LODI CITY COUNCIL

Carnegie Forum
305 West Pine Street, Lodi

AGENDA – REGULAR MEETING

Date: April 7, 2010
Time: 7:00 p.m.

For information regarding this Agenda please contact:
Randi Johl, City Clerk
Telephone: (209) 333-6702

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

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

C-1 Call to Order / Roll Call – N/A

C-2 Announcement of Closed Session – N/A

C-3 Adjourn to Closed Session – N/A

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

C-4 Return to Open Session / Disclosure of Action – N/A

A. Call to Order / Roll call

B. Pledge of Allegiance

C. Presentations

- C-1 Sexual Assault Awareness Month Proclamation
- C-2 National Library Week / National Library Workers' Day Proclamation (LIB)
- C-3 Keep Lodi Beautiful Month Proclamation (CD)
- C-4 Presentation of Police Silver Star Award (PD)

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

D-1 Receive Register of Claims in the Amount of $7,206,118.89 (FIN)

D-2 Approve Minutes (CLK)
- a) March 16, 2010 (Shirtsleeve Session)
- b) March 17, 2010 (Regular Meeting)
- c) March 23, 2010 (Shirtsleeve Session)
- d) March 30, 2010 (Shirtsleeve Session)
- e) March 30, 2010 (Special Meeting)

D-3 Approve Plans and Specifications and Authorize Advertisement for Bids for Kofu Park Community Building Energy Efficiency Project (PW)

D-4 Approve Plans and Specifications and Authorize Advertisement for Bids for 2010 Street Improvements Project (PW)

D-5 Approve Specifications and Authorize Advertisement for Bids for the Rejuvenation of 15,290 Feet of Underground Electric Cable in English Oaks Phase One ($145,000) (EUD)

D-6 Approve Issuance of Request for Proposals for A-87 Compliant Cost Allocation Plans and Indirect Cost Rates (CM)

Res. D-7 Adopt Resolution Approving Purchase of Telescopic Boom for Transit Vehicle Maintenance Facility from United Rentals, of Lodi ($54,827.27), and Appropriating Grant Funds ($55,000) (PW)

Res. D-8 Adopt Resolution Awarding Contract for DeBenedetti Park – Electrical Improvements, 2350 South Lower Sacramento Road, to Angelo Utilities, of Sacramento ($223,025), and Appropriating Funds ($270,000) (PW)

Res. D-9 Adopt Resolution Awarding Contract for Lodi GrapeLine Bus Stop Improvements to Mo/Jas Construction Company, of Stockton ($35,314) (PW)

Res. D-10 Adopt Resolution Approving GrapeLine Fixed Route Senior/Disabled/Medicare Fare (PW)

E. Comments by the Public on Non-Agenda Items

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

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

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

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

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

H. Public Hearings

Res. H-1 Public Hearing to Consider the Certification of the Final Environmental Impact Report and Adoption of the General Plan (CD)

I. Communications – None

J. Regular Calendar

J-1 Receive Report on Response to Comments on the Draft Environmental Impact Report/Environmental Assessment for I-5 Widening from Stockton to Southerly Limits of the White Slough Water Pollution Control Facility (CD)
NOTE: This item is carried over from the meeting of 3/17/10

J-2 Consider Waste Management's Proposal to Provide $1,000,000 for Grape Bowl Renovation (CM)

Res. J-3 Adopt Resolution Awarding Contract for Lodi Grape Bowl All-Weather Surface Project to Western Engineering Contractors, Inc., of Loomis ($592,675), Approving Purchase and Installation of All-Weather Surface through Fieldturf USA, Inc., of Montreal, Quebec ($686,000), and Appropriating Funds ($1,366,000) (PW)

J-4 Provide Direction to Amend Fee Payment Agreement for 1341 East Kettleman Lane (Holiday Inn Express) (CM)

Res. J-5 Adopt Resolution Authorizing the City Manager to Execute a Purchase and Development Agreement with Eden Housing, Inc. Regarding Senior Housing Project at 2245 Tienda Drive (CD)

J-6 Receive Presentation on Proposed New Sales Tax Electric Rate Discount and Provide Electric Utility Department with Direction (EUD)

Res. J-7 Adopt Resolution Approving Salary Range and Reclassification for the Position of Substation/Meter Superintendent (CM)

K. Ordinances – None

L. Adjournment

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

_____
Randi Johl, City Clerk

AGENDA ITEM C-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Sexual Assault Awareness Month

MEETING DATE: April 7, 2010

PREPARED BY: City Clerk

RECOMMENDED ACTION: Mayor Katzakian present a proclamation proclaiming the month of April 2010 as "Sexual Assault Awareness Month" in the City of Lodi.

BACKGROUND INFORMATION: The Mayor was requested to present a proclamation proclaiming the month of April 2010 as "Sexual Assault Awareness Month" in the City of Lodi. Julie Phillips, representing the Women's Center of San Joaquin County, will be at the meeting to accept the proclamation.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None.

Randi Johl
City Clerk

APPROVED: _____
Blair King, City Manager

AGENDA ITEM C-02

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: National Library Week and National Library Workers' Day

MEETING DATE: April 7, 2010

PREPARED BY: Nancy Martinez

RECOMMENDED ACTION: Mayor Katzakian present a proclamation proclaiming the week of April 11 - April 17, 2010 as "National Library Week" and a proclamation proclaiming Tuesday, April 13, 2010 as "National Library Workers' Day."

BACKGROUND INFORMATION: Mayor Katzakian has been requested to present a proclamation proclaiming the week of April 11 - April 17, 2010 as "National Library Week" and Tuesday, April 13, 2010 as "National Library Workers' Day." Nancy Martinez, Library Services Director, will be present to accept the proclamation.

FISCAL IMPACT: Not applicable

FUNDING AVAILABLE: Not applicable

_____
Nancy C. Martinez
Library Services Director

NM/sb

APPROVED: _____
Blair King, City Manager

AGENDA ITEM C-03

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Proclaim April "Keep Lodi Beautiful Month"

MEETING DATE: April 7, 2010

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Mayor Katzakian present a proclamation declaring the month of April 2010 as "Keep Lodi Beautiful Month" in the City of Lodi.

BACKGROUND INFORMATION: The Mayor has been requested to present a proclamation declaring the month of April 2010 as "Keep Lodi Beautiful Month" in the City of Lodi. Neighborhood Services Manager Joseph Wood and Waste Management representative Jennelle Bechthold, who have been coordinating this as one of the several activities for the annual Great American Clean Up campaign, will be present at the meeting to accept the proclamation.

Lodi is one of more than 10,000 communities nationwide that participate in the "Great American Clean Up" campaign, which is coordinated nationally by Keep America Beautiful, Inc., and at the state level by Keep California Beautiful, Inc. Those organizations provide a loose outline for activities for each affiliate to follow and a multitude of support materials and equipment to facilitate each city's effort. It is the individual affiliate's responsibility to plan one or more events throughout the community to focus on recycling, conservation, clean up and beautification efforts and other community improvement activities. A schedule of Lodi's Great American Clean Up activities is attached.

FISCAL IMPACT: Not Applicable

FUNDING AVAILABLE: Not Applicable

Konradt Bartlam
Community Development Director

Attachments

APPROVED: _____
Blair King, City Manager

SCHEDULE OF KEEP LODI BEAUTIFUL EVENTS

Lodi City Wide Garage Sale – March 27 - 28

The City Wide Garage Sale is an event for the community to advertise their garage sale for free in the Lodi News Sentinel. The City Wide Garage Sale will run Saturday and Sunday if the citizen chooses.

Free E/U-waste Event – April 3 (9am – 1pm)

The WM Lodi Transfer Station will be hosting an Electronic and Universal Waste collection event. This event will allow the Lodi community to drop off Electronic waste and U-waste for free. Here is a list of acceptable materials: Radios/Stereos, VCRs, Microwaves, Cell Phones, Telephones, Answering Machines, Batteries (not including car batteries), Televisions, Computer Monitors, Laptops, Computer Processing Units, Printers, Fluorescent Lamps, and Mercury Thermometers.

Arbor Day/Great American Clean Up Event (10am – 11:30am)

Lawrence School, 721 Calaveras Drive, is hosting this year's event which will feature an Arbor Day dedication and tree planting, free seedling giveaway, mistletoe education, Spring clean up materials, and tree & recycling educational materials.

Dollar Diversion Day – April 10 (8am – 3pm)

Dollar Diversion Day is an updated, revamped version of Dollar Dump Day. Citizens of Lodi will be able to bring their "diversion" to the WM Transfer Station for just one dollar; the change is that WM is going to have drop off areas for recyclable goods. WM is planning on having a drop off for wood, metal, concrete, cardboard, and green waste. These changes will divert recyclable material from being dumped in the landfill.

Residential Curbside Pick Up – April 19-23

Our curbside clean up will allow the residents of Lodi to place the equivalent of up to six 32-gallon bags or boxes in front of their house for collection. WM will collect the trash on their regular service day. All items bust be bagged, bundled, boxed or containerized and must weigh less than 50 pounds each. No household hazardous waste, tires, dirt, sod, rock or concrete.

Clean Your Files Week – April 12-16

WM will be collecting office paper at their Buy Back Center to be recycled. Bins for paper collection will be provided to the City of Lodi offices.

AGENDA ITEM C-04

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Police Silver Star Award Presentation

MEETING DATE: April 7, 2010

PREPARED BY: David J. Main, Chief of Police

RECOMMENDED ACTION: Chief David Main will present a Silver Star award to Officer Eric Bradley.

BACKGROUND INFORMATION: The Silver Star is the department's second-highest award. It is awarded to individuals who demonstrate outstanding bravery above and beyond what is expected in the normal course of duty.

On Wednesday, March 4, 2009, David Paradiso was standing trial for the murder of his girlfriend. Officer Eric Bradley was the investigating officer in the case and was seated at the table with the deputy district attorney. Paradiso was on the stand testifying. There were family members, spectators, reporters, law enforcement officials, and deputy district attorneys in the audience. Paradiso made a derogatory comment about the victim and his mother yelled out.

The protests from Paradiso's family members grew louder so Judge Cinda Fox called for a recess. As court bailiffs were dealing with the disturbance, Paradiso stood up from the witness stand and grabbed Judge Fox from behind and began stabbing at her with a concealed weapon. Detective Bradley, who had stepped behind the prosecution table, drew his duty weapon and approached Paradiso. Judge Fox leaned forward in an effort to break Paradiso's grip. Detective Bradley quickly closed the distance and fired, mortally wounding Paradiso. Detective Bradley remained calm and took control of the chaotic scene. Judge Fox was transported to a local hospital where she received stitches for her wounds.

Detective Bradley reacted quickly and appropriately in this situation. It lasted less than five seconds. While others were taking cover or watching what was taking place, Detective Bradley approached the bench in an effort to save Judge Fox. He placed his shots accurately while under a tremendous amount of pressure. According to people, from District Attorney Jim Willett to Paradiso's Attorney Chuck Pacheco, Detective Bradley is a hero. In his statement to the local newspaper, Pacheco said, "He's the guy who saved the judge's life."

FISCAL IMPACT: N/A

FUNDING AVAILABLE: N/A

_____
David J. Main
Chief of Police

DJM:sm
Cc: City Attorney

APPROVED: _____
Blair King, City Manager

AGENDA ITEM D-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Receive Register of Claims through March 18, 2010 in the Total Amount of $7,206,118.89

MEETING DATE: April 7, 2010

PREPARED BY: Financial Services Manager

RECOMMENDED ACTION: Receive the attached Register of Claims for $7,206,118.89.

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of $7,206,118.89 through 03/18/10. Also attached is Payroll in the amount of $1,142,722.73.

FISCAL IMPACT: n/a

FUNDING AVAILABLE: As per attached report.

_____
Ruby R. Paiste, Financial Services Manager

RRP/rp

Attachments

APPROVED: _____
Blair King, City Manager

As of Thursday	Fund	Name	Amount
03/18/10	00100	General Fund	1,284,984.28
	00120	Vehicle Replacement Fund	8,372.06
	00123	Info Systems Replacement Fund	3,200.70
	00160	Electric Utility Fund	3,928,620.19
	00161	Utility Outlay Reserve Fund	18,004.17
	00164	Public Benefits Fund	23,847.30
	00166	Solar Surcharge Fund	7,289.04
	00167	Energy Efficiency & CBGP-ARRA	1,446.90
	00170	Waste Water Utility Fund	130,205.56
	00172	Waste Water Capital Reserve	932.58
	00173	IMF Wastewater Facilities	4,183.33
	00180	Water Utility Fund	62,738.76
	00181	Water Utility-Capital Outlay	227,042.26
	00182	IMF Water Facilities	6,862.50
	00210	Library Fund	17,936.78
	00211	Library Capital Account	5,270.40
	00234	Local Law Enforce Block Grant	6,308.93
	00235	LPD-Public Safety Prog AB 1913	61.31
	00260	Internal Service/Equip Maint	57,441.95
	00270	Employee Benefits	483,232.47
	00300	General Liabilities	2,189.20
	00310	Worker's Comp Insurance	24,380.92
	00321	Gas Tax	37,224.08
	00325	Measure K Funds	37,281.25
	00326	IMF Storm Facilities	100.28
	00340	Comm Dev Special Rev Fund	13,349.41
	00345	Community Center	22,377.61
	00346	Recreation Fund	18,017.83
	00410	Bond Interest & Redemption	536,578.12
	00459	H U D	11,245.56
	00502	L&L Dist Z1-Almond Estates	346.19
	00503	L&L Dist Z2-Century Meadows I	220.17
	00506	L&L Dist Z5-Legacy I,II,Kirst	569.78
	00507	L&L Dist Z6-The Villas	478.86
	00509	L&L Dist Z8-Vintage Oaks	185.24
	01211	Capital Outlay/General Fund	6,441.29
	01212	Parks & Rec Capital	43,809.26
	01217	IMF Parks & Rec Facilities	7,954.75
	01218	IMF General Facilities-Adm	4,950.00
	01241	LTF-Pedestrian/Bike	2,295.75
	01250	Dial-a-Ride/Transportation	63,047.81
	01410	Expendable Trust	62,031.68
Sum			7,173,056.51
	00184	Water PCE-TCE-Settlements	280.00
	00185	PCE/TCE Rate Abatement Fund	2,723.77
	00190	Central Plume	30,058.61
Sum			33,062.38
Total			

As of Thursday	Fund	Name	Amount
Sum			7,206,118.89

Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	03/07/10	00100	General Fund	701,506.34
		00160	Electric Utility Fund	158,697.49
		00164	Public Benefits Fund	4,976.05
		00170	Waste Water Utility Fund	88,707.02
		00180	Water Utility Fund	283.92
		00210	Library Fund	27,224.94
		00235	LPD-Public Safety Prog AB 1913	2,255.95
		00260	Internal Service/Equip Maint	21,676.19
		00321	Gas Tax	41,210.95
		00340	Comm Dev Special Rev Fund	20,738.40
		00345	Community Center	23,404.98
		00346	Recreation Fund	45,715.72
		01250	Dial-a-Ride/Transportation	6,324.78
Pay Period Total:				
Sum				1,142,722.73

AGENDA ITEM D-02

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approve Minutes
a) March 16, 2010 (Shirtsleeve Session)
b) March 17, 2010 (Regular Meeting)
c) March 23, 2010 (Shirtsleeve Session)
d) March 30, 2010 (Shirtsleeve Session)
e) March 30, 2010 (Special Meeting)

MEETING DATE: April 7, 2010

PREPARED BY: City Clerk

RECOMMENDED ACTION: Approve the following minutes as prepared:
a) March 16, 2010 (Shirtsleeve Session)
b) March 17, 2010 (Regular Meeting)
c) March 23, 2010 (Shirtsleeve Session)
d) March 30, 2010 (Shirtsleeve Session)
e) March 30, 2010 (Special Meeting)

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

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

_____
Randi Johl
City Clerk

Attachments

APPROVED: _____
Blair King, City Manager

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EXHIBIT A

LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, MARCH 16, 2010

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, March 16, 2010, commencing at 7:01 a.m.

Present: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian
Absent: None
Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Topic(s)

B-1 Review of Community Development Block Grant Funding Requests in the 2010/11 Action Plan (CD)

City Manager King briefly introduced the subject matter of the 2010/11 Community Development Block Grant (CDBG) funding requests.

Neighborhood Services Manager Joseph Wood provided a PowerPoint presentation regarding the 2010/11 funding requests. Specific topics of discussion included estimated allocation of $743,500, 17 applications received, factors considered during review, funding availability, public service cap of $112,681, graffiti abatement and spay/neuter programs, 8 requests from community-based organizations, scoring matrix for community-based organizations, public service funding reallocated to public facility project, recommended allocation, and public hearing and action plan document process.

In response to Council Member Hansen, Mr. Wood stated the Fair Housing money is primarily used for landlord-tenant disputes, providing counsel out of the public library community room, and mediation of fair housing issues regarding discrimination. Mr. Wood stated historically the City works closely with Fair Housing and tenants, every city in the County works with Fair Housing, and staff will get back to Council with the overall funding numbers County-wide for Fair Housing.

In response to Council Member Hansen, Mr. Wood stated staff will be monitoring Fair Housing allocation by looking at the calls of service and determining what percentage of service is being provided to Lodi residents versus the remainder of the County to ensure proper contribution.

In response to Council Member Hansen, Mr. Wood stated Second Harvest is the wholesaler for many other food banks and provides in bulk to local groups who operate pantries within the City.

In response to Council Member Hansen, Mr. Wood stated the Meals on Wheels organization has also requested funds from various cities, there are a number of sources for that program, and each request will help fill out that program.

In response to Council Member Hansen, Mr. Wood stated the primary factors for scoring with the Harvest Food Bank were that it was consistently a good performer with the funds, the need is demonstrated as very high, they are capable and ready to use the funds, the cost is reasonable, funds are for general overall operations, and there is some offset with a cost per pound for agencies.

In response to Council Member Hansen, Mr. Wood stated the LOEL Center is not yet the contractor for Meals on Wheels and when the kitchen project is completed the LOEL Center will have the ability to take over that particular program.

In response to Mayor Pro Tempore Hitchcock, Mr. Wood stated the Mobile Farmers Market is a part of the Emergency Food Bank and the agency has not been able to spend the funds in a timely fashion in the past.

In response to Myrna Wetzel, Mr. Wood stated the funds are used for full groceries and not just canned goods.

In response to Mayor Pro Tempore Hitchcock, Mr. King stated the water meter numbers in the Council Communication for tomorrow night reflect the total demand of what the need may be over the years, whereas the $120,000 is the estimated figure for the low- and very-low categories for the current year to start the process for allocating some funding toward the water meter installation program. Mr. King and Mr. Wood confirmed that the requisite numbers for the low- and very-low categories will be provided at tomorrow night's Council meeting.

In response to Council Member Hansen, Mr. Wood stated the cap is not new and is more of a hard number now with the City having its own set aside.

In response to City Manager King, Mr. Wood stated the Revolving Loan Fund was originally administered through the Urban County, the City will have about $80,000 as program income, the funding will be reallocated at the May 5 public hearing, and will likely be used for the Economic Development program.

In response to Council Member Johnson, Mr. Wood reviewed the proposed recommendation for the Council meeting with respect to the allocations for projects, programs, and program services.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 7:32 a.m.

ATTEST:

Randi Johl
City Clerk

LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MARCH 17, 2010

C-1 Call to Order / Roll Call - N/A

C-2 Announcement of Closed Session - N/A

C-3 Adjourn to Closed Session - N/A

C-4 Return to Open Session / Disclosure of Action - N/A

A. Call to Order / Roll call

The Regular City Council meeting of March 17, 2010, was called to order by Mayor Katzakian at 7:00 p.m.

Present: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian
Absent: None
Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Pledge of Allegiance

C. Presentations

C-1 Awards - None

C-2 Proclamations

a) Arbor Day (PR)

Mayor Katzakian presented a proclamation to Steve Dutra, Park Superintendent, proclaiming April 9, 2010, as “Arbor Day” in the City of Lodi.

C-3 Presentations

a) Presentation by the Greater Lodi Area Youth Commission (COM)

Lodi Youth Commissioner, Emily McConahey, made a presentation to the Salvation Army and Lodi House regarding the Youth Commission Gives Back Valentines Dance.

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

Council Member Mounce made a motion, second by Council Member Hansen, 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 Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian
Noes: None

Absent: None

D-1 Receive Register of Claims in the Amount of $1,876,303.99 (FIN)

Claims were approved in the amount of $1,876,303.99.

D-2 Approve Minutes (CLK)

The minutes of February 17, 2010 (Regular Meeting), March 2, 2010 (Shirtsleeve Session), March 3, 2010 (Regular Meeting), and March 9, 2010 (Shirtsleeve Session) were approved as written.

D-3 Approve Specifications and Authorize Advertisement for Bids for 60,000 Feet of #1/0 AWG, 15kV, EPR-Insulated, Jacketed Concentric Neutral Underground Cable (EUD)

Approved the specifications and authorized advertisement for bids for 60,000 feet of #1/0 AWG, 15kV, EPR-insulated, jacketed concentric neutral underground cable.

D-4 Adopt Resolution Awarding Contract for DeBenedetti Park - Phase I Improvements, 2350 South Lower Sacramento Road, to Hemington Landscape Services, Inc., of Cameron Park ($883,562) (PW)

Adopted Resolution No. 2010-25 awarding contract for DeBenedetti Park - Phase I Improvements, 2350 South Lower Sacramento Road, to Hemington Landscape Services, Inc., of Cameron Park, in the amount of $883,562.

D-5 Adopt Resolution Authorizing the City Manager to Execute Professional Services Agreement with Mark Thomas & Company, of Sacramento, for Preparation of the Harney Lane/Union Pacific Railroad Grade Separation Feasibility Study Report ($49,184) and Appropriating Funds ($58,000) (PW)

Adopted Resolution No. 2010-26 authorizing the City Manager to execute Professional Services Agreement with Mark Thomas & Company, of Sacramento, for preparation of the Harney Lane/Union Pacific Railroad Grade Separation Feasibility Study Report in the amount of $49,184 and appropriating funds in the amount of $58,000.

D-6 Adopt Resolution Authorizing the City Manager to Execute the Amendment Terminating Reimbursement Agreement Effective July 1, 2010, with North San Joaquin Water Conservation District for City Administrative Services Provided to the District (PW)

Adopted Resolution No. 2010-27 authorizing the City Manager to execute the amendment terminating Reimbursement Agreement effective July 1, 2010, with North San Joaquin Water Conservation District for City administrative services provided to the District.

D-7 Adopt Resolution Authorizing the City Manager to Enter into a Letter of Agreement Between the City of Lodi and Ralcorp/Cottage Bakery for the Sale of Designated Electric Distribution Facilities ($166,234) (EUD)

This item was pulled from the agenda and not discussed.

D-8 Adopt Resolution Approving Contract with Pyro Spectaculars, Inc. for 2010 Fourth of July Fireworks Show ($16,000) (PR)

Adopted Resolution No. 2010-28 approving contract with Pyro Spectaculars, Inc. for 2010 Fourth

of July fireworks show in the amount of $16,000.

D-9 Adopt Resolution Authorizing the City Manager to File Claim for 2009/10 Transportation Development Act Funds in the Amount of $1,930,253 from Local Transportation Fund and $1,500 from State Transit Assistance Fund (PW)

This item was pulled from the agenda and not discussed.

D-10 Approve Summer Transit Pass Program and Authorize Transportation Manager to Annually Adjust Time Period (PW)

Approved the Summer Transit Pass Program and authorized the Transportation Manager to annually adjust time period.

D-11 Adopt Resolution Authorizing Destruction of Certain Citywide Records in Accordance with the Government Code and the City's Records Management Policy (CLK)

Adopted Resolution No. 2010-29 authorizing destruction of certain Citywide records in accordance with the Government Code and the City's Records Management Policy.

D-12 Adopt Resolution Revising the Order of Business for City Council Meetings (CLK)

Adopted Resolution No. 2010-30 revising the order of business for City Council meetings.

D-13 Adopt Resolution Opposing AB X8 6/SB X8 6, Fuel Tax Swap (CM)

Adopted Resolution No. 2010-31 opposing AB X8 6/SB X8 6, Fuel Tax Swap.

D-14 Set Public Hearing for April 7, 2010, to Consider the Adoption of the General Plan (CD)

Set public hearing for April 7, 2010, to consider the adoption of the General Plan.

D-15 Set Public Hearing for May 5, 2010, to Consider the Appeal of Brandt-Hawley Law Group on Behalf of Charles and Melissa Katzakian Regarding the Decision of the Planning Commission to Approve a Use Permit and SPARC Review for Costco Wholesale Development (CD)

Set public hearing for May 5, 2010, to consider the appeal of Brandt-Hawley Law Group on behalf of Charles and Melissa Katzakian regarding the decision of the Planning Commission to approve a Use Permit and SPARC review for Costco Wholesale Development.

E. Comments by the Public on Non-Agenda Items
THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES. The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Joyce Costa, a grant recipient from the Lodi Arts Commission, spoke in support of the scholarships and grant funds received from the City through the Arts Commission.

James Moore spoke in regard to the "Shop Sunday" campaign for the Downtown Lodi Business Partnership and his senior project relating to the surveying of downtown businesses and their efforts to keep the businesses open on Sunday. In response to Council Member Hansen, Mr. Moore stated Jaime Watts and the Board of Directors encouraged him to do this project as his senior project and he thought it was a good idea. Mr. Hansen commended Mr. Moore on his efforts.

Christopher Vigil spoke in support of a Google program that will allow the Internet to be provided to communities approximately one hundred times faster than it is currently provided and he urged the City to apply for the program.

Robin Rushing spoke in favor of increasing transportation-related services and raising the rates slightly if it is necessary. He expressed his opposition to Sunday service based on low ridership numbers and encouraged allowing patients to keep their medical marijuana.

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

Council Member Hansen reported on his attendance at the Annual Salvation Army Dinner and commended the organization on the success of the event. Council Member Hansen requested ridership statistics and cost analysis for Sunday transit service.

Mayor Pro Tempore Hitchcock reported on her attendance at the Scientific Specialties, Inc. anniversary celebration and commended the business on its receipt of the "Manufacturer of the Year" award and on its success during challenging economic times.

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

City Manager King stated Google has announced an application period for the new program for communities that Mr. Vigil was referencing. Mr. King stated Google would like to roll out a program to provide faster Internet services for the community, and he believes the City is a good candidate but the program is highly competitive. Mr. King also provided a status update on the State potentially taking gas tax or other similar revenues from the cities and described the various City funding sources that may be at risk.

H. Public Hearings

H-1 Public Hearing to Approve the Draft 2010/11 Action Plan and the Reallocation of Available Funding for the Community Development Block Grant Program (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 Katzakian called for the public hearing to consider approving the Draft 2010/11 Action Plan and the reallocation of available funding for the Community Development Block Grant (CDBG) Program.

City Manager King briefly introduced the subject matter of the 2010/11 CDBG public hearing.

Neighborhood Services Manager Joseph Wood provided a PowerPoint presentation regarding the 2010/11 CDBG public hearing. Specific topics of discussion included the estimated $751,211 allocation, receipt of 17 applications, factors considered during review, funding availability, public service cap, total request of $307,086, community based projects of $229,331, City projects and services with supplemental funding, reallocation of 2009/10 public service funding, reallocation for water meter installation program, public hearing and action plan document process, and recommended action to adopt the relevant resolution approving the plan and reallocating the funds from the previous year.

In response to Council Member Mounce, Mr. Wood stated that, with respect to the blue sheet regarding the Salvation Army, an application was not received, discussions were had regarding the subject matter, and the City can coordinate for funding next year.

In response to Council Member Hansen, Mr. Wood stated the administrative costs include personnel, the administrative process, application review, coordination with other agencies, and outreach efforts.

In response to Mayor Pro Tempore Hitchcock, Mr. Wood stated historically unused funds have been reallocated to another project to ensure that the funds are used in a timely manner and staff can bring back unallocated program funds to Council in the future.

In response to Council Member Johnson, Mr. Wood stated the $150,000 administration cost includes personnel, the filing process, working with applicants, and coordination with contractors and agencies. Mr. Wood stated the scoring process is reflective of applicant past practices with managing and using the funds in a timely manner.

In response to Council Member Johnson, Mr. Wood stated all contractors and subcontractors are pulled off a list because the City must use federally approved contractors.

In response to Council Member Hansen, Mr. Wood stated program administration is for both community based and City projects and if the programs are not properly administered funding could be removed.

In response to Council Member Hansen, Mr. Wood stated $10,000 for the Second Harvest Food Bank will be available on July 1 and is attributed to the 2010 allocation.

In response to Council Member Hansen, Mr. Wood stated it is his understanding that the Emergency Food Bank allocation for $34,500 wraps up that project.

In response to Council Member Hansen, Mr. Wood stated the heating, ventilation, and air conditioning is not tied to the LOEL Center. Mr. Wood stated the 719 South Washington Street property is operated by Fair Housing as public housing and it also has a duplex on Central Street.

Mayor Katzakian opened the public hearing to receive public comment.

Doug Chaney spoke in opposition to the spay and neuter allocation in light of other community problems, supported the Unity organization request for job creation and business start-ups, and questioned the need for a $91,000 allocation to the graffiti abatement program.

Lt. Dan Williams, representing the Salvation Army, spoke in support of retaining the unused $130,000 as an unallocated amount for future projects, which could include the Salvation Army Phase III project to construct a shelter for single parents with children of a specific age group that are not permitted to stay in the current facility.

Ceasar Serta spoke in opposition to allocating funds for spay and neuter and graffiti programs and urged the Council to support the Salvation Army serving the needs of people or other causes that are tied into job creation.

Mayor Katzakian closed the public hearing after receiving no further public comment.

In response to Council Member Hansen, Mr. Wood confirmed that the public service cap is 15% of the total allocation and the recommended allocation to the graffiti abatement program is

$67,000 although $91,000 was requested.

Council Member Mounce made a motion, second by Mayor Pro Tempore Hitchcock, to adopt Resolution No. 2010-32 approving the Draft 2010/11 Action Plan for the Community Development Block Grant Program.

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Hansen, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian
Noes: Council Member Johnson
Absent: None

H-2 Public Hearing to Consider Resolution Adopting Federal Fiscal Year 2010 Program of Transit Projects (PW)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Katzakian called for the public hearing to consider resolution adopting Federal Fiscal Year 2010 Program of Transit Projects.

City Manager King briefly introduced the subject matter of the 2010 program of transit projects.

Public Works Director Wally Sandelin provided a brief PowerPoint presentation regarding the fiscal year 2010 program of transit projects and related public hearing. Specific topics of discussion included funding expenditures on automated fare boxes, facility upgrades, preventative maintenance, operations, security systems, and bus shelters.

In response to Council Member Hansen, Mr. Sandelin stated the facility upgrades include parking lot improvements at the yard, which are funded by various sources.

In response to Council Member Hansen, Mr. Sandelin stated there will be future funds received of approximately $1 million for bus replacement that are separate from the funding that is being discussed tonight.

In response to Council Member Hansen, Mr. Sandelin stated the future funds will be used to replace the larger buses with the smaller buses.

In response to Council Member Hansen, Mr. Sandelin stated the buses do have to meet certain federal requirements for mileage and age before they can be replaced.

In response to Mayor Katzakian, Mr. Sandelin stated the fare recovery equipment can be taken out of the older buses during replacement and put into the newer buses.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin stated $100,000 will not complete the entire bus shelter project as it will be an ongoing program and funding will be received in future years. Council Member Hitchcock requested information regarding how many bus shelters the $100,000 will fund and how many will be left to fund in the full bus shelter program.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin stated the funds need to be obligated and expended quickly and the fare box project, which could be a revenue source, can be completed in the quick time frame.

In response to Council Member Johnson, Mr. Sandelin stated the Municipal Service Center is in need of additional fencing and security cameras because people have been climbing over the

existing fence and throwing rocks over the fence hitting parked vehicles.

In response to Council Member Hansen, Mr. Sandelin stated the bus replacement is several years out as previously suggested in the short range transit plan presentation.

Mayor Katzakian opened the public hearing to receive public comment.

Robin Rushing spoke in opposition to the costs associated with the automated fare recovery boxes.

Mayor Katzakian closed the public hearing after receiving no further public comment.

In response to Council Member Mounce, Mr. Sandelin stated the proposed allocation will complete the automated fare box project in its entirety.

In response to Council Member Hansen, Mr. Sandelin confirmed that the proposed allocation for the completion of the fare box recovery program is $541,000.

