower's expense, to execute and deliver all additional instruments and/or documents reasonably required by any other party to this Agreement in order to evidence that the Subordinate Mortgage is subordinate to the lien, covenants and conditions of the First Mortgage, or to further evidence the intent of this Agreement.

(e) Amendment. This Agreement shall not be amended except by written instrument signed by all parties hereto.

(f) Governing Law. This Agreement shall be governed by the laws of the State in which the Property is located.

(g) Severable Provisions. If any provision of this Agreement shall be invalid or unenforceable to any extent, then the other provisions of this Agreement, shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

(h) Term. The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of the principal of, interest on and other amounts payable under the First Mortgage Loan Documents; (ii) the payment of all of the principal of, interest on and other amounts payable under the Subordinate Loan Documents, other than by reason of payments which the Subordinate Lender is obligated to remit to the Senior Lender pursuant to Section 4 hereof; (iii) the acquisition by the Senior Lender of title to the Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the First Mortgage; or (iv) the acquisition by the Subordinate Lender of title to the Property pursuant to a foreclosure or a deed in lieu of foreclosure of, or the exercise of a power of sale contained in, the Subordinate Mortgage, but only if such acquisition of title does not violate any of the terms of this Agreement.

(i) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.

[*Remainder of Page Intentionally Left Blank*]

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

SENIOR LENDER:

WELLS FARGO BANK, N.A.,
a national banking association

By: _____
Jeff Bennett
Senior Vice President

SUBORDINATE LENDER:

CITY OF LODI,
a California municipal corporation

By: _____
Stephen Schwabauer, City Manager

ATTEST:

By: _____
Jennifer M. Ferraiolo, City Clerk

APPROVED AS TO FORM:

By: _____
Janice D. Magdich, City Attorney

DRAFT

BORROWER:

TIENDA DRIVE SENIOR APARTMENTS, L.P.,
a California limited partnership

By: Tienda Drive Senior Apartments LLC,
a California limited liability company,
its General Partner

By: Eden Investments, Inc.,
a California nonprofit public benefit corporation,
its sole Member and Manager

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of _____)

On _____, 2016 before me, _____,
a Notary Public in and for said State, 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_____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of _____)

On _____, 2016 before me, _____,
a Notary Public in and for said State, 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_____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss
County of _____)

On _____, 2016 before me, _____, a Notary Public in and for said State, 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_____

EXHIBIT A

Legal Description of Property

Exhibit A

PROPERTY

Real property in the City of LODI, County of SAN JOAQUIN, State of CALIFORNIA, described as follows:

PARCEL 1 AND PARCEL 2 AS SHOWN ON THE PARCEL MAP FILED FOR RECORD ON MAY 21, 2010 IN BOOK 25 OF PARCEL MAPS, AT PAGE 79, SAN JOAQUIN COUNTY RECORDS.

APN: 027-410-24 and 027-410-25

DRAFT – DO NOT EXECUTE

FREE RECORDING REQUESTED	)
PURSUANT TO GOVERNMENT CODE	)
SECTION 27383	)
	)
Recording requested by and	)
when recorded return to:	)
	)
CALIFORNIA HOUSING FINANCE AGENCY	)
Office of General Counsel	)
P.O. Box 4034	)
Sacramento, CA 95812-4034	)

(space above this line for Recorder's use)

SUBORDINATION AGREEMENT
MHSA
CalHFA Development No. 14-017-M

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN(S) OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS AGREEMENT dated as of March 2, 2016 for informational purposes, is entered into by and between the City of Lodi, a California municipal corporation ("***Lender***"), Tienda Drive Senior Apartments, L.P., a California limited partnership ("***Borrower***"), and the California Housing Finance Agency ("***Agency***"), a public instrumentality and political subdivision of the State of California, in connection with a loan by Lender to Borrower to finance a senior residential rental housing project on real property located in the City of Lodi, County of San Joaquin, California and more particularly described on **Exhibit A** attached hereto and incorporated herein by this reference ("***Project***"). Unless otherwise noted, references to instruments recorded in "***Official Records***" refer to instruments recorded in the Office of the County Recorder of the County of San Joaquin.

RECITALS

A. WHEREAS, Lender has agreed to make a loan to the Borrower in the amount of Four Hundred Ninety-Four Thousand Five Hundred Thirty-Six Dollars and No/100s Dollars ($494,536.00) (the "***Lender Loan***") pursuant to and in accordance with that certain Assignment and Amendment of that Purchase and Development Agreement dated as of March 2, 2016 by and among Borrower, as assignee, Eden Housing, Inc., a California nonprofit public benefit corporation ("***Eden***"), as assignor, and Lender (the "***Assignment and Amendment***"). The Lender Loan is evidenced by that certain Promissory Note Secured by Deed of Trust, dated as of March 2, 2016 made by Borrower in favor of Lender (the "***Lender Note***"), which is secured by that certain Deed of Trust, Assignment of Rents,

Security Agreement and Fixture Filing, dated as of March 2, 2016 by Borrower for the benefit of Lender and recorded in the Official Records substantially concurrently herewith (the "***Lender Deed of Trust***").

B. WHEREAS, Lender and Eden have entered into that certain Purchase and Development Agreement (the "***Original PDA***"), dated as of July 28, 2010, a memorandum of which was recorded July 30, 2010 as Instrument No. 2010-098833 of the Official Records (the "***Memorandum of Original PDA***"), as assigned and amended by the Assignment and Amendment (collectively, the Assignment and Amendment and the Original PDA are collectively referred to as the "***Development Agreement***"), a memorandum of which will be recorded substantially concurrently herewith (the "***Memorandum of Development Agreement***").

C. WHEREAS, Lender and Borrower have entered into that certain Regulatory Agreement and Declaration of Restrictive Covenants, dated as of March 2, 2016 by and between Borrower and Lender and recorded in the Official Records substantially concurrently herewith (the "***Lender Regulatory Agreement***").

The Lender Note, Lender Deed of Trust, Development Agreement, Memorandum of Original PDA, Memorandum of Development Agreement, Regulatory Agreement, and any other documents, recorded or unrecorded pertaining to the Project and the Lender Loan are collectively referred to herein as the "***Lender Documents***."

D. WHEREAS, the Agency is making, contemporaneously with the making of this Agreement, a permanent loan to Borrower (the "***MHSA Permanent Loan***"). The MHSA Permanent Loan is evidenced by a promissory note from the Borrower to the Agency in the face amount of Seven Hundred Forty Thousand and No/100s Dollars ($740,000.00) entitled "California Housing Finance Agency, MHSA Promissory Note, CalHFA Development No. 14-017-M (Permanent Financing/Residual Receipts)" (the "***MHSA Promissory Note***") and secured by a deed of trust. The deed of trust was executed by Borrower, as trustor, to North American Title Company, as trustee, in favor of the Agency, as beneficiary, and is titled "California Housing Finance Agency, MHSA Deed of Trust With Assignment of Rents, Security Agreement and Fixture Filing, CalHFA Development No. 14-017-M" dated _____1, 2016 (the "***MHSA Deed of Trust***") to be recorded in the Official Records substantially contemporaneously with this Agreement. The Project shall also be regulated and encumbered by a regulatory agreement executed by Borrower and the Agency titled "California Housing Finance Agency, MHSA Regulatory Agreement (Mental Health Services Act Housing Program), CalHFA Development No. 14-017-M dated as of _____ 1, 2016 (the "***MHSA Regulatory Agreement***") to be recorded in the Official Records contemporaneously with this Agreement. The MHSA Regulatory Agreement, MHSA Promissory Note, MHSA Deed of Trust and related unrecorded documents, including but not limited to that certain MHSA Permanent Loan Disbursement Agreement (if applicable), and the Capitalized Operating Subsidy Reserve Agreement (if applicable), shall hereafter be collectively referred to herein as the "***MHSA Permanent Loan Documents***";

E. WHEREAS, it is a condition precedent to the Agency making the MHSA Permanent Loan that the MHSA Permanent Loan Documents have priority over the Lender Documents; and

F. WHEREAS, it is beneficial to all parties that the Agency make the MHSA Permanent Loan, and the parties are willing to subordinate the Lender Documents in order that the MHSA Permanent Loan be made.

NOW THEREFORE, In consideration of the foregoing and other consideration the receipt and sufficiency of which are hereby acknowledged, and in order to induce the Agency to make the MHSA Permanent Loan, the parties hereto agree as follows:

1. Subordination of Lender Documents.

(a) The Lender and Borrower hereby unconditionally subordinate the Lender Documents to the MHSA Permanent Loan Documents, including all extensions, modifications, incremental disbursements of the original amount of the MHSA Permanent Loan if made during construction, or additional advances made thereunder. Hereafter, the MHSA Permanent Loan Documents shall unconditionally be, and remain at all times, liens and encumbrances on the Project prior and superior to the encumbrances of the Lender Documents and to all rights and privileges of the parties thereunder, and the liens and encumbrances of the Lender Documents together with all rights and privileges of the parties thereunder shall hereby be subject to and made subordinate to the liens and encumbrances of the MHSA Permanent Loan Documents. In the event of a judicial or non-judicial foreclosure of the MHSA Permanent Loan Documents, the lien of the Lender Documents shall be extinguished.

(b) The Agency agrees that it shall use its best efforts to provide Lender with a copy of all initial notices of default provided to Borrower under the MHSA Permanent Loan Documents, provided, the Agency shall have no liability to Lender and/or Borrower for its failure to do so, nor shall failure to do so constitute grounds for any restraining order, injunction, or other prohibition against or delay in the Agency's exercise of its remedies under the MHSA Permanent Loan Documents. The Agency shall not record a Notice of Default related to such initial notice during the period ninety (90) days after the date of such initial notice if such notice relates to a nonmonetary default or defaults under the MHSA Permanent Loan Documents. During the term of such period Lender shall have the right, but not the obligation, to cure any nonmonetary default under such initial notice. Notwithstanding the foregoing, if at any time following the date of the initial notice, there shall occur or be continuing a default in the payment of any amount due to the Agency under the MHSA Permanent Loan Documents, the Agency shall have the right to, and in its sole discretion may, record a Notice of Default and proceed to foreclosure based upon any such nonpayment regardless of any extended cure period with respect to nonmonetary defaults.

(c) Lender has read, understands and approves the MHSA Permanent Loan Documents and agrees to be bound thereby in the event of its foreclosure or acquisition of the Project.

2. Representations. Lender hereby represents and warrants to the Agency that at the time of execution of this agreement, the Borrower is in substantial compliance with its obligations to the Lender under the terms of the Lender Documents, and Lender has read and understands the MHSA Permanent Loan Documents and agrees that in the event the Agency determines there is a

conflict of terms between the MHSA Permanent Loan Documents and Lender Documents, the terms of the MHSA Permanent Loan Documents shall prevail.

3. Attorney Fees & Costs. If any party shall take any action to enforce or otherwise relating to this Agreement, the prevailing party or parties shall be entitled to recover reasonable attorney's fees and costs from the other party or parties.

4. Amendments. Amendments to this Agreement shall be in writing and signed by all the parties hereto.

5. Governing Law. This Agreement shall be construed in accordance with and be governed by the laws of California.

6. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

7. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, it shall not invalidate or render unenforceable any other part of this Agreement.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

LENDER:

City of Lodi, a municipal corporation of the State of California

By:____ *DRAFT – Do Not Execute* _____
Stephen Schwabauer, City Manager

ATTEST:

By: _____
Jennifer M. Ferraiolo, City Clerk

BORROWER:

TIENDA DRIVE SENIOR APARTMENTS, L.P., a California limited partnership

By: **Tienda Drive Senior Apartments LLC**, a California limited liability company
Its: General Partner

By: **Eden Investments, Inc.**, a California nonprofit public benefit corporation
Its: Sole Member/Manager

By:_*DRAFT – Do Not Execute*
Name:_____
Its:_____

DRAFT – DO NOT EXECUTE

APPROVED AS TO FORM:

By: _____
Janice D. Magdich, City Attorney

AGENCY:

CALIFORNIA HOUSING FINANCE AGENCY,
a public instrumentality and political subdivision of
the State of California

By:_____
Name_____
Title:_____

ACKNOWLEDGEMENTS

EXHIBIT A

Legal Description

Real property in the City of LODI, County of SAN JOAQUIN, State of CALIFORNIA, described as follows:

PARCEL 1 AND PARCEL 2 AS SHOWN ON THE PARCEL MAP FILED FOR RECORD ON MAY 21, 2010 IN BOOK 25 OF PARCEL MAPS, PAGE 79 SAN JOAQUIN COUNTY RECORDS.

APN: 027-410-24 and 027-410-25

ACKNOWLEDGEMENTS

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss.
County of _____)

On _____ before me, _____, a 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 *(Seal)*

ACKNOWLEDGEMENTS

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
) ss.
County of _____)

On _____ before me, _____, a 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 *(Seal)*

North American Title Company
Escrow No. 54605-1032123-10

RECORDING REQUESTED BY &
WHEN RECORDED MAIL TO:

San Joaquin County
Community Development Dept.
Neighborhood Preservation Division
1810 E. Hazelton Avenue
Stockton, CA 95205

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

APN 027-410-24 & 027-410-25

SUBORDINATION AGREEMENT

(City to County)

NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN AFFECTING THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.

THIS SUBORDINATION AGREEMENT ("Agreement") is dated as of March 15, 2016, by Tienda Drive Senior Apartments, L.P., a California limited partnership (the "Owner" of the real property described below), the City of Lodi, a California municipal corporation ("City"), and the County of San Joaquin, a subdivision of the State of California ("County").

RECITALS

A. Concurrently herewith the Owner has executed or will execute to the following documents (collectively, the "Subordinate Loan Documents") which will encumber the property described in Exhibit A attached hereto (which property, together with all improvements now or hereafter located on the property, is hereinafter referred to as the "Property"): That certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of March 2, 2016 (the "City Deed of Trust") for the benefit of the City and recorded concurrently herewith to encumber the Property to secure a loan to Owner in the principal amount of Four Hundred Ninety-Four Thousand Five Hundred Thirty-Six Dollars ($494,536.00) (the "City Loan") evidenced by a Promissory Note Secured by Deed of Trust dated as of March 2, 2016 (the "City Note") made pursuant to that Development Agreement defined in that Memorandum of Development Agreement dated as of March 2, 2016 and recorded concurrently herewith. Owner and City have executed or will execute that Regulatory Agreement and Declaration of Restricted Covenant dated as of March 2, 2016 ("City Regulatory Agreement") and recorded concurrently herewith.

B. Concurrently herewith the Owner has executed or will execute that certain Consolidated and Amended and Restated Promissory Note Secured by Consolidated Deeds of Trust (CDBG/HOME Program) dated as of March 15, 2016 (the "Consolidated Note"), in favor of the County in the principal amount of One Million One Hundred Twenty-Four Thousand six Hundred Sixty-Nine and 15/100th Dollars ($1,124,669.15) (the "County Loan") secured by that certain Deed of Trust and Security Agreement dated as of July 21, 2010 and recorded in the Official Records of San Joaquin County on July 30, 2010 as Instrument No. 2010-098836 and that certain Deed of Trust and Security Agreement dated as of July 21, 2010 and recorded in the Official Records of San Joaquin County on July 30, 2010 as Instrument No. 2010-098837, which two Deeds of Trust were consolidated into a single obligation by that certain Consolidation of and Amendment to Deeds of Trust dated as of March 15, 2016, executed by the Owner and County and recorded concurrently herewith (the "Consolidated Deeds of Trust"). The County Loan is also evidenced by that certain CDBG/HOME Regulatory & Loan Agreement dated as of July 21, 2010 and recorded in the Official Records of San Joaquin County on July 30, 2010 as Instrument No. 2010-098832, which was assumed by Owner under that Assignment dated as of March15, 2016 recorded concurrently herewith and amended by Owner and the County by that certain Amendment to CDBG/HOME Program Regulatory & Loan Agreement dated as of March15, 2016 recorded concurrently herewith (the "Regulatory and Loan Agreement"). The above-referenced Consolidated Note, Consolidated Deeds of Trust, and the Regulatory and Loan Agreement are sometimes collectively referred to herein as the "County Loan Documents."

C. As a condition to fully funding the County Loan and consenting to the City Loan, the County requires that the County Loan Documents be unconditionally and at all times remain a lien or charge upon the Property, prior and superior to all the rights of the City under the Subordinate Loan Documents and that the City specifically and unconditionally subordinates the Subordinate Loan Documents to the lien or charge of the County Loan Documents.

THEREFORE, for valuable consideration and to induce the County to make the County Loan, the Owner and the City hereby agree for the benefit of the County as follows:

1. The County Loan Documents and any renewals or extensions thereof, shall unconditionally be and at all times remain a lien or charge on the Property prior and superior to the rights of the City under the Subordinate Loan Documents.

2. This Agreement shall be the whole agreement with regard to the subordination of Subordinate Loan Documents to the lien or charge of the County Loan Documents, and shall supersede and cancel, but only insofar as would affect the priority of the County Loan Documents, any prior agreements as to such subordination, including, without limitation, those provisions, if any, contained in the Subordinate Loan Documents which provides for the subordination of the Subordinate Loan Documents to a deed or deeds of trust or to a mortgage or mortgages, or to a regulatory agreement.

3. The parties hereto agree to cooperate with each other and perform any acts and execute, acknowledge and deliver any additional agreements, documents, or instruments that may be reasonably necessary or desirable to carry out the provisions or to effectuate the purpose of this Agreement, including, without limitation, execution, acknowledgment, delivery and

recordation of any document necessary to clear title to the Property after a foreclosure under the Consolidated Deed of Trust, or a transfer of the Property by an assignment or a deed in lieu of foreclosure under the Consolidated Deed of Trust.

4. The City further declares, agrees and acknowledges for the benefit of the County, that:

(a) The County, in making disbursements of proceeds of the County Loan, is under no obligation or duty to, nor has the County represented that it will, see to the application of such proceeds by the person or persons to whom the County disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat the subordination herein made in whole or in part.

(b) The City intentionally and unconditionally subordinates all of the City's rights, titles and interests in and to the Subordinate Loan Documents to the lien or charge of the County Loan Documents and understands that in reliance upon, and in consideration of, this subordination, specific loans and advances are being and will be made by the County and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this subordination.

(c) The City consents to the County Loan and the execution and delivery by the Owner to the County of the County Loan Documents.

5. Upon the occurrence of an event of default under the County Loan, County agrees that it shall,

(a) concurrently with notifying Owner of the occurrence of an event of default, notify the City at its address set forth above of the occurrence of such event of default,

(b) permit the City to cure or correct (provided that such event of default is curable) any such event of default within thirty (30) calendar days after receipt of such notice provided, however, if such default is curable but cannot be cured within such thirty (30) day period, the City shall have such additional time (not to exceed 30 days) as is necessary to cure such default provided the City is diligently seeking to cure such default,

(c) accept all payments and all acts done by the City on behalf of Owner within the cure period specified in Paragraph 5(b) above as though the same had been timely done and performed by Owner, so that such acts and payments shall fully and totally cure and correct all such defaults, breaches, failures or refusals for all purposes, and

(d) have the continuing right to record a notice of default, obtain a court appointed receiver and otherwise exercise County's rights and remedies under the County Loan Documents during the above mentioned cure period, but, if the City notifies County in writing of the City's election to cure the default, and the City thereafter cures such default during the cure period provided herein, County will not be entitled to demand or collect any fees or costs

incurred by County in pursuing its foreclosure, judicial or other remedies to the extent such fees and/or costs are incurred after receipt by County of the City's notice of the City's intent to cure such default.

Additionally, notwithstanding anything stated to the contrary in the County Loan Documents, County acknowledges and agrees that a transfer of the Property to the City shall not, in and of itself, constitute a default under the County Loan provided that, concurrently with the transfer of the Property to the City, and as a condition precedent thereto, (i) the City expressly assumes all of Owner's obligations under the County Loan Documents, (ii) the City provides County with evidence reasonably satisfactory to County that the City has authority to assume all of Owner's obligations under the County Loan Documents, and (iii) County has received all third party consents and reaffirmations required by County (in the County's reasonable opinion) for the transfer of the Property to the City.

6. This Agreement represents the entire agreement between the parties hereto on the subject matter hereof and, except as expressly provided herein, shall not be affected by reference to any other documents. Neither this Agreement nor any provision hereof may be changed, waived, discharged, or terminated orally, but such may be accomplished only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge, or termination is sought.

7. If any of the provisions or terms of this Agreement shall for any reason be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other of the terms hereof, and this Agreement shall be construed as if such unenforceable term had never been contained herein.

8. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute and be construed as one and the same instrument.

Exhibit A is attached hereto and incorporated herein by this reference.

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN, A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT HERETO.

TIENDA DRIVE SENIOR APARTMENTS, L.P., a California limited partnership
By: Tienda Drive Senior Apartments LLC, General Partner
By: Eden Investments, Inc., sole member/manager

By: _____
Linda Mandolini, President

CITY OF LODI,
a municipal corporation

By: _____
Stephen Schwabauer, City Manager

ATTEST:

By: _____
Jennifer M. Ferraiolo, City Clerk

APPROVED AS TO FORM:

By: _____
Janice D. Magdich,City Attorney

SIGNATURES MUST BE NOTARIZED.

APPROVED AS TO CONTENT AND RECOMMENDED FOR APPROVAL: _____ KERRY SULLIVAN, Director San Joaquin County Community Development Department	COUNTY OF SAN JOAQUIN, A political subdivision of the State of California _____ MOISES ZAPIEN, Chair Board of Supervisors, County of San Joaquin
APPROVED AS TO FORM: J. MARK MYLES County Counsel, County of San Joaquin _____ Zayante (Zoey) P. Merrill Deputy County Counsel	ATTEST: MIMI DUZENSKI Clerk of the Board of Supervisors, County of San Joaquin _____ Deputy Clerk

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS

COUNTY OF _____)

On _____ before me, _____ , Notary Public,

_____

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 _____

This area for official notarial seal.

Acknowledgment

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS

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WITNESS my hand and official seal.

Signature _____

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Acknowledgment

Exhibit A

PROPERTY

Real property in the City of LODI, County of SAN JOAQUIN, State of CALIFORNIA, described as follows:

PARCEL 1 AND PARCEL 2 AS SHOWN ON THE PARCEL MAP FILED FOR RECORD ON MAY 21, 2010 IN BOOK 25 OF PARCEL MAPS, AT PAGE 79, SAN JOAQUIN COUNTY RECORDS.

APN: 027-410-24 and 027-410-25

North American Title Company
Order/Escrow No. 54605-1032123-10

APN: 027-410-24 & 027-410-25

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Lodi
P.O. Box 3006
Lodi, California 95241-1910
Attention: City Manager

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §6103 & §27383

REQUEST FOR NOTICE

In accordance with California Civil Code Section 2924b, request is hereby made that a copy of any notice of default and a copy of any notice of sale under the deed of trust recorded March ___, 2016 as Instrument No. _____ of the Official Records of San Joaquin County, California, relating to the following property:

Real property in the City of LODI, County of SAN JOAQUIN, State of CALIFORNIA, described as follows:

PARCEL 1 AND PARCEL 2 AS SHOWN ON THE PARCEL MAP FILED FOR RECORD ON MAY 21, 2010 IN BOOK 25 OF PARCEL MAPS, AT PAGE 79, SAN JOAQUIN COUNTY RECORDS.

executed by Tienda Drive Senior Apartments, L.P. as Trustor in which **Wells Fargo Bank, National Association**, is named as Beneficiary and American Securities Company as Trustee, to be mailed to:

City of Lodi
P.O. Box 3006
Lodi, California 95241-1910
Attention: City Manager

NOTICE: A copy of any Notice of Default and of any Notice of Sale will be sent only to the address contained in this recorded request. If your address changes, a new request must be recorded.

NAT Order No. 54605-1032123-10;
APN 027-410-24 & 027-410-25

Dated as of March 2, 2016.

CITY OF LODI

By: _____
Stephen Schwabauer, City Manager

ATTEST:

By: _____
Jennifer M. Ferraiolo, City Clerk

APPROVED AS TO FORM:

By: _____
Janice D. Magdich, City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)SS

COUNTY OF SAN JOAQUIN)

On _____ before me, _____ , Notary Public,

_____

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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.

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North American Title Company
Order/Escrow No. 54605-1032123-10

APN: 027-410-24 & 027-410-25

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AND WHEN RECORDED MAIL TO:

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City of Lodi
P.O. Box 3006
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executed by Tienda Drive Senior Apartments, L.P. as Trustor in which **California Housing Finance Agency** is named as Beneficiary and North American Title Company as Trustee, to be mailed to:

City of Lodi
P.O. Box 3006
Lodi, California 95241-1910
Attention: City Manager

NOTICE: A copy of any Notice of Default and of any Notice of Sale will be sent only to the address contained in this recorded request. If your address changes, a new request must be recorded.

Request for Notice continued.

NAT Order No. 54605-1032123-10;
APN 027-410-24 & 027-410-25

Dated as of March 2, 2016.

CITY OF LODI

By: _____
Stephen Schwabauer, City Manager

ATTEST:

By: _____
Jennifer M. Ferraiolo, City Clerk

APPROVED AS TO FORM:

By: _____
Janice D. Magdich, City Attorney

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COUNTY OF SAN JOAQUIN)

On _____ before me, _____ , Notary Public,

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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.

_____

North American Title Company
Order/Escrow No. 54605-1032123-10

APN: 027-410-24 & 027-410-25

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

San Joaquin County
City of Lodi
P.O. Box 3006
Lodi, California 95241-1910
Attention: City Manager

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §6103 & §27383

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executed by Tienda Drive Senior Apartments, L.P. as Trustor in which the **County of San Joaquin** is named as Beneficiary and North American Title Company as Trustee, to be mailed to:

City of Lodi
P.O. Box 3006
Lodi, California 95241-1910
Attention: City Manager

NOTICE: A copy of any Notice of Default and of any Notice of Sale will be sent only to the address contained in this recorded request. If your address changes, a new request must be recorded.

NAT Order No. 54605-1032123-10;
APN 027-410-24 & 027-410-25

Dated as of March 2, 2016.

CITY OF LODI

By: _____
Stephen Schwabauer, City Manager

ATTEST:

By: _____
Jennifer M. Ferraiolo, City Clerk

APPROVED AS TO FORM:

By: _____
Janice D. Magdich, City Attorney

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COUNTY OF SAN JOAQUIN)

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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.

_____

March ___, 2016

North American Title Company
21060 Redwood Road, Suite 110
Castro Valley, CA 94546
Attn: Suzanne H. Smith

RE: City of Lodi Escrow Instructions
2245 and 2255 Tienda Drive, Lodi, CA
Escrow/Order No. 54605-1032123-10

Dear Ms Smith:

This letter constitutes the escrow instructions of the City of Lodi, a California municipal corporation (the "City") in connection with the transfer and loans described below. These instructions are to be read in conjunction with escrow instructions from Tienda Drive Senior Apartments, L.P., a California limited partnership (the "Partnership"), Wells Fargo Bank, National Association (the "Bank"), California Housing Finance Agency ("CalHFA"), the County of San Joaquin ("County"), Wells Fargo Financial National Bank (the "AHP Lender") and Eden Housing, Inc. ("Eden").

I. Transfer and Loans.

A. Eden will convey to the Partnership that certain real property (the "Property") commonly known as 2245 and 2255 Tienda Drive in Lodi and more particularly described in your Preliminary Report 11th Amendment dated as of December 11, 2015 for Escrow/Order No. 54605-1032123-10 (the "Preliminary Report"). Eden as the current owner/developer will terminate the 1996 Agreement and the Memorandum of Option currently on record, and will assign its interest in the recorded documents with the City to the Partnership.

B. The Bank will make a construction loan to the Partnership in the amount of $16,771,698.00 or such higher or lower amount that the Bank may approve, which shall be secured by the Bank's deed of trust in first lien position against the Property (the "Bank Loan").

C. CalHFA will make a MHSA permanent loan to the Partnership in the amount of $740,000.00 which shall be disbursed at closing and be secured by CalHFA's deed of trust in second lien position against the Property (the "CalHFA Loan" or the "MHSA Loan").

D. The two existing secured County loans will be consolidated and amended, which amended terms will reduce the principal amount of the loan to $1,124,669.15 (the "County Loan") which will be secured by the existing two deeds of trust in favor of the County as consolidated by that Consolidation of and Amendment to the Deeds of Trust to be recorded against the Property in a third lien position.

E. The City will make with a construction/permanent loan to the Partnership in the amount of $494,536.00 which shall be disbursed at closing and be secured by the City's Deed of Trust in fourth lien position against the Property (the "City Loan"). The City Loan will be evidenced by the documents listed in Section II below.

F. The AHP Lender will make an AHP Loan in the amount of $790,000.00 to the Partnership secured by a deed of trust in a fifth lien position against the Property (the "AHP Loan").

II. Documents Deposited or to be Deposited into Escrow by the City and Partnership.

1. Release and Termination [of Agreement] executed by the City and Eden to terminate the 1996 Agreement recorded as series #96079082 (the "Agreement Release");

2. Release and Termination [of Option] executed by the City and Eden Development, Inc. to terminate the Memorandum of Option recorded as series #2009-176922 (the "EDI Option Release");

3. Regulatory Agreement and Declaration of Restrictive Covenants executed by the City and Partnership (the "City Regulatory Agreement")'

4. $494,536.00 Deed of Trust with Assignment of Rents, Security Agreement, and Fixture Filing executed by the Partnership with the City as Beneficiary (the "City Deed of Trust");

5. $494,536.00 Promissory Note Secured by Deed of Trust executed by the Partnership (the "City Note");

6. Assignment and Amendment of That Purchase and Development Agreement executed by the City and Partnership:

7. Memorandum of Development Agreement by executed by the City and Partnership (the "Memo of Development Agreement") modifying the Memorandum of Purchase and Development Agreement recorded July 30, 2010 as series #2010-098833;

8. Subordination Agreement executed by the City, Partnership and the Bank whereby the City Loan documents are subordinated to the Bank loan documents listed therein (the "Bank-City Subordination Agreement");

9. Subordination Agreement executed by the City, Partnership and CalHFA whereby the City Loan documents are subordinated to the MHSA Loan documents listed therein (the "MHSA-City Subordination Agreement");

10. Subordination Agreement executed by the City, Partnership and County whereby the City loan documents are subordinated to the County Loan documents listed therein (the "County-City Subordination Agreement");

11. Three Requests for Notice executed by the City for the Bank Loan, the MHSA Loan, and the County Loan (the "City Requests for Notice"); and

12. Estoppel Certificate addressed to Wells Fargo Affordable Housing Community Development Corporation executed by the City and left undated.

III. Deposit of City Funds.

The City will deposit $494,536.00 into escrow to fully advance the entire $494,536.00 principal amount of the City Loan.

IV. Conditions of Closing.

You may close this escrow only upon fulfillment of all of the following conditions:

A. You hold the documents referred to in Section II, duly executed and acknowledged where required, with all appropriate exhibits attached.

B. You have met all of the requirements of these escrow instructions and are prepared to issue to the City a 2006 ALTA LP-10 Lender's Policy of Title Insurance (the "City Title Policy") in the amount of Four Hundred Ninety-Four Thousand Five Hundred Thirty-Six Dollars ($494,536.00) dated as of the recording date of the City Deed of Trust, naming the City as the Insured and insuring the City that the City Deed of Trust, the City Regulatory Agreement, the City Memorandum of Development Agreement, and the Memorandum recorded as series #2010-098833 constitute valid liens against the Property, subject only to the following exceptions listed in the Preliminary Report as exception #1 and #2 (general and special taxes and assessments for both parcels; provided, however that all taxes and assessments that are due or payable shall be paid as of or through closing); #3 (lien of supplemental taxes); #4 (ROW for Pipe Line 34158); #6 (easement for public utilities); #8 (Water Rights Agreement 2010-068568); and the following documents to be recorded as part the closing: the Bank construction deed of trust and any other document required by the Bank to close the Bank Loan, and CalHFA's MHSA Regulatory Agreement, MHSA Deed of Trust, and any other document required by CalHFA to close the MHSA Loan; #9 (CDBG/HOME Program Regulatory & Loan Agreement 2010-098832); the Amendment to the CDBG/HOME Program Regulatory & Loan Agreement; the County; #11 and #12 (County Deeds of Trust 2010-098836 and #2010-098837) as consolidated and amended by that Consolidation of and Amendment to Deeds of Trust. The City Title Policy shall also include as a subordinate item the AHP Loan Deed of Trust. The City Title Policy shall also include such endorsements as may be listed in an attachment to these instructions.

C. You have received written or oral confirmation to record from any one of the following the City's representatives: Joseph Wood (jwood@lodi.gov) or Janice Magdich (jmagdich@lodi.gov).

V. Recording Requirements.

A. The correct legal descriptions have been attached and all dates have been inserted.

B. Upon meeting the conditions of closing in Section IV above, you are instructed to record the following documents in the Official Records of San Joaquin, collectively known as the "City Recorded Documents," in the following order or in such other order as may be required by the Bank's or the Partnership's escrow instructions.

1. 1996 Agreement Release;
2. EDI Option Release;
3. City Regulatory Agreement;
4. City Deed of Trust;
5. Memorandum of Development Agreement;
6. Bank-City Subordination Agreement;
7. MHSA-City Subordination Agreement;
8. County-City Subordination Agreement; and
9. City Requests for Notice: Prior to recording, you are to insert the recording date and series number in the spaces provided. The County Requests for Notice may be recorded separately within two (2) business days after the closing of the loans.

Immediately upon recordation of the Recorded Documents, you are instructed to notify the City by email to the following addresses: Joseph Wood (jwood@lodi.gov) and Janice Magdich (jmagdich@lodi.gov).

VI. Disbursement of Funds; Delivery of Estoppel Certificate.

You are to disburse the City Funds to the Partnership or its order. You are to date the Estoppel Certificate as of the closing/recording date and deliver the original Estoppel Certificate to the addressee.

VII. Delivery of the Recorded Documents and Policies.

You are instructed to deliver to the City of Lodi, P.O. Box 3006, Lodi, CA 95241-1910 Attention: City Manager, all of the following documents which, where applicable, are to include recording information certified as correct by North American Title Company, within five (5) business days of the close of escrow: A final settlement statement, the original copy of these instructions executed by the City and acknowledged by North American Title Company, the original City Promissory Note, the original Assignment and Amendment of That Purchase and Development Agreement; the City Recorded Documents, and the original City Title Policy.

VIII. Costs, Fees, and Premiums.

All escrow, title, recording and other costs, fees and premiums shall be the responsibility of the Partnership. The City shall not bear any costs, fees or premiums in connection with this escrow.

IX. Amendment, Modification or Revocation.

These instructions may be revoked, amended or modified in writing executed by all parties hereto at any time prior to the close of escrow.

Please acknowledge your agreement to and acceptance of these instructions by signing the enclosed copies of this letter and returning one copy to the undersigned.

Sincerely,

CITY OF LODI, a California municipal corporation

By: _____
Stephen Schwabauer, City Manager

ATTEST:

By: _____
Jennifer M. Ferraiolo, City Clerk

APPROVED AS TO FORM:

By: _____
Janice D. Magdich, City Attorney

The undersigned acknowledges receipt of the above instructions and agrees to proceed in strict accordance therewith.

NORTH AMERICAN TITLE COMPANY Dated: March ____, 2016

By:_____
Its:_____

AGENDA ITEM C-10

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Authorizing Submittal of Application for Payment Programs and Related Authorizations by the Public Works Management Analyst with the Department of Resources Recycling and Recovery

MEETING DATE: March 2, 2016

PREPARED BY: Interim Public Works Director

RECOMMENDED ACTION: Adopt resolution authorizing submittal of application for payment programs and related authorizations by the Public Works Management Analyst with the Department of Resources Recycling and Recovery.

BACKGROUND INFORMATION: The Beverage Container Recycling Program provides the City with grant opportunities to establish beverage container recycling and litter cleanup activities. The goal of the program is to reach and maintain an 80-percent recycling rate for all California Refund Value (CRV) beverage containers. Projects and/or activities implemented by the City assist the State in reaching and maintaining this goal. Past projects using this source of funding included the purchase and installation of recycling receptacles in the downtown area and at various bus stop locations.

In February 2016, Department of Resources Recycling and Recovery (CalRecycle) recommended several changes to the Beverage Container Recycling City/County Payment Program. Some of the changes are a result of findings in a California State Auditor report completed in 2010 and 2014 on the Beverage Container Recycling Program while others allow for increased fiscal accountability and alignment of CalRecycle's other payment programs. One of the changes is the submittal of an approved resolution authorizing the submittal of applications and the signature authority to execute all documents necessary to implement and secure payment. The resolution will be effective until rescinded by the City.

FISCAL IMPACT: Failure to adopt the resolution may result in funding not being approved.

FUNDING AVAILABLE: Not applicable.

_____
Charles E. Swimley, Jr.
Interim Public Works Director

Prepared by Rebecca Areida-Yadav, Management Analyst
CES/RAY/jr

APPROVED: _____
Stephen Schwabauer, City Manager

RESOLUTION NO. 2016-____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING SUBMITTAL OF APPLICATION FOR
PAYMENT PROGRAMS AND RELATED
AUTHORIZATIONS

==========

WHEREAS, pursuant to Public Resources Code Section 48000 et seq. the Department of Resources Recycling and Recovery (CalRecycle) has established various payment programs to make payments to qualifying jurisdictions; and

WHEREAS, in furtherance of this authority, CalRecycle is required to establish procedures governing the administration of the payment programs; and

WHEREAS, CalRecycle's procedures for administering payment programs require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of the payment program.

NOW, THEREFORE, BE IT RESOLVED that City of Lodi is authorized to submit an application to CalRecycle for any and all payment programs offered; and

BE IT FURTHER RESOLVED that the Public Works Management Analyst, or his/her designee, is hereby authorized as Signature Authority to execute all documents necessary to implement and secure payment; and

BE IT FURTHER RESOLVED that this authorization is effective until rescinded by the Signature Authority or this Governing Body.

Dated: March 2, 2016

==========

I hereby certify that Resolution No. 2016-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 2, 2016, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. FERRAIOLO
City Clerk

AGENDA ITEM C-11

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Parks, Recreation and Cultural Services Strategic Action Plan

MEETING DATE: March 2, 2016

PREPARED BY: Parks, Recreation and Cultural Services Director

---

RECOMMENDED ACTION: Adopt Parks, Recreation and Cultural Services Strategic Action Plan.

BACKGROUND INFORMATION: Starting in 2014, PROS Consulting, Inc., of Indianapolis collected data and community input, worked closely with Parks, Recreation and Cultural Services (PRCS) staff, and provided updates and solicited feedback from the City Council and Recreation Commission to create a blueprint for the Department's future.

On February 2, the Recreation Commission voted 5-0 to recommend the City Council adopt the plan. The 2015-2019 Strategic Action Plan provides PRCS guidance for short-term and long-term goals in a financially sustainable and achievable manner, focused on five key areas in the Implementation Plan:

- Parkland and Facilities
- Recreation Programs
- Operations and Maintenance
- Finance
- Marketing and Communications

Parkland and Facilities strategies include: Grow parks, trails with needs of community, but within PRCS resources; design for efficiency; have complementary mix of elements at individual park sites; strategically add indoor facility space while ensuring financial sustainability; and maximize the use of Lodi Lake to ensure its sustainability and position as a source of pride to the community.

Recreation Programs strategies include: Leverage tech, word of mouth to increase awareness, participation; build the PRCS brand by greater consistency; celebrate diversity of Lodi community; become a data-driven agency; build volunteerism as a core program; and evaluate existing core program areas to ensure relevancy.

Operations and Maintenance strategies include: Develop maintenance standards for all facilities, trails; improve intra-departmental coordination and communication; develop a school district partnership plan for use of school property for PRCS needs; explore contract or volunteer maintenance; and build an organizational culture built on innovation and continuous improvement, creating the "Lodi Way."

Finance strategies include: Reinstitute a capital improvement program; develop a long-term financial plan and cost of service study; develop specific policies for pricing, partnership, volunteer, and earned income and establish cost-recovery goals; implement environmental sustainability practices; and update policy manuals to focus on performance, outcomes.

APPROVED: _____

Stephen Schwabauer, City Manager

Marketing and Communication strategies include: Develop a marketing strategy and distinct brand identity for PRCS; and focus on developing a strong brand and positive brand equity for PRCS.

Starting on Page 110 (Appendix A) is the Strategic Action Plan Matrix, which identifies the tactics, staff responsible, desired start date, required resources and performance measures for the various strategies.

In summary, the Strategic Action Plan is a community-based plan that calls for greater accountability, embraces a “new normal,” calls for building a culture of continuous learning and customer service excellence, and finds that PRCS has turned the corner financially and is poised to serve an increasingly diverse community.

The Recreation Commission’s meetings on January 5 and February 2 provided an opportunity for public comment on the document. An electronic version has been available on the PRCS website since January 4. No public comments have been received.

FISCAL IMPACT: Adopting the Plan sets greater expectations for improved financial performance and accountability from PRCS, which should lead to an increase in net revenue.

FUNDING AVAILABLE: Not applicable.

_____
Jeff Hood
Parks, Recreation and Cultural Services Director

JH:tl

PARKS. RECREATION, AND CULTURAL SERVICE DEPARTMENT

2015 – 2019
STRATEGIC ACTION PLAN

December 2015

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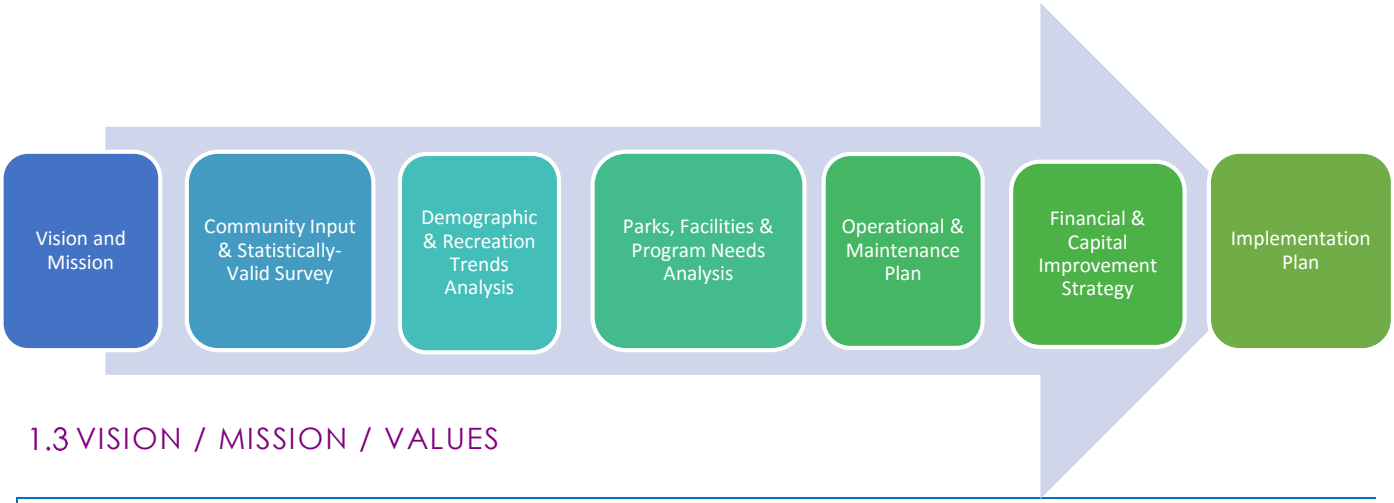
CHAPTER ONE EXECUTIVE SUMMARY

1.1 INTRODUCTION

TBD upon draft report approval

1.2 PROJECT PROCESS

The foundation of the approach to the *Parks, Recreation, and Cultural Service Department Strategic Action Plan* was to incorporate an efficient and effective public participation process. It was very important to not only engage those who are always participating in the planning process but also those who do not. The Consulting Team worked with the Department to identify opportunities that engage people through a variety of community input process described below. The outcomes, as outlined in this Strategic Action Plan, provide guidance for both short-term and long-term goals in a financially sustainable and achievable manner. The process of developing this *Strategic Action Plan* followed a logical planning path, as described below:



1.3 VISION / MISSION / VALUES

1.3.1 VISION STATEMENT

The following vision presents Lodi Parks, Recreation, and Cultural Services Department desire for the future:

> *"To be the region's leading provider of vibrant spaces and experiences."*

1.3.2 MISSION STATEMENT

The following mission statement is how Lodi Parks, Recreation, and Cultural Services Department will implement their vision:

> *"To exceed community and staff needs in an innovative and sustainable manner."*

1.3.3 VALUES

- Customer Service Excellence
- Innovation / Continuous Improvement
- Inclusion
- Fun / Positive Experiences
- Sustainability (Financial and Environmental)

1.4 GOALS

- Incorporating NRPA's 3 Pillars – Health and Wellness, Conservation and Social Equity
- Ensuring Financial Sustainability for the organization
- Telling the PRCS story
- Creating a professional organizational culture

1.5 KEY FINDINGS

1.5.1 COMMUNITY INPUT

STRENGTHS

A large theme of stakeholder input was the PRCS Department staff. Not only did community members praise the leadership of the department, but they also described staff as responsive, open, experienced and innovative. Other strengths that became apparent through this process included partnerships and connectivity to businesses, along with after school programs and park maintenance.

OPPORTUNITIES

Among the numerous suggestions of Park users in the Lodi area, one of the biggest themes was finishing work that has already been started on the three in-progress parks. The completion of these areas is the community's biggest current opportunity. Other large themes of these meetings include increased customer service and cross training among staff members, addition of community-wide aquatic spaces and enhanced recreation to bring east and west Lodi together.

TOP PRIORITY

High training of staff both professionally, and in the area of customer service was among the top priorities of community members. Also highly valued areas were again, the mention of a desire to complete current Parks and Recreation projects, generate enhanced aquatic spaces, as well as exploration of alternate and sustainable funding sources for the Department.

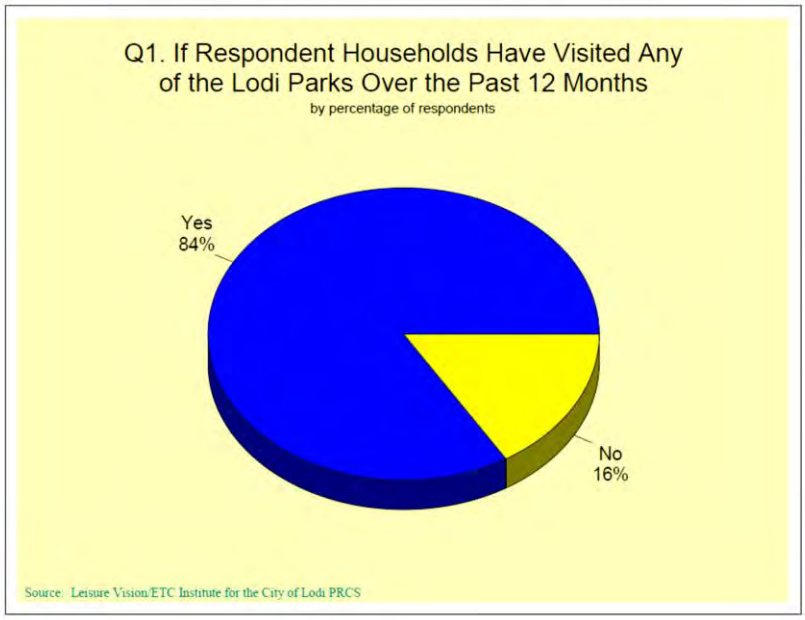
1.5.2 STATISTICALLY-VALID SURVEY

ETC Institute conducted a Community Interest and Opinion Survey for the PRCS Department during spring of 2015 to help determine parks, recreation, and cultural priorities for the community. The survey was mailed to a random sample of households in the City of Lodi. An option to complete the survey in Spanish either by phone or an online PDF was available to residents who had that preference.

A total of 448 households completed the survey by mail, phone, or web. The results for the sample of 448 households have a 95% level of confidence with a precision rate of at least +/- 4.6%.

The major findings are below while the comprehensive survey results can be found in the **Appendix**.

VISITATION OF PARKS AND RECREATION FACILITIES



- **Park and facility usage**: Eighty-four percent (84%) of respondent households indicated that they have visited City of Lodi parks over the past 12 months. Of those respondents who have visited parks, 80% indicated they had visited *walking, hiking, & biking trails*. Other facilities visited include: Playgrounds (55%), shelters/picnic areas (47%), and a dog park area (33%).
- **Facilities used the most frequently**: Based on the percentage of respondents top three most visited facilities, 56% indicated that they use *walking, hiking, & biking trails* the most often. Other most visited facilities include: Playgrounds (39%), shelters/picnic areas (25%), dog park area (20%), and soccer fields (14%).
- **Most visited facilities**: Based on the percentage of respondents who visited the facility 1 or more times over the past year (excluding those who indicated don't know), 87% indicated they visited *Lodi Lake Park*. Other most visited facilities with similar visitation levels include: Hutchins Street Square (64%), Sales Park (42%), and American Legion Park (34%).
- **Rating of facilities**: Based on the percentage of respondents who use facilities, 57% rated the overall quality as *good*. Other ratings include: Fair (22%), excellent (18%), and poor (3%).

PROGRAM PARTICIPATION

- **Current participation**: Thirty-four percent (34%) of respondents indicated that they had participated in recreation or cultural programs over the past 12 months. Of the 34% that participated, 48% participated in *2 to 3 programs or activities* over the past 12 months. Other levels of participation include: 1 program or activity (29%), 4 to 6 programs or activities (17%), 7 to 10 programs or activities (5%), and 11 or more programs or activities (1%).
- **Reasons for participation**: Fifty-five percent (55%) of respondent households have participated in programs or activities because of the *location of the program facility*. Other reasons include: Friends participate in the program (35%), quality of instructors and coaches (31%), quality of program facility (29%), times program is offered (29%) fees charged for class (24%), and dates program is offered (21%).
- **Rating of programs and activities**: Based on the percentage of respondents who have participated in programs or activities over the past 12 months, 64% indicated the overall quality as good. Other ratings include: Excellent (25%), fair (9%), and poor (2%).

WAYS RESIDENTS LEARN ABOUT PROGRAMS AND ACTIVITIES

- Forty-four percent (44%) of respondents indicated that they learn about programs or activities from *friends and neighbors*. Other ways include: Newspaper (40%), PRCS Community Activity Guide (34%), and school fliers and newsletters (20%).

FACILITY NEEDS

- **Need for facilities:** Seventy-seven percent (77%) or 16,926 households indicated a need for *walking and biking trails*. Other most needed facilities include: Nature trails (72% or 15,844 households), lake area (71% or 15,689 households), small neighborhood parks (66% or 14,650 households), and large community parks (63% or 14,009 households).
- **Most important facilities**: Based on the sum of respondents top four choices, 48% indicated that *walking & biking* trails was the most important facility to their household. Other most important facilities include: Small neighborhood parks (35%), nature trails (34%), and lake area (32%).

PROGRAMMING NEEDS

- **Need for programs**: Forty-six percent (46%) or 10,253 households indicated a need for *community special events/cultural festivals*. Other most needed programs include: Adult fitness and wellness programs (43% or 9,413 households), volunteer opportunities (32% or 7,093 households), and youth sports programs (32% or 7,005 households).
- **Most important programs**: Based on the sum of respondents top four choices, 28% indicated that the most important program to their household was *community special events/cultural festivals*. Other most important programs include: Adult fitness & wellness programs (25%) and youth sports programs (20%).
- **Current participation**: Based on the percentage of respondents top four choices, 19% indicated that they participate in *community special events/cultural fe*stivals the most often. Other programs most participated in include: Youth sports programs (16%), adult fitness & wellness programs (9%), and volunteer opportunities (8%).

REASONS PREVENTING USE OF PRCS PROGRAMS/FACILITIES MORE OFTEN

- Thirty-one percent (31%) of respondent households indicated that they were prevented from using the City of Lodi Parks, Recreation, Cultural Facilities or Programs More Often because they are *too busy*. Other reasons include: I do not know what is being offered (28%), fees are too high (23%), and program or facility is not offered (21%).

IMPORTANCE OF ACTIONS THE CITY OF LODI CAN TAKE

- **Importance of actions**: Based on the percentage of respondents who indicated "very important" or "somewhat important," 83% indicated it was important for the City to *upgrade Lake Lodi facilities & amenities*. Other most important actions include: Build additional waking & biking trails & connect existing trails (82%), upgrade existing neighborhood parks (80%), and upgrade existing walking & biking trails (79%).
- **Actions residents are the most willing to fund with tax dollars**: Based on the percentage of respondents' top three choices, 31% indicated they are most willing to fund the *upgrade of existing neighborhood p*arks. Other actions respondents are the most willing to fund include: Upgrade Lake Lodi facilities and amenities (29%), build additional walking and biking trails and connect existing trails (29%),

and build a new outdoor swimming complex/water park with programs spaces most important to households (28%).

TAX REVENUE

- **Maximum amount of additional funds**: Twenty-eight percent (28%) of respondents indicated that they would be willing to be an additional *$3-$4 per month* to pay to develop and operate parks, trails, aquatics, sports and cultural facilities that are the most important to their household. Other amounts include: Nothing (24%), $5-$6 per month (21%), $9+ per month (16%), and $7-$8 per month (11%).
- **How respondents would vote in an election**: Respondents were asked how they would vote if the additional tax revenue they indicated they would be willing to pay to improve and build parks, trails, aquatics, sports and cultural facilities was included on a future ballot. Fifty percent (50%) of respondents indicated that they would *vote in favor*. Other responses include: Might vote in favor (21%), not sure (18%), and vote against (10%).

LEVEL OF SATISFACTION WITH THE OVERALL VALUE RECEIVED FROM PRCS

- Fifty-seven percent (57%) of respondents indicated that they were either "somewhat" or "very" satisfied with the overall value their household receives from PRCS. Other levels of satisfaction include: Neutral (32%), somewhat dissatisfied (6%), and very dissatisfied (5%).

1.5.3 ON-LINE SURVEY

To complement the statistically-valid process, the consulting team also undertook an online community input survey that was administered through the project website: www.lodiparksvision.com . The survey was available online from September 29, 2014 for four weeks and garnered a total of 191 responses from a broad group of community members.

Summary of Community Input Survey
1. Total of 191 survey responses a. 72% of survey respondents were female b. 50% of respondents had annual household income between $70K-$149K c. Majority were White Alone (69.98%)
2. Parks and Facilities a. Most visited (% of respondent households visiting 10+ times): i. Lodi Lake and Wilderness Area (41.3%) ii. Peterson Park (28.4%) iii. Hutchins Street Square (27.43%) b. Least visited (% of respondent households that have not visited): i. English Oaks Commons (93.87%) ii. Hale Park (91.88%) iii. Century Park (90.24%) c. Facilities / amenities most needed (% of respondent households that have a need): i. Walking / biking trails and greenways (86.34%) ii. Small neighborhood parks (82.95%) iii. Community parks (82.86%) iv. Small family picnic areas and shelters (80%)

v. Playground equipment (72.93%)
3. Programs a. 75% of respondents have participated in programs in past 12 months b. 75% of respondents rate programs as excellent or good (only 5% rate as poor) c. Most needed programs (% of respondent households that have a need): i. City wide special events (75.44%) ii. Youth sports (67.8%) iii. Outdoor Skills / Adventure (65.27%) iv. Adult fitness and wellness (60.59%) v. Visual and performing arts (58.33%)
4. User Preference a. Saturday and Monday are the most preferred days for programs / activities, while Fridays are the least preferred b. Activity guides, word of mouth, and the Department's website are the most effective current marketing methods c. 65% somewhat or strongly agree they would support differential rates for non-residents to support low cost or free programs for low income residents

1.5.4 OPERATIONAL STAFF ASSESSMENT

As a part of assessing the internal organizational culture and operations, the consulting team administered an employee organizational survey over a six week period starting September 2014. Forty-two (42) staff employees participated in this survey which serves as a good yardstick to assess current employee sentiment **at a point in time**. Of the 42 responses, 15 are full time employees and 27 are part time employees.

This assessment, provided in **Section 5,** was undertaken as a part of the Malcolm Baldrige Criteria for Performance Excellence. It is titled – "Are We Making Progress" and was circulated to employees Department-wide. For organizations that have been using the Baldrige Criteria for Performance Excellence, the questionnaire is conveniently organized by the seven Criteria Categories.

The areas reviewed through this employee assessment template include:

- Leadership
- Strategic Planning
- Customer and Market Focus
- Measurement, Analysis and Knowledge Management
- Workforce Focus
- Process Management
- Cultural Results

Detailed information about these responses are provided in **Appendix B.**

- The summarized findings are color-coded based on the following:
  - 33% or less responses Agree or Strongly Agree – Red
  - 34% - 66% of responses Agree or Strongly Agree – Yellow
  - 67% or higher responses Agree or Strongly Agree – Green

The reason for evaluating the culture of the organization is to better understand and assess how your organization works. After understanding the culture of the organization it will make it easier to build, maintain, or implement change in the organization. Understanding your employees' needs and concerns will help develop them within the organization and help PRCS achieve one of its goals of building a professional organizational culture.

1.5.5 PRIORITIZED FACILITY AND PROGRAM NEEDS ASSESSMENT

The purpose of the Facility and Program Priority Rankings is to provide a prioritized list of facility/ amenity needs and recreation program needs for the community served by the City of Lodi Parks, Recreation and Cultural Services Department.

This rankings model evaluated both quantitative and qualitative data. Quantitative data includes the statistically valid Community Survey, which asked residents to list unmet needs and rank their importance. Qualitative data includes resident feedback obtained in community input and demographics and trends.

A weighted scoring system was used to determine the priorities for parks and recreation facilities/ amenities and recreation programs. For instance as noted below, a weighted value of 3 for the Unmet Desires means that out of a total of 100%, unmet needs make up 30% of the total score. Similarly, importance-ranking also makes up 30%, while Consultant Evaluation makes up 40% of the total score, thus totaling 100%.

This scoring system considers the following:

- Community Survey
  - <u>Unmet needs for facilities and recreation programs</u> – This is used as a factor from the total number of households mentioning whether they have a need for a facility/ program and the extent to which their need for facilities and recreation programs has been met. Survey participants were asked to identify this for different facilities/ amenities and recreation programs.
  - <u>Importance ranking for facilities</u> – This is used as a factor from the importance allocated to a facility or program by the community. Each respondent was asked to identify the top four most important facilities and recreation programs.

- Consultant Evaluation
    - Factor derived from the consultant's evaluation of program and facility priority based on survey results, demographics, trends and overall community input.

The weighted scores were as follows:

- 60% from the statistically valid community survey results.
- 40% from consultant evaluation using demographic and trends data, community focus groups and public meetings and levels of service.

These weighted scores were then summed to provide an overall score and priority ranking for the system as a whole. The results of the priority ranking were tabulated into three categories: High Priority (top third), Medium Priority (middle third) and Low Priority (bottom third).

The combined total of the weighted scores for Community Unmet Needs, Community Importance, and Consultant Evaluation is the total score based on which the Facility/Amenity and Program Priority is determined.

As seen below, Walking and biking trails, Small neighborhood parks, Nature Trails, Indoor fitness, running track and exercise facilities and the Lake Area and are the top five highest facility / amenity priorities in Lodi.

Lodi Facility/Amenity Priority Rankings	
	Overall Ranking
Walking & biking trails	1
Small neighborhood parks	2
Nature trails	3
Indoor fitness, running track & exercise facilities	4
Lake area	5
Outdoor swimming pools/water parks	6
Playgrounds	7
Large community parks	8
Indoor theater & cultural arts facilities	9
Wildlife conservation areas	10
Off-leash dog park	11
Outdoor amphitheater	12
Indoor basketball/volleyball courts	13
Outdoor picnic shelters	14
Outdoor disc golf	15
Youth baseball fields	16
Outdoor basketball courts	17
Outdoor tennis court	18
Adult softball fields	19
Outdoor skateboarding parks	20
Football/lacrosse/cricket fields	21
Youth softball fields	22
Pickleball courts	23

As seen below, Adult fitness and wellness programs, Community special events / cultural festivals Water Fitness programs, Youth Sports programs, and Youth Learn to Swim programs are the top five highest program priorities in Lodi.

Lodi Program Priority Rankings	
	Overall Ranking
Adult fitness & wellness programs	1
Community special events/cultural festivals	2
Water fitness programs	3
Youth sports programs	4
Youth Learn to Swim programs	5
Volunteer opportunities	6
Adult painting, arts, sculpturing classes	7
Senior programs	8
Pre-School programs/early childhood	9
Nature education programs	10
Adult sports programs	11
Adult theatre, dance, singing, musical instrument classes	12
Before & after school programs	13
Youth theatre, dance, singing, musical instruments classes	14
Youth fitness & wellness classes	15
Gymnastics & tumbling programs	16
Youth summer camps	17
Youth painting, arts, sculpturing classes	18
Tennis lessons & leagues	19
Programs for people with disabilities	20
Martial arts programs	21

1.6 KEY RECOMMENDATIONS

The strategic action plan is broken into key areas of recommendations in a vision and strategy matrix. This matrix includes key areas, vision, goals, strategies, tactics, timelines and performance metrics to define success and manage accountability. This matrix was developed in a collaborative work session with the staff to ensure complete engagement and buy-in from the staff who will be responsible for the plan's implementation. The vision and strategies are provide below while the detailed strategy matrix will be included in the appendix.

The intended outcome is for the document to be a living, dynamic tool that is constantly updated as local condition or community trends change.

The key areas for recommendations include:

- Parkland and Facilities
- Recreation Programs
- Operations and Maintenance
- Finance
- Marketing and Communications

1.6.1 COMMUNITY VISION FOR PARKLAND AND FACILITIES

Acquire property, develop and maintain existing parks and recreation facilities to meet LOS (Level of Service) standards and use that enhances property values, provides a benefit to the residents and users and positions the PRCS Department as a regional leader.

STRATEGY

- Ensure the growth of the parks and trails system keeps pace with the needs of the community but does not outpace the financial or organizational resources of the Department.
- Develop design principles for each park in the system to maximize the value and use to make the park as efficient and productive as possible.
- Create a mix of synergistic elements within the system to maximize complementary use at individual sites and throughout the system.
- Strategically add indoor facility space to serve the growing population and meet new recreation demands while ensuring financial sustainability.
- Maximize the use of Lodi Lake to ensure its sustainability and position as a source of pride to the community.

1.6.2 COMMUNITY VISION FOR RECREATION PROGRAMS

To serve Lodi's diverse community's needs through creative, multi-cultural and multi-generational recreation opportunities and increase program participation from 34% to over 40% in 5 years.

STRATEGY

- Combine increased use of technology and word of mouth to Increase awareness and participation rates of program offerings among Lodi residents and tourists / visitors (2nd biggest reason why people participate – 35% is due to friends' participation).

- Build the PRCS brand and tell its story by ensuring greater consistency in program delivery, look and feel through system-wide standards as well as celebrate the diversity of the Lodi community.
- Become a data-driven agency that uses data and analytics to drive decision-making on program offerings and customer feedback.
- Build Volunteerism as a core program.
- Evaluate existing core program areas and their classification / lifecycles to ensure alignment with trends and community needs.

1.6.3 COMMUNITY VISION FOR MAINTENANCE AND OPERATIONS

Develop an operations and maintenance plan for the park system for all parks, recreation facilities and trails to establish the maintenance cost requirements based on agreed to maintenance standards

STRATEGY

- Develop maintenance standards for all parks, recreation facilities and trails based on the right frequency of maintenance tasks, using the right skill set of employees at the right pay for the right benefit desired.
- Improve intra-departmental coordination and communication and leverage the functional organization structure to aid in limiting silos.
- Develop a school district partnership plan for use of school property for parks and recreation needs of the Department.
- Consider the value of contract or volunteer maintenance of certain tasks to maximize efficiency.
- Build an organizational culture built on innovation and continuous improvement that sustains changes in staff and leadership and creates the 'Lodi' way.

1.6.4 COMMUNITY VISION FOR FINANCE

Develop a sustainable park and recreation system by enhancing current and potential revenue sources and creating additional dedicated funding opportunities.

STRATEGY

- Reinstitute a capital improvement program in order to provide adequate facilities and services to the public and avoid more costly expenditures over the long term.
- Develop a long term financial plan and cost of service study for PRCS that can help support the implementation plan.
- Develop specific policies for pricing, partnership, volunteer, and earned income and establish Department-wide cost recovery goals over time.
- Implement environmental sustainability practices within the department.
- Update all policy manuals to focus on performance and outcomes.

1.6.5 COMMUNITY VISION FOR MARKETING AND COMMUNICATIONS

To reduce lack of awareness as a barrier to participation from 28% to less than 20% and to enhance household program participation from 34% to over 40% in 5 years.

STRATEGY

- Develop a marketing strategy and distinct brand identity for PRCS.
- Focus on developing a strong brand and positive brand equity for PRCS.

1.7 CONCLUSION

In summary, the Lodi PRCS department has turned the corner with respect to financial sustainability and is now poised to continue serving the increasingly diverse community's evolving need. The Strategic Action Plan is a 5 year community-based plan with an established vision, mission and values all resulting in goals, outcomes and performance metrics for staff to hold them accountable.

It is an ambitious plan and will require the Department and the City to embrace the new normal based on partnerships and financial sustainability while building a strong internal culture of continuous learning and customer service excellence. The community and leadership have indicated their support for parks, recreation and culture services in Lodi and this plan will help the Department achieve the community's goals in an innovative and sustainable manner.

CHAPTER TWO COMMUNITY INPUT

2.1 KEY LEADERSHIP AND FOCUS GROUP SUMMARY

2.1.1 STRENGTHS

A large theme of stakeholder input was the great staffing of the Lodi Parks and Recreation Division. Not only did community members praise the leadership of the department, but they also described staff as responsive, open, experienced and innovative. Other strengths that became apparent through this process included partnerships and connectivity to businesses, along with after school programs and park maintenance.

COMMENTS:

- City has done a good job building relationships within the community – Logistics of working between partners and parks and recreation has vastly improved
- Volunteer and docent program, especially a good opportunity for seniors. Good use of volunteers that allow programs to have a further reach, especially towards youth.
- Very skilled and experienced people on staff – at all levels – because there's been long tenure in these positions.
- After school program serves a great community need
- Visibility has grown. Presence at special events and festivals.
- PRCS Department leadership is open and very responsive
- Good park maintenance despite the funding challenges
- Heavy use of athletic fields
- Good use of Hutchins Street Square facility
- Willing to seek input from other small business and groups in Lodi
- Diverse offerings that are affordable and meet community needs
- Trails and connectivity throughout the city
- Variety of offerings for a City of this size (parks, trails, sports, lake etc.)
- Lake Lodi is a great asset that means a lot to the community
- Variety of offerings and activities
- Dog parks

2.1.2 OPPORTUNITIES

Among the numerous suggestions of Park users in the Lodi area, one of the biggest themes was finishing work that has already been started on the three in-progress parks. The completion of these areas is the community's biggest current opportunity. Other large themes of these meetings include increased customer service and cross training among staff members, addition of community-wide aquatic spaces and enhanced recreation to bring east and west Lodi together.

COMMENTS:

- Updating and completing parks that have not been fully completed (all phases)-DeBenedetti Park
- Comprehensive look at creating a financially sustainable parks and recreation system
- Customer service is an area of improvement – why are we doing this, who we are and what we do is missing
- Comprehensive Staff Training and cross-training is an area for improvement
- Need Aquatics space – previous plans fell through

- Combine East and West side of Lodi and use parks and recreation to bring people together
- Develop additional multi-use fields to accommodate different field sports and the changing popularity (rugby, lacrosse, etc.)
- Explore more partnerships to serve community members
- Utilizing all existing spaces to their maximizing ability
- Development of staff – more career development as park and recreation professionals. Encourage passion for the field of P&R, and work towards eliminating "just here to do my job" mentality.
- Should explore additional tax/assessment through public survey
- Indoor multi-use indoor recreation space and evaluate sites that City owns for potential growth
- Staffing levels and skill levels are not adequate
- More environmental education programs
- Limitations of current facilities in terms of parking – prevents facility's ability to host events
- Program Guide could be improved graphically.
- Need to consider ways to engage the minority communities in the planning process so that it's grounded
- Additional facilities on east side for athletics
- Scholarship program – communicate to ensure people are aware of what opportunities exist?
- More opportunities for Pickleball should be provided even if it is on existing tennis or basketball court concretes– it's a game for everyone with limited budget outlay

2.1.3 TOP PRIORITY

High training of staff both professionally, and in the area of customer service was among the top priorities of community members. Also highly valued areas were again, the mention of a desire to complete current Parks and Recreation projects, generate enhanced aquatic spaces, as well as exploration of alternate and sustainable funding sources for the Parks and Recreation Division.

- Train staff on high level of Customer Service
- Professional development and staff training
- Completion of current parks and projects
- Aquatics / Indoor Recreation Space
- Evaluate future funding plan for sustaining the Department
- Multi-use recreational and sports space similar to Mantega but with different non-traditional sports to leverage tourism and economic development in Lodi
- More offerings on the East side of Lodi – recreation place for kids to go on the East side
- Physical connectivity through trails, bike paths etc. within Lodi

2.2 STATISTICALLY VALID COMMUNITY SURVEY

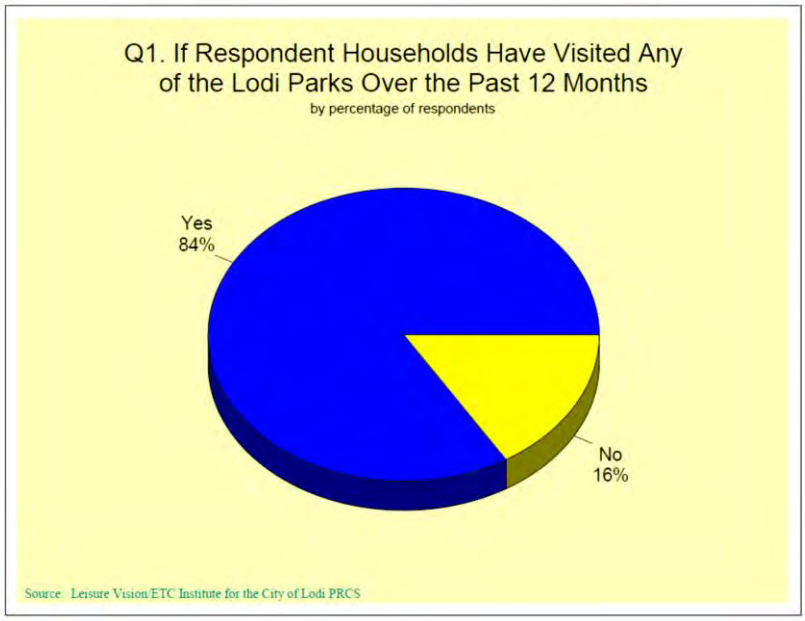
ETC Institute conducted a Community Interest and Opinion Survey for the City of Lodi Parks, Recreation, and Cultural Services Department (PRCS) during the winter and spring of 2015 to help determine parks, recreation, and cultural priorities for the community. The survey was mailed to a random sample of households in the City of Lodi. An option to complete the survey in Spanish either by phone or an online PDF was available to residents who had that preference.

A total of 448 households completed the survey by mail, phone, or web. The results for the sample of 448 households have a 95% level of confidence with a precision rate of at least +/- 4.6%.

The comprehensive statistically valid community survey can be found in **Appendix A**.

2.2.1 MAJOR FINDINGS

VISITATION OF PARKS AND RECREATION FACILITIES



- **Park and facility usage**: Eighty-four percent (84%) of respondent households indicated that they have visited City of Lodi parks over the past 12 months. Of those respondents who have visited parks, 80% indicated they had visited *walking, hiking, & biking trails*. Other facilities visited include: Playgrounds (55%), shelters/picnic areas (47%), and a dog park area (33%).
- **Facilities used the most frequently**: Based on the percentage of respondents top three most visited facilities, 56% indicated that they use *walking, hiking, & biking trails* the most often. Other most visited facilities include: Playgrounds (39%), shelters/picnic areas (25%), dog park area (20%), and soccer fields (14%).
- **Most visited facilities**: Based on the percentage of respondents who visited the facility 1 or more times over the past year (excluding those who indicated don't know), 87% indicated they visited *Lodi Lake Park*. Other most visited facilities with similar visitation levels include: Hutchins Street Square (64%), Sales Park (42%), and American Legion Park (34%).
- **Rating of facilities**: Based on the percentage of respondents who use facilities, 57% rated the overall quality as *good*. Other ratings include: Fair (22%), excellent (18%), and poor (3%).

PROGRAM PARTICIPATION

- **Current participation**: Thirty-four percent (34%) of respondents indicated that they had participated in recreation or cultural programs over the past 12 months. Of the 34% that participated, 48% participated in *2 to 3 programs or activities* over the past 12 months. Other levels of participation include: 1 program

or activity (29%), 4 to 6 programs or activities (17%), 7 to 10 programs or activities (5%), and 11 or more programs or activities (1%).

- **Reasons for participation:** Fifty-five percent (55%) of respondent households have participated in programs or activities because of the *location of the program facility*. Other reasons include: Friends participate in the program (35%), quality of instructors and coaches (31%), quality of program facility (29%), times program is offered (29%) fees charged for class (24%), and dates program is offered (21%).
- **Rating of programs and activities:** Based on the percentage of respondents who have participated in programs or activities over the past 12 months, 64% indicated the overall quality as good. Other ratings include: Excellent (25%), fair (9%), and poor (2%).

ORGANIZATIONS USED FOR INDOOR/ OUTDOOR RECREATION ACTIVITIES

- **Organizational use**: Forty-one percent (41%) of respondents indicated that they use *schools* for indoor and outdoor recreation activities over the past 12 months. Other organizations used include: Private fitness centers (40%), City of Lodi PRCS (38%), churches, synagogues, and temples (36%), State of California parks (36%), and San Joaquin County parks (32%).
- **Organizations children ages 0-17 use the most**: Based on the percentage of respondents top two choices, 13% of respondents indicated that they use *schools* the most for their parks, recreation, and cultural arts programs and services. Other most used organizations include: City of Lodi PRCS (12%) and churches, synagogues, and temples (7%).
- **Organizations adults ages 18 and older use the most**: Based on the percentage of respondents' top two choices, 23% indicated that they use *private fitness centers* the most. Other most used organizations include: Churches, synagogues, and temples (16%), City of Lodi PRCS (16%), State of California parks (13%), San Joaquin County parks (11%), and schools (8%).

WAYS RESIDENTS LEARN ABOUT PROGRAMS AND ACTIVITIES

- Forty-four percent (44%) of respondents indicated that they learn about programs or activities from *friends and neighbors*. Other ways include: Newspaper (40%), PRCS Community Activity Guide (34%), and school fliers and newsletters (20%).

FACILITY NEEDS

- **Need for facilities:** Seventy-seven percent (77%) or 16,926 households indicated a need for *walking and biking trails*. Other most needed facilities include: Nature trails (72% or 15,844 households), lake area (71% or 15,689 households), small neighborhood parks (66% or 14,650 households), and large community parks (63% or 14,009 households).
- **Most important facilities**: Based on the sum of respondents top four choices, 48% indicated that *walking & biking* trails was the most important facility to their household. Other most important facilities include: Small neighborhood parks (35%), nature trails (34%), and lake area (32%).

PROGRAMMING NEEDS

- **Need for programs**: Forty-six percent (46%) or 10,253 households indicated a need for *community special events/cultural festivals*. Other most needed programs include: Adult fitness and wellness programs (43% or 9,413 households), volunteer opportunities (32% or 7,093 households), and youth sports programs (32% or 7,005 households).

- **Most important programs**: Based on the sum of respondents top four choices, 28% indicated that they most important program to their household was *community special events/cultural festivals*. Other most important programs include: Adult fitness & wellness programs (25%) and youth sports programs (20%).
- **Current participation**: Based on the percentage of respondents top four choices, 19% indicated that they participate in *community special events/cultural fe*stivals the most often. Other programs most participated in include: Youth sports programs (16%), adult fitness & wellness programs (9%), and volunteer opportunities (8%).

AQUATIC FEATURES

- **Potential features**: Based on the percentage of respondents who indicated that they would use the feature if developed at existing outdoor aquatic centers, 50% indicated that they would use a *lazy river for floating on inner tubes*. Other features respondent households would use include: Additional shade areas (46%), water slides (43%), water spray playgrounds (39%), and family cabanas in shade areas (38%).
- **Most important features**: Based on respondents top four choices, 35% indicated that a *lazy river for floating in inner tubes* was the most important feature to their household. Other most important features include: Water slides (32%), water spray playgrounds (26%), additional shade areas (23%), and family cabanas in shade areas (22%).

INDOOR PROGRAMMING SPACES

- **Potential usage**: Forty-six percent (46%) of respondent households indicated that they would use a *walking and jogging track* if developed. Other potential spaces households would use if developed include: Exercise facility for adults 50+ years (40%), aerobics/fitness/dance class space (31%), and leisure pool (31%).
- **Spaces households would use the most**: Based on the sum of respondents top four choices, 39% indicated they would use the *walking & jogging track* the most often. Other spaces households would use the most include: Exercise facility for adults 50+ years (29%), leisure pool (19%), aerobics, fitness or dance class space (19%), and weight room/cardiovascular equipment area (18%).

REASONS PREVENTING USE OF PRCS PROGRAMS/FACILITIES MORE OFTEN

- Thirty-one percent (31%) of respondent households indicated that they were prevented from using the City of Lodi Parks, Recreation, Cultural Facilities or Programs More Often because they are *too busy*. Other reasons include: I do not know what is being offered (28%), fees are too high (23%), and program or facility is not offered (21%).

IMPORTANCE OF ACTIONS THE CITY OF LODI CAN TAKE

- **Importance of actions**: Based on the percentage of respondents who indicated "very important" or "somewhat important," 83% indicated it was important for the City to *upgrade Lake Lodi facilities & amenities*. Other most important actions include: Build additional waking & biking trails & connect existing trails (82%), upgrade existing neighborhood parks (80%), and upgrade existing walking & biking trails (79%).
- **Actions residents are the most willing to fund with tax dollars**: Based on the percentage of respondents' top three choices, 31% indicated they are most willing to fund the *upgrade of existing neighborhood p*arks. Other actions respondents are the most willing to fund include: Upgrade Lake Lodi facilities and amenities (29%), build additional walking and biking trails and connect existing trails (29%),

and build a new outdoor swimming complex/water park with programs spaces most important to households (28%).

TAX REVENUE

- **Maximum amount of additional funds**: Twenty-eight percent (28%) of respondents indicated that they would be willing to be an additional *$3-$4 per month* to pay to develop and operate parks, trails, aquatics, sports and cultural facilities that are the most important to their household. Other amounts include: Nothing (24%), $5-$6 per month (21%), $9+ per month (16%), and $7-$8 per month (11%).
- **How respondents would vote in an election**: Respondents were asked how they would vote if the additional tax revenue they indicated they would be willing to pay to improve and build parks, trails, aquatics, sports and cultural facilities was included on a future ballot. Fifty percent (50%) of respondents indicated that they would *vote in favor*. Other responses include: Might vote in favor (21%), not sure (18%), and vote against (10%).

LEVEL OF SATISFACTION WITH THE OVERALL VALUE RECEIVED FROM PRCS

Fifty-seven percent (57%) of respondents indicated that they were either "somewhat" or "very" satisfied with the overall value their household receives from PRCS. Other levels of satisfaction include: Neutral (32%), somewhat dissatisfied (6%), and very dissatisfied (5%).

2.3 COMMUNITY ON-LINE SURVEY

To complement the statistically-valid process, the consulting team also undertook an online community input survey that was administered through the project website: www.lodiparksvision.com. The survey was available online from September 29, 2014 for four weeks and garnered a total of 191 responses from a broad group of community members.

Summary of Community Input Survey
1. Total of 191 survey responses a. 72% of survey respondents were female b. 50% of respondents had annual household income between $70K-$149K c. Majority were White Alone (69.98%)
2. Parks and Facilities a. Most visited (% of respondent households visiting 10+ times): i. Lodi Lake and Wilderness Area (41.3%) ii. Peterson Park (28.4%) iii. Hutchins Street Square (27.43%) b. Least visited (% of respondent households that have not visited): i. English Oaks Commons (93.87%) ii. Hale Park (91.88%) iii. Century Park (90.24%) c. Facilities / amenities most needed (% of respondent households that have a need): i. Walking / biking trails and greenways (86.34%) ii. Small neighborhood parks (82.95%) iii. Community parks (82.86%) iv. Small family picnic areas and shelters (80%) v. Playground equipment (72.93%)
3. Programs a. 75% of respondents have participated in programs in past 12 months b. 75% of respondents rate programs as excellent or good (only 5% rate as poor) c. Most needed programs (% of respondent households that have a need): i. City wide special events (75.44%) ii. Youth sports (67.8%) iii. Outdoor Skills / Adventure (65.27%) iv. Adult fitness and wellness (60.59%) v. Visual and performing arts (58.33%)
4. User Preference a. Saturday and Monday are the most preferred days for programs / activities, while Fridays are the least preferred b. Activity guides, word of mouth, and the Department's website are the most effective current marketing methods c. 65% somewhat or strongly agree they would support differential rates for non-residents to support low cost or free programs for low income residents

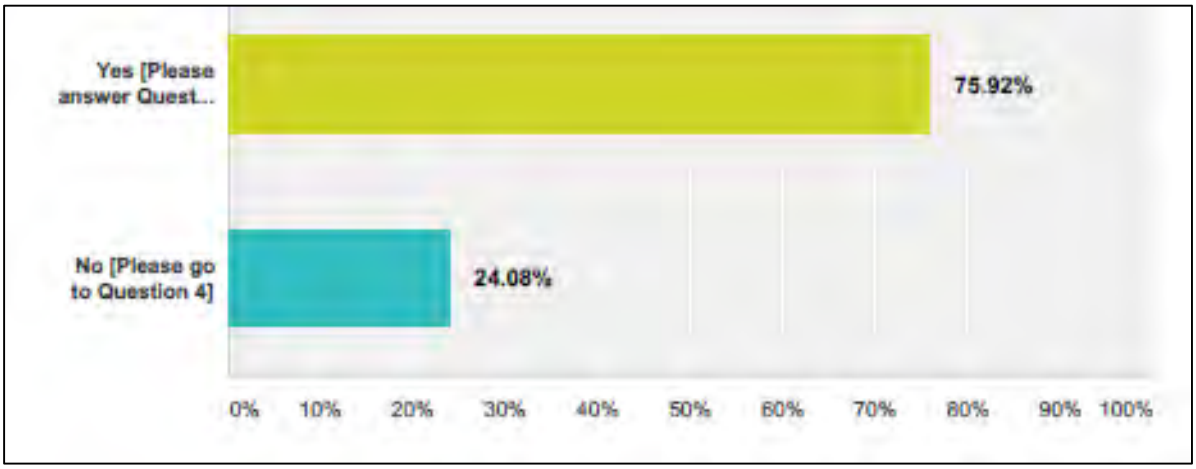
2.3.1 FROM THE LIST OF LODI PARKS AND FACILTIES PLEASE CHECK ALL THE PARKS AND FACILITIES YOU AND MEMBERS OF YOUR HOUSEHOLD HAVE USED DURING THE PAST YEAR. PLEASE LIST THE NUMBER OF TIMES YOUR HAVE VISITED THEM ANNUALLY.

The Parks and Facilities that have not been visited by 90% or more of survey respondents were English Oaks Commons, Hale Park, Century Park, and Van Buskirk Park. Parks and Facilities that received the most responses indicating 10 or more visits included: Lodi Lake and Wilderness Area (41.3%), Peterson Park (28.4%), Hutchins Street Square (27.43%), and Salas Park (22.94%).

Park / Facility	Have Not Visited	1-3 Visits	4-6 Visits	7-9 Visits	10+
Lodi Lake and Wilderness Area	4.89%	26.08%	25.00%	7.60%	41.30%
Katzakian Park	51.50%	75.44%	10.79%	3.00%	10.78%
Candy Cane Park	80.37%	94.47%	1.22%	0.00%	4.29%
Van Buskirk Park	90.06%	98.14%	1.86%	0.00%	0.00%
Softball Complex	61.54%	71.60%	7.70%	5.33%	15.38%
Grape Bowl Stadium	35.63%	68.96%	15.52%	3.45%	12.07%
Armory Park (Chapman Field)	68.67%	83.12%	7.83%	1.80%	7.23%
Zupo Field	69.64%	88.69%	6.55%	0.00%	4.76%
Lawrence Park	83.02%	93.72%	3.78%	0.00%	2.52%
Peterson Park	34.91%	51.48%	12.43%	7.70%	28.40%
Henry Glaves Park	61.59%	77.45%	6.71%	3.05%	12.80%
Emerson Park	39.76%	62.04%	15.06%	3.61%	19.28%
Hale Park	91.88%	98.13%	0.63%	0.00%	1.25%
Vinewood Park	62.50%	77.38%	8.34%	2.39%	11.90%
American Legion Park	71.95%	90.86%	3.66%	1.22%	4.27%
Roget Park	80.37%	91.41%	4.91%	0.61%	3.07%
Kofu Park	55.76%	77.57%	7.87%	1.22%	13.33%
Blakely Park	70.37%	81.48%	8.02%	3.70%	6.79%
DeBenedetti Park	68.86%	77.84%	7.78%	3.00%	11.38%
Century Meadows	87.73%	95.09%	2.45%	0.00%	2.45%
Beckman Park	73.81%	87.50%	5.36%	1.19%	5.95%
English Oaks Commons	93.87%	98.78%	1.22%	0.00%	0.00%
Century Park	90.24%	98.17%	1.22%	0.00%	0.61%
Salas Park	49.41%	64.71%	10.58%	1.77%	22.94%
Borchardt Park	84.81%	92.41%	3.80%	0.00%	3.80%
Hutchins Street Square	16.57%	37.72%	29.71%	5.14%	27.43%

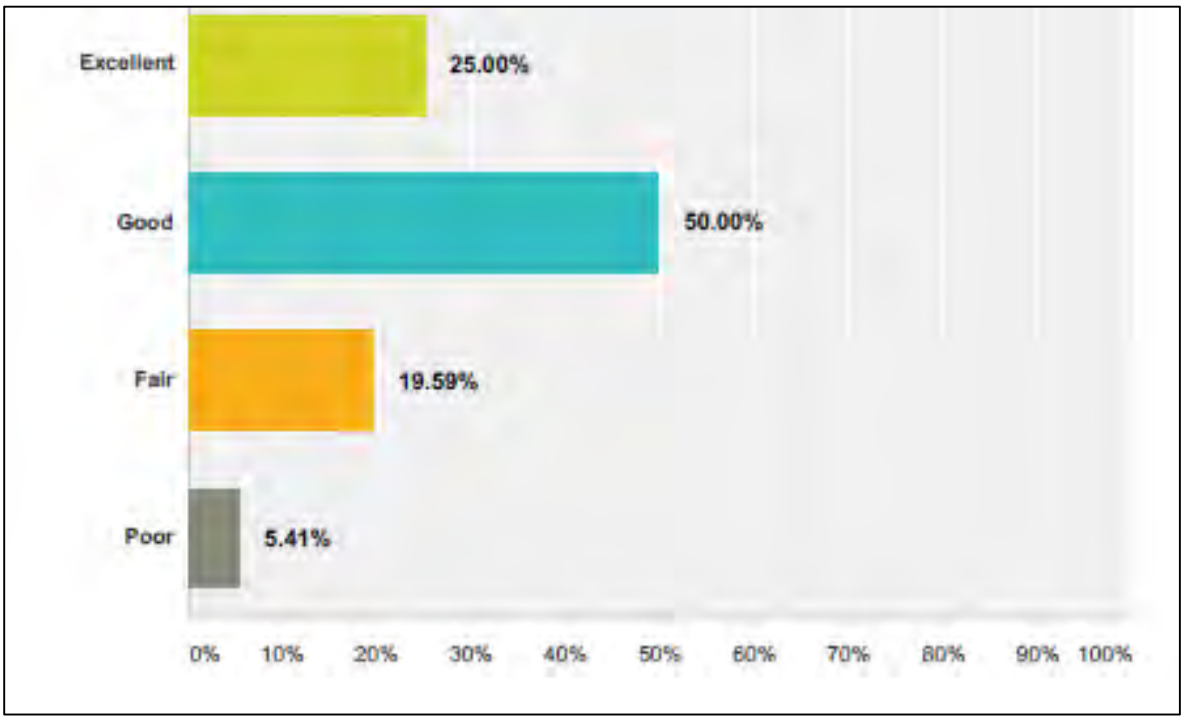
2.3.2 HAVE YOU OR OTHER MEMBERS OF YOUR HOUSEHOLD PARTICIPATED IN ANY RECREATION OR SPORTS PROGRAMS, SPECIAL EVENTS OFFERED BY THE CITY DURING THE PAST 12 MONTHS?

Over three-fourths of households surveyed have participated in at least one recreation / sports program or special event offered by the City during the past 12 months.



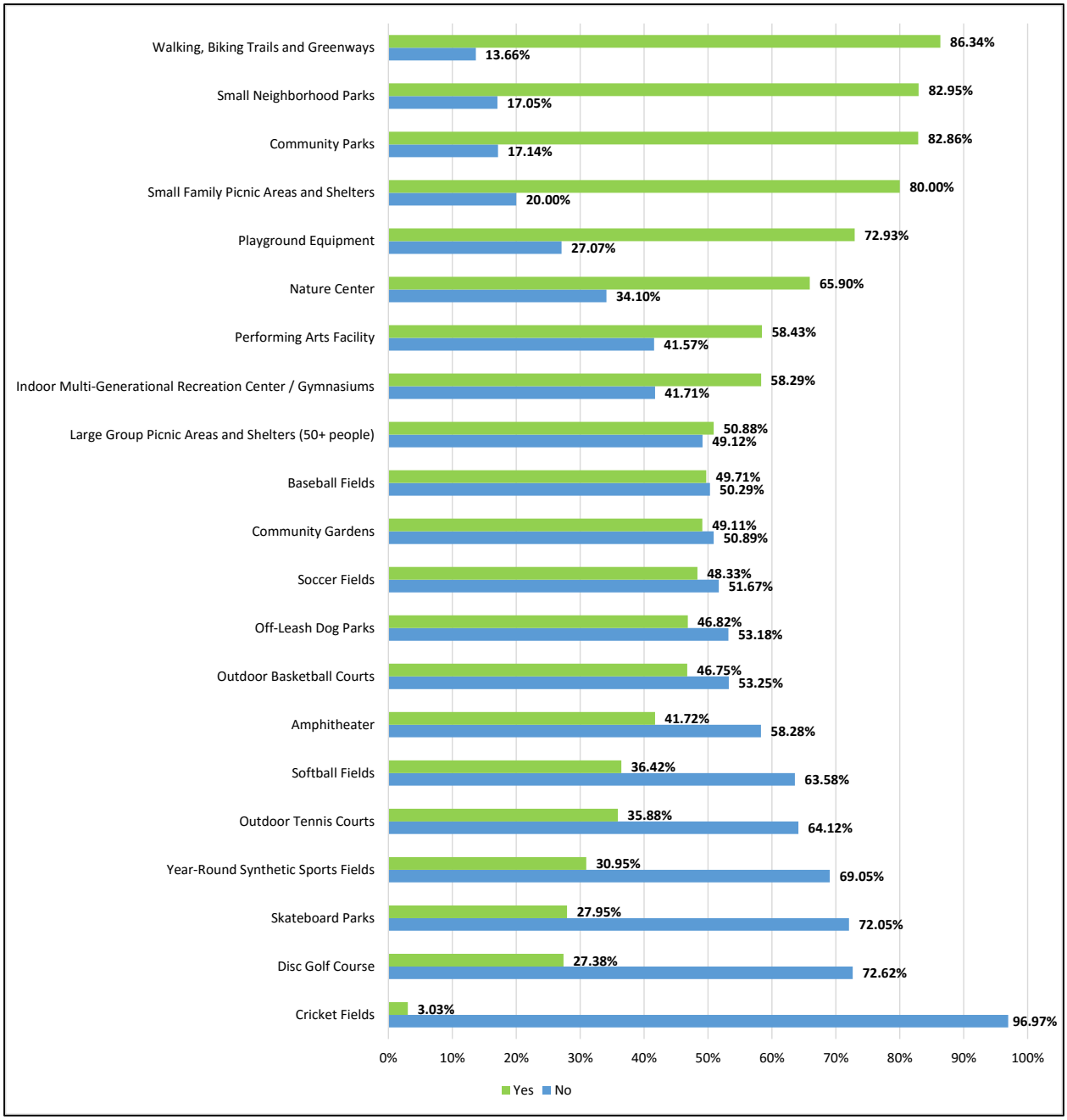
2.3.3 HOW WOULD YOU RATE THE OVERALL QUALITY OF THE PROGRAMS OR SPECIAL EVENTS THAT YOU AND MEMBERS OF YOUR HOUSEHOLD HAVE PARTICIPATED IN?

Exactly half of survey respondents rated the overall quality of programs or special events as good, while another 25% rated them as excellent.



2.3.4 PLEASE INDICATE IF YOU OR ANY MEMBER OF YOUR HOUSEHOLD HAS A NEED FOR EACH OF THE PARKS AND RECREATION FACILITIES LISTED BELOW BY CHOOSING YES OR NO NEXT TO THE PARK/FACILITY.

Survey results reveal that the facilities / amenities that are most needed include: walking, biking trails and greenways, small neighborhood parks, community parks, and small family picnic areas and shelters. The least needed facilities / amenities according to survey respondents were: cricket fields, disc golf course, skateboard parks, and year-round synthetic sports fields.



2.3.5 IF YES TO QUESTION 4, PLEASE RATE ALL THE FOLLOWING PARKS AND RECREATION FACILITIES OF THIS TYPE IN LODI ON A SCALE OF 5 TO 1, WHERE 5 MEANS "100% MEETS NEEDS" AND 1 MEANS "DOES NOT MEET NEEDS" OF YOUR HOUSEHOLD. PLEASE CHOOSE ONLY 1 RESPONSE FOR EACH PARK/RECREATION FACILITY.

Facilities and amenities that received the most responses for needs being fully met were: cricket fields, skateboard parks, outdoor tennis courts, and performing arts facility. The most common facilities and amenities with needs being completely unmet were: indoor multi-generational recreation center / gymnasium, community gardens, disc golf course, and year-round synthetic sports fields.

Facility / Amenity	Extent of Need Met				
	100%	75%	50%	25%	0%
Soccer Fields	29.06%	27.35%	19.66%	14.53%	9.40%
Baseball Fields	35.14%	27.03%	19.82%	7.21%	10.81%
Softball Fields	36.36%	23.23%	22.22%	10.10%	8.08%
Cricket Fields	49.02%	3.92%	15.69%	5.88%	25.49%
Year-Round Synthetic Sports Fields	28.57%	5.19%	20.78%	16.88%	28.57%
Outdoor Tennis Courts	39.08%	14.94%	28.74%	9.20%	8.05%
Outdoor Basketball Courts	35.96%	15.73%	25.84%	12.36%	10.11%
Small Family Picnic Areas and Shelters	28.08%	35.62%	24.66%	6.85%	4.79%
Large Group Picnic Areas and Shelters (50+ people)	36.11%	32.41%	14.81%	10.19%	6.48%
Playground Equipment	25.90%	30.22%	25.90%	11.51%	6.47%
Small Neighborhood Parks	29.29%	33.57%	19.29%	10.71%	7.14%
Community Parks	28.79%	32.58%	25.76%	8.33%	4.55%
Off-Leash Dog Parks	25.71%	23.81%	19.05%	16.19%	15.24%
Walking, Biking Trails and Greenways	16.03%	15.38%	23.72%	27.56%	17.31%
Amphitheater	29.03%	16.13%	21.51%	17.20%	16.13%
Community Gardens	18.00%	8.00%	20.00%	23.00%	31.00%
Skateboard Parks	44.74%	17.11%	18.42%	7.89%	11.84%
Indoor Multi-Generational Recreation Center / Gymnasiums	18.69%	7.48%	23.36%	18.69%	31.78%
Disc Golf Course	30.67%	9.33%	16.00%	13.33%	30.67%
Performing Arts Facility	38.89%	22.22%	16.67%	14.81%	7.41%
Nature Center	21.85%	22.69%	19.33%	19.33%	16.81%

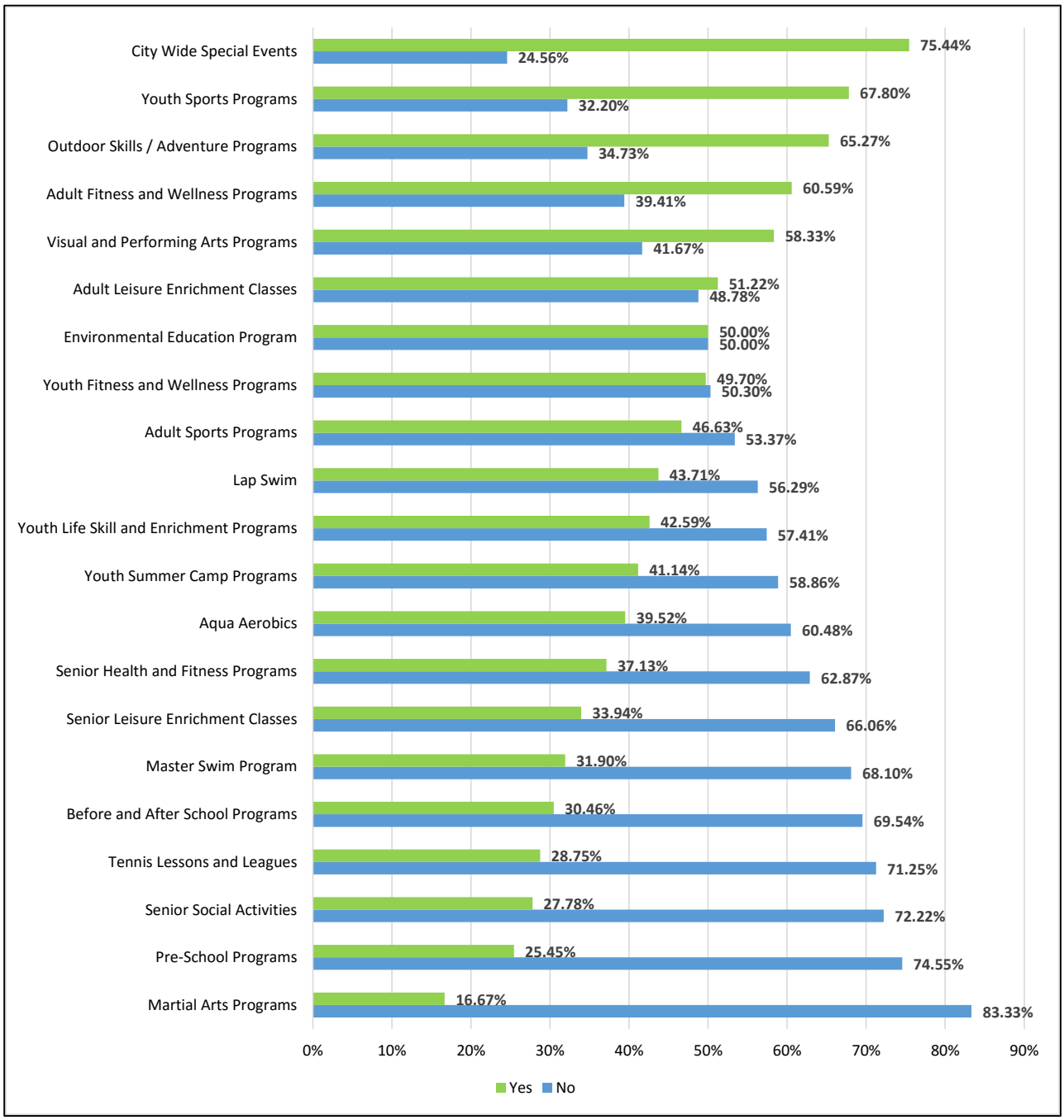
2.3.6 FROM THE LIST BELOW, PLEASE RANK YOUR TOP FOUR CHOICES.

The table below provides a ranking of facilities and amenities based on survey responses. A simple weighted score was the basis for these rankings. The weighted values, range from 4 (top choice) to 1 (fourth choice), were applied to the total number of tallies for each choice, then summed to arrive at an overall weighted score.

Rank	Facility / Amenity	Tallied Responses				Weighted Score
		Top Choice	2nd Choice	3rd Choice	4th Choice	
1	Walking, Biking Trails and Greenways	47	23	28	11	324
2	Playground Equipment	24	17	12	12	183
3	Soccer Fields	26	12	10	6	166
4	Baseball Fields	22	15	7	4	151
5	Small Neighborhood Parks	8	23	12	10	135
6	Performing Arts Facility	14	11	4	12	109
7	Nature Center	8	10	14	15	105
8	Indoor Multi-Generational Recreation Center / Gymnasiums	9	10	6	13	91
9	Year-Round Synthetic Sports Fields	10	9	8	2	85
10	Softball Fields	9	10	6	2	80
11	Community Parks	6	8	10	12	80
12	Small Family Picnic Areas and Shelters	6	10	10	5	79
13	Off-Leash Dog Parks	5	12	6	9	77
14	Community Gardens	2	8	9	10	60
15	Large Group Picnic Areas and Shelters (50+ people)	3	6	9	11	59
16	Outdoor Basketball Courts	2	2	7	7	35
17	Outdoor Tennis Courts	1	3	5	6	29
18	Amphitheater	0	2	8	7	29
19	Disc Golf Course	0	2	3	8	21
20	Skateboard Parks	0	3	3	3	18
21	Cricket Fields	1	2	0	2	12

2.3.7 PLEASE INDICATE IF YOU OR ANY MEMBER OF YOUR HOUSEHOLD HAS A NEED FOR EACH OF THE SPORTS AND RECREATION PROGRAMS LISTED BELOW BY CHOOSING YES OR NO NEXT TO THE PROGRAM.

Programs that are most needed by survey respondents included: city wide special events, youth sports programs, outdoor skills / adventure programs, and adult fitness and wellness programs. Residents surveyed indicated the least need for the following programs: martial arts programs, pre-school programs, senior social activities, and tennis lessons and leagues



2.3.8 IF YES TO QUESTION 7, PLEASE RATE ALL THE FOLLOWING RECREATION PROGRAMS OF THIS TYPE IN LODI ON A SCALE OF 5 TO 1, WHERE 5 MEANS "100% MEETS NEEDS" AND 1 MEANS "DOES NOT MEET NEEDS" OF YOUR HOUSEHOLD.

Recreation programs that received the most responses for needs being fully met were: martial arts programs, senior social activities, before and after school programs, and senior enrichment classes. The most common facilities and amenities with needs being completely unmet were: outdoor skills/adventure programs, environmental education programs, martial arts programs, and pre-school programs.

Program	Extent of Need Met				
	100%	75%	50%	25%	0%
Before and After School Programs	30.59%	20.00%	21.18%	14.12%	14.12%
Youth Summer Camp Programs	25.00%	16.30%	31.52%	15.22%	11.96%
Youth Sports Programs	21.85%	26.89%	27.73%	17.65%	5.88%
Youth Fitness and Wellness Programs	16.85%	13.48%	24.72%	30.34%	14.61%
Lap Swim	22.89%	13.25%	28.92%	24.10%	10.84%
Aqua Aerobics	25.00%	21.05%	27.63%	14.47%	11.84%
Master Swim Program	23.88%	13.43%	28.36%	19.40%	14.93%
Pre-School Programs	28.57%	8.57%	30.00%	12.86%	20.00%
City Wide Special Events	20.18%	29.82%	33.33%	12.28%	4.39%
Martial Arts Programs	31.75%	9.52%	22.22%	15.87%	20.63%
Tennis Lessons and Leagues	23.53%	11.76%	33.82%	17.65%	13.24%
Visual and Performing Arts Programs	22.34%	30.85%	23.40%	14.89%	8.51%
Adult Fitness and Wellness Programs	16.13%	23.66%	29.03%	19.35%	11.83%
Youth Life Skill and Enrichment Programs	23.38%	10.39%	23.38%	24.68%	18.18%
Adult Sports Programs	20.93%	20.93%	31.40%	13.95%	12.79%
Senior Health and Fitness Programs	26.32%	21.05%	26.32%	17.11%	9.21%
Senior Leisure Enrichment Classes	28.99%	24.64%	23.19%	14.49%	8.70%
Senior Social Activities	31.34%	25.37%	22.39%	10.45%	10.45%
Outdoor Skills / Adventure Programs	9.57%	18.09%	21.28%	25.53%	25.53%
Environmental Education Program	17.65%	14.12%	17.65%	29.41%	21.18%
Adult Leisure Enrichment Classes	15.22%	19.57%	33.70%	18.48%	13.04%

2.3.9 FROM THE LIST, PLASE RANK YOUR TOP FOUR CHOICES FOR PROGRAMS THAT YOU HAVE PARTICIPATED IN OR WOULD LIKE TO PARTICIPATE IN?

The table below provides a ranking of programs based on survey responses. A simple weighted score was the basis for these rankings. The weighted values, range from 4 (top choice) to 1 (fourth choice), were applied to the total number of tallies for each choice, then summed to arrive at an overall weighted score.

Rank	Program	Tallied Responses				Weighted Score
		Top Choice	2nd Choice	3rd Choice	4th Choice	
1	Youth Sports Programs	58	20	15	6	328
2	City Wide Special Events	15	21	13	18	167
3	Outdoor Skills / Adventure Programs	10	16	12	13	125
4	Visual and Performing Arts Programs	8	10	20	9	111
5	Youth Summer Camp Programs	10	13	10	10	109
6	Before and After School Programs	18	2	4	7	93
7	Adult Sports Programs	8	12	7	9	91
8	Adult Leisure Enrichment Classes	7	9	10	10	85
9	Adult Fitness and Wellness Programs	7	6	10	7	73
10	Pre-School Programs	8	5	3	5	58
11	Youth Life Skill and Enrichment Programs	3	8	6	10	58
12	Lap Swim	3	10	4	7	57
13	Environmental Education Program	5	4	10	5	57
14	Aqua Aerobics	8	5	4	1	56
15	Senior Health and Fitness Programs	6	4	5	5	51
16	Youth Fitness and Wellness Programs	2	8	4	7	47
17	Master Swim Program	3	5	3	4	37
18	Senior Leisure Enrichment Classes	3	6	3	0	36
19	Senior Social Activities	1	0	3	5	15
20	Tennis Lessons and Leagues	1	1	1	2	11
21	Martial Arts Programs	0	0	2	4	8

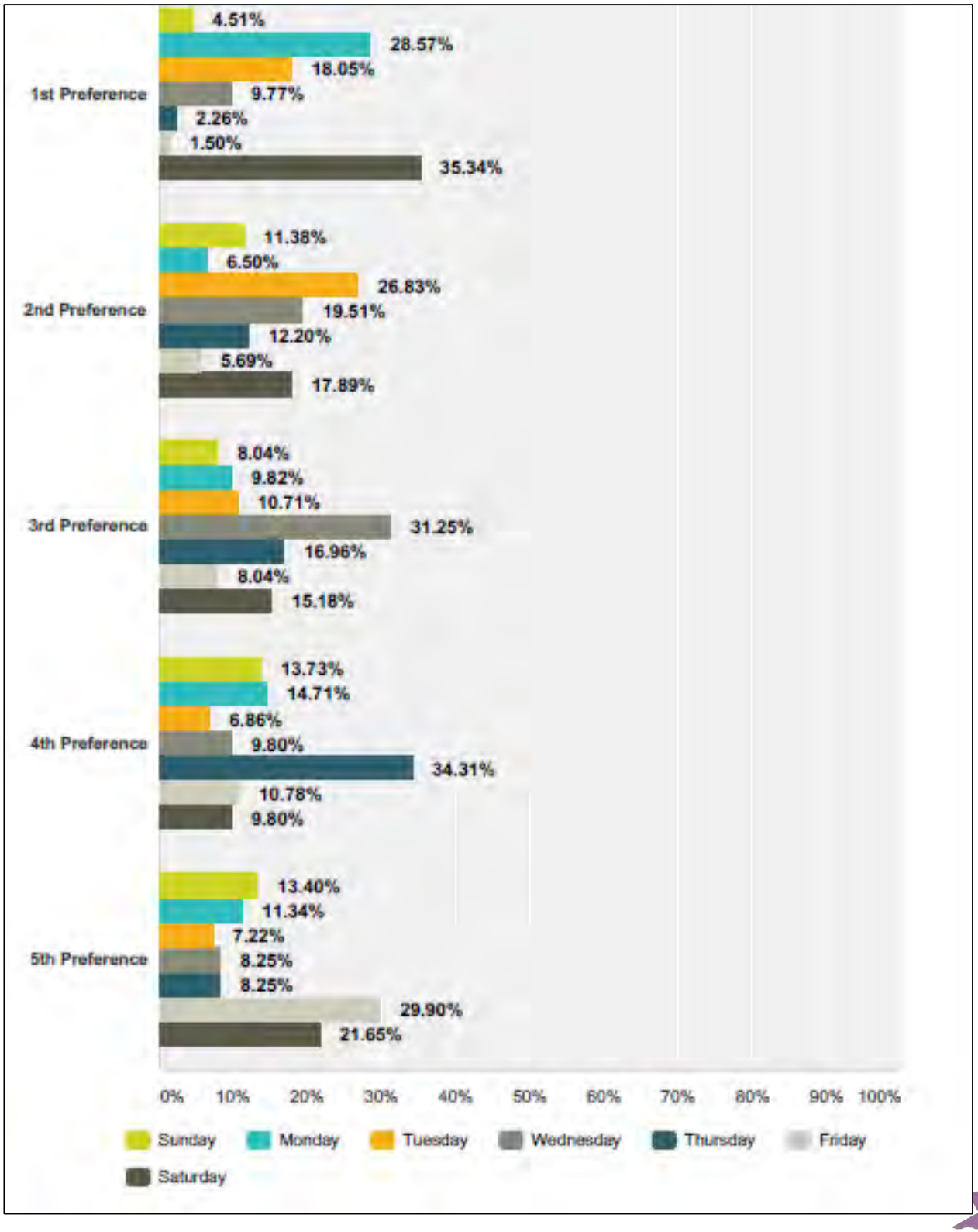
2.3.10 PLEASE CHECK ALL THE REASONS THAT PREVENT YOUR OR OTHER MEMBERS OF YOUR HOUSEHOLD FROM USING PARKS, RECREATION AND SPORTS FACILITIES OR PROGRAMS MORE OFTEN.

The table below provides a ranking of reasons that prevent households from using parks, facilities, and programs based on survey responses. A simple weighted score was the basis for these rankings. The weighted values, range from 4 (top choice) to 1 (fourth choice), were applied to the total number of tallies for each choice, then summed to arrive at an overall weighted score.

Rank	Reason	Tallied Responses				Weighted Score
		Top Choice	2nd Choice	3rd Choice	4th Choice	
1	Facilities are not well maintained	33	11	12	10	199
2	Desired program is not offered	22	21	8	5	172
3	Facilities lack the right equipment	20	20	12	4	168
4	Cannot afford fees	17	11	10	5	126
5	Program times are not convenient	11	18	10	7	125
6	Feel unsafe	15	9	9	11	116
7	I am too busy	10	13	9	12	109
8	Do not know what is being offered	8	12	15	6	104
9	Lack of restrooms	9	10	13	8	100
10	Too far from the residence	13	7	3	2	81
11	Use services from other agencies	7	8	7	10	76
12	Poor customer services	10	6	2	6	68
13	Lack of parking	4	6	7	6	54
14	Difficult to use City website	4	2	8	9	47
15	Class or program full	4	5	5	5	46
16	Registration process is difficult	2	5	8	5	44
17	Not interested	3	1	5	12	37
18	Do not know locations of facilities	2	2	5	5	29
19	Lack of transportation	0	0	1	1	3

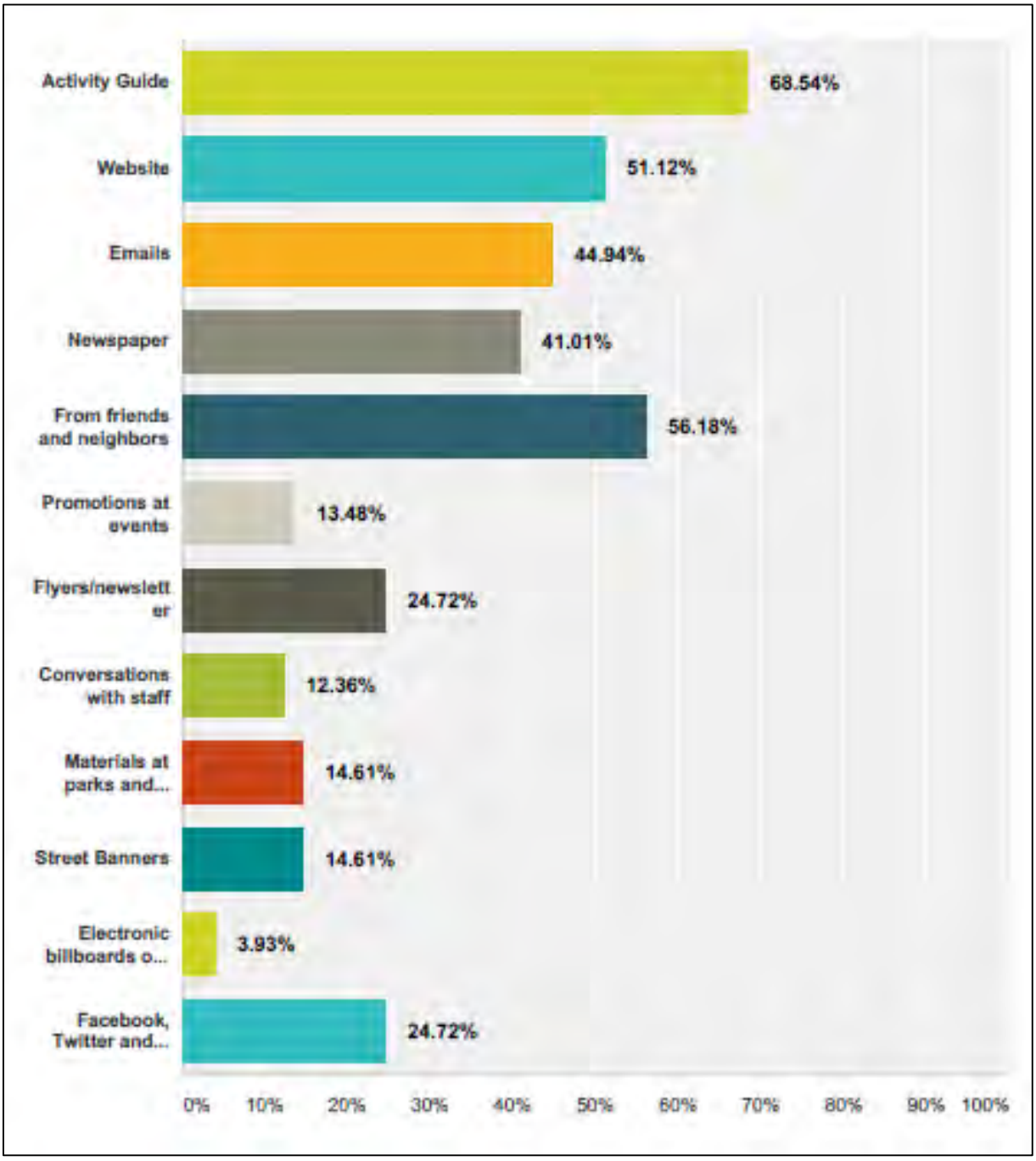
2.3.11 CHOOSE THE FIVE MOST PREFERRED TIME SLOTS THAT YOU WOULD LIKE PROGRAMS AND ACTIVITIES TO BE OFFERED.

The most preferred day for offering programs and activities for residents surveyed are Saturday and Monday, while the least preferred day is Friday.



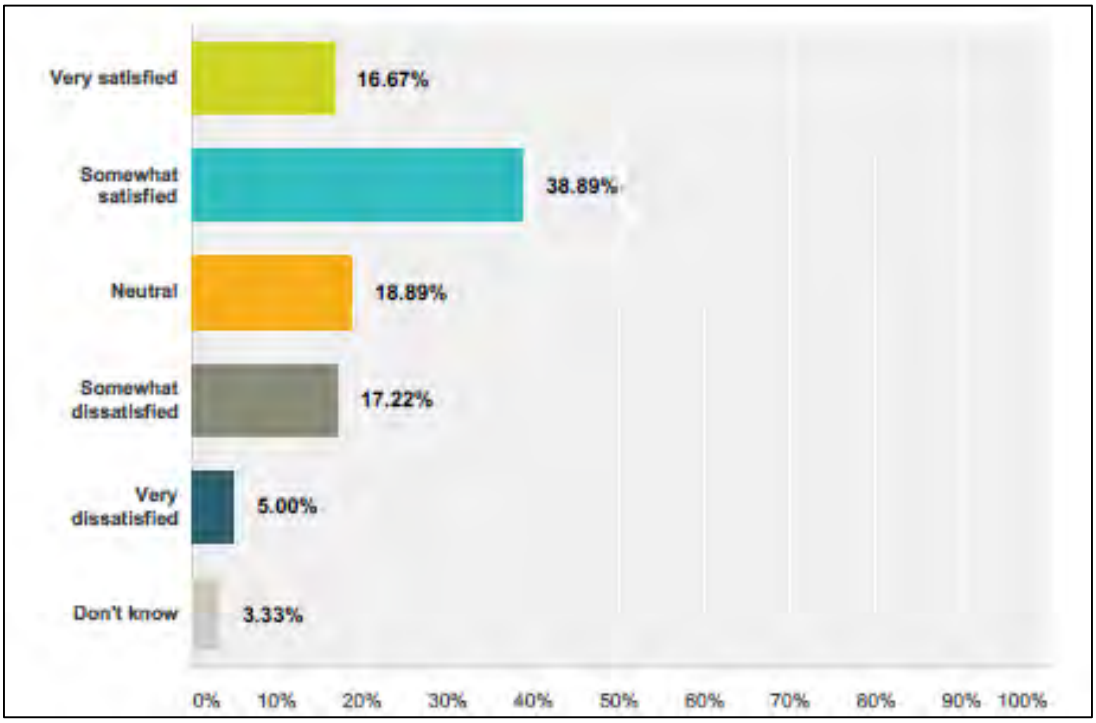
2.3.12 PLEASE CHECK ALL THE WAYS YOUR LEARN ABOUT THE CITY'S RECREATION PROGRAMS AND ACTIVITIES.

According to survey results, the most effective way for marketing programs and activities is through the activity guide, by word of mouth from friends and neighbors, and the departmental website. The least effective methods are on electronic billboards on park signs, conversations with staff, and promotions at events.



2.3.13 PLEASE RATE YOUR SATISIFCATION WITH THE OVERALL VALUE YOUR HOUSEHOLD RECEIVES FROM ACTIVITIES AND PROGRAMS

The majority of survey respondents rate their level of satisfaction as somewhat satisfied (38.89%) or very satisfied (16.67%). Less than 25% of respondents indicated they were somewhat dissatisfied (17.22%) or very dissatisfied (5%) with the overall value received from activities and programs.



2.3.14 HOW WOULD YOU GRADE THE FOLLOWING PROGRAMS OFFERED BY THE PARKS AND RECREATION DEPARTMENT? PLEASE RATE EACH ITEM IN THE LIST BELOW BY SELECTING A GRADE BETWEEN A AND F. A=EXCELLENT / F=FAILING GRADE.

The table below reveals the average rating for each program from highest rating to lowest rating, as well as the corresponding grade. The scale for rating is in reverse order, where the lower score results in a higher grade. For example, an average rating of 1 would indicate all respondents gave the program an A, and an average rating of 6 would mean all respondents gave the program an F. Results indicate all programs, except teen programs, received an average grade of C. This indicates opportunities for improvement in the overall program areas offered by the Department.

Program	Average Rating	Average Grade
Youth Sports	2.56	C
City-Wide Special Events	2.59	C
Senior Classes and Activities	2.72	C
Cultural Arts and Activities	2.84	C
Special Day Camps	2.89	C
Adult Classes and Activities	2.92	C
Swimming and Aquatics Programs	2.94	C
After School Club Child Care	2.95	C
Adult Sports	3.06	C
After School Programs	3.06	C
Tiny Tot Programs	3.16	C
Health and Fitness Classes and Activities	3.25	C
Teen Programs	4.65	E

2.3.15 WE'D LIKE TO KNOW YOUR PERSONAL PRIORITIES ABOUT THE VALUE OF THE PARKS, FACILITIES AND PROGRAMS OFFERED BY THE PARKS AND RECREATION DEPARTMENT. PLEASE RATE EACH ITEM IN THE LIST BELOW BY SELECTING A NUMBER BETWEEN 1 AND 5. LEAST VALUED =1 / MOST VALUED = 5.

The table below reveals respondents' personal priorities from most valued to least valued, based on the average rating of survey results. The highest priority among participating residents is to provide safe parks and places where children are free to play and be active, while the lowest priority is to provide senior citizens places and activities for staying active and socially connected.

Priority	Average Rating
Provide safe parks and places where children are free to play and be active	4.22
Make Lodi a better place to live and a stronger sense of community for residents	4.15
Provide places and activities during non-school hours for children and teens in Lodi that are safe, healthy and fun	4.01
Provide parks, outdoor facilities and trails where I can walk, play, relax or exercise on your own	4.01
Create recreation opportunities for people at every stage of life to be healthy, explore new interests and to enrich their lives	4.01
Provide athletic fields, gymnasiums, swimming pools and other athletic facilities where group and individual sports and activities can be held	3.96
Provide open and green spaces among residential and commercial areas to beautify Lodi	3.87
Provide indoor facilities, such as community, senior and teen centers, where programs, events and social gatherings can be held	3.61
Provide senior citizens places and activities for staying active and socially connected	3.45

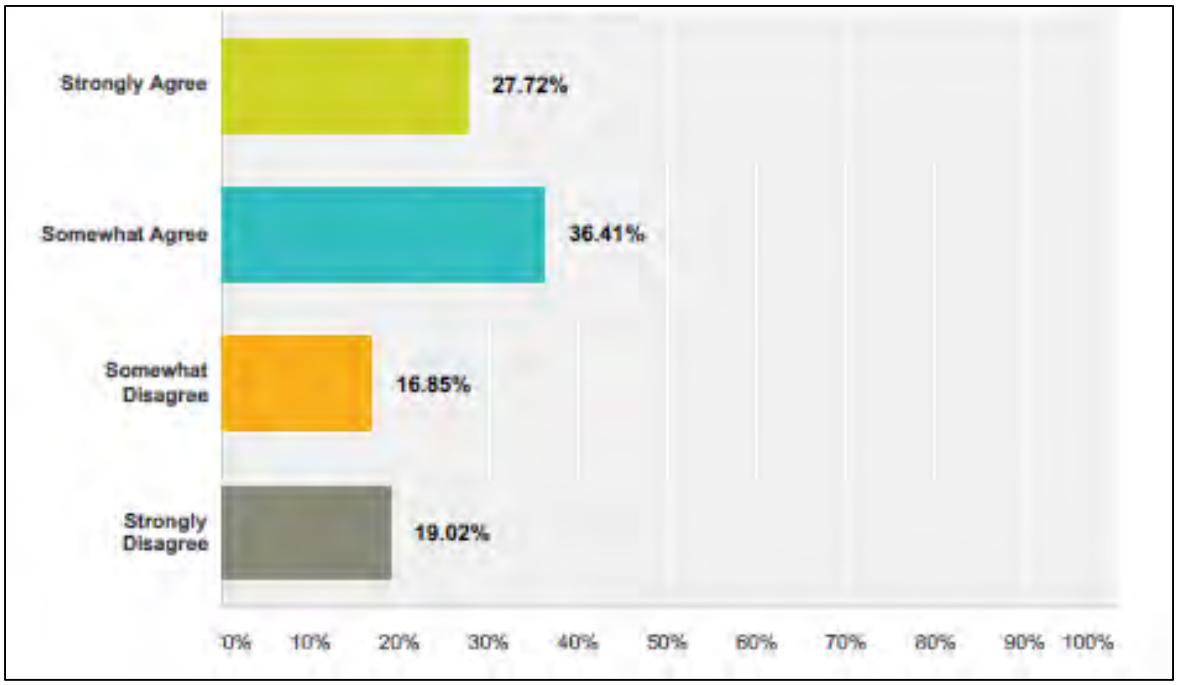
2.3.16 BASED ON YOUR PERSONAL AND FAMILY'S EXPERIENCE, TELL US YOUR OPINION ABOUT HOW WELL THE PARKS, RECREATION AND CULTURAL SERVICES DEPARTMENT DELIVERS ON THESE THINGS. PLEASE RATE EACH ITEM IN THE LIST BELOW BY SELECTING A NUMBER BETWEEN 1 AND 5. LEAST VALUED = 1 / MOST VALUED = 5.

The following shows respondents' opinions on how well the Department delivers on a variety of items, from most valued to least valued. Survey results suggest that the Department is most effective in making Lodi a better place to live and a stronger sense of community for residents, while it is least effective in providing open and green spaces among residential and commercial areas to beautify Lodi.

Deliverable	Average Rating
Make Lodi a better place to live and a stronger sense of community for residents	3.35
Provide safe parks and places where children are free to play and be active	3.33
Provide senior citizens places and activities for staying active and socially connected	3.32
Provide parks, outdoor facilities and trails where I can walk, play, relax or exercise on your own	3.24
Create recreation opportunities for people at every stage of life to be healthy, explore new interests and to enrich their lives	3.24
Provide athletic fields, gymnasiums, swimming pools and other athletic facilities where group and individual sports and activities can be held	3.22
Provide places and activities during non-school hours for children and teens in Lodi that are safe, healthy and fun	3.11
Provide indoor facilities, such as community, senior and teen centers, where programs, events and social gatherings can be held	3.08
Provide open and green spaces among residential and commercial areas to beautify Lodi	3.04

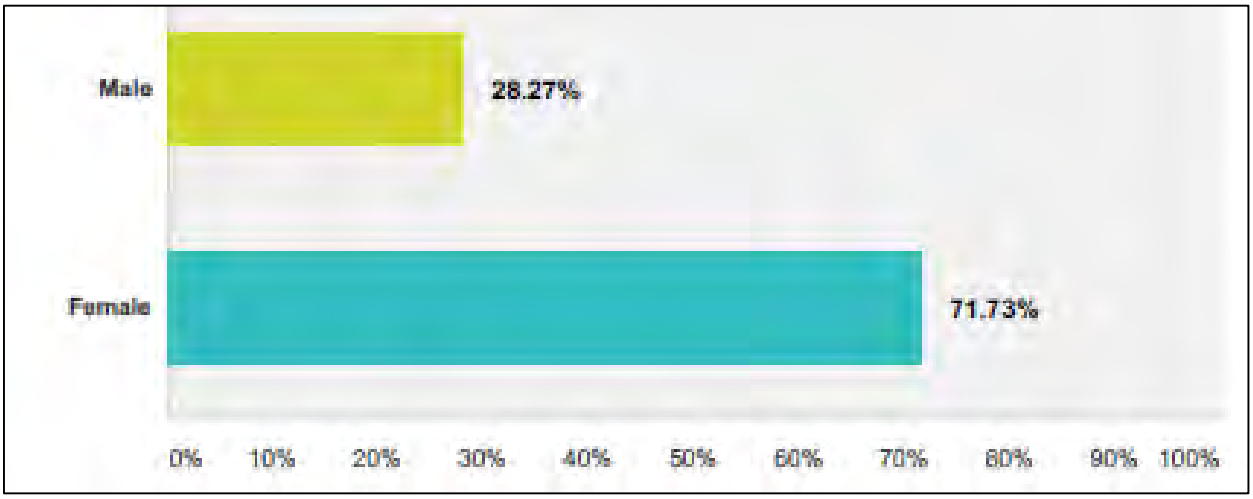
2.3.17 WOULD YOU SUPPORT CHARGING NON-RESIDENTS THE FULL COST OF PROGRAMS TO HELP FUND LOW COST OR FREE PROGRAMS FOR LOW INCOME RESIDENTS?

Nearly 65% of survey respondents somewhat or strongly agree that they would support charging non-residents the full cost of programs to help fund low cost or free programs for low income residents.