In response to Council Member Johnson, Mr. Sandelin stated all buses will have the automated boxes so that the drivers do not have to handle cash.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin confirmed that, if the federal program allotted more time to expend the funds, the list of projects to complete may look different as there would be more time to acquire right-of-ways and negotiate.

Council Member Mounce made a motion, second by Council Member Johnson, to adopt Resolution No. 2010-33 adopting Federal Fiscal Year 2010 Program of Transit Projects.

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian
Noes: None
Absent: None

H-3 Public Hearing to Consider Resolution Approving Contractual Consumer Price Index-Based Annual Adjustment to Rates for Solid Waste Collection (PW)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Katzakian called for the public hearing to consider resolution approving contractual Consumer Price Index (CPI)-based annual adjustment to rates for solid waste collection.

City Manager King provided a brief introduction to the subject matter of the annual adjustment for the solid waste collection contract.

Public Works Director Wally Sandelin provided an overview of the contractual CPI-based annual adjustment to rates for solid waste collection. Specific topics of discussion included contractual terms, CPI rate adjustment factor, County gate fees, and examples of rate changes.

Mayor Katzakian opened the public hearing to receive public comment.

Daniel Gonzales spoke in opposition to the proposed CPI rate increase for solid waste based on his concerns of affordability.

Alex Aliferis spoke in opposition to the proposed CPI rate increase for solid waste based on his concerns of affordability.

Mayor Katzakian closed the public hearing after receiving no further public comment.

Council Member Mounce made a motion, second by Mayor Pro Tempore Hitchcock, to adopt Resolution No. 2010-34 approving contractual Consumer Price Index-based annual adjustment to rates for solid waste collection.

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian
Noes: None
Absent: None

I. Communications

I-1 Claims Filed Against the City of Lodi - None

I-2 Appointments

a) Appointments to Lodi Animal Advisory Commission: Dan Phillips; and Lodi Improvement Committee: Sunil Yadav (CLK)

Council Member Mounce made a motion, second by Council Member Johnson, to make the following appointments:

Lodi Animal Advisory Commission
Dan Phillips, Term to expire December 31, 2012

Lodi Improvement Committee
Sunil Yadav, Term to expire March 1, 2013

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian
Noes: None
Absent: None

b) Post for Two Vacancies on the Lodi Arts Commission (CLK)

Council Member Mounce made a motion, second by Council Member Johnson, to direct the City Clerk to post for the following vacancies:

Lodi Arts Commission
Kathi Medford, Term to expire July 1, 2011
Margaret Talbot, Term to expire July 1, 2011

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor

Pro Tempore Hitchcock, and Mayor Katzakian
Noes: None
Absent: None

I-3 Miscellaneous - None

J. Regular Calendar

J-1 Receive Report Concerning Downtown Directional Sign Program and Provide Direction and Action as Appropriate (CM)

City Manager King provided a PowerPoint presentation regarding the downtown directional sign program. Topics of discussion included the October 2009 downtown summit, commitment to Lodi with funding and efforts to bring visitors to downtown, design, placement, construction, maintenance, common economic development tool, and potential future action.

Assistant City Manager Bill Cahill, from the City of Merced, spoke of the directional sign program created and implemented by the City of Merced. Specific topics of discussion included the $132,000 cost, placement of 75 signs throughout the city, establishment of new identity for City, process and selection associated with services for design and construction, tasks associated with program implementation, and lessons learned from the project.

In response to Council Member Mounce, Mr. Cahill stated the funding source for the directional sign program in Merced was $100,000 from the redevelopment project area, $50,000 from the economic development program, and the remainder came from the General Fund.

In response to Council Member Johnson, Mr. Cahill stated the logo provided by the consultant was good upon the first submission, while the design took approximately three times. Mr. Cahill stated the biggest problem was the sign installation completed by Public Works versus an outside contractor, which slowed the process down by two months. He stated fabrication was completed by an outside contractor under the normal bid process and the City has received requests to add more signs, which will be incorporated with replacement for the current signs.

In response to Council Member Hansen, Mr. Cahill stated staff and the Committee collectively reviewed which destinations to include in the program and worked with consultants who also had a ton of experience of what destinations are typically included in these programs. Mr. Cahill stated once the destinations were known, routes were drawn from Highway 99 to the destinations and signs were placed along the way so that any potential wrong turn had a sign. He stated there were no law enforcement concerns and the overall response to the program was positive.

In response to Mayor Katzakian, Mr. Cahill stated the proposals were distributed to everyone in California in this line of business, as well as local sign and design businesses.

In response to Mayor Pro Tempore Hitchcock, Mr. Cahill stated the consultant was free to make recommendations on the program and the City does not have a policy for future sign requests at this time.

In response to Mayor Pro Tempore Hitchcock, Mr. King stated the City could go with Graphic Solutions, which has an excellent reputation based on his prior experience with the company as well as others in the industry.

Council Member Johnson suggested staff look into using public benefit funds for the program since it is an economic development tool.

The City Council provided general consensus with respect to supporting a directional sign program and having staff look into funding options for the same.

J-2 Approve Water Meter Cost, Extended Payment, and Payment Deferral Plan (PW)

City Manager King briefly introduced the subject matter of the water meter installation program cost and payment plan.

Public Works Director Wally Sandelin provided a PowerPoint presentation regarding the water meter cost and payment plan. Specific topics of discussion included background, recommendation, meter set components, installation class, seven-year payment plan, payment assistance, program cash flow, and cost comparisons for three- and five-year construction programs with and without caps.

In response to Council Member Mounce, Mr. Sandelin stated the contractor will cut up a little square with a directional bore underground so as to avoid conflicts with other objects including landscaping.

In response to City Attorney Schwabauer, Mr. Sandelin confirmed that the class of owners assigned the $300 fee have already paid for their water meters.

In response to Council Member Mounce, Mr. Sandelin stated everyone should know what class they are in by April 2011.

In response to Council Member Hansen, Mr. Sandelin confirmed that a property owner can pay off the entire cost of the meter at any time without a penalty, although there will be no refunds for partial payments.

In response to Mayor Pro Tempore Katzakian, Mr. Sandelin stated the interest rate is 1.5% and will not change.

In response to Council Member Hansen, Mr. Sandelin stated all property owners will have formal notice by April 2011, staff will do as many inspections as possible by September 2010, and if an application is received that property will also be inspected. Mr. King stated notice will go out to everybody, which will be backed up by public outreach efforts and will provide the necessary figures to estimate how many property owners may need assistance with the payments.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin stated the $1.5 million is based upon Census information and enrollment in the Electric Utility assistance program. He stated this information identifies the potential qualifying property owners in the city for low- and very-low income for all three phases. Mr. Sandelin and Mr. King also discussed the options associated with Community Development Block Grant (CDBG) funding throughout the years, the working assumption to try and cover 100% of extremely low- and very-low income while proportionately granting what remains thereafter, and the assumption that all CDBG eligible owners will fall into the $1,200 category.

Mayor Katzakian opened the public hearing to receive public comment.

Pete Christy spoke in opposition to the acceleration of the program based on the challenges of the bad economy.

Daniel Gonzalez spoke in opposition to the proposed water meter installations based on poor timing and the economy.

Christopher Vigil spoke in opposition to the proposed water meter installations based on his concern about unanswered questions submitted as a separate document for the record.

Frank Taormina spoke in opposition of the water meter installations based on challenging unfunded mandates and poor timing with the economy.

Matt Silva spoke in regard to his concerns about the cost of water meters, replacement of the main from the backyard to the front yard, and the ability to do the self-install or hire a contractor.

Robin Rushing spoke in opposition to the proposed water meter installations based on his concern that the cost will be passed down to tenants.

Alex Aliferis spoke in favor of delaying and postponing the water meter installations in light of the economy.

Roy Bids spoke in favor of delaying the water meter program for a few years and installing the meters next to the house in a similar manner to the electric meters.

Mayor Katzakian closed the public hearing after receiving no further public comments.

City Manager King discussed the property owner options to pay, Public Works assessment of each property, the lien process for defaults, the meter asset being a part of the property, comparison rates previously provided, commercial and industrial properties already on the metered system, and the challenges with the State Mandates Commission and unreimbursed mandates.

In response to Council Member Hansen, Mr. Sandelin stated after 1992 homes were charged and already paid the cost for water meters and the current charge for new homes is approximately $3,000.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin stated he has full faith in Tom Dugan and the consulting firm that is working on the water meters.

Council Member Hansen made a motion, second by Council Member Johnson, to approve water meter cost, extended payment, and payment deferral plan.

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Hansen, Council Member Johnson, Mayor Pro Tempore Hitchcock, and Mayor Katzakian
Noes: Council Member Mounce
Absent: None

J-3 Select Gateway Design Feature for Lodi Avenue and Cherokee Lane and Adopt Resolution Authorizing the City Manager to Execute a Contract Change Order with Granite Construction Company, of Watsonville, for Work Related to Project Scope Expansion for Lodi Avenue Reconstruction Project and Appropriating $675,000 (PW)

City Manager King provided a brief introduction to the subject matter of the Lodi Avenue Reconstruction Project.

Public Works Director Wally Sandelin provided a PowerPoint presentation regarding the Lodi Avenue Reconstruction Project. Specific topics of discussion included Alternative 1 recommendation and design, entry monument options, Alternative 2 design, and Measure K and

Proposition 42 grant expenditures.

In response to Council Member Hansen, Mr. Sandelin reviewed the placement of the street light fixtures for both alternatives.

In response to Council Member Hansen, Mr. Sandelin stated Public Works prefers Alternative 1 because of truck turning concerns with Alternative 2, which is two lanes in each direction but there is no parking as in Alternative 1.

In response to Council Member Hansen, Mr. Sandelin stated the project starts on the west side of Cherokee Lane and Lodi Avenue with the new driveway for Orchard Supply and the gateway is on the east side.

In response to Mayor Katzakian, Mr. Sandelin stated there will be landscaping all the way up to and along the Orchard Supply driveway.

In response to Council Member Mounce, Mr. Sandelin stated the project will include the strip of land near Cherokee Lane that was acquired by the City.

In response to Council Member Mounce, Mr. Sandelin stated the art monument placement will be considered at a later date and the City will maintain the landscape once it goes in.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin confirmed the primary difference is the cars versus a landscaped strip, and essentially the trucks could strike both.

In response to Council Member Mounce, Mr. Sandelin stated the closest art piece is approximately a half a mile away.

In response to Council Member Hansen, Mr. Sandelin stated both alternatives are doable and the truck turning concern is based on the curb dimensions not being consistent with truck usage.

Council Member Johnson made a motion, second by Mayor Pro Tempore Hitchcock, to select gateway design feature, Alternative No. 2 with the less detailed monument, for Lodi Avenue and Cherokee Lane.

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, and Mayor Pro Tempore Hitchcock
Noes: Mayor Katzakian
Absent: None

Council Member Hansen made a motion, second by Mayor Pro Tempore Hitchcock, to adopt Resolution No. 2010-35 authorizing the City Manager to execute a contract change order with Granite Construction Company, of Watsonville, for work related to project scope expansion for Lodi Avenue Reconstruction Project and appropriating $675,000.

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian
Noes: None
Absent: None

J-4 Receive Report on Response to Comments on the Draft Environmental Impact Report/Environmental Assessment for I-5 Widening from Stockton to Southerly Limits of the White Slough Water Pollution Control Facility (CD)

This item was not discussed and was continued to the next regularly scheduled City Council meeting.

J-5 Adopt Resolution Awarding Contract for the Central Plume PCE/TCE Remedial Measures Project to Diede Construction, Inc., of Woodbridge ($1,758,672.42), and Appropriating Funds ($2,000,000) (PW)

City Manager King briefly introduced the subject matter of the Central Plume PCE/TCE remedial measures project.

Public Works Director Wally Sandelin provided a brief presentation regarding the proposed contract award to Diede Construction for the Central Plume PCE/TCE remedial measures project. Specific topics of discussion included the project time line, well locations, and bid results.

In response to Council Member Mounce, Mr. Schwabauer stated one of the wells will be located near the backside parking lot of what was the Lodi News Sentinel site and the particular resident who had concerns is now satisfied with the site location. Mr. Sandelin stated a sound system is also in place.

In response to Council Member Johnson, Mr. Sandelin stated it is possible that the estimate was low, although it is difficult to speculate about what goes into the bid consideration from the contractor.

In response to Council Member Hansen, Mr. Sandelin stated the facility will be up in six months, with another year for operations, and then the City will move into the ongoing operations and maintenance function.

Council Member Mounce made a motion, second by Mayor Pro Tempore Hitchcock, to adopt Resolution No. 2010-36 awarding contract for the Central Plume PCE/TCE Remedial Measures Project to Diede Construction, Inc., of Woodbridge, in the amount of $1,758,672.42, and appropriating funds in the amount of $2,000,000.

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian
Noes: None
Absent: None

K. Ordinances

K-1 Adopt Ordinance No. 1829 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 15 - Buildings and Construction - by Repealing and Reenacting Chapter 15.60, "Flood Damage Prevention"; and Amending Lodi Municipal Code Title 17 - Zoning - by Repealing Chapter 17.51 in Its Entirety Relating to FP, Floodplain District" (CLK)

Council Member Johnson made a motion, second by Council Member Mounce, (following reading of the title) to waive reading of the ordinance in full and adopt and order to print Ordinance No. 1829 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal

Code Title 15 - Buildings and Construction - by Repealing and Reenacting Chapter 15.60, 'Flood Damage Prevention'; and Amending Lodi Municipal Code Title 17 - Zoning - by Repealing Chapter 17.51 in Its Entirety Relating to FP, Floodplain District," which was introduced at a regular meeting of the Lodi City Council held March 3, 2010.

VOTE:
The above motion carried by the following vote:
Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian
Noes: None
Absent: None

L. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 11:47 p.m.

ATTEST:

Randi Johl
City Clerk

EXHIBIT C

LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, MARCH 23, 2010

The March 23, 2010, Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was canceled.

ATTEST:

Randi Johl
City Clerk

EXHIBIT D

LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, MARCH 30, 2010

The March 30, 2010, Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was canceled.

ATTEST:

Randi Johl
City Clerk

EXHIBIT E

LODI CITY COUNCIL
SPECIAL CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, MARCH 30, 2010

The March 30, 2010, Special Meeting of the Lodi City Council was canceled.

ATTEST:

Randi Johl
City Clerk

AGENDA ITEM D-03

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approve Plans and Specifications and Authorize Advertisement for Bids for Kofu Park Community Building Energy Efficiency Project

MEETING DATE: April 7, 2010

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Approve the plans and specifications and authorize advertisement for bids for the Kofu Park Community Building Energy Efficiency Project.

BACKGROUND INFORMATION: On June 3, 2009, City Council approved the Lodi Energy Efficiency and Conservation Block Grant Fund projects. This project was included in the approved list. The estimated cost of the improvements was listed as $20,000. This project will provide upgrades to the Kofu Park Community Building to make it more energy efficient. Work will include the installation of a high-efficiency HVAC unit, dual-pane windows, attic insulation, weather stripping, T-Bar ceiling system and Energy Star T-8 fluorescent lighting.

Staff is requesting that Council approve the plans and specifications and authorize advertisement for bids for this project.

Plans and specifications are on file in the Public Works Department. The planned bid opening date is May 26, 2010. The approximate project completion date will be at the end of August 2010.

FISCAL IMPACT: Completion of this project will provide for a more energy-efficient building. The City should see a decrease in both the maintenance costs and the electric usage in this facility.

FUNDING AVAILABLE: Energy Efficiency Conservation Block Grant Fund (1211722): $20,000

F. Wally Sandelin
Public Works Director

Prepared by Wesley K. Fujitani, Senior Civil Engineer
Attachment
cc: Purchasing Agent
Parks Superintendent
Parks Project Coordinator
Wes Fujitani, Senior Civil Engineer

APPROVED: _____
Blair King, City Manager

AGENDA ITEM D-04

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approve Plans and Specifications and Authorize Advertisement for Bids for 2010 Street Improvements Project

MEETING DATE: April 7, 2010

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Approve the plans and specifications and authorize advertisement for bids for 2010 Street Improvements Project.

BACKGROUND INFORMATION: This project consists of installing 7,100 tons of asphalt concrete overlay with pavement fabric, performing 9,100 square feet of pavement dig-out, reconstructing 67,740 square feet of asphalt concrete pavement, and other incidental and related work, all as shown on the plans and specifications for the project. The locations of the street improvements are shown on Exhibit A.

The proposed project is part of the 2010 Street Maintenance Project for Proposition 1B Funding which was approved by the City Council on November 4, 2009 (Resolution No. 2009-154). The street improvements on Ham Lane and Vine Street are expected to start in June 2010 to avoid conflicts with Lodi Unified School District's schedule for Tokay High School and Lodi Middle School. The project is expected to be completed before the start of the school year in July 2010.

The plans and specifications are on file in the Public Works Department. The planned bid opening date is May 4, 2010.

FISCAL IMPACT: The project will reduce the maintenance and emergency response costs due to drainage and flooding problems in the affected area.

FUNDING AVAILABLE: The money for this project will be coming from the Proposition 1B Fund. A request for appropriation of funds will be made at contract award.
Project Estimate: $1,190,000

_____
F. Wally Sandelin
Public Works Director

Prepared by Lyman Chang, Senior Civil Engineer
FWS/LC/pmf
Attachment
cc: Purchasing Division
Deputy Public Works Director Swimley
Senior Civil Engineer Chang

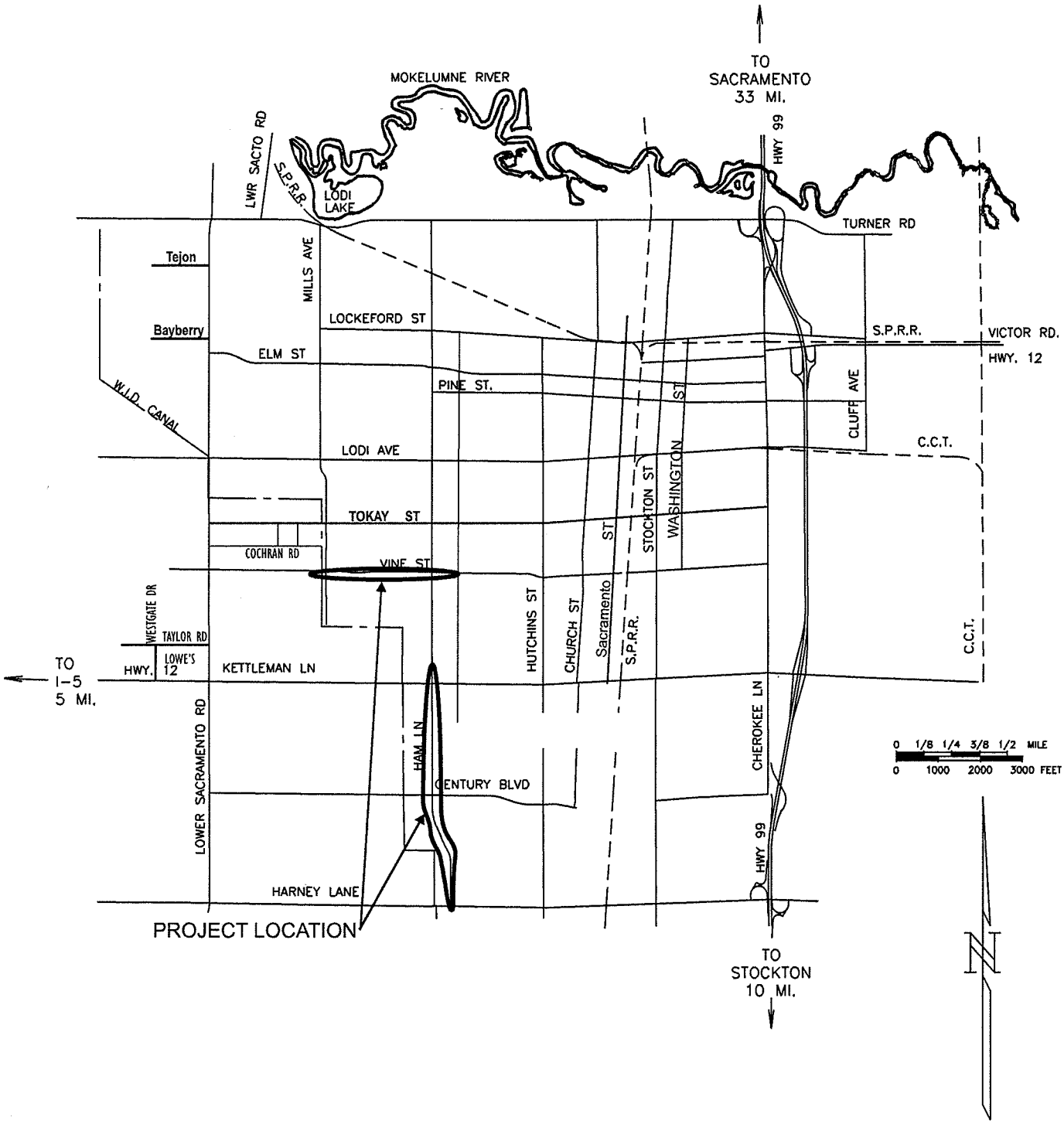
APPROVED: _____
Blair King, City Manager

CITY OF LODI

PUBLIC WORKS DEPARTMENT

EXHIBIT A

2010 Street Improvements Project
Ham Lane, Harney to Kettleman
Vine Street, Mills to Fairmont



AGENDA ITEM D-05

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Approve Specifications and Authorize Advertisement for Bids for the Rejuvenation of 15,290 feet of Underground Electric Cable in English Oaks Phase One ($145,000) (EUD)**

MEETING DATE: **April 7, 2010**

PREPARED BY: **Interim Electric Utility Director**

RECOMMENDED ACTION: Approve specifications and authorize advertisement for bids for the rejuvenation of 15,290 feet of underground electric cable in English Oaks Phase One in the amount of $145,000.

BACKGROUND INFORMATION: A number of distribution circuits with direct-buried underground cables have more than 30 years of service and are wearing out. There have been a number of failures in direct-buried cable due to insulation weakness, which have led to power outages.

To ensure continued reliable service, it is prudent to replace aged direct-buried cable. Direct-buried cable is more expensive and difficult to replace than cable in conduit. Because of shorter life and much more expensive replacement, we no longer bury cable directly, but rather in conduit. Replacing direct-buried cable requires digging trenches, laying down new conduits, and pulling in new cables.

Last year, the Electric Utility Department tried rejuvenating the insulation of direct-buried cables in the Royal Crest Subdivision and it proved to be a cost-effective option. Rejuvenation involves injecting old cable with a product called Ultrinium 732 at high pressure, which is expected to extend the life of the cable for 40 or more years. The estimated cost of replacement was approximately $300,000 and the actual cost of cable rejuvenation was approximately $90,000, saving more than 50 percent of project cost. English Oaks Subdivision is served by aged direct-buried cable. English Oaks Phase One is proposed for the second cable rejuvenation project.

FISCAL IMPACT: Estimated cost of rejuvenation is $145,000. In the alternative, the estimated cost for replacement would be $400,000. The estimated savings for rejuvenation over replacement is approximately $255,000.

FUNDING: 160651.7713

_____
Kenneth A. Weisel
Interim Electric Utility Director

PREPARED BY: Demy Bucaneg, Jr., P.E., Assistant Electric Utility Director

KAW/DB/lst

APPROVED: _____
Blair King, City Manager

AGENDA ITEM D-06

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approve Issuance of a Request for Proposals for A-87 Compliant Cost Allocation Plans and Indirect Cost Rates

MEETING DATE: April 7, 2010

PREPARED BY: Deputy City Manager

RECOMMENDED ACTION: Approve issuance of a Request for Proposals for A-87 Compliant Cost Allocation Plans and Indirect Cost Rates.

BACKGROUND INFORMATION: Compliance with Office of Management and Budget Circular A-87-Cost Principles for State, Local, and Indian Tribal Governments (OMB A-87) is a requirement for claiming indirect and overhead costs associated with federal and state grants. The City engaged MuniFinancial in 2007 to produce a central services cost allocation plan for the purpose of allocating central service costs to operating departments. The MuniFinancial engagement did not include a calculation of departmental indirect rates and submittal of the plan to cognizant agencies. Staff is recommending the use of an outside consultant as a means of expediting the development of the cost allocation plan and indirect rates. Further, the selected consultant will have expertise in developing such plans and rates along with expertise in negotiating approvals with cognizant agencies.

The proposed RFP requests that the successful contractor provide an OMB-87 compliant cost allocation plan and indirect rates for selected departments/divisions for a five-year period. Additionally, the successful contractor will be responsible for obtaining cognizant agency approval of the cost plan and indirect rates. Approval of indirect rates will allow those departments/divisions to include such additional costs in their grant claims, thereby increasing revenues.

Consultant selection will be made by a committee of City staff along with participation from the Budget and Finance Committee. Selection criteria are defined in the RFP.

A copy of the RFP is attached.

FISCAL IMPACT: Annual costs are estimated to be under $25,000; unknown additional revenue will be generated by inclusion of indirect costs on grant claims.

FUNDING AVAILABLE: Funding has been provided in Non-Departmental Services (100241.7323) in FY 2009/10 and will be provided in future years.

_____
Jordan Ayers
Deputy City Manager

Attachments

APPROVED: _____
Blair King, City Manager

CITY OF LODI

REQUEST FOR PROPOSALS

FOR

OMB A-87 COST ALLOCATION PLANS AND INDIRECT COST RATES

Proposal Date: April 8, 2010

I. PROJECT OVERVIEW

A. Goal

The City of Lodi ("City") requests Proposals from qualified firms ("Consultant") to develop annual City-wide central service cost allocation plans and annual indirect cost rate proposals for selected divisions/business units in accordance with the Office of Management and Budget (OMB) Circular A-87 (Cost Principles for State, Local, and Indian Tribal Governments), and applicable state and federal regulations which will allow the City to maximize reimbursements from federal and state agencies. The City intends to award a contract covering five fiscal years. The Proposal must cover all points outlined in this document.

B. Description of City

The City is a general law city, duly created, organized and existing under the laws of the State of California. The City operates under the Council-Manager form of government and is governed by a 5-member Council.

The City provides the full spectrum of municipal services.

The City has approximately 410 full time employees and consists of the following departments: City Manager, City Attorney, City Clerk, Internal Services, Police, Fire, Public Works, Electric Utility, Community Development, Parks and Recreation, Library and Community Center. The City operates with a Cost of Services allocation that had been completed in 2007. The City does not currently fully allocate central service costs to all operating departments and divisions. **Exhibit 1** is the City's current organizational chart and a brief description of the central service units. In addition, a copy of the City's most recent audited financial statement is available on the City's website at www.lodi.gov.

C. Proposal Requirements

The City wishes to establish annual City-wide central service cost allocation plans in compliance with Federal OMB Circular A-87 that meet, at a minimum, the guidelines set forth by the California Department of Transportation (Caltrans), the Federal Highway Administration (FHWA) and/or the Federal Transit Administration (FTA), and the Federal Housing and Urban Development (HUD) and must be in a format acceptable to the City's cognizant federal agency. The City also desires annual indirect cost rate proposals to be calculated for selected

divisions/business units of the City in accordance with the above-mentioned government organizations.

The City's fiscal year is July 1st though June 30th. The cost allocation plans and indirect cost rate proposals will be based on audited data which will be available approximately November 15th following the end of each fiscal year.

The City intends to award a five-year contract. The contract will cover the calculation of City-wide central service cost allocation plans and indirect cost rates for five consecutive years starting with Fiscal Year 2010-11.

Successful experience working with Caltrans Department of Audits and Investigations, FTA and HUD is preferred.

D. Scope of Services

The Consultant is required, but not limited, to:

1. Conduct appropriate interviews with City departments to identify appropriate allocation bases and methods of distributing costs that are most appropriate which may favorably impact indirect cost recoveries.

2. After appropriate consultations necessary to gain familiarity with City operations, recommend strategies and procedures to maximize potential recovery of City costs from grant sources.

3. Instruct City staff on OMB Circular A-87 concepts and application. Identify available data which can be effectively incorporated into the indirect cost allocation plans, and determine opportunities to simplify data collection activities for future plans.

4. Develop and prepare City-wide central service cost allocation plans and indirect cost rate proposals for selected divisions/business units of the City, in accordance with OMB Circular A-87 for federal and state grant reimbursement. The finished products should meet, at a minimum, the guidelines set forth by Caltrans, the FHWA and/or FTA, and HUD and will be in a format acceptable to City's cognizant federal agency.

5. Assist in negotiating with cognizant agencies. Note: Should the cognizant agency not approve the plan or rate(s), the Consultant **shall** modify the document(s) to an acceptable level within the appropriate designated time frame. **At its discretion, the City may withhold 5% of each yearly payment until a letter of approval from the appropriate cognizant agency is received by the City.**

6. Provide the model used to calculate the allocations and indirect cost rates and train City staff in the model that Consultant uses such that City staff would be able to use the model independently after the termination of the contract resulting from this proposal.

E. Project Deliverables

At minimum, the Consultant will be required to provide the following products in the

performance of the contract. The following schedule reflects the City's preferred timetable. Proposers shall indicate whether they accept the following timetable or propose an alternate schedule.

1. **For Fiscal Year 2010-11 (based on 2008-2009 audited data)** – Drafts of the following are due to the City by October 1, 2010, and in final form to the cognizant agency no later than November 5, 2010:
    a. City-wide Central Service Cost Allocation Plan
    b. Indirect Cost Rate Proposals for the units listed in Exhibit 1

2. **For Fiscal Year 2011-2012 (based on 2009-2010 audited data)** – Drafts of the following are due to the City by February 1, 2011, and in final form to the cognizant agency no later than March 1, 2011:
    a. City-wide Central Service Cost Allocation Plan
    b. Indirect Cost Rate Proposals for the units listed in Exhibit 1

3. **For Fiscal Year 2012-2013 (based on 2010-2011 audited data)** – Drafts of the following are due to the City by February 1, 2012, and in final form to the cognizant agency no later than March 1, 2012:
    a. City-wide Central Service Cost Allocation Plan
    b. Indirect Cost Rate Proposals for the units listed in Exhibit 1

4. **For Fiscal Year 2013-2014 (based on 2011-2012 audited data)** – Drafts of the following are due to the City by February 1, 2013, and in final form to the cognizant agency no later than March 1, 2013:
    a. City-wide Central Service Cost Allocation Plan
    b. Indirect Cost Rate Proposals for the units listed in Exhibit 1

5. **For Fiscal Year 2014-2015 (based on 2012-2013 audited data)** – Drafts of the following are due to the City by February 1, 2014, and in final form to the cognizant agency no later than March 1, 2014:
    a. City-wide Cost Allocation Plan
    b. Indirect Cost Rate Proposals for the units listed in Exhibit 1

The City reserves the right to eliminate from the Scope of Services in any year any sub-component of the Indirect Cost Rate Proposal. Should the City remove any sub-component in any year, payment to the Consultant will be modified by mutual agreement between the City and the Consultant.

A summary table of the deliverables is included in **Exhibit 2** for reference.

Note: Electronic versions and five (5) written copies of Drafts and Final Documents are required for each year.

F. Contract Term

The City intends to award a five-year contract unless terminated sooner in accordance with Section 18 of the Sample Professional Services Agreement (**Exhibit 3**). The contract will cover the calculation of City-wide central service cost allocation plans and indirect cost rates for five consecutive fiscal years starting with 2010-2011.

II. PROPOSAL INSTRUCTIONS AND DESCRIPTION OF THE PROPOSAL PROCESS

A. Timeline for Proposal Submission Process

RFP Issued	Thursday, April 8, 2010
Request for Clarification Due Date	Wednesday, April 21, 2010 by 4:00 PST
Addendum (if necessary)	Monday, May 3, 2010
Proposal Due Date	***Monday May 17, 2010 by 4:00pm PST***
Interviews (if necessary)	Wednesday, June 3, 2010 or Thursday, June 4, 2010
City Council Award of Contract	Wednesday, June 16, 2010
Notice to Proceed	July 2010 (date TBD)

B. Requests for Clarification, Corrections or Modifications

Any requests for clarification, correction or modifications of proposal requirements shall be submitted in writing to the Deputy City Manager by **4:00 p.m. PST Wednesday, April 21, 2010**. Any interpretation or modification of the Request for Proposals (RFP) will be made by written addenda only, duly issued by the Deputy City Manager no later than **Monday, May 3, 2010**. Copies of such addenda will be mailed or delivered to each firm receiving the RFP. All oral modifications of these conditions or specifications are void and ineffective. The City reserves the right to reject any Proposal that contains unauthorized conditions or exceptions.

C. Proposal Submission

An original Proposal and six (6) copies should be submitted in a sealed envelope marked, **"OMB A-87 COST ALLOCATION PLANS AND INDIRECT COST RATES**" and plainly endorsed with the Proposer's name and address. Proposals will be sent or delivered to the following address:

Mail To:
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

Attention: Jordan Ayers, Deputy City Manager

Hand Deliver To:
City of Lodi
Finance Division
310 West Elm Street
Lodi, CA
Attention: Jordan Ayers, Deputy City Manager

Proposals must be received no later than **Monday May 17, 2010 at 4:00pm PST.** Proposals received after the time and date specified will not be considered. The City is not responsible for delayed deliveries due to mailing. The time received in the City office shall determine the official time received. Submission of a Proposal shall constitute a firm offer to the City for ninety (90) days from the submission deadline for Proposals.

City staff will review all Proposals received and several finalists may be selected. These finalists may be invited to an oral interview. Please reserve **Wednesday, June 3, 2010 and Thursday, June 4, 2010** as tentative dates for finalist interviews should interviews be conducted. It is requested that the attendees be restricted to those individuals who will have direct involvement with the program.

D. Proposal Forms and Sample Documents

The following documents are included in this RFP:

- **Exhibit 1**: Description of Central Service Units and City Organizational Chart
- **Exhibit 2**: Summary of Deliverables
- **Exhibit 3**: Sample Professional Services Agreement
- **Exhibit 4**: Proposal Form
- **Exhibit 5**: Acknowledgment of Addenda (if applicable)

The Proposal Form (**Exhibit 4**) must be completed and signed by one or more individuals with authority to bind the Proposer to the Proposal. If addenda are issued, the Proposer must complete and submit the Acknowledgment of Addenda (**Exhibit 5**) with its proposal.

E. Proposal Content

To achieve a uniform review process and obtain the maximum degree of comparability, it is required that Proposals include the following basic format. The Proposer is expected to provide services as outlined in this RFP and prepare its response to fully address its ability to satisfy these components.

1. **General Information of Firm -** Please provide the following:
    a) Firm's name and address
    b) RFP contact / phone / fax / email
    c) Names of authorized principals with authority to negotiate and contractually bind the firm
    d) A signed letter of transmittal stating the Proposer's understanding of the work

to be done, a statement why the firm believes itself to be the best qualified to perform the engagement, and a statement that the proposal is a firm and irrevocable offer for the 90 days after June 17, 2010. Please confirm that the firm has accepted the Sample Professional Services Agreement included as **Exhibit 3.**

e) Indicate whether there are any conflicts of interest that would limit your ability to provide services. See Section 22 of the Sample Professional Services Agreement (**Exhibit 3**). Provide any required disclosures pursuant to the Levine Act. See Section J below.

2. **Qualifications and Experience of the Firm -** Please address the following:
   a) Describe your firm's history and organizational structure. Include number of years in business, size of company (employees, yearly revenue).
   b) Describe your firm's experience with servicing public agency clients for services described in this RFP.
   c) How many years has your firm been doing work outlined in the scope of this RFP?
   d) Describe any known or perceived actual or potential conflicts of interest with the City, its Council members, officers, agents or employees. (Please refer to Section 22, Conflict of Interests of the Sample Professional Services Agreement in **Exhibit 3**).

3. **Qualifications and Experience of Team**
   a) How many staff would be assigned to conduct the scope of work? Identify the members of the plan service team including their tenure with your firm, background including any applicable licenses and certifications, education and location and the role they will play in managing the City's account.
   b) Will you utilize any subcontractors for the servicing of this plan? If yes, describe your relationship with the subcontractor, the subcontractor's history and experience in providing similar fund services and the experience of the subcontractor's employees that will provide services to the plan.

4. **Approach**
   a) Outline how your firm plans to accomplish the Scope of Services outlined in **Section I.D.** and Project Deliverables outlined in **Section I.E.** of this RFP. Submit a work plan that details your firm's approach and methodology, as well as a proposed timeline that indicates when each element of the Scope of Services will be performed and when each Project Deliverable will be completed.
   b) Describe in detail the information your firm would require from the City to complete the work requested.
   c) Attach as an Exhibit to your proposal a sample cost allocation plan and indirect cost rates that your firm has done in the last year, preferably, that was submitted to Caltrans or FTA for approval. You may redact confidential information as necessary.
   d) Please describe any other services and/or area of expertise, which are included in your total fee, or that may distinguish your firm's ability to provide the

services requested in this RFP.

e) Indicate whether the City's proposed manner of payment set forth in Section 13 of the attached Sample Professional Services Agreement (**Exhibit 3**) is acceptable. Propose an alternate payment methodology if desired.

5. **Financial Stability**

a) Attach a copy of your AM Best rating or Dun and Bradstreet rating as an Exhibit to your proposal.

b) Attach a copy of your most recent audited financial statement as an Exhibit to your proposal.

c) If the Proposer is not a publicly held corporation and does not have AM Best or Dun and Bradstreet rating or audited financial statements, please provide internal unaudited financial statements, financial references, and any other pertinent information to allow the City to reasonably formulate a determination about the stability and financial strength of your firm.

d) List any pending administrative proceedings, investigations and civil suits against the firm relating to the firm's performance of its professional duties

6. **References**

Please list the names, addresses, and telephone numbers relating to three (3) existing clients and two (2) previous clients for whom your firm has developed recent (within the last three years) cost allocation plans and indirect cost rates, preferably, which were submitted to Caltrans or FTA for approval. Please provide a brief description of the work provided for each reference.

7. **Fee Structure**

Please complete Proposal Form (**Exhibit 4**) to provide a fixed all-inclusive fee structure to perform all services described in the Scope of Services (**Section I.D.**) and Project Deliverables (**Section I.E.**) above. No additional reimbursement will be provided for travel time, expenses, telephone costs, copying costs, etc. Please also submit on a separate page hourly rates, by personnel category, for each year which will apply to any modification to the scope of services. The hourly rates set forth shall hold firm for each year. The City will evaluate cost proposals on the basis of the Grand Total sum of the Yearly Totals as indicated on the Proposal Form.

8. **Certificate of Insurance**

Proposers are requested to provide a completed sample Certificate of Insurance evidencing the coverage types and the minimum limits required as described in Section 12 of the Sample Professional Services Agreement (**Exhibit 3**) with their proposal. The City requires this information to facilitate completing contract formalities in a timely manner if an award is made. The City may request additional information or clarification if necessary.

F. Withdrawal of Proposal

Submission of a Proposal shall constitute a firm offer to the City for ninety (90) days from the submission deadline for Proposals.

A Proposer may withdraw its Proposal anytime before the date and time when Proposals are due,

without prejudice, by submitting a written request for its withdrawal to the Deputy City Manager. A telephone request is not acceptable.

G. Selection Criteria

The City intends to award a Contract to the most qualified firm submitting a responsive Proposal. Ranking will be based on a maximum of 100 points, weighted as indicated on the following table. In determining the number of points a Proposal will receive in each category, the City will consider the Proposal material submitted, oral interviews (if applicable), and any other relevant information about a given Proposer. The firm submitting a responsive Proposal with the highest total weighted score, based on composite scoring of the selection committee, will be determined to be the most qualified. The following criteria will be used in the evaluation of the Proposals:

Selection Criteria	Points Awarded
1. Qualifications and Experience of Firm • Financial stability of firm • Quality of references of similar work performed • Firm's experience in servicing public agencies relating to the Scope and Services and Project Deliverables outlined in this RFP	**0-10**
2. Qualifications and Experience of Personnel Assigned to the Project • Expertise and technical qualifications of firm's staff who will execute Scope of Services outlined in the RFP • Staff's experience (in particular with Caltrans and FTA) relating to the Scope and Services and Project Deliverables outlined in this RFP	**0-20**
3. Approach and Quality of Work Plan • Comprehensiveness, feasibility, and effectiveness of Proposal and submitted work plan • Quality of sample cost allocation plan report and indirect rate proposals • Proposed schedule for performing all services and providing all deliverables	**0-40**
4. Fee Structure	**0-30**
Grand Total	**0-100**

The City may reject any Proposal in which the approach, qualifications or proposed compensation are not deemed to be within an acceptable or competitive range. The City may seek clarifications from any or all Proposers regarding their Proposals, or may request that Proposers submit modified Proposals.

Following the initial review and screening of the written Proposals, using the Selection Criteria described above, one or more companies *may* be invited to participate in the final selection

process, which may include participation in an oral interview and/or submission of any additional information as requested by the City.

The City reserves the right to conduct pre-award negotiations with any or all Proposers, and the right to award the contract without negotiations. The City reserves the right to award the Contract without conducting interviews.

This RFP does not commit the City to awarding a Contract. Proposers shall bear all costs incurred in the preparation of the Proposal and participating in the Proposal process. The City reserves the right to reject any and all Proposals, to accept the Proposal it considers most favorable to the City's interest in its sole discretion, and to waive minor irregularities. The City further reserves the right to seek new Proposals when such procedure is considered by it to be in the best interest of the City.

H. Protest Procedures

Protests based upon restrictive specifications or alleged improprieties in the RFP procedure shall be filed in writing with the Deputy City Manager at least five (5) calendar days prior to Proposal opening. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Protests based upon City staff's recommendation for award of the Contract shall be submitted in writing to the Deputy City Manager within forty-eight (48) hours of receipt of notice of the staff recommendation for award. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Failure to comply with any of the requirements set forth in this section of the RFP regarding proposal protest procedures may result in rejection of the protest.

I. Confidentiality

The California Public Records Act (Cal. Govt. Code Sections 6250 et seq.) mandates public access to government records. Therefore, unless the information is exempt from disclosure by law, the content of any request for explanation, exception or substitution, response to these specifications, protest or any other written communication between the City and the Proposer shall be available to the public.

If the Proposer believes any communication contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer shall request that the City withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. The Proposer may not designate its entire Proposal as confidential. Additionally, the Proposer may not designate Proposal Forms as confidential.

If the Proposer requests that the City withhold from disclosure information identified as confidential, and the City complies with the Proposer's request, the Proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless the City from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the Proposer information), and pay any and all cost and expenses related to the withholding of the Proposer information. The Proposer shall not make a claim, sue

or maintain any legal action against the City or its council members, officers, employees or agents in connection with the withholding from disclosure of Proposer information.

If the Proposer does not request that the City withhold from disclosure information identified as confidential, the City shall have no obligation to withhold the information from disclosure and may release the information sought without liability to the City.

J. Form of Professional Services Agreement

The firm selected by the City to perform the services outlined in this RFP will be required to execute an Agreement for Professional Services with the City, the general form of which is attached as **Exhibit 3** so that potential Proposers have an opportunity to review the terms and conditions that will be included in the Agreement. If a Proposer desires any modifications to the form of Agreement, they must be submitted for consideration with the Proposal. Otherwise, the Proposer will be deemed to have accepted the form of Agreement. Attention is directed, in particular, to the Indemnification and Insurance requirements set forth in Sections 11 and 12 of the Agreement.

K. Ex Parte Communication

Proposers and Proposers' representatives may not communicate orally with an officer, council member, employee or agent of the City, with the exception of the Deputy City Manager regarding this RFP until after a Notice to Proceed has been issued by the City. Proposers and their representatives are not prohibited, however, from making oral statements or presentations in public to one or more representatives of the City during a public meeting.

In the context of this RFP, an "ex parte communication" is any communication between a Proposer (or the Proposer's representative) and the City's City Manager, Council Member, officer or employee, regardless of who initiates the communication, other than as part of the procurement process specified herein, before the City issues a Notice to Proceed, unless it is in writing and available for disclosure to the general public.

AGENDA ITEM D-07

CITY OF LODI
COUNCIL COMMUNICATION

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AGENDA TITLE: Adopt Resolution Approving Purchase of Telescopic Boom for Transit Vehicle Maintenance Facility from United Rentals, of Lodi ($54,827.27) and Appropriating Grant Funds ($55,000)

MEETING DATE: April 7, 2010

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution approving the purchase of a telescopic boom for the Transit Vehicle Maintenance Facility from United Rentals, of Lodi, in the amount of $54,827.27 and appropriating grant funds in the amount of $55,000.

BACKGROUND INFORMATION: A boom is needed at the Transit Vehicle Maintenance Facility to perform routine maintenance such as replacing lights, repairing hose reels and accessing the HVAC system that are located in the ceiling area of this facility, as in others around the City. The need for this equipment is driven by its anticipated use at the Transit Vehicle Maintenance Facility (15 to 20 times per year), but it will also be used as needed at the Lodi Parking Structure and Multimodal Transit facilities. The utility of this equipment is superior to scissor lifts rented in the past because of its articulating telescopic boom (see attached). The equipment operates on both gasoline and propane, making it suitable for indoor and outdoor use. The boom and its trailer will be stored at the Transit Shop. Certification and training of three employees is recommended but no change in employee compensation is required. The expected life of this equipment is 15 years.

An alternative is to continue renting scissor lifts. The daily rental charge is approximately $225 per day or $950 per week, plus the cost to pickup and return the equipment. It is more cost effective to purchase the boom than to continue renting.

Funding for this transit shop equipment is from Section 5307 federal funds (FFY 2004/05) and 20 percent matching funds from Transit Development Act funds. These funds were not expended as planned on capital needs in previous years and, in accordance with the Federal Transit Administration, will be returned if not expended by September 2010. By buying this high-priority equipment to maintain the Transit facilities, General Fund money will no longer be needed to cover rental expenses.

City staff recommends the purchase of this telescopic boom using the United States General Services Administration (GSA) Cooperative Purchasing Program Contract No. GS-06F-0068R. The actual cost of the boom is $54,827.27, including tax. Staff recommends appropriating $55,000 to cover contingencies.

Per Lodi Municipal Code §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 public agencies, provided that their award was in compliance with their formally-adopted bidding or negotiation procedures. Purchasing the boom utilizing the GSA Purchasing Program contract saves the City of Lodi money and time.

APPROVED: _____
Blair King, City Manager

FISCAL IMPACT: Purchase of the telescopic boom for the City's Transit Vehicle Maintenance Facility will allow maintenance and repairs to be done more efficiently, cost effectively, and safely.

FUNDING AVAILABLE: Requested Appropriation:

Federal Transit Administration (FTA) Funds (125079)	$44,000 (80%)
Transportation Development Act (TDA) Funds (125079)	$11,000 (20%)

Jordan Ayers
Deputy City Manager/Internal Services Director

F. Wally Sandelin
Public Works Director

Prepared by John Munoz, Facilities Supervisor

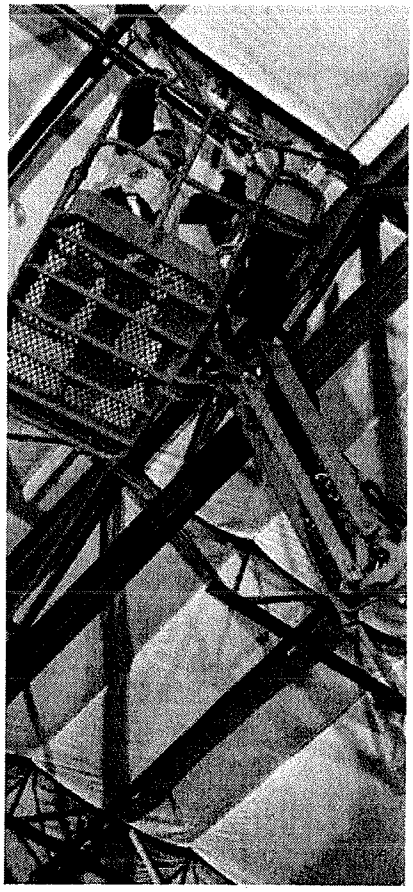
FWS/JPM/pmf

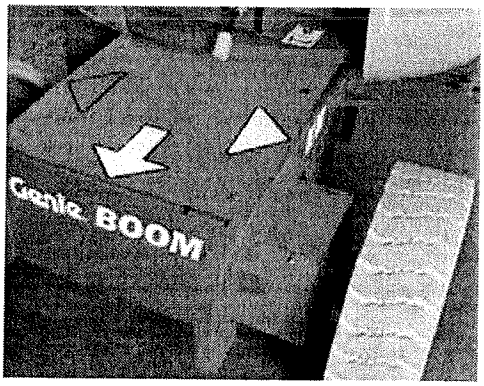
Attachment

cc: Dennis Callahan, Fleet and Facilities Manager
Paula Fernandez, Transportation Manager/Senior Traffic Engineer
Randy Laney, Fleet Supervisor

PRECISE POSITIONING

The self-leveling platform rotates 90° to either side, while the jib boom moves 130° to 139° vertically, depending on the model. The 4 ft (1.22 m) jib moves horizontally 180° on rotating jib (RJ) models for extra working range. Proportional controls allow you to control the speed of each function and make smooth, precise adjustments in tight areas.





RELIABLE ELECTRIC DRIVE SYSTEMS

Several models feature a 48V DC electric drive system, which can be freely used in areas where quiet, emission-free operation is important. The Z™-40/23N models are the first in the industry to feature Genie's new AC drive system, which combines DC batteries with 3-phase AC drive motors for quiet, more energy efficient operation and longer battery life. This advanced system yields better drive speed and gradeability, and the drive wheels work independently for excellent traction control.

NARROW MODELS AVAILABLE

Z™-30/20N · Z™-30/20N RJ · Z™-34/22N · Z™-40/23N · Z™-40/23N RJ

RESOLUTION NO. 2010-____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING
PURCHASE OF TELESCOPIC BOOM AND FURTHER
APPROPRIATING FUNDS

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WHEREAS, a telescopic boom is needed for the Municipal Service Center Transit Vehicle Maintenance Facility; and

WHEREAS, the funding for the transit shop equipment is from Section 5307 Federal funds (FFY 2004/05). These funds were not expended as planned in previous years and, in accordance with the Federal Transit Administration, need to be expended by September 2010; and

WHEREAS, staff recommends the purchase of this boom from United Rentals, of Lodi, using the United States General Services Administration (GSA) Cooperative Purchasing Program Contract No. GS-06F-0068R at a cost of $54,827.27. Staff recommends appropriating $55,000 to cover contingencies; and

WHEREAS, per Lodi Municipal Code §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 public agencies, provided that their award was in compliance with their formally-adopted bidding or negotiation procedures.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the purchase of a telescopic boom for the Transit Vehicle Maintenance Facility from United Rentals, of Lodi, California, in the amount of $54,827.27, using the United States General Services Administration (GSA) Cooperative Purchasing Program Contract No. GS-06F-0068R; and

BE IT FURTHER RESOLVED that funds in the amount of $55,000 be appropriated from Federal Transit Administration (FTA) and Transportation Development Act (TDA) funds.

Dated: April 7, 2010

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I hereby certify that Resolution No. 2010-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2010, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

AGENDA ITEM D-08

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Awarding Contract for DeBenedetti Park – Electrical Improvements, 2350 South Lower Sacramento Road, to Angelo Utilities, of Sacramento ($223,025) and Appropriating Funds ($270,000)

MEETING DATE: April 7, 2010

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution awarding the contract for the DeBenedetti Park – Electrical Improvements, 2350 South Lower Sacramento Road to Angelo Utilities, of Sacramento, in the amount of $223,025 and appropriating funds in the amount of $270,000.

BACKGROUND INFORMATION: This project consists of providing and installing new primary and fiber optic conduits, pull line, conductor trenching, backfill and compaction. Work also includes the installation of primary vaults, secondary service boxes, module enclosure pads, a transformer pad, metered switchboard panels, streetlights along the park frontage on Lower Sacramento Road and other incidental and related work. The City of Lodi Electric Utility Department will furnish the vaults, transformer and conductor for the contractor to install as part of this project.

This project will be done in conjunction with the DeBenedetti Park irrigation and turfing project previously awarded to Hemington Landscape. Completion of these Electrical Improvements is necessary to provide power to the irrigation and lighting systems in DeBenedetti Park. The completion of both projects will allow the Parks and Recreation Department to add new play areas for its soccer, flag football and softball programs. The new fields should be ready for use in the spring of 2011.

Plans and specifications for this project were approved on February 17, 2010. The City received the following 10 bids for this project on March 10, 2010.

Bidder	Location	Bid
Engineer's Estimate		$ 275,750.00
Angelo Utilities	Sacramento	$ 223,025.00
MCH Electric	Tracy	$ 258,187.00
Emard Engineering	Loomis	$ 279,650.00
Arrow Construction	Sacramento	$ 297,583.00
Collins Electrical	Stockton	$ 300,003.02
Bockman and Woody	Stockton	$ 315,443.00
Pacific Excavation	Elk Grove	$ 323,439.00
Tennyson Electric	Livermore	$ 334,945.00
Harris Electric	Dublin	$ 337,500.00
*Bleyco	Castro Valley	$ *278,457.00

*Contractor did not include a Receipt of Addendum with Bid Proposal.

APPROVED: _____
Blair King, City Manager

Staff is recommending that Council reject the bid proposal from Bleyco as being non-responsive because the Receipt of Addendum was not included with the Bid Proposal. There were several items in Addendum No. 1 that would have affected the bid proposal total. Clarifications were made regarding which material was to be furnished by the contractor and which material was to be furnished by the City.

FISCAL IMPACT: There will be an increase in long-term electrical facilities maintenance costs.

FUNDING AVAILABLE: Requested Appropriation:
Electric Utility Outlay Reserve Fund (161651): $270,000

Jordan Ayers
Deputy City Manager/Internal Services Director

Kenneth A. Weisel
Interim Electric Utility Director

F. Wally Sandelin
Public Works Director

Prepared by Wesley K. Fujitani, Senior Civil Engineer

FWS/WKF/pmf

cc: City Attorney
Purchasing Officer
Streets and Drainage Superintendent
Parks Superintendent
Management Analyst Areida-Yadav

CITY OF LODI, CALIFORNIA

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

W I T N E S S E T H :

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

The complete Contract consists of the following documents which are incorporated herein by this reference, to-wit:

Notice Inviting Bids	The July 1992 Edition,
Information to Bidders	Standard Specifications,
General Provisions	State of California,
Special Provisions	Business and Transportation Agency,
Bid Proposal	Department of Transportation
Contract	
Contract Bonds	
Plans	

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

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

ARTICLE II - The City hereby promises and agrees with the Contractor to employ, and does hereby employ, the Contractor to provide all materials and services not supplied by the City and to do the work according to the terms and conditions for the price herein, and hereby contracts to pay the same as set forth in Section 5.600, "Measurement, Acceptance and Payment," of the General Provisions, in the manner and upon the conditions above set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

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

ARTICLE IV - And the Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and for doing all the work contemplated and embraced in this agreement; also for all loss or damage arising out of the nature of the work aforesaid or

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

The work consists of providing and installing new primary and fiber optic conduits, pull line, trenching, backfill and compaction. Work shall also include installation of primary vaults, secondary service boxes, module enclosure pads, transformer pad, grounding, (11) streetlights along Lower Sacramento Road, metered switchboard panel, conduits and service boxes for future Musco lighting sports system and other incidental and related work, all as shown on the plans and specifications for the project.

DEBENEDETTI PARK ELECTRICAL IMPROVEMENT CONTRACT ITEMS

ITEM NO.	DESCRIPTION	UNIT	EST'D QTY	UNIT PRICE	TOTAL PRICE
1.	Dust Control	LS	1	$4,200.00	$4,200.00
2.	Traffic Control	LS	1	$7,955.00	$7,955.00
3.	Excavation Safety	LS	1	$1,000.00	$1,000.00
4.	Furnish and Install Underground Electrical System including all Trenching, Backfill, Compaction, Type DB Conduit, Conductor and Grounding	LS	1	$103,000.00	$103,000.00
5.	Furnish and Install 3 Phase 480Y/277 Volt – 4 Wire 600 AMP Metered Panel Switchboard Cabinet with Breakers	LS	1	$37,000.00	$37,000.00
6.	Furnish and Install 1-Inch Type DB Conduit, Conductor, Pull Boxes, Trenching, Backfill, Compaction and Grounding for Streetlights	LS	1	$11,700.00	$11,700.00
7.	Furnish and Install 30 Foot Steel Streetlights and Concrete Foundations	EA	10	$1,900.00	$19,000.00
8.	Furnish and Install Sports Lighting Pull Boxes	EA	17	$230.00	$3,910.00

ITEM NO.	DESCRIPTION	UNIT	EST'D QTY	UNIT PRICE	TOTAL PRICE
9.	Furnish and Install 2-Inch Type DB Conduit, Pull Boxes, Pull Ropes, Trenching, Backfill and Compaction for Future Sports Lighting	LF	5,000	$6.00	$30,000.00
10.	Furnish and Install Type DB Conduits, Conductor, Pull Boxes, Trenching, Backfill, Compaction and Grounding for Utility Enclosure Area	LS	1	$4,900.00	$4,900.00
11.	Furnish, Install and Maintain Storm Water Pollution Prevention Plan	LS	1	$360.00	$360.00
				TOTAL:	**$223,025.00**

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

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

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

ARTICLE VIII - The Contractor agrees to commence work pursuant to this contract within 15 calendar days after the Mayor has executed the contract and to diligently prosecute to completion within **80 WORKING DAYS**.

WHEN SIGNING THIS CONTRACT, THE CONTRACTOR AGREES THAT THE TIME OF COMPLETION FOR THIS CONTRACT IS REASONABLE AND THE CONTRACTOR AGREES TO PAY THE CITY LIQUIDATED DAMAGES AS SET FORTH IN SECTION 6-04.03 OF THE SPECIAL PROVISIONS. CONTRACTOR AGREES THAT THIS AMOUNT MAY BE DEDUCTED FROM THE AMOUNT DUE THE CONTRACTOR UNDER THE CONTRACT.

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

CONTRACTOR:

_____

By: _____

_____
Title

(CORPORATE SEAL)

CITY OF LODI

_____
Blair King
City Manager, City of Lodi

Attest:

_____
Randi Johl
City Clerk

Dated:_____

Approved as to form:

_____
D. Stephen Schwabauer
City Attorney

RESOLUTION NO. 2010-____

A RESOLUTION OF THE LODI CITY COUNCIL AWARDING CONTRACT FOR DEBENEDETTI PARK ELECTRICAL IMPROVEMENTS, 2350 SOUTH LOWER SACRAMENTO ROAD AND FURTHER APPROPRIATING FUNDS

==========

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on March 10, 2010, at 11:00 a.m. for the DeBenedetti Park Electrical Improvements, 2350 South Lower Sacramento Road, described in the plans and specifications therefore approved by the City Council on February 17, 2010; and

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

Bidder	**Bid**
Angelo Utilities	$ 223,025.00
MCH Electric	$ 258,187.00
Emard Engineering	$ 279,650.00
Arrow Construction	$ 297,583.00
Collins Electrical	$ 300,003.02
Bockman and Woody	$ 315,443.00
Pacific Excavation	$ 323,439.00
Tennyson Electric	$ 334,945.00
Harris Electric	$ 337,500.00
Bleyco	$ *278,457.00

*** Bleyco did not include a Receipt of Addendum with its Bid Proposal.**

WHEREAS, staff recommends awarding the contract for the DeBenedetti Park Electrical Improvements, 2350 South Lower Sacramento Road, to the low bidder, Angelo Utilities, of Sacramento, California.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby award the contract for the DeBenedetti Park Electrical Improvements, 2350 South Lower Sacramento Road, to the low bidder, Angelo Utilities, of Sacramento, California, in the amount of $223,025; and

BE IT FURTHER RESOLVED that funds in the amount of $270,000 be appropriated from the Electric Utility Outlay Reserve Fund.

Dated: April 7, 2010

==========

I hereby certify that Resolution No. 2010-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2010, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

AGENDA ITEM D-09

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Awarding Contract for Lodi GrapeLine Bus Stop Improvements to Mo/Jas Construction Company, of Stockton ($35,314)

MEETING DATE: April 7, 2010

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution awarding the contract for the Lodi GrapeLine Bus Stop Improvements to Mo/Jas Construction Company, of Stockton, in the amount of $35,314.

BACKGROUND INFORMATION: This project consists of constructing improvements to 18 bus stop locations on Lodi's fixed-route bus system at various locations. Bus shelters with benches will be installed at six locations, and benches will be provided at nine other locations. At three locations concrete will be placed behind the sidewalk and the existing benches will be moved to provide for a wider pedestrian path of travel. The 18 locations are shown in Exhibit A. After these improvements are constructed, there will be 144 remaining bus stop locations without shelters. Improvements to approximately 10 to 20 additional bus stop locations are planned using $100,000 in federal funds (American Recovery and Reinvestment Act) recently approved by the City Council.

Staff is recommending that Council waive an informality in the bid proposal from Mo/Jas Construction and award the Lodi GrapeLine Bus Stop Improvements contract to this contractor. Mo/Jas Construction did not include a Receipt of Addendum No. 1 as part of its bid proposal. The missing Receipt of Addendum was caused by the purchase of an incomplete set of plans and specifications from Stockton Blue Reprographics. This incomplete set did not include Addendum No.1 nor did it include the Receipt of Addendum form. As a result, the Receipt of Addendum No. 1 was not included with the bid proposal from Mo/Jas Construction. Other bidders received the complete bid package. Addendum No. 1 provided the bidders with an updated schedule of federal wage rates and gave the bidders approximate weights for the material that needed to be transferred to the bus stop locations. As the updated federal wage rates only revised pay rates for non-related job classifications (i.e. asbestos workers and plumbers) and for job classifications outside of San Joaquin County, staff feels that Addendum No. 1 had no impact on the bid proposal prepared by Mo/Jas Construction.

Plans and specifications for this project were approved on February 3, 2010. The City received the following 11 bids for this project on March 10, 2010.

Bidder	Location	Bid
Engineer's Estimate		$ 41,050.00
*Mo/Jas Const.	Stockton	$ 35,314.00
George Reed, Inc.	Lodi	$ 40,395.00
A.M. Stephens Construction	Lodi	$ 40,450.00

APPROVED: _____
Blair King, City Manager

Bidder	Location		Bid
Quimu Contracting	Dixon	$	41,150.00
Diede Construction	Lodi	$	41,896.50
HartDev, Inc.	Stockton	$	44,753.00
G & L Brock Construction	Stockton	$	45,945.00
T & S Intermodal	Stockton	$	48,484.00
UDB Enterprises	Stockton	$	49,450.00
*C & R Construction Group	Sacramento	$	53,298.30
Dahl Taylor Associates	Santa Ana	$	57,468.00

* No Receipt of Addendum was included with the Bid Proposal.

FISCAL IMPACT: There will be a slight increase in the long-term maintenance costs associated with the installation of these new improvements.