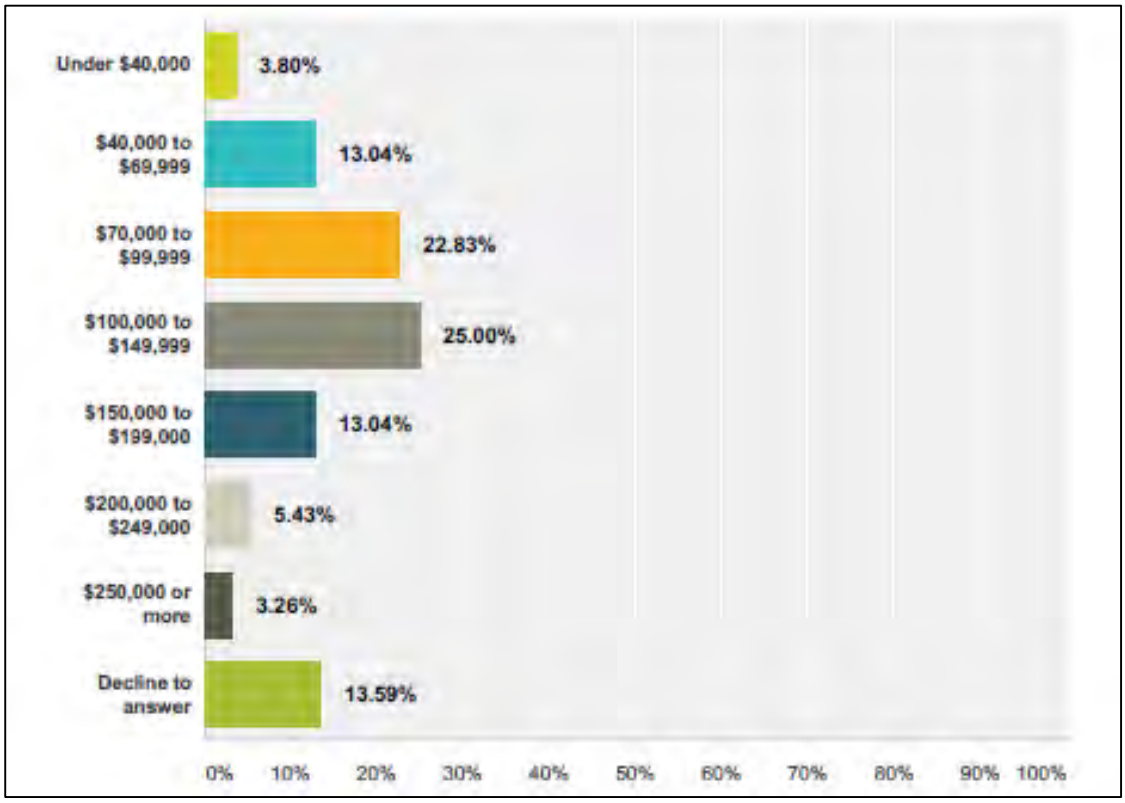
2.3.18 GENDER

The vast majority of survey respondents were females (71.73%). This is fairly typical in responses obtained nationwide.



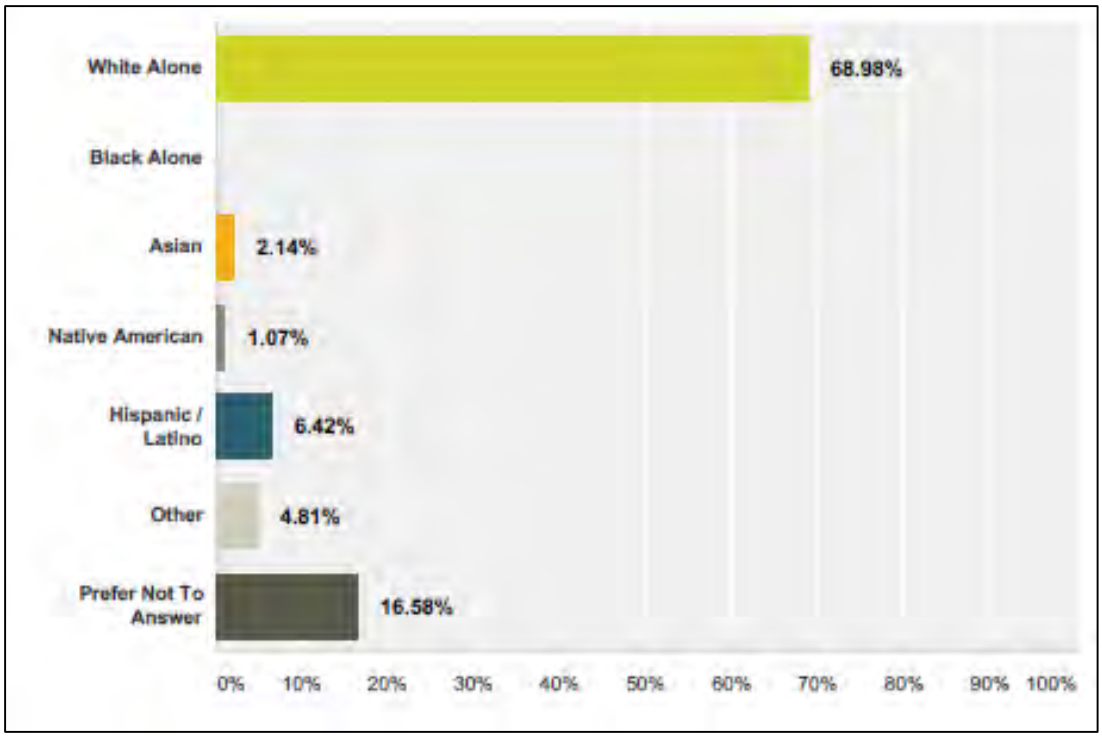
2.3.19 WHAT IS YOUR TOTAL ANNUAL HOUSEHOLD INCOME?

Nearly half of survey responses indicated a total annual household income between $70,000 and $149,000. Only 13.59% of responses declined to reveal their income.



2.3.20 WHAT IS YOUR RACE / ETHNICITY?

The majority of respondents were White Alone (68.98%), followed by Hispanic / Latino (6.42%) ethnicity. However, almost 17% of respondents declined to report their race / ethnicity.



CHAPTER THREE COMMUNITY PROFILE

3.1 DEMOGRAPHIC ANALYSIS

The Demographic Analysis provides an understanding of the population within the City of Lodi, California. This analysis is reflective of the total population, and its key characteristics such as age segments, income levels, race, and ethnicity.

It is important to note that future projections are all based on historical patterns and unforeseen circumstances during or after the time of the projections could have a significant bearing on the validity of the final projections.

3.1.1 METHODOLOGY

Demographic data used for the analysis was obtained from U.S. Census Bureau and from Environmental Systems Research Institute, Inc. (ESRI), the largest research and development organization dedicated to Geographical Information Systems (GIS) and specializing in population projections and market trends. All data was acquired in October 2015 and reflects actual numbers as reported in the 2010 Census, and estimates for 2015 and 2020 as obtained by ESRI. Straight line linear regression was utilized for projected 2025 and 2030 demographics. The geographic boundary for the City of Lodi was utilized as the demographic analysis boundary shown in **Figure 1.**

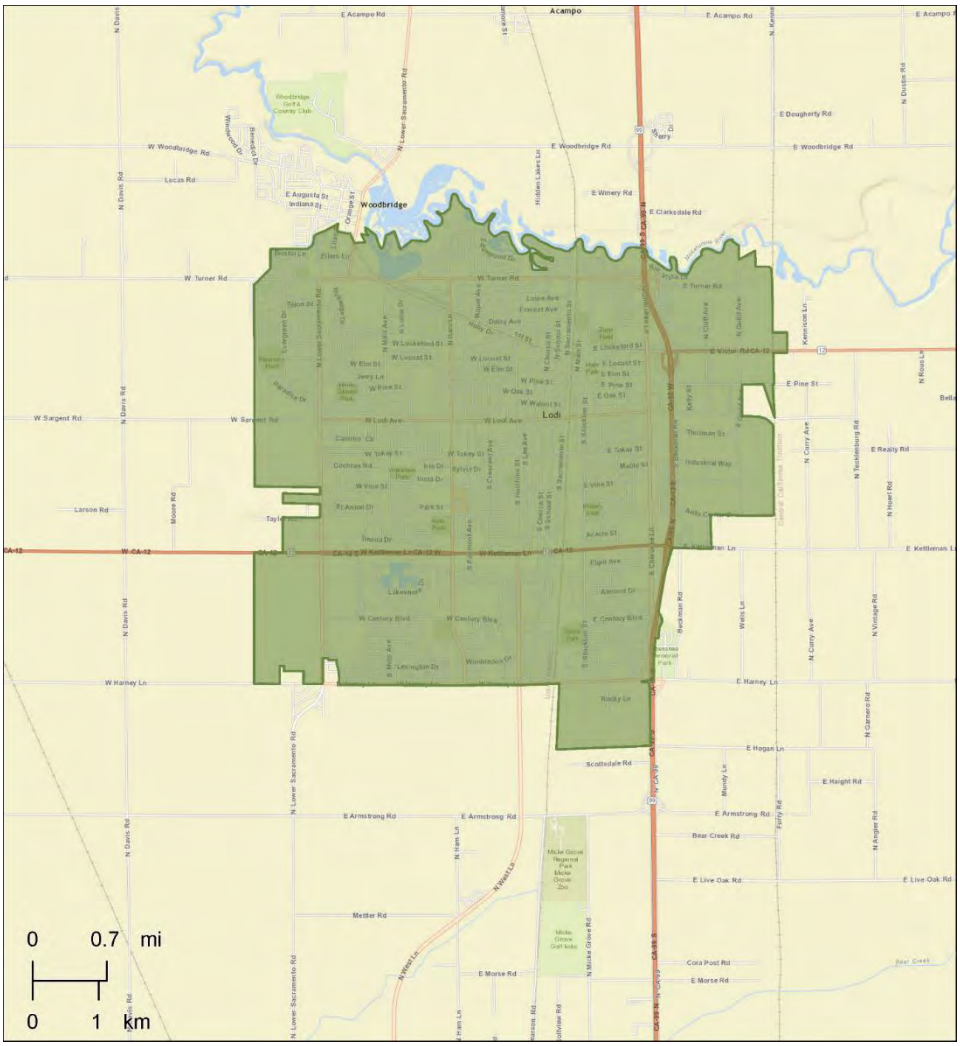


Figure 1 - City of Lodi Boundaries

RACE AND ETHNICITY DEFINTIONS

The minimum categories for data on race and ethnicity for Federal statistics, program administrative reporting, and civil rights compliance reporting are defined as below. The Census 2010 data on race are not directly comparable with data from the 2000 Census and earlier censuses; caution must be used when interpreting changes in the racial composition of the US population over time. The latest (Census 2010) definitions and nomenclature are used within this analysis.

- American Indian – This includes a person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment
- Asian – This includes a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam
- Black – This includes a person having origins in any of the black racial groups of Africa
- Native Hawaiian or Other Pacific Islander – This includes a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands
- White – This includes a person having origins in any of the original peoples of Europe, the Middle East, or North Africa
- Hispanic or Latino – This is an ethnic distinction, a subset of a race as defined by the Federal Government; this includes a person of Mexican, Puerto Rican, Cuban, South or Central American, or other Spanish culture or origin, regardless of race

3.1.2 CITY OF LODI POPULACE

POPULATION

The City has witnessed minimal change in recent years. The total population underwent a slight decrease of 0.6% from 62,134 in 2010 to an estimated 62,529 in 2015. Projecting ahead, the total population of Lodi is expected to remain relatively stable over the next 15 years. Based on predictions through 2030, the local population is anticipated to slowly grow to approximately 65,514 residents living within 23,131 households. **See Figure 2.**

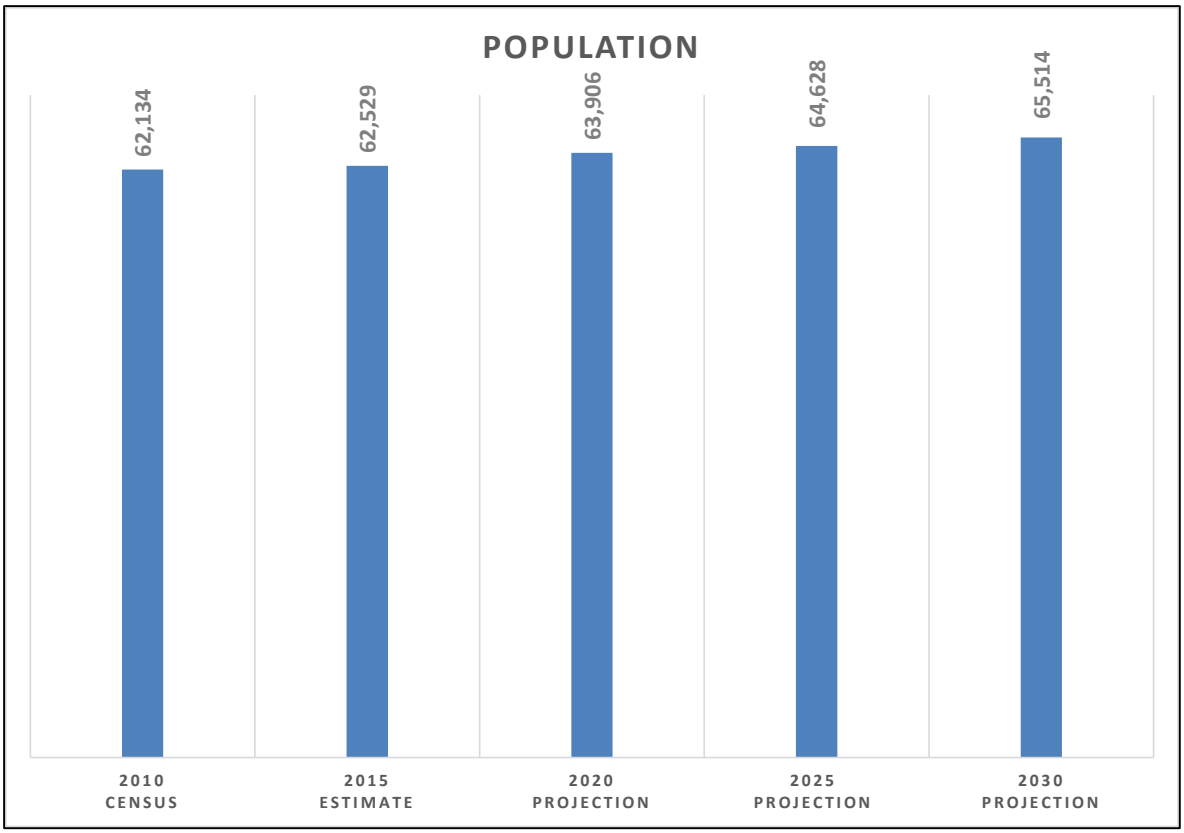


Figure 2 - Total Population

AGE SEGMENT

Evaluating the current distribution by age segments, the City is balanced between youth, young adult, family, and senior populations. In 2010, the largest age segment were the <18 (27.8%) and the 35-54 (25.1%) group, and the smallest was the 18-34 segment which constitutes 23.2% of the population.

Over time, the overall composition of the population is projected to undergo an aging trend. Based on the 2015 estimate, the distribution of the population by age segment is evenly balanced, with the <18 segment remaining the largest age group by a narrow margin at 26.4% of the population. Future projections through 2030 show that the three youngest age segments will each represent between 22%-24% of the total, while the 55+ group is expected to be the lone segment on a steady upward trend, as it grows to represent approximately 30.7% of the population. This is consistent with general national trends where the 55+ age group has been growing as a result of increased life expectancies and the baby boomer population entering that age group. **See Figure 3.**

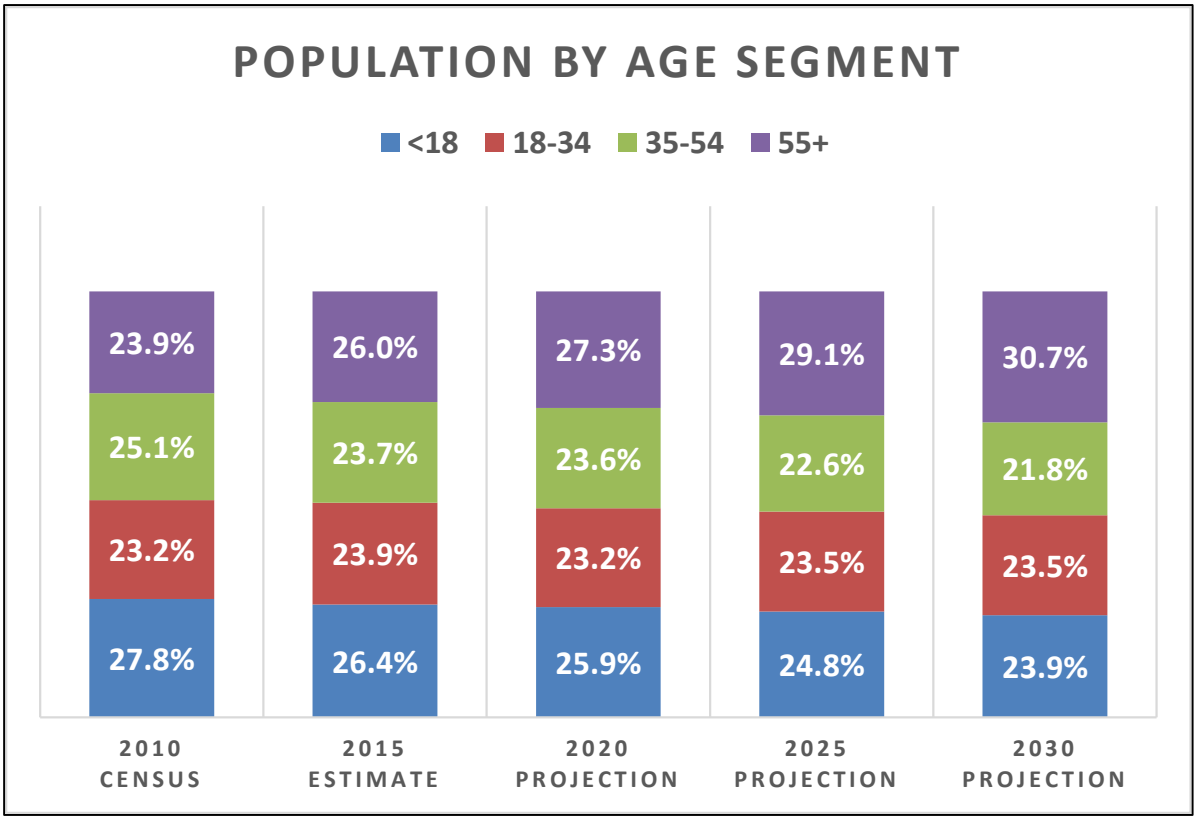


Figure 3 - Population by Age Segments

RACE AND ETHNICITY

In analyzing race and ethnicity, the selected area is slightly diverse. The 2015 estimate shows that nearly 69% of the population falls into the White Alone category, while the Some Other Race (17.97%) segment represents the largest minority. Predictions for 2030 expect the population to increasingly diversify, as the White Alone category decreases to 62%, followed by a growing population in Some Other Race (22.45%), Asian (7.67%) groups and Two or More Races (6.01%).

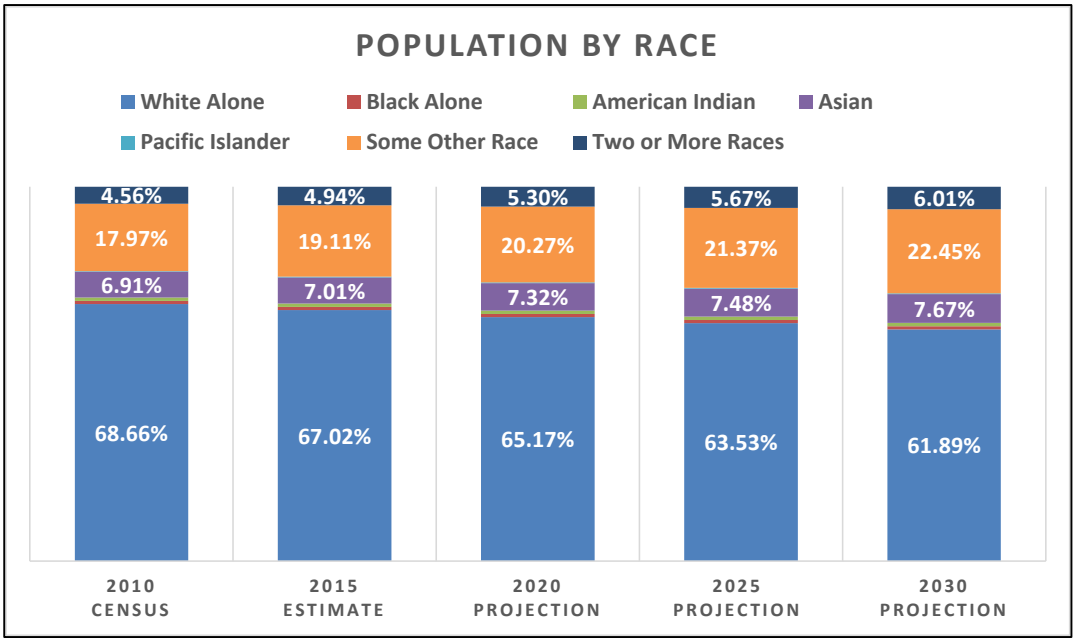


Figure 4 - Population by Race

The Hispanic/Latino population is projected to reach 46.08% of the total population by 2030. **See Figure 5**. This increased diversity will have a significant impact on various aspect of the Department's operations ranging from types of programs and services offered to the way offerings are marketed, promoted and priced as well. The PRCS Department has been proactive about recognizing this changing demographic by conducting a bi-lingual (English / Spanish) statistically valid survey to ensure the entire community is represented.

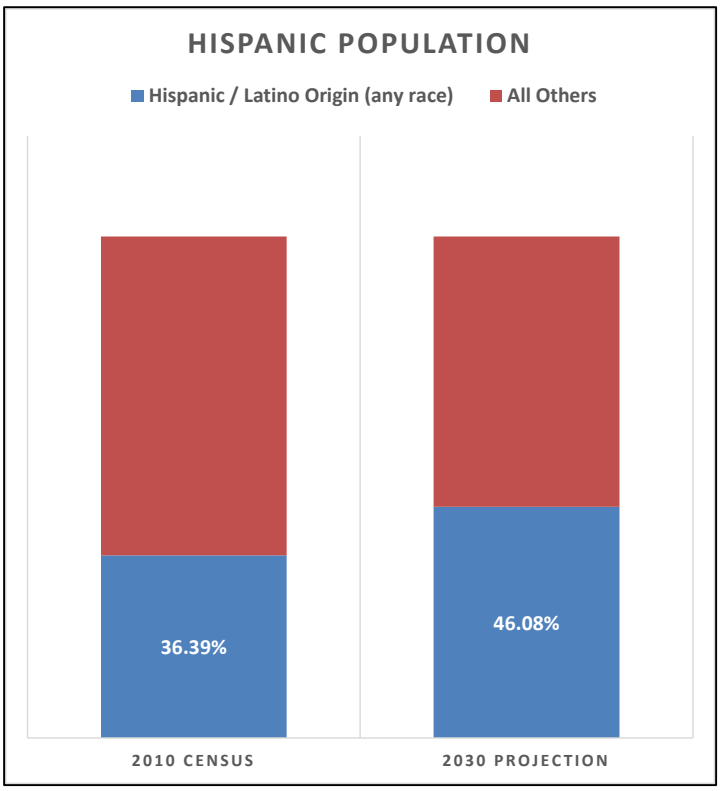


Figure 5 - Hispanic Population

As seen in **Figure 6**, the City's median household income is below the state ($61,094) and national ($53,046) averages. Per capita income for Lodi is also below both the state ($29,527) average and national ($28,051) averages. This indicates a lower level of disposable income and consequently a price sensitivity in the population participating in the City's offerings. It will be important for the Department to ensure a balance between ensuring fair market pricing without pricing users out of the market.

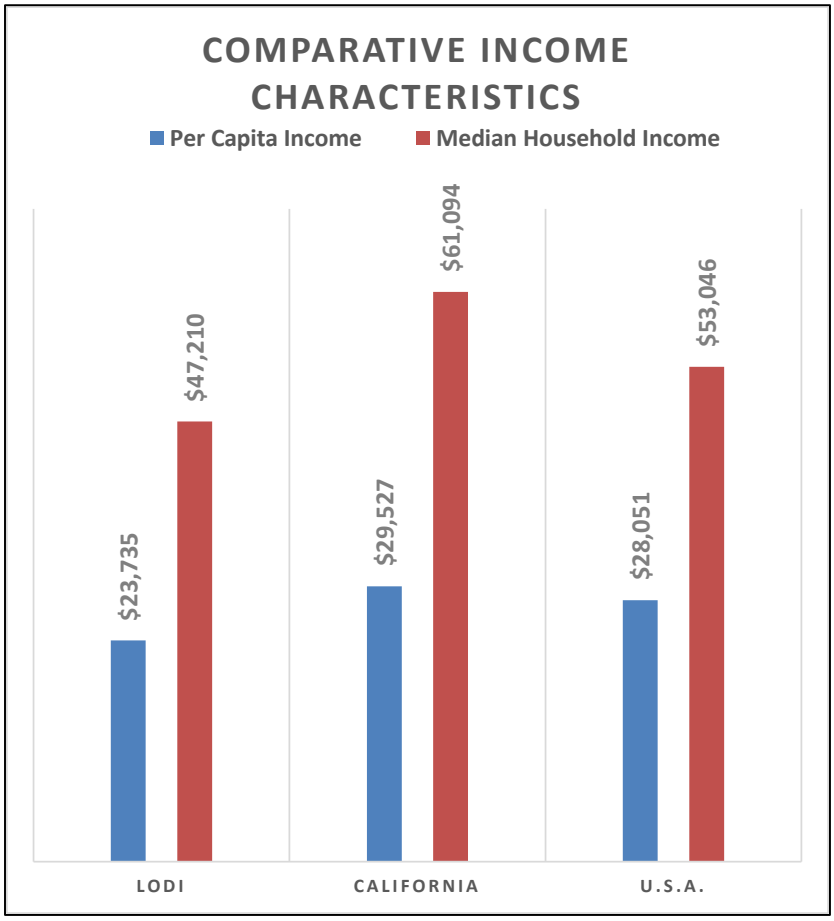


Figure 6 - Comparative Income Characteristics

3.2 RECREATION TRENDS ANALYSIS

The following tables summarize the findings from the Sports & Fitness Industry Association's (SFIA) 2015 Sports, Fitness and Leisure Activities Topline Participation Report, as well as the local market potential index data, which compares the demand for recreational activities and spending of residents for the targeted area to the national averages.

Summary of National Participatory Trends Analysis
5. Number of "inactives" increased slightly, while "actives" are participating more a. "Inactives" increased 10.6% from 2009 to 2014, from 74.8 million to 82.7 million b. 209 million "actives" are participating more often and in multiple activities
6. Most popular sport and recreational activities a. Fitness Walking (113 million) b. Running/Jogging (51 million) c. Treadmill (50 million)
7. Most participated in team sports a. Basketball (23 million) b. Tennis (18 million) c. Baseball (13 million)
8. Activities most rapidly growing over last five years a. Adventure Racing – up 136% b. Non-traditional/Off-road Triathlon – up 123% c. Squash – up 101% d. Traditional/Road Triathlon – up 92% e. Rugby – up 77%
9. Activities most rapidly declining over last five years a. Wrestling – down 40% b. Touch Football – down 32% c. In-line Roller Skating – down 32% d. Racquetball – down 25% e. Slow-pitch Softball – down 23%

Information released by Sports & Fitness Industry Association's (SFIA) 2015 Study of Sports, Fitness, and Leisure Participation reveals that the most popular sport and recreational activities include: fitness walking, running/jogging, treadmill, free weights and road bicycling. Most of these activities appeal to both young and old alike, can be done in most environments, are enjoyed regardless of level of skill, and have minimal economic barriers to entry. These popular activities also have appeal because of the social aspect. For example, although fitness activities are mainly self-directed, people enjoy walking and biking with other individuals because it can offer a degree of camaraderie.

Fitness walking has remained the most popular activity of the past decade by a large margin, in terms of total participants. Walking participation during the latest year data was available (2014), reported over 112 million Americans had walked for fitness at least once.

From a traditional team sport standpoint, basketball ranks highest among all sports, with approximately 23 million people reportedly participating in 2014. Team sports that have experienced significant growth in participation are rugby, lacrosse, field hockey, ice hockey, roller hockey, and gymnastics – all of which have experienced double digit growth over the last five years.

Between 2009 and 2014, the estimated number of "inactives" in America increased by 7.9 million individuals (10.6%), from 74.8 million in 2013 to 82.7 million in 2014. According to the Physical Activity Council, an "inactive" is defined as an individual age 6 and up that doesn't take part in any "active" sport. Although inactivity was up in 2014, the 209 million "actives" seem to be participating more often and in multiple activities.

The Sports & Fitness Industry Association (SFIA) Sports, Fitness & Recreational Activities Topline Participation Report 2014 was utilized to evaluate national sport and fitness participatory trends. SFIA is the number one source for sport and fitness research. The study is based on online interviews carried out in January and February of 2015 from nearly 11,000 individuals and households.

NOTE: In 2012, the Sports & Fitness Industry Association (SFIA) came into existence after a two-year strategic review and planning process with a refined mission statement-- "To Promote Sports and Fitness Participation and Industry Vitality". The SFIA was formerly known as the Sporting Goods Manufacturers Association (SGMA).

3.2.1 NATIONAL TRENDS IN GENERAL SPORTS

The most heavily participated in sports for 2014 were golf (24.7 million) and basketball (23 million). While both of these activities have seen declining participation levels in recent years, the number of participants for each activity are well above the other activities in the general sports category. The popularity of golf and basketball can be attributed to the ability to compete with relatively small number of participants. Golf also benefits from its wide age segment appeal, and is considered a life-long sport. Basketball's success can also be attributed to the limited amount of equipment needed to participate and the limited space requirements necessary, which make basketball the only traditional sport that can be played at the majority of American dwellings as a drive-way pickup game.

As seen in **Figure 7,** since 2009, squash and other niche sports, like lacrosse and rugby, have seen strong growth. Squash has emerged as the overall fastest growing sport, as it has seen participation levels rise by 100% over the last five years. Based on survey findings from 2009-2014, rugby and lacrosse have also experienced significant growth, increasing by 77% and 73% respectively. Other sports with notable growth in participation over the last five years were field hockey (42.6%), roller hockey (21.7%), ice hockey (20%), gymnastics (16.9%), and cheerleading (12.6%). In the last year, the fastest growing sports were roller hockey (33.7%), squash (12.9%), competition boxing (12.7%), lacrosse (10.9%), and rugby (7.9%). During the last five years, the sports that are

most rapidly declining include wrestling (40.3% decrease), touch football (down 32.3%), and racquetball (24.9% decrease).

In terms of total participants, the most popular activities in the general sports category in 2014 include golf (24.7 million), basketball (23 million), tennis (17.9 million), baseball (13.1 million), and outdoor soccer (12.6 million). Although four out of five of these sports have been declining in recent years, the sheer number of participants demands the continued support of these activities.

National Participatory Trends - General Sports					
Activity	Participation Levels			% Change	
	2009	2013	2014	13-14	09-14
Golf	27,103	24,720	24,700	-0.1%	-8.9%
Basketball	25,131	23,669	23,067	-2.5%	-8.2%
Tennis	18,546	17,678	17,904	1.3%	-3.5%
Baseball	14,429	13,284	13,152	-1.0%	-8.9%
Soccer (Outdoor)	13,957	12,726	12,592	-1.1%	-9.8%
Badminton	7,469	7,150	7,176	0.4%	-3.9%
Softball (Slow Pitch)	9,180	6,868	7,077	3.0%	-22.9%
Football, Touch	9,726	7,140	6,586	-7.8%	-32.3%
Volleyball (Court)	7,737	6,433	6,304	-2.0%	-18.5%
Football, Tackle	7,243	6,165	5,978	-3.0%	-17.5%
Football, Flag	6,932	5,610	5,508	-1.8%	-20.5%
Volleyball (Sand/Beach)	4,324	4,769	4,651	-2.5%	7.6%
Gymnastics	3,952	4,972	4,621	-7.1%	16.9%
Soccer (Indoor)	4,825	4,803	4,530	-5.7%	-6.1%
Ultimate Frisbee	4,636	5,077	4,530	-10.8%	-2.3%
Track and Field	4,480	4,071	4,105	0.8%	-8.4%
Racquetball	4,784	3,824	3,594	-6.0%	-24.9%
Cheerleading	3,070	3,235	3,456	6.8%	12.6%
Pickleball	N/A	N/A	2,462	N/A	N/A
Softball (Fast Pitch)	2,476	2,498	2,424	-3.0%	-2.1%
Ice Hockey	2,018	2,393	2,421	1.2%	20.0%
Lacrosse	1,162	1,813	2,011	10.9%	73.1%
Wrestling	3,170	1,829	1,891	3.4%	-40.3%
Roller Hockey	1,427	1,298	1,736	33.7%	21.7%
Squash	796	1,414	1,596	12.9%	100.5%
Field Hockey	1,092	1,474	1,557	5.6%	42.6%
Boxing for Competition	N/A	1,134	1,278	12.7%	N/A
Rugby	720	1,183	1,276	7.9%	77.2%
NOTE: Participation figures are in 000's for the US population ages 6 and over					
	Large Increase (greater than 25%)	Moderate Increase (0% to 25%)	Moderate Decrease (0% to -25%)	Large Decrease (less than -25%)	

Figure 7 - General Sports National Participatory Trends

3.2.2 NATIONAL TRENDS IN AQUATIC ACTIVITY

Swimming is unquestionably a lifetime sport, and activities in aquatics have remained very popular among Americans. Fitness swimming is the absolute leader in multigenerational appeal with over 25 million reported participants in 2013 (**Figure 8**). NOTE: In 2011, recreational swimming was broken into competition and fitness categories in order to better identify key trends.

Aquatic Exercise has a strong participation base, and has recently experienced an upward trend. Aquatic exercise has paved the way for a less stressful form of physical activity, allowing similar gains and benefits to land based exercise, including aerobic fitness, resistance training, flexibility, and better balance. Doctors have begun recommending aquatic exercise for injury rehabilitation, mature patients, and patients with bone or joint problems due to the significant reduction of stress placed on weight-bearing joints, bones, muscles, and also the effect of the water in reducing swelling of injuries.

National Participatory Trends - Aquatics					
Activity	**Participation Levels**			**% Change**	
	2009	**2013**	**2014**	**13-14**	**09-14**
Swimming (Fitness)	N/A	26,354	25,304	-4.0%	N/A
Aquatic Exercise	8,965	8,483	9,122	7.5%	1.8%
Swimming (Competition)	N/A	2,638	2,710	2.7%	N/A
NOTE: Participation figures are in 000's for the US population ages 6 and over					
	Large Increase (greater than 25%)	Moderate Increase (0% to 25%)	Moderate Decrease (0% to -25%)	Large Decrease (less than -25%)	

Figure 8 - Aquatic Participatory Trends

3.2.3 NATIONAL TRENDS IN GENERAL FITNESS

National participatory trends in fitness have experienced some strong growth in recent years. Many of these activities have become popular due to an increased interest among people to improve their health by engaging in an active lifestyle. These activities also have very few barriers to entry, which provides a variety of activities that are relatively inexpensive to participate in and can be performed by nearly anyone with no time restrictions.

The most popular fitness activity by far is fitness walking, which had over 112.5 million participants in 2013, which was a 2.9% increase from the previous year. Other leading fitness activities based on number of participants include running/jogging (51 million), treadmill (50 million), hand weights (42 million), and weight/resistant machines (36 million).

Over the last five years, the activities that grew most rapidly were off-road triathlons (up 123%), road triathlons (up 92%), trail running (up 55%), high impact aerobics (55% increase), and yoga (up 33%). Most recently, from 2013-2014, the largest gains in participation were high impact aerobics (14% increase), trail running (up 11%), and barre (up 10%). **See Figure 9.**

National Participatory Trends - General Fitness					
Activity	**Participation Levels**			**% Change**	
	2009	**2013**	**2014**	**13-14**	**09-14**
Fitness Walking	110,882	117,351	112,583	-4.1%	1.5%
Running/Jogging	42,511	54,188	51,127	-5.6%	20.3%
Treadmill	50,395	48,166	50,241	4.3%	-0.3%
Free Weights (Hand Weights)	N/A	43,164	41,670	-3.5%	N/A
Weight/Resistant Machines	39,075	36,267	35,841	-1.2%	-8.3%
Stationary Cycling (Recumbent/Upright)	36,215	35,247	35,693	1.3%	-1.4%
Stretching	36,299	36,202	35,624	-1.6%	-1.9%
Free Weights (Dumbells)	N/A	32,209	30,767	-4.5%	N/A
Elliptical Motion Trainer	25,903	27,119	28,025	3.3%	8.2%
Free Weights (Barbells)	26,595	25,641	25,623	-0.1%	-3.7%
Yoga	18,934	24,310	25,262	3.9%	33.4%
Calisthenics/Bodyweight Exercise	N/A	N/A	22,390	N/A	N/A
Aerobics (High Impact)	12,771	17,323	19,746	14.0%	54.6%
Stair Climbing Machine	13,653	12,642	13,216	4.5%	-3.2%
Pilates Training	8,770	8,069	8,504	5.4%	-3.0%
Stationary Cycling (Group)	6,762	8,309	8,449	1.7%	24.9%
Trail Running	4,845	6,792	7,531	10.9%	55.4%
Cross-Training	N/A	6,911	6,774	-2.0%	N/A
Cardio Kickboxing	5,500	6,311	6,747	6.9%	22.7%
Martial Arts	6,643	5,314	5,364	0.9%	-19.3%
Boxing for Fitness	N/A	5,251	5,113	-2.6%	N/A
Tai Chi	3,315	3,469	3,446	-0.7%	4.0%
Barre	N/A	2,901	3,200	10.3%	N/A
Triathlon (Traditional/Road)	1,148	2,262	2,203	-2.6%	91.9%
Triathlon (Non-Traditional/Off Road)	634	1,390	1,411	1.5%	122.6%
NOTE: Participation figures are in 000's for the US population ages 6 and over					
Legend:	Large Increase (greater than 25%)	Moderate Increase (0% to 25%)	Moderate Decrease (0% to -25%)	Large Decrease (less than -25%)	

Figure 9 - General Fitness National Participatory Trends

3.2.4 NATIONAL TRENDS IN GENERAL RECREATION

Results from the SFIA's *Topline Participation Report* demonstrate increased popularity among Americans Results from the SFIA's *Topline Participation Report* demonstrate increased popularity among Americans in numerous outdoor recreation activities. Much like the general fitness activities, these activities encourage an active lifestyle, can be performed individually or with a group, and are not limited by time restraints. In 2014, the most popular activities in the outdoor recreation category include road bicycling (40 million), freshwater fishing (38 million), and day hiking (36 million).

From 2009-2014, outdoor recreation activities that have undergone large increases are adventure racing (up 136%), archery (up 33%), backpacking overnight (up 30%), and BMX bicycling (up 27%). Over the same time frame, activities declining most rapidly were in-line roller skating (down 32%), camping within ¼ mile of home or vehicle (down 16%), and recreational vehicle camping (down 14%). **See Figure 10.**

National Participatory Trends - Outdoor Recreation					
Activity	**Participation Levels**			**% Change**	
	2009	**2013**	**2014**	**13-14**	**09-14**
Bicycling (Road)	39,127	40,888	39,725	-2.8%	1.5%
Fishing (Freshwater)	40,646	37,796	37,821	0.1%	-7.0%
Hiking (Day)	32,542	34,378	36,222	5.4%	11.3%
Camping (< 1/4 Mile of Vehicle/Home)	34,012	29,269	28,660	-2.1%	-15.7%
Wildlife Viewing (>1/4 Mile of Home/Vehicle)	22,702	21,359	21,110	-1.2%	-7.0%
Camping (Recreational Vehicle)	16,977	14,556	14,633	0.5%	-13.8%
Birdwatching (>1/4 mile of Vehicle/Home)	13,847	14,152	13,179	-6.9%	-4.8%
Fishing (Saltwater)	13,054	11,790	11,817	0.2%	-9.5%
Backpacking Overnight	7,757	9,069	10,101	11.4%	30.2%
Archery	6,368	7,647	8,435	10.3%	32.5%
Bicycling (Mountain)	7,367	8,542	8,044	-5.8%	9.2%
Hunting (Shotgun)	8,611	7,894	7,894	0.0%	-8.3%
Skateboarding	7,580	6,350	6,582	3.7%	-13.2%
Roller Skating, In-Line	8,942	6,129	6,061	-1.1%	-32.2%
Fishing (Fly)	5,755	5,878	5,842	-0.6%	1.5%
Climbing (Sport/Indoor/Boulder)	4,541	4,745	4,536	-4.4%	-0.1%
Climbing (Traditional/Ice/Mountaineering)	2,062	2,319	2,457	6.0%	19.2%
Adventure Racing	1,005	2,095	2,368	13.0%	135.6%
Bicycling (BMX)	1,858	2,168	2,350	8.4%	26.5%
NOTE: Participation figures are in 000's for the US population ages 6 and over					
	Large Increase (greater than 25%)	Moderate Increase (0% to 25%)	Moderate Decrease (0% to -25%)	Large Decrease (less than -25%)	

Figure 10 - Outdoor Recreation National Participatory Trends

3.2.5 LOCAL SPORT AND MARKET POTENTIAL

The following charts show sport and leisure market potential data from ESRI. A Market Potential Data (MPI) measures the probable demand for a product or service in the City of Lodi. The MPI shows the likelihood that an adult resident of the target area will participate in certain activities when compared to the US National average. The National average is 100, therefore numbers below 100 would represent a lower than average participation rate, and numbers above 100 would represent higher than average participation rate. The service area is compared to the national average in four (4) categories – general sports, fitness, outdoor activity, and money spent on miscellaneous recreation. In general, Lodi demonstrates below average market potential index numbers for all categories.

In terms of MPI, only five sport and leisure activities were at the national average or better for Lodi residents - soccer, saltwater fishing, money spent on sport/recreation equipment (<$100), golf, and visiting a zoo. The vast majority of activities analyzed fall between 5%-15% below the national index. This deviation might indicate a lack of awareness among potential users of recreational opportunities, programs don't align with community needs and interests, lack of amenities available to Lodi residents and/or a need to motivate residents to participate in offerings at a higher level.

This may require changes to the program curriculum to ensure that offerings are in line with the community's needs and interests, as well as evaluating the marketing of such offerings to be sure the target audience is adequately informed and engaged. Many of these issues will be addressed as part of the City of Lodi Strategic Action Plan through community input, program assessment, prioritization of demands and needs and from recommendations in the strategic implementation plan.

As seen in the tables below, the following sport and leisure trends are most prevalent for residents within target area. Cells highlighted in yellow indicate the top three (or more in case of a tie) scoring activities for each category based on the purchasing preferences of residents.

GENERAL SPORTS MARKET POTENTIAL

City of Lodi Participatory Trends - General Sports	
Activity	**MPI**
Participated in Baseball	**92**
Participated in Basketball	**89**
Participated in Football	**95**
Participated in Golf	**101**
Participated in Soccer	**109**
Participated in Softball	**91**
Participated in Tennis	**89**
Participated in Volleyball	**90**

FITNESS MARKET POTENTIAL

City of Lodi Participatory Trends - Fitness	
Activity	**MPI**
Participated in Aerobics	**97**
Participated in Jogging/ Running	**94**
Participated in Pilates	**88**
Participated in Swimming	**93**
Participated in Walking for Exercise	**98**
Participated in Weight Lifting	**92**
Participated in Yoga	**86**

OUTDOOR ACTIVITY MARKET POTENTIAL

City of Lodi Participatory Trends - Outdoor Activity	
Activity	**MPI**
Participated in Backpacking	**87**
Participated in Hiking	**91**
Participated in Bicycling (mountain)	**98**
Participated in Bicycling (road)	**93**
Participated in Boating (Power)	**93**
Participated in Canoeing/Kayaking	**83**
Participated in Fishing (fresh water)	**98**
Participated in Fishing (salt water)	**102**
Participated in Horseback Riding	**86**

MONEY SPENT ON MISCELLANEOUS RECREATION

City of Lodi Participatory Trends - Money Spent on Recreation	
Activity	**MPI**
Spent on sports/rec equipment in last 12 mo: $1-99	**102**
Spent on sports/rec equipment in last 12 mo: $100-249	**97**
Spent on sports/rec equipment in last 12 mo: $250+	**96**
Attend sports event	**97**
Attend sports event: baseball game - MLB reg seas	**94**
Attend sports event: basketball game (college)	**91**
Attend sports event: basketball game - NBA reg seas	**95**
Attend sports event: football game (college)	**92**
Attend sports event: football game - NFL Mon/Thurs	**99**
Attend sports event: football game - NFL weekend	**99**
Attend sports event: high school sports	**93**
Attend sports event: ice hockey - NHL reg seas	**98**
Went on overnight camping trip in last 12 months	**92**
Visited a theme park in last 12 months	**99**
Went to zoo in last 12 months	**100**

3.3 BENCHMARK ANALYSIS

PROS Consulting, along with Lodi Parks, Recreation, and Cultural Services Department, identified operating metrics to be benchmarked against comparable park and recreation systems. The benchmark agencies selected for analysis included jurisdictions with characteristics similar to the City of Lodi, as well as departments that have comparable resources. The complexity in this analysis was ensuring direct comparison through a methodology of statistics and ratios in order to provide comparable information, as best as possible.

It must be noted that the benchmark analysis is only an indicator based on the information provided. Data for the Lodi Parks, Recreation and Cultural Services Department was obtained internally, and included figures from Lodi's inventory, budget and planning documents. Information for the outside agencies was sourced directly from each Department, in order to include the most accurate and up-to-date figures in the benchmark. Every effort was made in working directly with the benchmark agencies to obtain the most credible information and organize the data in a consistent and comparable format. The information sought was a combination of operating metrics with budgets, staffing, and inventories. In some instances, the information was not tracked or not available. The attributes considered for selection of comparable agencies included:

- Location
- Jurisdiction size
- Population size and density
- Departmental resources
- Careful attention was paid to incorporate a mix of systems that are comparable industry leaders and they include:

Agency	State	Jurisdiction Type	Jurisdiction Size (Sq. Miles)	Pop
Lodi Parks, Recreation and Cultural Services	**CA**	**city**	**13.82**	**63,338**
Manteca Parks and Recreation	CA	city	17.76	71,948
Roseville Parks and Recreation	CA	city	36.22	127,035
Tracy Parks and Community Services	CA	city	22.14	84,691
Woodland Community Services	CA	town	15.30	56,590
Yuba City Parks and Recreation	CA	city	14.66	65,416

Figure 11 - Benchmark Agencies

Due to difference in how each system collects, maintains and reports data, variances exist. These variations have an impact on the per capita and percentage allocations within the budget and hence the overall comparison must be viewed with this in mind. Also, there may be some instances where the data provided by the benchmarked systems was incomplete.

The benchmark data collection for all systems was complete as of February 2015. While it is possible that there may have been changes or updates in the data provided, in order to ensure consistency in data collection the original figures obtained at that time have been used in the benchmark.

The goal was to evaluate where Lodi is positioned among peer agencies as it applies to efficiency and effectiveness practices. The benchmark assessment is organized into specific categories and questions to obtain

data that offers an encompassing view of each system's operating metrics in comparison to the Lodi Parks, Recreation and Cultural Services Department.

3.3.1 GENERAL COMPARATIVE OF SYSTEMS

This section provides a general overview of each system within the benchmark analysis. The table below describes the jurisdiction population, size, and density, as well as the total number of park sites and program participation levels.

System	Jurisdiction Size (Sq. Miles)	Population of City/ Jurisdiction	Population Per Square Mile	Total Number of Park Sites	Total Annual Program Participants	Program Participants per Capita
Lodi	13.82	63,338	4,583	27	66,555	1.05
Manteca	17.76	71,948	4,051	62	55,200	0.77
Roseville	36.22	127,035	3,507	72	1,353,645	10.66
Tracy	22.14	84,691	3,825	72	10,424	0.12
Woodland	15.30	56,590	3,699	29	32,000	0.57
Yuba City	14.66	65,416	4,462	23	99,000	1.51

Figure 12 - General Comparative of Systems

The City of Lodi represents one of the smallest systems in terms of jurisdiction size, population, and number of park sites, ranking at, or near, the bottom among all benchmark agencies. Although the City of Lodi is small in comparison, it has the highest population density. In terms of program participation, Lodi residents are actively participating in departmental offerings, ranking third in the study with 1.05 program participants per capita.

SYSTEM ACREAGES

This section compares the total acreage owned or managed by each agency. These totals are further dissected to identify the percentage of developed acres and current level of service per 1,000 population for park acres.

System	Population of City/ Jurisdiction	Total Acres Owned or Managed by System	Total Developed Acres	Percentage of Developed Acres	Total Park Acres Per 1,000 Pop.
Lodi	63,338	400	304	76%	6.32
Manteca	71,948	580	580	100%	8.06
Roseville	127,035	7,631	1,448	19%	60.07
Tracy	84,691	563	263	47%	6.65
Woodland	56,590	665	412	62%	11.75
Yuba City	65,416	188	133	71%	2.87

Figure 13 - System Acreage

In terms of park acreage, Lodi's positioning reflects that of its population size, ranking second to last in total acres owned or managed and total available acres per 1,000 population. The Department's 400 acres leads only

Yuba City, while Roseville dominates the category with over 7,600 acres. The department is, however, a benchmark leader with 76% of total acres developed, trailing only Manteca (100%) in percentage of developed acres.

TRAIL MILES

The following table reveals the total miles of trail for each system, and breaks down the total into paved and unpaved trail miles. The total trail miles are then compared to the population to determine trail miles per 1,000 residents.

System	Population of City/ Jurisdiction	Paved Trail Miles	Unpaved Trail Miles	Total Trail Miles	Trail Miles per 1,000 Pop.
Lodi	63,338	1.08	0.61	1.69	0.03
Manteca	71,948	10.00	-	10.00	0.14
Roseville	127,035	32.00	-	32.00	0.25
Woodland	56,590	-	1.50	1.50	0.03
Yuba City	65,416	5.90	5.50	11.40	0.17

Note: Tracy trail miles were unavailable.

Figure 14 - Trail Miles

Benchmark comparisons of trail mileage identifies a prominent deficiency of available trails within Lodi. Lodi ranks at the bottom in both total trail miles and trail miles per 1,000 population. Among agencies in the benchmark study, Roseville is the lone system that is providing anywhere near an adequate level of service for trails. The national standard service level is typically in the range of 0.25-0.5 miles of trail per 1,000 population, depending on the type of community served. Based on the current service level and the rising demand for multi-use trails nationwide, it should be a top priority of the Department to develop new trails and extend the existing ones.

ANNUAL OPERATING BUDGET AND COST RECOVERY

This portion covers two parts, the annual budget and cost recovery. Budget items in this section include the most recent figures available for non-tax revenues, operating expenses, and 3-year average of capital expenditures for each agency. Non-tax revenues and operating expenses are compared to the population of each jurisdiction to determine the revenue per capita and operational cost per capita. The operational cost recovery is arrived at by dividing total non-tax revenue by total operating expense. The operational cost recovery is a critical performance indicator that measures how well each department's revenue generation covers the total operating costs.

System	Jurisdiction Population	Total Non-Tax Revenues	Total Operating Expenses	Capital Budget (3-Year Avg)	Revenue Per Capita	Operating Expense Per Capita	Operating Cost Recovery
Lodi	63,338	$ 2,165,927	$ 5,226,646	$ 27,333	$ 34.20	$ 82.52	41%
Manteca	71,948	$ 866,000	$ 7,000,000	$ 1,135,042	$ 12.04	$ 97.29	12%
Roseville	127,035	$ 9,653,000	$ 25,372,000	$ 2,816,036	$ 75.99	$ 199.72	38%
Tracy	84,691	$ 1,276,604	$ 8,056,022	$ 8,475,687	$ 15.07	$ 95.12	16%
Woodland	56,590	$ 288,558	$ 2,740,627	$ 608,322	$ 5.10	$ 48.43	11%
Yuba City	65,416	$ 1,123,850	$ 3,595,000	$ 360,000	$ 17.18	$ 54.96	31%

Figure 15 - Budget Details and Cost Recovery

Based on budget figures, Lodi is well positioned among benchmark agencies and reports figures that are very financially sound. The Department ranks second in the study in revenue generation per capita ($34.20), and is the third most efficient in operational expense per capita ($82.52). More importantly, the Department is the outright leader in operating cost recovery, as the Department's non-tax revenues recoup 41% of its operational expense.

In analyzing the capital budgets of other benchmark agencies, Lodi is far behind in terms of spending on capital improvements. The Department's capital budget is substantially lower than the benchmark average and their 3-year average is more than $300,000 less than the next closest agency. While this discrepancy is alarming, it comes as no surprise due to the recent budget cuts that have virtually eliminated the Department's capital budget. Spending on capital improvements is vital to the future success of the Department and large-scale improvements add significant value for users of the system.

SOURCES OF OPERATING FUNDS

This section shows how each system sources its operating funds. While an established general fund is important to funding operations, Departments should strive to find alternative sources of financial support.

System	Source of Operating Funds						
	Jurisdiction General Fund	Agency Fees and Charges	Tax	Sponsorship/ Endowment	Grants	Donation	Other
Lodi	60.00%	40.00%	-	-	-	-	-
Manteca	50.00%	20.00%	20.00%	-	-	-	10.00%
Roseville	37.00%	38.00%	15.00%	-	-	2.00%	8.00%
Tracy	60.10%	12.20%	4.10%	-	0.30%	-	23.30%
Yuba City	95.00%	-	-	-	-	-	5.00%

Note: Woodland figures were unavailable.

Figure 16 - Sources of Operating Funds

CAPITAL BUDGET SOURCES

The table below describes the various sources each agency taps into for capital improvements. Lodi stands out among benchmark agencies as the lone Department that does not rely on a tax-supported general fund or a local dedicated fund for its capital budget. Based on its abnormally low budget for capital expenditures, Lodi should seek additional sources for funding capital improvements.

System	Source of Capital Budget							
	Local General Fund (Tax Supported)	Local Dedicated Fund (Non-General Funds)	General Obligation Bonds	Grants	Gifts / Sponsorships	Tax Increment Financing	Endowment	Other
Lodi	-	-	-	100.00%	-	-	-	-
Manteca	-	100.00%	-	-	-	-	-	-
Roseville	41.00%	59.00%	-	-	-	-	-	-
Tracy	46.30%	-	-	2.70%	-	4.60%	-	46.40%
Yuba City	8.00%	35.00%	-	57.00%	-	-	-	-

Note: Woodland figures were unavailable.

Figure 17 - Capital Budget Sources

COST PER MAINTAINED ACRE

This category assesses the cost to maintain each park system. This figure is obtained by taking the operational budget and dividing it by the amount of maintained acres. This does not take into account the total amount of acreage for each system.

System	Total Operating Expenses	Total Developed Acres	Cost Per Maintained Acre
Lodi	$ 5,226,646	304	$ 17,207
Manteca	$ 7,000,000	580	$ 12,069
Roseville	$ 25,372,000	1,448	$ 17,522
Tracy	$ 8,056,022	263	$ 30,596
Woodland	$ 2,740,627	412	$ 6,644
Yuba City	$ 3,595,000	133	$ 27,030

Figure 18 - Cost per Maintained Acre

Based on the information above, Lodi trails only Woodland and Manteca in efficiency of maintaining developed acres. This is encouraging because it shows that the Department's operating expenses are in good proportion to the amount of acreage it is responsible for maintaining. It should be noted that Woodland's cost per acre figure is significantly lower than the benchmark average due to the fact the Department currently outsources all of its park maintenance.

FULL-TIME EQUIVALENTS

This section compares levels of staffing for each system by comparing full-time equivalents (FTE's) to total population and developed park acres. It should be noted that total FTEs for Woodland is skewed because they currently outsource all of their park maintenance.

When comparing staffing levels to the overall population of each service area, Lodi ranks second among benchmark agencies in total FTEs per 1,000 population. This shows that the Department has a strong level of staffing to support its user base.

System	Total FTE	Population	Total FTE per 1,000 Pop.
Lodi	78.1	63,338	1.23
Manteca	97.0	71,948	1.35
Roseville	96.0	127,035	0.76
Tracy	65.3	84,691	0.77
Woodland	6.2	56,590	0.11
Yuba City	19	65,416	0.29

Note: Woodland FTE's do not include park maintenance due to outsourcing.

Figure 19 - FTE per 1,000 Population

In terms of developed acres per FTE, Lodi is the benchmark leader and displays a favorable 3.89 developed acres per FTE. This figure shows that Lodi staff is not spread too thin in relation to its developed acreage.

System	Total FTE	Developed Acres	Developed Acre per FTE
Lodi	78.1	304	3.89
Manteca	97.0	580	5.98
Roseville	96.0	1,448	15.08
Tracy	65.3	263	4.03
Woodland	6.2	412	67.07
Yuba City	19.0	133	7.00

Note: Woodland FTE's do not include park maintenance due to outsourcing.

Figure 20 - Developed Acre per FTE

COMMUNITY / RECREATION CENTERS

The table below compares the total square footage of community / recreation centers to each jurisdiction's population. This identifies the current level of service for recreation centers of each system in terms of available square feet of center space per resident. Lodi demonstrates an adequate level of service for indoor recreation space, and trails only Roseville and Woodland in that aspect.

System	Total Square Footage of Community / Recreation Centers	Population	Square Feet per Population
Lodi	90,000	63,338	1.42
Manteca	10,000	71,948	0.14
Roseville	287,000	127,035	2.26
Tracy	6,200	84,691	0.07
Woodland	90,000	56,590	1.59
Yuba City	20,900	65,416	0.32

Figure 10 - Community / Recreation Center Level of Service

AQUATIC FACILITIES

This category compares the amount of indoor and outdoor aquatic facilities offered by each Department. The City of Lodi is tied with Roseville for total number of facilities, but considering Roseville's population is double the size, Lodi is considered the benchmark leader in level of service for aquatics.

System	Aquatic Facilities	
	Indoor	Outdoor
Lodi	1	2
Manteca	0	1
Roseville	1	2
Tracy	0	1
Woodland	0	1
Yuba City	0	1

Figure 11 - Aquatic Facilities

CHAPTER FOUR PARKS, FACILITIES, AND PROGRAM NEEDS ANALYSIS

4.1 LEVEL OF SERVICE

Level of Service (LOS) standards are guidelines that define service areas based on population that support investment decisions related to parks, facilities and amenities. LOS standards can and will change over time as the program lifecycles change and demographics of a community change.

PROS evaluated park facility standards using a combination of resources. These resources included: National Recreation and Park Association (NRPA) guidelines; recreation activity participation rates reported by the Sports & Fitness Industry Association's (SFIA) 2014 Study of Sports, Fitness, and Leisure Participation as it applies to activities that occur in the United States and the Lodi area; community and stakeholder input; and general observations. This information allowed standards to be customized to the Lodi Parks, Recreation, and Cultural Service Department.

These LOS standards should be viewed as a guide. The standards are to be coupled with conventional wisdom and judgment related to the particular situation and needs of the community. By applying these standards to the population of Lodi, gaps and surpluses in park and facility/amenity types are revealed.

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PARKS:	2014 Inventory - Developed Facilities							2014 Facility Standards			2019 Facility Standards		
Park Type	City of Lodi Inventory	Current Service Level based upon population			Recommended Service Levels; Revised for Local Service Area			Meet Standard/ Need Exists	Additional Facilities/ Amenities Needed		Meet Standard/ Need Exists	Additional Facilities/ Amenities Needed	
Neighborhood Parks	37.89	0.61	acres per	1,000	1.00	acres per	1,000	Need Exists	24	Acre(s)	Need Exists	25	Acre(s)
Community Parks	143.20	2.32	acres per	1,000	2.50	acres per	1,000	Need Exists	11	Acre(s)	Need Exists	14	Acre(s)
Regional Parks	163.00	2.64	acres per	1,000	2.50	acres per	1,000	Meets Standard	-	Acre(s)	Meets Standard	-	Acre(s)
Undeveloped Parks	28.00	0.45	acres per	1,000		acres per	1,000	Meets Standard	-	Acre(s)	Meets Standard	-	Acre(s)
Total Park Acres	**372.09**	**6.03**	**acres per**	**1,000**	**6.00**	**acres per**	**1,000**	**Meets Standard**	**-**	**Acre(s)**	**Need Exists**	**6**	**Acre(s)**
OUTDOOR AMENITIES:													
Picnic Shelters (Non-Rentals)	4.00	1.00	site per	15,421	1.00	site per	7,500	Need Exists	4	Sites(s)	Need Exists	4	Sites(s)
Picnic Shelters (Rentals)	11.00	1.00	site per	5,607	1.00	site per	5,000	Need Exists	1	Sites(s)	Need Exists	2	Sites(s)
Diamond Fields	18.00	1.00	field per	3,427	1.00	field per	4,000	Meets Standard	-	Field(s)	Meets Standard	-	Field(s)
Multi-Use Fields (Soccer / Lscrosse / Football /Rugby)	21.00	1.00	field per	2,937	1.00	field per	4,000	Meets Standard	-	Field(s)	Meets Standard	-	Field(s)
Cricket Fields	1.00	1.00	field per	61,682	1.00	field per	70,000	Meets Standard	-	Field(s)	Meets Standard	-	Field(s)
Outdoor Basketball Courts	10.00	1.00	court per	6,168	1.00	court per	6,500	Meets Standard	-	Court(s)	Meets Standard	-	Court(s)
Tennis Courts	11.00	1.00	court per	5,607	1.00	court per	6,000	Meets Standard	-	Court(s)	Meets Standard	-	Court(s)
Playgrounds (Youth & Tot)	18.00	1.00	site per	3,427	1.00	site per	3,000	Need Exists	3	Site(s)	Need Exists	3	Site(s)
Dog Exercise Area	5.00	1.00	site per	12,336	1.00	site per	25,000	Meets Standard	-	Site(s)	Meets Standard	-	Site(s)
Skate Board Area	1.00	1.00	site per	61,682	1.00	site per	65,000	Meets Standard	-	Site(s)	Meets Standard	-	Site(s)
Multi-Use Trails (Miles) (Paved)	1.10	0.22	miles per	254,884	0.30	miles per	1,000	Need Exists	17	Mile(s)	Need Exists	18	Mile(s)
Multi-Use Trails (Miles) (Unpaved)	0.75	0.22	miles per	373,830	0.30	miles per	1,000	Need Exists	18	Mile(s)	Need Exists	18	Mile(s)
Outdoor Pools	2.00	1.00	site per	30,841	1.00	site per	50,000	Meets Standard	-	Site(s)	Meets Standard	-	Site(s)
Spraygrounds	1.00	1.00	site per	61,682	1.00	site per	25,000	Need Exists	1	Sites(s)	Need Exists	2	Sites(s)
Nature / Discovery Centers	1.00	1.00	site per	61,682	1.00	site per	100,000	Meets Standard	-	Sites(s)	Meets Standard	-	Sites(s)
INDOOR AMENITIES:													
Indoor Aquatic Space (Square Feet)	7,140.00	0.12	SF per	person	0.50	SF per	person	Need Exists	23,701	Square Feet	Need Exists	24,380	Square Feet
Indoor Recreation Space (Square Feet)	69,858.00	1.13	SF per	person	1.50	SF per	person	Need Exists	22,665	Square Feet	Need Exists	24,702	Square Feet

2014 Estimated Population	61,682
2019 Estimated Population	63,040

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4.2 SERVICE AREA ANALYSIS/EQUITY MAPPING

Service area maps (equity maps) and standards assist staff and key leadership in assessing where services are offered, how equitable the service distribution and delivery is across the City of Lodi service area and how effective the service is as it compares to the demographic densities.

In addition, looking at guidelines with reference to population enables the city to assess gaps in services, where there are gaps or overlaps with respect to a specific facility or amenity. This allows the city and the department to make appropriate capital improvement/development decisions based upon need for a system as a whole and the consequences that may have on a specific area.