FUNDING AVAILABLE: Federal Transit Administration/
Transportation Development Act Funds (125080): $50,000

Jordan Ayers
Deputy City Manager/Internal Services Director

F. Wally Sandelin
Public Works Director

Prepared by Wesley K. Fujitani, Senior Civil Engineer

Attachment

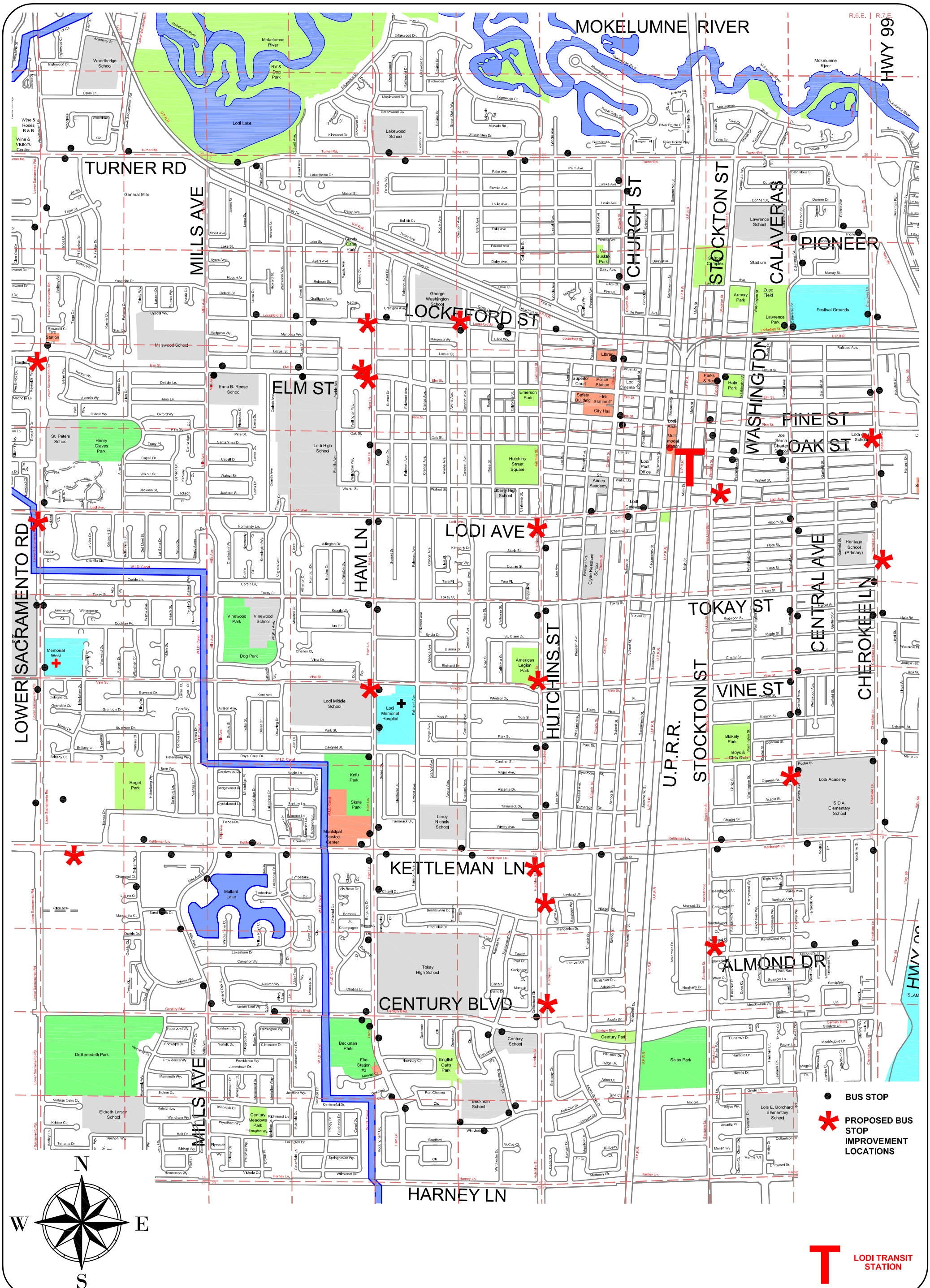
cc: City Attorney
Purchasing Officer
Streets and Drainage Superintendent
Management Analyst Areida-Yadav
Transportation Planner

Exhibit A

CITY OF LODI

PUBLIC WORKS DEPARTMENT

GRAPELINE BUS STOP LOCATIONS



K:\CADD\DEVSERV\Bus Routes - Paula exhibits.dwg, Bus Stop Locations (11x17), 03/24/2010 8:22:40 AM

CITY OF LODI, CALIFORNIA

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

W I T N E S S E T H :

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

The complete Contract consists of the following documents which are incorporated herein by this reference, to-wit:

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

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

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

ARTICLE II - The City hereby promises and agrees with the Contractor to employ, and does hereby employ, the Contractor to provide all materials and services not supplied by the City and to do the work according to the terms and conditions for the price herein, and hereby contracts to pay the same as set forth in Section 5.600, "Measurement, Acceptance and Payment," of the General Provisions, in the manner and upon the conditions above set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

ARTICLE III - The Contractor agrees to conform to the provisions of Chapter 1, Part 7, Division 2 of the Labor Code. The Contractor and any Subcontractor will pay the general prevailing wage rate and other employer payments for health and welfare, pension, vacation, travel time,

and subsistence pay, apprenticeship or other training programs. The responsibility for compliance with these Labor Code requirements is on the prime contractor.

ARTICLE IV - And the Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and for doing all the work contemplated and embraced in this agreement; also for all loss or damage arising out of the nature of the work aforesaid or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the City, and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work and for well and faithfully completing the work, and the whole thereof, in the manner and according to the Plans and Contract Documents and the requirements of the Engineer under them, to-wit:

Perform the work necessary to install six bus shelters and sixteen benches at various bus stop locations and other incidental and related work, all as shown on the plans and specifications for "Lodi GrapeLine Bus Stop Improvements, Various Locations".

CONTRACT ITEMS

ITEM NO.	DESCRIPTION	UNIT	EST'D. QTY	UNIT PRICE	TOTAL PRICE
1.	Bus Stop Improvements at 2420 West Kettleman Lane	LS	1	$ 2,111.00	$ 2,111.00
2.	Bus Stop Improvements at North/West Corner of Central Avenue and Cypress Street	LS	1	$ 2,026.00	$ 2,026.00
3.	Bus Stop Improvements at 620 South Cherokee Lane	LS	1	$ 2,111.00	$ 2,111.00
4.	Bus Stop Improvements at 53 South Cherokee Lane	LS	1	$ 2,026.00	$ 2,026.00
5.	Bus Stop Improvements at Ham Lane South of Vine Street	LS	1	$ 2,026.00	$ 2,026.00
6.	Bus Stop Improvements at Hutchins Street North of Vine Street	LS	1	$ 2,204.00	$ 2,204.00
7.	Bus Stop Improvements at 215 East Lodi Avenue	LS	1	$ 2,475.00	$ 2,475.00

ITEM NO.	DESCRIPTION	UNIT	EST'D. QTY	UNIT PRICE	TOTAL PRICE
8.	Bus Stop Improvements at South/West Corner of Lodi Avenue and Lower Sacramento Road	LS	1	$ 4,724.00	$ 4,724.00
9.	Bus Stop Improvements at North/East Corner of Hutchins Street and Century Boulevard	LS	1	$ 4,368.00	$ 4,368.00
10.	Bus Stop Improvements at Hutchins Street North of Mendocino Drive	LS	1	$ 802.00	$ 802.00
11.	Bus Stop Improvements at Hutchins Street North of Chestnut Street	LS	1	$ 802.00	$ 802.00
12.	Bus Stop Improvements at Stockton Street North of Almond Drive	LS	1	$ 802.00	$ 802.00
13.	Bus Stop Improvements at Hutchins Street South of Kettleman Lane	LS	1	$ 802.00	$ 802.00
14.	Bus Stop Improvements at Lockeford Street West of Crescent Avenue	LS	1	$ 1,608.00	$ 1,608.00
15.	Bus Stop Improvements at Lower Sacramento Road South of Tejon Street	LS	1	$ 802.00	$ 802.00
16.	Bus Stop Improvements at Elm Street (Westbound) West of Ham Lane	LS	1	$ 1,754.00	$ 1,754.00

ITEM NO.	DESCRIPTION	UNIT	EST'D. QTY	UNIT PRICE	TOTAL PRICE
17.	Bus Stop Improvements at Elm Street (Eastbound) West of Ham Lane	LS	1	$ 2,026.00	$ 2,026.00
18.	Bus Stop Improvements at Lockeford Street West of Ham Lane	LS	1	$ 1,845.00	$ 1,845.00
				TOTAL	$35,314.00

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

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

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

ARTICLE VIII - The Contractor agrees to commence work pursuant to this contract within 15 calendar days after the City Manager has executed the contract and to diligently prosecute to completion within 20 WORKING DAYS.

WHEN SIGNING THIS CONTRACT, THE CONTRACTOR AGREES THAT THE TIME OF COMPLETION FOR THIS CONTRACT IS REASONABLE AND THE CONTRACTOR AGREES TO PAY THE CITY LIQUIDATED DAMAGES AS SET FORTH IN SECTION 6-04.03 OF THE SPECIAL PROVISIONS. CONTRACTOR AGREES THAT THIS AMOUNT MAY BE DEDUCTED FROM THE AMOUNT DUE THE CONTRACTOR UNDER THE CONTRACT.

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

CONTRACTOR:

_____

By:_____

_____
Title

(CORPORATE SEAL)

CITY OF LODI

By:_____
Blair King
City Manager

Date:_____

Attest:

_____
City Clerk

Approved As To Form

_____
D. Stephen Schwabauer
City Attorney

RESOLUTION NO. 2010-____

A RESOLUTION OF THE LODI CITY COUNCIL WAIVING
INFORMALITY IN BID PROPOSAL AND AWARDING CONTRACT FOR
LODI GRAPELINE BUS STOP IMPROVEMENTS

==========

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on March 10, 2010, at 11:00 a.m. for the Lodi GrapeLine Bus Stop Improvements described in the plans and specifications therefore approved by the City Council on February 3, 2010; and

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

Bidder		**Bid**
*Mo/Jas Construction	$	35,314.00
George Reed, Inc.	$	40,395.00
A.M. Stephens Construction	$	40,450.00
Quimu Contracting	$	41,150.00
Diede Construction	$	41,896.50
HartDev, Inc.	$	44,753.00
G & L Brock Construction	$	45,945.00
T & S Intermodal	$	48,484.00
UDB Enterprises	$	49,450.00
*C & R Const. Group	$	53,298.30
Dahl Taylor Associates	$	57,468.00

* No Receipt of Addendum was included with the Bid Proposal

WHEREAS, Mo/Jas Construction did not include a Receipt of Addendum No. 1 as part of its bid proposal, due to the purchase of an incomplete set of plans and specifications from Stockton Blue Reprographics. Addendum No. 1 provided the bidders with an updated schedule of Federal wage rates and gave the bidders approximate weights for the material that needed to be transferred to the bus stop locations. As the updated Federal wage rates only revised pay rates for non-related job classifications (i.e. asbestos workers and plumbers) and for job classifications outside of San Joaquin County, staff feels that Addendum No. 1 had no impact on the bid proposal prepared by Mo/Jas Construction; and

WHEREAS, staff recommends waiving the bid informality and awarding the contract for the Lodi GrapeLine Bus Stop Improvements to the low bidder, Mo/Jas Construction, Inc., of Stockton, California.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby waive the bid informality and award the contract for the Lodi GrapeLine Bus Stop Improvements, to the low bidder, Mo/Jas Construction, Inc., of Stockton, California, in the amount of $35,314.00.

Dated: April 7, 2010

==========

I hereby certify that Resolution No. 2010-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2010, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

AGENDA ITEM D-10

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving GrapeLine Fixed Route Senior/Disabled/Medicare Fare

MEETING DATE: April 7, 2010

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution approving the GrapeLine Fixed Route Senior/Disabled/Medicare fare.

BACKGROUND INFORMATION: At the Public Hearing on December 16, 2009, City Council approved transit fare increases effective January 2, 2010, to balance the transit budget and retain weekend services. However, when staff recommended the proposed fares, the fixed route Senior/Disabled/ Medicare fare was rounded up by 2.5 cents which did not comply with the half-fare regulation.

In the regulation (49 CFR Part 49), for fixed route services, the City of Lodi must allow 1) elderly persons, 2) persons with disabilities, and 3) Medicare cardholders to ride fixed route services for a half fare. This regulation applies to base fares only and not to monthly or 10-day pass fares.

Federal Transit Authority staff brought this to our attention during a periodic review. To correct our error, staff recommends changing the Senior/Disabled/Medicare fare from $0.65 to $0.60, as shown below:

	Fixed Route Fare
General Public (5-59)	$1.25
Senior/Disabled/Medicare	~~$0.65~~ **$0.60**
General Public Monthly Pass	$44.00
Senior/Disabled/Medicare Monthly Pass	$22.00
10-Ride Pass General Public	$12.50
10-Ride Pass Senior/Disabled/Medicare	$6.25

FISCAL IMPACT: The proposed transit fare has an insignificant effect on transit revenues.

FUNDING AVAILABLE: No General Fund revenues are needed to cover the recommended fare decrease.

F. Wally Sandelin
Public Works Director

Prepared by Paula Fernandez, Transportation Manager/Senior Traffic Engineer
FWS/PJF/pmf
cc: MV Transportation General Manager, Brenda Kuykendall

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2010-____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING GRAPELINE FIXED ROUTE
SENIOR/DISABLED/MEDICARE FARE

==========

WHEREAS, at the Public Hearing held on December 16, 2009, City Council approved implementing fare increases effective January 2, 2010, to balance the transit budget and retain weekend services; and

WHEREAS, when staff recommended the proposed fares, the fixed route discounted fare was rounded up by $0.025 and not in accordance with the half-fare regulation; and

WHEREAS, in accordance with the regulation (49 CFR Part 49), for fixed route services, the City of Lodi must allow 1) elderly persons, 2) persons with disabilities, and 3) Medicare cardholders to ride fixed route services for a half fare; and

WHEREAS, FTA brought this mathematical error to our attention during the City's pre-Triennial review, and staff recommends changing the Senior/Disabled/Medicare base fare from $0.65 to $0.60.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the GrapeLine Fixed Route Senior/Disabled/Medicare fare, as shown below.

	Fixed Route Fare
General Public (5-59)	$1.25
Senior/Disabled/Medicare	~~$0.65~~ **$0.60**
General Public Monthly Pass	$44.00
Senior/Disabled/Medicare Monthly Pass	$22.00
10-Ride Pass General Public	$12.50
10-Ride Pass Senior/Disabled/Medicare	$6.25

Dated: April 7, 2010

==========

I hereby certify that Resolution No. 2010-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2010, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

Comments by the public on non-agenda items

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

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

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

Comments by the City Council Members on non-agenda items

AGENDA ITEM H-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Conduct a Public Hearing to Consider the Certification of Final Environmental Impact Report and Adoption of the General Plan

MEETING DATE: April 7, 2010

PREPARED BY: Community Development Director

RECOMMENDED ACTION: Consider the certification of the Final Environmental Impact Report and adoption of the General Plan.

BACKGROUND INFORMATION: The City Council certified the Final Environmental Impact Report (FEIR) for the General Plan at the Council meeting on February 17, 2010. The only change in the document was the inclusion of a portion of Alternative B by placing a College Reserve placeholder along the north side of Victor Road, east of the Central California Traction Line. In addition to taking action on the FEIR, the Council received a presentation on the General Plan. The City Council received public comment at the meeting from two individuals. Work that has been completed since the programs inception in May, 2006 includes the following activities:

Public Participation

- Workshops and meetings with interested public
- Workshops specifically with the Planning Commission and City Council
- Stakeholder interviews and neighborhood meetings
- Presentations to service clubs and community organizations
- Newsletters
- A mail-in survey sent to all residential addresses in the City
- Comments via e-mail, and
- The project website

Products

- Working Paper #1: Land Use, Transportation, Environment and Infrastructure
- Working Paper #2: Urban Design and Livability
- Working Paper #3: Growth and Economic Development Strategy
- Working Paper #4: Greenbelt Conservation Strategies
- Sketch Plan Report indentifying alternative land use scenarios
- Preferred Land Use Plan
- Draft Environmental Impact Report
- Draft General Plan
- Final Environmental Impact Report, and
- Final General Plan

Approved: _____
Blair King, City Manager

Subsequent to the action on February 17, staff has been working with the lead consultants, Dyett & Bhatia to make all of the modifications to the General Plan that are a result of the FEIR, Planning Commission action as well as City Council direction. The document is attached in final form. To assist in reviewing all of the changes that have occurred since the initial release of the Draft General Plan, Exhibit "B" is attached. This is the edits table. We have included the page number, the language added or deleted and the reason for doing so. The majority of changes shown are a result of the environmental review process. Changes in the document were recommended in order to better mitigate potential impacts or to clarify intent.

The final attachment that we propose to be included as Appendix A of the General Plan is the Implementation Matrix. This table identifies all 266 Policies within the Plan, the responsible Department or Agency for implementation and an approximate schedule. This matrix should be considered a flexible document with the potential for responsibilities and schedule to change depending on circumstance.

The draft resolution provides the necessary environmental findings and statements of Overriding Considerations as previously certified by the City Council.

Finally, the City Council will recall that we are continuing to proceed on the Housing Element. This document is currently in draft condition and will be released to the public and scheduled for initial review before the Planning Commission and the State Department of Housing and Community Development within the next 30 days.

FISCAL IMPACT: Not Applicable

FUNDING AVAILABLE: The General Plan program has been funded from Impact Mitigation Fees. The program is projected to finish under budget.

_____
Jordan Ayers, Deputy City Manager

_____
Konradt Bartlam
Community Development Director

KB/kjc

Attachments:
- Final General Plan
- Edits Table
- Implementation Matrix
- Draft Resolution

LODI GENERAL PLAN

http://www.lodi.gov/community_development/general_plan/reports.htm

CITY OF LODI | APRIL 2010

Lodi General Plan

Changes between August 2009 and March 2010 Public Review Drafts

The table below documents substantial changes made to the proposed Lodi General Plan since the release of the August 2009 Public Review Draft. These changes are in response to recommendations by the City Council, during its February 17, 2010 meeting; the Planning Commission during its December 9, 2009 meeting; analysis and findings in the Draft Environmental Impact Report; and staff.

Page, figure, table and policy numbers listed are *new* number references, as shown in the March 2010 draft.

Page	*Edit*	*Reason*
2-8	Edit Figure 2-1 to add designation for White Slough and a placeholder for a college campus	Staff (White Slough) City Council 2/17/10 (Delta College)
2-13	New text below Public/Quasi Public: Two placeholders are shown for a K-6 school and a potential site for a college campus, on Figure 2-1.	City Council 2/17/10
2-13	Add new paragraph: **Armstrong Road Agricultural/Cluster Study Area** This overlay designation is intended to maintain a clear distinction between Lodi and Stockton. In coordination with relevant public agencies and property owners, the City will continue to study this designation area to determine a strategy to meet this objective. Potential strategies are identified in Table 3-1 of Chapter 3: Growth Management and Infrastructure.	Recommendation from comments on Draft EIR
2-24	Edit Policy LU-P3: Do not allow development at less than the minimum density prescribed by each residential land use category, without rebalancing the overall plan to comply with the "no net loss provisions of state housing law."	City Council 2/17/10
2-26	Edit LU-P27: Provide for a full range of housing types ~~and prices~~ within new neighborhoods including minimum requirements for small-lot single family homes, town-houses, duplexes, triplexes, and multi-family housing.	Planning Commission 12/9/09
3-10, 3-11	Water demand and supply discussion and Table 3-3 updated to reflect additional analysis completed for the Draft EIR.	Staff (during DEIR preparation) and Planning Commission 12/9/09

Page	*Edit*	*Reason*
3-29	Edit Policy GM-P2: Target new growth into identified areas, extending south, west, and southeast. Ensure contiguous development by requiring development to conform to phasing described in Figure 3-1. Enforce phasing through permitting and infrastructure provision. Development may not extend to Phase 2 until Phase 1 has reached 75% of development potential (measured in acres), and development may not extend to Phase 3 until Phase 2 has reached 75% of development potential. In order to respond to market changes in the demand for various land use types, exemptions may be made to allow for development in future phases before these thresholds in the previous phase have been reached.	Planning Commission 12/9/09 and Staff (during DEIR preparation)
3-30	Add new policy GM-P7: Use Eminent Domain only for the acquisition of land for public facilities, as set forth by Ordinance 1775.	City Council 2/17/10
3-31	Edit Policy GM-P14: Continue to implement the Water Meter Retrofit Program (consistent with State requirements as indicated in AB 2572), whereby all existing non-metered connections would be retrofitted with a water meter. This program is expected to be completed in ~~2013~~2015.	City Council
3-31	Edit Policy GM-P16: Monitor water usage and conservation rates ~~due to installed meters, to ensure~~ resulting from the meter progress to verify if water demand assumptions are correct. If actual usage and conservation rates vary from planning assumptions, reassess requirements for future water resources.	Staff (during DEIR preparation)
3-31	Add new policy GM-P22: Coordinate with Lodi Unified School District in monitoring housing, population, and enrollment trends and evaluating their effects on future school facility needs.	Staff (during DEIR preparation)
3-31	Add new policy GM-P23: Phase school development as part of new residential growth to provide adequate school facilities, without exceeding capacity of existing schools. Schools should be provided consistent with the Lodi Unified School District's School Facilities Master Plan, which defines student generation rates.	Staff (during DEIR preparation)
3-31	Add new policy GM-P24: Support all necessary and reasonable efforts by Lodi Unified School District to obtain funding for capital improvements required to meet school facility needs, including adoption and implementation of local financing mechanisms, such as community facility districts, and the assessment of school impact fees.	Staff (during DEIR preparation)

Page	*Edit*	*Reason*
4-34	Edit Policy CD-P21: ~~Prohibit~~ Discourage gated development and ~~avoid~~ cul-de-sacs.-Where gated developments are provided, ensure that connectivity to the rest of the city is not compromised, by creating pedestrian/bicycle and vehicular connections within the development and to public streets. Where cul-de-sacs are provided, require pedestrian and bicycle connection at the terminus of the cul-de-sac to the adjacent street.	Planning Commission 12/9/09
4-34	Edit Policy CD-P23: Encourage alternatives to soundwalls and permit new soundwalls only where alternatives are not feasible, such as along Highway 99, ~~and~~ the railroad tracks, Expressways, and Major Arterials. Along Major Arterials that coincide with a Mixed Use Center, such as Kettleman Lane, ensure that soundwalls do not disrupt pedestrian-orientated character. While soundwalls can limit sound to development immediately adjacent to traffic, much of the sound is simply reflected to development further away, resulting in increase in ambiance noise levels. Moreover, soundwalls are disruptive to neighborhood character and connectivity. Alternative designs could include frontage roads, dense vegetation, and ensuring sufficient insulation in residential units that would potentially be impacted by the noise.	Staff

Page	*Edit*	*Reason*
4-39	Edit Policy CD-P41: Prepare, or incorporate by reference, and implement green building and construction guidelines and/or standards, appropriate to the Lodi context, by 2012. The guidelines and/or standards shall ensure a high level of energy efficiency and reduction of environmental impacts associated with new construction, major renovation, and operations of buildings. Ensure that these guidelines/standards: • Require documentation demonstrating that building designs meet minimum performance targets, but allow flexibility in the methods used. • Exceed California's 2005 Title 24 regulation standards for building energy efficiency by 15%, with particular emphasis on industrial and commercial buildings. • Reduce resource or environmental impacts, using cost-effective and well-proven design and construction strategies. • Reduce waste and energy consumption during demolition and construction. • Identify street standards, such as street tree requirements, appropriate landscaping practices, and acceptable materials. • Incorporate sustainable maintenance standards and procedures. • Promote incorporation of energy conservation and weatherization features in existing structures. Develop programs that specifically target commercial and industrial structures for energy conservation and weatherization measures in order to reduce annual kWh per job. These guidelines could be developed directly from the LEED™ system developed by the U.S. Green Building Council, the California-based Build It Green GreenPoint rating system, or an equivalent green building program.	Staff (during DEIR preparation)
5-7	New Figure 5-1 illustrates major roadway improvements	Staff (during DEIR preparation)
5-16	Edit Policy T-P3: Work collaboratively with San Joaquin County, San Joaquin Council of Governments, and Caltrans to maintain consistency with regional and State plans, and to successfully implement transportation improvements in the vicinity of Lodi.	Recommendations from comments on Draft EIR
5-17	Add new policy T-P8: Participate in discussions with Caltrans and neighboring jurisdictions to develop a fair-share fee program for improvements to regional routes and state highways. This fee should reflect traffic generated by individual municipalities and pass-through traffic.	Recommendations from comments on Draft EIR

Page	*Edit*	*Reason*
5-17	Edit Policy T-P8: ~~Strive to maintain applicable Level of Service (LOS) standards. The Regional Congestion Management Program defines LOS D on its network. The General Plan establishes an LOS D on city streets and at intersections. Exceptions to this LOS D policy may be allowed by the City Council in areas , such as downtown, where allowing a lower LOS would result in clear public benefits, subject to findings that achieving LOS D would:~~ Allow exceptions to LOS standards upon findings by the City Council that achieving the designated LOS would: • Be technologically or economically infeasible, or • Compromise the City's ability to support other important policy priorities, such as: o Enhancing the urban design characteristics that contribute to pedestrian comfort and convenience; ~~o Preserving and enhancing an economically vibrant downtown area;~~ o Avoiding adverse impacts to alternate modes of transportation; o Preserving the existing character of the community; o Preserving agricultural land or open space; or o Preserving scenic roadways/highways.	Staff (during DEIR preparation)
5-17	Add new policy T-P10: Exempt downtown from LOS standards to encourage infill development in order to create a pedestrian friendly urban design character and densities necessary to support transit, bicycling, and walking. Development decisions in downtown should be based on community design and livability goals rather than traffic LOS. (Downtown is defined by the Downtown Mixed-Use designation in the Land Use Diagram.)	Staff (during DEIR preparation)
5-17	Add new policy T-P11: Strive to comply with the Level of Service standards and other performance measures on Routes of Regional Significance as defined by the County-wide Congestion Management Program.	Staff (during DEIR preparation)
5-17	Add new policy T-P12: For purposes of design review and environmental assessment, apply a standard of Level of Service E during peak hour conditions on all streets in the City's jurisdiction. The objective of this performance standard is to acknowledge that some level of traffic congestion during the peak hour is acceptable and indicative of an economically vibrant and active area, and that infrastructure design decisions should be based on the conditions that predominate during most of each day.	Staff (during DEIR preparation)

Page	*Edit*	*Reason*
5-17	Add new policy T-P13: Undertake street improvements shown in Table 5-4, and maintain, require or acquire right of way, as necessary. Coordinate with other jurisdictions, including San Joaquin County, and Caltrans, on improvements to street segments common to the City of Lodi and other jurisdictions. It should be noted that because the General Plan will be implemented over an extended time frame, street capacity enhancements will be prioritized through the City's Capital Improvements Program process and will occur as development proceeds.	Staff (during DEIR preparation)
6-14	Add new policy P-P21: Seek out new and protected funding sources in order to maintain and expand park inventory.	Staff
7-8 to 7-11	Biological resources and habitat discussion, maps and tables updated to reflect additional analysis completed for the Draft EIR.	Staff
7-33	Edit Policy C-G10: Reduce greenhouse gas emissions to 15% below ~~over~~2008 levels by 2020, to slow the negative impacts of global climate change.	Staff (during DEIR preparation)
7-33	Edit Policy C-P2: Work with San Joaquin County, relevant land owners, interested parties and groups to ensure economic viability of all agricultural businesses and supporting industries. ~~Work with San Joaquin County and relevant C-P2 land owners to ensure economic viability of grape growing, winemaking, and supporting industries, to ensure the preservation of viable agricultural land use.~~	Staff

Page	*Edit*	*Reason*
7-34	Edit Policy C-P7: Adopt an agricultural conservation program (ACP) establishing a mitigation fee to protect and conserve agricultural lands: • The ACP shall include the collection of an agricultural mitigation fee for acreage converted from agricultural to urban use, taking into consideration all fees collected for agricultural loss (i.e., AB1600). The mitigation fee collected shall fund agricultural conservation easements, fee title acquisition, and research, the funding of agricultural education and local marketing programs, other capital improvement projects that clearly benefit agriculture (e.g., groundwater recharge projects) and administrative fees through an appropriate entity ("Administrative Entity") pursuant to an administrative agreement. • The conservation easements and fee title acquisition of conservation lands shall be used for lands determined to be of statewide significance (Prime or other Important Farmlands), or sensitive and necessary for the preservation of agricultural land, including land that may be part of a community separator as part of a comprehensive program to establish community separators. <u>Agricultural land should be preserved at a minimum ratio of one-to-one for acres converted to urban use.</u> • The ACP shall encourage that conservation easement locations are prioritized as shown in Figure 7-5: (A) the Armstrong Road Agricultural/Cluster Study area east of Lower Sacramento Road; (B) the Armstrong Road Agricultural/Cluster Study area west of Lower Sacramento Road; (C) elsewhere in the Planning Area, one mile east and west of the Urban Reserve boundaries respectively; and (D) outside the Planning Area, elsewhere in San Joaquin County. • The mitigation fees collected by the City shall be transferred to a farmland trust or other qualifying entity, which will arrange the purchase of conservation easements. The City shall encourage the Trust or other qualifying entity to pursue a variety of funding sources (grants, donations, taxes, or other funds) to fund implementation of the ACP.	Planning Commission 12/9/09

Page	*Edit*	*Reason*
7-38	Edit Policy C-P36: Prepare and adopt a comprehensive climate action plan (CAP) by 2012, with implementation beginning in 2013. The CAP will be an additional policy document for the City of Lodi, based on polices listed in Appendix A. The CAP should include the following provisions: • An inventory of citywide greenhouse gas emissions and emissions projections for 2020 or beyond; • Emissions targets that apply at reasonable intervals through the life of the CAP and that meet or exceed AB 32 and/or Executive Order S-3-05 reduction targets; • Enforceable greenhouse gas emissions control measures; • A detailed funding and implementation component; • A monitoring and reporting program to ensure targets are met; and • Mechanisms to allow for revision of the CAP, as necessary.	Staff (during DEIR preparation)
7-38	Add new policy C-P39: Ensure environmentally responsible municipal operations by implementing the following measures: • Procure environmentally preferable products and services where criteria have been established by governmental or other widely recognized authorities (e.g. Energy Star, EPA Eco Purchasing Guidelines). • Integrate environmental factors into the City's buying decisions where external authorities have not established criteria, such as by replacing disposables with reusables or recyclables, taking into account life cycle costs and benefits, and evaluating, as appropriate, the environmental performance of vendors in providing products and services; • Raise staff awareness on the environmental issues affecting procurement by providing relevant information and training; • Encourage suppliers and contractors to offer environmentally preferable products and services at competitive prices; • Require all departments and divisions to practice waste prevention and recycling; and • When City fleet vehicles are retired, replace vehicles through the purchase or lease of alternative fuel or hybrid substitutes. As contracts for City-contracted fleet services (such as transit buses, trash haulers, and street sweeper trucks) are renewed, encourage contractors to replace their vehicles with alternative fuel or hybrid substitutes through the contract bid process.	Staff (during DEIR preparation)

Page	*Edit*	*Reason*
7-39	Add new policy C-P42: Continue to offer rebates to residential, commercial, industrial and municipal customers of Lodi Electric Utility who install photovoltaic (PV) systems or that participate in the Lodi Energy Efficient Home Improvement Rebate Program. Ensure that rebate programs are well advertised to the community and offer rebates that are sufficient to gain community interest and participation.	Staff (during DEIR preparation)
8-13	Add new policy S-P4: Cooperate with and encourage reclamation districts to institute a berm maintenance program to reduce berm failures and shall coordinate with appropriate State, federal, and local flood control agencies in planning efforts to ensure the continued protection of local and regional flood control systems.	Staff (during DEIR preparation)
8-13	Add new policy S-P5: Continue to ensure, through the development review process, that future developments do not increase peak storm flows and do not cause flooding of downstream facilities and properties. Additionally, the City shall ensure that storm drainage facilities are constructed to serve new development adequate to storm runoff generated by a 100-year storm.	Staff (during DEIR preparation)
8-13	Edit Policy S-P6: Prohibit new development, except for public uses incidental to open space development, within Zone A (100-year flood zone)~~, as shown on Figure 8-1~~ of the most current FEMA floodplain map (see Figure 8-1 for the most current map).	Staff (during DEIR preparation)
9-10	Add new policy N-P6 and graphic: Where substantial traffic noise increases (to above 70db) are expected, such as on Lower Sacramento Road or Harney Lane, as shown on the accompanying graphic, require a minimum 12-foot setback for noise-sensitive land uses, such as residences, hospitals, schools, libraries, and rest homes.	Staff (during DEIR preparation)
9-11	Add new policy N-P8: Update Noise Ordinance regulations to address allowed days and hours of construction, types of work, construction equipment (including noise and distance thresholds), notification of neighbors, and sound attenuation devices.	Staff (during DEIR preparation)
9-11	Edit Policy N-P10: Restrict the use of sound walls as a noise attenuation method to sites adjacent to State Route (SR) 99, the railroad, and industrial uses east of SR-99.	Staff (during DEIR preparation)
9-11	Add new policy N-P13: Ensure that new equipment and vehicles purchased by the City of Lodi are equipped with the best available noise reduction technology.	Staff (during DEIR preparation)

Page	*Edit*	*Reason*
9-11	Add new policy N-P14: Reduce vibration impacts on noise-sensitive land uses (such as residences, hospitals, schools, libraries, and rest homes) adjacent to the railroad, SR-99, expressways, and near noise-generating industrial uses. This may be achieved through site planning, setbacks, and vibration-reduction construction methods such as insulation, soundproofing, staggered studs, double drywall layers, and double walls.	Staff (during DEIR preparation)
App.A	Addition of Implementation Table in Section A.3	

Implementation Responsibilities

Department/Agency	*Code*
City of Lodi	
City Council	CC
Planning Commission	PC
City Attorney's Office	CA
City Manager's Office	CM
Community Development Department	CD
Planning Division	PL
Building Division	BL
Neighborhood Services Division	NS
Electric Utility Department	EU
Internal Services Department	IS
Fire Department	FD
Parks and Recreation	PR
Police Department	PD
Public Works Department	PW
Engineering Division	ED
Water/Wastewater Division	WW
Fleet and Facilities Division	FF
Transit Division	TR
Community Center	COM
Regional, State, Federal, and Private	
Lodi Unified School District	LUSD
San Joaquin County	SJC
San Joaquin County Council of Governments	SJCOG
Woodbridge Irrigation District	WID
San Joaquin Regional Transit District	SJRTD
Union Pacific Railroad and Central California Traction Company	UP
Amtrak	AMTRK
Altamont Commuter Express	ACE
California Department of Public Health	CDPH
Central Valley Regional Water Quality Control Board	CVRWQCB
California Department of Transportation	DOT
California Environmental Protection Agency	EPA

Appendix A-1: Implementation Matrix

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
Chapter 2: Land Use						
LU-P1	Update the City's Zoning Ordinance and Subdivision Regulations contained in the Municipal Code for consistency with the General Plan, including the General Plan Diagram. Zoning changes that will need to be made include: • Establishment of new base districts, consistent with the land use classifications in the General Plan, such as for mixed-use centers, corridors and downtown; and • New development regulations that reflect policy direction contained throughout the General Plan (e.g. parking standards).	PL, , PC, CC		✓		
LU-P2	Require sites designated for mixed-use development downtown, corridors, and in new neighborhood centers to be developed with a variety of residential and non-residential uses, in accordance with the General Plan designation.	PL, PC	✓			
LU-P3	Do not allow development at less than the minimum density prescribed by each residential land use category, without rebalancing the overall plan to comply with the "no net loss provisions of state housing law."	PL, PC	✓			
LU-P4	Maintain the highest development intensities downtown, and in mixed-use corridors and centers, with adequate transition to Low-Density Residential neighborhoods.	PL, PC	✓			
LU-P5	Maintain a centralized economic development and land information system to continually monitor land use availability, ensuring sufficient land for appropriate use designations, development intensities and locations.	PL		✓		
LU-P6	Locate new medium- and high-density development adjacent to parks or other open space, in order to maximize residents' access to recreational uses; or adjacent to mixed-use centers or neighborhood commercial developments, to maximize access to services.	PL, PR	✓			
LU-P7	Encourage new neighborhood commercial facilities and supermarkets in locations that maximize accessibility to all residential areas.	PL	✓			
LU-P8	Permit child-care centers in all districts except Industrial. • Regulations would also need to be in accordance with criteria for family day care homes established in Chapter 3.4 and Chapter 3.6, Division 2 of the California Health and Safety Code.	PL	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
LU-P9	Focus new business park growth in the southeast portion of the city and new industrial growth along the two railroad lines, as shown in the Land Use Diagram.	PL, PC	✓			
LU-P10	Allow employee-serving amenities and services such as restaurants, cafes, dry cleaners, and other complementary uses in Business Park areas.	PL	✓			
LU-P11	Promote clustering of industrial uses into areas that have common needs and are compatible in order to maximize their efficiency. Work closely with industry contacts to identify specific needs to be addressed through development standards.	PL, CM, PC	✓			
LU-P12	Prioritize economic development activities on potential growth industries that are appropriate for Lodi, including retail and tourism, as well as office/industrial users in need of large parcels.	CM	✓			
LU-P13	Continue to publish a handbook and/or fact sheets of permitting procedures and fees for new and existing businesses.	CD,PW	✓			
LU-P14	Partner with business and community groups to proactively pursue companies and industries and to implement economic development programs.	CM	✓			
LU-P15	Continue efforts to locate a hotel in conjunction with or in proximity to Hutchins Street Square.	PL, CM		✓		
LU-P16	Promote downtown as the center of tourism, business, social, and civic life by directing high intensity office uses, government, and entertainment uses to locate downtown.	PL, PC	✓			
LU-P17	Establish land use regulations and development standards in the Zoning Code to reinforce Downtown's assets and traditional development pattern. These should include: • Extending the Downtown Mixed Use classification to parcels along Main Street on the Eastside to improve connectivity, while retaining the respective identities of downtown and the Eastside. • Establishing maximum set-backs or build-to lines for development in areas designated Downtown Mixed Use. • Requiring retail, eating and drinking establishments, or other similar active uses except for sites designated Public at the ground level. Alleyway corners shall be "wrapped" with retail uses as well.	PL, PC		✓		

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
LU-P18	Encourage medium- and high-density residential development in downtown by permitting residential uses at upper levels; and east and northwest of downtown, as depicted on the Land Use Diagram, by identifying vacant and underutilized sites that are appropriate for redevelopment.	PL, PC		✓		
LU-P19	Maintain parking regulations for downtown that are lower than elsewhere in the city, reflecting its position as a pedestrian- and transit-friendly center.	PL		✓		
LU-P20	Expand the Downtown Parking District to include the Downtown Mixed Use area in order to consolidate parking areas. Require all development within these boundaries to either meet the established off-street parking requirements or contribute an appropriate share to the Downtown Parking District.	PL, PC, CC		✓		
LU-P21	Allow an appropriate range of single uses or mixed-use development, with use requirements/mixes as follows: • Kettleman Lane. Allow any mix of uses as permitted within the Mixed Use Corridor classification. Ensure that residential uses are sited at upper levels or, if at ground level, then not directly facing the highly trafficked Kettleman Lane. • Cherokee Lane. Require that any new development/redevelopment of sites with Mixed Use designation south of Tokay Street to devote at least one-quarter of the built-up area to commercial or business park uses, while allowing the full spectrum of single or mixed-uses permitted within the designation. • Lodi and Central avenues. Require any development or redevelopment of sites to have active uses, retail, restaurants, cafes, and personal service establishments fronting the streets at the ground level. A range of compatible uses, such as residential or office, may be located at upper levels and in portions not fronting the streets.	PL, PC	✓			
LU-P22	Promote infill development that maintains the scale and character of established neighborhoods.	PC, PL	✓			
LU-P23	Establish bulk and Floor Area Ratio standards for older residential neighborhoods surrounding Downtown to preserve their character.	PL		✓		
LU-P24	Guide new residential development into compact neighborhoods with a defined Mixed-Use Center, including public open space, a school or other community facilities, and neighborhood commercial development.	PL, PC	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
LU-P25	Require a centrally located Mixed-Use Center within each new residential neighborhood: one west of Lower Sacramento Road and two south of Harney Lane, as shown on the Land Use Diagram. Centers should serve as a focal point for the surrounding neighborhood, be pedestrian-oriented and encourage a mix of uses to serve local needs.	PL, PC	✓			
LU-P26	Require a master or specific plan in areas with a Mixed-Use Center and adjacent complementary uses, as a condition of subdivision approval. Uses should include neighborhood commercial, civic and institutional uses, parks, plazas, and open space consistent with Land Use Diagram (unless any of these uses are found infeasible and/or alternative locations are available to carry out mixed-use policies). Streets should adhere to the pattern depicted on the Land Use Diagram.	PL, PC	✓			
LU-P27	Provide for a full range of housing types within new neighborhoods, including minimum requirements for small-lot single family homes, townhouses, duplexes, triplexes, and multi-family housing.	PL	✓			
Chapter 3: Growth Management and Infrastructure						
GM-P1	Define Lodi's southern boundary and establish limits on development to the south through the establishment the Armstrong Road Agricultural/Cluster Study Area. Cooperate with San Joaquin County, the San Joaquin County Local Agency Formation Commission and property owners to ensure maintenance of this area as a separator from the City of Stockton.	PC, CC,, SJC			✓	
GM-P2	Target new growth into identified areas, extending south, west, and southeast. Ensure contiguous development by requiring development to conform to phasing described in Figure 3-1. Enforce phasing through permitting and infrastructure provision. Development may not extend to Phase 2 until Phase 1 has reached 75% of development potential (measured in acres) and development may not extend to Phase 3 until Phase 2 has reached 75% of development potential. In order to respond to market changes in the demand for various land use types, exemptions may be made to allow for development in future phases before these thresholds in the previous phase have been reached.	PL, PC	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
GM-P3	Use the Growth Management Allocation Ordinance as a mechanism to even out the pace, diversity, and direction of growth. Update the Growth Management Allocation Ordinance to reflect phasing and desired housing mix. Because unused allocations carry over, as of 2007, 3,268 additional permits were available. Therefore, the Growth Management Allocation Ordinance will not restrict growth, but simply even out any market extremes.	PL, PC, CC	✓			
GM-P4	Update allocation of units by density to ensure that development density occurs as recommended in Chapter 2: Land Use. For instance, approved permits should be allocated to provide 44% of permits for low density, 28% medium density, and 27% high density/ mixed use housing during Phase 1. This represents a shift towards slightly more medium and high density housing in Lodi.	PL, PC		✓		
GM-P5	Update impact fee system to balance the need to sufficiently fund needed facilities and services without penalizing multifamily housing or infill development.	PW, CD, CC		✓		
GM-P6	Annex areas outside the existing sphere of influence to conform with development needs for Phase 1, Phase 2, and Phase 3. Subsequent phases shall be annexed as current phases reach development thresholds.	PL, PC, CC				✓
GM-P7	Use Eminent Domain only for the acquisition of land for public facilities, as set forth by Ordinance 1775.	PL, PC, CC	✓			
GM-P8	Ensure that public facilities and infrastructure including water supply, sewer, and stormwater facilities are designed to meet projected capacity requirements to avoid the need for future replacement and upsizing, pursuant to the General Plan and relevant master planning.	ED, WW	✓			
GM-P9	Coordinate extension of sewer service, water service, and stormwater facilities into new growth areas concurrent with development phasing. Decline requests for extension of water and sewer lines beyond the city limit prior to the relevant development phase and approve development plans and water system extension only when a dependable and adequate water supply for the development is assured.	WW, ED, PL	✓			
GM-P10	Develop new facilities and rehabilitate existing facilities as needed to serve existing development and expected development, in accordance with the General Plan and relevant infrastructure master plans.	PW, PL	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
GM-P11	Prepare master plan documents as necessary during the planning period to address the infrastructure needs of existing and projected growth, and to determine appropriate infrastructure provision for each phase. Existing master plan documents should be used until new master plans are developed, and updates should occur as follows: • A sanitary sewer system master plan should be undertaken soon after General Plan adoption. In particular, this master plan should address how to best provide sewer service for the growth on the east side of the city and for infill development, and to determine if additional wastewater flows will need to be diverted into the proposed South Wastewater Trunk Line. • A citywide stormwater master plan should be prepared soon after General Plan adoption to confirm or revise existing planning studies. • A White Slough Water Pollution Control Facility master plan should be completed during the early stages of Phase 1, most likely in 2013 or 2014. • A recycled water master plan was prepared in May 2008 and is current as of 2009. It may be appropriate to update this document when the next WSWPCF master plan is prepared, in 2013 or 2014, to evaluate the feasibility of constructing a scalping plant to provide recycled water for use within the city. • A potable water supply and distribution master plan is not urgently needed, as of 2009. Future planning should be completed as necessary. • The Urban Water Management Plan should be updated on a five year basis in compliance with State of California mandated requirements. Future plans should be developed in 2010, 2015, 2020, 2025, and 2030.	WW		✓	✓	✓

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
GM-P12	Require water conservation in both City operations and private development to minimize the need for the development of new water sources and facilities. To the extent practicable, promote water conservation and reduced water demand by: • Requiring the installation of non-potable water (recycled or gray water) infrastructure for irrigation of landscaped areas over one acre of new landscape acreage, where feasible. Conditions of approval shall require connection and use of nonpotable water supplies when available at the site. • Encouraging water-conserving landscaping, including the use of drought-tolerant and native plants, xeriscaping, use of evapotranspiration water systems, and other conservation measures. • Encouraging retrofitting of existing development with water-efficient plumbing fixtures, such as ultra low-flow toilets, waterless urinals, low-flow sinks and showerheads, and water-efficient dishwashers and washing machines.	WW, BL		✓		
GM-P13	Support on-site gray water and rainwater harvesting systems for households and businesses. The City should develop a strategy for the legal, effective, and safe implementation of gray water and rainwater harvesting systems, including amendment of the Building Code as appropriate to permit gray water and provision of technical assistance and educational programming to help residents implement gray water and rainwater harvesting strategies.	WW, BL, CVRWQCB		✓		
GM-P14	Continue to implement the Water Meter Retrofit Program (consistent with State requirements as indicated in AB 2572), whereby all existing non-metered connections would be retrofitted with a water meter. This program is expected to be completed in 2015.	WW, ED		✓		
GM-P15	Require water meters in all new and rehabilitated development.	WW, BL		✓		
GM-P16	Monitor water usage and conservation rates resulting from the meter progress to verify if water demand assumptions are correct. If actual usage and conservation rates vary from planning assumptions, reassess requirements for future water resources.	WW	✓			
GM-P17	Cooperate with Northeastern San Joaquin County Groundwater Banking Authority, other member water agencies, and the Woodbridge Irrigation District to retain surface water rights and groundwater supply.	WW, CM, SJC, WID	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
GM-P18	Explore a program of complete wastewater reclamation and reuse at the White Slough Water Pollution Control Facility.	WW			✓	
GM-P19	Encourage the use of tertiary treated wastewater for irrigation of agricultural lands, large landscaped areas, and recreation/open space areas within close proximity to the White Slough Water Pollution Control Facility.	WW			✓	
GM-P20	Continue to improve waste diversion rates through recycling and resource conservation measures. Support waste reduction and recycling programs through public education.	ED	✓			
GM-P21	Locate additional schools to fill any existing gaps in capacity and meet the needs of existing and new residents. Provide needed facilities concurrent with phased development.	PL, LUSD			✓	✓
GM-P22	Coordinate with Lodi Unified School District in monitoring housing, population, and enrollment trends and evaluating their effects on future school facility needs.	PL, LUSD	✓			
GM-P23	Phase school development as part of new residential growth to provide adequate school facilities, without exceeding capacity of existing schools. Schools should be provided consistent with the Lodi Unified School District's School Facilities Master Plan, which defines student generation rates.	PL, LUSD			✓	✓
GM-P24	Support all necessary and reasonable efforts by Lodi Unified School District to obtain funding for capital improvements required to meet school facility needs, including adoption and implementation of local financing mechanisms, such as community facility districts, and the assessment of school impact fees.	LUSD, CC	✓			
GM-P25	Locate any additional library branches to ensure all neighborhoods are served, in particular in the Eastside neighborhood and in proposed mixed use centers.	PL			✓	✓
GM-P26	Develop a Fire and Police Services Master Plan that would establish thresholds and requirements for fire and police facilities, staffing, and building features. The Fire and Police Services Master Plan should consider the following: • Typical nature and type of calls for service; • Fire prevention and mitigation measures, such as sprinklers, fire retardant materials, and alarms; • Appropriate measures for determining adequate levels of service; and • Locations and requirements for additional facilities and staffing.	FD, PD		✓		

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
GM-P27	Maintain sufficient fire and police personnel and facilities to ensure maintenance of acceptable levels of service. Provide needed facilities concurrent with phased development.	FD, PD	✓			
	Chapter 4: Community Design and Livability Policies					
CD-P1	Incentivize infill housing within the Downtown Mixed Use district and along Mixed Use Corridors through the development review, permitting and fee processes.	PL, PC	✓			
CD-P2	Ensure that Zoning and Subdivision ordinances include measures that guide infill development to be compatible with the scale, character and identity of adjacent development.	PL		✓		
CD-P3	Ensure that the Zoning Ordinance includes measures to promote fine-grain development along retail and mixed-use streets, using horizontal and vertical building articulation that engages pedestrians and breaks up building mass.	PL		✓		
CD-P4	Ensure that the Zoning Ordinance includes measures to promote durable and high quality building materials and high standards of construction for longevity and reduced maintenance costs over time, especially for buildings in high-pedestrian activity areas, such as downtown, along Mixed Use Corridors, and in Mixed Use Centers.	PL, BL		✓		
CD-P5	Configure parking areas to balance a vital pedestrian environment with automobile convenience. Parking areas should be: • Located in locations less visible from the sidewalk behind buildings and away from the street edge, especially along Mixed Use Corridors and Centers, and principal downtown streets. Where a lot faces two streets, parking lots should be accessible by side road. • Sized and located to take advantage of shared parking opportunities. • Accommodating to pedestrians and bicycle traffic with pedestrian-only pathways through parking areas. • Landscaped to achieve fifty percent (50%) shade coverage at tree maturity. Architectural elements such as trellises and awnings may also contribute to shade coverage. • Buffered from adjacent uses and pedestrians through the use of low walls and hedges.	PL, ED	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
CD-P6	Update downtown regulations in the Zoning Ordinance: • Establish a Downtown District to encompass the area shown as Downtown Mixed Use in the Land Use Diagram (Chapter 2, Figure 2-1). • Require active uses such as retail, eating and drinking establishments at the ground level for the area shown in Figure 4-5. • Update allowable uses to permit residential uses on upper levels on all streets in downtown.	PL, PC		✓		
CD-P7	Extend downtown streetscape treatment to embrace the entire area where ground-level retail is required, especially streetscape treatment for streets east of the railroad in the Downtown Mixed Use district. The elements should be consistent with the existing downtown streetscape, but should identify the eastern section as a unique area within downtown.	PL, ED			✓	
CD-P8	Require active uses or pedestrian oriented design in alleyways located in the downtown area to establish retail and pedestrian connections, particularly where alleyways connect retail streets (such as between School Street and Sacramento Street) or retail to parking (such as between School Street and Church Street). Other pedestrian oriented design may include pedestrian only walkways, high quality paving, landscaping, lighting, seating, or other similar features.	PL, ED	✓			
CD-P9	Continue to use the Eastside Mobility and Access Plan as a means of connecting downtown and the Eastside neighborhood.	PL, PW	✓			
CD-P10	Incentivize rehabilitation and adaptive reuse of buildings, especially east of the railroad, particularly on Main and Stockton streets in the Downtown Mixed Use district, through development review, permitting and fee processes.	PL, PC	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
CD-P11	Establish development standards in the Zoning Ordinance for Mixed Use Corridors that create a pedestrian-scaled environment: • Require a minimum percentage of the frontage of sites along Lodi and Central avenues to be devoted to active uses. Ensure that depth and height of the provided space is adequate to accommodate a variety of tenants and provide flexibility for the future. • Maintain a consistent building base/streetwall along majority of site frontage along all Mixed Use Corridors except Kettleman and Cherokee lanes, with minimum height ranging from 15 to 25 feet, depending on the scale and character of the corridor, with taller streetwall along wider corridors. • Along Sacramento Street, and Lodi and Central avenues, require new development to be built to the street edge, with parking located in the rear. • Require buildings to be finely articulated and visually engaging. • For properties located at key intersections in particular the intersections of Lodi Avenue and Central Avenue, Lodi Avenue and School Street, and Lodi Avenue and Sacramento Street require appropriate design features, including: buildings that punctuate the corner with design elements and/or projects that provide additional public or pedestrian amenities (such as the inclusion of plazas).	PL, PC		✓		
CD-P12	Provide incentives, through the development review, permitting and fee processes, to redevelop underutilized commercial properties located within the Mixed Use Corridors.	PL, PW, PC	✓			
CD-P13	To provide development flexibility, consider incorporating overall development intensity measures (such as floor area ratio) for all non-residential and residential uses, rather than regulating density/intensity separately.	PL		✓		
CD-P14	Minimize pavement widths (curb-to-curb) along Mixed Use Corridors to prioritize pedestrian and bicycle movement, while ensuring adequate street width for traffic flow.	ED	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
CD-P15	Improve or maintain streetscapes, along Mixed Use Corridors. Streetscape improvements could be implemented through a city streetscape program. Amenities may include: • Street trees • Wide sidewalks • Special paving • Street lighting • Seating • Info kiosks, particularly in the downtown area • Open bus stop shelters • Bicycle racks	ED, PL	✓			
CD-P16	Provide continuous street trees along the curb, between the vehicle roadway and the sidewalk, unless this is physically impossible due to constraints such as underground utility lines. Minimize curb cuts to emphasize continuous unbroken curb lengths.	ED	✓			
CD-P17	Develop a wayfinding and signage scheme along the city's major corridors and streets that utilizes public art and street elements, such as banners and light fixtures. The scheme should reinforce the City's identity and linkages to downtown. Include Kettleman Lane, Lodi Avenue, Cherokee Lane, Sacramento Street, Central Avenue, and Stockton Street in the wayfinding scheme.	ED			✓	
CD-P18	Require active uses at the ground floor on Lodi and Central avenues within their Mixed Use Corridor designations, as noted shown in Figures 4-8 and 4-9, respectively.	PL, PC	✓			
CD-P19	Develop requirements for street trees in all new growth areas that maximize shade to minimize urban heat island impacts.	ED		✓		
CD-P20	Require all subdivisions in new growth areas to prepare a street plan demonstrating maximum connection to existing streets, specifically incorporating streets shown in Figure 4-4 and intermediate street connections. Ensure that new development on the west side enables expansion of the street grid for future growth, beyond this General Plan horizon. Existing and emerging development at the City's edges has not been designed to enable future extensions, producing disconnected neighborhoods.	PL, PW	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
CD-P21	Discourage gated development and cul-de-sacs. Where gated developments are provided, ensure that connectivity to the rest of the city is not compromised, by creating pedestrian/bicycle and vehicular connections within the development and to public streets. Where cul-de-sacs are provided, require pedestrian and bicycle connection at the terminus of the cul-de-sac to the adjacent street. Limit maximum block lengths in new neighborhoods to 600 feet, with pedestrian/bicycle connection no more than 400 feet apart (where resulting from connection at end of cul- de-sac), and 400 feet between through streets along Neighborhood Mixed Use Centers.	PL, PC	✓			
CD-P22	Encourage alternatives to soundwalls and permit new soundwalls only where alternatives are not feasible, such as along Highway 99, the railroad tracks, Expressways, and Major Arterials. Along Major Arterials that coincide with a Mixed Use Center, such as Kettleman Lane, ensure that soundwalls do not disrupt pedestrian-orientated character.	PL, PC	✓			
CD-P23	While soundwalls can limit sound to development immediately adjacent to traffic, much of the sound is simply reflected to development further away, resulting in increases in ambient noise levels. Moreover, soundwalls are disruptive to neighborhood character and connectivity. Alternative designs could include frontage roads, dense vegetation, and ensuring sufficient insulation in residential units that would potentially be impacted by the noise.	PL, PC	✓			
CD-P24	Create smooth transitions between neighborhoods and across the railroad with pedestrian paths and/or uniform streetscape design.	PL	✓			
CD-P25	Use bike lanes, trails, or linear parks to improve connectivity throughout the city and in particular between housing located south of Kettleman and amenities located north of Kettleman, as shown in Figure 4-7. These pathways should employ easy and safe crossings and connect to destinations such as downtown, shopping centers, parks, and/or schools.	PL, PWPR	✓			
CD-P26	Increase public art throughout Lodi. Encourage the placement of art in locations that are interactive and accessible to the public. Develop a funding strategy to ensure adequate support of arts and cultural programs.	COM	✓			
CD-P27	Focus new growth, which is not accommodated through infill development of existing neighborhoods, in easily-accessible and pedestrian friendly neighborhoods that include neighborhood-oriented commercial, public services such as schools and parks, and residential uses.	PL, PC			✓	✓

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
CD-P28	Design new development to connect with nearby uses and neighborhoods; include paths to connect to the rest of the city; exhibit architectural variety and visual interest; conform to scale requirements; and relate housing to public streets.	PL, PC			✓	✓
CD-P29	Minimize the visual impact of automobiles in residential areas. Methods include reducing garage frontage, minimizing curb cuts, setting garages and parking areas back from houses, locating garages at rear or along alleyways, and providing narrow roads.	PL	✓			
CD-P30	Require all development at sites designated Mixed Use Center to provide a mix of commercial uses, while allowing residential uses, to create a "node," typically centered around a plaza, or "a main street," with a minimum of ten percent (10%) of the land area devoted to non-residential land uses, to create pedestrian vitality in the core area. Allow a range of other supportive commercial uses, such as medical, dental, and real-estate offices, as well as community facilities.	PL, PC			✓	✓
CD-P31	Require each core to have at least one plaza or other satisfactory gathering space along the main street that enables gathering and promotes a sense of neighborhood identity.	PL, PC			✓	✓
CD-P32	Integrate new Mixed Use Centers into the city's existing fabric and proposed new development. Provide a network of streets and connections that expands circulation opportunities for pedestrians and bicyclists and ensures connections by multiple modes between the new centers, and existing neighborhoods. Update Subdivision ordinance to require: • Master plans for new development that show publicly accessible parks, and a connected street grid. • Blocks that do not exceed 600 feet in length unless additional pedestrian connections or public space is included. • Street trees on public streets. • Sidewalks on public streets.	PL, PC			✓	✓
CD-P33	In order to use less energy and reduce light pollution, ensure that lighting associated with new development or facilities (including street lighting, recreational facilities, and parking) shall be designed to prevent artificial lighting from illuminating adjacent residential neighborhoods and/or natural areas at a level greater than one foot candle above ambient conditions.	PL, EU	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
CD-P34	Require that any office uses in Mixed Use Centers front along the street edge with minimal setbacks; locate parking in the rear or underground; provide plazas and other open space amenities for employees; provide street landscaping; and provide pedestrian connections where appropriate.	PL, PC			✓	✓
CD-P35	Minimize curb cuts to expand pedestrian space and increase the supply of curbside parking. Methods include requiring abutting new developments to share a single access point from the road and allowing only one curb cut per parcel.	PL, ED	✓			
CD-P36	Require new office development to be designed to address not just automobile access, but also potential for transit access, and allowing lunchtime pedestrian access to adjacent uses. Locate new office development along the street edge, with the main entrance facing the street. Parking should not be located between the street and building.	PL, TR, PC	✓			
CD-P37	Include pedestrian paths that provide internal access on all site plans. Pedestrian paths should access the sidewalk, main building entrances, and parking areas.	PL, PC	✓			
CD-P38	Provide landscaped setbacks between all parking areas and buildings, and at the edges of parking areas.	PL, PC	✓			
CD-P39	Promote location and siting of buildings that minimizes energy use by features such as enhancing use of daylight, minimizing summer solar gain, and use of ventilating breezes.	BL, PL	✓			
CD-P40	Design any City-owned buildings or City-owned buildings that are proposed for new construction, major renovation to meet the standards set by LEED™ or equivalent.	PL, FF	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
CD-P41	Prepare, or incorporate by reference, and implement green building and construction guidelines and/or standards, appropriate to the Lodi context, by 2012. The guidelines and/or standards shall ensure a high level of energy efficiency and reduction of environmental impacts associated with new construction, major renovation, and operations of buildings. Ensure that these guidelines/standards: • Require documentation demonstrating that building designs meet minimum performance targets, but allow flexibility in the methods used. • Exceed California's 2005 Title 24 regulation standards for building energy efficiency by 15%, with particular emphasis on industrial and commercial buildings. • Reduce resource or environmental impacts, using cost-effective and well-proven design and construction strategies. • Reduce waste and energy consumption during demolition and construction. • Identify street standards, such as street tree requirements, appropriate landscaping practices, and acceptable materials. • Incorporate sustainable maintenance standards and procedures. • Promote incorporation of energy conservation and weatherization features in existing structures. Develop programs that specifically target commercial and industrial structures for energy conservation and weatherization measures in order to reduce annual kWh per job. These guidelines could be developed directly from the LEED™ system developed by the U.S. Green Building Council, the California-based Build It Green GreenPoint rating system, or an equivalent green building program.	PL, BL, PC, EU, CC		✓		
Chapter 5: Transportation						
T-P1	Ensure consistency between the timing of new development and the provision of transportation infrastructure needed to serve that development. Regularly monitor traffic volumes on city streets and, prior to issuance of building permits, ensure that there is a funded plan for the developer to provide all necessary transportation improvements at the appropriate phase of development so as to minimize transportation impacts.	PL, PW	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
T-P2	Review new development proposals for consistency with the Transportation Element and the Capital Improvements Program. Ensure that new projects provide needed facilities to serve developments and/or contribute a fair share to the City's transportation impact fee.	PL, PW	✓			
T-P3	Work collaboratively with San Joaquin County, San Joaquin Council of Governments, and Caltrans to maintain consistency with regional and State plans, and to successfully implement transportation improvements in the vicinity of Lodi.	PW, PL, SJC, SJCOG, DOT	✓			
T-P4	Maintain and update a Capital Improvements Program so that identified improvements are appropriately prioritized and constructed in a timely manner.	IS, PL, PW	✓			
T-P5	Update the local transportation impact fee program, consistent with General Plan projections and planned transportation improvements.	PL, PW		✓		
T-P6	Coordinate with the San Joaquin Council of Governments and actively participate in regional transportation planning efforts to ensure that the City's interests are reflected in regional goals and priorities.	PL, PW, SJCOG, DOT	✓			
T-P7	Continue to work with the San Joaquin Council of Governments on regional transportation funding issues, including the update of regional transportation impact fees.	PL, PW, SJCOG				
T-P8	Participate in discussions with Caltrans and neighboring jurisdictions to develop a fair-share fee program for improvements to regional routes and state highways. This fee should reflect traffic generated by individual municipalities and pass-through traffic.	PL, PW, DOT	✓			
T-P9	Allow exceptions to LOS standards upon findings by the City Council that achieving the designated LOS would: • Be technologically or economically infeasible, or • Compromise the City's ability to support other important policy priorities, such as: o Enhancing the urban design characteristics that contribute to pedestrian comfort and convenience; o Avoiding adverse impacts to alternate modes of transportation; o Preserving the existing character of the community; o Preserving agricultural land or open space; or o Preserving scenic roadways/highways.	PL, PW, CC	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
T-P10	Exempt downtown from LOS standards to encourage infill development in order to create a pedestrian friendly urban design character and densities necessary to support transit, bicycling, and walking. Development decisions in downtown should be based on community design and livability goals rather than traffic LOS. (Downtown is defined by the Downtown Mixed-Use designation in the Land Use Diagram.)	PL, PW, PC	✓			
T-P11	Strive to comply with the Level of Service standards and other performance measures on Routes of Regional Significance as defined by the County-wide Congestion Management Program.	PL, PW, PC	✓			
T-P12	For purposes of design review and environmental assessment, apply a standard of Level of Service E during peak hour conditions on all streets in the City's jurisdiction. The objective of this performance standard is to acknowledge that some level of traffic congestion during the peak hour is acceptable and indicative of an economically vibrant and active area, and that infrastructure design decisions should be based on the conditions that predominate during most of each day.	PC	✓			
T-P13	Undertake street improvements shown in Table 5-4 and maintain, require or acquire right of way, as necessary. Coordinate with other jurisdictions, including San Joaquin County, and Caltrans, on improvements to street segments common to the City of Lodi and other jurisdictions. It should be noted that because the General Plan will be implemented over an extended time frame, street capacity enhancements will be prioritized through the City's Capital Improvements Program process and will occur as development proceeds.	PW	✓			
T-P14	Design streets in new developments in configurations that generally match and extend the grid pattern of existing city streets. This is intended to disperse traffic and provide multiple connections to arterial streets. Require dedication, widening, extension, and construction of public streets in accordance with the City's street standards. Major street improvements shall be completed as abutting lands develop or redevelop. In currently developed areas, the City may determine that improvements necessary to meet City standards are either infeasible or undesirable.	PW	✓			
T-P15	Maintain, and update as needed, roadway design standards to manage vehicle speeds and traffic volumes.	PW	✓			
T-P16	Limit street right-of-way dimensions where necessary to maintain desired neighborhood character. Consider allowing narrower street rights-of-way and pavement widths for local streets in new residential subdivisions.	PW	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
T-P17	Implement traffic calming measures to slow traffic on local and collector residential streets and prioritize these measures over congestion management. Include roundabouts, corner bulb-outs, traffic circles, and other traffic calming devices among these measures.	ED			✓	
T-P18	Foster walkable streets through streetscape improvements, continuous sidewalks on both sides of streets, and encouraging pedestrian access wherever feasible. Update the Subdivision Ordinance to include requirements for sidewalks, street trees, and lighting. Where sidewalks do not exist within existing developments, and are desired, explore a program to provide sidewalks by reducing the curb-to-curb road width, in cases where safety and traffic flow are not compromised.	PL, PW			✓	
T-P19	To maintain walkability and pedestrian safety, consider roadway width and roadway design features such as islands, pedestrian refuges, pedestrian count-down signals, and other such mechanisms. This policy applies to new roadway construction as well as existing roadways where pedestrian safety issues may occur due to roadway design or width.	PL, PW			✓	
T-P20	In new development areas, include pedestrian connections to public transit systems, commercial centers, schools, employment centers, community centers, parks, senior centers and residences, and high-density residential areas.	PL, TR, PW			✓	✓
T-P21	Work cooperatively with the Lodi Unified School District on a "safe routes to schools" program that aims to provide a network of safe, convenient, and comfortable pedestrian routes from residential areas to schools. Improvements may include expanded sidewalks, shade trees, bus stops, and connections to the extended street, bike, and transit network.	PL, PW, LUSD		✓		
T-P22	Use the City's Bike Master Plan as a comprehensive method for implementing bicycle circulation, safety, and facilities development. Update the Plan for consistency with Figure 5-3, which defines bike route connections in new development areas.	PL, ED		✓		
T-P23	Coordinate the connection of local bikeways and trails to regional bikeways identified in the San Joaquin County Bicycle Transportation Plan.	PL, ED, SJC		✓		
T-P24	Require the placement of bicycle racks or lockers at park-and-ride facilities.	PL			✓	