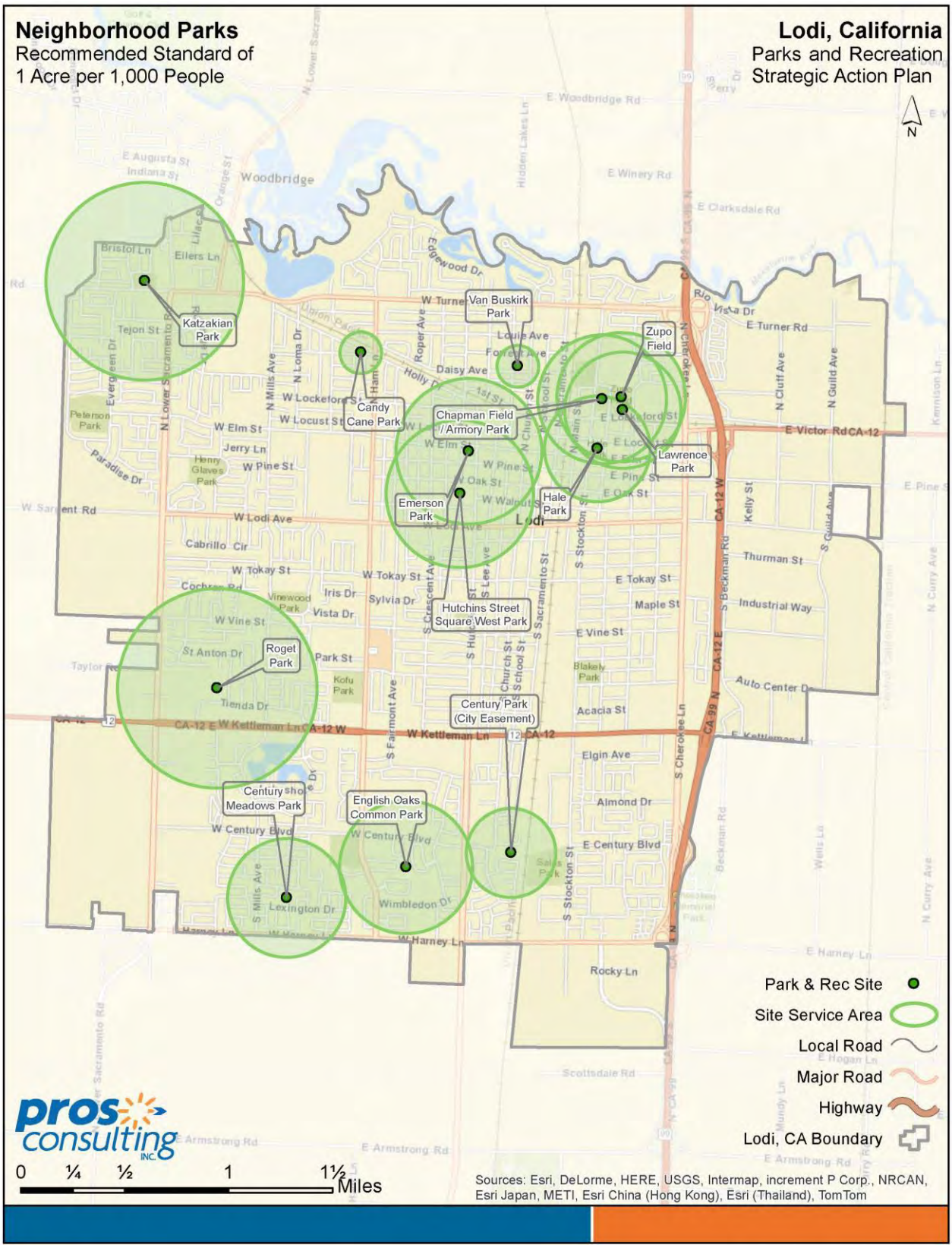
The service area maps that were developed for each of the following major assets:

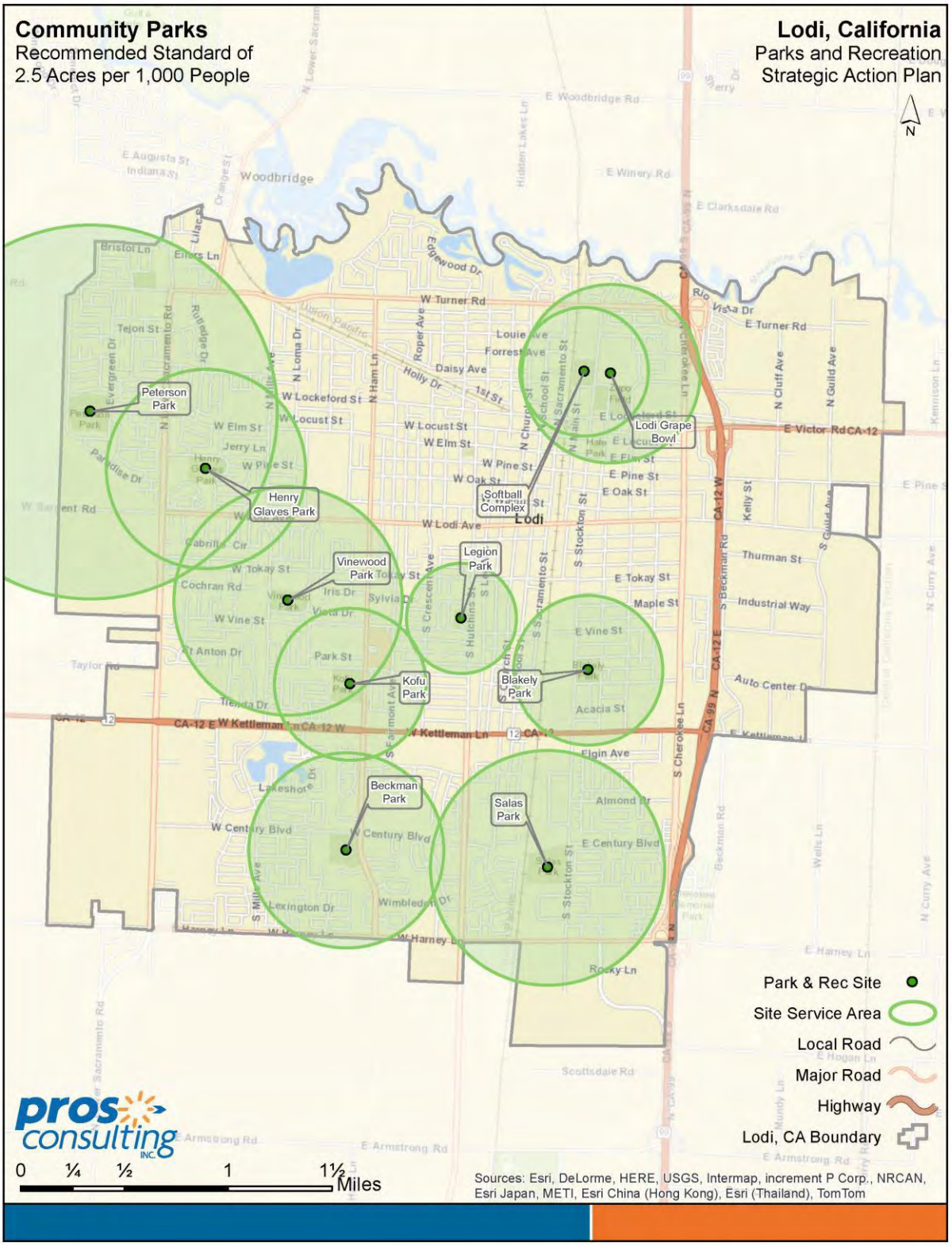
- Neighborhood Parks
- Community Parks
- Regional Parks
- Picnic Shelters (Not Rentable)
- Picnic Shelters (Rentable)
- Diamond Fields
- Multi-use Fields
- Cricket Fields
- Outdoor Basketball courts
- Tennis Courts
- Playgrounds
- Dog Areas
- Skateboard Areas
- Outdoor Pools
- Spraygrounds
- Indoor Aquatic Space

The source for the population used for standard development is the 2013 estimated population and projected 2018 population as reported by Environmental Systems Research Institute, Inc. (ESRI) Estimated population for 2013 is 61,682; 2018 population is projected at 63,040.

The shaded areas in the equity maps indicate the service level (e.g. the population being served by that park type/amenity) as outlined in the facility/amenity levels of service matrix. Thus, the central point inside the ring indicates the location of the facility or amenity while the ring extends out to how far that amenity serves the population based on the number of amenities at that location, the levels of service standards established and the density of population in that place.

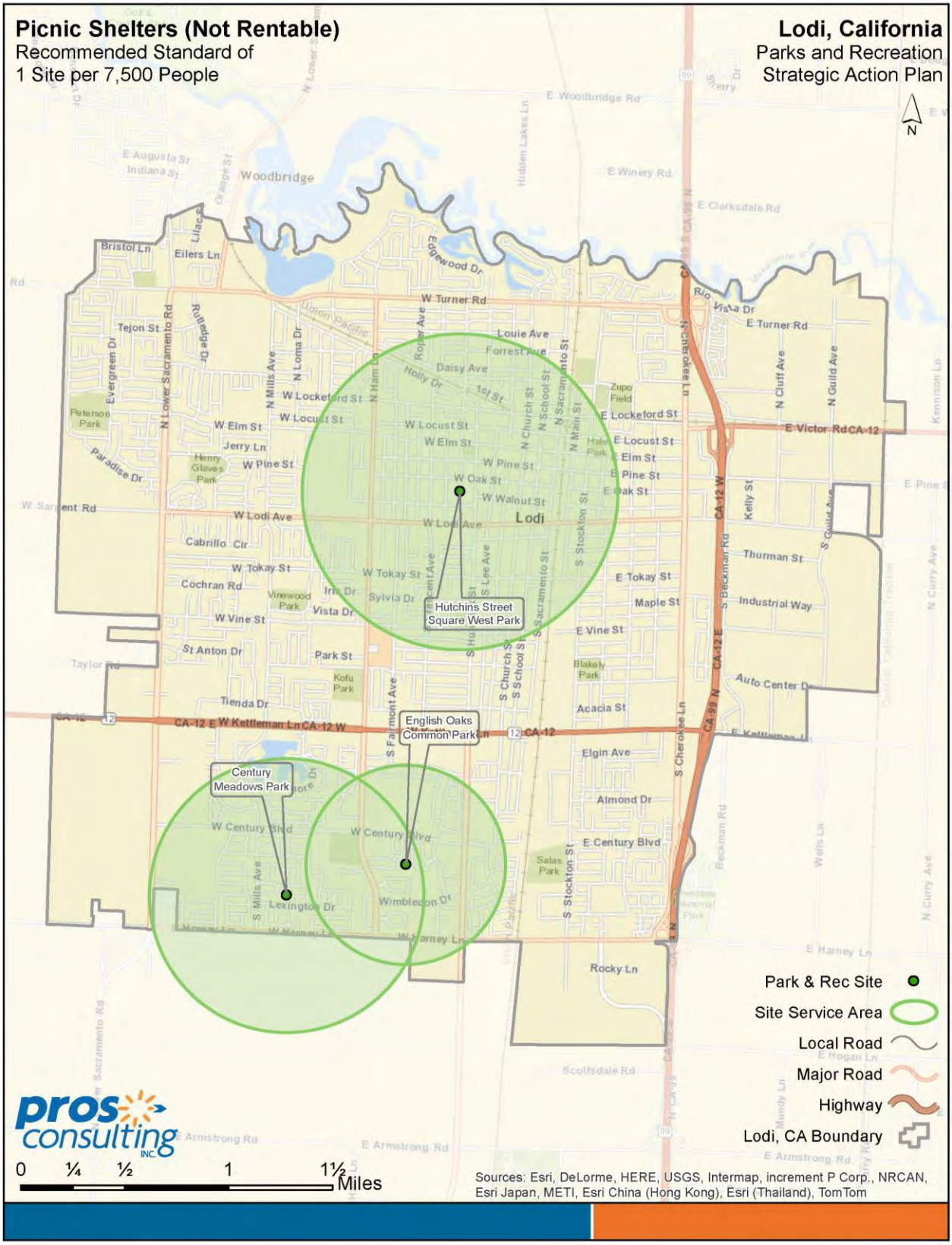
4.2.1 PARKS

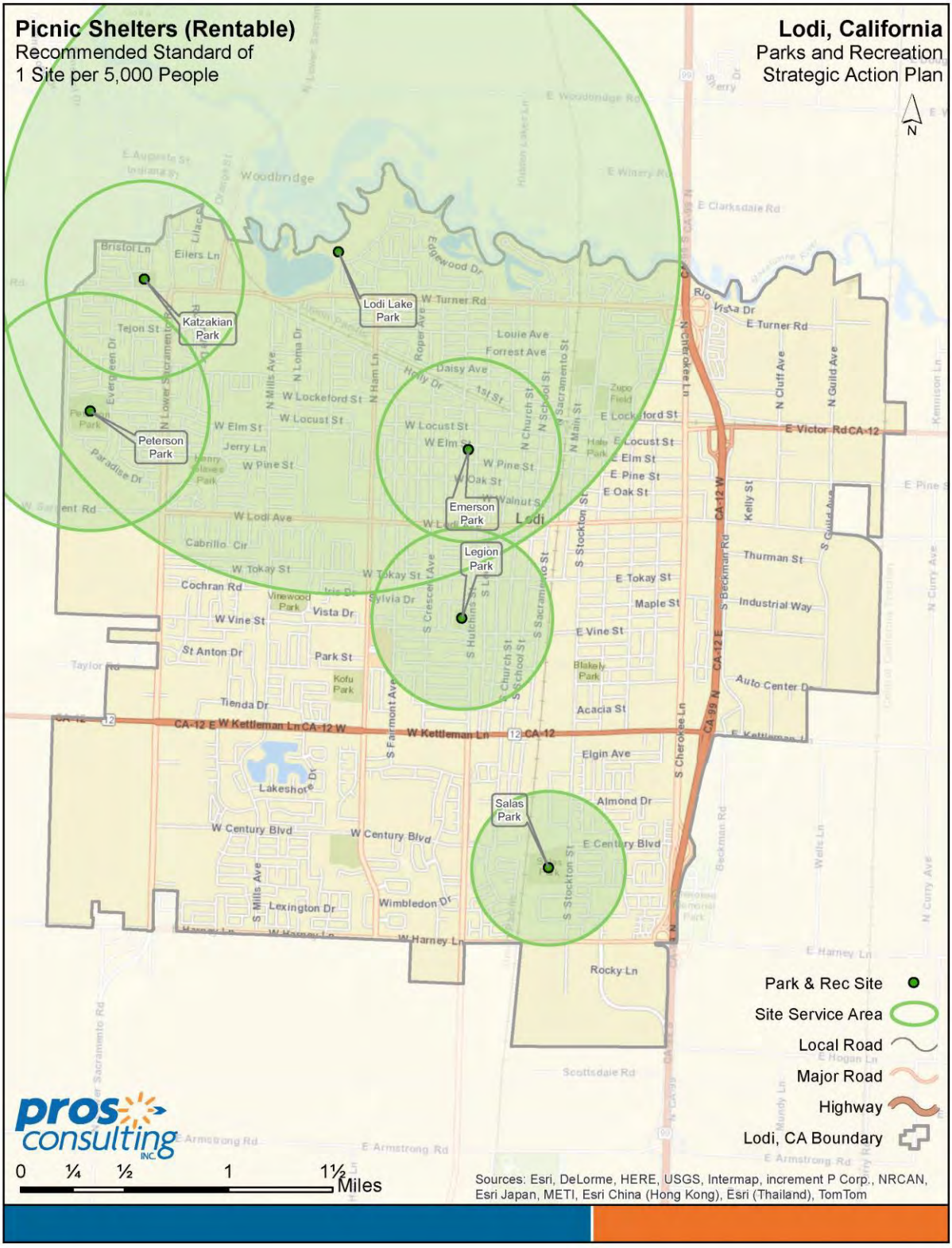

Neighborhood Parks
Recommended Standard of
1 Acre per 1,000 People
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Katzakian Park
Van Buskirk Park
Zupo Field
Candy Cane Park
Chapman Field / Armory Park
Lawrence Park
Emerson Park
Hale Park
Hutchins Street Square West Park
Roget Park
Century Park (City Easement)
Century Meadows Park
English Oaks Common Park
Lodi
Woodbridge
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom

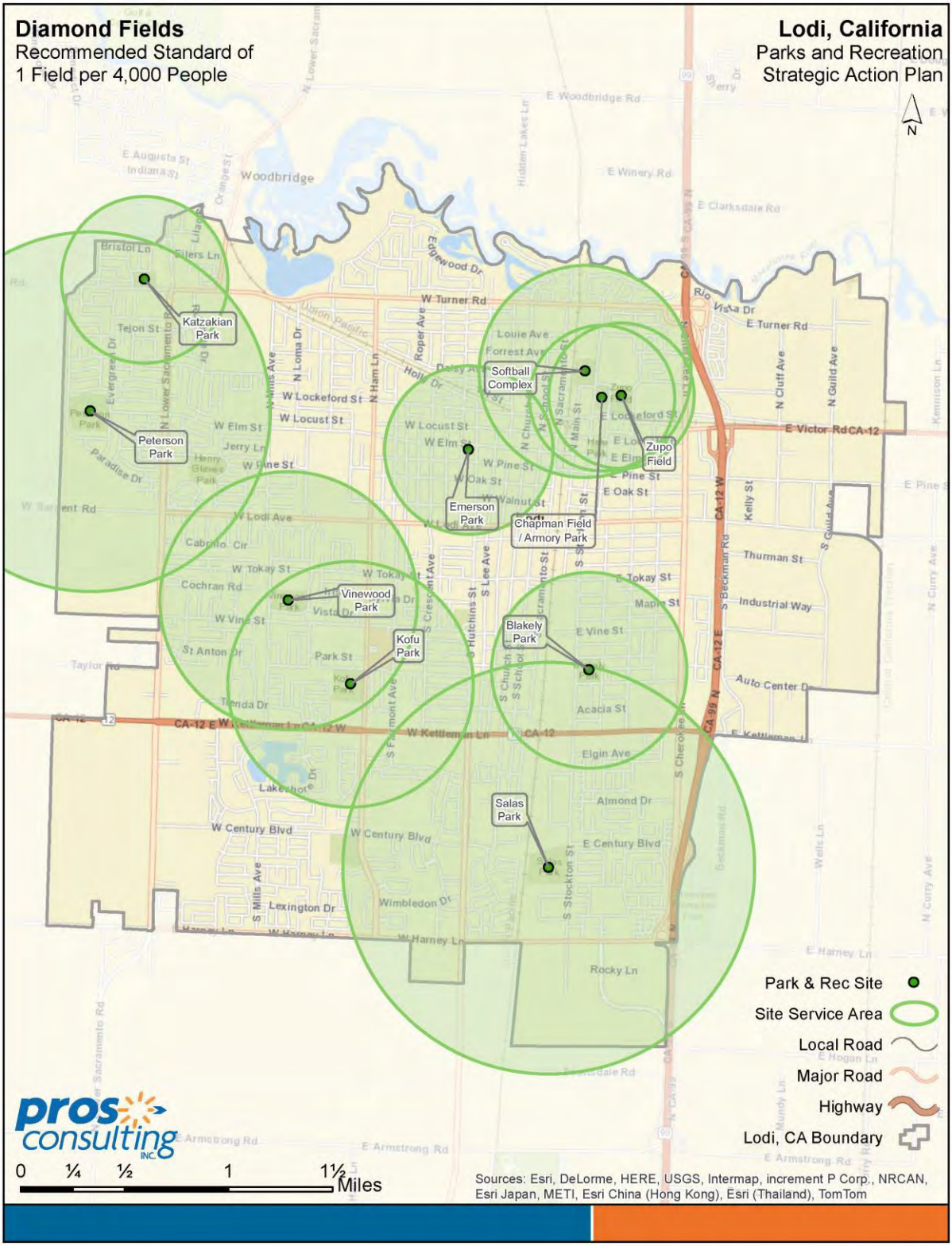

Community Parks
Recommended Standard of
2.5 Acres per 1,000 People
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Peterson Park
Henry Glaves Park
Vinewood Park
Legion Park
Kofu Park
Blakely Park
Beckman Park
Salas Park
Softball Complex
Lodi Grape Bowl
Lodi
Woodbridge
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom

Regional Parks
Recommended Standard of
2.5 Acres per 1,000 People
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Lodi Lake Park
Ed DeBenedetti Park
Lodi
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom

4.2.2 AMENITIES

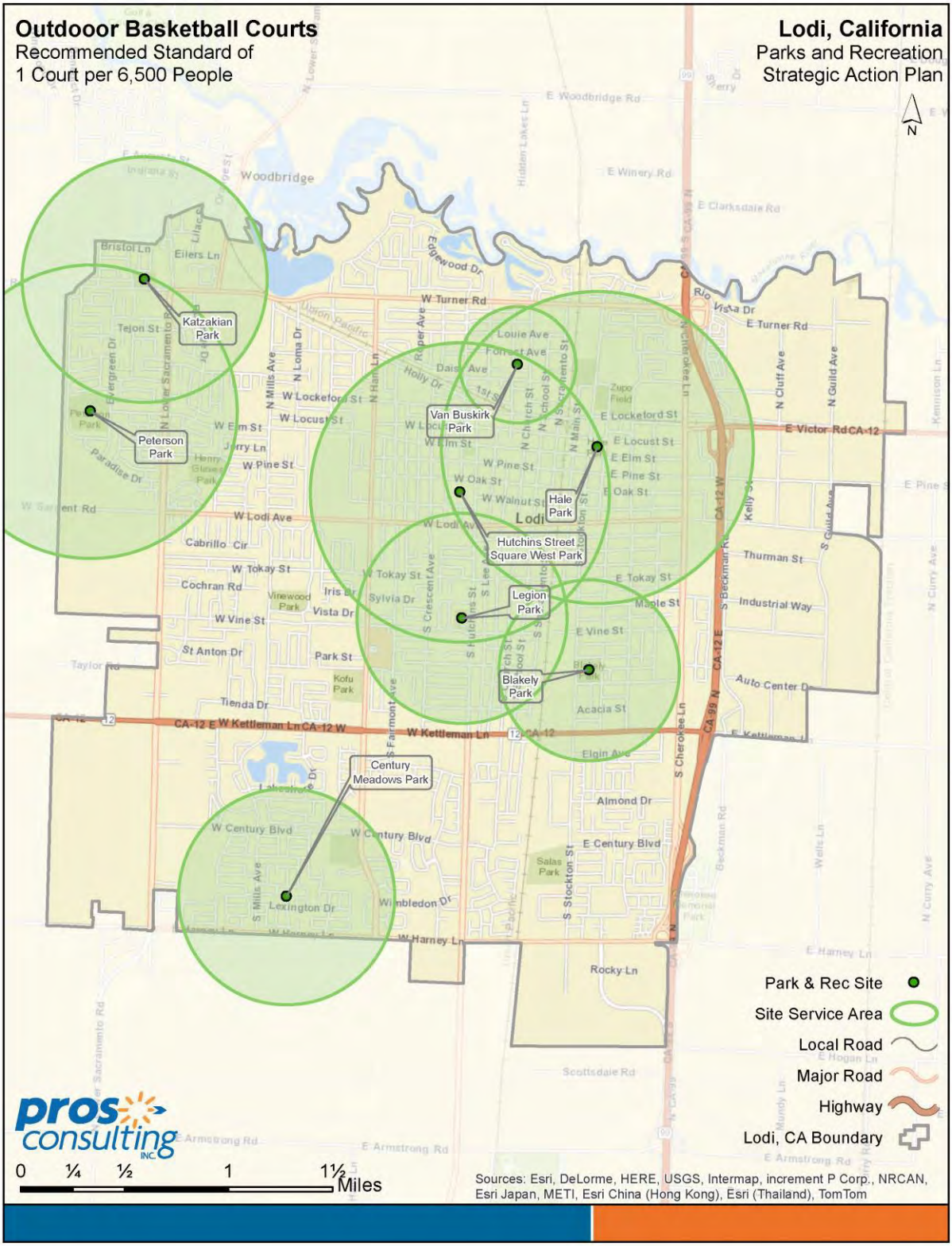


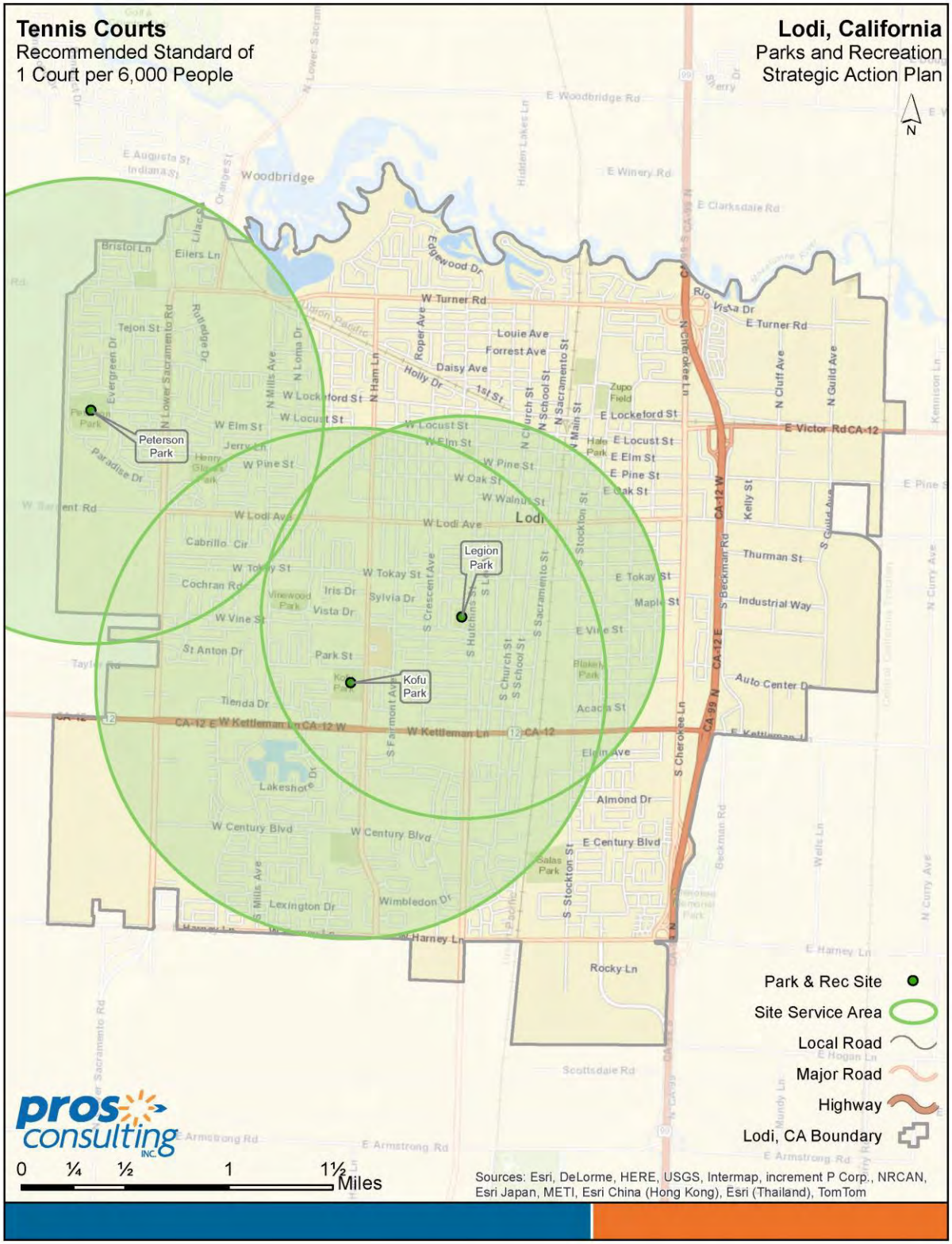

Picnic Shelters (Rentable)
Recommended Standard of
1 Site per 5,000 People
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Katzakian Park
Lodi Lake Park
Peterson Park
Emerson Park
Legion Park
Salas Park
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom

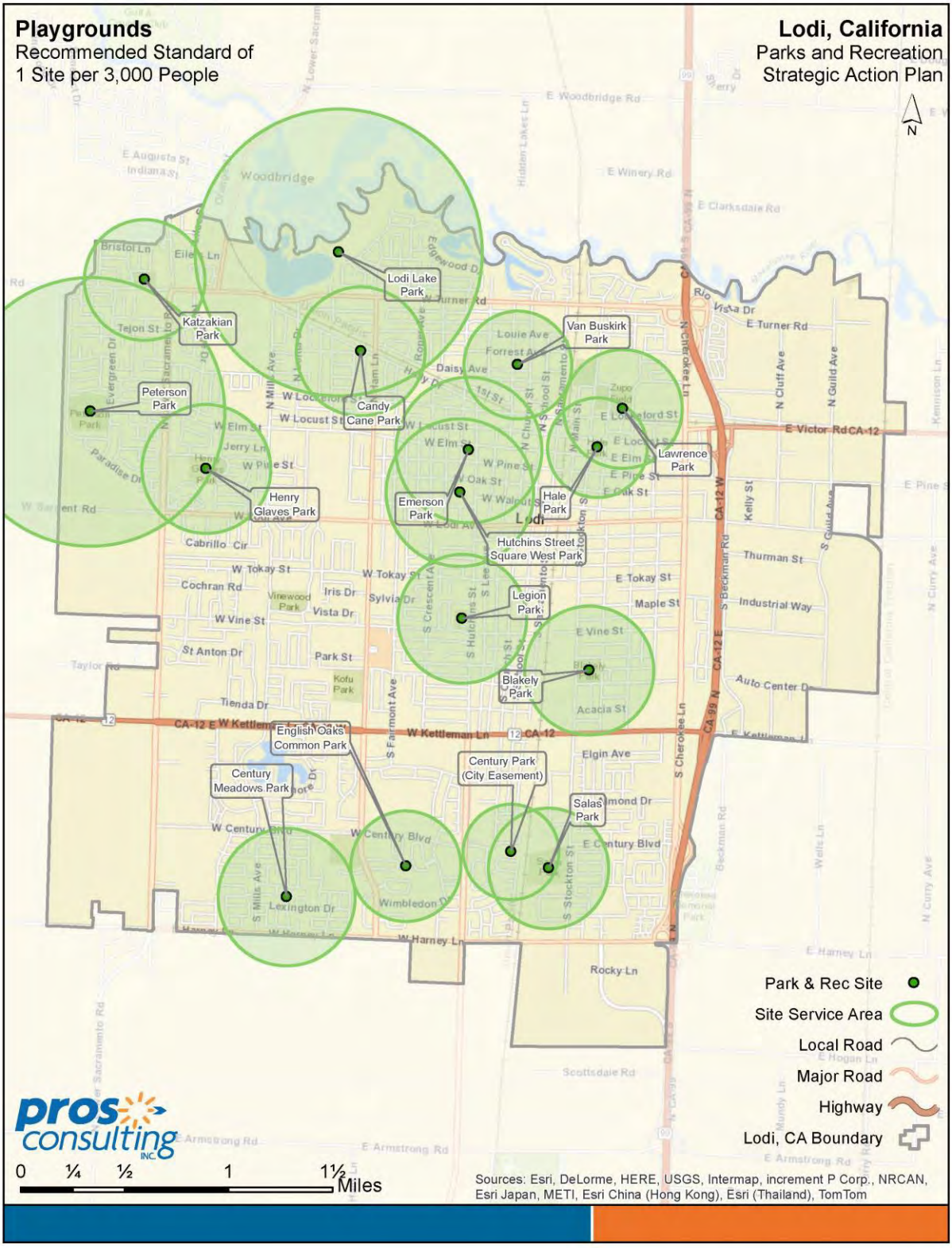

Diamond Fields
Recommended Standard of
1 Field per 4,000 People
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Katzakian Park
Peterson Park
Softball Complex
Zupo Field
Emerson Park
Chapman Field / Armory Park
Vinewood Park
Kofu Park
Blakely Park
Salas Park
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
pros consulting INC.
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom

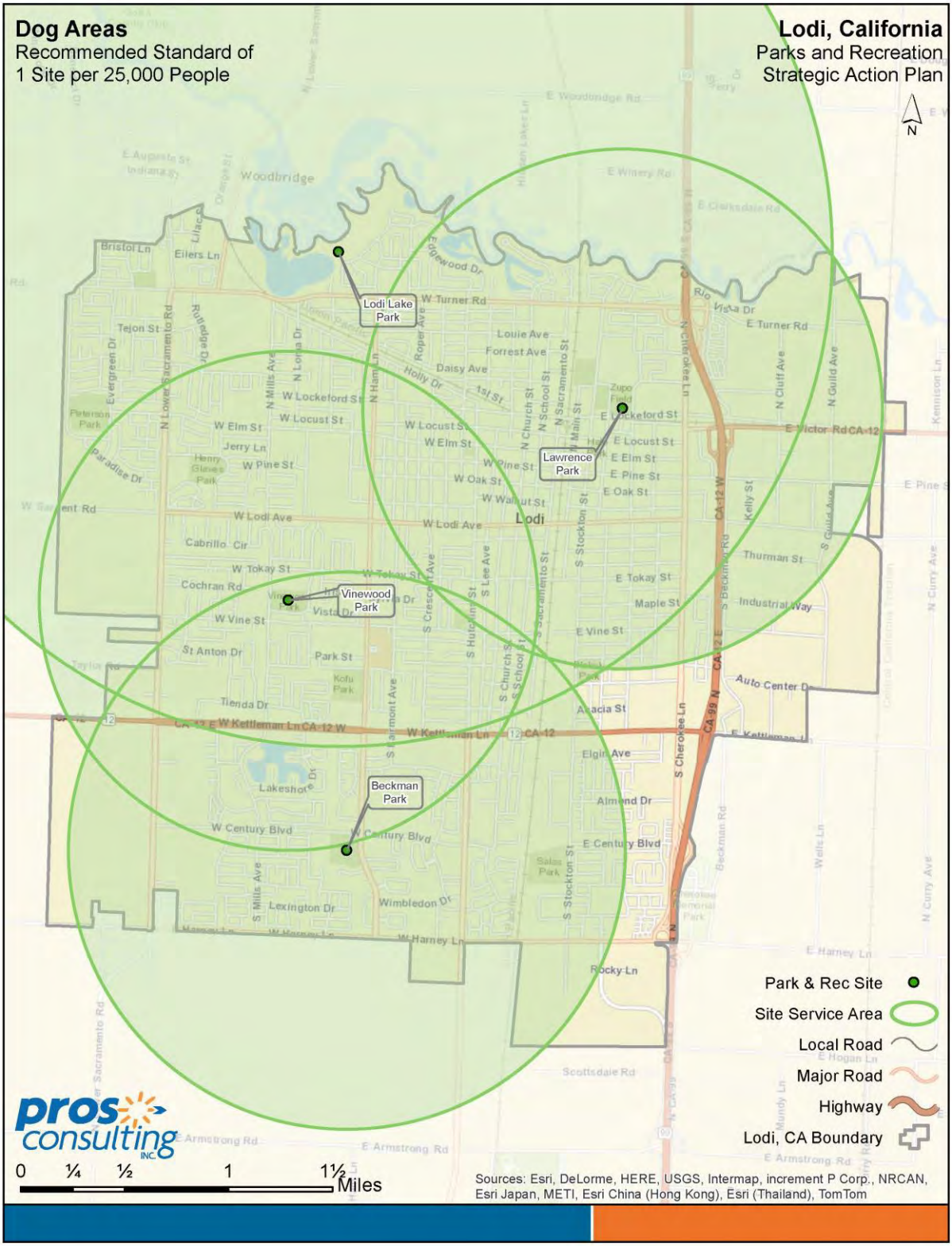
Multi-Use Fields
Recommended Standard of
1 Field per 4,000 People
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Peterson Park
Emerson Park
Lodi Grape Bowl
Henry Glaves Park
Hutchins Street Square West Park
Vinewood Park
Kofu Park
Ed DeBenedetti Park
Salas Park
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom

Cricket Fields
Recommended Standard of
1 Field per 70,000 People
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Beckman Park
Lodi
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom


Outdooor Basketball Courts
Recommended Standard of
1 Court per 6,500 People
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Katzakian Park
Peterson Park
Van Buskirk Park
Hale Park
Hutchins Street Square West Park
Legion Park
Blakely Park
Century Meadows Park
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom

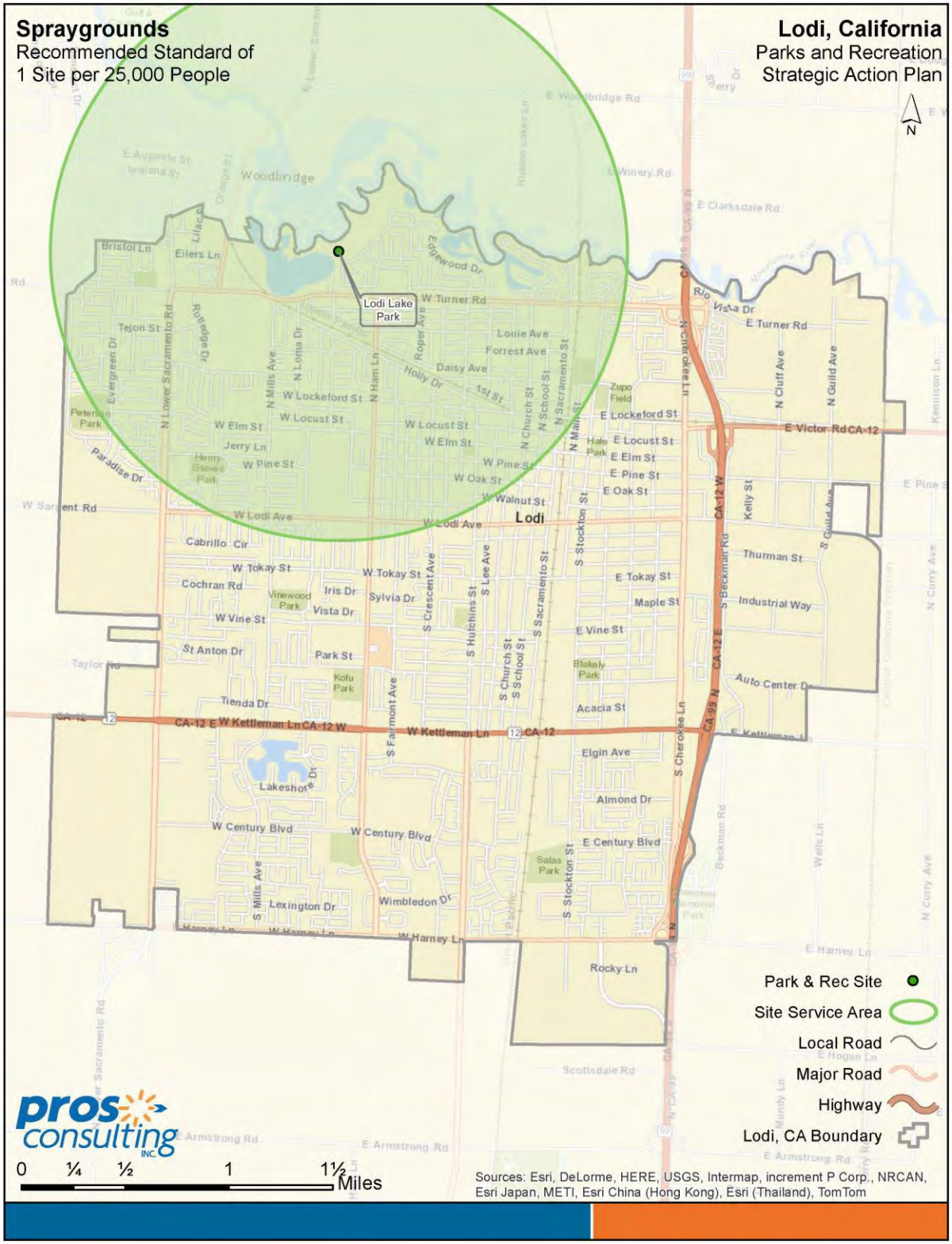

Tennis Courts
Recommended Standard of
1 Court per 6,000 People
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Peterson Park
Legion Park
Kofu Park
Lodi
Woodbridge
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom

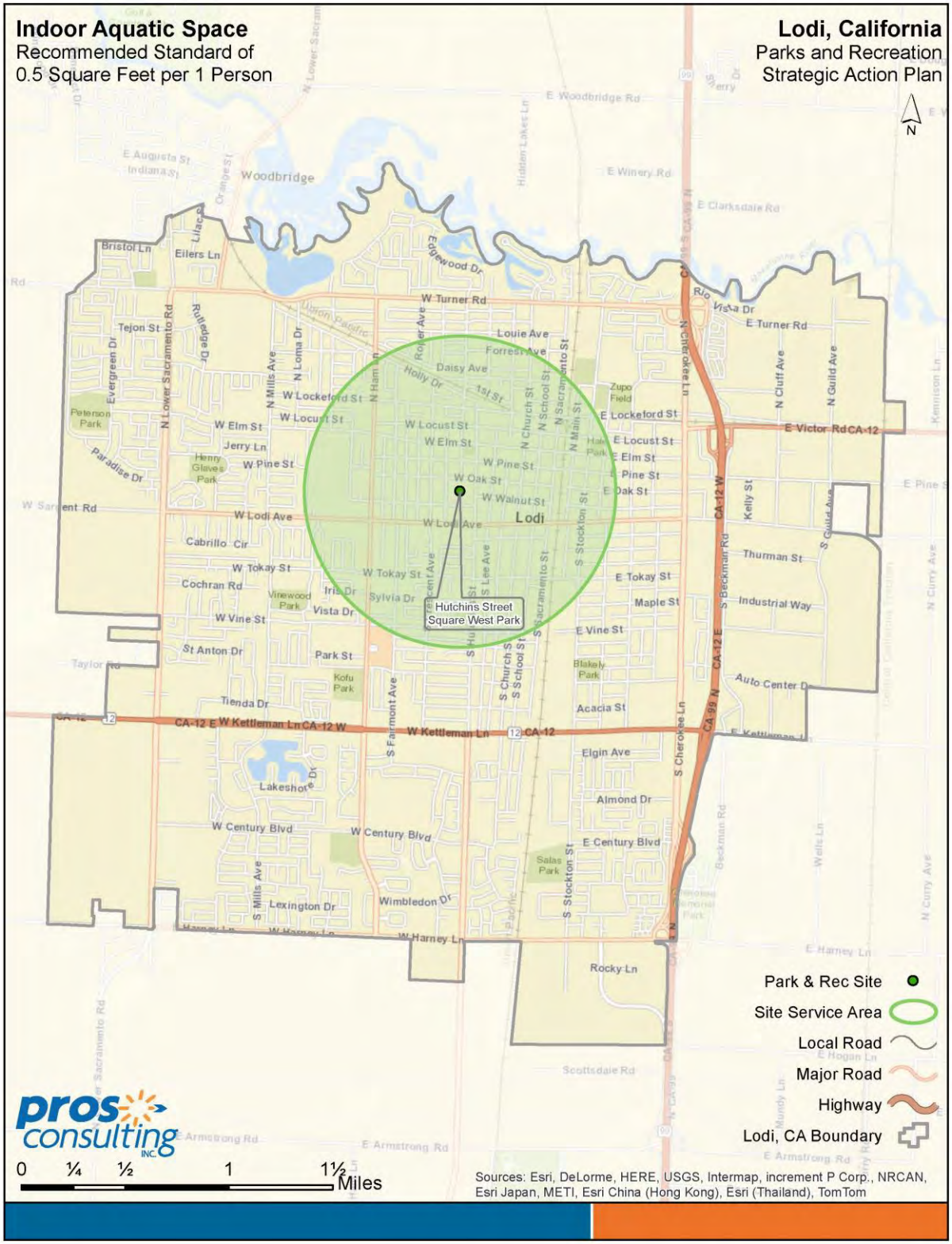

Playgrounds
Recommended Standard of
1 Site per 3,000 People
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Lodi Lake Park
Katzakian Park
Van Buskirk Park
Peterson Park
Candy Cane Park
Lawrence Park
Henry Glaves Park
Emerson Park
Hale Park
Hutchins Street Square West Park
Legion Park
Blakely Park
English Oaks Common Park
Century Park (City Easement)
Century Meadows Park
Salas Park
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom

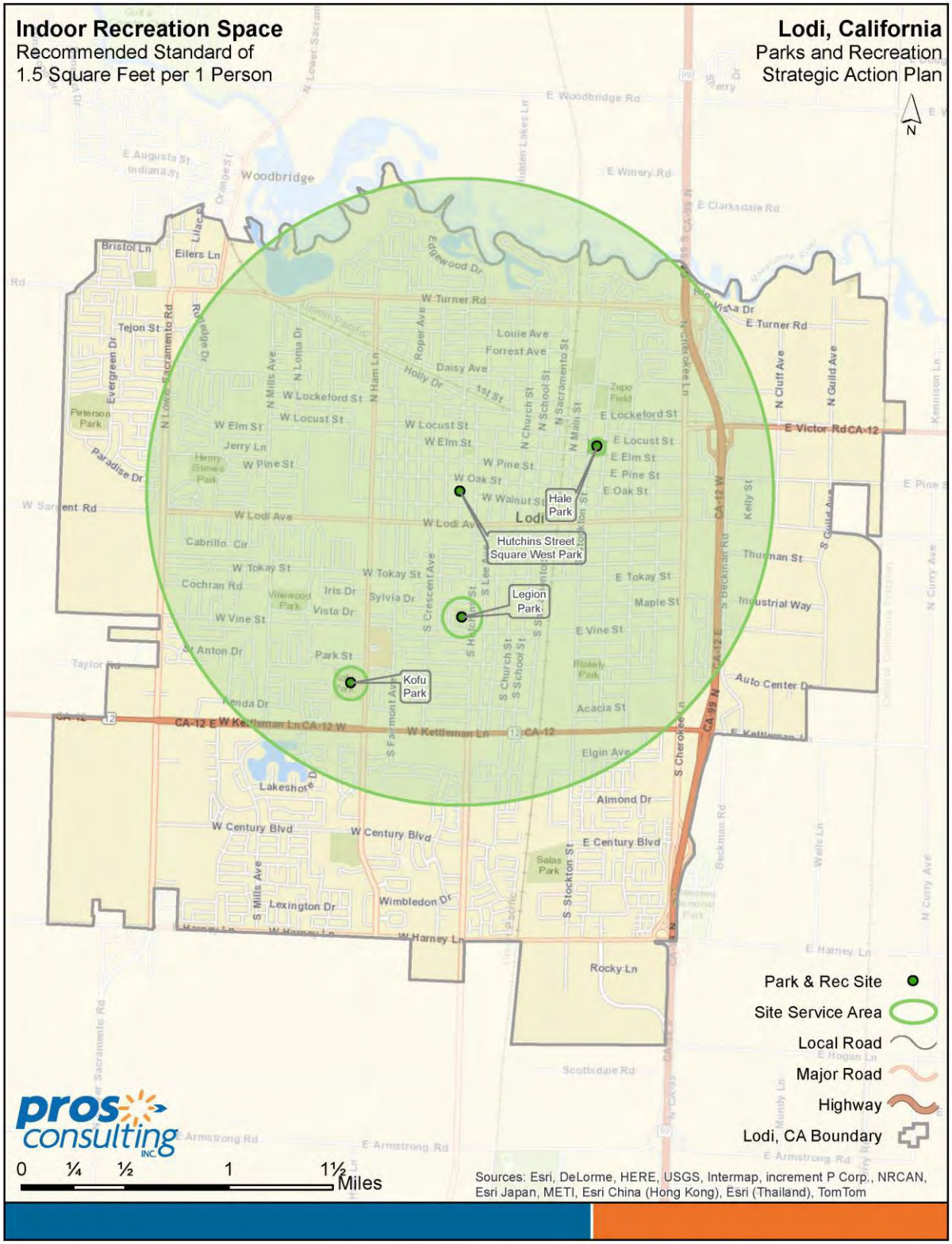

Dog Areas
Recommended Standard of
1 Site per 25,000 People
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Lodi Lake Park
Lawrence Park
Vinewood Park
Beckman Park
Lodi
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom

Skateboard Areas
Recommended Standard of
1 Site per 65,000 People
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Lodi
Kofu Park
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom

Outdoor Pools
Recommended Standard of
1 Site per 50,000 People
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Blakely Park
Lodi
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom


Spraygrounds
Recommended Standard of
1 Site per 25,000 People
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Lodi Lake Park
Lodi
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom


Indoor Aquatic Space
Recommended Standard of
0.5 Square Feet per 1 Person
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Hutchins Street
Square West Park
Lodi
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom


Indoor Recreation Space
Recommended Standard of
1.5 Square Feet per 1 Person
Lodi, California
Parks and Recreation
Strategic Action Plan
N
Hale Park
Hutchins Street Square West Park
Legion Park
Kofu Park
Lodi
Park & Rec Site
Site Service Area
Local Road
Major Road
Highway
Lodi, CA Boundary
0 ¼ ½ 1 1½ Miles
Sources: Esri, DeLorme, HERE, USGS, Intermap, increment P Corp., NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom

4.3 PRIORITIZED FACILITY AND PROGRAM NEEDS ASSESSMENT

The purpose of the Facility and Program Priority Rankings is to provide a prioritized list of facility/ amenity needs and recreation program needs for the community served by the City of Lodi Parks, Recreation and Cultural Services Department.

This rankings model evaluated both quantitative and qualitative data. Quantitative data includes the statistically valid Community Survey, which asked residents to list unmet needs and rank their importance. Qualitative data includes resident feedback obtained in community input and demographics and trends.

A weighted scoring system was used to determine the priorities for parks and recreation facilities/ amenities and recreation programs. For instance as noted below, a weighted value of 3 for the Unmet Desires means that out of a total of 100%, unmet needs make up 30% of the total score. Similarly, importance-ranking also makes up 30%, while Consultant Evaluation makes up 40% of the total score, thus totaling 100%.

This scoring system considers the following:

- Community Survey
    - Unmet needs for facilities and recreation programs – This is used as a factor from the total number of households mentioning whether they have a need for a facility/ program and the extent to which their need for facilities and recreation programs has been met. Survey participants were asked to identify this for different facilities/ amenities and recreation programs.
    - Importance ranking for facilities – This is used as a factor from the importance allocated to a facility or program by the community. Each respondent was asked to identify the top four most important facilities and recreation programs.
- Consultant Evaluation
    - Factor derived from the consultant's evaluation of program and facility priority based on survey results, demographics, trends and overall community input.

The weighted scores were as follows:

- 60% from the statistically valid community survey results.
- 40% from consultant evaluation using demographic and trends data, community focus groups and public meetings and levels of service.

These weighted scores were then summed to provide an overall score and priority ranking for the system as a whole. The results of the priority ranking were tabulated into three categories: High Priority (top third), Medium Priority (middle third) and Low Priority (bottom third).

The combined total of the weighted scores for Community Unmet Needs, Community Importance, and Consultant Evaluation is the total score based on which the Facility/Amenity and Program Priority is determined.

As seen below, Walking and biking trails, Small neighborhood parks, Nature Trails, Indoor fitness, running track and exercise facilities and the Lake Area and are the top five highest facility / amenity priorities in Lodi.

Lodi Facility/Amenity Priority Rankings	
	Overall Ranking
Walking & biking trails	1
Small neighborhood parks	2
Nature trails	3
Indoor fitness, running track & exercise facilities	4
Lake area	5
Outdoor swimming pools/water parks	6
Playgrounds	7
Large community parks	8
Indoor theater & cultural arts facilities	9
Wildlife conservation areas	10
Off-leash dog park	11
Outdoor amphitheater	12
Indoor basketball/volleyball courts	13
Outdoor picnic shelters	14
Outdoor disc golf	15
Youth baseball fields	16
Outdoor basketball courts	17
Outdoor tennis court	18
Adult softball fields	19
Outdoor skateboarding parks	20
Football/lacrosse/cricket fields	21
Youth softball fields	22
Pickleball courts	23

As seen below, Adult fitness and wellness programs, Community special events / cultural festivals Water Fitness programs, Youth Sports programs, and Youth Learn to Swim programs are the top five highest program priorities in Lodi.

Lodi Program Priority Rankings	
	Overall Ranking
Adult fitness & wellness programs	1
Community special events/cultural festivals	2
Water fitness programs	3
Youth sports programs	4
Youth Learn to Swim programs	5
Volunteer opportunities	6
Adult painting, arts, sculpturing classes	7
Senior programs	8
Pre-School programs/early childhood	9
Nature education programs	10
Adult sports programs	11
Adult theatre, dance, singing, musical instrument classes	12
Before & after school programs	13
Youth theatre, dance, singing, musical instruments classes	14
Youth fitness & wellness classes	15
Gymnastics & tumbling programs	16
Youth summer camps	17
Youth painting, arts, sculpturing classes	18
Tennis lessons & leagues	19
Programs for people with disabilities	20
Martial arts programs	21

CHAPTER FIVE OPERATIONAL AND MAINTENANCE PLAN

5.1 OPERATIONAL STAFF ASSESSMENT

As a part of assessing the internal organizational culture and operations, the consulting team administered an employee organizational survey over a six week period starting September 2014. Forty-two (42) staff employees participated in this survey which serves as a good yardstick to assess current employee sentiment **at a point in time**. Of the 42 responses, 15 are full time employees and 27 are part time employees.

This assessment, provided in **Section 5,** was undertaken as a part of the Malcolm Baldrige Criteria for Performance Excellence. It is titled – "Are We Making Progress" and was circulated to employees Department-wide. For organizations that have been using the Baldrige Criteria for Performance Excellence, the questionnaire is conveniently organized by the seven Criteria Categories.

The areas reviewed through this employee assessment template **include**:

- Leadership
- Strategic Planning
- Customer and Market Focus
- Measurement, Analysis and Knowledge Management
- Workforce Focus
- Process Management
- Cultural Results

The results by each area are provided in the following pages. These are the key findings from each one of the key areas and do no list every single question asked of the respondents. Detailed information about these responses will be provided in the **Appendix B.**

- The summarized findings are color-coded based on the following:
    - 33% or less responses Agree or Strongly Agree – Red
    - 34% - 66% of responses Agree or Strongly Agree – Yellow
    - 67% or higher responses Agree or Strongly Agree – Green

The reason for evaluating the culture of the organization is to better understand and assess how your organization works. After understanding the culture of the organization it will make it easier to build, maintain, or implement change in the organization. Understanding your employees' needs and concerns will help develop them within the organization and help make your organization resilient.

5.1.1 LEADERSHIP

As per the chart below, the employees indicate a moderate level of confidence in their senior leadership. The ability and willingness of the leadership to create a positive work environment and to ensure alignment with organizational values are critical stepping stones in the successful implementation of any planning process.

The areas of opportunity identified by the staff were leaders using organization's values to guide employees (60%) and the organization asking what staff members think (45%).

Consultant Recommendations

Proactive communication with the staff and greater staff involvement on a consistent basis would be important to address these issues. This could be in the form of a weekly blog from the Director, a weekly Department newsletter, quarterly staff meetings, etc. Engaged employees are happier and more productive versus unengaged employees

Also, reinforcement of visuals of the values and mission throughout the department as well as evaluating the Department's work cultural on a yearly basis. Continually to re-evaluating the work culture can help management understand how employees feel about certain actions/processes and will help the Department to take action in improving the culture within the organization.

The Department should develop leadership training for top and middle managers. This training will help managers understand how to engage, inspire, and empower employees.

5.1.2 STRATEGIC PLANNING

This overall section follows a similar pattern of response for Strategic Planning as indicated in the previous section.

Consultant Recommendations

Consistent with the recommendations in the leadership area, proactive information sharing and building a culture of innovation that allows employees to try new ideas and new initiatives would be useful in addressing these concerns.

It is recommended that the Department encourage staff to develop work plans as a part of their day-to-day operations. These work plans could be tied into performance metrics that should be developed so that staff is better able to identify and report progress. This would help the organization make changes more quickly.

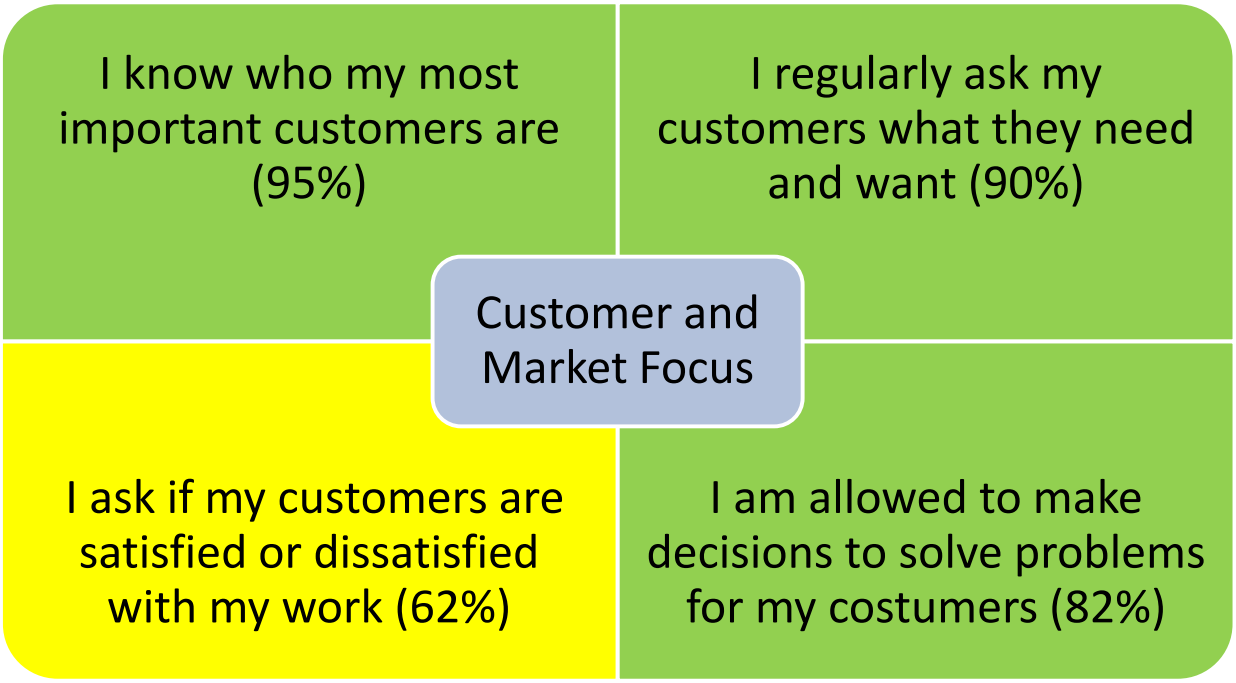
Additionally, conducting the Sterling Model assessments on an annual basis would be helpful for Department leadership to be able to gauge trends and improvements in key areas over time.

Create recognition programs for staff that implement new ideas that enhance productivity, improve financial sustainability or increase visitor and users experience. Idea boards should be put up throughout the Department buildings on how to make improvements to areas of concern.

5.1.3 CUSTOMER AND MARKET FOCUS

As seen from the graphic below, this is an area that the Department is performing at a high level. Too often agencies are focused on offerings services they want to offer versus those that their customers may actually need. Based on staff responses, individual staff members have a high awareness of who their most important customers are (95%) and regularly ask them what they need and want (90%).

it is very encouraging to see 82% resondents states that 'I am allowed to make decisions to solve programs for my Customers.' This number speaks positively to a culture of empowerment as it applies to customer relations. Employee empowerment is a key compnent to building an organziation culture that pides itself on teamwork and sense of pride and ownership.

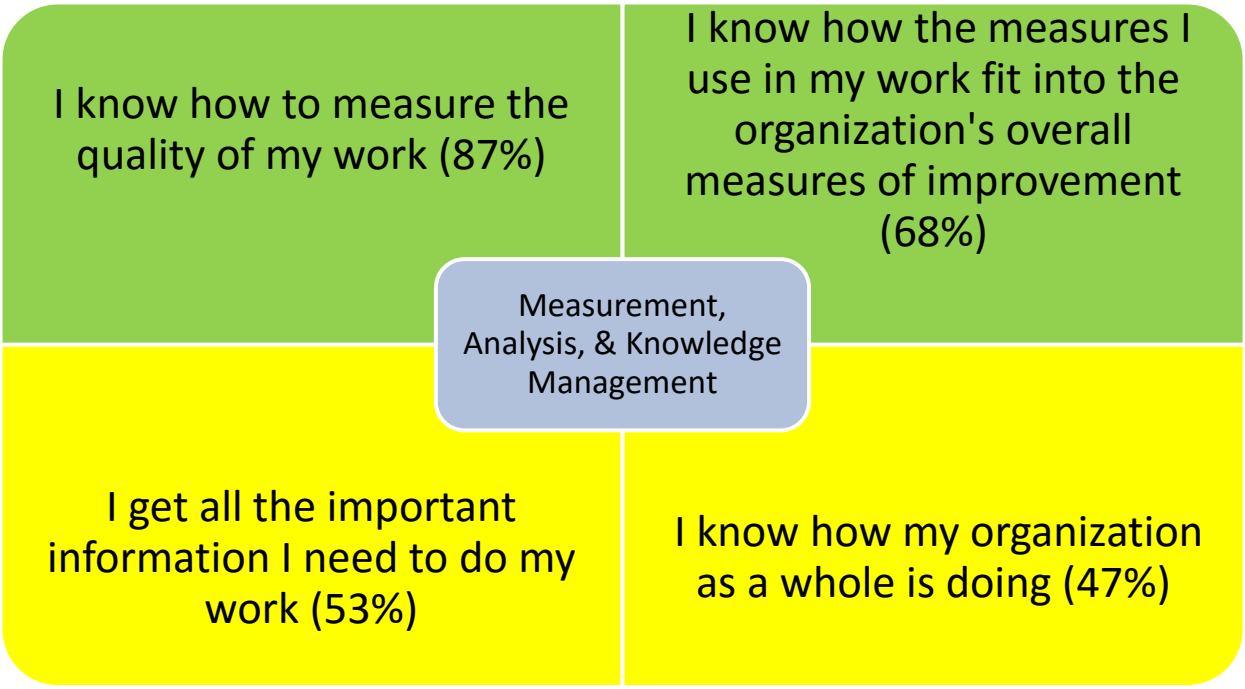


Consultant Recommendations

Continue to let staff make customer need decisions in the field and share those decisions with the entire organization. Develop intercept surveys at various programs and events that ask how the organization is doing and how to improve their experience at park programs and events. Develop a yearly program plan that incorporates what the intercept surveys are saying and determine how well the agency is meeting those needs.

5.1.4 MEASUREMENT, ANALYSIS, & KNOWLEDGE MANAGEMENT

Staff responses for measurement, analysis and knowledge management is an area that could use improvement. One of the themes consistently emerging is the perceived existence of a solo-based communications structure. Staff felt they knew what was happening in their own work area but not for the organization as a whole.



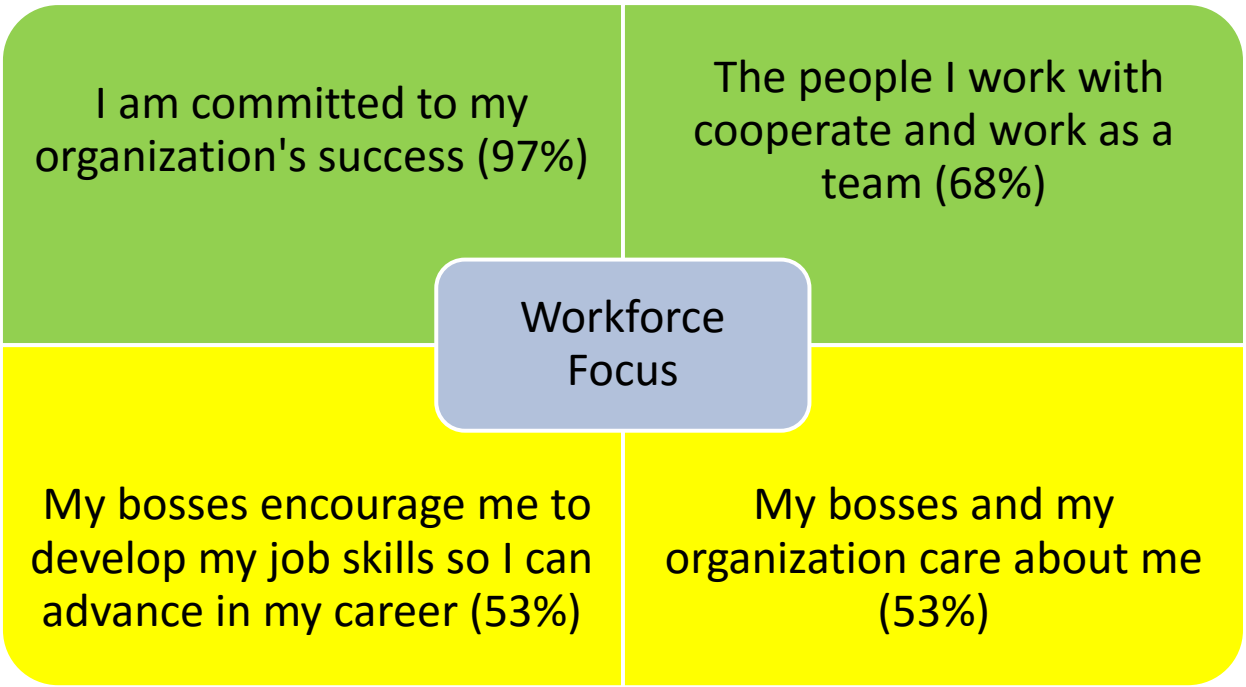
Consultant Recommendations

A system-wide communication process will ensure that the information gets communicated consistently at all levels of the agency would be critical in addressing this issue.

Posting performance measures and the results for the Department on a quarterly basis will help staff understand, manage, and improve what the department is doing.

5.1.5 WORKFORCE

Workforce focus has emerged as anther areas that could use come improvement. Ninety-seven percent (97%) of employees are committed to the organization's success which shows employees trust in what the Department is doing. However, the perception of being cared for could use improvement.