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
T-P25	Establish standards requiring new commercial and mixed-use developments (of sizes exceeding certain minimum thresholds) to provide shaded and convenient bicycle racks, as appropriate. When such facilities are required, use specifications provided in Caltrans' Design Manual, Section 1000, or other appropriate standards.	PL, ED			✓	
T-P26	Implement the City's Short Range Transit Plan and the San Joaquin Council of Government's Regional Transit Systems Plan, using the most cost effective methods available and based upon professional analysis.	TR, SJCOG	✓			
T-P27	Review new development proposals for consistency with the Short Range Transit Plan. Ensure new projects provide needed transit facilities to serve developments and provide all needed facilities and/or contribute a fair share for improvements not covered by other funding sources.	PL, TR, PC	✓			
T-P28	Continue to support the efficient operation of the Lodi Station, and to explore opportunities to expand the multi-modal transportation services provided there.	TR, ACE, AMTRK	✓			
T-P29	Encourage continued commuter rail service in Lodi by cooperating with Amtrak and supporting transit-oriented development and improvements around Lodi Station.	TR, ACE, AMTRK	✓			
T-P30	Encourage ridership on public transit systems through marketing and promotional efforts. Provide information to residents and employees on transit services available for both local and regional trips.	TR		✓		
T-P31	Maintain transit performance measures sufficient to meet State requirements.	TR	✓			
T-P32	Coordinate transit services and transfers between the various transit operators serving Lodi.	TR	✓			
T-P33	Require new development to provide transit improvements where appropriate and feasible, including direct pedestrian access to transit stops, bus turnouts and shelters, and local streets with adequate width to accommodate buses.	PC	✓			
T-P34	Continue to actively support and manage the Lodi Grapeline bus service, and to expand public transit services when justified by new demand.	TR	✓			
T-P35	Require community care facilities and senior housing projects with more than 25 units to provide accessible transportation services for the convenience of residents.	NS, PL, PC		✓		
T-P36	Coordinate with the California Public Utilities Commission to implement future railroad crossing improvements.	PL, PW, UP		✓		

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
T-P37	Require a commitment of funding for railroad crossing protection devices from private development requiring new railroad spurs.	PL, PW, UP		✓		
T-P38	Continue the ongoing comprehensive program to improve the condition and safety of existing railroad crossings by upgrading surface conditions and installing signs and signals where warranted.	PL, PW, UP		✓		
T-P39	Review and update parking standards periodically, and require new developments to provide an adequate number of off-street parking spaces in accordance with those parking standards. The parking standards will allow shared parking facilities whenever possible to reduce the number of new parking stalls required. Consideration will also be given to parking reductions for mixed-use projects or projects that have agreed to implement sustainable and enforceable trip reduction methods.	PL ,PC	✓			
T-P40	Consider replacement of on-street parking in commercial areas that will be lost to additional turn lanes at intersections, with an equal number of off-street spaces within the same vicinity, where feasible.	PL	✓			
T-P41	Continue to implement existing preferential residential parking programs such as in the Eastside residential neighborhood, in the vicinity of the PCP Cannery, and adjacent to high schools. Consider expanding the preferential residential parking program to other neighborhoods only where parking intrusion from adjacent uses clearly undermines the neighborhood's quality of life after all other options are deemed unsuccessful.	PL, PC	✓			
T-P42	Improve parking opportunities in the downtown area and along Lodi Avenue (between downtown and Cherokee Lane) by examining rear or vacant lots and other underutilized areas for potential off-street parking. In addition, expand the Downtown Parking District to encompass the entire Downtown Mixed Use area shown in the Land Use Diagram (Figure 2-1).	PL, PC		✓	✓	
T-P43	Consider development of local park-and-ride facilities, particularly in conjunction with future rail and bus services, if the demand for such facilities is warranted and economically feasible.	PL, PW, PC	✓			
T-P44	Provide park and ride facilities designed to accommodate public transit, van and car pool users.	PL, TR	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
T-P45	Maintain design standards for industrial streets that incorporate heavier loads associated with truck operations and larger turning radii to facilitate truck movements. Consider requiring developments using commercial vehicles with large turning radii to provide needed intersection improvements along direct routes from development to freeway access points.	ED, BL	✓			
T-P46	Ensure adequate truck access to off-street loading areas in commercial areas.	ED	✓			
T-P47	Encourage regional freight movement on freeways and other appropriate routes; evaluate and implement vehicle weight limits as appropriate on arterial, collector, and local roadways to mitigate truck traffic impacts in the community.	ED	✓			
T-P48	Promote ridesharing and cooperate with regional travel demand management programs to reduce peak-hour traffic congestion and help reduce regional vehicle miles traveled.	PL, TR	✓			
T-P49	Promote employment opportunities within Lodi to reduce commuting to areas outside of Lodi.	CM	✓			
T-P50	Reduce the total vehicle miles of travel per household by making efficient use of existing transportation facilities and by providing for more direct routes for pedestrians and bicyclists through the implementation of "smart growth" and sustainable planning principles.	PL, TR	✓			
Chapter 6: Parks, Recreation, and Open Space Policies						
P-P1	Acquire and develop additional neighborhood and community parks to serve existing and future needs.	PR, PL	✓			
P-P2	Provide open space to meet recreation and storm drainage needs, at a ratio of eight acres of open space per 1,000 new residents. At least four acres must be constructed for park and recreation uses only. Drainage basins should be constructed as distinct facilities, as opposed to dual-functioning park and drainage basin facilities.	PR, ED	✓			
P-P3	Pursue the development of park and recreation facilities within a quarter-mile walking distance of all residences.	PL, PR	✓			
P-P4	Ensure that parks are visible and accessible from the street, welcoming the surrounding neighborhood and citywide users.	PR, PL	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
P-P5	Update the City's Open Space and Recreation Master Plan, as necessary to: • Arrange a distribution of open spaces across all neighborhoods in the city; • Ensure that parks are visible and accessible from the street, to the surrounding neighborhood, and citywide users; and • Provide a variety of open spaces and facilities to serve the needs of the community, ensuring a balance between indoor and outdoor organized sports and other recreation needs, including passive and leisure activities.	PR, ED		✓		
P-P6	Continue working with the Lodi Unified School District to share use of school and City park and recreation facilities through a mutually beneficial joint use agreement.	CM, PR, LUSD	✓			
P-P7	Work with developers of proposed development projects to provide parks and trails, as well as linkages to existing parks and trails.	PR, PL, PC	✓			
P-P8	Coordinate with the Woodbridge Irrigation District to develop a recreation trail for walking, jogging, and biking along the canal right-of-way, as shown in Figure 6-1.	CM, PR, WID	✓			
P-P9	Support improvements along the Mokelumne River in consultation and cooperation with the County and with creek restoration and design professionals.	CM, PR, SJC	✓			
P-P10	Improve accessibility to the Mokelumne River and Lodi Lake Wilderness Area with walking and biking trails. Site park use and new facilities and trails in Lodi Lake Park such that they will not degrade or destroy riparian or sensitive habitat areas.	PR, PL, SJC			✓	
P-P11	Encourage the planting of native trees, shrubs, and grasslands in order to preserve the visual integrity of the landscape, provide habitat conditions suitable for native vegetation, and ensure the maximum number and variety of well-adapted plants are maintained.	PR, PC	✓			
P-P12	Encourage retention of mature trees and woodlands to the maximum extent possible. The City shall regulate the removal of trees that are defined as "heritage trees."	PL, PC	✓			
P-P13	Identify and discourage the removal of significant trees on private and public property by establishing a tree inventory and tree management ordinance. Where removal is required, the City shall require a two-for-one replacement or transplantation.	PL, PC	✓			
P-P14	Review infrastructure needs for existing and new recreational facilities, and where appropriate, identify required improvements in the City's Capital Improvement Program.	PR, PW	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
P-P15	Renovate the Grape Bowl in order to increase use and revenue generation.	PR			✓	
P-P16	Ensure safety of users and security of facilities through lighting, signage, fencing, and landscaping, as appropriate and feasible.	PR	✓			
P-P17	Continue to provide parks and recreation services to all residents within the Lodi Unified School District service area north of Eight Mile Road. Expand visitor and non-resident fee-based programs to ensure that non-residents pay their share of park maintenance and improvement costs.	PR, IS	✓			
P-P18	Promote the use of the City's existing and planned Special Use park and recreation facilities for both local resident use and for visitor attractions, such as athletic tournaments.	PR	✓			
P-P19	Require master planned residential communities to dedicate parkland consistent with General Plan standards. In-lieu fees will only be acceptable where an exemption from providing a neighborhood park facility would not adversely affect local residents because an existing park is nearby.	PR, PL, PC		✓		
P-P20	Address park dedication and new development impact fees as part of the Zoning Ordinance and Subdivision Regulations Update, to ensure compliance with the General Plan park and open space standard.	PR, PL, PW		✓		
P-P21	Seek out new and protected funding sources in order to maintain and expand park inventory.	PR	✓			
Chapter 7: Conservation Policies						
C-P1	Work with San Joaquin County and the City of Stockton to maintain land surrounding Lodi in agricultural use. Encourage the continuation of Flag City as a small freeway-oriented commercial node, with no residential uses.	PL, PC, SJC	✓			
C-P2	Work with San Joaquin County, relevant land owners, interested parties and groups to ensure economic viability of all agricultural businesses and supporting industries.	PL, PC, SJC	✓			
C-P3	Support the continuation of agricultural uses on lands designated for urban uses until urban development is imminent.	PL, PC	✓			
C-P4	Encourage San Joaquin County to conserve agricultural soils, preserve agricultural land surrounding the City and promote the continuation of existing agricultural operations, by supporting the county's economic programs.	PC, CM, SJC	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
C-P5	Ensure that urban development does not constrain agricultural practices or adversely affect the economic viability of adjacent agricultural practices. Use appropriate buffers consistent with the recommendations of the San Joaquin County Department of Agriculture (typically no less than 150 feet) and limit incompatible uses (such as schools and hospitals) near agriculture.	PL, PC, SJC	✓			
C-P6	Require new development to implement measures that minimize soil erosion from wind and water related to construction and urban development. Measures may include: • Construction techniques that utilize site preparation, grading, and best management practices that provide erosion control and prevent soil contamination. • Tree rows or other windbreaks shall be used within buffers on the edge of urban development and in other areas as appropriate to reduce soil erosion.	PL, BL, PC		✓		

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
C-P7	Adopt an agricultural conservation program (ACP) establishing a mitigation fee to protect and conserve agricultural lands: • The ACP shall include the collection of an agricultural mitigation fee for acreage converted from agricultural to urban use, taking into consideration all fees collected for agricultural loss (i.e., AB1600). The mitigation fee collected shall fund agricultural conservation easements, fee title acquisition, and research, the funding of agricultural education and local marketing programs, other capital improvement projects that clearly benefit agriculture (e.g., groundwater recharge projects) and administrative fees through an appropriate entity ("Administrative Entity") pursuant to an administrative agreement. • The conservation easements and fee title acquisition of conservation lands shall be used for lands determined to be of statewide significance (Prime or other Important Farmlands), or sensitive and necessary for the preservation of agricultural land, including land that may be part of a community separator as part of a comprehensive program to establish community separators. Agricultural land should be preserved at a minimum ratio of one-to-one for acres converted to urban use. • The ACP shall encourage that conservation easement locations are prioritized as shown in Figure 7-5: (A) the Armstrong Road Agricultural/Cluster Study area east of Lower Sacramento Road; (B) the Armstrong Road Agricultural/Cluster Study area west of Lower Sacramento Road; (C) elsewhere in the Planning Area, one mile east and west of the Urban Reserve boundaries respectively; and (D) outside the Planning Area, elsewhere in San Joaquin County. • The mitigation fees collected by the City shall be transferred to a farmland trust or other qualifying entity, which will arrange the purchase of conservation easements. The City shall encourage the Trust or other qualifying entity to pursue a variety of funding sources (grants, donations, taxes, or other funds) to fund implementation of the ACP.	PC, CC			✓	
C-P8	Maintain the City's Right-to-Farm Ordinance, and update as necessary, to protect agricultural land from nuisance suits brought by surrounding landowners.	PC, CC	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
C-P9	Support the protection, preservation, restoration, and enhancement of habitats of State or federally-listed rare, threatened, endangered and/or other sensitive and special status species, and favor enhancement of contiguous areas over small segmented remainder parcels.	PL	✓			
C-P10	Continue to coordinate with the San Joaquin Council of Governments and comply with the terms of the Multi Species Habitat Conservation and Open Space Plan to protect critical habitat areas that support endangered species and other special status species.	PL, SJCOG	✓			
C-P11	Work with other agencies to ensure that the spread of invasive/noxious plant species do not occur in the Planning Area. Support efforts to eradicate invasive and noxious weeds and vegetation on public and private property.	PL, PR, SJC	✓			
C-P12	Protect the river channel, pond and marsh, and riparian vegetation and wildlife communities and habitats in the Mokelumne River and floodplain areas. Prohibit any activity that will disturb bottom sediments containing zinc deposits in Mokelumne River, because such disturbance could cause fish kills. Prohibit activities that could disturb anadramous fish in the Mokelumne River during periods of migration and spawning.	PL, PR, SJC	✓			
C-P13	Support the protection, restoration, expansion, and management of wetland and riparian plant communities along the Mokelumne River for passive recreation, groundwater recharge, and wildlife habitat.	PR, SJC	✓			
C-P14	Explore the purchase of or establishment of a joint agreement for open space preservation and habitat enhancement in the Woodbridge Irrigation District's property located north of the Mokelumne River. Ensure the open space preservation and enhancement of this property, while exploring opportunities for public access.	PR, WID, SJC				✓
C-P15	Site new development to maximize the protection of native tree species and sensitive plants and wildlife habitat. Minimize impacts to protect mature trees, Swainson's hawk, vernal pool tadpole shrimp, and any threatened, endangered or other sensitive species when approving new development. Mitigate any loss.	PL, PC	✓			
C-P16	Work with the California Department of Fish and Game in identifying an area or areas suitable for Swainson's hawk and burrowing owl habitat. Preserve land through a mitigation land bank to mitigate impacts on existing habitat for these species. Establish a mechanism for developer funding for the acquisition and management of lands in the mitigation bank.	PL, PC, SJCOG			✓	

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
C-P17	For future development projects on previously un-surveyed lands, require a project applicant to have a qualified archeologist conduct the following activities: (1) conduct a record search at the Central California Information Center at the California State University, Stanislaus, and other appropriate historical repositories, (2) conduct field surveys where appropriate and required by law, and (3) prepare technical reports, where appropriate, meeting California Office of Historic Preservation Standards (Archeological Resource Management Reports).	PL	✓			
C-P18	In the event that archaeological/paleontological resources are discovered during site excavation, the City shall require that grading and construction work on the project site be suspended until the significance of the features can be determined by a qualified archaeologist/paleontologist. The City will require that a qualified archeologist/paleontologist make recommendations for measures necessary to protect any site determined to contain or constitute an historical resource, a unique archaeological resource, or a unique paleontological resource or to undertake data recovery, excavation, analysis, and curation of archaeological/paleontologist materials. City staff shall consider such recommendations and implement them where they are feasible in light of project design as previously approved by the City.	BL, PL, PC	✓			
C-P19	If any human remains are discovered or recognized in any location on the project site, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until: • The San Joaquin County Coroner/Sheriff has been informed and has determined that no investigation of the cause of death is required; and • If the remains are of Native American origin: (1) the descendants of the deceased Native Americans have made a timely recommendation to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98, or (2) The Native American Heritage Commission was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission.	BL, PL, PC, SJC	✓			
C-P20	Encourage the preservation, maintenance, and adaptive reuse of existing historic buildings by developing incentives for owners of historically-significant buildings to improve their properties.	PL, NS, PC	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
C-P21	Require that, prior to the demolition of a historic structure, developers offer the structure for relocation by interested parties.	PL, NS	✓			
C-P22	Require that environmental review consistent with the California Environmental Quality Act be conducted on demolition permit applications for buildings designated as, or potentially eligible for designation as, historic structures.	PL, PC	✓			
C-P23	Conduct a comprehensive survey of historic resources in Lodi, including consideration of potentially eligible historic resources. Update Figure 7-3 upon completion of the survey. Designate a structure as historic if it: • Exemplifies or reflects special elements of the city's cultural, architectural, aesthetic, social, economic, political, artistic, and/or engineering heritage; • Is identified with persons, businesses, or events significant to local, State, or National history; • Embodies distinctive characteristics of style, type, period, or method of construction or is a valuable example of the use of indigenous materials or craftsmanship; • Represents the notable work of a builder, designer, engineer, or architect; and/or • Is unique in location or has a singular physical characteristic that represents a familiar visual feature of a neighborhood, community, or the city. Designate a district as historic if it: • Is a geographically definable area possessing a concentration or continuity of sites, buildings, structures, or objects as unified by past events or aesthetically by plan or physical development; or • Identifies relevant key neighborhoods either as historic districts or merit districts. Designate accordingly if 50% of property owners in the proposed district agree to the designation. • An "Historic District" means any area containing a concentration of improvements that has a special character, architectural importance, historical interest, or aesthetic value, which possesses integrity of location, design, setting, materials, workmanship, feeling, and association or which represents one or more architectural periods or styles typical to the history of Lodi. • A "Merit District" recognizes a district's history but does not provide for a	PL, NS, PC			✓	

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
	regulatory structure at this time. The structures of these districts may not be architecturally significant, but the role that these neighborhoods have played in the city's development, the cultural and economic conditions that resulted in the construction of these neighborhoods and the stories surrounding them make them an important part of the city's history for which they should be acknowledged and celebrated.					
C-P24	Follow preservation standards outlined in the current Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings, for structures listed on the National Register of Historic Places or California Register of Historical Resources.	PL, NS	✓			
C-P25	Coordinate historic preservation efforts with other agencies and organizations, including the Lodi Historical Society, San Joaquin County Historical Society and other historical organizations.	PL, NS, SJC	✓			
C-P26	Monitor water quality regularly to ensure that safe drinking water standards are met and maintained in accordance with State and EPA regulations and take necessary measures to prevent contamination. Comply with the requirements of the Clean Water Act with the intent of minimizing the discharge of pollutants to surface waters.	WW, CDPH	✓			
C-P27	Monitor the water quality of the Mokelumne River and Lodi Lake, in coordination with San Joaquin County, to determine when the coliform bacterial standard for contact recreation and the maximum concentration levels of priority pollutants, established by the California Department of Health Services, are exceeded. Monitor the presence of pollutants and variables that could cause harm to fish, wildlife, and plant species in the Mokelumne River and Lodi Lake. Post signs at areas used by water recreationists warning users of health risks whenever the coliform bacteria standard for contact recreation is exceeded. Require new industrial development to not adversely affect water quality in the Mokelumne River or in the area's groundwater basin. Control use of potential water contaminants through inventorying hazardous materials used in City and industrial operations.	WW	✓			
C-P28	Regularly monitor water quality in municipal wells for evidence of contamination from dibromochloropropane (DBCP), saltwater intrusion, and other toxic substances that could pose a health hazard to the domestic water supply. Close or treat municipal wells that exceed the action level for DBCP.	WW, CDPH	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
C-P29	Minimize storm sewer pollution of the Mokelumne River and other waterways by maintaining an effective street sweeping and cleaning program.	WW	✓			
C-P30	Require, as part of watershed drainage plans, Best Management Practices, to reduce pollutants to the maximum extent practicable.	ED	✓			
C-P31	Require all new development and redevelopment projects to comply with the post-construction Best Management Practices (BMPs) called for in the Stormwater Quality Control Criteria Plan, as outlined in the City's Phase 1 Stormwater NPDES permit issued by the California Water Quality Control Board, Central Valley Region. Require that owners, developers, and/or successors-in-interest to establish a maintenance entity acceptable to the City to provide funding for the operation, maintenance, and replacement costs of all post-construction BMPs.	ED, PL, PC	✓			
C-P32	Require, as part of the City's Storm Water NPDES Permit and ordinances, the implementation of a Grading Plan, Erosion Control Plan, and Pollution Prevention Plan during the construction of any new development and redevelopment projects, to the maximum extent feasible.	ED, PL, PC	✓			
C-P33	Require use of stormwater management techniques to improve water quality and reduce impact on municipal water treatment facilities.	ED, PL PC	✓			
C-P34	Protect groundwater resources by working with the county to prevent septic systems in unincorporated portions of the county that are in the General Plan Land Use Diagram, on parcels less than two acres.	WW, SJC	✓			
C-P35	Reduce the use of pesticides, insecticides, herbicides, or other toxic chemical substances by households and farmers by providing education and incentives.	PL, SJC		✓		
C-P36	Prepare and adopt a comprehensive climate action plan (CAP) by 2012, with implementation beginning in 2013. The CAP will be an additional policy document for the City of Lodi, based on polices listed in Appendix A. The CAP should include the following provisions: • An inventory of citywide greenhouse gas emissions, • Emissions targets that apply at reasonable intervals through the life of the CAP, • Enforceable greenhouse gas emissions control measures, • A monitoring and reporting program to ensure targets are met, and • Mechanisms to allow for revision of the CAP, as necessary.	PW, CD, EU, CC		✓		

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
C-P37	Promote incorporation of energy conservation and weatherization features into existing structures. Update the Zoning Ordinance and make local amendments to the California Building Code, as needed, to allow for the implementation of green building, green construction, and energy efficiency measures.	BL, EU		✓		
C-P38	Encourage the development of energy efficient buildings and communities. All new development, including major rehabilitation, renovation, and redevelopment projects, shall incorporate energy conservation and green building practices to the maximum extent feasible and as appropriate to the project proposed. Such practices include, but are not limited to: building orientation and shading, landscaping, and the use of active and passive solar heating and water systems. The City may implement this policy by adopting and enforcing a Green Building Ordinance.	BL, EU		✓		
C-P39	Ensure environmentally responsible municipal operations by implementing the following measures: • Procure environmentally preferable products and services where criteria have been established by governmental or other widely recognized authorities (e.g. Energy Star, EPA Eco Purchasing Guidelines). • Integrate environmental factors into the City's buying decisions where external authorities have not established criteria, such as by replacing disposables with reusables or recyclables, taking into account life cycle costs and benefits, and evaluating, as appropriate, the environmental performance of vendors in providing products and services; • Raise staff awareness on the environmental issues affecting procurement by providing relevant information and training; • Encourage suppliers and contractors to offer environmentally preferable products and services at competitive prices; • Require all departments and divisions to practice waste prevention and recycling. • When City fleet vehicles are retired, replace vehicles through the purchase or lease of alternative fuel or hybrid substitutes. As contracts for City-contracted fleet services (such as transit buses, trash haulers, and street sweeper trucks) are renewed, encourage contractors to replace their vehicles with alternative fuel or hybrid substitutes through the contract bid process.	BL, FF, TR, CM		✓		
C-P40	Reduce energy consumption within City government facilities and motor fleets.	FF	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
C-P41	Encourage the use of passive and active solar devices such as solar collectors, solar cells, and solar heating systems into the design of local buildings. Promote voluntary participation in incentive programs to increase the use of solar photovoltaic systems in new and existing residential, commercial, institutional, and public buildings.	EU	✓			
C-P42	Continue to offer rebates to residential, commercial, industrial and municipal customers of Lodi Electric Utility who install photovoltaic (PV) systems or that participate in the Lodi Energy Efficient Home Improvement Rebate Program. Ensure that rebate programs are well advertised to the community and offer rebates that are sufficient to gain community interest and participation.	EU	✓			
C-P43	Work with the California Energy Commission and other public and non-profit agencies to promote the use of programs that encourage developers to surpass Title 24 Energy Efficiency standards by utilizing renewable energy systems and more efficient practices that conserve energy, including, but not limited to natural gas, hydrogen or electrical vehicles. Offer incentives such as density bonus, expedited process, fee reduction/waiver to property owners and developers who exceed California Title 24 energy efficiency standards.	BL, PL, EU, PC	✓			
C-P44	Develop, adopt, and implement a heat island mitigation plan to reduce carbon dioxide emissions, smog, and the energy required to cool buildings. This plan should contain requirements and incentives for the use of cool roofs, cool pavements, and strategic shade tree placement, all of which may result in as much as 6-8° F temperature decrease from existing conditions.	CD		✓		
C-P45	Encourage the planting of shade trees along all City streets and residential lots (but, particularly in areas that currently lack street trees) to reduce radiation heating and greenhouse gases. Develop a tree planting informational packet to help future residents understand their options for planting trees.	ED		✓		
C-P46	Promote public education energy conservation programs that strive to reduce the consumption of natural or human-made energy sources.	EU	✓			
C-P47	Post and distribute hard-copy and electronic information on currently available weatherization and energy conservation programs.	EU	✓			
C-P48	Require all construction equipment to be maintained and tuned to meet appropriate EPA and CARB emission requirements and when new emission control devices or operational modifications are found to be effective, such devices or operational modifications are to be required on construction equipment.	BL	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
C-P49	Continue to require mitigation measures as a condition of obtaining permits to minimize dust and air emissions impacts from construction.	PL, PC	✓			
C-P50	Require contractors to implement dust suppression measures during excavation, grading, and site preparation activities. Techniques may include, but are not limited to: • Site watering or application of dust suppressants; • Phasing or extension of grading operations; • Covering of stockpiles; • Suspension of grading activities during high wind periods (typically winds greater than 25 miles per hour); and • Revegetation of graded areas.	PL, PC	✓			
C-P51	Cooperate with other local, regional, and State agencies in developing and implementing air quality plans to achieve State and Federal Ambient Air Quality Standards and address cross-jurisdictional and regional transportation and air quality issues.	PL, PC	✓			
C-P52	Use the San Joaquin Valley Air Pollution Control District's (SJVAPCD) Guide for Assessing and Mitigating Air Quality Impacts for determining and mitigating project air quality impacts and related thresholds of significance for use in environmental documents. The City shall consult with the SJVAPCD during CEQA review for projects that require air quality impact analysis and ensure that the SJVAPCD is on the distribution list for all CEQA documents.	PL, PC	✓			
C-P53	Support recommendations to reduce air pollutants found in the San Joaquin Valley Air Pollution Control District (SJVAPCD) local attainment plans and use its regulatory authority to mitigate "point" sources of air pollution (e.g., factories, power plants, etc.).	PL, PC	✓			
C-P54	Ensure that air quality impacts identified during the project-level CEQA review process are fairly and consistently mitigated. Require projects to comply with the City's adopted air quality impact assessment and mitigation process, and to provide specific mitigation measures as outlined in policies of Chapter 5: Transportation.	PL, PC	✓			
C-P55	Assess air quality mitigation fees for all new development, with the fees to be used to fund air quality programs.	PL, PC	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
C-P56	Require the use of natural gas or the installation of low-emission, EPA-certified fireplace inserts in all open hearth fireplaces in new homes. Promote the use of natural gas over wood products in space heating devices and fireplaces in all existing and new homes. Follow the guidelines set forth in San Joaquin Valley Air Pollution Control District's Rule 4901.	BL, PL		✓		
C-P57	Review, support, and require implementation (as applicable) of San Joaquin Valley Air Pollution Control District guidance and recommendations (including those identified in the Guide for Assessing and Mitigating Air Quality Impacts) in regards to several key issues including: • Environmental Assessment; • Air Quality Mitigation Agreements; • Integrated Planning; • Air Quality Education; • Congestion Management/Transportation Control Measures; • Toxic and Hazardous Pollutant Emissions; • Fugitive Dust and PM10 Emissions; and • Energy Conservation and Alternative Fuels.	BL, PL	✓			
C-P58	Require new sensitive uses proposed to be located within 500 feet of high volume traffic routes where daily vehicle counts exceed 100,000, to use an HVAC system with filtration to reduce/mitigate infiltration of vehicle emissions as warranted by exposure analysis.	PL	✓			
C-P59	Require industrial development adjacent to residential areas to provide buffers and institute setback intended to ensure land use compatibility in regards to potential Toxic Air Contaminant exposure.	PL	✓			
Chapter 8: Safety Policies						
S-P1	Continue to participate in the National Flood Insurance Program and ensure that local regulations are in full compliance with standards adopted by FEMA.	ED	✓			
S-P2	Cooperate with appropriate local, State, and federal agencies to address local and regional flood issues and dam failure hazards.	ED	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
S-P3	Require adequate natural floodway design to assure flood control in areas where stream channels have been modified and to foster stream enhancement, improved water quality, recreational opportunities, and groundwater recharge.	ED, PR	✓			
S-P4	Cooperate with and encourage reclamation districts to institute a berm maintenance program to reduce berm failures and shall coordinate with appropriate State, federal, and local flood control agencies in planning efforts to ensure the continued protection of local and regional flood control systems.	ED, PL, SJC			✓	
S-P5	Continue to ensure, through the development review process, that future developments do not increase peak storm flows and do not cause flooding of downstream facilities and properties. Additionally, the City shall ensure that storm drainage facilities are constructed to serve new development adequate to storm runoff generated by a 100-year storm.	ED, PC		✓		
S-P6	Prohibit new development, except for public uses incidental to open space development, within Zone A (100-year flood zone) of the most current FEMA floodplain map (see Figure 8-1 for the most current map).	PL, ED, PC	✓			
S-P7	Site critical emergency response facilities such as hospitals, fire stations, police offices, substations, emergency operations centers and other emergency service facilities and utilities to minimize exposure to flooding and other hazards.	PL, FF	✓			
S-P8	Update Zoning Ordinance and development review process as needed to reduce peak-hour stormwater flow and increase groundwater recharge. These may include provisions for: • Constructing parking areas and parking islands without curbs and gutters, to allow stormwater sheet flow into vegetated areas. • Grading that lengthens flow paths and increases runoff travel time to reduce the peak flow rate. • Installing cisterns or sub-surface retention facilities to capture rainwater for use in irrigation and non-potable uses.	ED, PL		✓		

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
S-P9	Update City street design standards to allow for expanded stormwater management techniques. These may include: • Canopy trees to absorb rainwater and slow water flow. • Directing runoff into or across vegetated areas to help filter runoff and encourage groundwater recharge. • Disconnecting impervious areas from the storm drain network and maintain natural drainage divides to keep flow paths dispersed. • Providing naturally vegetated areas in close proximity to parking areas, buildings, and other impervious expanses to slow runoff, filter out pollutants, and facilitate infiltration. • Directing stormwater into vegetated areas or into water collection devices. • Using devices such as bioretention cells, vegetated swales, infiltration trenches and dry wells to increase storage volume and facilitate infiltration. • Diverting water away from storm drains using correctional drainage techniques.	ED		✓		
S-P10	Require that all fuel and chemical storage tanks are appropriately constructed; include spill containment areas to prevent seismic damage, leakage, fire and explosion; and are structurally or spatially separated from sensitive land uses, such as residential neighborhoods, schools, hospitals and places of public assembly.	PL, BL, FD, PC	✓			
S-P11	Ensure compatibility between hazardous material users and surrounding land use through the development review process. Separate hazardous waste facilities from incompatible uses including, but not limited to, schools, daycares, hospitals, public gathering areas, and high-density residential housing through development standards and the review process.	PL,BL, FD, PC	✓			
S-P12	Consider the potential for the production, use, storage, and transport of hazardous materials in approving new development. Provide for reasonable controls on such hazardous materials. Ensure that the proponents of applicable new development projects address hazardous materials concerns through the preparation of Phase I or Phase II hazardous materials studies, as necessary, for each identified site as part of the design phase for each project. Require projects to implement federal or State cleanup standards outlined in the studies during construction.	PL, BL, FD, PC	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
S-P13	Regulate the production, use, storage, and transport of hazardous materials to protect the health of Lodi residents. Cooperate with the County and Lodi Fire Department in the identification of hazardous material users, development of an inspection process, and implementation of the City's Hazardous Waste Management and Hazardous Materials Area plans. Require, as appropriate, a hazardous materials inventory for project sites, including an assessment of materials and operations for any development applications, as a component of the development environmental review process or business license review/building permit review.	PL, PC, SJC, FD	✓			
S-P14	Work with waste disposal service provider(s) to educate the public as to the types of household hazardous wastes and the proper methods of disposal and shall continue to provide opportunities for residents to conveniently dispose of household hazardous waste.	FD	✓			
S-P15	Continue to follow the County Comprehensive Airport Land Use Plan for guidelines on land use compatibility near airports, land use restrictions, and to ensure public safety.	PL	✓			
S-P16	Support grade-separated railroad crossings, where feasible, and other appropriate measures adjacent to railroad tracks to ensure the safety of the community.	PL, PW, UP	✓			
S-P17	Continue to mark underground utilities and abide by federal safe-digging practices during construction.	EU, BL, PW	✓			
S-P18	Ensure that all public facilities, such as buildings, water tanks, underground utilities, and berms, are structurally sound and able to withstand seismic activity.	BL, FF, EU	✓			
S-P19	For buildings identified as seismically unsafe, prohibit a change in use to a higher occupancy or more intensive use until an engineering evaluation of the structure has been conducted and structural deficiencies corrected consistent with City building codes.	BL, PC	✓			
S-P20	Require soils reports for new projects and use the information to determine appropriate permitting requirements, if deemed necessary.	BL, PL, PC	✓			

			Implementation Schedule			
Policy #	*Policy*	*Responsibility*	*Ongoing*	*0-5 Years*	*6-10 Years*	*11-20 Years*
S-P21	Require that geotechnical investigations be prepared for all proposed critical structures (such as police stations, fire stations, emergency equipment, storage buildings, water towers, wastewater lift stations, electrical substations, fuel storage facilities, large public assembly buildings, designated emergency shelters, and buildings three or more stories high) before construction or approval of building permits, if deemed necessary. The investigation shall include estimation of the maximum credible earthquake, maximum ground acceleration, duration, and the potential for ground failure because of liquefaction or differential settling.	FF, BL, PL	✓			
S-P22	Require new development to include grading and erosion control plans prepared by a qualified engineer or land surveyor.	ED, PL	✓			
S-P23	Maintain a vegetation management program to ensure clearing of dry brush areas. Conduct management activities in a manner consistent with all applicable environmental regulations.	FD	✓			
S-P24	Coordinate with local, State, and Federal agencies to establish, maintain, and test a coordinated emergency response system that addresses a variety of hazardous and threatening situations. Conduct periodic emergency response exercises to test the effectiveness of City emergency response procedures. Develop and implement public information programs concerning disaster response and emergency preparedness and develop mutual aid agreements and communication links with surrounding communities for assistance during times of emergency.	FD, PD, SJC	✓			
S-P25	Maintain and periodically update the City's Emergency Preparedness Plan, including review of County and State emergency response procedures that must be coordinated with City procedures.	FD, PD	✓			
S-P26	Ensure that major access and evacuation corridors are available and unobstructed in case of major emergency or disaster. Continue to identify appropriate road standards, including minimum road widths and turnouts to provide adequate emergency access and evacuation routes.	ED, FD, PD	✓			
S-P27	Continue to use the San Joaquin County Hazard Mitigation Plan to reduce hazard risk and coordinate with the County on its update and implementation, consistent with the Federal Emergency Management Agency and the Disaster Act of 2000.	FD, PD, SJC	✓			

Chapter 9: Noise Policies						
N-P1	Control and mitigate noise at the source where feasible, as opposed to at the receptor end.	PL, BL	✓			
N-P2	Encourage the control of noise through site design, building design, landscaping, hours of operation, and other techniques for new development deemed to be noise generators.	PL, BL, PC	✓			
N-P3	Use the noise and land use compatibility matrix (Table 9-2) and allowable noise exposure levels (Table 9-3) as review criteria for all new land uses. Incorporate noise attenuation measures for all projects that have noise exposure levels of "conditionally acceptable" and higher. These may include: • Façades constructed with substantial weight and insulation; • Sound-rated windows in habitable rooms; • Sound-rated doors in all exterior entries; • Active cancellation; • Acoustic baffling of vents for chimneys, fans and gable ends; • Ventilation system affording comfort under closed-window conditions; and • Double doors and heavy roofs with ceilings of two layers of gypsum board on resilient channels to meet the highest noise level reduction requirements.	PL, PC	✓			
N-P4	Discourage noise sensitive uses such as residences, hospitals, schools, libraries, and rest homes from locating in areas with noise levels above 65db. Conversely, do not permit new uses likely to produce high levels of noise (above 65db) from locating in or adjacent to areas with existing or planned noise-sensitive uses.	PL, PC	✓			
N-P5	Noise sensitive uses, such as residences, hospitals, schools, libraries, and rest homes, proposed in areas that have noise exposure levels of "conditionally acceptable" and higher must complete an acoustical study, prepared by a professional acoustic engineer. This study should specify the appropriate noise mitigation features to be included in the design and construction of these uses, to achieve interior noise levels consistent with Table 9-3.	PL, PC	✓			
N-P6	Where substantial traffic noise increases (to above 70db) are expected, such as on Lower Sacramento Road or Harney Lane, as shown on the accompanying graphic, require a minimum 12-foot setback for noise-sensitive land uses, such as residences, hospitals, schools, libraries, and rest homes.	PL		✓		

N-P7	Require developers of potentially noise-generating new developments to mitigate the noise impacts on adjacent properties as a condition of permit approval. This should be achieved through appropriate means, such as: • Dampening or actively canceling noise sources; • Increasing setbacks for noise sources from adjacent dwellings; • Using soundproofing materials and double-glazed windows; • Screening and controlling noise sources, such as parking and loading facilities, outdoor activities, and mechanical equipment; • Using open space, building orientation and design, landscaping and running water to mask sounds; and • Controlling hours of operation, including deliveries and trash pickup.	PL, PC	✓			
N-P8	Update Noise Ordinance regulations to address allowed days and hours of construction, types of work, construction equipment (including noise and distance thresholds), notification of neighbors, and sound attenuation devices.	PL			✓	
N-P9	Develop and implement noise reduction measures when undertaking improvements, extensions, or design changes to City streets where feasible and appropriate.	ED	✓			
N-P10	Encourage transit agencies and rail companies to develop and apply noise reduction technologies for their vehicles to reduce the noise and vibration impacts of bus and rail traffic.	FF, TR, AMTRK, UP	✓			
N-P11	Coordinate with the California Public Utilities Commission and other pertinent agencies and stakeholders to determine the feasibility of development a railroad "quiet zone" in downtown, which would prohibit trains from sounding their horns.	CD, PW		✓		
N-P12	Restrict the use of sound walls as a noise attenuation method to sites adjacent to State Route (SR) 99, the railroad, and industrial uses east of SR-99.	PL, ED	✓			
N-P13	Ensure that new equipment and vehicles purchased by the City of Lodi are equipped with the best available noise reduction technology.	FF, TR	✓			
N-P14	Reduce vibration impacts on noise-sensitive land uses (such as residences, hospitals, schools, libraries, and rest homes) adjacent to the railroad, SR-99, expressways, and near noise-generating industrial uses. This may be achieved through site planning, setbacks, and vibration-reduction construction methods such as insulation, soundproofing, staggered studs, double drywall layers, and double walls.	PL, PC	✓			

RESOLUTION NO. 2010-_____

A RESOLUTION OF THE LODI CITY COUNCIL CERTIFYING
THE FINAL ENVIRONMENTAL IMPACT REPORT AND
GENERAL PLAN; STATE CLEARINGHOUSE NO. 009022075

==========

WHEREAS, California Government Code section 65300 mandates that cities shall adopt a comprehensive, long-term General Plan for the physical development of the City, and of any land outside its boundaries which in the City's judgment bears a relation to its planning; and

WHEREAS, the City Council initiated the comprehensive update to the City's General Plan on May 17, 2006, pursuant to Resolution No. 2006-94; and

WHEREAS, the Community Development Director made a determination that the update to the City's General Plan may have a potentially significant impact on the environment and ordered the preparation of an Environmental Impact Report (EIR); and

WHEREAS, the Notice of Preparation (NOP) of the Draft EIR was prepared and distributed to reviewing agencies on February 17, 2009; and

WHEREAS, the Draft Environmental Impact Report (DEIR) on the proposed General Plan (State Clearinghouse No. 2009022075) was released for circulation on November 25, 2009, for the statutorily mandated comment period of no less than 45-days; and

WHEREAS, the Planning Commission of the City of Lodi, after ten (10) days published notice, held a study session and public hearing on December 9, 2009, and took public comments on the DEIR; and

WHEREAS, the City Council of the City of Lodi, after ten (10) days published notice, took public testimony on the DEIR on January 6, 2010; and

WHEREAS, written responses were prepared to all comments, oral and written, regarding the DEIR and received during the public comment period; and

WHEREAS, a Final EIR (FEIR) responding to all public comments, oral and written, regarding the DEIR and received during the public comment period, was prepared and released to the public and commenting agencies on February 6, 2010; and

WHEREAS, on February 17, 2010, the City Council, after ten (10) days published notice, held a public hearing on the FEIR; and

WHEREAS, the City Council, after consideration of public testimony, voted to include a component of Alternative B analyzed within the DEIR by adding a College Reserve placeholder to the General Plan; and

WHEREAS, the City Council independently reviewed, analyzed and certified the FEIR; and

WHEREAS, the California Environmental Quality Act (CEQA) requires that, in connection with the approval of a project for which an EIR has been prepared which identifies

one or more significant effects, the decision-making agency make certain findings regarding those effects; and

WHEREAS, the General Plan Update process has involved extensive public participation and outreach, including stakeholder interviews, a citywide mail-in survey, several citywide newsletters, and numerous public presentations to interested groups and City Boards and Commissions; and

WHEREAS, a draft General Plan was published in August 26, 2009, for public review and comment; and

WHEREAS, on December 9, 2009 the Planning Commission considered numerous comments received on the draft General Plan, and voted unanimously to forward the draft General Plan, as revised, to the City Council for adoption; and

WHEREAS, a revised draft of the proposed General Plan, including the revisions approved by the Planning Commission, as well as amendments recommended by the Final Environmental Impact Report, and changes directed by the City Council, was published on April 1, 2010; and

WHEREAS, on April 7, 2010, the City Council, after ten (10) days published notice held a public hearing on the FEIR and proposed General Plan; and

WHEREAS, the City Council has considered the staff report, all public comments, the Final Environmental Impact Report and the proposed General Plan, as set forth in this Resolution;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED, as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.

2. THAT THE CITY COUNCIL hereby finds that full and fair public hearings have been held on the FEIR and the proposed General Plan and the City Council having considered all comments received thereon, said FEIR is hereby determined to be adequate and complete; and said FEIR and proposed General Plan are hereby incorporated herein by reference.

3. THAT THE CITY COUNCIL hereby determines that the FEIR has been prepared in compliance with the California Environmental Quality Act (CEQA) and the state and local environmental guidelines and regulations, that it has independently reviewed and analyzed the information contained therein, including the written comments received during the DEIR review period and the oral comments received at the public hearings, and that the FEIR represents the independent judgment of the City of Lodi as Lead Agency for the project.

4. THAT THE CITY COUNCIL does hereby find and recognize that the FEIR and proposed General Plan contains additions, clarifications, modifications and other information in its responses to comments on the DEIR and also incorporates text changes to the DEIR based on information obtained by the City since the DEIR was issued. The City Council does hereby further find and determine that such changes and additional information are not significant new information as that term is defined under the provisions of CEQA because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the proposed General Plan

and such changes and additional information do not reflect any substantial increase in the severity of any environmental impact; no feasible mitigation measures considerably different from those previously analyzed in the DEIR have been proposed that would either lessen a significant environmental impact of the project or result in a new, substantial environmental impact; no feasible alternatives considerably different from those analyzed in the DEIR have been proposed that would lessen the significant environmental impacts of the project; and the DEIR was adequate in its analysis. Accordingly, the City Council hereby finds and determines that recirculation of the Final EIR for further public review and comment is not warranted. (CEQA Guidelines §15088.5).

5. THAT THE CITY COUNCIL does hereby make the findings with respect to the significant effects on the environment resulting from the project, as identified in the FEIR, with the stipulation that (i) all information in these findings is intended as a summary of the full administrative record supporting the FEIR, which full administrative record is available for review through the Director of Community Development located in City Hall, 221 West Pine Street, Lodi, 95241, and (ii) any mitigation measures and/or alternatives that were suggested by the commentators on the DEIR and were not adopted as part of the FEIR are hereby expressly rejected for the reasons stated in the responses to comments set forth in the FEIR and elsewhere in the administrative record. The significant and unavoidable impacts of the proposed General Plan as determined by the City are listed below. In addition, the findings and facts supporting the findings in connection therewith are also listed. The following areas of environmental impacts were discussed in the FEIR:

ENVIRONMENTAL IMPACTS OF THE GENERAL PLAN:

Summary of Impacts and Proposed General Policies that Reduce the Impact

#	*Impact*	*Proposed General Policies that Reduce the Impact*	*Significance*	*Mitigation*
3.1	Land Use and Housing			
3.1-1	The proposed General Plan would not physically divide any established communities and would increase connectivity locally and regionally.	N/A	Beneficial	N/A
3.1-2	The proposed General Plan would conflict with an applicable land use plan, policy, or regulation.	LU-P1, LU-P17, CD-P2, CD-P3, CD-P4, CD-P6, CD-P9, CD-P11, CD-P31, GM-P10	Less than Significant	None required
3.2	Traffic and Circulation			
3.2-1	The proposed General Plan would result in a substantial increase in vehicular traffic that would cause certain facilities to exceed level of service standards established by the governing agency.	T-G1, T-P1, T-P2, T-P3, T-P4, T-PNEW, T-NEW, T-P8, T-NEW, T-P9, T-P10, T-P13, T-P14, T-P15, T-P16, T-P17, T-P18, T-P19, T-P20, T-P22, T-P24, T-P25, T-P27, T-P-28, T-P29, T-P43, T-P44, T-P45	Significant and Unavoidable	No feasible mitigation is currently available.
3.2-2	The proposed General Plan may adversely affect emergency access.	T-P1, T-P2, T-P8, T-P9, T-P10	Significant and Unavoidable	No mitigation measures are feasible.
3.2-3	The proposed General Plan may conflict with adopted policies, plans, or programs	T-G1, T-P8, T-P9, T-P10, T-P13, T-P14, T-P15, T-P16, T-P17, T-	Significant and Unavoidable	No feasible mitigation is

Summary of Impacts and Proposed General Policies that Reduce the Impact

#	*Impact*	*Proposed General Policies that Reduce the Impact*	*Significance*	*Mitigation*
	supporting alternative transportation modes.	P18, T-P19, T-P20, T-P22, T-P24, T-P25, T-P27, T-P28, T-P29, T-P43, T-P44, T-P45, T-G2, T-G3, T-G4, T-G5, T-P11, T-P12, T-P21, T-P23, T-P26, T-P30, T-P38, T-P39		currently available.
3.3	Agriculture and Soil Resources			
3.3-1	Build out of the proposed General Plan would convert substantial amounts of Important Farmland to non-agricultural use.	C-G1, C-G2, C-P1, C-P2, C-P3, C-P4, C-P5, C-P6, C-P7, C-P8, GM-G1, GM-P2	Significant and Unavoidable	Not directly mitigable aside from preventing development altogether
3.3-2	Build out of the proposed General Plan would result in potential land use incompatibilities with sites designated for continued agriculture use.	C-P1, C-P2, C-P3, C-P4, C-P5, C-P6, C-P7, C-P8, GM-G1, GM-P2, CD-G1	Less than Significant	None required
3.4	Biological Resources			
3.4-1	Build out of the proposed General Plan could have a substantial adverse effect, either directly or through habitat modifications, on special status and/or common species.	C-P9, C-P10, C-P11, C-P12, C-P13, C-P14, C-P15, C-P16, C-P32, P-P9, P-P10, P-P11, P-P12	Less than Significant	None required
3.4-2	Build out of the proposed General Plan could have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.	C-P9, C-P10, C-P11, C-P12, C-P13, C-P14, C-P15, C-P16, C-P32, P-P9, P-P10, P-P11, P-P12	Less than Significant	None required
3.4-3	Build out of the proposed General Plan could have a substantial adverse effect on "federally protected" wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, etc.).	C-P9, C-P10, C-P11, C-P12, C-P13, C-P14, C-P15, C-P16, C-P32, P-P9, P-P10, P-P11, P-P12	Less than Significant	None required
3.4-4	Build out of the proposed General Plan could interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites	C-P9, C-P10, C-P11, C-P12, C-P13, C-P14, C-P15, C-P16, C-P32, P-P9, P-P10, P-P11, P-P12	Less than Significant	None required
3.5	Cultural Resources			
3.5-1	Build out of the proposed General Plan may alter a historic resource.	CD-P10, C-G6, C-G7, C-P20, C-P21, C-P22, C-P23, C-P24, C-P25	Less than Significant	None required
3.5-2	Build out of the proposed General Plan could disrupt or adversely affect a	C-G5, C-G6, C-P17, C-P18, C-P19	Less than Significant	None required

Summary of Impacts and Proposed General Policies that Reduce the Impact

#	*Impact*	*Proposed General Policies that Reduce the Impact*	*Significance*	*Mitigation*
	prehistoric or historic archeological, paleontological, or culturally significant site.			
3.6	Climate Change and Greenhouse Gases			
3.6-1	Implementation of the proposed General Plan would increase total carbon dioxide equivalent emissions in Lodi, compared to existing conditions.	LU-G1, LU-G2, LU-G3, LU-G1, LU-G4, LU-P2, LU-P3, LU-P6, LU-P18, LU-P25, LU-P26, LU-P27, GM-G1, GM-G2, GM-G3, GM-P1, GM-P2, GM-P3, GM-P4, GM-P6, CD-G1, CD-P1, CD-G-4, CD-G-5, CD-P31, CD-P21, CD-P24, T-G2, T-G4, T-P13, T-P14, T-P15, T-P16, T-P17, T-P18, T-P19, T-P23, T-P25, T-P28, T-P29, GM-P11, GM-P13, GM-P14, GM-P15, CD-G8, CD-G9, CD-P38, CD-P39, CD-P40, CD-P32, C-P39, C-PNEW, C-PNEW, C-P37, C-P38, C-P40, C-P42, GM-P19, CD-P15, CD-P16, CD-P19, C-P43, C-P44, C-P45, C-P41, C-G9, C-G10, C-P36, T-G8, T-P43, T-P44, T-P45, GM-P17, GM-P18	Overall Significant Cumulative Impact, Project Contribution Cumulatively Considerable	No feasible mitigation measures are currently available
3.6-2	Build out of the proposed General Plan could result in a substantial increase in per capita energy consumption in the city which would suggest more wasteful, inefficient, or unnecessary consumption of energy.	LU-G1, LU-G2, LU-G3, LU-G1, LU-G4, LU-P2, LU-P3, LU-P6, LU-P18, LU-P25, LU-P26, LU-P27, GM-G1, GM-G2, GM-G3, GM-P1, GM-P2, GM-P3, GM-P4, GM-P6, CD-G1, CD-P1, CD-G-4, CD-G-5, CD-P31, CD-P21, CD-P24, T-G2, T-G4, T-P13, T-P14, T-P15, T-P16, T-P17, T-P18, T-P19, T-P23, T-P25, T-P28, T-P29, GM-P11, GM-P13, GM-P14, GM-P15, CD-G8, CD-G9, CD-P38, CD-P39, CD-P40, CD-P32, C-P39, C-PNEW, C-PNEW, C-P37, C-P38, C-P40, C-P42, GM-P19, CD-P15, CD-P16, CD-P19, C-P43, C-P44, C-P45, C-P41, C-G9, C-G10, C-P36, T-G8, T-P43, T-P44, T-P45, GM-P17, GM-P18	Less than Significant	None required
3.7	Hydrology and Water Quality			
3.7-1	Build out of the proposed General Plan could alter existing drainage patterns of the area in a manner which would result in substantial erosion or siltation on- or offsite or increase sediment loads thereby affecting water quality, but this impact would be mitigated by existing State and	C-P-26, C-P-27, C-P-28, C-P-29, C-P-30, C-P-31, C-P-32, C-P-33, C-P-34, C-P-35	Less than Significant	None required

Summary of Impacts and Proposed General Policies that Reduce the Impact

#	*Impact*	*Proposed General Policies that Reduce the Impact*	*Significance*	*Mitigation*
	local regulations and proposed General Plan policies.			
3.7-2	Implementation of the proposed General Plan would may result in increased nonpoint source pollution entering storm water runoff and entering the regional storm drain system or surrounding water resources (from either construction or long-term development), but this impact would be mitigated by existing State and local regulations and proposed General Plan policies.	C-P-26, C-P-27, C-P-28, C-P-29, C-P-30, C-P-31, C-P-32, C-P-33, C-P-34, C-P-35	Less than Significant	None required
3.8	Air Quality			
3.8-1	Implementation of the proposed General Plan could result in a cumulatively considerable net increase of criteria pollutants which may conflict with or violate an applicable air quality plan, air quality standard or contribute substantially to an existing or projected air quality violation.	C-P46. C-P47, C-P48, C-P49, C-P50, C-P51, C-P52, C-P53, C-P54, C-P55, C-P56, C-P57, T-G4, T-G5, T-P14, T-P15, T-P16, T-P17. T-P18, T-P19, T-P20, T-P21, T-P22, T-P23, T-P24, T-P25, T-P26 T-P27, T-P28 T-P29, T-P38, T-P39, T-P43, T-P44, T-P45	Significant and Unavoidable	No feasible mitigation measures are currently available.
3.8-2	Build out of the proposed General Plan could expose sensitive receptors to substantial pollutant concentrations.	C-P46. C-P47, C-P48, C-P49, C-P50, C-P51, C-P52, C-P53, C-P54, C-P55, C-P56, C-P57, T-G4, T-G5, T-P14, T-P15, T-P16, T-P17. T-P18, T-P19, T-P20, T-P21, T-P22, T-P23, T-P24, T-P25, T-P26 T-P27, T-P28 T-P29, T-P38, T-P39, T-P43, T-P44, T-P45	Significant and Unavoidable	No feasible mitigation measures are currently available.
3.9	Flood Hazards			
3.9-1	Build out of the proposed General Plan could expose people or structures to a risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam.	S-P1, S-P2, S-P4, S-P5, S-P6, S-P7, S-PNEW, S-PNEW	Less than Significant	None required
3.10	Seismic and Geologic Hazards			
3.10-1	Implementation of the proposed General Plan has low to moderate potential to expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death resulting from rupture of a known earthquake fault, ground shaking, landslides or liquefaction, though these risks are minimized through compliance with State regulations and proposed General Plan policies.	S-P16, S-P17, S-P18, S-P19, S-P20	Less than Significant	None required
3.10-2	Implementation of the proposed General Plan has moderate potential to result in	S-P16, S-P17, S-P18, S-P19, S-P20	Less than Significant	None required

Summary of Impacts and Proposed General Policies that Reduce the Impact

#	*Impact*	*Proposed General Policies that Reduce the Impact*	*Significance*	*Mitigation*
	substantial soil erosion or unstable soil conditions from excavation, grading or fill, though impacts would be mitigated with proposed General Plan policies.			
3.10-3	Implementation of the proposed General Plan has low potential to expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death resulting from settlement and/or subsidence of the land, or risk of expansive soils, and policies in the proposed General Plan would further mitigate this impact.	S-P16, S-P17, S-P18, S-P19, S-P20	Less than Significant	None required
3.11	Noise			
3.11-1	Implementation of the proposed General Plan could result in a substantial permanent increase in ambient noise levels.	N-P1, N-P2, N-P3 N-P4, N-P5, N-P6, N-P7, N-P8, N-P9, N-P10, N-PNEW	Significant and Unavoidable	No feasible mitigation measures are currently available.
3.11-2	New development in the proposed General Plan would potentially expose existing noise-sensitive uses to construction-related temporary increases in ambient noise.	N-PNEW, N-PNEW	Less than Significant	None required
3.11-3	New development in the proposed General Plan could cause the exposure of persons to or generation of excessive ground borne vibration or ground borne noise levels.	N-P1, N-P2, N-P3 N-P4, N-P5, N-P6, N-P7, N-P8, N-P9, N-P10, N-PNEW, N-PNEW, N-PNEW	Less than Significant	None required
3.12	Hazardous Materials, and Toxics			
3.12-1	Implementation of the proposed General Plan has the potential to create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment, though existing federal, State, and local regulations and proposed General Plan policies would sufficiently reduce the impact.	S-P8, S-P9, S-P10A. S-P10B, S-P11, S-P12, S-P13, S-P14, S-P15, S-P18, S-P22, S-P23, S-P24, S-P25	Less than Significant	None required
3.12-2	Implementation of the proposed General Plan has the potential to locate land uses on sites which are included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, could create a significant hazard to the public or the environment.	S-P8, S-P9, S-P10A. S-P10B, S-P11, S-P12, S-P13, S-P14, S-P15, S-P18, S-P22, S-P23, S-P24, S-P25	Less than Significant	None required
3.12-3	Implementation of the proposed General Plan has the potential to create a significant	S-P8, S-P9, S-P10A. S-P10B, S-P11, S-P12, S-P13, S-P14, S-P15, S-P18,	Less than Significant	None required

Summary of Impacts and Proposed General Policies that Reduce the Impact

#	*Impact*	*Proposed General Policies that Reduce the Impact*	*Significance*	*Mitigation*
	hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.	S-P22, S-P23, S-P24, S-P25		
3.12-4	Implementation of the proposed General Plan has the potential to result in the handling of hazardous materials or wastes within one-quarter mile of an existing or proposed school or other sensitive use.	S-P8, S-P9, S-P10A. S-P10B, S-P11, S-P12, S-P13, S-P14, S-P15, S-P18, S-P22, S-P23, S-P24, S-P25	Less than Significant	None required
3.13	Infrastructure			
3.13-1	New development under the proposed General Plan would increase the demand for water beyond projections in the Lodi Urban Water Management Plan.	GM-G2, GM-G3, GM-P7, GM-P8, GM-P9, GM-P10, GM-P11, GM-P12, GM-P13, GM-P14, GM-P15, GM-P16, GM-P17, GM-P18	Less than Significant	None required
3.13-2	New development under the proposed General Plan may exceed wastewater treatment capacity of existing infrastructure.	GM-G2, GM-G3, GM-P7, GM-P8, GM-P9, GM-P10	Less than Significant	None required
3.13-3	New development under the proposed General Plan would cause an increase in waste generation.	GM-P19, C-PNEW	Less than Significant	None required
3.14	Public Facilities			
3.14-1	New development under the proposed Lodi General Plan will increase the demand for school facilities.	GM-NEW, GM-NEW, GM-NEW, GM-P20	Less than Significant	None required
3.14-2	New development in the proposed General Plan requires police and fire protection services that exceed current staffing and facilities.	GM-G4, GM-P22, GM-P23, S-P22, S-P23, S-P24, S-P25	Less than Significant	None required
3.15	Parks and Recreation			
3.15-1	Future development as a result of the proposed General Plan may result in failure to meet all of the City's park standard goals and increase the use of existing parks and recreation facilities, which would accelerate physical deterioration.	P-G3, P-P1, P-P3, P-P5, P-P7, P-P19, P-P20	Less than Significant	None required
3.15-2	Implementation of the proposed General Plan would result in increased accessibility of parks and recreation facilities from residential neighborhoods.	P-G3, P-P1, P-P3, P-P5, P-P7, P-P19, P-P20	Beneficial	N/A
3.16	Visual Resources			
3.16-1	Future proposed development in Lodi has the potential to affect scenic vistas within the Planning Area	CD-P20, CD-P22, CD-P23	Less than Significant	None required

Summary of Impacts and Proposed General Policies that Reduce the Impact

#	*Impact*	*Proposed General Policies that Reduce the Impact*	*Significance*	*Mitigation*
3.16-2	New development and redevelopment activities have the potential to change Lodi's visual character, particularly where incompatibilities with existing development in scale and/or character may exist.	CD-G1, CD-G2, CD-G3, CD-G6, CD-G7, CD-P2, CD-P3, CD-P4, CD-P5, CD-P6, CD-P7, CD-P8, CD-P10, CD-P11, CD-P12, CD-P15, CD-P16, CD-P17, CD-P18, CD-P19, CD-P24, CD-P26, CD-P28, CD-P29, CD-P30, CD-P31, CD-P32, CD-P34, GM-G1, GM-P1, GM-P2, C-P20, C-P23, C-P24	Less than Significant	None required
3.16-3	Development under the proposed General Plan has the potential to adversely affect visual resources in the short-term during periods of construction by blocking or disrupting views.	None	Less than Significant	None required
3.16-4	Development under the proposed General Plan has the potential to create new sources of light or glare which would adversely affect day or nighttime views in the area.	CD-P33	Less than Significant	None required

FINDINGS REGARDING IMPACTS REDUCED TO A LESS THAN SIGNIFICANT LEVEL:

Based upon the FEIR and the entire record the City Council finds that the mitigation measures and proposed General Plan policies identified above are feasible and are hereby incorporated into the proposed General Plan. These mitigation measures will reduce the impact to a less than significant level except as otherwise noted.

FINDINGS REGARDING GROWTH-INDUCING IMPACTS:

The EIR must examine the potential growth-inducing impacts of the proposed General Plan. More specifically, CEQA Guidelines require that the EIR "discuss the ways in which the proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly" (CEQA Guidelines §15126.2(d)). This analysis must also consider the removal of obstacles to population growth, such as improvements in the regional transportation system.

Projected Growth

Lodi currently contains 23,353 housing units. Approximately 3,700 housing units have recently been approved or are under construction. The proposed General Plan accommodates 10,100 new residential units. Together, this results in the potential for 37,200 housing units, an increase of 38% above existing and approved units. Approximately half of the housing units will be low-density housing (i.e. single-family), a quarter medium-density, and the remaining quarter high-density and mixed-use residential (containing a mix of density levels).

Population

Lodi currently contains approximately 63,400 residents. The proposed General Plan could accommodate 26,400 additional residents. Accounting for the current population as well as new residents anticipated from recently approved projects (approximately 9,700 residents); full development of the General Plan could result in a total of 99,500 residents, representing an annual growth rate of 2%, consistent with Lodi's Growth Management Ordinance. Total residents under the proposed General Plan would exceed the San Joaquin Council of Governments (SJCOG) population projection of 81,717 in 2030 by 22%. (Notably, these SJCOG estimates are based on historical growth rates in Lodi and do not dictate how much growth could be accommodated.) The proposed General Plan accommodates 20% more residents than the No Project scenario, which allows for a population of 82,600 people. However, the population growth in the proposed General Plan is consistent with an annual growth rate of 2% as allowed in Lodi's Growth Management Ordinance.

Employment

Lodi currently contains 24,700 jobs. Recently approved or completed development projects are expected to produce an additional 2,900 jobs. Total additional employment accommodated in the proposed General Plan by new commercial, office, industrial, and mixed-use land designations could allow for 23,400 new jobs in Lodi. In sum, Lodi could expect up to 51,000 jobs under the proposed General Plan, an increase of 85%. Total jobs under the proposed General Plan would exceed the SJCOG jobs projection of 33,686 in 2030 by 51%. Similarly, the proposed General Plan accommodates 56% more jobs than the No Project scenario, which includes 32,700 jobs. The increase in jobs under the proposed General Plan serves to improve the balance of jobs and housing.