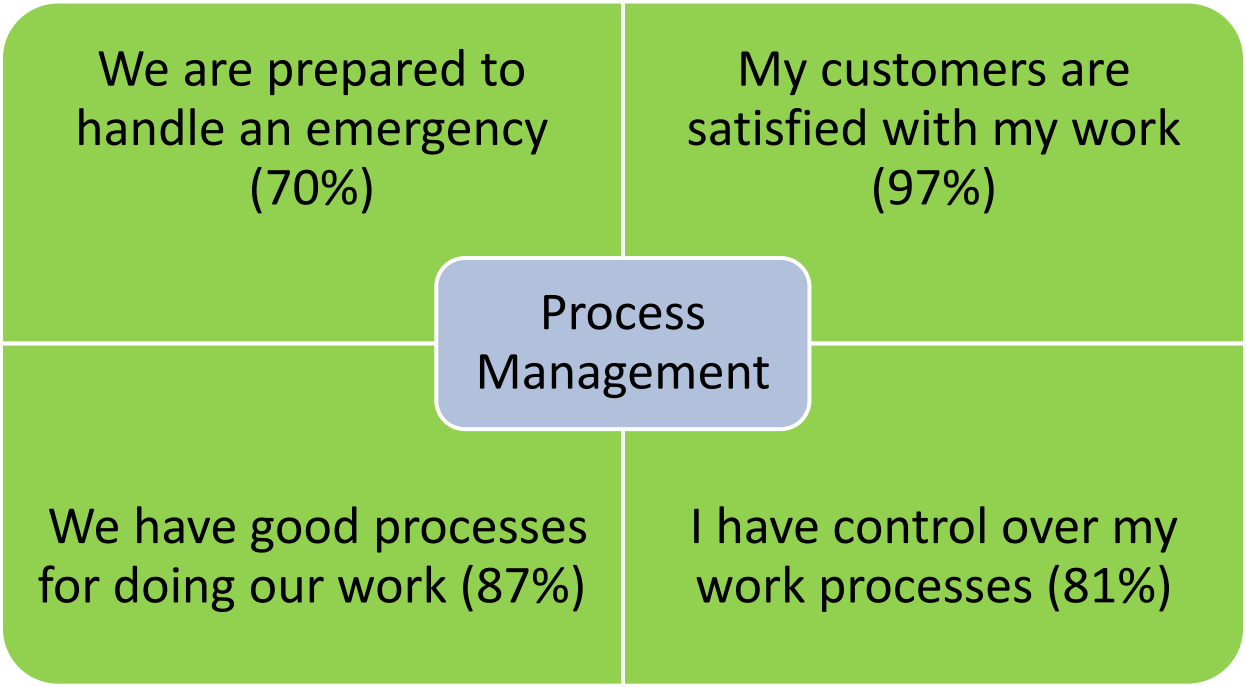
Consultant Recommendations

The Department and key leaders in the organization need to recognize and celebrate employee accomplishments at employee and commission meetings. Develop various awards that could be created for teamwork, innovation, customer service, problem solving, etc.

The Department should implement a succession training program for employees that want to stay and advance with the Department.

5.1.6 PROCESS MANAGEMENT

The feedback for Process Management is a strong area of strength for the Department. Overall, the employees indicated that they have sufficient control over their work processes as well as customer satisfaction with their work. Prepared to handle an emergency (70%) could use some improvement.



Consultant Recommendations

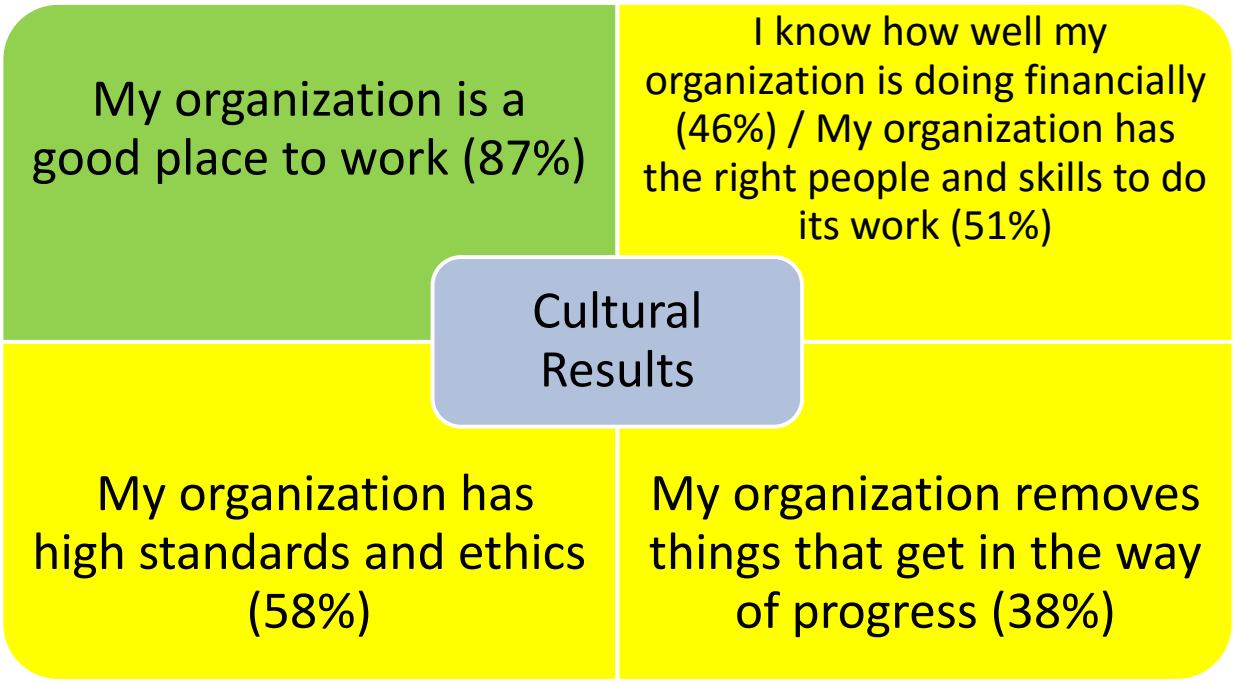
If and when processes become too bureaucratic and cumbersome the Department should determine if the process is core essential, important, or value added. They should determine which division within the agency is the lead function on the process and which division are support functions on the process. This helps to eliminate bureaucracy in the organization.

5.1.7 CULTURAL RESULTS

In reviewing employee responses to this final measure, there is support that the organization is a good place to work. A repeated concern is the limited awareness regarding internal communication or lack of awareness with regards to the organization's overall vision or, in this case, financial performance.

Only half of the employees feel that the organization has the right people and skills to do its work and 58% of employees believe the organization has high standards and ethics.

Also, 38% of staff feel that the organization removes things that get in the way of progress which needs to be addressed.



Consultant Recommendations

The Director or finance director should provide a one page update to staff on how the organization is doing financially. Key metrics should be posted that financially describe how well the organization is doing and key revenue producing facilities and programs. This will help everyone to understand how they can impact the outcome each day in their work.

CHAPTER SIX FINANCIAL PLAN

In an effort to assist the PRCS Department achieve a solid financial foundation, key sustainability principles need to be in place. To professionally manage the business elements of a park and recreation agency, there are areas of emphasis in which the park and recreation director must be proficient. These areas include the following:

- Fundraising
- Partnering
- Government Finance
- Cost Recovery
- Enterprise Management
- Operational Management

This section of the Strategic Action Plan has a series of best practice suggestions that can be implemented in a customized manner for Lodi. No two park and recreation agencies are alike. Their differences stem from how they are governed to how they are funded and operated. The purpose of this section of the Strategic Action Plan is to assist the director to identify things that will need to addressed to ensure financial sustainability for the agency.

6.1 TOPICS OF IMPORTANCE

6.1.1 FUNDRAISING

- Establish a Friends Group, Park Foundation, or Park Conservancy to help raise money for the system or a specific park.
- Find philanthropists in your community that will support users that do not have the ability to pay for services and have them invest in these users through a park foundation or friends group established for this purpose.
- Teach and train the Park and Recreation Board or Commissions that Friends Groups, Conservancy's and Park Foundations are not in competition with the agency but need to act as your advocate. Placement of the right types of people on these boards is a very important process that needs to be taught and put into practice. These types of boards can meet the level of fundraising desired by the agency if the right people are on the board. Management agreements between each fundraising group needs to be completed each year with goals, dollars to be raised for what purpose and benefit to the agency.

6.1.2 PARTNERING

- Never allow the private or a not-for-profit group make money from the agency's facilities without you receiving a share of the gross revenue. Make sure your split covers your true costs and then the revenue desired based on an operating pro-forma from the event they are creating in the park or recreation facility.
- Privatize services where you do not have the capital dollars to operate and maintain the facility, park or service that the agency owns to a competitive level.
- Have working, signed agreements with all types of partners to include (public/private, public/not for profit and public/public partners). This requires separate operational policies on each type of partnership that is established.
- Do not partner with any single group unless you have your own direct and indirect costs determined. Understand the equitable investment the partner or partners are putting into the relationship.
- All partnerships must have working agreements with measureable outcomes. They are to be reviewed at least every two years as one means to hold each other accountable.
- Ask the private sector to develop team building days in the parks and/or recreation facilities by creating cleanup and fix up days. This builds community support and it will overnight enhance the park or facility to a much higher level and it gives the corporate partner a selling point to their value in the community.
- Determine sponsorship opportunities and levels of sponsorships for your parks system every five years. Use a private sponsorship contractor who knows the value of sponsorships for a percentage of the total amount raised instead of doing it yourself.

6.1.3 GOVERNMENT FINANCE

- Agency needs to know the value of your park system less land value for what your assets are worth and where those assets are in their life cycle. This will allow them to determine where capital improvements need to be made and the cost benefit of those improvements to the system.
- Find dedicated funding sources you can count on annually to support your operational and capital needs.
- Ask your public for a capital improvement levy or bond, paid for from sales tax or property taxes every 10 years or whenever your asset lifecycle of your system falls below 50% of useful life.
- Develop a Business Development division within the agency to pursue grants, establish effective partnerships, create earned income, and develop business plans with staff managing revenue producing facilities to maximize the agency's earned income capability.
- Set up business enterprise systems for revenue producing facilities and programs.
- Develop a cost benefit analysis on all capital improvement projects prior to developing these parks or facility sites to determine if it is financially feasible.
- Develop an annual revenue plan for the agency.
- Reviewing your current financing options sometimes create big savings. Agencies need to have access to cheap capital and refinance if necessary to free up needed debt service capabilities.

- Understand the real details of "Capital." What are the carrying costs of land, facilities, and equipment? Do not burden an agency with capital projects that cost the agency more to own than the land is worth.

6.1.4 COST RECOVERY

- Budget 3-5% of your total operating budget to support and maintain existing capital improvements and assets.
- Replace revenue-producing equipment every 5 years to keep the user experience relevant and competitive.
- Include your senior management staff on all design decisions. Force landscape designers and facility architects to outline the maintenance costs on all parks and facilities they design to ensure their design is aligned with the agency maintenance operating budget.
- Acquire additional land along trails to setup land leases for concession operations for a land lease to help support operational costs of the trail.
- Know your true costs to deliver program services, maintain parks, trails and facilities, both direct and indirect costs so that you can determine the true costs of services on a unit cost basis.
- Develop business plans on any agency operated program service or facility that costs more to operate than $100,000 a year with an aim to define and deliver a cost recovery goal.
- Classify your agency's services based on core essential, important and value added criteria and then price services that are furthest away from your mission at full cost recovery levels.

6.1.5 ENTERPRISE MANAGEMENT

- Set up business enterprise systems for revenue producing facilities and programs.
- Design parks and recreation facilities for efficiency, productivity and to produce revenue that will offset operational costs at a predetermined cost recovery goal.
- Develop a financial policy that allows the agency to keep all earned income revenue in your operating budget without lowering tax dollars received. The agency should not be penalized for generating revenue to keep the agency well positioned for the future.
- When you build a park or trail system, require an agreement from your public officials that you will receive the appropriate amount of operational funding to insure that you can maintain these facilities once developed so you do not put undue pressure on the agency budget. This requires that the staff develop an operational impact cost for each capital improvement developed for the system.
- Budget for marketing and branding of revenue producing facilities at 3-5% of total costs.
- Price your services to the 80% of users who can pay versus the 20% who are unable.
- Do not give any group in your community a larger than necessary discount because of their age, their occupation, their military service etc. All citizens are valuable and should be treated the same. Understand the size of the market for core programs and facilities and how much of the market your agency controls. Is there opportunity to penetrate the market further?
- Study and understand market strategies that will make a measurable difference and improve the economic positioning of the program or facility you are targeting.

- Inform users and partners of what your costs are so they appreciate the value you place into the facility or service. This strategy will help to reduce entitlement.
- Track user analytics to understand who and how often the system is being used by patrons.
- Understand concession management, what it takes to make it worth the time and investment for you to provide the service versus an outside contractor. Don't allow special interest groups to have exclusive rights to concession operations without paying the agency some level of gross revenue.

6.1.6 OPERATIONAL MANAGEMENT

- Stop maintaining things in your park system that nobody uses and remove them from your park system.
- Manage by standards and track costs to implement each type of standard.
- Train staff, regularly on business principals, cost recovery, cost of service and customer service.
- Understand the size of the market for core programs and facilities and how much of the market your agency controls.
- Know the demographics of your users to determine their needs and capability of supporting program and capital costs.
- Track population trends. Communities should track population trends and figure out how demographic changes will affect the agency in the future.
- Agencies need to know how to properly "right size." We need to shed excess or unnecessary labor. Using contractors is not a bad thing. Have a flexible as possible workforce so that there is little or no carrying costs with the peak seasons are over. Know your true direct and indirect costs to deliver program services, maintain parks, trails and facilities to understand true cost of service on a unit cost basis.
- Hold staff accountable to cost recovery goals for programs, facilities and parks you maintain with revenue to support those services.
- Track employee costs of similar sized park systems. Understand the wages and benefits for all positions every five years to understand how competitive your wages are with other systems. Judge if you are below an acceptable level with or above the standard desired for wages and benefits. The goal should be no more than 60-65% of total operational costs tied to employee cost which includes both direct and indirect costs.
- Employ the right people for the right job, for the right pay, to achieve the right outcome and benefit to the agency. Learn and apply the correct functionality and desired productivity of key positions.
- Reward employees for efficiency and productivity.
- Train staff to understand the management strategies of their supervisors as one way to prepare them for positions at the next level of responsibility.
- Develop annual revenue and efficiency work sessions with your staff.
- Properly train staff in business management of concession operations.
- Hold employees accountable to productivity standards and cost recovery levels and give them measurable outcomes to manage to and report out quarterly or every six months.

- Develop sustainable performance outcomes to hold all divisions accountable.
- Understand all available revenue sources used by parks and recreation agencies within a given region, state or on a national level that applies best to your local operation. Know the terminology and how to implement them into your system. There are over 150 funding options available to understand and potentially implement.
- Develop a cost benefit analysis on all capital improvement prior to development to determine if it is worth the financial and operational commitment to the agency.

6.2 FUNDING AND REVENUE STRATEGIES

This section identifies funding options to help support operational and capital cost. This is provided from PROS Consulting based on national work with other park systems.

6.2.1 REVENUE AND FUNDING OPTIONS TO CONSIDER FOR GREENWAYS AND TRAILS

The greenway funding opportunities cited below are applicable to organizations and agencies throughout the U.S. that are seeking funding. The most common method for funding greenways is to combine local, public sector and private sector funds with funds from state, federal and additional private-sector sources. Many communities involved with greenway implementation are choosing to leverage local money as a match for outside funding sources, in essence multiplying their resources.

Local advocates and Department staff should pursue a variety of funding sources for land acquisition and greenway construction as well as funding opportunities for operations and maintenance costs. A greenway program that relies on limited funding sources may one day come to a grinding halt should these sources dry up. The following list of sources is divided into:

LOCAL AND STATE FUNDING SOURCES

Land Leases: Many communities across the United States have allowed land leases for commercial retail operations along trails as a source of funding. The communities that have used land lease look for retail operations that support the needs of recreation users of the trails. This includes coffee shops, grill and food concessions and small restaurants, ice cream shops, bicycle shops, farmers markets and small local business. The land leases provide revenue to maintain the trails and/or to be used for in-kind matching.

Tax Increment Financing (TIF Funds): The concept behind the tax increment financing is that taxes in a designated area are frozen and the redevelopment that occurs in the blighted, conservation or economic development area will increase the assessed valuation of the property and generate new property tax revenues. The increase can be used on an annual basis to retire revenue bonds issued to finance redevelopment costs. A great deal of development is required to generate sufficient revenues to make it work.

Sale of Development Rights below the Ground: Some public agencies have sold their development rights next to greenways below ground for fiber optic lines and utility lines for gas and electric on a lineal foot basis. This has occurred in King County, Washington.

Special Recognition License Tag: In Indianapolis, IN, the Greenways Foundation has a special Greenways designation car tag that provides income to the Greenways Foundation to provide matching grant monies for the City of Indianapolis greenways program. The tag provides $45 per tag sold back to the foundation.

Greenway Foundations: Greenway Foundations have been developing across the United States over the last 15 years to support greenway matching monies for cities and counties. Greenway Foundations raise money for capital monies and operational money.

Floodway Funding Sources: Many cities and counties have used floodway funding sources to support development and operations of greenways. This funding source is used extensively in Houston, TX and in Cleveland, OH.

Greenway Trust Fund: Another strategy used by several communities is the creation of a trust fund for land acquisition and facility development that is administered by a private greenway advocacy group, or by a local greenway commission. A trust fund can aid in the acquisition of large parcels of high-priority properties that may be lost if not acquired by private sector initiative. Money may be contributed to the trust fund from a variety of sources, including the municipal and county general funds, private grants and gifts.

Greenway Fundraising Programs: Agencies across the United States have used greenways for not-for-profit fundraisers in the form of walks, runs, bicycle races and special events. The local managing agency usually gets $2-$5 per participant who participates in the events to go back to support the operations and maintenance costs.

Greenways Conservation Groups: Conservation groups adopt green corridors to support the operations and capital costs for specific greenways corridors. These groups raise needed money for designated greenways for capital and operations costs.

Local Private-Sector Funding: Local industries and private businesses may agree to provide support for greenway development through one or more of the following methods:

- Donations of cash to a specific greenway segment
- Donations of services by large corporations to reduce the cost of greenway implementation, including equipment and labor to construct and install elements of a specific greenway
- Reductions in the cost of materials purchased from local businesses that support greenway implementation and can supply essential products for facility development

Adopt-A-Foot Program: These are typically small grant programs that fund new construction, repair/renovation, maps, trail brochures, facilities (bike racks, picnic areas, birding equipment) as well as provide maintenance support. The Adopt-A-Foot program is similar to adopt a mile of highway program. Citizens are encouraged to purchase an engraved foot plaque that is displayed along the trail system. The Adopt-A-Foot program is in the form of cash contributions that range from $2,640 to $26,400 over a five year period.

State Departments of Transportation: Many states are the local administrators of federal funding from the Transportation Equity Act for the 21st Century (TEA-21) – see more info below, under Federal Funding Sources.

Community Development Block Grants: Through its State CDBG Program, the U.S. Department of Housing and Urban Development (HUD) provides States with annual direct grants, which they in turn award to smaller communities and rural areas for use in revitalizing neighborhoods, expanding affordable housing and economic opportunities and/or improving community facilities and services.

Safe-Routes to Schools Program: The federal government provides safe-routes to school funding for greenways to promote youth walking to school. Grants are 100% federally funded.

State Water Management Funds: Funds established to protect or improve water quality could apply to a greenways/trails project if a strong link exists between the development of a greenway and the adjacent/nearby water quality. Possible uses of these funds include: purchase critical strips of land along rivers and streams for protection which could then also be used for greenways; develop educational materials, displays; or for storm water management.

VOLUNTEER ASSISTANCE AND SMALL-SCALE DONATION PROGRAMS

Greenway Sponsors: A sponsorship program for greenway amenities allows for smaller donations to be received both from individuals and businesses. The program must be well planned and organized, with design standards and associated costs established for each amenity. Project elements that may be funded can include mile markers, call boxes, benches, trash receptacles, entry signage and bollards and picnic areas.

Volunteer Work: Community volunteers may help with greenway construction, as well as conduct fundraisers. Organizations which might be mobilized for volunteer work include the Boy Scouts and Girl Scouts.

Estate Donations: Wills, estates and trusts may be also dedicated to the appropriate agency for use in developing and/or operating the greenway system.

FEDERAL GOVERNMENT FUNDING SOURCES

Some Federal programs offer financial aid for projects that aim to improve community infrastructure, transportation and housing and recreation programs. Some of the Federal programs that can be used to support the development of greenway systems include:

The Transportation Equity Act for the 21st Century (TEA-21): The primary source of federal funding for greenways is through the Transportation Equity Act for the 21st Century (TEA-21). There are many sections of the Act that support the development of bicycle and pedestrian transportation corridors.

Community Development Block Grant Program (CDBG): The U.S. Department of Housing and Urban Development (HUD) offers financial grants to communities for neighborhood revitalization, economic development and improvements to community facilities and services, especially in low and moderate-income areas. Several communities have used HUD funds to develop greenways, including the Boscobel Heights' "Safe Walk" Greenway in Nashville, TN.

Land and Water Conservation Fund (LWCF) Grants: This Federal funding source was established in 1965 to provide "close-to-home" park and recreation opportunities to residents throughout the United States. Money for the fund comes from the sale or lease of nonrenewable resources, primarily federal offshore oil and gas leases and surplus federal land sales. LWCF grants can be used by communities to build a variety of parks & recreation facilities, including trails and greenways.

LWCF funds are distributed by the National Park Service to the states annually. Communities must match LWCF grants with 50-percent of the local project costs through in-kind services or cash. All projects funded by LWCF grants must be used exclusively for recreation purposes, in perpetuity.

Conservation Reserve Program: The U. S. Department of Agriculture (USDA), through its Agricultural Stabilization and Conservation Service, provides payments to farm owners and operators to place highly erodible or environmentally sensitive landscapes into a 10-15 year conservation contract. The participant, in return for annual payments during this period, agrees to implement a conservation plan approved by the local conservation district for converting sensitive lands to less intensive uses. Individuals, associations, corporations, estates, trusts, cities, counties and other entities are eligible for this program. Funds from this program can be used to fund the maintenance of open space and non-public-use greenways, along bodies of water and ridgelines.

Wetlands Reserve Program: The U.S. Department of Agriculture provides direct payments to private landowners who agree to place sensitive wetlands under permanent easements. This program can be used to fund the protection of open space and greenways within riparian corridors.

Watershed Protection and Flood Prevention (Small Watersheds) Grants: The USDA Natural Resource Conservation Service (NRCS) provides funding to state and local agencies or nonprofit organizations authorized to carry out, maintain and operate watershed improvements involving less than 250,000 acres. The NRCS provides financial and technical assistance to eligible projects to improve watershed protection, flood prevention, sedimentation control, public water-based fish and wildlife enhancements and recreation planning. The NRCS requires a 50-percent local match for public recreation, and fish and wildlife projects.

Urban and Community Forestry Assistance Program: The USDA provides small grants of up to $10,000 to communities for the purchase of trees to plant along City streets and for greenways and parks. To qualify for this program, a community must pledge to develop a street-tree inventory, a municipal tree ordinance, a tree commission, committee or department and an urban forestry-management plan.

Small Business Tree-Planting Program: The Small Business Administration provides small grants of up to $10,000 to purchase trees for planting along streets and within parks or greenways. Grants are used to develop contracts with local businesses for the plantings.

Economic Development Grants for Public Works and Development of Facilities: The U. S. Department of Commerce, Economic Development Administration (EDA), provides grants to states, counties and cities designated as redevelopment areas by EDA for public works projects that can include developing trails and greenway facilities. There is a 30-percent local match required, except in severely distressed areas where federal contribution can reach 80 percent.

National Recreational Trails Program: These grants are available to government and non-profit agencies, for amounts ranging from $5,000 to $50,000, for the building of a trail or piece of a trail. It is a reimbursement grant program (sponsor must fund 100% of the project up front) and requires a 20% local match. This is an annual program, with an application deadline at the end of January. The available funds are split such that 30% goes towards motorized trails, 30% to non-motorized trails and 40% is discretionary for trail construction.

Design Arts Program: The National Endowment for the Arts provides grants to states and local agencies, individuals and nonprofit organizations for projects that incorporate urban design, historic preservation, planning, architecture, landscape architecture and other community improvement activities, including greenway development. Grants to organizations and agencies must be matched by a 50-percent local contribution. Agencies can receive up to $50,000.

GRANTS THROUGH PRIVATE FOUNDATIONS AND CORPORATIONS

Many communities have solicited greenway funding from a variety of private foundations and other conservation-minded benefactors. Some of these grants include:

American Greenways Eastman Kodak Awards: The Conservation Fund's American Greenways Program has teamed with the Eastman Kodak Corporation and the National Geographic Society to award small grants ($250 to $2000) to stimulate the planning, design and development of greenways.

REI Environmental Grants: Recreational Equipment Incorporated awards grants to nonprofit organizations interested in protecting and enhancing natural resources for outdoor recreation. The company calls on its employees to nominate organizations for these grants, ranging from $500 to $8,000, which can be used for the following:

- Protect lands and waterways and make these resources accessible to more people
- Better utilize or preserve natural resources for recreation

- Increase access to outdoor activities
- Encourage involvement in muscle-powered recreation
- Promote safe participation in outdoor muscle-powered recreation, and proper care for outdoor resources

Coors Pure Water 2000 Grants: Coors Brewing Company and its affiliated distributors provide funding and in-kind services to grassroots organizations that are working to solve local, regional and national water-related problems. Coors provides grants, ranging from a few hundred dollars to $50,000, for projects such as river cleanups, aquatic habitat improvements, water quality monitoring, wetlands protection, pollution prevention, water education efforts, groundwater protection, water conservation and fisheries.

World Wildlife Fund Innovative Grants Program: This organization awards small grants to local, regional and statewide nonprofit organizations to help implement innovative strategies for the conservation of natural resources. Grants are offered to support projects that accomplish one or more of the following: (1) conserve wetlands; (2) protect endangered species; (3) preserve migratory birds; (4) conserve coastal resources; and (5) establish and sustain protected natural areas, such as greenways.

Innovative grants can help pay for the administrative costs for projects including planning, technical assistance, legal and other costs to facilitate the acquisition of critical lands; retaining consultants and other experts; and preparing visual presentations and brochures or other conservation activities. The maximum award for a single grant is $10,000.

Bikes Belong: Bikes Belong Coalition is sponsored by members of the American Bicycle Industry. The grant program is a national discretionary program with a small budget, to help communities build TEA-21-funded projects. They like to fund high-profile projects and like regional coalitions. An application must be supported by the local bicycle dealers (letters of support should be attached). Bikes Belong also offers advice and information on how to get more people on bikes. Government and non-profit agencies are eligible and no match is required. The maximum amount for a grant proposal is $10,000. Applications may be submitted at any time and are reviewed as they are received.

Wal-Mart Foundation: This foundation supports local community and environmental activities and educational programs for children (among other things). An organization needs to work with the local store manager to discuss application. Wal-Mart Foundation only funds 501(c)3 organizations.

6.2.2 PARKS & RECREATION FUNDING SOURCES THAT FUND OPERATIONAL AND CAPITAL COSTS

The following funding sources can provide revenue opportunities for the Department, but it will take a dedicated staff person to investigate and pursue the source and manage for the future. The following are funding sources that can be developed for the City.

Redevelopment Money: Redevelopment money from the County or the State to promote economic development in the area. Redevelopment agencies are typically located as part of cities and counties in most states.

Bed Tax (transient occupancy tax): A Bed Tax (transient occupancy tax) money from hotels and motels in the City who would directly benefit from the attractions or special events held at the City park sites. Counties usually manage this funding source, which would require the County to support the funding source. This could be one or two percent added to the existing bed tax to support the development of a specific facility or park.

CDBG Money: This source can be used for a park site. The City does qualify for this funding source.

Local, Regional or National Foundations: Many communities have turned to their local, regional and national foundations in their area to support the development of an element of the park system.

Park Income Tax Issue: This would require local residents to vote on an income tax issue to develop or enhance existing and new parks from income taxes of residents and people who work in the City.

Lease Back Option: The agency would enter into a lease back option with a private finance company to provide the financing for the project. The agency, along with their partners, would agree to pay the development costs back over a 30-year period from the revenues earned from the site or from general fund dollars dedicated to the project.

Partnership Development Agreement: Each partner would develop their respective facilities based on set design guidelines with the City managing all the site elements. Partners would work collectively to promote the site as a whole versus individual amenities. This process was successful for Papago Park, located in the City of Phoenix, AZ. The site included a Major League Spring Training facility and Minor League Baseball Complex, Zoo, Botanical Gardens, History Museum and other attractions on site.

Naming Rights: Private fundraising could be developed to fund a portion or all of it through naming rights for a park site and through individual amenity naming rights. Naming rights are calculated by the number of impression points by visitors to the site. A park could raise 20%-30% of the development costs from naming rights. Individual naming rights could support the development of sports fields, a dog park, skate park, ice rink, BMX track, winter sports area, children's play area, hockey rink and golf course.

This can vary from 3-20 years and is a very common practice in the private sector but is also getting more prevalent in the public sector as well. (Lewisville, TX – Toyota of Lewisville Railroad Park)

http://www.cityoflewisville.com/index.aspx?page=538

Sponsorships

These are typically cash or in-kind fees paid to an agency by a brand or a business in exchange for being able to promote their brand or business through the agency's offerings (e.g. programs, events or facilities)

(e.g. City of Roseville, CA: Sponsorships for the Utility Exploration Center)
https://www.roseville.ca.us/explore/sponsorships.asp

Crowd-funding

It is the collection of funds to sustain an initiative from a large pool of backers—the "crowd"—usually made online by means of a web platform. The initiative could be a nonprofit campaign (e.g. to raise funds for a school or social service organization), a philanthropic campaign (e.g. for emergency funds for an ill person or to produce an emerging artist), a commercial campaign (e.g. to create and sell a new product) or a financing campaign for a public agency (capital projects or program / operations related e.g. printing costs for all marketing materials)

Crowdfunding models involve a variety of participants. They include the people or organizations that propose the ideas and/or projects to be funded, and the crowd of people who support the proposals. Crowdfunding is then supported by an organization (the "platform") which brings together the project initiator and the crowd. Given below are two examples of the most popular platforms that are currently out there.

- www.Kickstarter.com
  - The Mountair Park Community Farm to build urban farms in unused City Park Space https://www.kickstarter.com/projects/1255067972/growing-in-the-city-the-mountair-park-community-fa?ref=live
  - Marketing Support for creating Outdoor Recreation Map https://www.kickstarter.com/projects/403262169/outdoor-recreation-map-of-the-bob-marshall-wildern?ref=live

- www.Razoo.com
  - After-School Programs for Environmental Education http://www.razoo.com/story/Feel-Good-About-Contributing-To-Urban-Sprouts
  - Local Community Theater Support Group http://www.razoo.com/story/Team-Wang
  - Community-Led Design Project http://www.razoo.com/story/Hsc-Board-Match-Challenge

Grants: Grants have always been a good source for funding of parks throughout the United States. Grants can be provided by the Federal Government such as the land and conservation fund, transportation enhancement funds for trails and greenways, state grant funds from gambling taxes or alcohol funds and local grants from community foundations. Research for funding included, but is not limited to: Federal / State Grants, Foundation Source and Corporate Grants for areas of support and fields of interest.

Community Forest and Open Space Program: Federal Grant with Estimated Total Program Funding of $3,150,000. Individual grant applications may not exceed $400,000. The program pays up to 50% of the project costs and requires a 50% non-federal match. Eligible lands for grants funded under this program are private forests that are at least five acres in size, suitable to sustain natural vegetation and at least 75% forested.

Land and Water Conservation Fund: Preserve, develop and renovate outdoor recreation facilities. Focus is on America's Great Outdoors Initiative. New or renovation of pavilions, playgrounds or play areas, ball fields, bleachers, golf course meeting rooms, multi-purpose courts, parking facilities, pathways and trails, roads, signs, ski areas, snowmobile facilities and tennis courts. Federal Funds-Average Award is $70,000.

Congestion Mitigation and Air Quality Program-fund: This source is for transportation projects that improve air quality and reduce traffic congestion. Projects can include bicycle and pedestrian projects, trails, links to communities, bike rack facilities. Average grant size $50-$100,000.

Community Facilities Grant and Loan Program-Grant Program: This source is established to assist communities with grant and loan funding for the expansion, renovation and or remodeling of former school facilities and or existing surplus government facilities that have an existing or future community use. Facilities may be space for community gatherings and functions, recreational athletic facilities for community members, particularly youth. These include space for non-for-profit offices, child care, community education, theater, senior centers, youth centers and after school programs. CFP match requirements for requests up to $250,000 are 10-% eligible project costs. For requests over $250,000 to $1 million, the match is 15%.

American Hiking Society: Fund on a national basis for promoting and protecting foot trails and the hiking experience.

The Helen R. Buck Foundation: This foundation provides funding for playground equipment and recreational activities.

Deupree Family Foundation: The Deupree Family Foundation provides grants for Recreation, parks/playgrounds and children/youth, on a national basis. This foundation supports: building/renovation, equipment, general/operating support, program development and seed money.

The John P. Ellbogen Foundation: Children/youth, services grants as well as support for capital campaigns, general/operating support and program development.

Economic Development Grants for Public Works and Development of Facilities: The U. S. Department of Commerce, Economic Development Administration (EDA), provides grants to states, counties and cities designated as redevelopment areas by EDA for public works projects that can include developing trails and greenway facilities. There is a 30% local match required, except in severely distressed areas where the federal contribution can reach 80%.

6.2.3 OPERATIONAL FUNDING COSTS OPPORTUNITIES

The Department has numerous revenue sources to draw from to support operational and management costs that include long term capital replacement costs. The following are funding options to consider in operations of the system:

User fees: User fees to access or use elements of parks exist currently but could be expanded to include fees to access recreation and education programs, a dog park, a BMX track, skate park, nature center, sport leagues, winter sports area, ice skating, spray ground and golf for green fees, carts, leagues and lessons. The City does a good job in accessing user fees now.

Concessions: Concessions can be leased out to a private operator for a percentage of gross profits. Typically, 15%-18% of gross profits for concessions of a profit operator, or a managing agency over a park site could manage concessions. Lodi Lake already has a concessionaire in place for canoe / kayak rentals etc. and this can be expanded to other areas as well.

Parking Fees: During major special events, the City could charge a $5 parking fee for special events in the parks e.g. at Lodi Lake

Field Permits: The Department can issue field permits for practice or games. Permits should cover the operational cost of each field and management costs. If a private operator desires to rent the site for a sporting tournament for private gain, the Department should provide a permit fee plus a percentage of gross from the event for the exclusive use of the fields.

Admission Fee: An admission fee to an event in the park can be utilized e.g. Taste of Lodi.

Walking and Running Event Fees: Event fees for walking and running events in the park can be assessed for to cover safety staff managing the event in the park.

Food and Equipment Sponsors: Official drink and food sponsors can be utilized for the Department. Each official drink and food sponsor pays back to the Department a set percentage of gross. Typically, this is 15%-20% of costs for being the official product and receiving exclusive pouring and food rights to the complex. Likewise official equipment sponsors work well for trucks, mowers and tractors.

Advertising Revenue: Advertising revenue can come from the sale of ads on banners in the parks. The advertising could include trash cans, trail markers, visitor pull trailers, tee boxes, scorecards and in restrooms.

Wi-Fi Revenue: The Department can set up a Wi-Fi area whereby a Wi-Fi vendor is able to sell the advertising on the Wi-Fi access banner to local businesses targeting the users of the site. This revenue has amounted to $20,000-$50,000 in revenue for similar systems. E.g. Lodi Lake / Hutchins Street Square could be potential sources for this.

Cell Tower: Cell tower leases can be used. This revenue source would support $35,000-$50,000 annually for the site if cell towers in areas needing cell towers.

Program Fees: Program Fees to support existing programs can be employed in the form of lessons, clinics, camps, life skill programs and wellness and fitness. These types program help support the operations of the park and recreation system as a whole.

Special Event Sponsors: Special Events provides a great venue for special events sponsors as it applies to a concert, stage, entertainment and safety.

Capital Improvement Fee: A Capital Improvement Fee on all programs and events can be added. A capital asset fee of $2-$3 on each person who participates in a class, event or program can be incorporated into the cost of the program or event.

Volunteerism: The revenue source is an indirect revenue source in that persons donate time to the Department to assist in providing a product or service on an hourly basis. This reduces the Department's cost in providing the service plus it builds advocacy for the Department.

Special Fundraiser: Many agencies hold special fundraisers on an annual basis to help cover specific programs and capital projects to be dedicated to a facility or Department as a whole.

Catering: The Department has many sites that set up well to have high, medium and low level caterers on contract that groups can use. Caterers usually provide the parks with a fixed gross rate on food and beverage at 12%-15% of the cost of food and 18% of drink back to the Department.

CHAPTER SEVEN IMPLEMENTATION PLAN

When developing a Strategic Action Plan it is important to establish a Vision and Mission for the department to guide its efforts for the future. Vision says what the Department wants to be known for and Mission indicates how we get there.

7.1 VISION STATEMENT

The following vision presents Lodi Parks, Recreation, and Cultural Services Department desire for the future:

"To be the region's leading provider of vibrant spaces and experiences."

7.2 MISSION STATEMENT

The following mission statement is how Lodi Parks, Recreation, and Cultural Services Department will implement their vision:

"To exceed community and staff needs in an innovative and sustainable manner."

7.3 VALUES

- Customer Service Excellence
- Innovation / Continuous Improvement
- Inclusion
- Fun / Positive Experiences
- Sustainability (Financial and Environmental)

7.4 GOALS

- Incorporating NRPA's 3 Pillars – Health and Wellness, Conservation and Social Equity
- Ensuring Financial Sustainability for the organization
- Telling the PRCS story
- Creating a professional organizational culture

7.4.1 OVERVIEW

The following section outlines the Goals and Specific Strategies for five key areas of Lodi Parks, Recreation, and Cultural Services Department. These are broad strategies, while the detailed tactics to fulfill them are provided in **Appendix A** of this Strategic Action Plan. The recommendations are meant to serve as a guide and should be flexible to adapt to changing trends and needs over time. This will ensure that the Strategic Action Plan truly serves as a living document, which is dynamic and proactively meeting community needs and vision over time.

The key areas for recommendations include:

- Parkland and Facilities
- Recreation Programs
- Maintenance and Operations
- Financing
- Marketing and Communications

7.5 COMMUNITY VISION FOR PARKLAND AND FACILITIES

Acquire property, develop and maintain existing parks and recreation facilities to meet LOS standards and use that enhances property values, provides a benefit to the residents and users and positions the PRCS Department as a regional leader.

7.5.1 STRATEGY

- Ensure the growth of the parks and trails system keeps pace with the needs of the community but does not outpace the financial or organizational resources of the Department.
- Develop design principles for each park in the system to maximize the value and use to make the park as efficient and productive as possible.
- Create a mix of synergistic elements within the system to maximize complementary use at individual sites and throughout the system.
- Strategically add indoor facility space to serve the growing population and meet new recreation demands while ensuring financial sustainability.
- Maximize the use of Lodi Lake to ensure its sustainability and position as a source of pride to the community.

7.6 COMMUNITY VISION FOR RECREATION PROGRAMS

To serve Lodi's diverse community's needs through creative, multi-cultural and multi-generational recreation opportunities and increase program participation from 34% to over 40% in 5 years.

7.6.1 STRATEGY

- Combine increased use of technology and word of mouth to Increase awareness and participation rates of program offerings among Lodi residents and tourists / visitors (2nd biggest reason why people participate – 35% is due to friends' participation).
- Build the PRCS brand and tell its story by ensuring greater consistency in program delivery, look and feel through system-wide standards as well as celebrate the diversity of the Lodi community.
- Become a data-driven agency that uses data and analytics to drive decision-making on program offerings and customer feedback.
- Build Volunteerism as a core program.
- Evaluate existing core program areas and their classification / lifecycles to ensure alignment with trends and community needs.

7.7 COMMUNITY VISION FOR MAINTENANCE AND OPERATIONS

Develop an operations and maintenance plan for the park system for all parks, recreation facilities and trails to establish the maintenance cost requirements based on agreed to maintenance standards

7.7.1 STRATEGY

- Develop maintenance standards for all parks, recreation facilities and trails based on the right frequency of maintenance tasks, using the right skill set of employees at the right pay for the right benefit desired.
- Improve intra-departmental coordination and communication and leverage the functional organization structure to aid in limiting silos.
- Develop a school district partnership plan for use of school property for parks and recreation needs of the Department.

- Consider the value of contract or volunteer maintenance of certain tasks to maximize efficiency.
- Build an organizational culture built on innovation and continuous improvement that sustains changes in staff and leadership and creates the 'Lodi' way.

7.8 COMMUNITY VISION FOR FINANCE

Develop a sustainable park and recreation system by enhancing current and potential revenue sources and creating additional dedicated funding opportunities.

7.8.1 STRATEGY

- Reinstitute a capital improvement program in order to provide adequate facilities and services to the public and avoid more costly expenditures over the long term.
- Develop a long term financial plan and cost of service study for PRCS that can help support the implementation plan.
- Develop specific policies for pricing, partnership, volunteer, and earned income and establish Department-wide cost recovery goals over time.
- Implement environmental sustainability practices within the department.
- Update all policy manuals to focus on performance and outcomes.

7.9 COMMUNITY VISION FOR MARKETING AND COMMUNICATIONS

To reduce lack of awareness as a barrier to participation from 28% to less than 20% and to enhance household program participation from 34% to over 40% in 5 years.

7.9.1 STRATEGY

- Develop a marketing strategy and distinct brand identity for PRCS.
- Focus on developing a strong brand and positive brand equity for PRCS.

CHAPTER EIGHT CONCLUSION

In summary, the Lodi PRCS department has turned the corner with respect to financial sustainability and is now poised to continue serving the increasingly diverse community's evolving need. The Strategic Action Plan is a 5 year community-based plan with an established vision, mission and values all resulting in goals, outcomes and performance metrics for staff to hold them accountable.

It is an ambitious plan and will require the Department and the City to embrace the new normal based on partnerships and financial sustainability while building a strong internal culture of continuous learning and customer service excellence. The community and leadership have indicated their support for parks, recreation and culture services in Lodi and this plan will help the Department achieve the community's goals in an innovative and sustainable manner.

APPENDIX A STRATEGIC ACTION PLAN MATRIX

CORE VALUES

Means or End – Tool to make / justify decisions)

- **Customer Service Excellence**
  - Responding quickly and being a good listener
  - Be fair and just
  - Provide the best experience while adhering to our values / value-added
- **Innovation / Continuous Improvement**
- **Diversity / Inclusion / Social Equity**
- **Fun – Positive experience / Enjoyment**
- **Sustainability (Financial and Environmental)**
- **Goals: Establish a team to implement and sustain core values**
  - "Don't just have it on the wall…have it in the hall."
- **Mandates**
  - Safety / Trust / Quality / Integrity / Accountability / Efficiency / Transparency
  - Volunteerism
  - Teamwork
  - Credibility / Commitment
  - Affordability
  - Wellness
  - Community

VISION

Future oriented; Where We Want To Be

"To be the region's leading provider of vibrant spaces and experiences."

MISSION

(Present oriented; How Do We Get There)

"To exceed community and staff needs in an innovative and sustainable manner"

VALUES

- Customer Service Excellence
- Innovation / Continuous Improvement
- Inclusion
- Fun / Positive experiences
- Sustainability (Financial and Environmental)

KEY GOALS

- Incorporating NRPA's 3 Pillars – Health and Wellness, Conservation and Social Equity
- Ensuring Financial Sustainability
- Telling the PRCS story
- Creating a professional organizational culture

KEY TO MATRIX STAFFING:

1. Director
2. Park Superintendent
3. Park Project Coordinator
4. Park Supervisor
5. Recreation Superintendent
6. Recreation Manager(s)
7. Management Analyst
8. HSS Activities
9. HSS Facility

COMMUNITY VISION FOR PARKLAND AND FACILITIES:

GOAL: ACQUIRE PROPERTY, DEVELOP AND MAINTAIN EXISTING PARKS AND RECREATION FACILITIES TO MEET LOS STANDARDS AND USE THAT ENHANCES PROPERTY VALUES, PROVIDES A BENEFIT TO THE RESIDENTS AND USERS AND POSITIONS THE PRCS DEPARTMENT AS A REGIONAL LEADER.

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
1.1	Ensure the growth of the parks and trails system keeps pace with the needs of the community but does not outpace the financial or organizational resources of the Department.	• Acquire and develop parkland and trails according to the Level of Service recommendations put forth in this Plan	• 1, 2, 3	2016	• Grants, impact fees, or new revenues for larger goals	• Feet/miles of trails added
		• Develop master plans for new parks and create/update master plans when major amenities are added to existing parks	• 1, 2, 3	2016 for Lodi Lake Park	• Staff time	• Completed/adopted master plan by July 2017
		• Prioritize linear park development that links parkland, schools, neighborhoods, commercial areas, and local destinations	• 1, 2, 3	Ongoing	• Developer resources for new parks, IMF for existing	• Number of new park connections
		• Develop a trail acquisition plan and a trail enhancement plan to increase connectivity in the community	• 1, 2, 3	In 2016 as part of Lodi Lake Master Plan, or 2017 for other locations	• Staff time	• Completed plan
		• Work with a trails committee to determine priorities, support funding and increase the visibility and use	• 1, 2, 7	FY 16/17	• Staff time	• Completed task by end of 2017 (outside of Lodi Lake MP)

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
1.2	Develop design principles for each park in the system to maximize the value and use to make the park as efficient and productive as possible	• Design for safety and security in the park and add appropriate levels of safety and security lighting	• 2, 3	Ongoing	• Staff time, parks capital for lighting	• # of parks completed
		• Design for efficient maintenance costs and develop maintenance standards for each park in the system	• 2, 3, 4	Ongoing (update existing)	• Staff time to develop standards, staff training	• # completed, budgetary savings
		• Design and update the parks to support operational costs and revenue capability	• 1, 2, 3	FY 16/17	• Staff time, parks capital, partner support	• # of parks updated, revenue trend
		• Develop new signage standards for all parks in the system to increase awareness and use of the parks and recreation facilities in the system	• 1, 2, 3, 7	2017	• Staff time, public input, cost of signs (Following Task 5.2)	• # of parks completed
		• introduce signage in print / online and if possible, at all parks/ programs / special events and facilities that greet and thank people in multiple languages most frequently spoken in Lodi	• 2, 3, 4, 5	2017	• $ for signage, staff time	• # of signs installed and/or replaced
		• Create instructor tool kits to provide all instructors (staff and contract) all a consistent format in which to conduct their classes.	• 5, 6	FY 17/18	• Staff time, printing costs	• Completion of task

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
1.3	Create a mix of synergistic elements within the system to maximize complementary use at individual sites and throughout the system	• Improve restrooms and parking at key high use parks in the system	• 1, 2, 3	2017	• Capital	• Sq. ft parking rehabbed, # of restrooms
		• Develop loop trails within or between parks	• 1, 2, 3	2017	• Trails committee time, capital	• # of linear ft of trails created
		•	•		•	•
		•	•		•	•

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
1.4	Strategically add indoor facility space to serve the growing population and meet new recreation demands while ensuring financial sustainability	• Expand or develop recreation facilities according to the Facility Standards recommendations put forth in this Strategic Action Plan	• 1, 3, 5	2017	• Repurpose existing space, new revenue source or new partners for joint use	• # of sq. ft. of indoor rec space added
		• Conduct a feasibility study to develop a new recreation center	• 1, 7	2016	• Council support for tax measure	• Study completed by June 2016
		• Partner with schools, athletic associations, and healthcare providers to develop and program indoor recreation facilities that include needed amenities	• 1, 5, 6	2017	• Staff time, potentially $$	• Dependent upon new revenue stream; # new participants in new programs

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
1.5	Maximize the use of Lodi Lake to ensure its sustainability and position as a source of pride to the community	• Conduct a true cost of service analysis for the operation and maintenance of Lodi Lake Park	• 1, 2, 7	2016	• Staff time	• Completion of analysis
		• Consider park design modifications to create a more cohesive park experience by developing more internal connections.	• 1, 2, 3	2017	• Staff time, parks capital	• # linear feet of new pathways
		• Continue to develop connections from Lodi Lake Park to the overall community trail network	• 1, 2, 3	2017	• Staff time, possibly $, potential Street funding	• Identify connections, linear feet of connectivity established
		• Develop a specific MP / Business Plan for the park	• 1, 2, 3, 7	2016	• Staff time, printing costs	• # of input sources, completion of MP/Business Plan

COMMUNITY VISION FOR RECREATION PROGRAMS:

GOAL: TO SERVE LODI'S DIVERSE COMMUNITY'S NEEDS THROUGH CREATIVE, MULTI-CULTURAL AND MULTI-GENERATIONAL RECREATION OPPORTUNITIES AND INCREASE PROGRAM PARTICIPATION FROM 34% TO OVER 40% IN 5 YEARS

Strategy		• Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
2.1	Combine increased use of technology and word of mouth to Increase awareness and participation rates of program offerings among Lodi residents and tourists / visitors (2nd biggest reason why people participate – 35% is due to friends' participation)	• Identify primary and secondary target markets and conduct on-going multilingual (Spanish, Urdu / Hindi etc.) focus groups to identify specific program needs and reasons for lack of participation	• 1, 5, 6, 7	2016	• Staff time	• Report on unmet needs following focus groups, followed by action to meet those needs
		• Conduct lost customer surveys at Special Events for past participants to identify reasons for dropping-out and solutions to address the reasons.	• 5, 6,	2016	• Staff time	• Report on surveys, develop solutions to address reasons
		• Update the City website to a responsive design website or create a co-branded, standalone yet connected PRCS website	• 1, 5, 7	FY 16/17	• Staff time, possibly contractor expense	• Dependent upon City website future; or, updated standalone site

Strategy		• Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
2.1	Continued.	• As a part of the registration process, enquire about the source of information that drove the participation behavior and thus track marketing return on investment	• 5, 6, 8	2016	• Staff time, printing new forms/online forms	• Data based on responses that can assist with more targeted marketing
		• Increase promotions by partnering with places of worship in Lodi and by enlisting local community leaders in the Hispanic / Latino and South East Asian communities	• 5, 6, 7, 8	FY 16/17	• Staff time, printing costs	• Increase in program registrations, activities (measured via above)

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
2.2	Build the PRCS brand and tell it's story by ensuring greater consistency in program delivery, look and feel through system-wide standards as well as celebrate the diversity of the Lodi community	• Establish consistent program standards for all core programs and train staff in managing services to meet these standards and the outcomes desire	• 1, 2, 4, 5	FY 16/17	• Staff time	• Completion of task, participation numbers, participant feedback
		• Create instructor tool kits to provide all instructors (staff and contract) all a consistent format in which to conduct their classes.	• 5, 6	FY 17/18	• Staff time, printing costs	• Completion of task

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
2.3	Become a data-driven agency that uses data and analytics to drive decision-making on program offerings and customer feedback	• Use data from the U.S. Census as well as purchase data from sources such as American Sports Data, Outdoor Recreation Report, Sporting Goods Manufacturer's Association and American Demographics and Lifestyle Reports from ESRI	• 1, 5, 7	2016	• Membership in NRPA, cost of purchased data	• What programs were assessed with obtained data
		• Expand customer feedback beyond post-program feedback to pre-program evaluation, lost customer surveys and on-going real-time app based geocoded feedback for parks / facilities and special events.	• 1, 5, 7	FY 16/17	• Cost of tools, marketing	• Obtaining feedback, re-evaluate
		• Track website analytics through free sources such as Google Analytics and social media trends through Facebook and Twitter analytics to identify user behavior online	• 7	2016	• Staff time, potential analytics costs	• Obtain data and determine what changes are needed, then implement them
		• Update the trends annually and communicate trend data to Board and the staff as they decide upcoming program offerings	• 5, 6, 7	2017	• Staff time	• Commission/staff support for data-driven changes

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
2.4	Build Volunteerism as a core program	• Create a branded volunteer program with reward systems similar to an airline or a hotel rewards program – volunteers can accumulate points for hours volunteered which can be redeemed for complimentary or discounted offerings within those provided by PRCS	• 1, 2, 5, 7	FY 16/17	• Staff time, nominal expense	• Creation of program, # of participants enrolled
		• Combine all existing volunteer information to create a combined volunteer database based on interests e.g. past youth or adult sports volunteers or special event volunteers etc.	• 2, 5, 7	FY 16/17	• Staff time	• Completion of task, timely updates
		• Utilize online mediums such as www.volunteermatch.org to tie available volunteer opportunities with interested volunteers	• 1, 2, 5, 7	FY 16/17	• Staff time	• Completion of task, # of volunteers solicited
		• Create volunteer training and orientation programs, performance measures and annual hourly goals	• 1, 2, 5, 7	FY 16/17	• Staff time	• Completion of task
		• Build a volunteer section on the website to promote volunteerism	• 1, 2, 5, 7	Immediate	• Staff time	• Completion of task

		• Develop volunteer policy and training manual outlining information for volunteer recruitment, retention and appreciation	• 1, 2, 5, 7	FY 16/17	• Staff time, nominal expenses	• Completion of task

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
2.5	Evaluate existing core program areas and their classification / lifecycles to ensure alignment with trends and community needs	• Develop mini-business plans for each core program areas	• 5, 6, 7	FY 17/18	• Staff time	• Completion of business plans
		• Update program lifecycles and service classification matrix annually to ensure programs are managed to service classification philosophies and cost recovery goals	• 5, 6	Mid-2016	• Staff time	• Completion of task
		• Conduct an annual program innovation audit to continue updating the program lifecycle and eliminate underperforming programs	• 5, 6	FY 16/17	• Staff time	• Completion of task

COMMUNITY VISION FOR MAINTENANCE AND OPERATIONS

GOAL: DEVELOP AN OPERATIONS AND MAINTENANCE PLAN FOR THE PARK SYSTEM FOR ALL PARKS, RECREATION FACILITIES AND TRAILS TO ESTABLISH THE MAINTENANCE COST REQUIREMENTS BASED ON AGREED TO MAINTENANCE STANDARDS

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
3.1	Develop maintenance standards for all parks, recreation facilities and trails based on the right frequency of maintenance tasks, using the right skill set of employees at the right pay for the right benefit desired	• Develop a maintenance management plan for each park and recreation facility based on operational and funding available	• 2, 4	FY 16/17	• Operating budget, staff time	• Completion of task
		• Develop maintenance standards for indoor facilities e.g Hutchins Street Square and determine cost/sq. ft. to maintain	• 2, 4, 9	FY 16/17	• Operating budget, staff time	• Completion of task
		• Develop a Capital Improvement Plan for the Department with dedicated funding sources to keep parks and facilities in good condition	• 1, 2, 3	FY 16/17	• Staff time	• Completion of task
		• Implement a work order management system to maintain the park system and the capital asset lifecycle requirements	• 2, 4, 9	FY 16/17	• Staff time, possible expense; Tyler module?	• Completion of task, adherence to system
		• Conduct a cost of service analysis for park maintenance functions to understand cost/acre and to inform maintenance operations and partnership equity	• 1, 2, 7	2017	• Staff time	• Completion of task, phase in implementati on of findings

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
3.2	Improve intra-departmental coordination and communication and leverage the functional organization structure to aid in limiting silos	• Integrate the maintenance functions of the Cultural Services Division with Park Maintenance Division functions. Park Maintenance should take on additional facility maintenance responsibilities to allow the Cultural Services Division to focus on event/program scheduling and management	• 1, 2, 3, 4, 9	FY 16/17	• Staff time	• Completion of task
		• Develop a set of consistent standards for the operation and maintenance of entire sites across workgroups (e.g., Lodi Lake swimming beach versus picnic areas)	• 2, 4	FY 16/17	• Staff time, possibly reallocate resources	• Completion of task, begin implementation
		• Implement performance reviews among both part- and full-time staff to aid in job performance management, increase job satisfaction, and decrease turnover.	• 1, 2, 4, 5, 6, 8, 9	FY 16/17	• Staff time	• Implementation of task
		• Address communication gaps between the Recreation Division and the Park Maintenance Division in terms of preparing facilities to meet the needs of user groups	• 1, 2, 4, 5, 6	FY 16/17	• Staff time	• Fewer “misses” in delivery of services to users

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
3.3	Develop a school district partnership plan for use of school property for parks and recreation needs of the Department	• Meet with school officials on a partnership plan for school outdoor and indoor facilities to maximize public facilities in the Department for parks and recreation use	• 1, 5	FY 16/17	• Staff time, possible expense	• Revamp JUA to meet needs/facility availability or eliminate
		• Develop an improvement plan for school/park sites to enhance the value of these school sites	• 1, 2, 3, 5	FY 2017/18	• Staff time, capital outlay	• Reach agreement on plan, shared costs
		• Develop with the school district a sports council to work with the School District and PRCS Department on enhancing sports fields on school sites	• 1, 2, 3, 5	FY 17/18	• Staff time, capital outlay	• Completion of task, revamped JUA

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
3.4	Consider the value of contract or volunteer maintenance of certain tasks to maximize efficiency	• Evaluate the cost to provide all elements of maintenance and what is the most cost effective method to use to achieve the highest level of quality and efficiency	• 1, 2, 3, 4	FY 16/17?	• Staff time	• $ per acre for maintenance (ball fields vs. passive areas)
		• Using a cost of service analysis, communicate to user groups, end users, and decision makers the actual cost to maintain parks and recreation facilities	• 1, 2, 5, 6, 7	FY 17/18	• Staff time	• Completion of task, telling our story to users
		• Establish a part-time volunteer coordinator to identify volunteer tasks or positions, recruit individuals and groups, oversee programs like "Adopt-a-Park," and track the impact that volunteerism and in-kind support has on the system	• 1, 2, 5, 7	2017	• Part-time labor expense	• Completion of task, # of volunteers in program

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
3.5	Build an organizational culture built on innovation and continuous improvement that sustains changes in staff and leadership and creates the 'Lodi' way	• Conduct annual updates of the Malcolm Baldrige criteria's Sterling Model – "Are We Making Progress" and track progress against the findings obtained during this planning process	• 1, 2, 5	2016	• Staff time, feedback resources	• Track findings to determine progress
		• Conduct on-going customer service and organizational culture training that focuses on effective on-boarding process and a consistent customer service delivery process for everyone from volunteers to the Director	• 1	2017	• Staff time, operating budget	• Completion of task, consistency in delivery of services, customer feedback
		• Create an onboarding process modeled by Disney's Traditions training that educates every employee on the history and heritage of Lodi as well as key PRCS offerings to build a shared set of values and culture	• 1, 2, 5, 6, 7, 8, 9	2017	• Staff time, operating budget	• Completion of task, follow-up surveys of employees
		• Review and update the SWOT analysis annually to ensure strengths are built upon, weaknesses are addressed, opportunities leveraged and threats considered	• 1, 2, 4, 5, 6, 7	2016	• Staff time	• Satisfactory completion of task; specify time of year to perform

COMMUNITY VISION FOR FINANCE

GOAL: DEVELOP A SUSTAINABLE PARK AND RECREATION SYSTEM BY ENHANCING CURRENT AND POTENTIAL REVENUE SOURCES AND CREATING ADDITIONAL DEDICATED FUNDING OPPORTUNITIES.

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
4.1	Reinstitute a capital improvement program in order to provide adequate facilities and services to the public and avoid more costly expenditures over the long term	• Calculate the total value of the physical park and recreation system and formulate a long-term capital fund investment strategy to invest 2-4% of that amount annually into the Department to achieve a stronger financial position	• 1, 2, 3, 7	2016	• New financial source for meaningful CIP	• Completion of task, consistency in using funds for something other than emergency repairs

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
4.2	Develop a long term financial plan and cost of service study for PRCS that can help support the implementation plan	• Execute a sustained effort to increase earned income while reducing spending, even at modest levels. Some of the key opportunities include corporate sponsorships, crowdfunding, foundation / gifts through Lodi Community Foundation and potentially Friends Groups by resurrecting Friends of Lodi Lake, Friends of the Dog Park etc.	• 1, 2, 3, 7	2016	• Staff time	• Growth in revenue from donations, in-kind services, development and growth of volunteer groups
		• Provide or acquire training for manager- and supervisor-level staff to help determine true unit costs to produce a unit of service.	• 1	FY 2016/17	• Staff time, budget for possible outside training	• Completion of task, staff's utilization of findings in programs

Strategy		Tactics	Staff Group Responsible	Start Date	Performance Measure
4.3	Develop specific policies for pricing, partnership, volunteer, and earned income and establish Department-wide cost recovery goals over time	• Develop a specific policy for each of these four areas and have approved by the Parks Commission or City Council	• 1, 2, 5, 6, 7	FY 2017/18	• Completion of task
		• Develop a cost of service model for parks, recreation facilities and programs to determine cost recovery levels currently and pricing strategies to meet future cost recovery goals	• 1, 2, 5, 6, 7	FY 2017/18	• Completion of task, implement findings in sensitive manner based upon community priorities
		• Communicate effectively the true cost of services to users of the system and any changes in pricing to achieve cost recovery levels desired. Achieve a department-wide true cost recovery level of 35% within three years, then 40% within five years.	• 1, 5, 6, 7, 8	FY 2017/18	• Completion of task (see above)
		• Utilize program and service classification to drive a philosophy based pricing process for services and facilities	• 1, 2, 5, 6, 7, 8	2018	• Completion of task

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
4.4	Implement environmental sustainability practices within the department	• Develop green practices in all parks and facilities including water and energy conservation practices, critical given the water crisis faced by California currently	• 1, 2, 3, 4	2016	• Staff time, training	• Certifications, reduced maintenance/water costs
		• Track and communicate the financial impact of utilizing sustainable practices	• 2, 3, 4, 7	2016	• Staff time	• Completion of task

Strategy		Tactics	Staff Group Responsible	Start Date	Required Resources	Performance Measure
4.5	Update all policy manuals to focus on performance and outcomes	• Develop flow charts for policy and procedure processes to maximize efficiency in delivery of services	• 1, 2, 5, 6, 7	FY 16/17	• Staff time	• Completion of task, resulting in greater under-standing of roles
		• Develop performance measures to focus on efficiency, customer satisfaction, productivity and revenue development	• 1, 2, 5, 6, 7, 8	FY 16/17	• Staff time	• Increased efficiency, revenue and higher customer feedback
		• Update all outdated policies and ensure staff documents all standard operating procedures to support the Plan and its requirements	• 1, 2, 4, 5, 6, 7, 8	FY 16/17	• Staff time, some supply expense	• Completion of task

COMMUNITY VISION FOR MARKETING AND COMMUNICATIONS

GOAL: TO REDUCE LACK OF AWARENESS AS A BARRIER TO PARTICIPATION FROM 28% TO LESS THAN 20% AND TO ENHANCE HOUSEHOLD PROGRAM PARTICIPATION FROM 34% TO OVER 40% IN 5 YEARS.

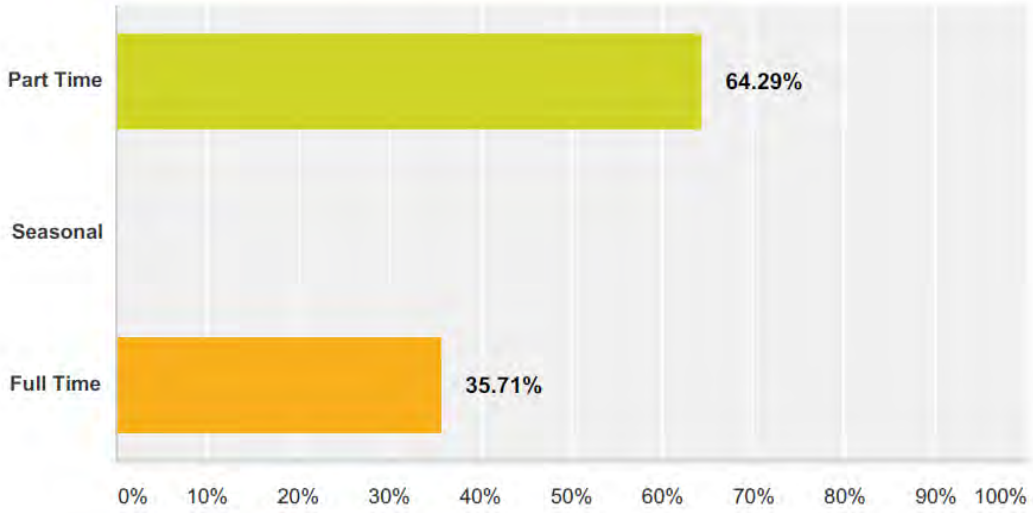
Strategy		Tactics	Staff Group Responsible	Start Date	Performance Measure
5.1	Develop a marketing strategy and distinct brand identity for PRCS	• Utilize newly created, joint marketing position to develop a marketing plan that identifies primary and secondary target audiences, marketing mediums, performance metrics and ROI on marketing spending	• 1, 5, 7	2016	• Completion of task and resulting benefits; build our "brand"
		• Build or expand the stand-alone, responsive design PRCS website (www.lodiparksvision.com) that complements the City's website but is focused on inspiration, not information	• 1, 5, 7	2016	• Maintaining an updating site that grows in # of visitors
		• Update the existing website and continue to expand the use of social media e.g. PRCS twitter account etc. to promote offerings not a local and regional offerings. . Currently only 10% obtain their information from the website	• 1, 5, 7	2016	• Greater citizen engagement, increase in participation, follow-up survey
		• Develop an in-house marketing, business development, customer service and diversity training program using staff support	• 1, 2, 5, 7, 8	FY 16/17	• Completion of task, customer feedback
		• Cross promote with other service providers each other's services to avoid duplication of efforts	• 5, 6, 8	FY 16/17	• Completion of task, monitor regularly

		• Focus on tracking and communicating marketing return on investment to ensure maximum impact for marketing spending	• 5, 6, 7, 8	2016	• Completion of task, regular reports of findings

Strategy		Tactics	Staff Group Responsible	Start Date	Performance Measure
5.2	Focus on developing a strong brand and positive brand equity for PRCS	• As a part of the marketing plan development, conduct a branding workshop to identify what the department wants to stand for and what values it wishes its brand to communicate	• 1, 2, 5, 7	2017	• Completion of task
		• Create a 'brand book' as a part of a continuing education process of existing employees and the orientation program for new staff – full-time, part-time, seasonal and volunteers	• 1, 7	2017	• Completion of task, build the brand
		• As mentioned earlier, ensure consistency in service delivery and in visual appeal from a design and signage standpoint for all parks, facilities, programs and special events	• 1, 7	2017	• Completion of task
		• Incorporate Department brand information within the instructor support kits as well as volunteer manuals	• 5, 7	2017	• Completion of task
		• Conduct annual brand association and equity surveys in the community to gauge the affinity the community has towards and the awareness of the PRCS brand name	• 1, 7	2017	• Completion of task

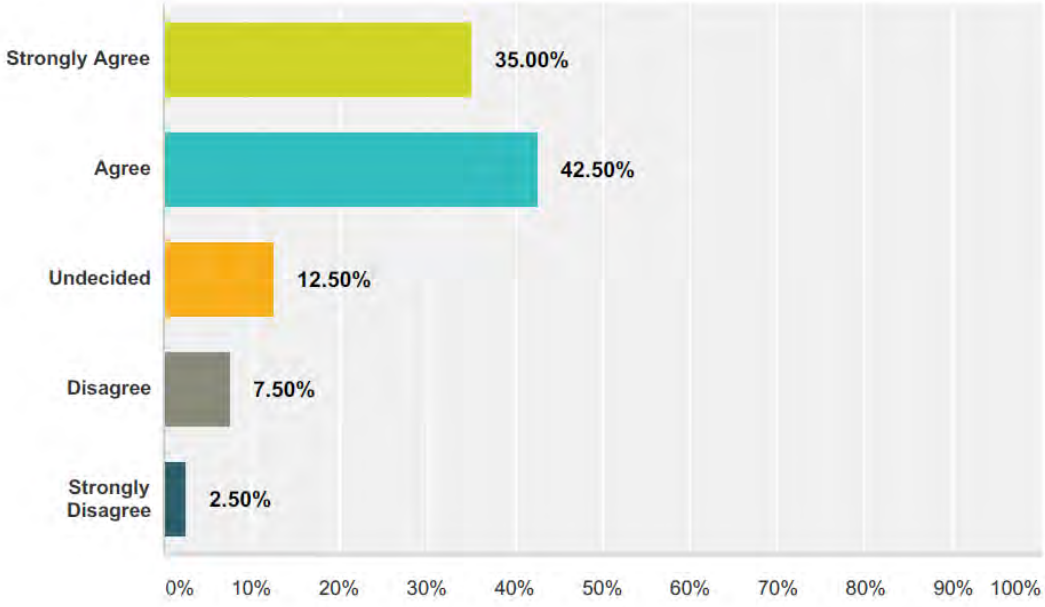
APPENDIX B STAFF SURVEY RESULTS

AS A STAFF MEMBER OF LODI WHICH OF THE FOLLLOWING DESCRIBES YOU?

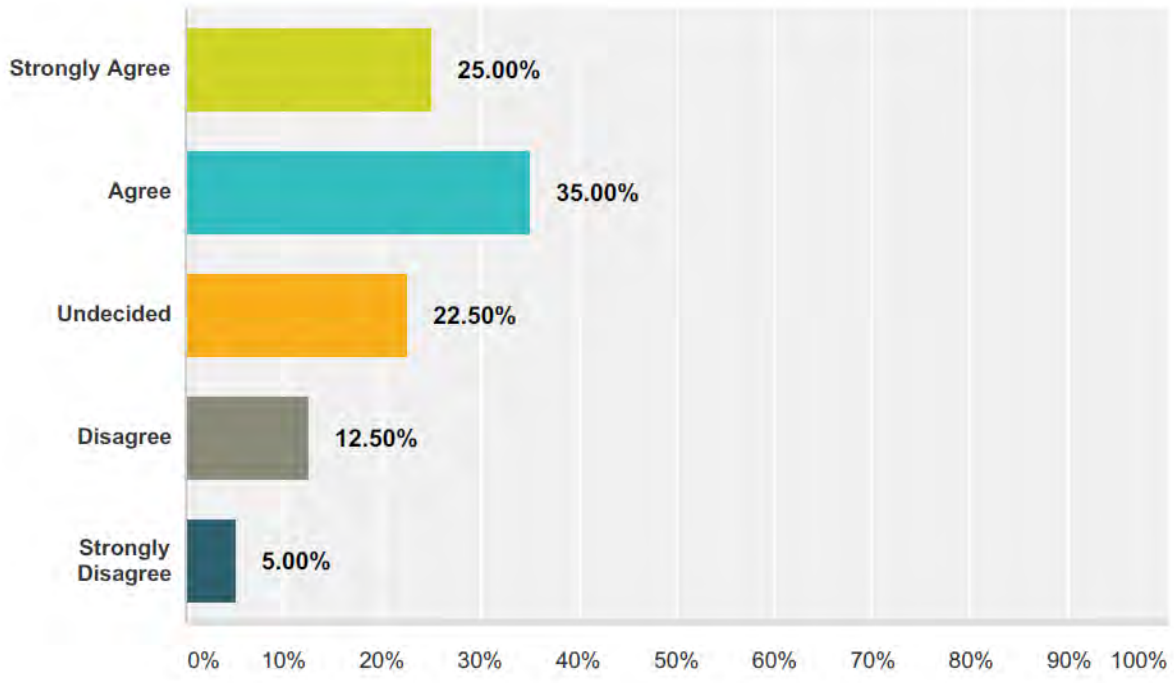


LEADERSHIP

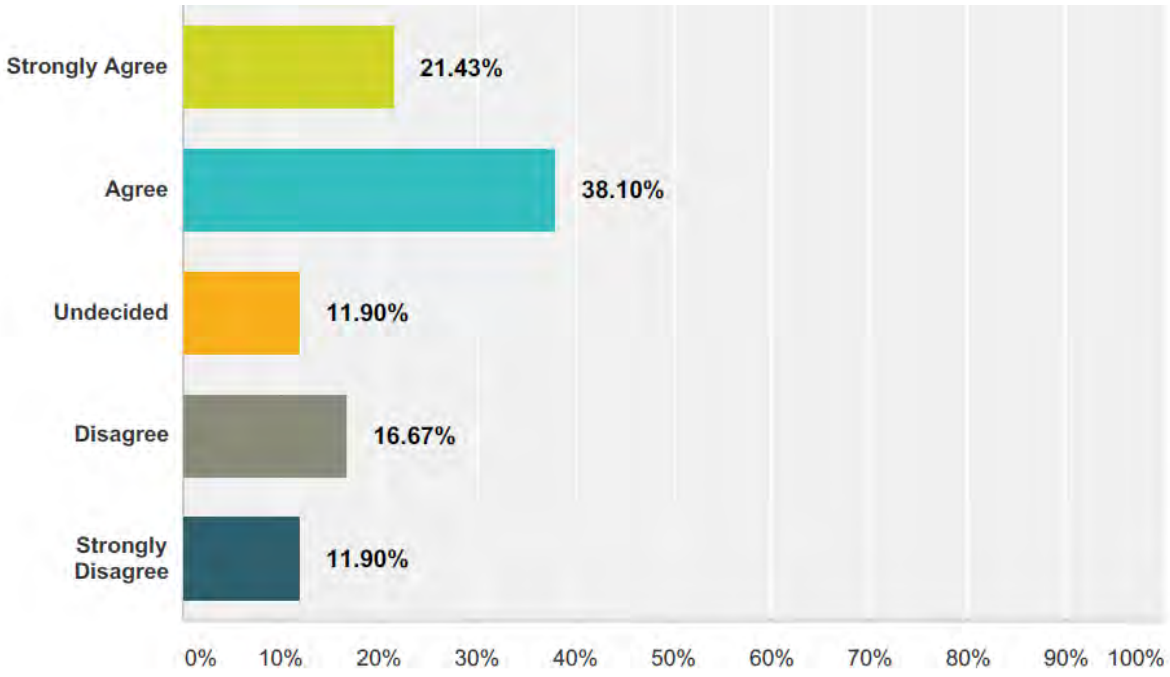
I KNOW MY ORGANIZATION'S MISSION (WHAT IT IS TRYING TO ACCOMPLISH).



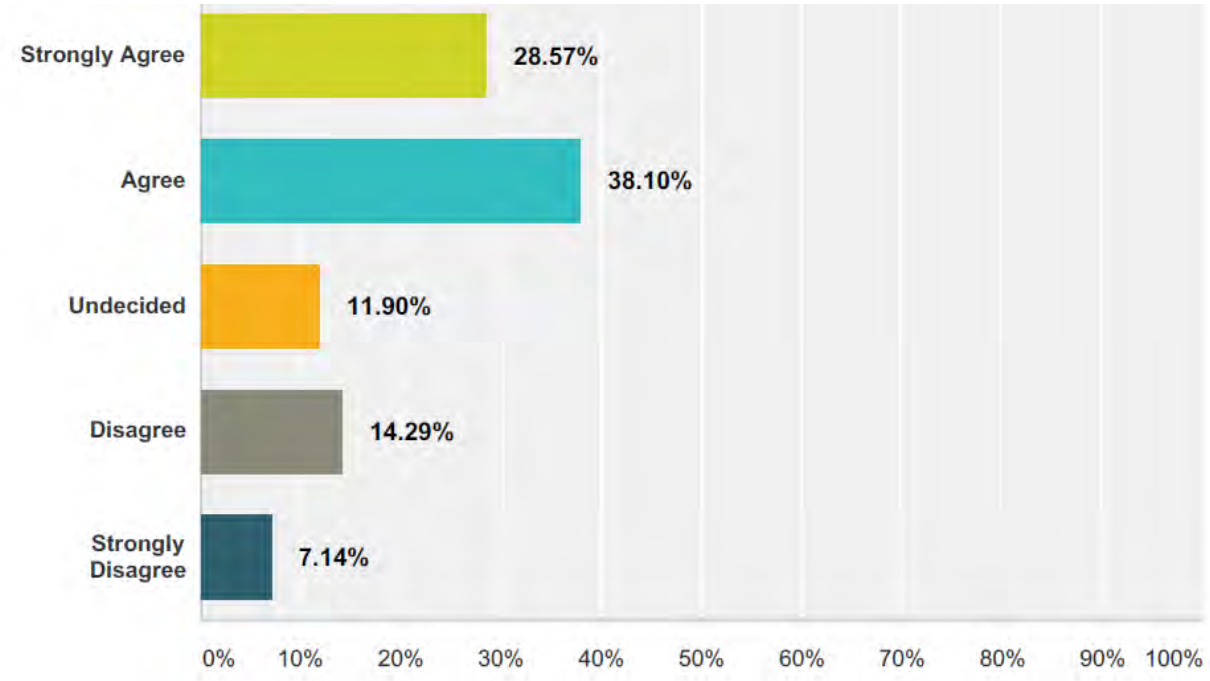
I KNOW MY ORGANIZATION'S VISION (WHERE IT IS TRYING TO GO IN THE FUTURE).



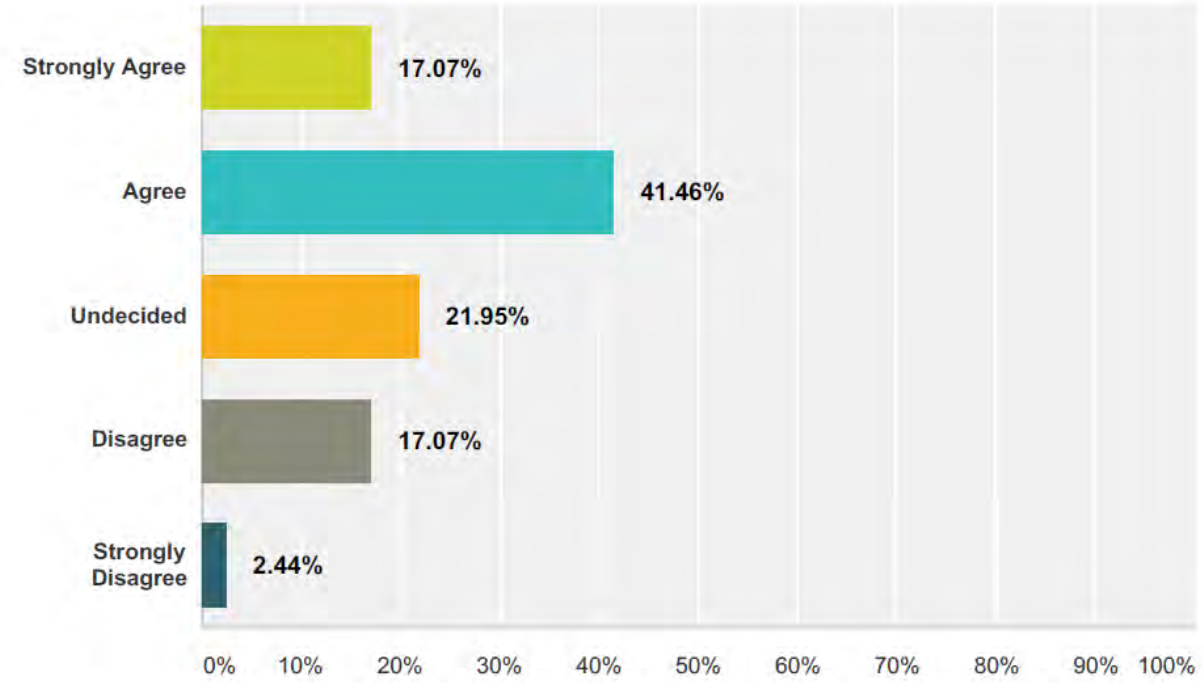
MY SENIOR (TOP) LEADERS USE OUR ORGANIZATION'S VALUES TO GUIDE US.



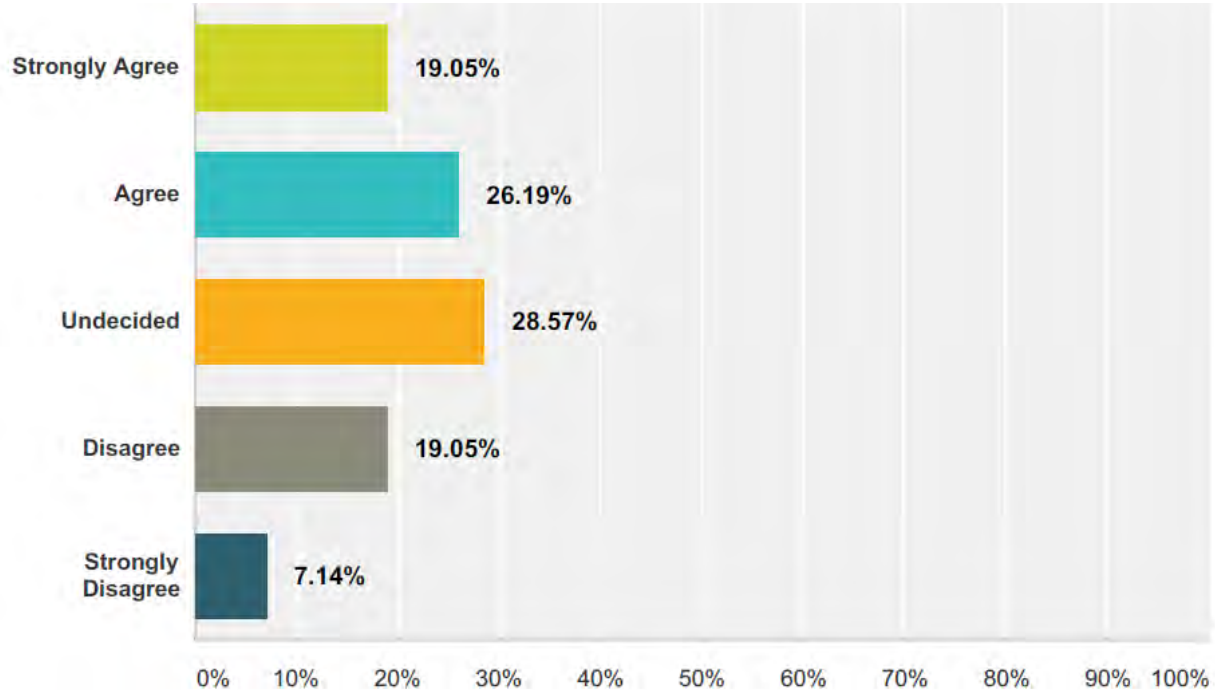
MY SENIOR LEADERS CREATE A WORK ENVIRONMENT THAT HELPS ME DO MY JOB.



MY ORGANIZATION'S LEADERS SHARE INFORMATION ABOUT THE ORGANIZATION.

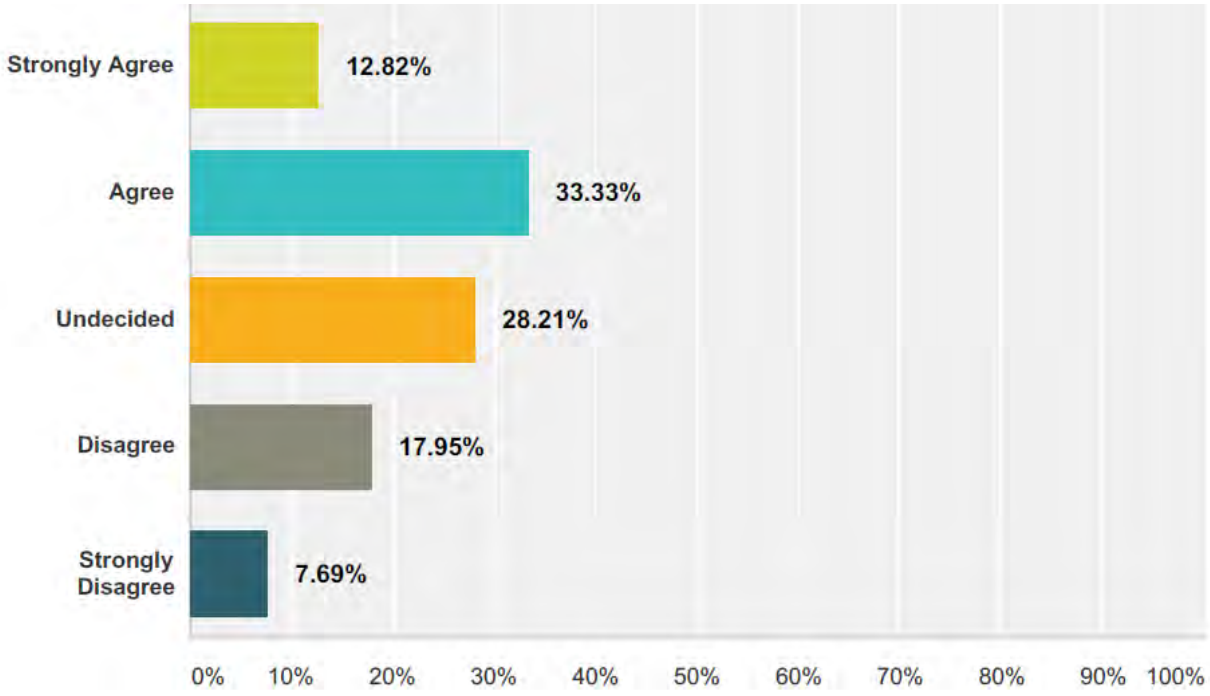


MY ORGANIZATION ASKS WHAT I THINK.

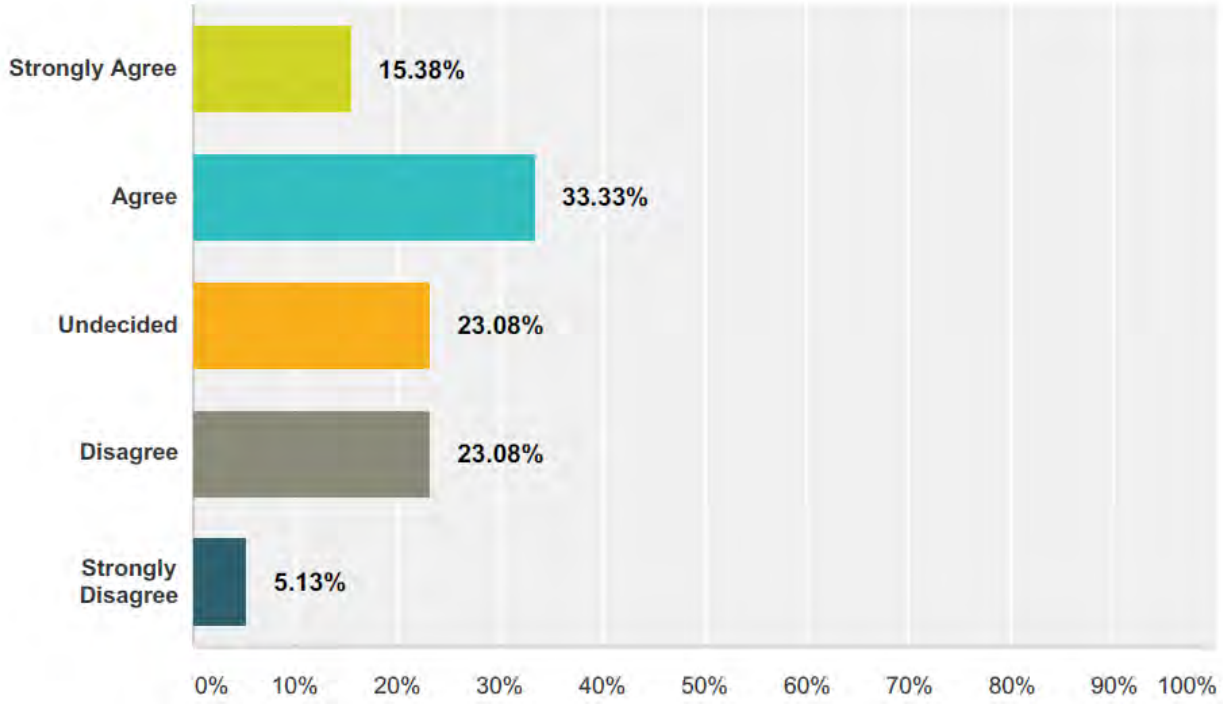


STRATEGIC PLANNING

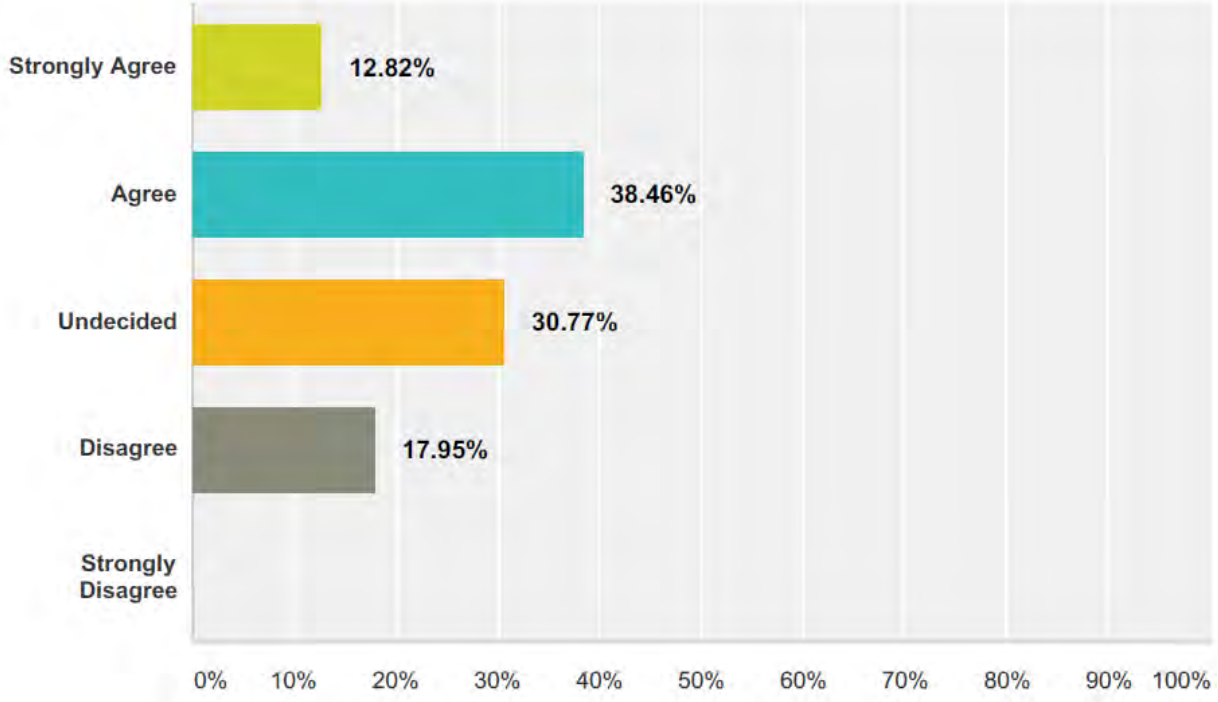
AS IT PLANS FOR THE FUTURE, MY ORGANIZATION ASKS FOR MY IDEAS.



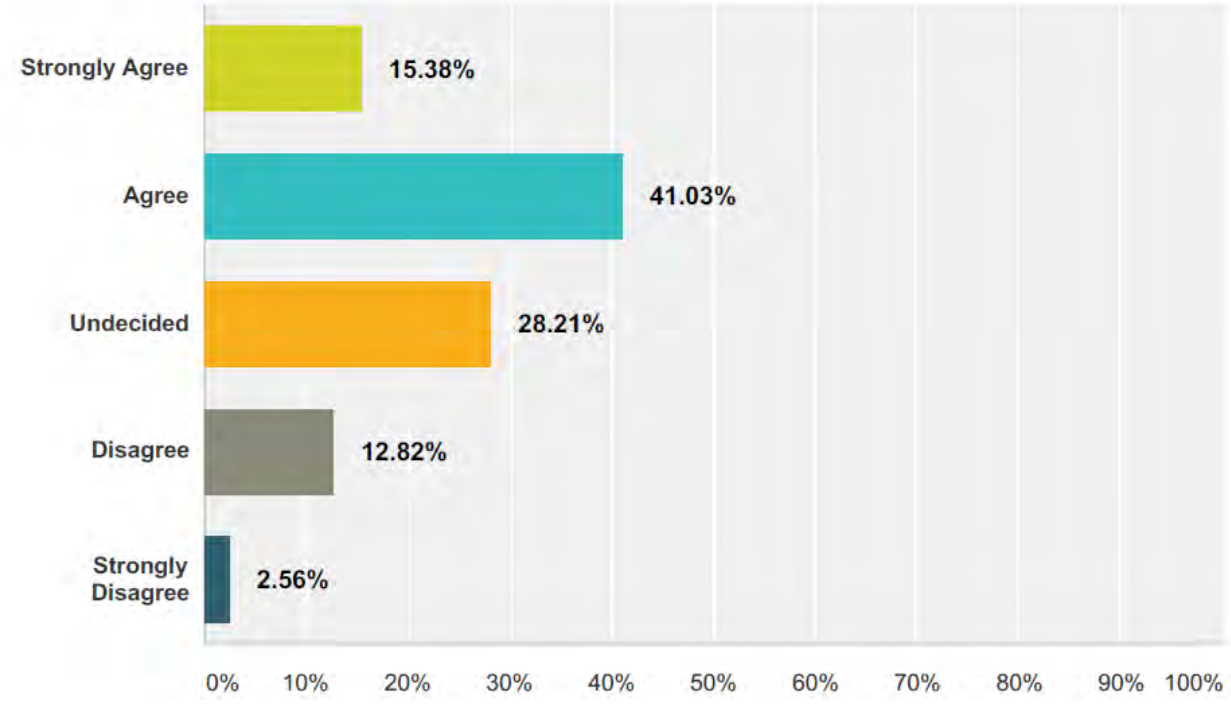
MY ORGANIZATION ENCOURAGES TOTALLY NEW IDEAS (INNOVATION).



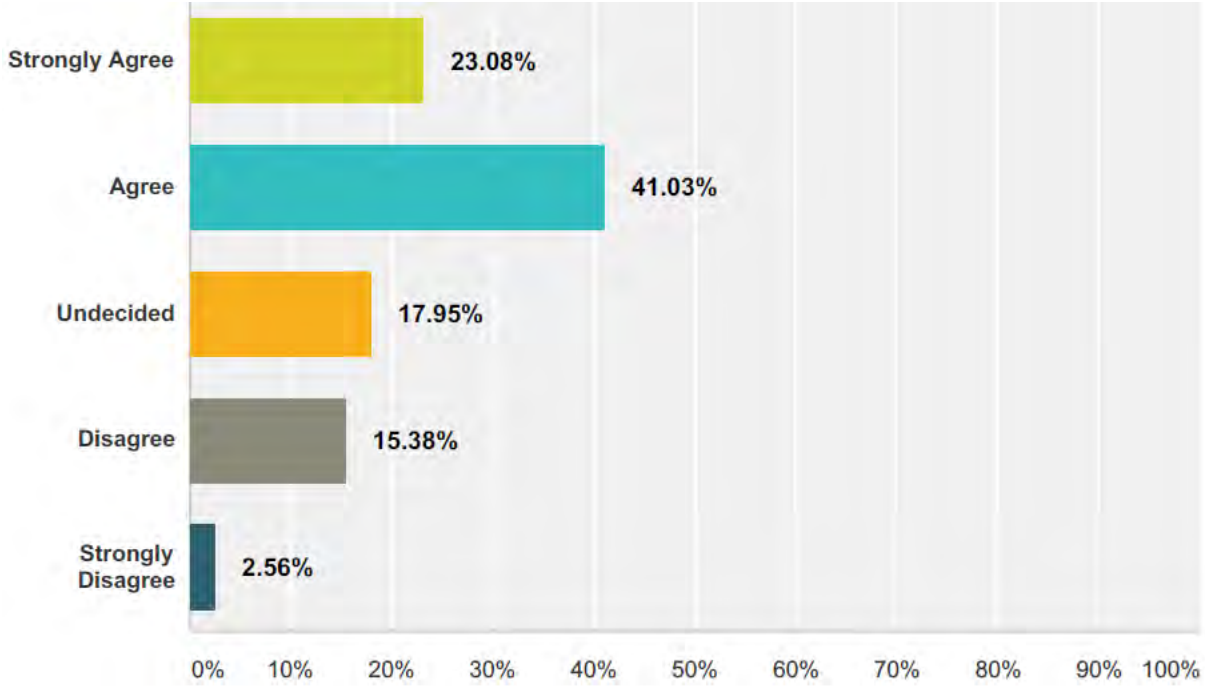
I KNOW THE PARTS OF MY ORGANIZATION'S PLANS THAT WILL AFFECT ME AND MY WORK.



I KNOW HOW TO TELL IF WE ARE MAKING PROGRESS ON MY WORK GROUP'S PART OF THE PLAN.

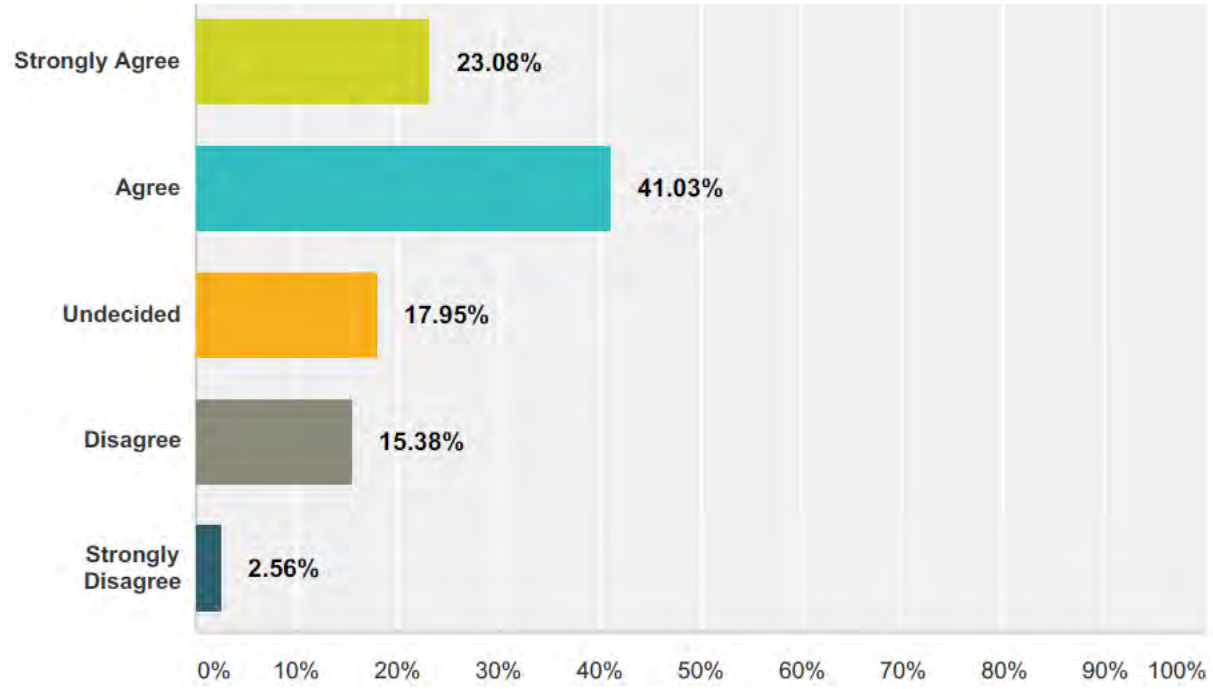


MY ORGANIZATION IS FLEXIBLE AND CAN MAKE CHANGES QUICKLY WHEN NEEDED.

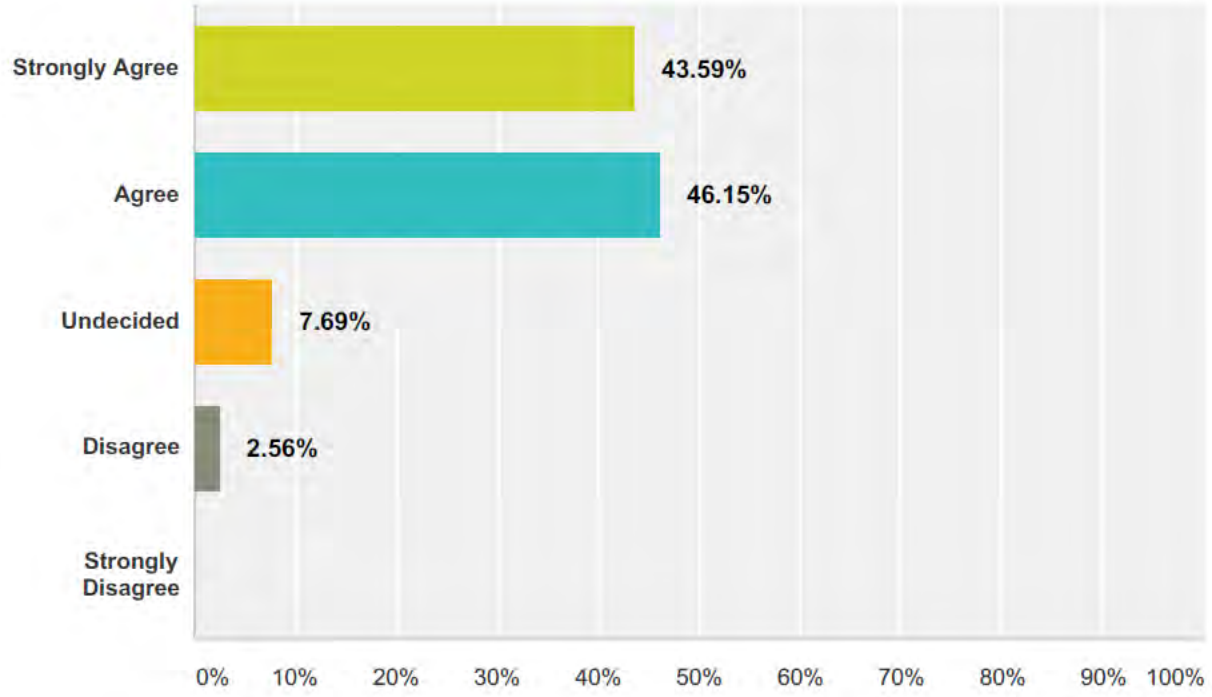


CUSTOMER AND MARKET FOCUS

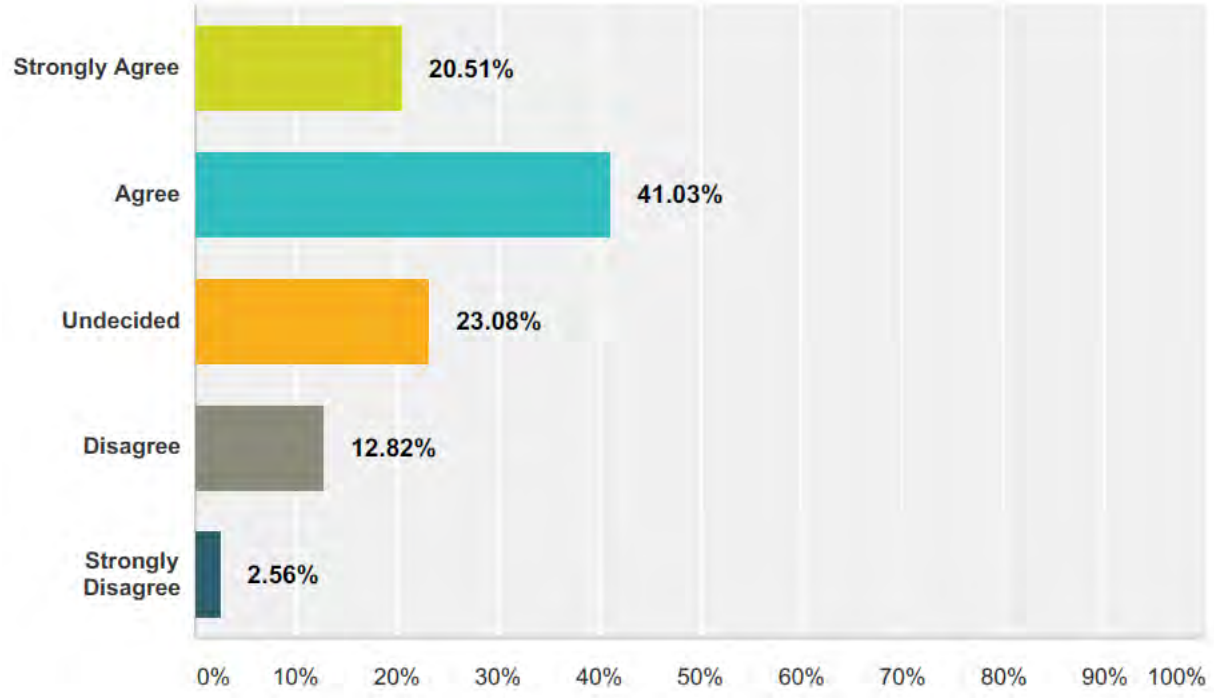
I KNOW WHO MY MOST IMPORTANT CUSTOMERS ARE.



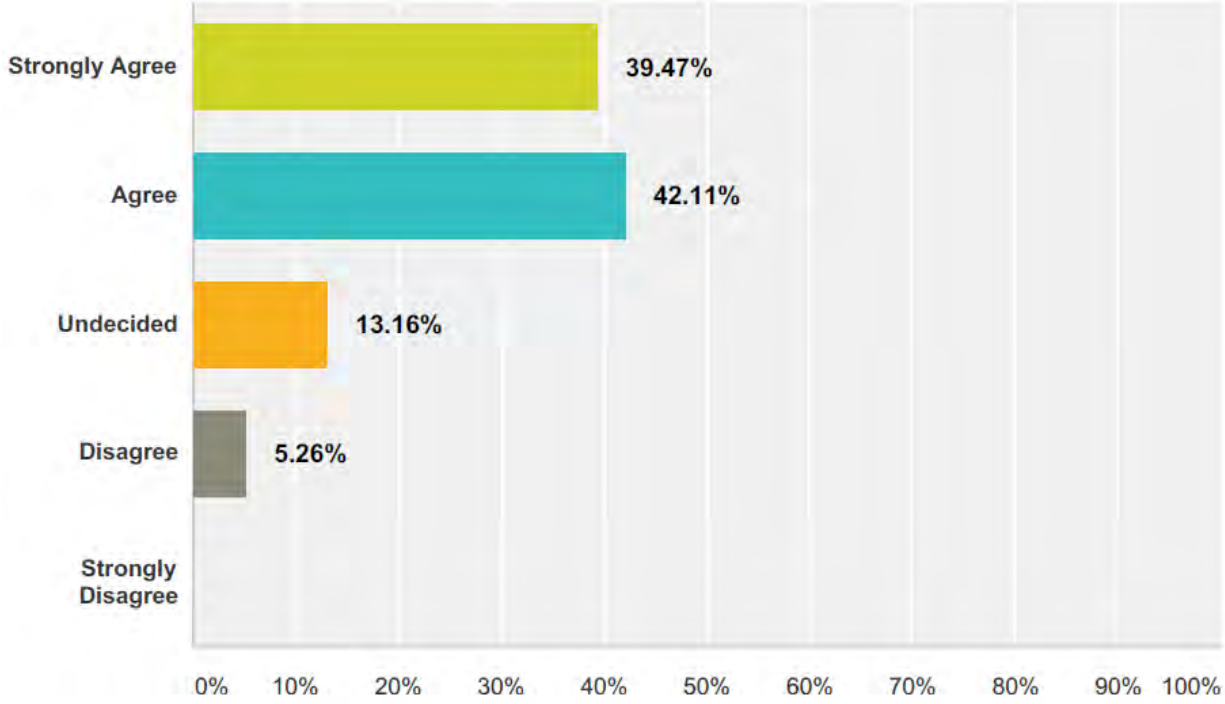
I REGULARLY ASK MY CUSTOMERS WHAT THEY NEED AND WANT.



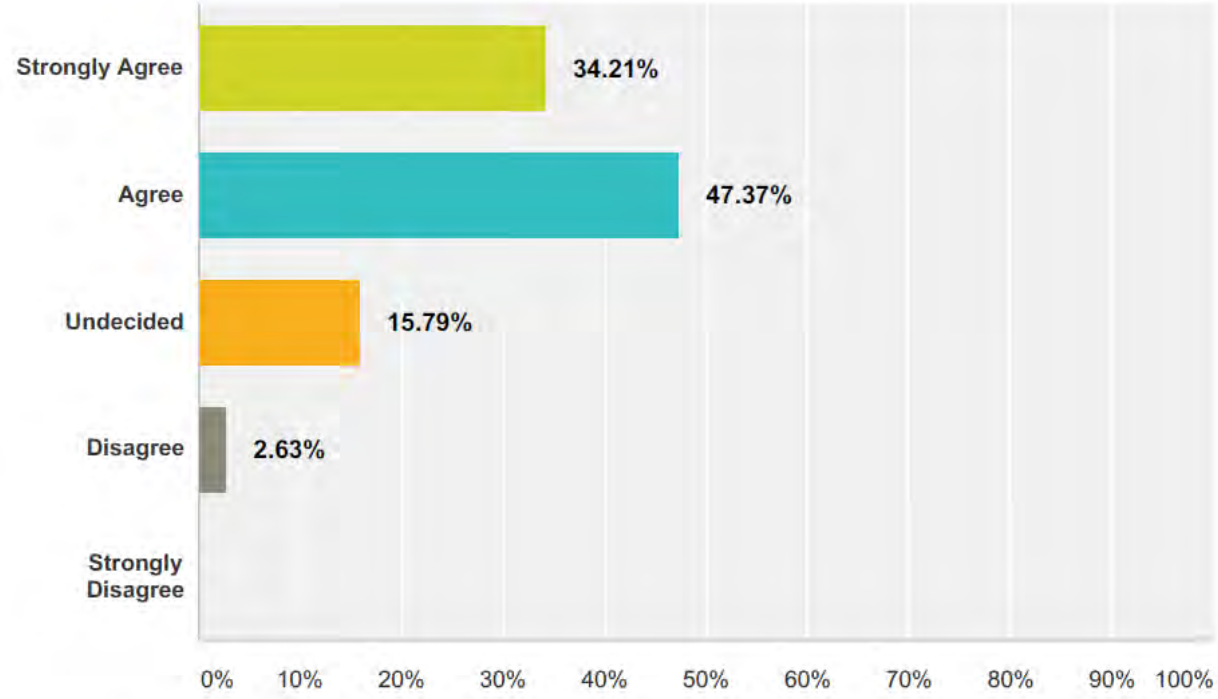
I ASK IF MY CUSTOMERS ARE SATISFIED OR DISSATISFIED WITH MY WORK.



I AM ALLOWED TO MAKE DECISIONS TO SOLVE PROBLEMS FOR MY CUSTOMERS.

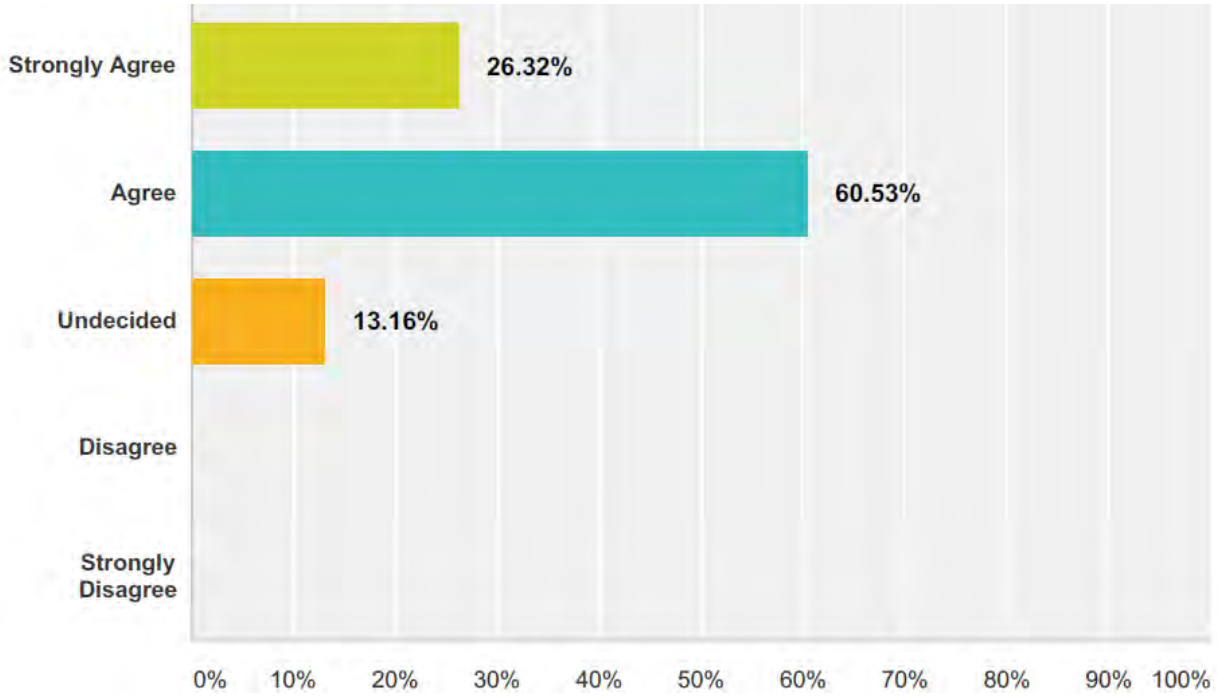


I ALSO KNOW WHO MY ORGANIZATION'S MOST IMPORTANT CUSTOMERS ARE.

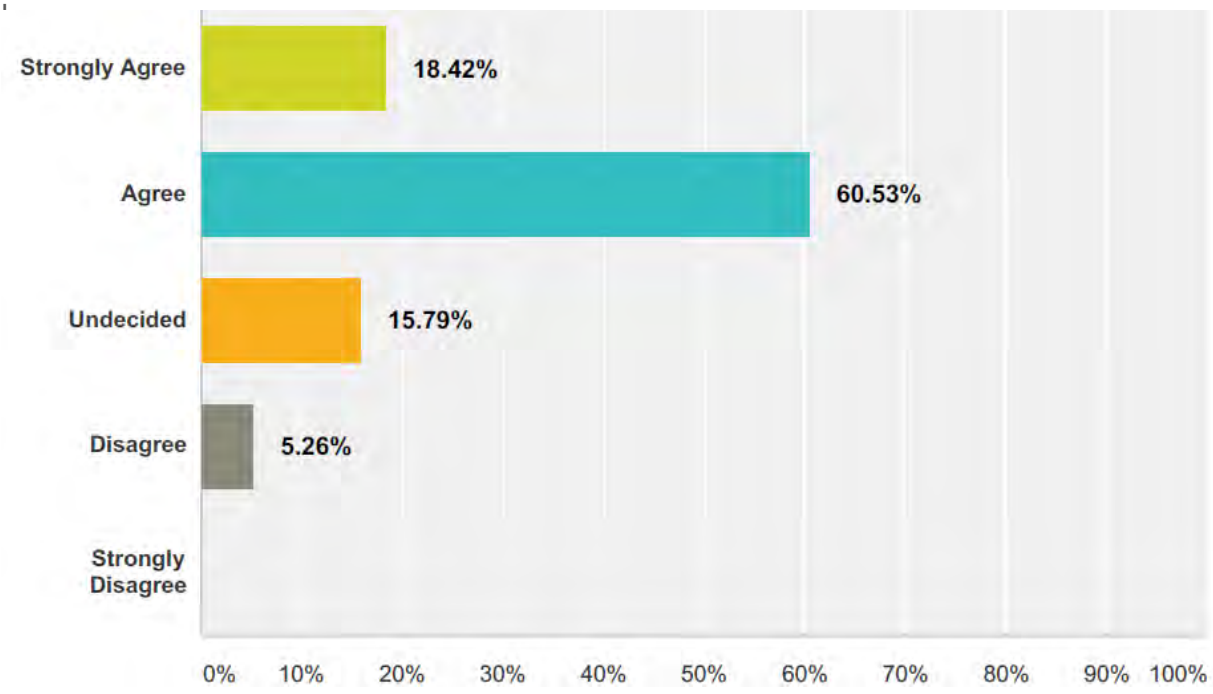


MEASUREMENT, ANALYSIS & KNOWLEDGE MANAGEMENT

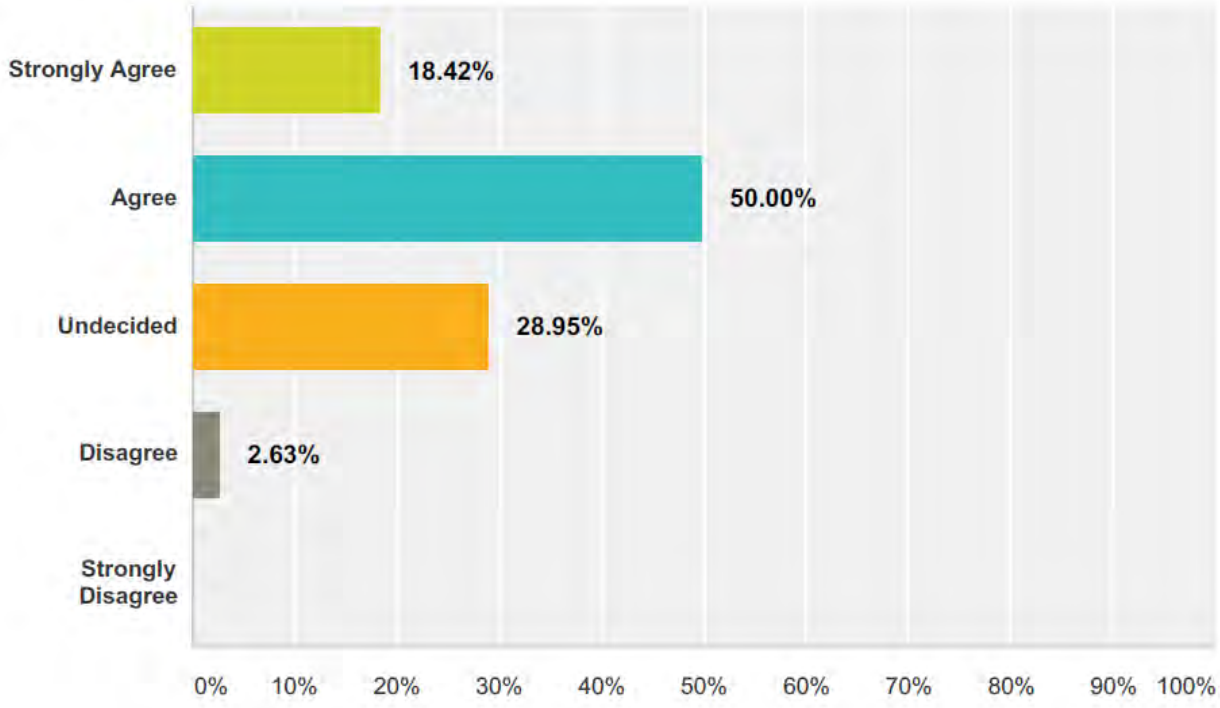
I KNOW HOW TO MEASURE THE QUALITY OF MY WORK



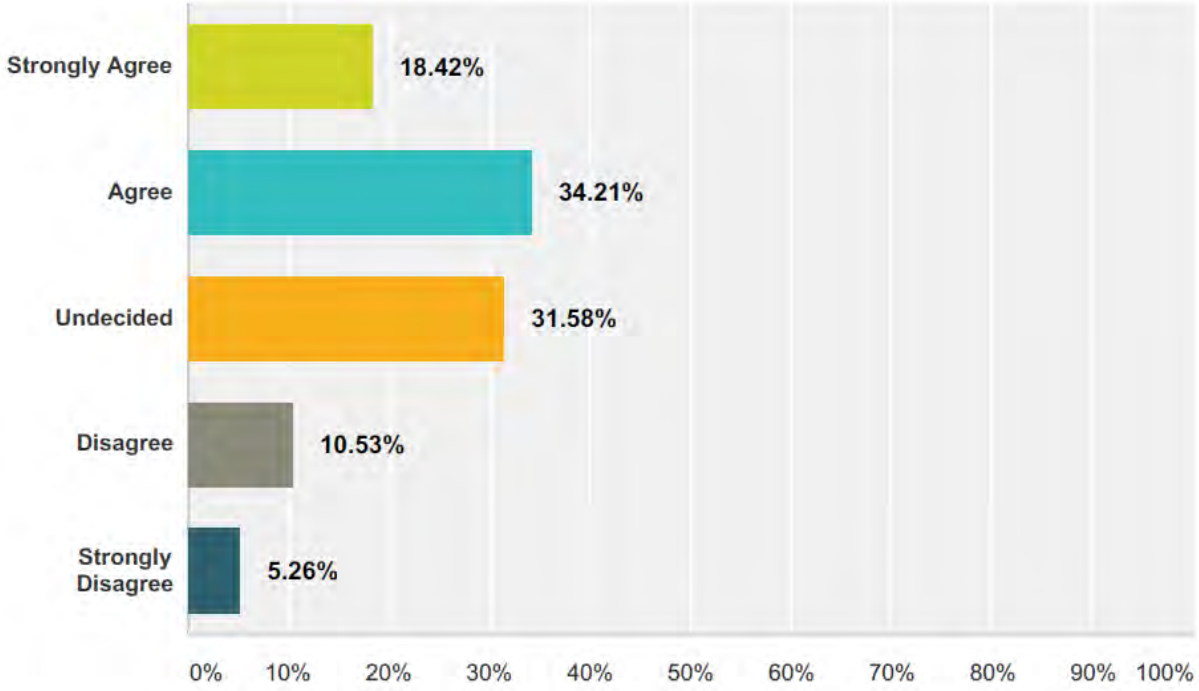
I CAN USE THIS INFORMATION TO MAKE CHANGES THAT WILL IMPROVE MY WORK.



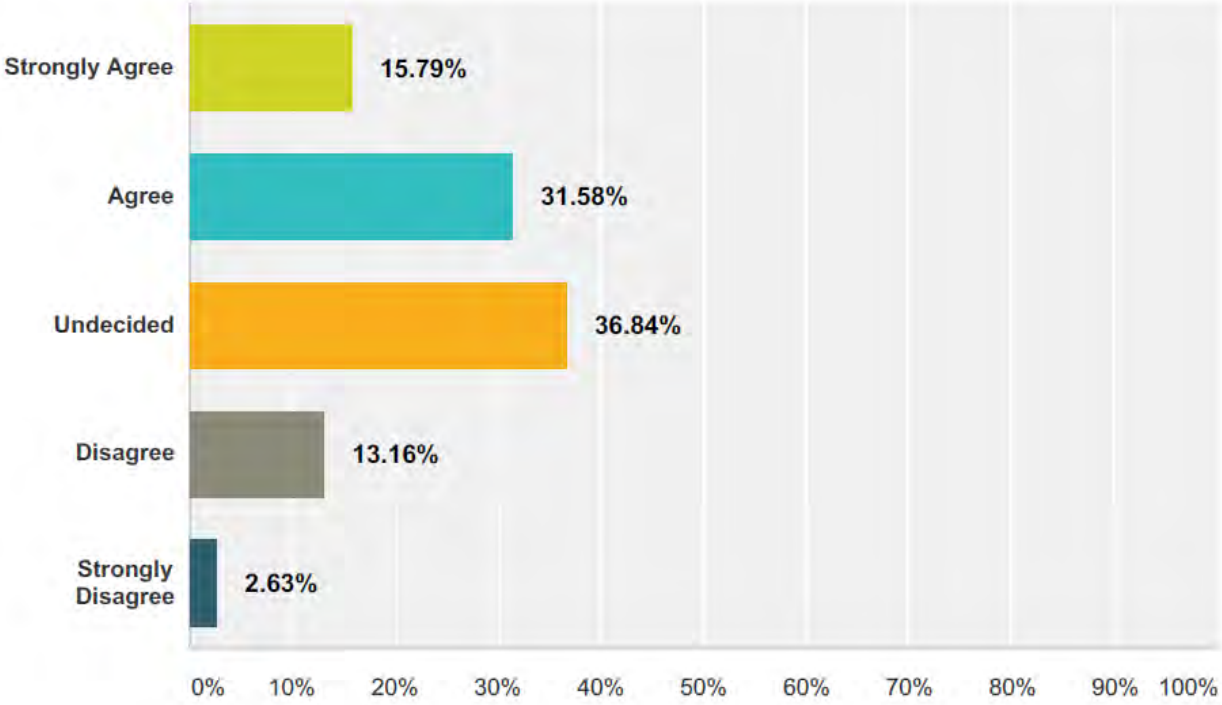
I KNOW HOW THE MEASURES I USE IN MY WORK FIT INTO THE ORGANIZATION'S OVERALL MEASURES OF IMPROVEMENT.



I GET ALL THE IMPORTANT INFORMATION I NEED TO DO MY WORK.

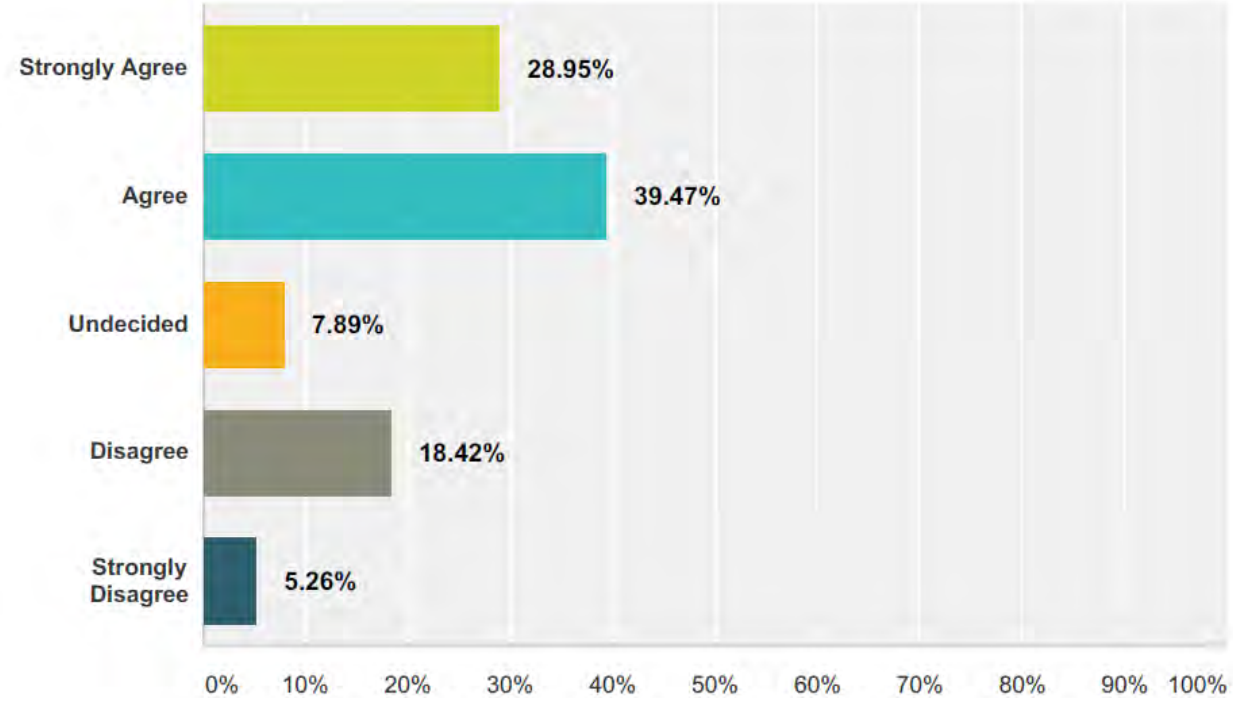


I KNOW HOW MY ORGANIZATION AS A WHOLE IS DOING.

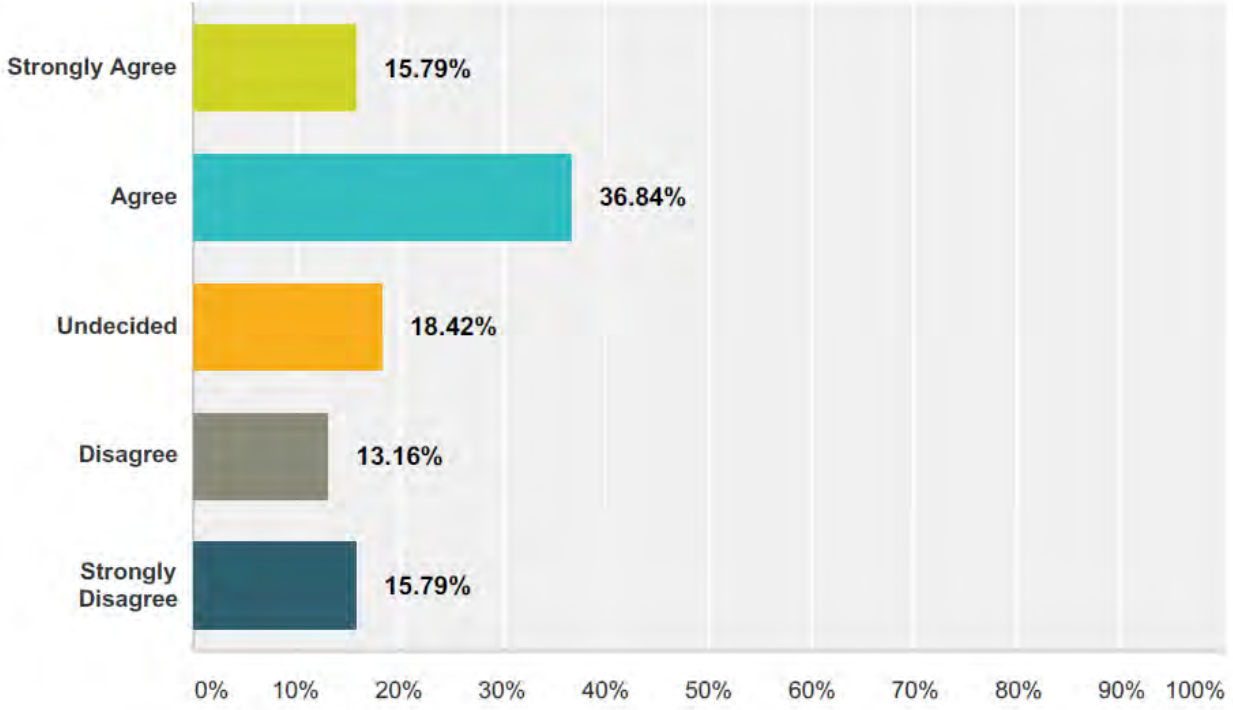


WORKFORCE FOCUS

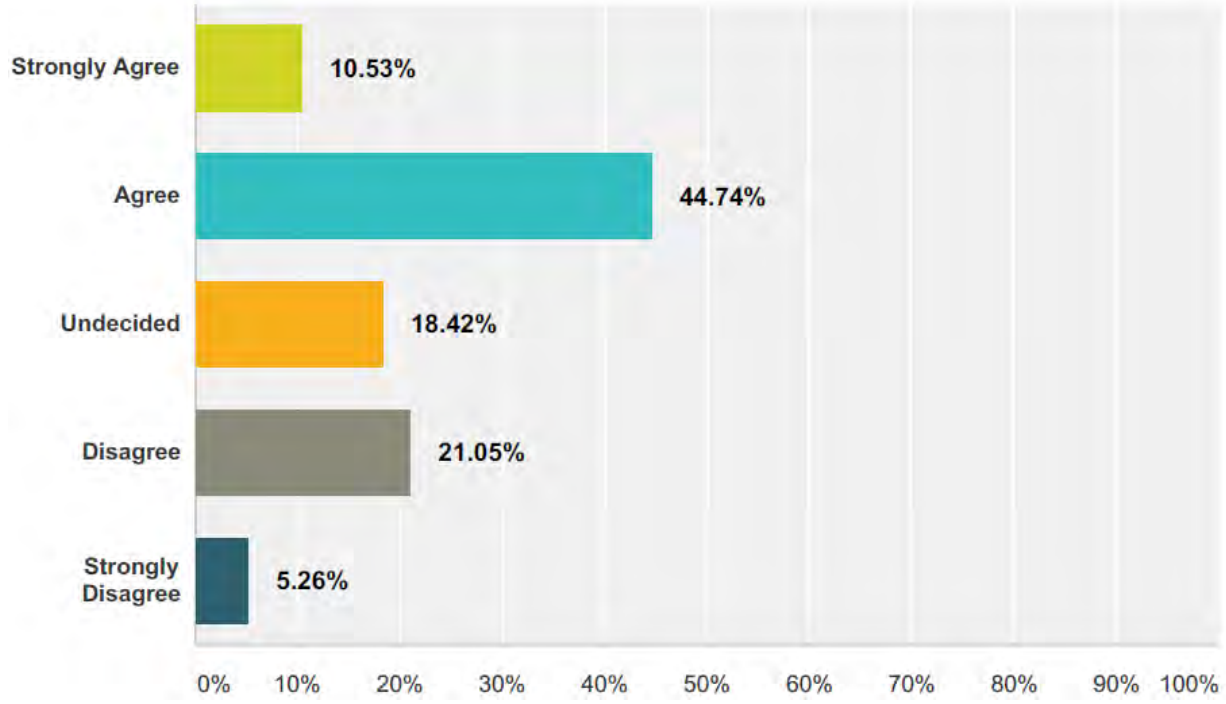
THE PEOPLE I WORK WITH COOPERATE AND WORK AS A TEAM.



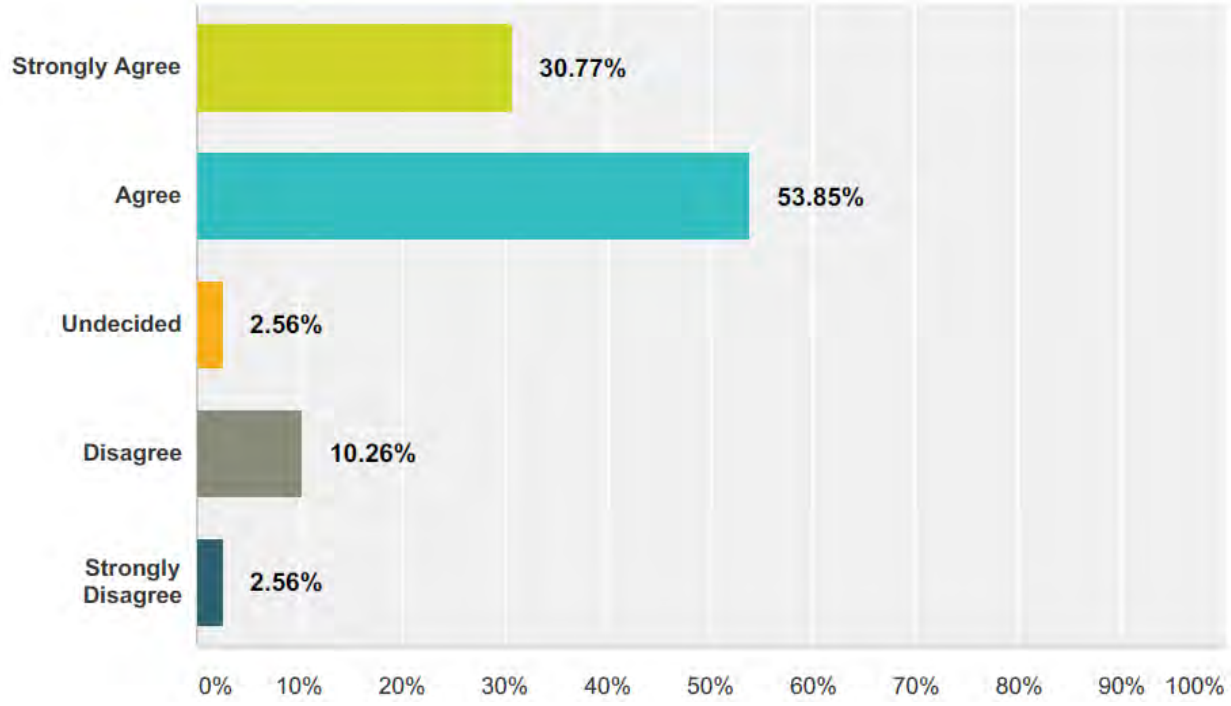
MY BOSSES ENCOURAGE ME TO DEVELOP MY JOB SKILLS SO I CAN ADVANCE IN MY CAREER.



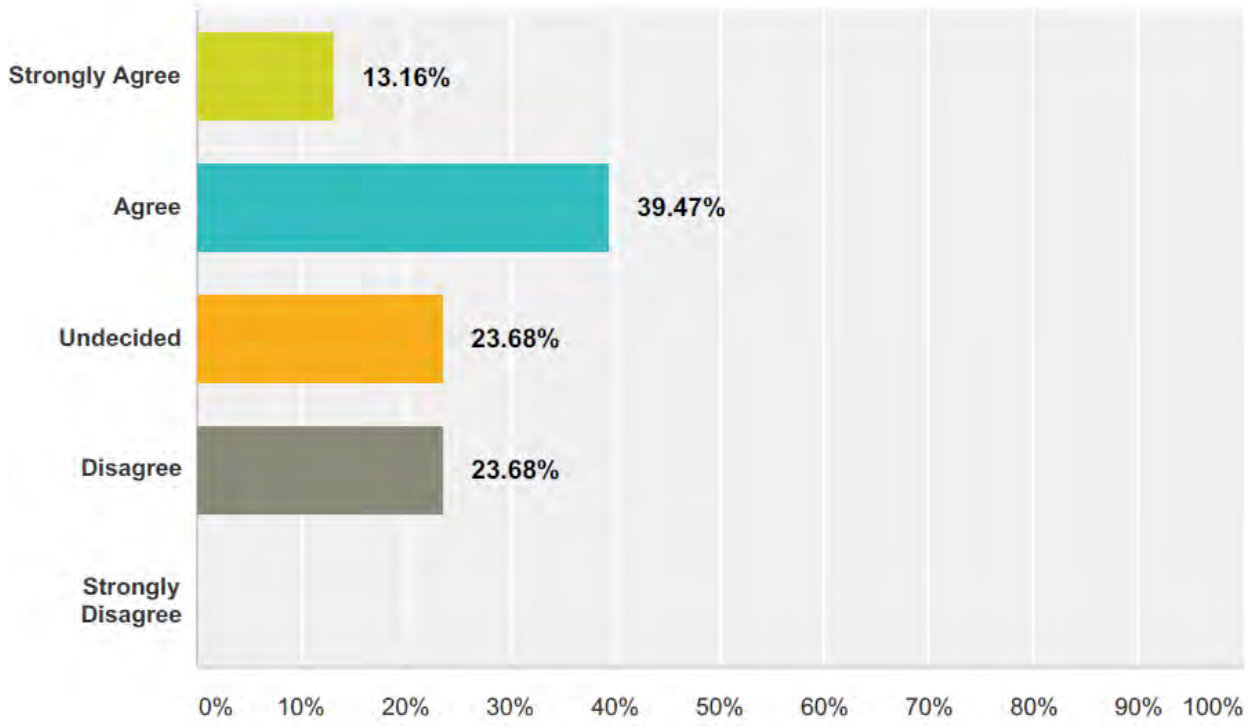
I AM RECOGNIZED FOR MY WORK.



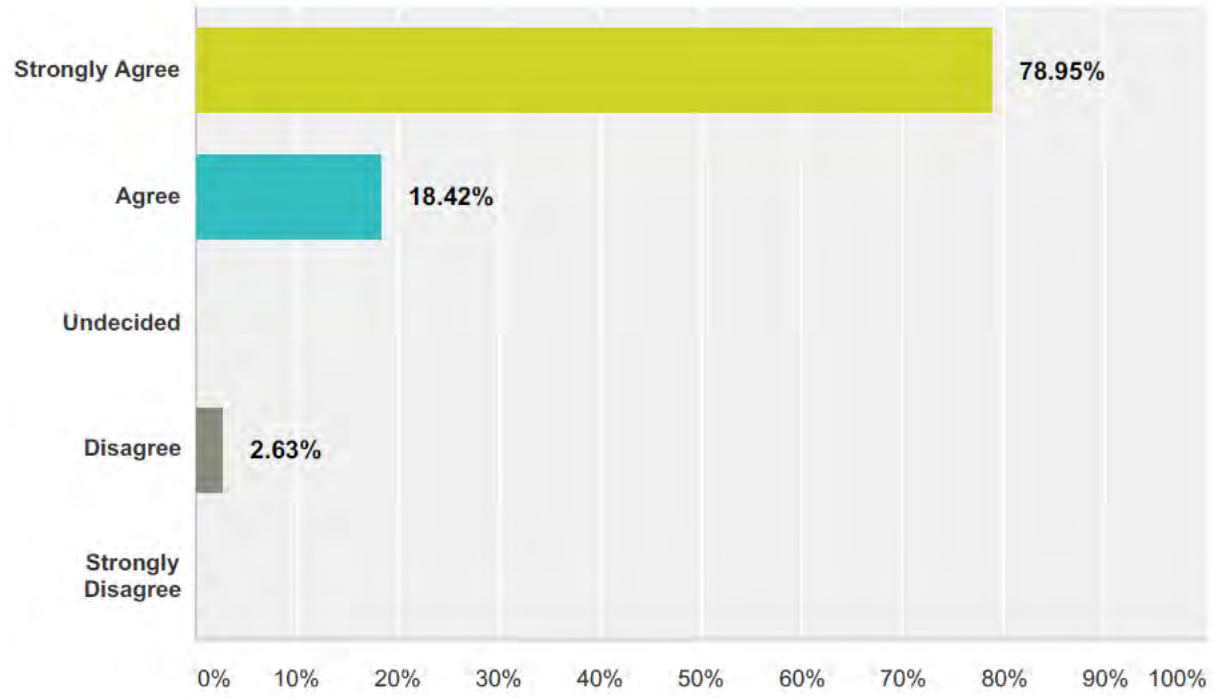
I HAVE A SAFE WORKPLACE.



MY BOSSES AND MY ORGANIZATION CARE ABOUT ME.

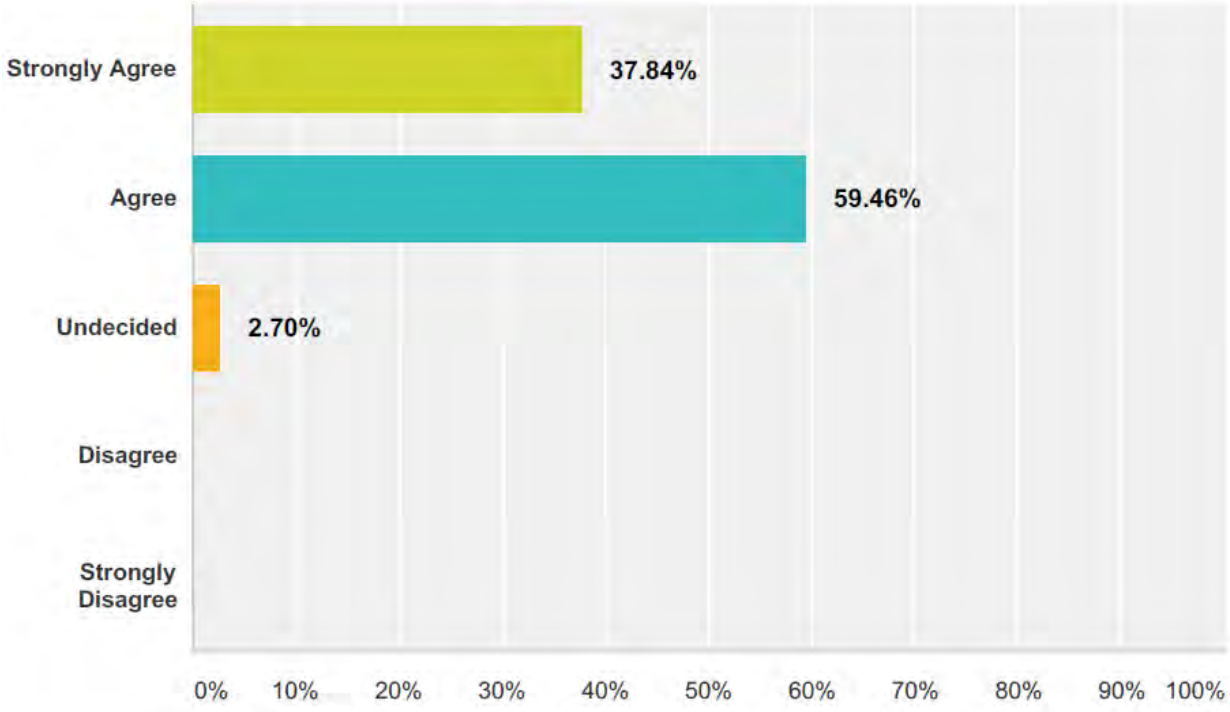


I AM COMMITTED TO MY ORGANIZATION'S SUCCESS.

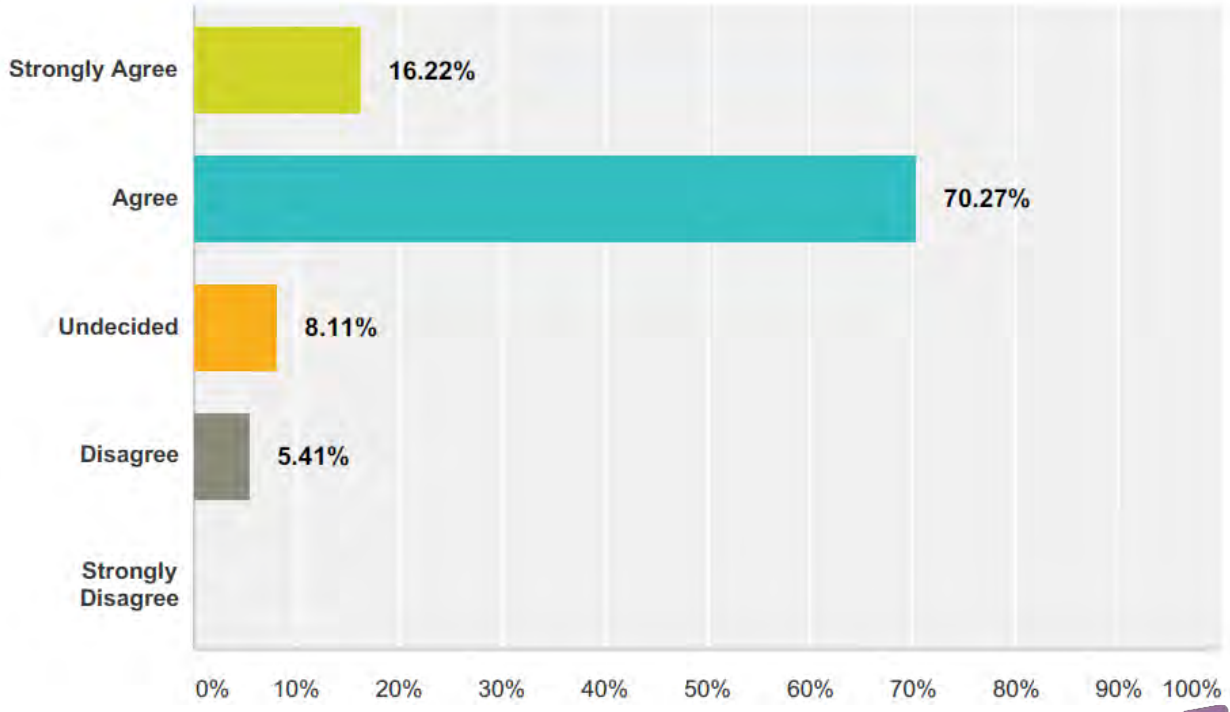


PROCESS MANAGEMENT

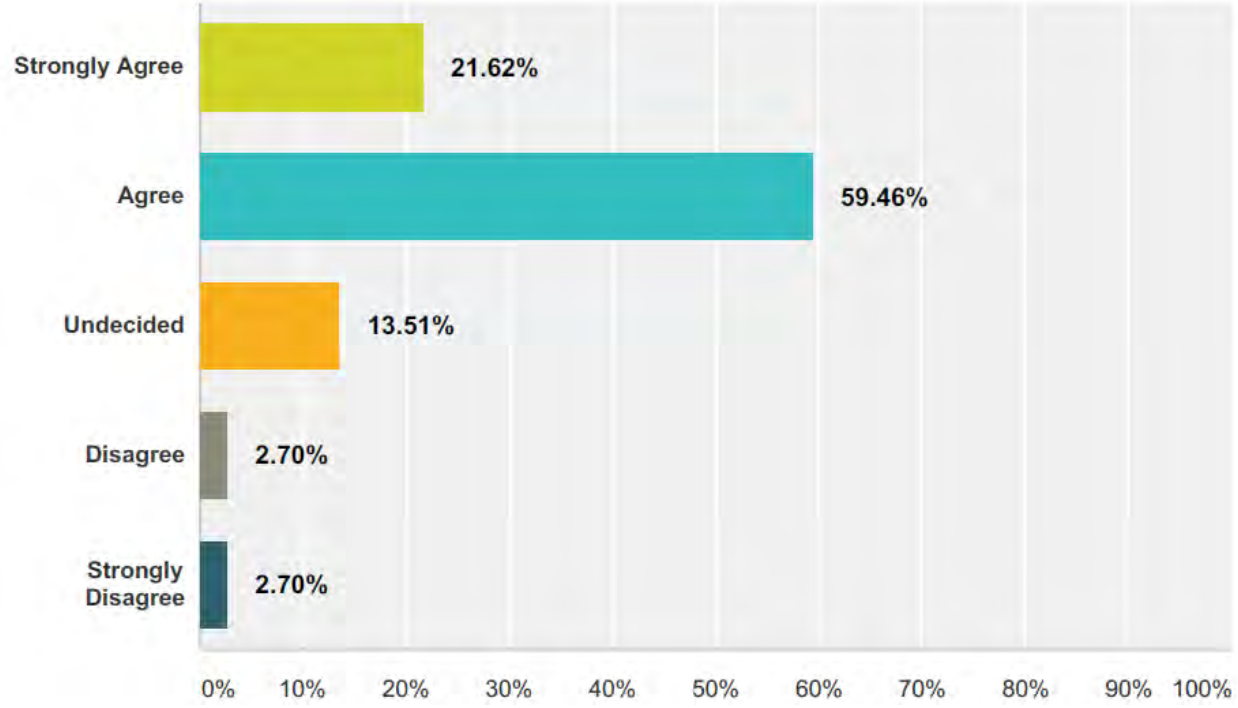
MY CUSTOMERS ARE SATISFIED WITH MY WORK.



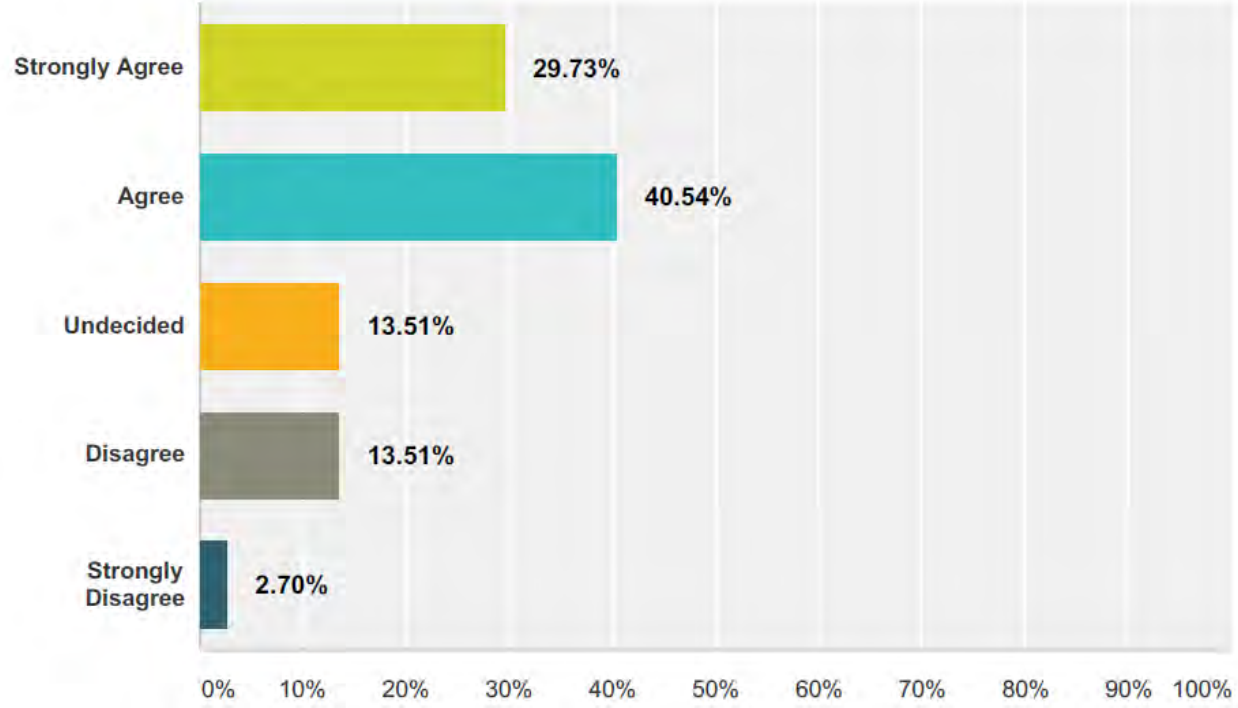
WE HAVE GOOD PROCESSES FOR DOING OUR WORK.



I HAVE CONTROL OVER MY WORK PROCESSES.

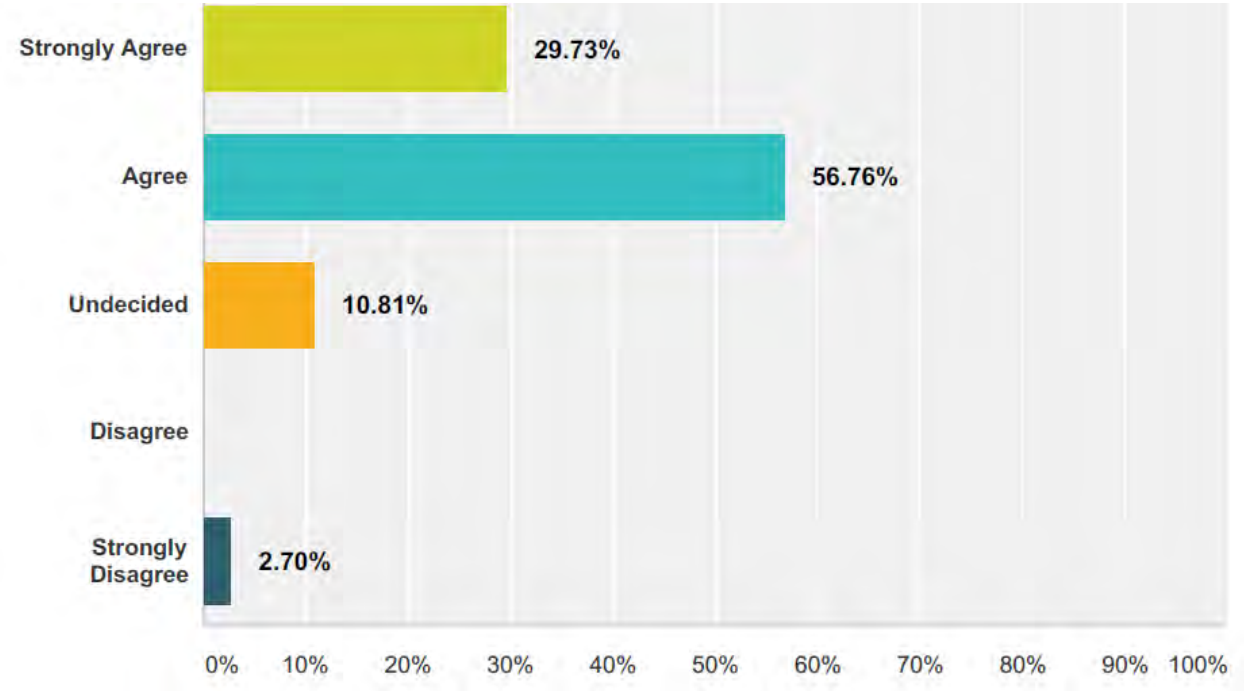


WE ARE PREPARED TO HANDLE AN EMERGENCY

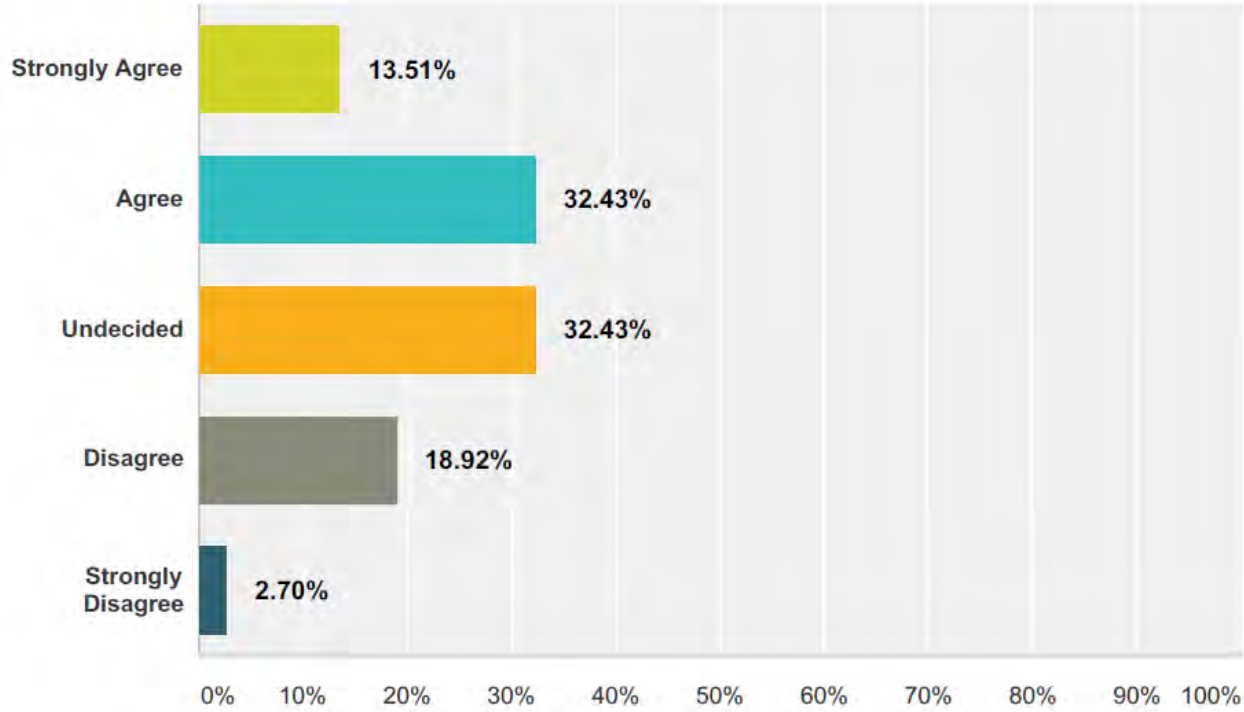


CULTURAL RESULTS

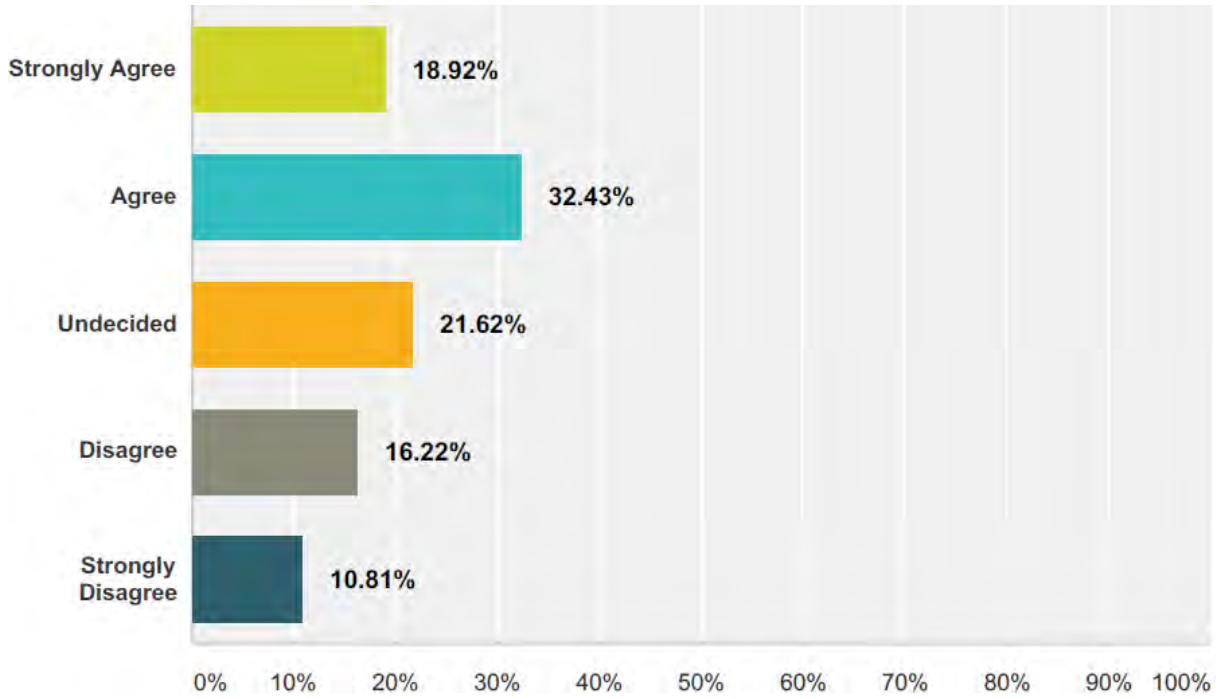
MY WORK PRODUCTS MEET ALL REQUIREMENTS.



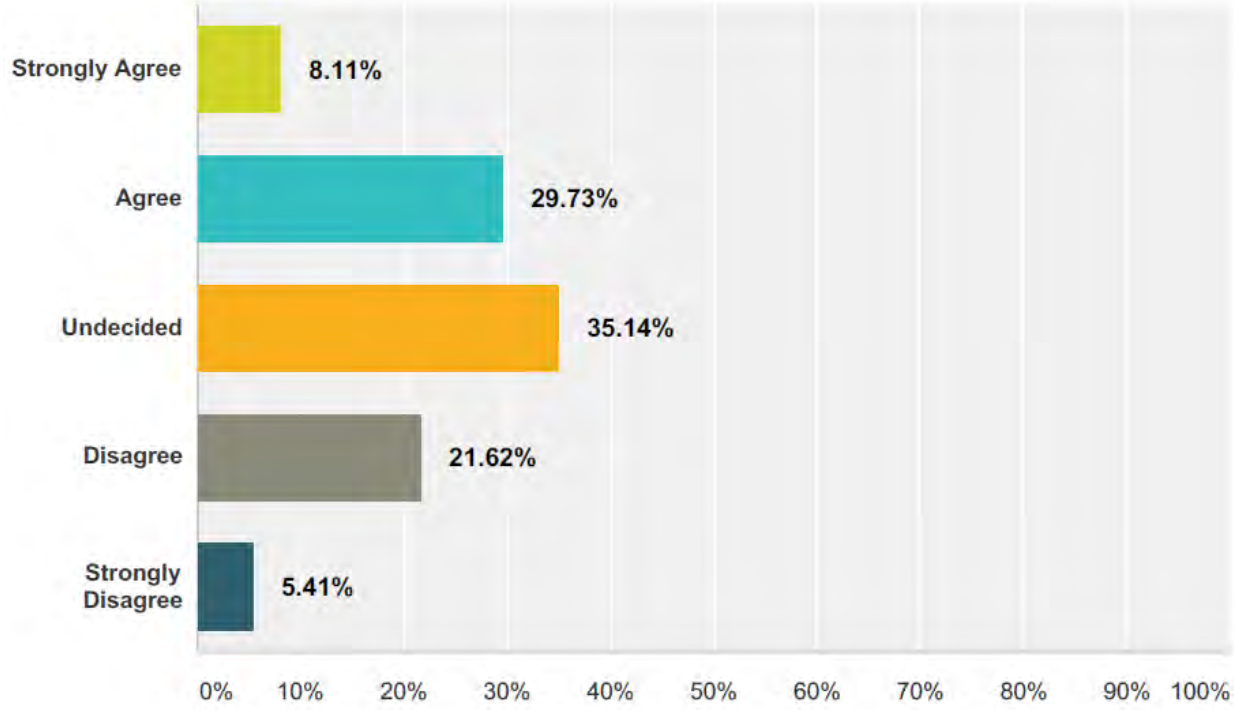
I KNOW HOW WELL MY ORGANIZATION IS DOING FINANCIALLY.



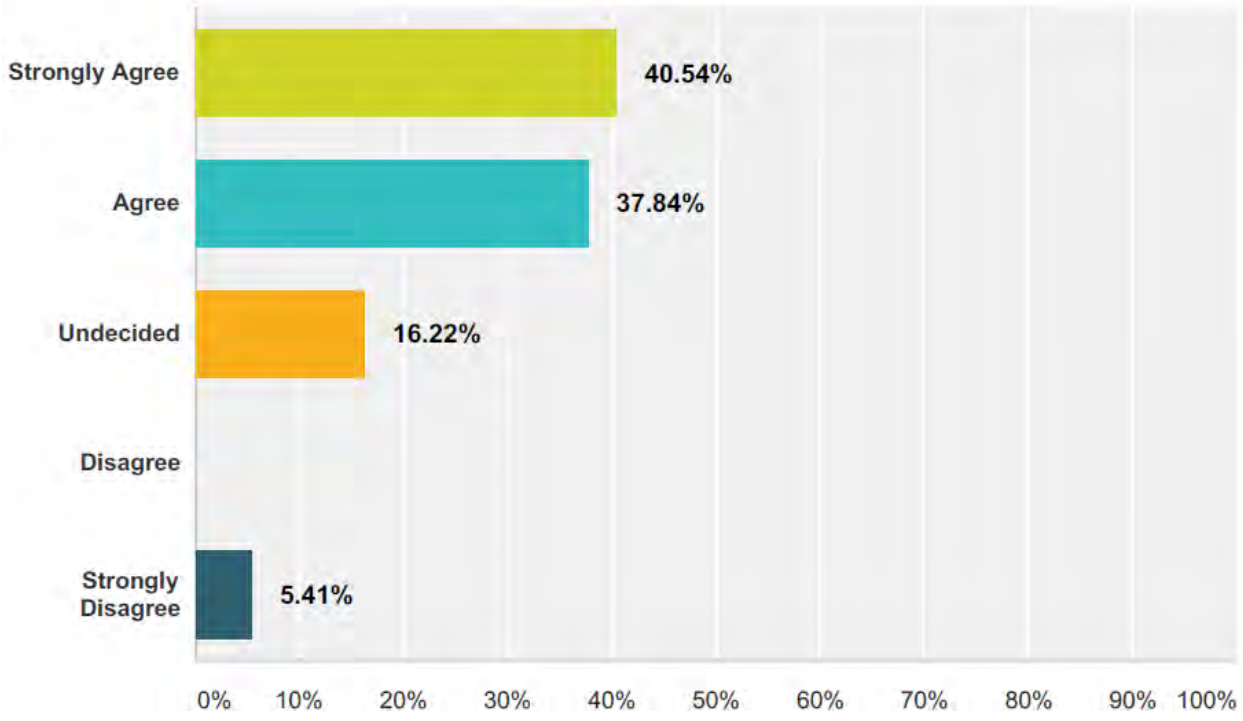
MY ORGANIZATION HAS THE RIGHT PEOPLE AND SKILLS TO DO ITS WORK



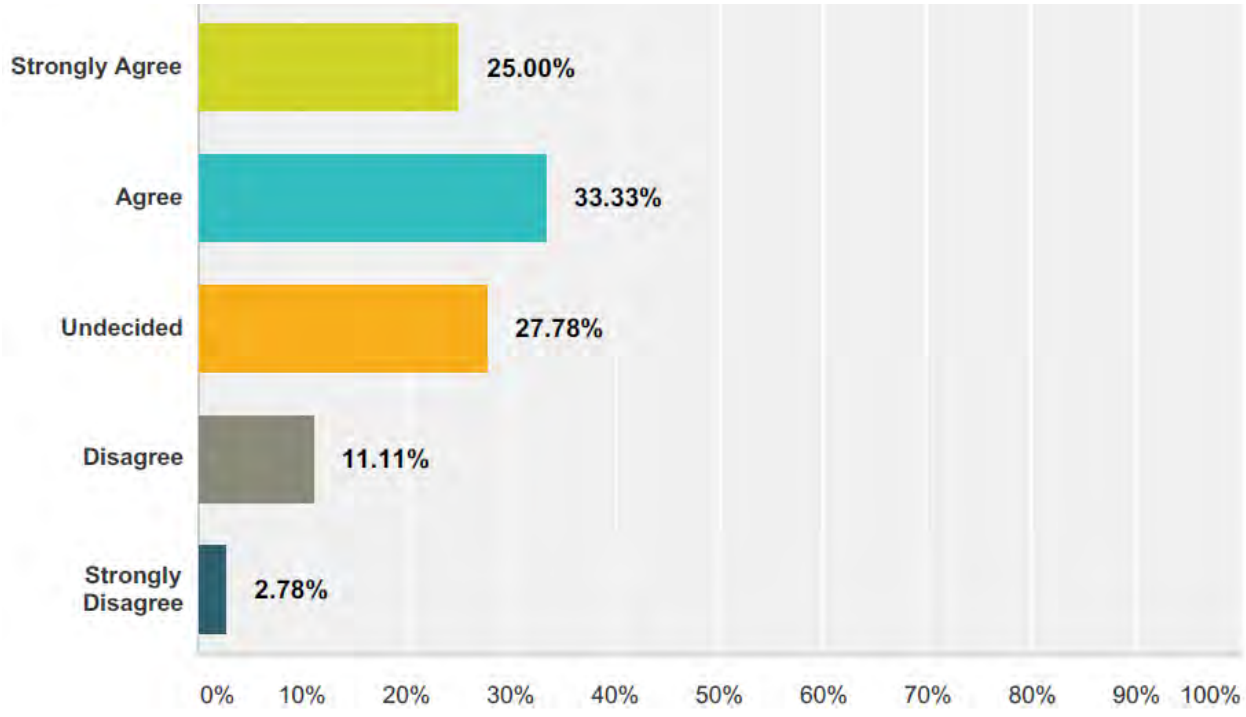
MY ORGANIZATION REMOVES THINGS THAT GET IN THE WAY OF PROGRESS.



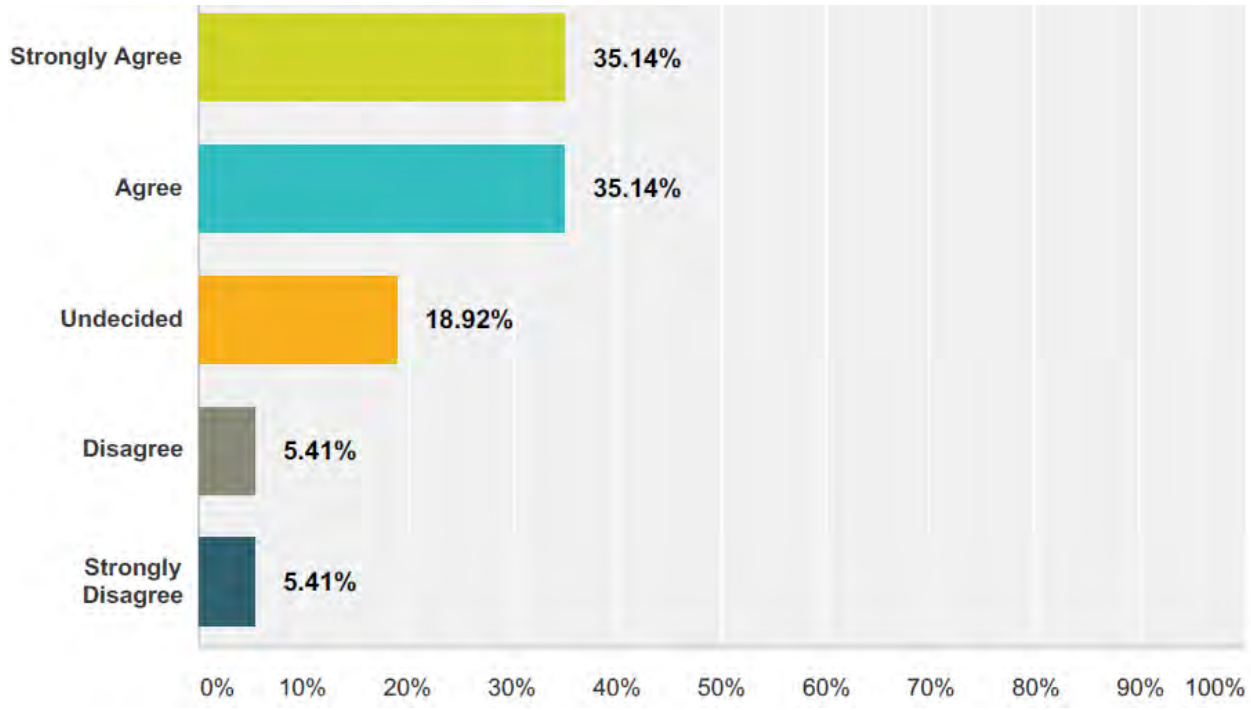
MY ORGANIZATION OBEYS LAWS AND REGULATIONS



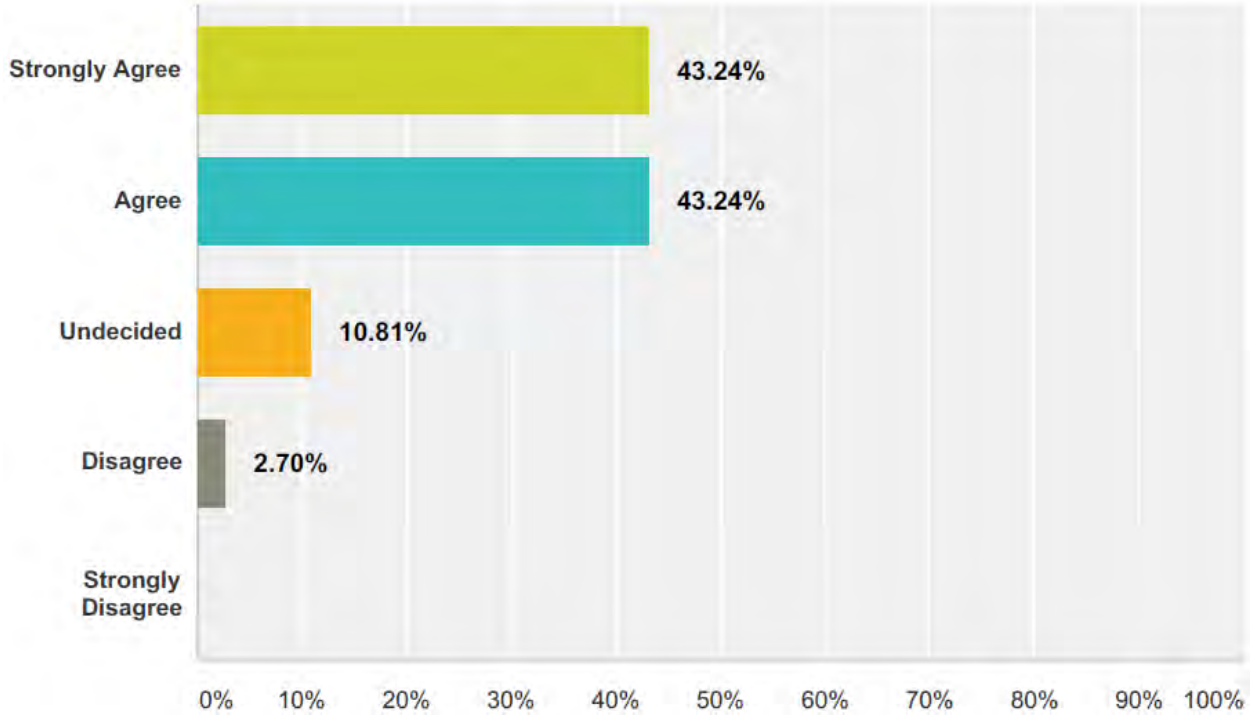
MY ORGANIZATION HAS HIGH STANDARDS AND ETHICS.



MY ORGANIZATION HELPS ME HELP MY COMMUNITY.



MY ORGANIZATION IS A GOOD PLACE TO WORK.



APPENDIX C CAPRA STANDARDS

There are a total of 144 standards which include 36 Fundamental (in bold) standards. Fundamental standards must be met clearly for the CAPRA Board to consider the Department as "CAPRA Accredited".

Accreditation Standard	Meet Standard	Does Not Meet Standard	Portions of this Plan will assist with partially meeting standard
1.0 AGENCY AUTHORITY, ROLE AND RESPONSIBILITY			
1.0 Source of Authority			
1.1.1 Public Authority			
1.1.2 Citizen Advisory Boards			
1.2 Jurisdiction			
1.3 Mission			
1.3.1 Agency Goals and Objectives			
1.3.2 Personnel Involvement			
1.4 Policies, Rules and Operational Procedures			
1.4.1 Policy Manual			
1.5 Agency Relationship			
1.5.1 Operational Coordination and Cooperation Agreements			
2.0 PLANNING			
2.1 Overall Planning Function within Agency			
2.2 Involvement in Local Planning			
2.3 Planning with Regional, State, Federal and Non-gov Agencies			
2.4 Comp Plan			
2.4.1 Trends Analysis			

2.4.2 Community Assessment			
2.4.3 Community Inventory			
2.4.4 Needs Index			
2.5 Feasibility Studies			
2.6 Strategic Plan			
2.7 Site Plans			
2.8 Historical, Cultural and Natural Resource Management Plan			
2.9 Community Involvement			
3.0 ORGANIZATION AND ADMINISTRATION			
3.1 Organization Structure			
3.1.1 Statement of Purpose for Each Organizational Component			
3.2 Administrative Policies and Procedures			
3.2.1 Administrative Offices			
3.2.2 Support Services			
3.3 Communication System			
3.4 Process for Public Information, Community Relations, Marketing			
3.4.1 Public Information Statement			
3.4.1.1 Public Information and Community Relations Responsibility			
3.4.2 Community Relations Plan			
3.4.3 Marketing Plan			
3.4.3.1 Marketing Position Responsibility			

3.5 Management Information Systems			
3.5.1 Application of Technology			
3.6 Records Management Policy and Procedure			
3.6.1 Records Disaster Mitigation and Recovery			
4.0 HUMAN RESOURCES			
4.1 Personnel Policies and Procedures Manual			
4.1.1 Code of Ethics			
4.1.2 Recruitment Process			
4.1.3 Equal Employment Opportunity and Workforce Diversity			
4.1.4 Selection Process			
4.1.5 Background Investigation			
4.1.6 Employee Benefits			
4.1.7 Supervision			
4.1.8 Compensation			
4.1.9 Performance Evaluation			
4.1.10 Promotion			
4.1.11 Disciplinary System			
4.1.12 Grievance Procedures			
4.1.13 Termination and End of Employment			
4.2 Staff Qualifications			
4.3 Job Analysis and Job Description			
4.4 Chief Administrator			
4.5 Physical Examination			

4.5.1 Workforce Health and Wellness			
4.6 Orientation Program			
4.6.1 In-Service Training Function			
4.6.2 Employee Development			
4.6.3 Succession Planning			
4.6.4 Professional Organization Membership			
4.7 Volunteer Management			
4.7.1 Utilization of Volunteers			
4.7.2 Recruitment, Selection, Orientation, Training, and Retention			
4.7.3 Supervision and Evaluation			
4.7.4 Recognition			
4.7.5 Liability Coverage			
4.8 Consultants and Contract Employees			
5.0 FINANCIAL MANAGEMENT			
5.1 Fiscal Policy			
5.1.1 Fees and Charges			
5.1.2 Acceptance of Gifts and Donations			
5.1.3 Government Grants			
5.1.4 Private, Corporate, and Non Profit Support			
5.2 Fiscal Management Procedures			
5.2.1 Authority and Responsibility for Financial Management			
5.2.2 Purchasing Procedures			

5.2.2.1 Emergency Purchase Procedures			
5.3 Accounting System			
5.3.1 Financial Status Reports			
5.3.2 Position Authorization			
5.3.3 Fiscal Control and Monitoring			
5.3.4 Independent Audit			
5.4 Annual Budget			
5.4.1 Budget Development Participation			
5.4.2 Budget Recommendations			
5.5 Budget Control			
5.5.1Supplemental/Emergency Appropriations			
5.5.2 Inventory and Fixed Assets Control			
6.0 PROGRAMS AND SERVICES MANAGEMENT			
6.1 Recreation Program Plan			
6.1.1 Program and Service Determinants			
6.1.2 Participant Involvement			
6.1.3 Self-Directed Programs and Services			
6.1.4 Leader-Directed Programs and Services			
6.1.5 Facilitated Programs and Services			
6.1.6 Fee Based Programs and Services			
6.1.7 Cooperative Programming			
6.2 Objectives			

6.3 Program Evaluation			
6.4 Outreach to Underserved Populations			
6.5 Scope of Program Opportunities			
6.6 Selection of Program Content			
6.7 Community Education for Leisure			
6.8 Program and Service Statistics			
7.0 FACILITY AND LAND USE MANAGEMENT			
7.1 Acquisition of Park and Recreation Lands			
7.2 Development of Areas and Facilities			
7.3 Defense against encroachment			
7.4 Disposal of Lands			
7.5 Maintenance and Operations Management Plan			
7.5.1 Facility Legal Requirements			
7.5.2 Preventive Maintenance Plan			
7.5.3 Recycling			
7.6 Fleet Management Plan			
7.7 Agency Owned Equipment and Property			
7.8 Natural Resource Management and Environmental Stewardship			
7.9 Environmental Sustainability			

7.10 Maintenance Personnel Assignment			
7.11 Capital Asset Depreciation and Replacement			
8.0 PUBLIC SAFETY, LAW ENFORCEMENT AND SECURITY			
8.1 Laws and Ordinances			
8.2 Authority to Enforce Laws by Law Enforcement Officers			
8.3 Law Enforcement Officer Training			
8.4 Public Safety and Law Enforcement Role of Agency Staff			
8.4.1 Staff Liaison to Law Enforcement Officers			
8.4.2 Public Safety and Law Enforcement In-Service Training for Staff			
8.4.3 Handling of Disruptive Behavior			
8.4.4. Traffic Control, Parking Plans, and Crowd Control			
8.4.5 Handling of Evidentiary Items			
8.5 General Security Plan			
8.6 Emergency Management Plan			
8.6.1 In-Service Training for Agency Staff			
9.0 RISK MANAGEMENT			
9.1 Risk Management Plan			
9.1.1 Statement of Policy			
9.1.2 Risk Management Operations Manual			

9.1.2.1 Accident and Incident Reports			
9.1.3 Personnel Involvement and Training			
9.2 Risk Manager			
10.0 EVALUATION AND RESEARCH			
10.1 Evaluation Analysis			
10.1.1 Position Responsibility for Evaluation			
10.2 Experimental and Demonstration Projects			
10.3 Staff Training for the Evaluation of Programs, Services, Areas and Facilities			
10.4 Quality Assurance			

AGENDA ITEM C-12

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Set Public Hearing for March 16, 2016, to Consider Adopting a Resolution Approving the 2016-17 Draft Annual Action Plan and the Amendment of the 2015-16 Annual Action Plan

MEETING DATE: March 2, 2015

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Set a public hearing for March 16, 2016 to consider adopting a Resolution approving the 2016-17 Draft Action Plan and the amendment of the 2015-16 Annual Action Plan.

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

The Action Plan is the annual implementing document for the 2014-2018 Consolidated Plan 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
The City will receive $613,959 in CDBG funds for the 2016-17 program year, an increase of $554 over the 2015-16 allocation. The City Council has a policy of allocating 40 percent of the annual CDBG award (net of administrative costs) to community-based organizations (CBOs), with the remainder going to City projects. There is a 15 percent Public Service Cap on the overall annual allocation.

The distribution of funds will be as follows:

City projects	$294,701
CBO projects	$196,467
Administration	$122,791 *(20% of the Annual allocation)*
TOTAL	**$613,959**
15% Service Cap	$92,093.00

Reallocation
The public hearing will also allow for the amendment of the 2015-16 Annual Action Plan to accommodate the reallocation of funding from projects that have either been completed, will not be able to use the funds in a timely fashion, or have decided not to use CDBG funding. We are still calculating available funding amounts from those projects.

APPROVED: _____
Stephen Schwabauer, City Manager

Next Steps
Upon completion of the initial public hearing, the Draft Annual Action Plan will be available for public review and comment and will be brought back for final approval on May 4, 2016. The adopted Annual Action Plan document must be submitted to HUD no later than May 15, 2016 in order to receive funding beginning July 1, 2016.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

_____
Stephen Schwabauer
Community Development Director

SS/jw

AGENDA ITEM H-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Appointments to the Site Plan and Architectural Review Committee

MEETING DATE: March 2, 2016

PREPARED BY: City Clerk

RECOMMENDED ACTION: Concur with the Mayor's recommended appointments to the Site Plan and Architectural Review Committee.

BACKGROUND INFORMATION: On December 16, 2015, the City Council directed the City Clerk to post for two expiring terms on the Site Plan and Architectural Review Committee. The Mayor reviewed the applications, conducted interviews, and recommends that the City Council concur with the following appointments.

Site Plan and Architectural Review Committee

Roger Stafford	Term to expire January 1, 2020
Gary Yocum	Term to expire January 1, 2020

NOTE: Four applicants (one application seeking reappointment, one application on file, two new applications); posting ordered 12/16/15; application deadline – 1/25/16.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

Jennifer M. Ferraiolo
City Clerk

JMF/PMF

APPROVED: _____
Stephen Schwabauer, City Manager

N:\Administration\CLERK\Council\COUNCOM\Appointment_Various.doc

AGENDA ITEM I-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving Fiscal Year 2015/16 Mid-year Budget Adjustments

MEETING DATE: March 2, 2016

PREPARED BY: Deputy City Manager

RECOMMENDED ACTION: Adopt resolution approving Fiscal Year 2015/16 mid-year budget adjustments.

BACKGROUND INFORMATION: Staff is recommending that Council approve the addition of one Electric Utility Rate Analyst position for the Electric Utility and consider approving the addition of one Customer Service Representative in the Internal Services Department. Additionally, staff is recommending adjusting appropriations within the General Fund to address additional salary and benefit costs associated with settled labor agreements and service and supply adjustments; adjusting appropriations within the Parks, Recreation and Cultural Services fund to reflect increased transfers to Parks Capital Outlay fund and salary and benefit costs; adjusting appropriations within the Electric Utility for LED streetlight project costs not yet appropriated and other expense adjustments; and adjusting appropriations within the Self-Insurance funds to reflect increased costs for the General Liability and Worker's Compensation programs.

General Fund:

The Fiscal Year 2015/16 adopted budget assumed that reserves would be drawn down by $154,280. This level of drawdown was based upon settled labor agreements and was anticipated. After budget adoption, as additional labor agreements were settled, it was anticipated that reserves would be further drawn down to reflect the value of the settled labor agreements. Total General Fund value of the settled labor agreements for 2015/16 is about $1.4 million. Subsequent to budget adoption, appropriation adjustments totaling about $863,000 were approved for settled labor agreements.

Based upon mid-year revenue and expenditure estimates, staff is projecting that expenditures will exceed revenues by $1,482,920. Reserves designated for funding settled labor agreements will be used to fund these expenditures.

Revenue estimates for the General Fund are $400,730 lower than projected at initial budget adoption. Five key items account for the bulk of the change in estimated revenue: (1) weaker sales tax collections, primarily associated with lower gasoline prices, result in a projected $640,710 reduction in revenue; (2) reduced engineering fees of about $164,000 as a result of anticipated development projects that were delayed, (3) one-time interest payments on SB90 Mandated Cost Reimbursements of $245,000 that were unbudgeted; (4) increased Transient Occupancy Tax receipts of $50,000; and (5) increased franchise

---

APPROVED: _____

Stephen Schwabauer, City Manager

fees totaling $70,000. Variances in a number of other accounts make up the remainder of the difference in estimated revenue. Total General Fund estimated revenue is $46,307,530.

The primary General Fund revenue sources are property taxes, sales taxes, PILOT, transfers from other funds and Vehicle License Fees. Combined, these five revenue sources are expected to account for approximately $36.1 million or about 78 percent of General Fund revenue. This percentage is consistent with the prior year. Estimated revenue for these five accounts is about $605,000 lower than originally budgeted for these accounts, with the bulk of the variance in the sales tax account.

General Fund department budgeted and estimated actual costs are shown in the table below.

Department	2015/16 Budget	2015/16 Estimate	Over(Under) Budget
City Attorney	$488,650	$519,620	$30,970
City Clerk	$547,020	$566,500	$19,480
City Manager	$448,100	$496,490	$48,390
Economic Development	$486,130	$510,330	$24,200
Fire	$11,131,469	$11,189,550	$58,081
Internal Services	$3,606,320	$3,728,930	$122,610
Non Departmental	$9,926,380	$9,813,220	($113,160)
Police	$18,745,481	$18,791,160	$45,679
Public Works	$2,345,820	$2,174,650	($171,170)
Total	$47,725,370	$47,790,450	$65,080

Anticipated expenditures exceed appropriations by $65,080 and will require appropriating available reserves.

Salary and benefit accounts show an overage of $525,000 related to settled labor agreements that were not included in the original budget due to the timing of the settlement of the agreements. Services and supplies are showing a savings of about $460,000 against budget. Key drivers of this savings are reduced professional services in Police and Public Works ($275,000); reduced building maintenance expenditures ($75,000) and unspent DIVCA funds ($90,000). Variances in a number of other accounts make up the remainder of the difference in estimated expenditures.

Within the General Fund, mid-year budget adjustments are addressing two significant issues. First, staff is recommending adjusting appropriations to reflect the impact of settled labor agreements. As Council will recall, a number of our labor agreements were settled after the 2015/16 budget numbers were developed. Rather than continually adjust the numbers in the budget document, staff indicated that budget adjustments related to settled labor agreements would be handled in the mid-year budget review process. The impact of settled labor agreements not included in the original budget, or subsequently appropriated, in the General Fund is to increase salary and benefit appropriations by a total of $525,000. Funding for this adjustment comes from 2014/15 General Fund reserves designated for future labor agreements. Second, staff is recommending adjusting appropriations among departments to reflect estimated spending patterns. Overall, total General Fund appropriations are increasing by $65,080.

Staff recommended adjustments are reflected in the expenditure estimates table above.

New Position Recommended

Staff is recommending the addition of one new position: an Electric Utility Resources Analyst for the Electric Utility.

Electric Utility is requesting the addition of one Electric Utility Resources Analyst to identify, analyze, and assess market trends and costs and make recommendations regarding short- and long-term gas and energy purchase strategies in accordance with the City Risk Management policies and procedures. Additionally, this position will assist with a number of activities related to resource adequacy, state and federal compliance reporting, contract administration, budget preparation and financial planning. Total annual cost for salary and benefits is $159,966 at entry level. Funding for this position has been included in the Electric Utility financial model.

New Position to be Considered

Council has indicated a desire to add additional Customer Service Representative staff in the Finance Division of the Internal Services Department. Additional staff would allow for more staff to be placed at the front counter in Finance and assist customers in a timely manner. The expected impact of an additional position is a reduction of the wait time for service in Finance. Annual cost of an additional Customer Service Representative is about $70,000, assuming a family medical plan is selected. Cost for this position would be split among the Electric, Water and Wastewater utilities.

The Division has made a number of operational changes to better serve our customers. First, a part-time staff member has been assigned the daily remittance processing duties, thereby freeing permanent staff for front counter duties. Secondly, we have changed our daily balancing process to minimize staff time away from the front counter. Additionally, we have implemented a practice that emphasizes the need to always have two staff members working at the front counter. Other back office activities and responses to phone calls will take a lower priority than the front counter when we are short staffed. All of these changes allow for better coverage of the front counter windows to better enable us to serve our customers in a timely manner.

Council is presented with this information for their consideration. Council may desire to test the efficacy of these new measures rather than adding staff at this time. Costs associated with this position have not been included in the mid-year estimates.

Parks, Recreation and Community Services (PRCS)/Parks Capital Outlay
Staff is recommending increasing appropriations by a total of $134,500. Staff is recommending increasing appropriations by $27,000 related to settled labor agreements. Further, staff is recommending that $107,500 of the unassigned fund balance from 2014/15 of the PRCS Operating Fund be moved to the Parks Capital Outlay fund for future capital projects. This concept is in keeping with the conceptual framework that has been presented to Council regarding use of annual budgetary savings. Staff has incorporated this transfer in the mid-year budgetary estimates and included the necessary appropriation adjustments herein.

Electric Utility
Total expenses are projected to exceed appropriations by $3,115,540 and will require an appropriation adjustment. Costs associated with the LED Streetlight project ($1,275,600) were not appropriated at the time the project was awarded. Staff closed the Rate Stabilization Fund to the Operating Fund earlier this year. The accounting posting of this transaction created a budgetary impact that is addressed in the mid-year adjustment. Accordingly, both revenues and expenses are increased by $2,179,960 for this transaction. Finally, expense savings in various accounts help to offset these expense increases, most notably reduced power costs of $166,000.

Self-Insurance
The Self-Insurance funds include our General Liability and Worker's Compensation programs. Both programs are reflecting higher than budgeted costs as a result of aggressive claims closure practices and additional claims being filed and settled. Additional appropriations of $145,110 in General Liability and $805,160 in Worker's Compensation are required to fund activities through the end of the fiscal year. Sufficient reserves exist in both funds to accommodate these additional appropriations.

Summary
Staff recommends approval of the one position in Electric Utility and adjustment of appropriations as noted. Staff seeks direction from Council regarding the additional Customer Service Representative position for the Finance Division.

FISCAL IMPACT: Addition of the new position will cost approximately $159,966 annually and is funded through the Electric Utility. Funding for the transfers to PRCS Capital Outlay comes from unassigned reserves in the PRCS Operating Fund. Funding for additional expenses in the Self-Insurance funds comes from unassigned reserves in the Self-Insurance Funds. Funding for settled labor agreements in the General Fund and PRCS comes from General Fund reserves.

_____
Jordan Ayers
Deputy City Manager

JA/ja

1. BA# _____
2. JV# _____

CITY OF LODI
APPROPRIATION ADJUSTMENT REQUEST

TO:	Internal Services Dept. - Budget Division		
3. FROM:	**Jordan Ayers, Dep City Manager**	5. DATE:	**3/2/16**
4. DEPARTMENT/DIVISION:			

6. REQUEST ADJUSTMENT OF APPROPRIATION AS LISTED BELOW

	FUND #	ORG #	OBJ #	ACCOUNT TITLE	AMOUNT
A. SOURCE OF FINANCING	100		32205	General Fund - Fund Balance	$ 38,080.00
	100	10095000	72359	Non-Departmental Supplies	$ 113,160.00
	100	10050500	72450	Public Works Supplies	$ 171,170.00
	100		32205	General Fund - Fund Balance	$ 27,000.00
	200	20070001	50001	PRCS Transfer In	$ 27,000.00
	200		32205	PRCS Fund Balance	$ 107,500.00
	432	43200000	50001	Parks Capital Transfer In	$ 107,500.00
	502		32205	EU Rate Stabilization Fund Balance	$ 2,179,960.00
	500		50050	EU Intrafund Transfer In	$ 2,179,960.00
	501		32205	EU Capital Fund Balance	$ 1,275,600.00
	660		32205	General Liabilties Fund Balance	$ 145,110.00
	665		32205	Worker's Com Fund Balance	$ 805,160.00
B. USE OF FINANCING	100	10015000	71001	City Attorney Personnel	$ 30,970.00
	100	10005000	71001	City Clerk Personnel	$ 19,480.00
	100	10010000	71001	City Manager Personnel	$ 48,390.00
	100	10010102	71001	Economic Development Personnel	$ 24,200.00
	100	10041000	71001	Fire Personnel	$ 58,081.00
	100	10020203	71001	Finance Personnel	$ 62,280.00
	100	10020300	71001	Human Resources Personnel	$ 7,830.00
	100	10020400	71001	Information Systems Personnel	$ 52,500.00
	100	10031004	71001	Police Personnel	$ 45,679.00
	200	20070001	71001	PRCS Admin Personnel	$ 11,400.00
	200	20072001	71001	Parks Personnel	$ 4,990.00
	200	20073001	71001	Recreation Personnel	$ 10,610.00
	200	20070001	76220	PRCS Transfer Out	$ 107,500.00
	502		76050	EU Intrafund Transfer Out	$ 2,179,960.00
	501	50199000	77020	EU Capital Projects	$ 1,275,600.00
	660	66025000	72990	General Liabilties Special Payments	$ 145,110.00
	665	66525100	72990	Worker's Com Special Payments	$ 805,160.00

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.

2015/16 Mid-year adjustments

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

Meeting Date: **3/2/16** Res No: _____ Attach copy of resolution to this form.

Department Head Signature: Jordan Ayers

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. 2016-____

A RESOLUTION OF THE LODI CITY COUNCIL
AMENDING THE CITY OF LODI FINANCIAL PLAN AND
BUDGET FOR THE FISCAL YEAR BEGINNING
JULY 1, 2015 AND ENDING JUNE 30, 2016

==========

WHEREAS, the City Council adopted a Financial Plan and Budget for Fiscal Year 2015-16 on June 17, 2015; and

WHEREAS, the adopted 2015-16 Financial Plan and Budget was prepared in accordance with the City Council's goals, budget assumptions and policies; and

WHEREAS, revisions to the adopted 2015-16 Financial Plan and Budget are necessary to address operating changes and expenditure estimates; and

WHEREAS, the Electric Utility department requests the addition of one Electric Utility Resources Analyst.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby revise the adopted 2015-16 Financial Plan and Budget as follows:

1. Approve adding one Electric Utility Resources Analyst to the Electric Utility department.
2. Approve using reserves and shifting appropriations within the General Fund departments to reflect additional salary and benefit costs associated with settled labor agreements that were not included in the initial budget adoption reflecting a net increase to appropriations of $65,080.
3. Approve increasing appropriations by $134,500 within the Parks, Recreation and Cultural Services fund to provide funding for future Parks capital projects ($107,500) and operating costs ($27,000).
4. Approve increasing appropriations in the amount of $3,115,540 within the Electric Utility funds to provide for appropriations associated with the LED Streetlight project and closing of the Rate Stabilization Fund.
5. Approve increasing appropriations in the Self Insurance Fund in the amount of $145,110 for General Liability and $805,160 for Worker's Compensation to provide funding for increased costs within these programs.
6. All adjustments are reflected in the attached Appropriation Adjustment Request form.

Dated: March 2, 2016

==========

I hereby certify that Resolution No. 2016-____as passed and adopted by the City Council of the City of Lodi in a regular meeting held March 2, 2016, by the following votes:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. FERRAIOLO
City Clerk

1. BA# _____
2. JV# _____

CITY OF LODI
APPROPRIATION ADJUSTMENT REQUEST

TO:	Internal Services Dept. - Budget Division		
3. FROM:	**Jordan Ayers, Dep City Manager**	5. DATE:	**3/2/16**
4. DEPARTMENT/DIVISION:			

6. REQUEST ADJUSTMENT OF APPROPRIATION AS LISTED BELOW

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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.

2015/16 Mid-year adjustments

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

Meeting Date: **3/2/16** Res No: _____ Attach copy of resolution to this form.

Department Head Signature: Jordan Ayers

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.

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Discuss Recreation Commission's Recommendation for One-Eighth Cent Sales Tax Measure on November 2016 Ballot to Benefit Parks and Provide Direction

MEETING DATE: March 2, 2016

PREPARED BY: Parks, Recreation and Cultural Services Director

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RECOMMENDED ACTION: Discuss Recreation Commission's recommendation for one-eighth cent sales tax measure on November 2016 ballot to benefit parks and provide direction.

BACKGROUND INFORMATION: Extensive community outreach was an element of preparing the Parks, Recreation and Cultural Services Department's (PRCS) Strategic Action Plan. Results of a community survey, conducted in January 2015, indicate strong support for Lodi's parks.

On February 2, the Recreation Commission voted unanimously to recommend that the City Council adopt the Strategic Action Plan, and that the Council consider placing a one-eighth cent sales tax on the November 2016 ballot to support the plan's goals.

If the Council were to place such a measure on the November 2016 ballot, and if two-thirds of voters approve, the tax would generate approximately $1.3 million annually for park improvements, repairs and deferred maintenance. According to the National Recreation and Park Association, the average United States resident spends $70 annually in local taxes to support their local agency's park and recreation programs. In Lodi, the average is about $50. Interestingly, the $20 difference amounts to about $1.3 million.

That amount would provide significant relief to our beleaguered park system, allowing PRCS to make headway on a long list of deferred maintenance and repairs, such as renovating or replacing aging (or already removed) playground equipment, park restrooms, picnic shelters and tables, parking lots and driveways, and trails. Currently, the majority of parks expenditures outside normal maintenance is to mitigate hazards and liabilities, ensure facilities meet various regulatory or statutory standards, and preserve revenue-generating facilities.

In most cases, maintenance and repair of the City's park system is entirely funded through the General Fund transfer to PRCS. Inflation-adjusted, the amount has decreased over the past decade or so. In the meantime, four new parks have been added to the system since 2007, and at least two more are in the active planning stages. PRCS does not expect the Community Facilities District fees in the newest and future parks will be enough to cover the cost of maintenance. Development of DeBenedetti Park – largely funded through the storm drainage program – and the west side of Lodi Lake Park are stalled and Pixley Park has been on the drawing board for nearly 30 years, with no progress in sight. The one-acre Borchardt Park remains an empty lot. The Parks Division relies heavily on CDBG grants, occasional per-capita State park bonds, other grants, the Hutchins Street Square Foundation and other Department funds (Electric Utility Public Benefits, Streets, storm drain) for financial assistance when possible.

APPROVED: _____

Stephen Schwabauer, City Manager

With the exception of a fire-damaged playground at Century Park, it has been more than 20 years since City funds have been used to install or replace playground structures. Since 1994, all replacement playgrounds in Lodi have been installed using grants or donations, but many parks have aging structures that are not eligible for Community Development Block Grants (the typical source of playground funding) due to their location.

The community survey – included as part of the Strategic Action Plan item on this agenda -- indicated 71 percent of residents would support paying higher taxes ($3-$4 a month and higher) to support Lodi parks, with only 10 percent opposed and the rest undecided. At one-eighth cent, the increase amounts to an average of roughly $4 per household per month. The actual impact on Lodi city residents, however, would be lower as Lodi is a net importer of sales tax due to retailers such as Costco and the lack of large retailers in communities to the north, east and west.

The community survey results revealed what steps are most important to Lodi residents. Upgrading Lodi Lake facilities and amenities was very important or somewhat important to 83 percent of residents, followed by building additional walking and biking trails and connect existing trails (82 percent), upgrading existing neighborhood parks (80 percent) and upgrading existing walking and biking trails (79 percent). When asked what actions residents are most willing to fund with tax dollars, upgrading existing neighborhood parks was the top choice (31 percent), followed by upgrading Lodi Lake facilities and amenities (29 percent), building additional walking and biking trails and connecting existing trails (29 percent), and build a new outdoor swimming complex/water park (28 percent).

In addition to the Strategic Action Plan identifying Lodi as being short of neighborhood and community parks on an acreage basis, it also found the City needs picnic shelters, playgrounds, trails and spraygrounds when compared to National Recreation and Park Association community guidelines. The survey results corroborated the community's desire for these features in Lodi.

While a special eighth-cent tax would provide a significant increase in Parks Division funding, an increase in the sales tax rate from 8 percent to 8.125 percent would have little impact on the pocketbook of Lodi shoppers. Most cities in San Joaquin County already have local sales tax measures that exceed this amount. It would increase the cost of an $8 purchase in Lodi from $8.64 to $8.65. A $1,000 clothes washer would cost $1,081.25 rather than $1,080.

The Recreation Commission recommends an eighth-cent special tax that focuses on parks maintenance, repairs and upgrades. Although the Strategic Action Plan indicates public support and need for a new aquatics facility or indoor sports center, one of which could be supported by a quarter-cent sales tax, the Commission recognized the Council's recent feedback, which indicated little appetite for a major new facility.

Like other General Fund-supported departments, the Parks Division continues to be stretched thin. Funds set aside to rebuild the south parking lot at Lodi Lake Park have been borrowed for other projects. The Grape Bowl turf replacement fund has increased its annual set-aside from $16,500 to $35,000 the last four years, but it is far short of reaching the amount needed for the turf's expected lifespan. The Parks Division, however, has been a standout performer in light of its financial challenges and continues to provide excellent service to the Lodi community. The day is soon approaching, however, when some parks and facilities will need to be closed to the public due to the inability to maintain or repair them without a new revenue source. According to the Strategic Action Plan's survey, the Lodi community is prepared to make a new investment in City parks.

Tonight, staff asks that the City Council discuss the Recreation Commission's recommendation to place a sales tax measure on the November ballot to benefit city parks. A list of immediate maintenance and repair needs is attached. If the Council wishes to extend the discussion further, staff asks how it can assist the Council before it makes a determination on the Commission's recommendation.

The San Joaquin County Registrar of Voters estimates the cost of a local measure to be $14,000 if initiated by the City Council. The Council has approximately four months to act to meet the County's deadlines for a November measure.

FISCAL IMPACT: None at this time.

FUNDING AVAILABLE: Not applicable.

_____
Jeff Hood
Parks, Recreation and Cultural Services Director

JH:tl

Cc: City Attorney

Attachment

PARKS, RECREATION, AND CULTURAL SERVICES

Various Parks Needs and Estimated Costs

Beckman Park: $485,000

- Renovation of existing abandoned playground area. Construct new picnic shelter rental space and new playground area. Provide ADA path of travel from street to existing park restroom, to new picnic shelter and playground area. $425,000
- Irrigation booster pump replacement - $60,000

Blakely Park: $560,000

- Renovation of existing east and west ball fields, $60,000
- Construct new storage shed to house sports equipment for recreation programs. $50,000
- Construct new park restroom facility $225,000
- Renovation of existing turf irrigation system including adding a booster pump to the system $70,000
- Renovation of existing restroom facilities located within the aquatic facility $80,000
- Re-plaster the small pool $75,000

Candy Cane Park: $200,000

Consists of upgrades to path of travel, irrigation system and playground area. Existing play structure is first in line of all parks for replacement.

Century Meadows Park: $55,000

Remove and replace poured in place with Fibar - $55,000

Chapman Field: $160,000

- Concession building renovation $50,000
- Upgrades to the driveway approach and trash/green waste area $85,000
- Scoreboard replacement $25,000

DeBenedetti Park, existing turf maintenance: $12,500 annually

- Consists of aerification (2x per year), pre-emergent applications (2x per year), post emergent applications (4x per year) and fertilization (2x per year). $10,000 per year
- Annual sod repairs to worn goal mouth areas $2,500

DeBenedetti Park, master plan and develop high-ground areas: $9 million

Emerson Park: $175,000

- Revamp existing tot playground area (removal of existing play structure, raised curb, prep existing area for hardscape surface and installation of additional picnic shelter), $150,000
- Rehab baseball field for rec play programs involving turf, irrigation, fencing and bleachers $25,000

English Oaks Common Park: $300,000

- Downsize existing playground area $50,000
- Replace existing playground equipment $200,000
- Repairs to existing masonry wall surrounding park $50,000

Grape Bowl: Additional ramps $1.5-$2 million

Henry Glaves Park: $205,000

- Repairs to existing chain link fence along the west property line $10,000
- Removal of seven existing park trees due to poor health $15,000
- Replace existing playground equipment $180,000

Kofu Park: $142,000

- Install site improvements between existing player dug outs and spectator seating areas, $10,000
- Work with the Sister City Committee regarding the existing flowering Cherry trees. Existing Cherry trees are in very pool health and declining rapidly $2,000
- Hardball diamond renovation involving regrading efforts $35,000
- Replace existing score board $30,000
- Tennis court resurfacing $60,000
- Skate park, annual repairs $5,000

Lawrence Park: $60,000

- Structural pruning of the existing mature trees $50,000
- Remove existing restroom building - $10,000

Legion Park: $93,000

- Replace existing basketball hoop system. Existing units are not serviceable.$14,000
- Tennis court resurfacing $15,000
- Park tree maintenance $45,000
- Turf renovation. A large portion of the existing turf is in poor condition, sparse stand. $15,000
- Replace existing trash receptacles - $4,000

Lodi Lake Park maintenance: $2,335,000 (to $8 million)

- Park tree maintenance $40,000 annually
- Fuel reduction in Nature Area by use of sheep and or goats $25,000
- Replace existing playground structure and provide improved path of travel to north playground area $180,000
- Southside Improvements $850,000
- Restroom renovations/replacement: $400,000
- North Shore trail, erosion control (submitted grant), $675,000
- Lodi Lake Park Nature Area pavement rehabilitation $100,000
- Lodi Lake Park DG trail renovation $80,000
- Repairs to collapsing lake bank ($5 million-$6 million??)

Lodi Lake West Side master plan and development: $4 million to $5 million

Peterson Park: $45,000

- Tennis court resurfacing $20,000
- West side picnic area improvements $25,000

Salas Park: $835,000

- Park restroom roof replacement $15,000
- Picnic Shelter roof replacement $15,000
- Remaining sports field lighting improvements $300,000

- Parking lot improvements $500,000
- Spectator seating repairs $5,000

Softball Complex: $575,000
- Parking lot improvements $200,000
- Scoreboard replacement $25,000
- Concession building demolition and reconstruction $350,000

Vinewood Park: $405,000
- Demolition of existing park restroom $30,000
- Construction of new restroom $225,000
- Irrigation system upgrades $150,000

Zupo Field: $685,000
- Spectator seating improvements $450,000
- Outfield turf renovation improvements $85,000
- Upgrade lighting: $150,000

Pixley Park development: $12 million? Needs master planning

Grape Bowl: North ramp $1.5 million

Hutchins Street Square Pool Climate Control System: $300,000

Convert portions of high-ground areas around basin to no-mow, reduced maintenance/irrigation: $125,000

Redesign/repurpose of Lawrence Park: $??

Ongoing gopher control, $15,000 a year

Annual sport field renovations $50,000 per year

Annual playground surfacing replenishment (Fibar) $5,000

Annual poured in place cleaning/recoating $2,500

Annual irrigation system repairs/replacement/upgrades $50,000

Borchardt Park development: $200,000

Parks Annex roof repairs $80,000

Mechanic shop improvements: Air compressor, storage and hazmat upgrades $80,000

MEETING MINUTES
LODI PARKS AND RECREATION COMMISSION
TUESDAY, FEBRUARY 2, 2016
7:00 P.M. - Carnegie Forum

I. Roll Call

Present: Commissioner Meyer, Carouba, Hamilton, Palmquist, Long
Absent: None
Staff Present: Jeff Hood, Steve Dutra, Michael Reese, Terri Lovell

II. Minutes of December 1, 2015 and January 5, 2016

Motion by Commissioner Hamilton to approval the minutes of the December 1, 2015, and January 5, 2016, meeting. Second by Commissioner Palmquist.

DISCUSSION
None

Ayes: Commissioner Meyer, Carouba, Hamilton, Palmquist, Long
Noes: None
Motion carried 5 – 0

III. Comments by the Public, Commission and Staff on Non-Agenda Items

Mr. Hood reported on the Headwaters Treasure Hunt. There was a lot of participation in both of the Treasure Hunts. Mr. Hood shared there was numerous feedback from citizens saying they visited parks they hadn't visited before. Mr. Hood went on to say the next event is movie night and Scot Bruce as Elvis will be appearing at Hutchins Street Square on February 20.

IV. Action Items

Recommend City Council Approve PRCS Strategic Action Plan and Place Sales Tax Measure on November 2016 Ballot to Carry Out Plan Recommendations
Mr. Hood introduced this item and reviewed a PowerPoint presentation.

Commissioner Palmquist had an opportunity to go through Lodi Lake and has observed the tree that has come down and he recalled his tour with Mr. Dutra. He feels this is symptomatic of the problems that Mr. Dutra shared with him. Commissioner Palmquist feels the Commission should support a one-eighth-cent tax.

Commissioner Hamilton reiterated what Commissioner Palmquist stated. He recommends the one-eighth-cent tax.

Commissioner Long agrees that it would be nice to have money in the bank. He also supports the one-eighth-cent tax.

Commissioner Carouba is in support of this item because when he looks at the Strategic Plan it's what people in the community want. Commissioner Carouba went on to say that the citizens in Lodi don't feel the pain that the Parks and Recreation is going through and now is the time to go back to the community and ask them what they want.

Pauline Meyers, 6739 E Dougherty Rd., Acampo – Ms. Meyers wanted to know if the one-eighth-tax would go into the General Fund or straight into Parks and Recreation. Mr. Hood shared that it would take a two-thirds vote for a special tax to have it go directly into Parks and Recreation. Ms. Meyers would support a special tax for Parks and Recreation and she would also assist in reaching out to the community to promote the tax.

DRAFT

John Johnson, 106 S Orange Ave., Lodi – Mr. Johnson shared his concern with the two-thirds vote that is needed to include protection of your current fund. Mr. Johnson agrees with Commission Carouba that the citizens in Lodi don't feel the pain that Parks and Recreation is going through. Mr. Johnson feels the Commission and the Council should consider the 50% vote with some provisions. Mr. Johnson strongly suggests that the Commission get strong community support. Mr. Johnson volunteered his help with this issue.

Commissioner Carouba agreed with a lot that Mr. Johnson said. He feels there are lots of ways that money can go out the door if new money is coming in.

Commissioner Palmquist also agrees with both community members that spoke. He feels this is an opportunity to test the Strategic Plan recommendations the community has suggested.

Commissioner Hamilton stated right now we have a two-pronged approach, one is increasing use fees where it makes sense and the other is taking the results of the survey and use what we learn from the survey then it's an educated risk although it would be, based on the numbers, a specified tax. The down side is that no one trusts politicians. Commissioner Hamilton is in favor of leaving the orange fence up to show the community that there are problems.

Commissioner Carouba asked what the cost was for the Strategic Plan. Mr. Hood shared it came under budget at $70,000. Commissioner Carouba stated when the budget comes next time you will see a much different request from the Commission because you're going to see a request for what is needed not necessarily what the Council can give. Commissioner Carouba feels it's much easier to pass a general tax because he thinks that getting two-thirds of the people in Lodi to vote for the tax would be difficult. Mr. Hood feels based on the polling, a general tax at one-eighth-cent wouldn't solve many of the City's financial challenges however it would go a long way to assist Parks and Recreation get to the national average. Mr. Hood feels that if the Commission wants to support a general tax to include Parks and Recreation the Council would be interested in taking something more than Parks and Recreation. If the Commission supports a one-eighth-cent tax, it's a small amount similar to $1.25 tax on the cost of $1,000 purchase of a refrigerator.

Commissioner Long feels the Commission should move the PROS Consulting Strategic Plan forward to Council and ask Council to make the decision what's best.

Commissioner Palmquist is going to recommend that we adopt the item as presented. Commissioner Palmquist feels that we have the opportunity to set history, according to the Strategic Plan Consultant's numbers, if the community votes down the tax. The consultant has not seen a community vote down a tax based on the numbers that were seen in the survey of the community. Commissioner Palmquist shared there are numerous people who would support a specified tax where they wouldn't support a general tax if other things were put with it.

Commissioner Hamilton feels it's about timing along especially with Parks and Recreation's 75th Anniversary. We have a clear example of what the community wants based on the survey. Commissioner Hamilton feels it should be a one-eighth of a penny tax.

Motion by Commissioner Hamilton to accept the Strategic Plan and ask City Council to consider placing a one-eighth-cent tax on the ballot no later than November 2016 to support Strategic Plan goals. Second by Commissioner Palmquist.

<u>DISCUSSION</u>
None

Ayes: Commissioner Meyer, Carouba, Hamilton, Palmquist, Long
Noes: None
Motion carried 5 – 0

<u>Recommend City Council Approve $10 Lodi Lake Park Boat Launch Fee</u>
Mr. Hood introduced this item and shared a PowerPoint presentation.

Commissioner Carouba feels in the future the cost should be set to go up annually.

AGENDA ITEM I-03

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving the New Classification and Salary Range of Events Coordinator and Approving the Reclassification of One Senior Administrative Clerk to Events Coordinator

MEETING DATE: March 2, 2016

SUBMITTED BY: Human Resources Manager

RECOMMENDED ACTION: Adopt resolution approving the new classification and salary range of Events Coordinator and approving the reclassification of one Senior Administrative Clerk to Events Coordinator.

BACKGROUND INFORMATION: The Human Resources Division received a request to conduct a classification study for a Senior Administrative Clerk in the Parks, Recreation and Cultural Services Department. Human Resources staff conducted a classification study and recommends the creation of a new classification, salary range and the subsequent reclassification of one Senior Administrative Clerk to the newly created position of Events Coordinator.

The study concluded that the incumbent has been performing higher level work, over a significant period of time, above the current job classification of Senior Administrative Clerk. The creation of the Events Coordinator allows the incumbent to be properly compensated for the higher level duties being performed.

Staff requests that Council approve the new job classification, salary range and reclassification of one Senior Administrative Clerk to the newly created classification of Events Coordinator retroactive to March 30, 2015.

The proposed salary range for the Events Coordinator is $50,960.07 to $61,942.33. The Events Coordinator classification will be part of the AFSCME – General Services Bargaining Unit. Staff met and conferred with AFSCME and they concur with the reclassification of one Senior Administrative Clerk to Events Coordinator.

The approximate increase for Fiscal Year 2015/16 is $8,000.

FISCAL IMPACT: The fiscal impact in FY 2015/16 would be approximately $8,000 including benefits.

FUNDING AVAILABLE: Increased expenses will be absorbed within existing appropriations.

_____
Adele Post, Human Resources Manager

_____
Jordan Ayers, Deputy City Manager/Internal Services Director

APPROVED: _____
Stephen Schwabauer, City Manager

EXHIBIT A

CITY OF LODI March 2016

EVENTS COORDINATOR

Job descriptions are intended to present a broad and general range of duties which includes, purpose, responsibilities, and scope of work. Job descriptions are not intended to reflect all duties performed within the job.

DEFINITION

Under general supervision, this position is responsible for the oversight of the day-to-day operations of the Hutchins Street Square box office and facility rentals, including operation of the computerized ticketing system, scheduling, and booking and overseeing events; facility use and rental agreements; exercises an advanced level of technical expertise and/or job knowledge; and performs other job related duties as assigned.

SUPERVISION EXERCISED AND RECEIVED

May exercise direct supervision over lower-level staff and volunteers. Receives general supervision from higher-level personnel.

EXAMPLES OF DUTIES

Duties may include, but are not limited to the following:

Coordinate and oversee the day-to-day operations of the Hutchins Street Square box office, performing arts theater and facility rentals;

Research and source new acts and performances and make recommendations to Director; Negotiate terms of contract with promoters, performers or agents; Secure and complete all necessary documentation and/or contracts and insurance;

Coordinate production schedules; Conduct cost analysis to determine profitability of performance; Secure and complete all necessary documentation and/or contracts and insurance;

On site coordination (House Manager) during performance; Ensure all technical, maintenance and contractual requirements of the event are met; Represent the facility positively to the promoter and guests;

Responsible for ticket reservation computer program; Collect payments for tickets; maintain and prepare various financial and utilization reports; Prepares final sales reports for shows and performances and settles out with performers;

Responsible for coordinating facility rentals; Directly oversee support staff in collecting damage and reservation deposits and payments for facility use; Directly oversee support staff that prepare and maintain various financial and utilization reports; Assign

contracted security guards as needed; Prepare final rental reports for customers and settles out with renters;

Coordinate multiple activities; Coordinate with others to assure successful events; Oversee the maintenance and record keeping systems;

Prepare event materials including promotional posters, brochures; Prepare marketing materials for radio and newspaper advertisements; Update the Hutchins Street Square Facebook page and Internet webpage;

Coordinate with promoters, artists, house technical staff, volunteers, Building Services Supervisor, and management to ensure a successful event;

May provide day-to-day supervision of clerical support staff and part-time employees including leading, directing, training, mentoring, assigning and evaluation of work;

Operate a personal computer to access customer account data from multiple computer systems; Interpret and explains charges, policies, procedures, special programs and rates; Initiate appropriate transactions to satisfy customer requests and internal accounting procedures;

Assist in the preparation of the budget;

Exhibit a high level of customer service; Professionally handle customer complaints and difficult situations and perform related functions associated with insuring high-quality ticket office and customer service;

Performs other related duties as required.

MINIMUM QUALIFICATIONS:

Knowledge of:

Customer service principles and practices, including conflict resolution;

Operation of a box office and Performing Arts Center;

Budget procedures and processes;

Principles of supervision;

Principles of contract negotiations;

Standard office equipment, including personal computer, and computer software such as Microsoft Word, Excel, Outlook and computerized ticketing systems/programs.

Ability to:
Perform routine mathematical computations; perform clerical procedures in an organized and accurate manner;

Conduct research; Use independent judgment and decision making skills; negotiate contracts; organize and maintain accurate financial and customer records;

Operate a personal computer using various financial applications and job-related software; operate a calculator and other common office machines;

Understand and carry out oral and written instructions; interact with the public effectively and courteously; communicate clearly and concisely;

Assign and monitor the work of subordinate staff; provide technical expertise to lower-level positions;

Establish and maintain cooperative and effective relationships with those contacted during the course of work.

EDUCATION AND EXPERIENCE:
Any combination of experience and education that would provide the required knowledge and ability is qualifying. A typical combination is:

Education:
Equivalent to completion of high school. Associate degree from an accredited college or university in Business or Public Administration, Theater or comparable degree is desirable.

Experience:
Three years of experience performing a variety of customer service tasks related to box office and facility rental operations. Including one year of supervisory experience.

WORKING CONDITIONS:
Environmental Conditions: Office environment

Physical Conditions: Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending and stooping for prolonged periods of time; using various office equipment including a computer screen and keyboard and lifting up to 30 pounds.

*FLSA Status: NON-EXEMPT

RESOLUTION NO. 2016-__

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE CLASSIFICATION, JOB SPECIFICATION AND SALARY RANGE FOR EVENTS COORDINATOR AND THE RECLASSIFICATION OF ONE SENIOR ADMINISTRATIVE CLERK TO EVENTS COORDINATOR

==========

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the classification and job specification for the position of Events Coordinator attached hereto as Exhibit A; and

BE IT FURTHER RESOLVED that the salary range for Events Coordinator is hereby approved and shall be as follows:

Classification	Step A	Step B	Step C	Step D	Step E
Events Coordinator	$50960.07	$53508.11	58992.70	$61942.33	$61942.33

BE IT FURTHER RESOLVED that the Lodi City Council does hereby approve the reclassification of one Senior Administrative Clerk to Events Coordinator.

Dated: March 2, 2016

==========

I hereby certify that Resolution No. 2016-__ was passed and adopted by the Lodi City Council in a regular meeting held March 2, 2016 by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. FERRAIOLO
City Clerk

EXHIBIT A

CITY OF LODI March 2016

EVENTS COORDINATOR

Job descriptions are intended to present a broad and general range of duties which includes, purpose, responsibilities, and scope of work. Job descriptions are not intended to reflect all duties performed within the job.

DEFINITION

Under general supervision, this position is responsible for the oversight of the day-to-day operations of the Hutchins Street Square box office and facility rentals, including operation of the computerized ticketing system, scheduling, and booking and overseeing events; facility use and rental agreements; exercises an advanced level of technical expertise and/or job knowledge; and performs other job related duties as assigned.

SUPERVISION EXERCISED AND RECEIVED

May exercise direct supervision over lower-level staff and volunteers. Receives general supervision from higher-level personnel.

EXAMPLES OF DUTIES

Duties may include, but are not limited to the following:

Coordinate and oversee the day-to-day operations of the Hutchins Street Square box office, performing arts theater and facility rentals;

Research and source new acts and performances and make recommendations to Director; Negotiate terms of contract with promoters, performers or agents; Secure and complete all necessary documentation and/or contracts and insurance;

Coordinate production schedules; Conduct cost analysis to determine profitability of performance; Secure and complete all necessary documentation and/or contracts and insurance;

On site coordination (House Manager) during performance; Ensure all technical, maintenance and contractual requirements of the event are met; Represent the facility positively to the promoter and guests;

Responsible for ticket reservation computer program; Collect payments for tickets; maintain and prepare various financial and utilization reports; Prepares final sales reports for shows and performances and settles out with performers;

Responsible for coordinating facility rentals; Directly oversee support staff in collecting damage and reservation deposits and payments for facility use; Directly oversee support staff that prepare and maintain various financial and utilization reports; Assign

contracted security guards as needed; Prepare final rental reports for customers and settles out with renters;

Coordinate multiple activities; Coordinate with others to assure successful events; Oversee the maintenance and record keeping systems;

Prepare event materials including promotional posters, brochures; Prepare marketing materials for radio and newspaper advertisements; Update the Hutchins Street Square Facebook page and Internet webpage;

Coordinate with promoters, artists, house technical staff, volunteers, Building Services Supervisor, and management to ensure a successful event;

May provide day-to-day supervision of clerical support staff and part-time employees including leading, directing, training, mentoring, assigning and evaluation of work;

Operate a personal computer to access customer account data from multiple computer systems; Interpret and explains charges, policies, procedures, special programs and rates; Initiate appropriate transactions to satisfy customer requests and internal accounting procedures;

Assist in the preparation of the budget;

Exhibit a high level of customer service; Professionally handle customer complaints and difficult situations and perform related functions associated with insuring high-quality ticket office and customer service;

Performs other related duties as required.

MINIMUM QUALIFICATIONS:

Knowledge of:

Customer service principles and practices, including conflict resolution;

Operation of a box office and Performing Arts Center;

Budget procedures and processes;

Principles of supervision;

Principles of contract negotiations;

Standard office equipment, including personal computer, and computer software such as Microsoft Word, Excel, Outlook and computerized ticketing systems/programs.

Ability to:
Perform routine mathematical computations; perform clerical procedures in an organized and accurate manner;

Conduct research; Use independent judgment and decision making skills; negotiate contracts; organize and maintain accurate financial and customer records;

Operate a personal computer using various financial applications and job-related software; operate a calculator and other common office machines;

Understand and carry out oral and written instructions; interact with the public effectively and courteously; communicate clearly and concisely;

Assign and monitor the work of subordinate staff; provide technical expertise to lower-level positions;

Establish and maintain cooperative and effective relationships with those contacted during the course of work.

EDUCATION AND EXPERIENCE:
Any combination of experience and education that would provide the required knowledge and ability is qualifying. A typical combination is:

Education:
Equivalent to completion of high school. Associate degree from an accredited college or university in Business or Public Administration, Theater or comparable degree is desirable.

Experience:
Three years of experience performing a variety of customer service tasks related to box office and facility rental operations. Including one year of supervisory experience.

WORKING CONDITIONS:
Environmental Conditions: Office environment

Physical Conditions: Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending and stooping for prolonged periods of time; using various office equipment including a computer screen and keyboard and lifting up to 30 pounds.

*FLSA Status: NON-EXEMPT

AGENDA ITEM I-04

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving the New Classification and Salary Range for Utility Billing Specialist and Approve the Reclassification of Three Customer Service Representatives to the Position of Utility Billing Specialist

MEETING DATE: March 2, 2016

SUBMITTED BY: Human Resources Manager

RECOMMENDED ACTION: Adopt Resolution Approving the New Classification and Salary Range for Utility Billing Specialist and Approve the Reclassification of Three Customer Service Representatives to the Position of Utility Billing Specialist.

BACKGROUND INFORMATION: The Human Resources Division received a request to conduct a classification study for three Customer Service Representative II's (CSRs) in the Finance Division. As such, Human Resources conducted a classification study and recommends that a new classification of Utility Billing Specialist be created and three CSR's be reclassified to the newly created position. It is further requested that the actions be retroactive to April 13, 2015 for two of the employees who have been performing these higher level duties since that date; and August 17, 2015, for the third employee, which is the date she was assigned the higher level job duties.

This request was made because the incumbents believe they are performing work that is beyond the current classification of Customer Service Representative II. The reclassification study confirmed that the employees are performing complex research and analysis on utility accounts, sometimes going back three years. The three employees have been given authority to resolve problems with utility bills that may include reducing fees or providing credit to customers. This authority was previously reserved for the Customer Service Supervisor; however, due to the employee's extensive knowledge and experience, they have been extended this additional authority and responsibility. These employees prepare bill batches, identify anomalies in the bills, and research and resolve complex problems with customers' accounts. The employees have been performing many of these duties for a significant period of time. The creation of the Utility Billing Specialist allows the incumbents to be properly compensated for the higher level duties being performed, and provides future opportunity for advancement as CSRs obtain the higher knowledge, skills and abilities.

Staff requests that Council approve the new classification, salary range and reclassification of three Customer Service Representative IIs to the newly created classification of Utility Billing Specialist.

The Utility Billing Specialist classification will be part of the AFSCME – General Services Bargaining Unit. Staff met and conferred with AFSCME and they concur with the reclassification of three CSR II's to Utility Billing Specialist.

The proposed salary range of the Utility Billing Specialist is $39,308.34 to $47,779.56, which is approximately 10 percent above the current salary range of Customer Service Representative II.

APPROVED: _____

Stephen Schwabauer, City Manager

FISCAL IMPACT: The fiscal impact in FY 2015/16 would be approximately $13,000.

FUNDING AVAILABLE: Funding available from the department's operating budget.

_____
Adele Post, Human Resources Manager

_____
Jordan Ayers, Deputy City Manager/Internal Services Diretor

EXHIBIT A

CITY OF LODI March 2016

UTILITY BILLING SPECIALIST

Job descriptions are intended to present a broad and general range of duties which includes, purpose, responsibilities, and scope of work. Job descriptions are not intended to reflect all duties performed within the job.

DEFINITION

Performs a variety of advanced journey-level and leadworker-level customer service tasks, including research and analysis, related to resolving customer billing problems and complaints; establishing, disconnecting and reconnecting service; high/low bill investigation; and customer inquiry resolution.

DISTINGUISHING CHARACTERISTICS

This is an advanced journey level and leadworker classification that is distinguished from Customer Service Representative II in that this class performs the most complex customer service tasks that require analysis, judgement and decision making. This position may also train, mentor, assign and monitor the work of lower-level positions.

SUPERVISION EXERCISED AND RECEIVED

May exercise lead direction over Customer Service Representatives or clerical support staff. Receives general supervision from higher-level personnel.

EXAMPLES OF DUTIES

Duties may include, but are not limited to the following:

Resolves the most complex problems involving customers' statements, fees, payments and other service-related problems; researches historical billing information, conducts analysis, analyzes consumption patterns, detects irregularies and uses judgement and decision making skills to resolve errors;

Processes utility billings: inputs information into customer programs which produce a variety of service orders directed to field services personnel; edits bill batches for exceptions, compares accounts to rate schedule standards, researches account historical data to determine correctness, and approves bill batches for billing according to assigned rate schedules;

Coordinate Photovoltaic net (pseudo) and co-meter billing setup in CIS;

Responds to questions on utility billings, business and pet licenses and other City financial transactions;

Designs and prepares departmental forms and operational manuals; prepares correspondence on procedural or informational matters;

Participates in the development and implementation of department programs, systems, procedures and methods of operations, including computer-based systems.

Creates, maintains and monitors computerized files, databases and directories; conducts record searches and prepares statistical work sheets and other required documents; audits documents, verifies accuracy and ensures compliance with applicable regulations;

Acts as a liaison to Field personnel to initiate or resolve issues relating to high or low bill investigations, meter reliability, disconnects and reconnects;

May provide direction, lead, train, mentor, assign work to, or monitor work of Customer Service Representatives;

Receives utility bill payments over a public counter or through the mail;

Receives revenue for licenses, permits, recreation fees and other City revenue accounts;

Operates a personal computer to access customer account data from multiple computer systems; interprets and explains charges, policies, procedures, special programs and rates; initiates appropriate transactions to satisfy customer requests and internal accounting procedures;

Performs other related duties as required.

MINIMUM QUALIFICATIONS:

Knowledge of:

Customer service principles and practices, including conflict resolution;

Utility rate structures and schedules;

Working principles of electric and water meters;

Research and analysis techniques;

Department policies and procedures pertaining to utility billing and collection;

Standard office equipment, including personal computer, and computer software such as Microsoft Word, Excel, Outlook and financial applications/programs.

Ability to:

Perform routine to complex mathematical computations; perform clerical procedures in an organized and accurate manner;
Conduct research, perform analysis of data, recommend solutions; use independent judgement and decision making skills; organize and maintain accurate financial and customer records;

Operate a personal computer using various financial applications and job-related software; operate a calculator and other common office machines;

Understand and carry out oral and written instructions; interact with the public and staff efficiently and courteously; communicate clearly and concisely;

Establish and maintain cooperative and effective relationships with those contacted during the course of work;

Assign and monitor the work of subordinate staff; provide technical expertise to lower-level positions;

Explain policies and utility rates to customers; learn and apply approved general ledger chart of accounts.

EDUCATION AND EXPERIENCE:
Any combination of experience and education that would provide the required knowledge and ability is qualifying. A typical combination is:

Education:
Equivalent to completion of high school. Associate degree from an accredited college or university in Finance, Accounting, Business Administration or comparable degree is highly desirable.

Experience:
Three years of experience performing a variety of customer service tasks related to utility billing, service disconnects and reconnects, high/low bill investigation, customer inquiry resolution, and collecting, recording and balancing cash OR two years as a Customer Service Representative II with the City of Lodi.

WORKING CONDITIONS:
Environmental Conditions: Office environment

Physical Conditions: Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending and stooping for prolonged periods of time; using various office equipment including a computer screen and keyboard and lifting up to 30 pounds.

*FLSA Status: NON-EXEMPT

RESOLUTION NO. 2016-__

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE CLASSIFICATION, JOB SPECIFICATION AND SALARY RANGE FOR UTILITY BILLING SPECIALIST AND APPROVING THE RECLASSIFICATION OF THREE CUSTOMER SERVICE REPRESENTATIVES II POSITIONS TO THE POSITION OF UTILITY BILLING SPECIALIST

==========

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the classification and job specification for the position of Utility Billing Specialist attached hereto as Exhibit A; and

BE IT FURTHER RESOLVED that the salary range for Utility Billing Specialist is hereby approved and shall be as follows:

Classification	Step A	Step B	Step C	Step D	Step E
Utility Billing Specialist	$39308.36	$41273.78	$43337.47	$45504.34	$47779.56

BE IT FURTHER RESOLVED that the Lodi City Council does hereby approve the reclassification of three Customer Service Representative II positions to Utility Billing Specialist positions.

Dated: March 2, 2016

==========

I hereby certify that Resolution No. 2016-__ was passed and adopted by the Lodi City Council in a regular meeting held March 2, 2016 by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. FERRAIOLO
City Clerk

EXHIBIT A

CITY OF LODI March 2016

UTILITY BILLING SPECIALIST

Job descriptions are intended to present a broad and general range of duties which includes, purpose, responsibilities, and scope of work. Job descriptions are not intended to reflect all duties performed within the job.

DEFINITION

Performs a variety of advanced journey-level and leadworker-level customer service tasks, including research and analysis, related to resolving customer billing problems and complaints; establishing, disconnecting and reconnecting service; high/low bill investigation; and customer inquiry resolution.

DISTINGUISHING CHARACTERISTICS

This is an advanced journey level and leadworker classification that is distinguished from Customer Service Representative II in that this class performs the most complex customer service tasks that require analysis, judgement and decision making. This position may also train, mentor, assign and monitor the work of lower-level positions.

SUPERVISION EXERCISED AND RECEIVED

May exercise lead direction over Customer Service Representatives or clerical support staff. Receives general supervision from higher-level personnel.

EXAMPLES OF DUTIES

Duties may include, but are not limited to the following:

Resolves the most complex problems involving customers' statements, fees, payments and other service-related problems; researches historical billing information, conducts analysis, analyzes consumption patterns, detects irregularies and uses judgement and decision making skills to resolve errors;

Processes utility billings: inputs information into customer programs which produce a variety of service orders directed to field services personnel; edits bill batches for exceptions, compares accounts to rate schedule standards, researches account historical data to determine correctness, and approves bill batches for billing according to assigned rate schedules;

Coordinate Photovoltaic net (pseudo) and co-meter billing setup in CIS;

Responds to questions on utility billings, business and pet licenses and other City financial transactions;

Designs and prepares departmental forms and operational manuals; prepares correspondence on procedural or informational matters;

Participates in the development and implementation of department programs, systems, procedures and methods of operations, including computer-based systems.

Creates, maintains and monitors computerized files, databases and directories; conducts record searches and prepares statistical work sheets and other required documents; audits documents, verifies accuracy and ensures compliance with applicable regulations;

Acts as a liaison to Field personnel to initiate or resolve issues relating to high or low bill investigations, meter reliability, disconnects and reconnects;

May provide direction, lead, train, mentor, assign work to, or monitor work of Customer Service Representatives;

Receives utility bill payments over a public counter or through the mail;

Receives revenue for licenses, permits, recreation fees and other City revenue accounts;

Operates a personal computer to access customer account data from multiple computer systems; interprets and explains charges, policies, procedures, special programs and rates; initiates appropriate transactions to satisfy customer requests and internal accounting procedures;

Performs other related duties as required.

MINIMUM QUALIFICATIONS:

Knowledge of:

Customer service principles and practices, including conflict resolution;

Utility rate structures and schedules;

Working principles of electric and water meters;

Research and analysis techniques;

Department policies and procedures pertaining to utility billing and collection;

Standard office equipment, including personal computer, and computer software such as Microsoft Word, Excel, Outlook and financial applications/programs.

Ability to:

Perform routine to complex mathematical computations; perform clerical procedures in an organized and accurate manner;
Conduct research, perform analysis of data, recommend solutions; use independent judgement and decision making skills; organize and maintain accurate financial and customer records;

Operate a personal computer using various financial applications and job-related software; operate a calculator and other common office machines;

Understand and carry out oral and written instructions; interact with the public and staff efficiently and courteously; communicate clearly and concisely;

Establish and maintain cooperative and effective relationships with those contacted during the course of work;

Assign and monitor the work of subordinate staff; provide technical expertise to lower-level positions;

Explain policies and utility rates to customers; learn and apply approved general ledger chart of accounts.

EDUCATION AND EXPERIENCE:
Any combination of experience and education that would provide the required knowledge and ability is qualifying. A typical combination is:

Education:
Equivalent to completion of high school. Associate degree from an accredited college or university in Finance, Accounting, Business Administration or comparable degree is highly desirable.

Experience:
Three years of experience performing a variety of customer service tasks related to utility billing, service disconnects and reconnects, high/low bill investigation, customer inquiry resolution, and collecting, recording and balancing cash OR two years as a Customer Service Representative II with the City of Lodi.

WORKING CONDITIONS:
Environmental Conditions: Office environment

Physical Conditions: Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending and stooping for prolonged periods of time; using various office equipment including a computer screen and keyboard and lifting up to 30 pounds.

*FLSA Status: NON-EXEMPT

AGENDA ITEM I-05

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving Amendments to the Job Description and Salary Range of City Planner and Approving the Reclassification of One Senior Planner to City Planner

MEETING DATE: March 2, 2016

SUBMITTED BY: Human Resources Manager

RECOMMENDED ACTION: Adopt Resolution Approving Amendments to the Job Description and Salary Range of City Planner and Approving the Reclassification of One Senior Planner to City Planner

BACKGROUND INFORMATION: The Human Resources Division received a request to conduct a classification study for a Senior Planner in the Community Development Department. Human Resources staff conducted a classification study and recommends amendments to the City Planner job description and salary range and the subsequent reclassification of one Senior Planner to City Planner.

The study concluded that the incumbent has been performing higher level work, over a significant period of time, above the current job classification of Senior Planner. The scope of responsibility and higher level duties as defined in the City Planner job description more accurately reflect the work currently being performed by the Senior Planner.

Staff requests that Council approve the amendments to the job description, salary range and reclassification of one Senior Planner to City Planner, retroactive to June 8, 2015.

The proposed salary range for the City Planner is $86,605.37 to $105,511.92, which is equivalent to the Building Official and the Neighborhood Services Manager. Staff met and conferred with LCMMA and they concur with the amendments to the job classification and salary range and further concur with the reclassification of one Senior Planner to City Planner.

The approximate increase for Fiscal Year 2015/16 is $7,500.

FISCAL IMPACT: The fiscal impact in FY 2015/16 would be approximately $7,500.

FUNDING AVAILABLE: Increased expenses will be absorbed within existing appropriations.

_____
Adele Post, Human Resources Manager

_____
Jordan Ayers, Deputy City Manager/Internal Services Director

APPROVED: _____
Stephen Schwabauer, City Manager

CITY OF LODI

July 18, 2001
Updated March 2016

CITY PLANNER

Job descriptions are intended to present a broad and general range of duties which includes, purpose, responsibilities, and scope of work. Job descriptions are not intended to reflect all duties performed within the job.

DEFINITION

Under general direction, plans, organizes, and directs the activities of the Planning division within the Community Development Department. To plan, organize, supervise, review, and participate in the work of professional, technical, and clerical subordinates engaged in current or advanced planning, and performs highly responsible and complex staff assistance to the Community Development Director.

SUPERVISION RECEIVED AND EXERCISED

~~General direction is provided by the Community Development Director.~~

Receives general direction from higher level personnel. Responsibilities include direct and indirect supervision over professional, technical and clerical planning personnel.

EXAMPLES OF DUTIES

Duties may include, but are not limited to the following:

Develop and implement the division goals, objectives, policies and priorities;

Direct, coordinate, review, and participate in the work of professional and technical employees in data collection, analysis, plan formulation, and implementation of a wide variety of planning, zoning and environmental review activities;

Supervise, direct, and coordinate ~~either~~ the City's current and/or advanced planning programs; Supervise, direct and coordinate special planning, zoning, and environmental studies; prepare reports and findings;

Personally perform ~~most~~ complex and sensitive planning work;

Make recommendations on development permits, use permits, variance; tentative tract maps, ~~-~~planned development permits, as well as other zoning applications;

Represent the Planning Division at the public meetings, and present planning and zoning matters to the City Council, Planning Commission, and citizen committees as required; Prepare and present Planning Commission and City Council communications, reports and presentations; Act as lead Community Development staff member at Planning Commission meetings.

Administer the General Plan; Coordinate planning activities with other City departments, and outside agencies as required; Meet with and advise developers regarding development applications and processes: explain purposes, regulations, and directives of accepted development practices;

Prepare and administer the planning budget;

Supervise, train, and evaluate professional, technical, and clerical staff;

May act in the absence of the Community Development Director;

Perform other duties related ~~duties as assigned.~~to the operation of the department and the City including additional duties that enable the department and City to meet the diverse needs of its community.

MINIMUM QUALIFICATIONS

Knowledge of:

Principles and practices of comprehensive urban planning; zoning and public administration;

Applicable Federal, State and municipal planning laws and regulations, including applicable environmental laws and regulations;

Recent developments, current literature, and informational sources in the field of planning and zoning;

Research methods and techniques;

Statutes related to general plans, environmental matters, zoning, and land division;

Principles of organization, administration, budget, and personnel management;

Principles and practices of management and supervision;

Principles and techniques involved in the development and maintenance of a comprehensive General Plan.

Ability to:
Plan the work of professional and technical staff in compilation of technical and statistical data, research, and the preparation of plans and technical papers;

Establish and maintain effective working relationships with the public and other City personnel;

Communicate effectively, orally, and in writing;

Prepare and analyze planning studies and communicate findings of these studies in an understandable manner;

Supervise, train, and evaluate professional, technical, and clerical staff.

EXPERIENCE AND EDUCATION

Any combination of experience and education that would likely produce the qualifying knowledge and ability. A typical combination is:

Experience:

Five years of responsible experience in the field of urban and environmental planning, including supervisory experience.

Education:

Equivalent to a Bachelor's Degree from an accredited college or university with major coursework in urban or regional planning, economic or community development, or related field considered useful in urban planning.

LICENSES AND CERTIFICATES

Possession of a valid Driver's License issued from the California Department of Motor Vehicles.

WORKING CONDITIONS

Work is generally performed indoors; but may require field work for site review. May be exposed to safety hazards including, fumes or odors, dust or gases, chemicals, toxic materials, oil, and a variety of mechanical machinery.

PHYSICAL DEMANDS

Essential functions may require maintaining physical condition necessary to see well enough to read, write and make observations; hear well enough to converse on the radio, telephone and in person; bodily mobility to occasionally walk, bend, kneel, reach, stand, crouch, operate office equipment requiring repetitive hand movement and fine coordination including use of a computer keyboard; to verbally communicate to exchange information; and intermittently sit while working and operating vehicles and/or equipment. May be required to work nights or weekends as needed.

*FLSA Status: Exempt

RESOLUTION NO. 2016-__

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING AMENDMENTS TO THE JOB DESCRIPTION AND SALARY RANGE OF CITY PLANNER AND APPROVING THE RECLASSIFICATION OF ONE SENIOR PLANNER TO CITY PLANNER

==========

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the amendments to the job description for the position of City Planner attached hereto as Exhibit A; and

BE IT FURTHER RESOLVED that the salary range for City Planner is hereby approved and shall be as follows:

Classification	Step A	Step B	Step C	Step D	Step E
City Planner	$86805.37	$91144.88	$95702.39	$100486.82	$105511.92

BE IT FURTHER RESOLVED that the Lodi City Council does hereby approve the reclassification of one Senior Planner to City Planner.

Dated: March 2, 2016

==========

I hereby certify that Resolution No. 2016-__ was passed and adopted by the Lodi City Council in a regular meeting held March 2, 2016 by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. FERRAIOLO
City Clerk

CITY OF LODI

July 18, 2001
Updated March 2016

CITY PLANNER

Job descriptions are intended to present a broad and general range of duties which includes, purpose, responsibilities, and scope of work. Job descriptions are not intended to reflect all duties performed within the job.

DEFINITION

Under general direction, plans, organizes, and directs the activities of the Planning division within the Community Development Department. To plan, organize, supervise, review, and participate in the work of professional, technical, and clerical subordinates engaged in current or advanced planning, and performs highly responsible and complex staff assistance to the Community Development Director.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from higher level personnel. Responsibilities include direct and indirect supervision over professional, technical and clerical planning personnel.

EXAMPLES OF DUTIES

Duties may include, but are not limited to the following:

Develop and implement the division goals, objectives, policies and priorities;

Direct, coordinate, review, and participate in the work of professional and technical employees in data collection, analysis, plan formulation, and implementation of a wide variety of planning, zoning and environmental review activities;

Supervise, direct, and coordinate the City's current and/or advanced planning programs; Supervise, direct and coordinate special planning, zoning, and environmental studies; prepare reports and findings;

Personally perform complex and sensitive planning work;

Make recommendations on development permits, use permits, variance; tentative tract maps, planned development permits, as well as other zoning applications;

Represent the Planning Division at the public meetings, and present planning and zoning matters to the City Council, Planning Commission, and citizen committees as required; Prepare and present Planning Commission and City Council communications, reports and presentations; Act as lead Community Development staff member at Planning Commission meetings.

Administer the General Plan; Coordinate planning activities with other City departments, and outside agencies as required; Meet with and advise developers regarding

development applications and processes: explain purposes, regulations, and directives of accepted development practices;

Prepare and administer the planning budget;

Supervise, train, and evaluate professional, technical, and clerical staff;

May act in the absence of the Community Development Director;

Perform other duties related to the operation of the department and the City including additional duties that enable the department and City to meet the diverse needs of its community.

MINIMUM QUALIFICATIONS

Knowledge of:

Principles and practices of comprehensive urban planning; zoning and public administration;

Applicable Federal, State and municipal planning laws and regulations, including applicable environmental laws and regulations;

Recent developments, current literature, and informational sources in the field of planning and zoning;

Research methods and techniques;

Statutes related to general plans, environmental matters, zoning, and land division;

Principles of organization, administration, budget, and personnel management;

Principles and practices of management and supervision;

Principles and techniques involved in the development and maintenance of a comprehensive General Plan.

Ability to:

Plan the work of professional and technical staff in compilation of technical and statistical data, research, and the preparation of plans and technical papers;

Establish and maintain effective working relationships with the public and other City personnel;

Communicate effectively, orally, and in writing;

Prepare and analyze planning studies and communicate findings of these studies in an understandable manner;

Supervise, train, and evaluate professional, technical, and clerical staff.

EXPERIENCE AND EDUCATION

Any combination of experience and education that would likely produce the qualifying knowledge and ability. A typical combination is:

Experience:

Five years of responsible experience in the field of urban and environmental planning, including supervisory experience.

Education:

Equivalent to a Bachelor's Degree from an accredited college or university with major coursework in urban or regional planning, economic or community development, or related field considered useful in urban planning.

LICENSES AND CERTIFICATES

Possession of a valid Driver's License issued from the California Department of Motor Vehicles.

WORKING CONDITIONS

Work is generally performed indoors; but may require field work for site review. May be exposed to safety hazards including, fumes or odors, dust or gases, chemicals, toxic materials, oil, and a variety of mechanical machinery.

PHYSICAL DEMANDS

Essential functions may require maintaining physical condition necessary to see well enough to read, write and make observations; hear well enough to converse on the radio, telephone and in person; bodily mobility to occasionally walk, bend, kneel, reach, stand, crouch, operate office equipment requiring repetitive hand movement and fine coordination including use of a computer keyboard; to verbally communicate to exchange information; and intermittently sit while working and operating vehicles and/or equipment. May be required to work nights or weekends as needed.

*FLSA Status: Exempt

AGENDA ITEM I-06

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving the Classification, Job Description and Salary Range for the Position of Electric Utility Resources Analyst

MEETING DATE: March 2, 2016

SUBMITTED BY: Human Resources Manager

RECOMMENDED ACTION: Adopt resolution approving the classification, job description and salary range for the position of Electric Utility Resources Analyst.

BACKGROUND INFORMATION: The Electric Utility Department has the need for a new classification of Resources Analyst. The request to add the new position was approved in the FY 2015/16 mid-year budget.

The Electric Utility Resources Analyst identifies, analyzes, and assesses market trends and costs and makes recommendations regarding short-term and long-term gas and energy purchase strategies in accordance with the City's Risk Management policies and procedures. Additionally, this position will assist with a number of activities related to resource adequacy, state and federal compliance reporting, contract administration, budget preparation and financial planning.

After discussions with and concurrence from LCMMA, staff recommends the new Electric Utility Resources Analyst salary range be $95,442.18 to $115,986.24.

Staff recommends Council approve the classification, job description and set the salary range for Electric Utility Resources Analyst.

FISCAL IMPACT: The annual cost for this position at entry level is approximately $159,966 including benefits.

FUNDING AVAILABLE: Funding has been allocated in the FY 2015/16 budget.

_____
Adele Post, Human Resources Manager

_____
Jordan Ayers, Deputy City Manager/Internal Services Director

APPROVED: _____
Stephen Schwabauer, City Manager

EXHIBIT A

CITY OF LODI February 2016

ELECTRIC UTILITY RESOURCES ANALYST

Job descriptions are intended to present a broad and general range of duties which includes, purpose, responsibilities, and scope of work. Job descriptions are not intended to reflect all duties performed within the job.

DEFINITION

Performs analytical work associated with planning, evaluation and acquisition of Electric Utility Department power supply resources.

SUPERVISION EXERCISED AND RECEIVED

Receives general direction from the assigned supervisor.

EXAMPLES OF DUTIES

Duties may include, but are not limited to the following:

Optimize the City's power supply portfolio by identifying, analyzing, and assessing market trends and costs and making appropriate recommendations regarding short-term and long-term strategic planning, including gas and energy purchases in accordance with the City's Risk Management policies and procedures;

Review and analyze the City's resource adequacy requirements and provide recommendations for capacity procurement and/or sale, if necessary;

Research, analyze, and make recommendations regarding proposed legislation, regulatory changes, power supply contracts, and current trends that affect the City's position in the energy market;

Prepare, analyze, support negotiations of, and administer contracts and agreements related to planning and project development;

Prepare Requests for Proposals (RFP's); evaluate RFP responses and assist with negotiation and drafting of contracts including, but not limited to, Professional Services Agreements and Power Purchase Agreements, and manage contracts;

Gather data and prepare State and Federal compliance reports;

Assist with budget preparation and financial planning by compiling data, preparing and creating financial models and forecasts and preparing financial reports;

Coordinate with other divisions, City departments and outside organizations on power supply resources, contracts and planning;

Participate in and/or manage special projects, as assigned;

Performs other related duties as required.

MINIMUM QUALIFICATIONS

Knowledge of:
Electric power resources;

Methods, techniques, principles and practices used in power supply planning and contracts;

Principles and practices of budget and financial planning in addition to project development and management;

State and Federal energy legislation, regulations, and compliance requirements;

Ability to:
Perform complex professional and technical analytical work related to planning, evaluating and acquiring power supply resources;

Prepare and present clear and concise reports;

Design and/or utilize computer models to analyze electric utility loads, resources, and contracts;

Communicate effectively orally and in writing with City staff and outside consultants and organizations;

Establish and maintain cooperative and effective relationships with those contacted during the course of work;

Operate a variety of office systems and equipment, including specialized computer applications;

Negotiate agreements with Federal and State agencies;

Sit at a desk for long periods of time and travel to out-of-town meetings, occasionally with overnight stays.

EDUCATION AND EXPERIENCE:
Any combination of experience and education that would likely produce the qualifying knowledge and ability. A typical combination is:

Education:
Possession of a Bachelor's degree from an accredited college or university with major coursework in business administration, public administration, economics, engineering, science, mathematics or a related field.

Experience:
One year of energy resource planning experience and/or risk management experience in an electric utility.

LICENSES AND CERTIFICATES
Possession of the appropriate valid Driver's License from the California Department of Motor Vehicles.

WORKING CONDITIONS

Environmental Conditions:
Work is generally performed in an office setting with frequent interruptions, multiple deadlines, and peak workload periods. Position may require working with the public and attendance at night and/or weekend meetings, and driving a motor vehicle. May be exposed to safety hazards including, fumes or odors, dust or gases, chemicals, toxic materials, oil, and a variety of mechanical machinery.

Physical Conditions:
Essential functions may require maintaining physical condition necessary to see well enough to read, write and make observations; hear well enough to converse on the radio, telephone and in person; bodily mobility to occasionally walk, bend, kneel, reach, stand, crouch or climb; operate assigned equipment and vehicles; operate office equipment requiring repetitive hand movement and fine coordination including use of a computer keyboard; to verbally communicate to exchange information; and intermittently sit while preparing reports and operating vehicles and equipment.

*FLSA Status: EXEMPT

RESOLUTION NO. 2016-__

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING THE CLASSIFICATION, JOB
SPECIFICATION AND SALARY RANGE FOR
ELECTRIC UTILITY RESOURCES ANALYST

==========

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the classification and job specification for Electric Utility Resources Analyst attached hereto as Exhibit A; and

BE IT FURTHER RESOLVED that the salary range for Electric Utility Resources Analyst is hereby approved and shall be as follows:

Classification	Step A	Step B	Step C	Step D	Step E
Electric Utility Resources Analyst	$95422.18	$100193.26	$105202.94	$110463.08	$115986.24

Dated: March 2, 2016
==========

I hereby certify that Resolution No. 2016-__ was passed and adopted by the Lodi City Council in a regular meeting held March 2, 2016 by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

JENNIFER M. FERRAIOLO
City Clerk

EXHIBIT A

CITY OF LODI February 2016

ELECTRIC UTILITY RESOURCES ANALYST

Job descriptions are intended to present a broad and general range of duties which includes, purpose, responsibilities, and scope of work. Job descriptions are not intended to reflect all duties performed within the job.

DEFINITION

Performs analytical work associated with planning, evaluation and acquisition of Electric Utility Department power supply resources.

SUPERVISION EXERCISED AND RECEIVED

Receives general direction from the assigned supervisor.

EXAMPLES OF DUTIES

Duties may include, but are not limited to the following:

Optimize the City's power supply portfolio by identifying, analyzing, and assessing market trends and costs and making appropriate recommendations regarding short-term and long-term strategic planning, including gas and energy purchases in accordance with the City's Risk Management policies and procedures;

Review and analyze the City's resource adequacy requirements and provide recommendations for capacity procurement and/or sale, if necessary;

Research, analyze, and make recommendations regarding proposed legislation, regulatory changes, power supply contracts, and current trends that affect the City's position in the energy market;

Prepare, analyze, support negotiations of, and administer contracts and agreements related to planning and project development;

Prepare Requests for Proposals (RFP's); evaluate RFP responses and assist with negotiation and drafting of contracts including, but not limited to, Professional Services Agreements and Power Purchase Agreements, and manage contracts;

Gather data and prepare State and Federal compliance reports;

Assist with budget preparation and financial planning by compiling data, preparing and creating financial models and forecasts and preparing financial reports;

Coordinate with other divisions, City departments and outside organizations on power supply resources, contracts and planning;

Participate in and/or manage special projects, as assigned;

Performs other related duties as required.

MINIMUM QUALIFICATIONS

Knowledge of:
Electric power resources;

Methods, techniques, principles and practices used in power supply planning and contracts;

Principles and practices of budget and financial planning in addition to project development and management;

State and Federal energy legislation, regulations, and compliance requirements;

Ability to:
Perform complex professional and technical analytical work related to planning, evaluating and acquiring power supply resources;

Prepare and present clear and concise reports;

Design and/or utilize computer models to analyze electric utility loads, resources, and contracts;

Communicate effectively orally and in writing with City staff and outside consultants and organizations;

Establish and maintain cooperative and effective relationships with those contacted during the course of work;

Operate a variety of office systems and equipment, including specialized computer applications;

Negotiate agreements with Federal and State agencies;

Sit at a desk for long periods of time and travel to out-of-town meetings, occasionally with overnight stays.

EDUCATION AND EXPERIENCE:
Any combination of experience and education that would likely produce the qualifying knowledge and ability. A typical combination is:

Education:
Possession of a Bachelor's degree from an accredited college or university with major coursework in business administration, public administration, economics, engineering, science, mathematics or a related field.

Experience:
One year of energy resource planning experience and/or risk management experience in an electric utility.

LICENSES AND CERTIFICATES
Possession of the appropriate valid Driver's License from the California Department of Motor Vehicles.

WORKING CONDITIONS

Environmental Conditions:
Work is generally performed in an office setting with frequent interruptions, multiple deadlines, and peak workload periods. Position may require working with the public and attendance at night and/or weekend meetings, and driving a motor vehicle. May be exposed to safety hazards including, fumes or odors, dust or gases, chemicals, toxic materials, oil, and a variety of mechanical machinery.

Physical Conditions:
Essential functions may require maintaining physical condition necessary to see well enough to read, write and make observations; hear well enough to converse on the radio, telephone and in person; bodily mobility to occasionally walk, bend, kneel, reach, stand, crouch or climb; operate assigned equipment and vehicles; operate office equipment requiring repetitive hand movement and fine coordination including use of a computer keyboard; to verbally communicate to exchange information; and intermittently sit while preparing reports and operating vehicles and equipment.

*FLSA Status: EXEMPT