Jobs/Housing Balance

A city's jobs/employment ratio (jobs to employed residents) would be 1.0 if the number of jobs in the city equaled the number of employed residents. In theory, such a balance would eliminate the need for commuting. More realistically, a balance means that in-commuting and out-commuting are matched, leading to efficient use of the transportation system, particularly during peak hours. The proposed General Plan projects a more balanced jobs/employed residents ratio when compared to existing conditions. In 2008, Lodi had a jobs/employed residents ratio of 0.8, meaning that the city did not have quite enough jobs for all the working people who lived there, even if the match between job skills required and job skills offered had been perfect. As of 2000, 54% of Lodi's employed residents commuted out of Lodi for work. The proposed General Plan designates land area for substantial employment growth, should market opportunities exist, as one attempt to reduce out-commuting and enable existing and future Lodi residents to work in Lodi. While the increase in new jobs exceeds the increase in new employed residents, the combined effect will result in a more balanced ratio of 1.0. This ratio suggests that the city would have about as many jobs as employed residents.

Increase in Regional Housing Demand

As the employment base in Lodi increases, more people may be drawn to Lodi and surrounding areas, thereby increasing housing demand in both Lodi and other adjacent areas that are within commuting distance. Proposed new employment would primarily be located in the southeastern corner of Lodi, easily accessible from major transportation routes. Service to Lodi via Amtrak and regional bus service would also provide access to new jobs from other cities. In addition,

the proposed General Plan has the potential to result in development of approximately 10,100 new housing units by the year 2030, which will help meet some of the increased housing need. Lodi's updated Housing Element, which addresses housing programs and how Lodi will accommodate its regional housing needs allocation, is part of the proposed General Plan.

Growth Management

While the proposed General Plan allows growth beyond SJCOG's projections, the proposed General Plan represents an annual growth rate of 2%, which meets the maximum population permissible under the City's Growth Management Ordinance. The proposed General Plan also includes multiple growth management techniques including phasing, a community separator, and continuation of the Growth Management Ordinance. While policies to regulate the location, pace and timing of growth are included, these will not restrict Lodi's ability to meet its housing need obligations or long-range growth projections by regional agencies. Key policies and strategies are described in Chapter 2: Project Description.

Because growth under the proposed General Plan is consistent with allowable growth under the Growth Management Ordinance, is managed through multiple strategies to maintain a compact form, and helps the City achieve a more balanced jobs/housing ratio, the proposed General Plan is not expected to significantly contribute, directly or indirectly, to regional, subregional or citywide growth inducing impacts.

FINDINGS REGARDING SIGNIFICANT IRREVERSIBLE CHANGES:

The EIR must also examine irreversible changes to the environment. More specifically, CEQA Guidelines require the EIR to consider whether "uses of nonrenewable resources during the initial and continued phases of the project may be irreversible since a large commitment of such resources makes removal or nonuse thereafter unlikely" (CEQA Guidelines §15126.2(c)). "Nonrenewable resource" refers to the physical features of the natural environment, such as land, waterways, etc.

Air Quality

Increases in vehicle trips and traffic resulting from implementation of the proposed General Plan would potentially contribute to long-term degradation of air quality and atmospheric conditions in the region, other parts of California, and the Western United States. However, technological improvements in automobiles, as well as commercial and industrial machinery, may lower the rate of air quality degradation in the coming decades.

Agricultural Land and Open Space

Development under the proposed General Plan could result in the permanent conversion of just under 2,893 acres of prime farmland to urban uses. This conversion has a wide array of impacts, ranging from habitat modifications to visual disruptions to new noise sources and stormwater drainage constraints. Overall, this represents a significant and irreversible environmental change.

Energy Sources

New development under the proposed General Plan would result in the commitment of existing and planned sources of energy, which would be necessary for the construction and daily use of new buildings and for transportation. Residential and non-residential development use

electricity, natural gas, and petroleum products for power, lighting, heating, and other indoor and outdoor services, while cars use both oil and gas. Use of these types of energy for new development would result in the overall increased use of non-renewable energy resources. This represents an irreversible environmental change. However, energy-reduction efforts may lower the rate of increase.

Construction-Related Impacts

Irreversible environmental changes could also occur during the course of constructing development projects made possible by the proposed General Plan. New construction would result in the consumption of building materials, natural gas, electricity, water, and petroleum products. Construction equipment running on fossil fuels would be needed for excavation and the shipping of building materials. Due to the non-renewable or slowly renewable nature of these resources, this represents an irretrievable commitment of resources.

FINDINGS REGARDING CUMULATIVE IMPACTS:

The proposed General Plan's cumulative impacts are discussed in the DEIR on pages 5-3, 5-4 and 5-5. CEQA requires that the EIR examine cumulative impacts. As discussed in CEQA Guidelines Section 15130(a)(1), a cumulative impact "consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts." The analysis of cumulative impacts need not provide the level of detail required of the analysis of impacts from the project itself, but shall "reflect the severity of the impacts and their likelihood of occurrence" (CEQA Guidelines §15130(b)).

In order to assess cumulative impacts, the EIR must analyze either a list of past, present, and probable future projects or a summary of projections contained in an adopted general plan or related planning document. It is important to note that the proposed General Plan is essentially a set of projects, representing the cumulative development scenario for the reasonably foreseeable future in the Lodi Planning Area. This future scenario incorporates the likely effects of surrounding regional growth.

By their nature, the air quality, transportation, noise, and greenhouse gas (GHG) emissions analyses presented in Chapter 3: Settings, Impacts, and Mitigation Measures represent a cumulative analysis of the Planning Area as a whole. As a result of adding the proposed General Plan to the regional land use and transportation baseline, the travel demand, level of service operations, and associated air quality and GHG emissions produced by the proposed project is the cumulative condition for CEQA purposes. Some cumulative impacts on transportation, air quality, and noise are found to be significant; in addition, the cumulative effects on GHG emissions are found to be cumulatively significant, and the project's contribution cumulatively considerable.

FINDINGS REGARDING ALTERNATIVES TO THE PROJECT:

CEQA mandates consideration and analysis of a reasonable range of alternatives to the proposed General Plan. According to CEQA Guidelines, the range of alternatives "shall include those that could feasibly accomplish most of the basic purposes of the project and could avoid or substantially lessen one or more of the significant impacts" (CEQA Guidelines §15126.6(c)). The alternatives may result in new impacts that do not result from the proposed General Plan.
Case law suggests that the discussion of alternatives need not be exhaustive and that alternatives be subject to a construction of reasonableness. The impacts of the alternatives may be discussed "in less detail than the significant effects of the project proposed" (CEQA

Guidelines §15126.6(d)). Also, the Guidelines permit analysis of alternatives at a less detailed level for general plans and other program EIRs, compared to project EIRs. The Guidelines do not specify what would be an adequate level of detail. Quantified information on the alternatives is presented where available; however, in some cases only partial quantification can be provided because of data or analytical limitations.

No Project Alternative

The No Project Alternative represents the continuation of land use development under the 1991 General Plan. In this scenario, new development results largely from the development of Planned Residential and Planned Residential Reserve areas, in the west and south, respectively. These areas are assumed to develop primarily for residential uses, at seven units per acre, and with a portion of land reserved for public uses, parks, and drainage basins. The No Project Alternative is illustrated in Figure 4.2-1.

The No Project Alternative could result in a total of 82,600 residents and 32,700 jobs, leading to a jobs/employed residents ratio of 0.8. This alternative produces the fewest number of housing units, new residents, and jobs compared with the other alternatives.

Alternative A

Alternative A fills in growth up to the existing Sphere of Influence (SOI) boundary and extends the urban area south to Armstrong Road. The bulk of new growth would be contained in the mile-wide band between Harney Lane and Armstrong Road, including the Planned Residential Reserve designation between Hogan Lane and Armstrong Road. In the southeast (south of Kettleman Lane and east of SR-99), the alternative includes Business Park/Office uses, with commercial nodes around the Kettleman and Harney lane interchanges. Limited development is proposed through infill on vacant and underutilized sites in Downtown and along Cherokee Lane.

This alternative includes similar assumptions compared with the proposed General Plan in terms of the density, intensity, and land use categories. As a result, Alternative A could result in a total of 91,000 residents and 41,000 jobs, leading to a jobs/employed residents ratio of 0.9. These numbers represent lower development potential compared with the proposed General Plan and Alternative B, but higher than the No Project Alternative.

Alternative B

In Alternative B, new development is concentrated on the west side of the city, beyond the existing SOI. New neighborhoods on the west side of the city would contain a diverse range of amenities and uses, including neighborhood services, parks and schools. These neighborhoods would be focused around walkable centers containing retail, office, and higher density residential uses. A network of streets connects residential areas to these centers and to the existing street grid where feasible. Commercial and business uses would be located in the southeast, but in a smaller area than in Alternative A. A smaller portion of land is designated for urban and Rural Residential use between Harney and Hogan lanes. Finally, a small commercial node on Highway 12, adjacent to a site for a Lodi campus of San Joaquin Delta College, is also shown.

This alternative includes similar assumptions compared with the proposed General Plan in terms of the density, intensity, and land use categories. As a result, Alternative B could result in 104,400 residents and 47,000 jobs, leading to a jobs/employed residents ratio of 0.9. This

alternative produces the largest increase population, but allows fewer jobs compared with the proposed General Plan.

CEQA Guidelines require the identification of an environmentally superior alternative among the alternatives analyzed in an EIR. Alternative A has been selected as the environmentally superior alternative.

Since the No Project Alternative results in the least amount of development, it results in the fewest environmental impacts and therefore would be the environmentally superior alternative. However, CEQA Guidelines stipulate that if the No Project Alternative is identified as the environmentally superior alternative, then another environmentally superior alternative must be identified, among the other alternatives and the project.

After the No Project, Alternative A has the least impact, relative to the proposed General Plan and Alternative B in the six environmental areas that have significant impacts: Traffic and Circulation, Agricultural Resources, Climate Change and Greenhouse Gases, Air Quality, and Noise. Alternative A has relatively more adverse impacts in the areas of Land Use and Housing and Parks and Recreation, when compared to the proposed General Plan and Alternative B. Particularly, in terms of Land Use, Alternative A does not allow sufficient growth to meet the city's future needs or the Growth Management Ordinance's allocation of 2% annual growth. This could also result in a cumulative regional impact as population and employment growth in the region may put additional pressure in the surrounding unincorporated areas or other parts of the region.

Alternative A and Alternative B meet many of plan objectives as described in Chapter 2: Project Description. However, the proposed General Plan achieves all these objectives to the highest extent, specifically exceeding the alternatives in the following three objectives:

- **Objective #1: Compact Urban Form.** The proposed General Plan ensures the most compact urban form, by prioritizing infill development downtown and along the city's major corridors during Phase 1.
- **Objective #7: Agricultural Preservation Along Southern Boundary.** The proposed General Plan and Alternative B also preserve an agricultural preservation buffer south of Hogan Lane (Alternative A and the No Project scenario both allow limited development through the Planned Residential Reserve designation).
- **Objective #11: Phasing Future Development.** The proposed General Plan segments development into three phases, providing a framework for how and where urban growth should proceed. Urban reserve areas ensure that the city conforms to its Growth Management Ordinance and grows at a reasonable rate.

Although Alternative A has been chosen as the environmentally superior alternative, it does not in all cases adequately meet the three objectives described above (out of the 11 defined in the Project Description). Most critically, regarding Objective #11, Alternative A puts more growth pressures on other cities in the region and unincorporated portions of San Joaquin County. Reviewing historic trends, between 2000 and 2007, Lodi's population grew at half the rate compared with the County as a whole. Accommodating growth in Lodi through contiguous responsible development relieves some of this pressure elsewhere in the region. Alternative B conforms to the City's Growth Management Ordinance, but does not provide environmental impact reduction benefits and does not achieve all of the plan objectives. The proposed General

Plan achieves all plan objectives while establishing policies to reduce environmental impacts to the greatest extent possible.

FINDINGS REGARDING SIGNIFICANT AND UNAVOIDABLE IMPACTS:

Transportation and Circulation

The proposed General Plan would result in a substantial increase in vehicular traffic that would cause certain facilities to exceed LOS standards established by the City (for City facilities) and the County (for regional routes). Proposed General plan policies and improvements have been identified to minimize transportation impacts, but even with these measures, the impact is considered significant and unavoidable. Proposed General Plan policies, intended to improve neighborhood character and the pedestrian environment, could adversely affect access for emergency vehicles in Lodi. Planned improvements that would help mitigate this impact include roadway extensions, roadway widenings, and the construction of a new arterial, all of which would serve to enhance connectivity and local neighborhood circulation. Still, implementation of the proposed General Plan and increases in regional travel passing through Lodi would increase the amount of vehicular traffic in and around Lodi, and would therefore increase the number of potential emergency access conflicts, resulting in a significant and unavoidable impact.

The substantial increases in vehicle trips and vehicle miles of travel resulting from the proposed General Plan could create conflicts with the goals and objectives of established alternative transportation plans. Increased traffic volumes may make it more difficult and time-consuming for pedestrians to cross some streets. Higher traffic volumes on some facilities could discourage bicycle travel, especially among non-expert bicycle users. Additionally, increased delay on some of Lodi's roadway facilities could increase travel times for the various bus services that serve the city and provide access to regional travel services like Amtrak and ACE.

Agricultural Resources

While one quarter of the gross proposed General Plan potential development area is infill and will not reduce the amount of farmland, some conversion of agricultural land to urban use is inevitable given Lodi's growth needs. If the proposed General Plan were developed to maximum capacity, 2,893 acres of land classified as Prime Farmland would be replaced by urban development (including parks and open spaces). This area represents 69% of the new urban area delineated in the General Plan Land Use Diagram. The most prevalent crop types that would be displaced if the proposed General Plan developed to its fullest potential are vineyards (1,676 acres), deciduous fruits and nuts (516 acres), and field crops (322 acres). Although there are policies in the proposed General Plan to reduce this impact, the potential conversion of agricultural land—which will affect some agricultural activities and prime agricultural soils—is significant and unavoidable.

Climate Change and Greenhouse Gases

Under the proposed General Plan, future emissions are estimated to increase to 419,221 $MTCO_2e$ in 2030 with State mandates, an increase of approximately 32% over the existing condition. This increase in emissions under the proposed General Plan is largely a result of job growth. This estimate, however, does not account for policies in the proposed General Plan that would contribute to lowering emissions, but that are difficult to quantify. Given the current

uncertainty in quantifying the impacts of the measures, it is not possible to determine in this analysis if the proposed policies would reduce emissions sufficiently. Therefore, the proposed General Plan would result in a considerable contribution to the significant cumulative impact.

Air Quality

The proposed General Plan would result in an increase in criteria pollutant emissions primarily due to related motor vehicle trips. Stationary sources and area sources would result in lesser quantities of criteria pollutant emissions. Stationary sources and diesel-fueled mobile sources would also generate emissions of TACs including diesel particulate matter that could pose a health risk. Future growth in accordance with the proposed General Plan would exceed the annual San Joaquin Air Pollution Control District (SJVAPCD) thresholds for PM10, as well as the threshold used for this analysis for PM2.5, and would therefore result in a cumulatively considerable net increase of criteria pollutants.

Noise

Implementation of the proposed General Plan will result in higher traffic volumes, more industrial and commercial noise sources, and a larger population, all of which will contribute to the noise environment in Lodi. Future noise impacts related to traffic, railroads, and stationary sources would remain significant and unavoidable, given the uncertainty as to whether future noise impacts could be adequately mitigated for all the individual projects that will be implemented as part of the proposed General Plan.

STATEMENT OF OVERRIDING CONSIDERATIONS:

CEQA requires a public agency to balance the benefits of a proposed project against its unavoidable environmental risks in determining whether to approve the project. CEQA requires the City Council to state in writing specific reasons for approving a project in a "statement of overriding considerations" if the EIR identifies significant impacts of the project that cannot feasibly be mitigated to below a level of significance. Pursuant to California Public Resources Code Section 21081 and CEQA Guidelines Section 15093, the City Council adopts and makes the following Statement of Overriding Considerations regarding the remaining significant and unavoidable impacts of the proposed General Plan, as discussed above, and the anticipated benefits of the proposed General Plan.

The City finds and determines that the majority of the potentially significant impacts of the proposed General Plan will be reduced to less-than-significant levels by the mitigation measures recommended in the document. However, as set forth above, the City's approval of the proposed General Plan will result in project and cumulative significant adverse environmental impacts related to Transportation, Agricultural Resources, Climate Change and Greenhouse Gases, Air Quality and Noise that cannot be avoided even with the incorporation of all feasible mitigation measures into the proposed General Plan, and there are no feasible Project alternatives which would mitigate or avoid the significant environmental impacts.

The proposed General Plan has unavoidable and significant adverse impacts as referenced previously, however the benefits of the project outweigh the significant adverse impacts. The implementation of the proposed General Plan will mitigate to the greatest extent feasible impacts created. Every viable General Plan alternative, as well as the "no project" alternative,

would have a significant and unavoidable environmental impact. There are no feasible mitigation measures have been identified that would reduce the impacts to a level that is less than significant. Mitigations, changes or alterations have been required in, or incorporated into, the proposed General Plan which avoids or substantially lessens the significant environmental effects identified in the FEIR.

In light of the environmental, social, economic, and other considerations set forth below related to this proposed General Plan, the City chooses to approve the proposed General Plan, because in its view, the economic, social, and other benefits resulting from the proposed General Plan will render the significant effects acceptable.

The following statement identifies the reasons why, in the City's judgment, the benefits of the proposed General Plan outweigh the significant and unavoidable effects. The substantial evidence supporting the enumerated benefits of the proposed General Plan can be found in the Findings, which are herein incorporated by reference, in the proposed General Plan itself, and in the record of proceedings. Each of the overriding considerations set forth below constitutes a separate and independent ground for finding that the benefits of the proposed General Plan outweigh its significant adverse environmental effects and is an overriding consideration warranting approval.

1. The proposed General Plan allows the City to plan for growth in an orderly manner to meet future land needs based on projected population and job growth.

2. The proposed General Plan allows the City to meet the City's job/housing balance objective, the need for additional housing in the community, and State Law requirements.

3. The proposed General Plan promotes economic development of the community, maintains and improves the quality of life in the community, preserves and enhances environmental resources, and conserves the natural and built environment.

4. The proposed General Plant integrates economic development into the General Plan and underscores the City's goals for fiscal health, a strong regional center, a vibrant Downtown, and retail strength.

5. The proposed General Plan protects and enhances community assets, including quiet communities with distinctive character, a strong sense of community, a diverse population, high quality building design, convenient shopping, post-secondary educational opportunities, broad choice in employment and entertainment, a family atmosphere with excellent recreational activities, and job opportunities close to where people live.

6. The proposed General Plan provides for the positive direction for the future physical development of the City, such as supporting mixed use development, transit supportive land uses and economic revitalization of underutilized sites to create more economic vitality in these commercial corridors.

7. The proposed General Plan enhances an efficient multi-modal transportation system and promotes a well-integrated and coordinated transit network and safe and convenient pedestrian and bicycle circulation.

8. The proposed General Plan serves a critical need to allow the City to plan for the equitable distribution of community facilities and services to meet the needs of all segments of the population and provide services for special needs that increase and enhance the community's quality of life while avoiding over-concentration in any one area.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED that the Lodi City Council hereby adopts the findings, statements of overriding considerations, and other determinations set forth in this Resolution and based thereon certifies the Final Environmental Impact Report (State Clearinghouse No. 2009022075) and the proposed General Plan, published on April 1, 2010, as the City's General Plan.

Dated: April 7, 2010
==========

I hereby certify that Resolution No. 2010-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2010 by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2010-____

Please immediately confirm receipt of this fax by calling 333-6702

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

ADVERTISING INSTRUCTIONS

SUBJECT: **PUBLIC HEARING TO CONSIDER ADOPTION OF THE LODI GENERAL PLAN**

PUBLISH DATE: **SATURDAY, MARCH 20, 2010**

LEGAL AD

TEAR SHEETS WANTED: **One (1) please**

SEND AFFIDAVIT AND BILL TO:
RANDI JOHL, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, MARCH 18, 2010

ORDERED BY: RANDI JOHL
CITY CLERK

Jennifer M. Robison
JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

Faxed to the Sentinel at 369-1084 at _____(time) on _____(date) _____(pages)
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DECLARATION OF POSTING

PUBLIC HEARING TO CONSIDER ADOPTION OF THE LODI GENERAL PLAN

On Friday, March 19, 2010, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider adoption of the Lodi General Plan (attached and marked as Exhibit A) was posted at the following locations:

Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 19, 2010, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK

Jennifer M. Robison

JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

DECLARATION OF MAILING

PUBLIC HEARING TO CONSIDER ADOPTION OF THE LODI GENERAL PLAN

On March 19, 2010, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a Notice of Public Hearing to consider adoption of the Lodi General Plan, attached hereto Marked Exhibit A. The mailing list for said matter is attached hereto, marked Exhibit B.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 19, 2010, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK, CITY OF LODI

Jennifer M Robison

JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING
Date: April 7, 2010
Time: 7:00 p.m.

For information regarding this notice please contact:
Randi Johl
City Clerk
Telephone: (209) 333-6702

EXHIBIT A

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, April 7, 2010**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following item:

a) Adoption of the Lodi General Plan.

Information regarding this item may be obtained in the Community Development Department, 221 West Pine Street, Lodi, (209) 333-6711. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2nd Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

Randi Johl
City Clerk

Dated: March 17, 2010

Approved as to form:

D. Stephen Schwabauer
City Attorney

General Plan Update – mailing list

EXHIBIT B

	Company	FirstName	LastName	Address1	City	State	Postal Code
1.	J. Manassero			2171 E. Armstrong Rd.	Lodi	CA	95242
2.		Denis	Silber	1050 Port Chelsea Cr.	Lodi	CA	95240
3.	Calif. Valley Miwok Tribe	Silvia	Burley, Chairperson	10601 Escondido Place	Stockton	CA	95212
4.	Ione Band of Miwok Indians	Matthew	Franklin, Chairperson	P.O. Box 1190	Ione	CA	95640
5.	North Valley Yokuts Tribe	Katherine Erolinda	Perez	P.O. Box 717	Linden	CA	95236
6.	Southern Sierra Miwuk Nation	Anthony	Brochini, Chairperson	P.O. Box 1200	Mariposa	CA	95338
7.	Wilton Rancheria	Mary	Daniels-Tarango, Chairperson	7916 Farnell Way	Sacrame nto	CA	95823
8.	Brookfield Homes	Douglas	Brewer	500 La Gonda Way, Suite 100	Danville	CA	94526

Kari Chadwick – Sent e-Notification

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Kari Chadwick - sent e-Notification

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Kari Chadwick - Sent e-Notification

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Kari Chadwick – Sent e-Notification

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Kari Chadwick - Sent e-Notification

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AGENDA ITEM J-01

CITY OF LODI
COUNCIL COMMUNICATION

AGENDA TITLE: Receive a Report on the Response to Comments on the Draft Environmental Impact Report/Environmental Assessment for I-5 Widening from Stockton to Southerly Limits of the White Slough Water Pollution Control Facility

MEETING DATE: April 7, 2010

PREPARED BY: Community Development Director

RECOMMENDED ACTION: Receive a report on the response to comments on the Draft Environmental Impact Report/Environmental Assessment for I-5 Widening from Stockton to southerly limits of the White Slough Water Pollution Control Facility and take appropriate action.

BACKGROUND INFORMATION: This item is being brought to the City Council as an informational item. The Council may want to discuss and provide direction for additional follow up action.

The City Council originally received a report regarding this topic on October 21, 2009. As a result of City Council direction, staff submitted a letter commenting on the Draft Environmental Impact Report (DEIR). As the City Council is aware, comments generated on a DEIR are required to be responded to by the Lead Agency preparing the document. In this case the Lead Agency is the State Department of Transportation (CalTrans).

The Draft Environmental Impact Report/Environmental Assessment analyzes a proposed project that will build freeway and interchange improvements from 0.2 mile south of Charter Way/Martin Luther King Jr. Boulevard to 1.8 miles north of Eight Mile Road in northwest Stockton. The document was prepared by CalTrans. The stated purpose of the project is as follows:

- Reduce traffic congestion and delay on Interstate 5
- Encourage High-Occupancy Vehicle use in the Interstate 5 corridor within the project area
- Improve regional mobility
- Provide a balanced circulation system and reduce out-of-direction travel

As stated in the document, "The project is needed because northwest Stockton has been and is expected to continue experiencing substantial traffic growth, both locally from new area development and regionally from nearby communities such as Sacramento, Lodi, Lathrop, Manteca, and Tracy." The portion of the project which staff is focused on with this review is the new interchange designated as North Gateway Boulevard. This interchange would occur

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APPROVED: _____
Blair King, City Manager

approximately 1.8 miles north of Eight Mile Road. The proposed interchange is within the current Stockton General Plan, which abuts the City of Lodi's White Slough property. The document states that the new interchange "would improve local access to Interstate 5, reduce demands at existing interchanges, and connect a planned regional arterial with Interstate 5." The City of Stockton is proposing a new east-west expressway along Stockton's northerly boundary.

The response to the City's comments is attached and segmented into six sections. In the first section, the response basically suggests that inclusion of the interchange is prudent because of the Stockton General Plan, but actual construction will not be part of the project. Further, that the interchange will not be built until development in the area creates the need. Further, it is the position of CalTrans, San Joaquin COG and the City of Stockton that the interchange will "accommodate" growth, not induce it. Finally they suggest that delaying the improvement would be irresponsible and have significant adverse effects on traffic, air quality and quality of life.

The response to our second comment was appropriately dealt with by amending the document. That said, it does call to question the standard of significance that CalTrans uses when assessing impacts to farmlands. While this is the prerogative of the Lead Agency, it is not shared by the City of Lodi.

Staff believes that the response to our third comment is not correct. They contend that the City's White Slough Facility is about ½ mile away from the northernmost portion of the project area. In fact, the definition of the City's facility should include all of the property within the City boundary, not just the physical plant. Based on the description of the project and the exhibits contained in the document, our property abuts improvements contemplated by the project. We contend that there has not been any assessment of impacts that the project may have on our property or its functions. Simply stating that there no impacts are anticipated without providing some fact in the record does not make it so.

With regard to the fourth response, the area is known to be habitat for Giant Garter Snakes. The end result may be as suggested; we believe, however, that the prudent course of action is to follow the requirements of the San Joaquin Multi-Species Habitat Conservation and Open Space Plan and schedule a pre-ground disturbance survey, to be performed by a qualified biologist prior to any permit issuance.

For the response to our fifth comment we would refer to the DEIR Table 2.1 on page 25 which shows all of the <u>approved</u> development in the City of Stockton planning area. It is our understanding that the North Stockton Village and Gateway projects which account for 11,448 residential units on 3,010 acres are within the area of the proposed project. From our perspective this is representative of the future condition. Furthermore, we do not believe that the land use designations in the current San Joaquin County General Plan "accepts or approves" the anticipated project. It is our understanding that the County designation in the area is AG-40, which certainly does not anticipate nearly four dwelling units per acre.

The City appreciates the response to the sixth comment.

Staff is of the opinion that including this interchange within this document is premature. We are being told by CalTrans that the inclusion is warranted because it is in the Stockton 2035 General Plan, but there is no reason to draw the boundaries of the project past Eight Mile Road. We would further contend that the likely timing of this interchange improvement is so far into the future that by the time it is warranted to keep pace with growth, the environmental analysis will be stale and no longer valid. We are told by CalTrans that the development in the area is not approved, but their own document suggests otherwise. Finally, in staff's meeting with the landowner adjacent to the interchange, they contend that their plans have changed and an interchange will not be required.

CalTrans staff has told us that they intend to certify the Final EIR by the end of March. We have been told that we will be notified prior to any actions.

FISCAL IMPACT: Not Applicable

FUNDING AVAILABLE: Not Applicable

Konradt Bartlam
Community Development Director

KB/kjc

Attachment:
Response to Comments Letter

DEPARTMENT OF TRANSPORTATION
DISTRICT 6
2015 E. Shields Ave.
Fresno, CA 93726
PHONE (559) 287-9320
TTY (559) 488-4066

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COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

February 11, 2010

Mr. Konradt Bartlam
Community Development Director
City of Lodi
City Hall
221 West Pine Street
Lodi, CA 95241-1910

Dear Mr. Bartlam:

Thank you for your letter dated November 11, 2009 regarding the North Stockton Corridor Improvements project. We have responded to your comments from the letter sent and have enclosed both your comments and our responses.

If you have any further questions, please contact either myself of Scott Smith at (559) 243-8223.

Sincerely,

Zachary Parker
Senior Environmental Planner

c: Scott Smith, File

Enclosure: City of Lodi Letter dated 11/11/09, Caltrans Response

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

CITY OF LODI

Community Development Department
CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6714 – Building
(209) 333-6711 – Planning & Neighborhood Services
(209) 333-6842 - Fax
www.lodi.gov

BLAIR KING, City Manager
RANDI JOHL, City Clerk
D. STEPHEN SCHWABAUER
City Attorney

November 11, 2009

Gail Miller
Branch Chief
Central Sierra Environmental Branch
California Department of Transportation
2015 E. Shields Avenue, Suite 100
Fresno, CA 93726

gail_miller@dot.ca.gov

Re: Interstate 5 North Stockton Corridor Improvements
DEIR SCH No. 2008102101

Dear Ms. Miller:

The City of Lodi appreciates the opportunity to review and comment on the Draft Environmental Impact Report for the above referenced project. The project is located along Interstate 5 between 0.2 mile south of Charter Way/Martin Luther King Jr. Boulevard and 1.8 miles north of Eight Mile Road in northwest Stockton, California.

We have reviewed this document for consistency with the California Environmental Quality Act (CEQA) as well as discussed this matter with the Lodi City Council at their meeting on November 4, 2009. As a result of this review we offer the following comments on the report:

Section 2.1.2 Growth The Environmental Impact Report must examine the potential for growth that may occur as a result of the project. Specifically, CEQA Guidelines require that the EIR "discuss the ways in which the proposed project could foster economic or population growth, or construction of additional housing, either directly or indirectly" (CEQA Guidelines §15126.2(d)). The discussion outlined in the document states that "The proposed project would not directly affect growth within the Stockton region or San Joaquin County, but accessibility in the project area would change." Further the document states "Both the 2035 Stockton General Plan and the 2010 San Joaquin General Plan do not project any potential growth as a result of the proposed project; only transportation circulation would improve in the region."

However, the EIR fails to ever even consider the potential that the projected development could not occur. A traffic study is necessary to determine whether the existing and planned infrastructure (absent the highway improvements) could support the growth this project is admittedly designed to serve before any conclusion can be L-1

drawn that this project is not growth inducing. The EIR does suggest the logical outcome of such study. Figure 1.4 shows no Level of Service issues on the highway in the existing condition. Lodi staff can support that conclusion based on actual highway use. It is not until 2035 that Figure 1.5 finally shows traffic north of Hammer Lane and even farther north of Eight Mile Road reaching Level of Service F. Table 2.23 reflects the expected growth served by the project. According to the conclusions drawn by the EIR , this project will serve the development of over 7,500 acres of farmland with nearly 40,000 residential units. L-1 cont.

There can be no debate about whether the improvements contemplated are necessary in order for the growth that has been approved as well as the growth contemplated in Stockton. To suggest otherwise would call into question the need for the project. As such, the EIR's failure to consider its potential to foster the growth of north Stockton is fatal to any test of its adequacy.

Section 2.1.3 Farmlands/Timberlands Construction of the project would convert approximately 58 acres of agricultural soils to urban (highway) uses. Most of that impact occurs within the existing right-of-way of Interstate 5 south of Eight Mile Road. According to the California Department of Conservation, approximately five acres of Prime and Unique Farmland is impacted by the project slated north of Eight Mile Road. The document states that the amount of agricultural land to be converted is "negligible" compared to the total amount of farmland in San Joaquin County or in California. We are not aware, nor does the DEIR state what the Department of Transportation's threshold of significance is with regard to this issue, but comparing this loss to the entire State of California is absurd. The fact is that the resulting loss is a significant and irreversible impact under CEQA. Even though mitigation cannot lessen the impact to a less than significant level, mitigation should be proposed which lessons this impact nonetheless. An additional concern related to this discussion is the missing Farmland Conversion Impact Rating form. The discussion within this section refers to Appendix H, which is not included in the document. Further, another part of the document indicates that Appendix G contains this information; however, it is not included there either. L-2

Sections 2.1.1.2 and 2.1.4 Community Impacts The analysis of community impacts does a fine job in characterizing the urban community that is adjacent to the project boundaries, but fails to mention anything about the community that exists north of Eight Mile Road. Specifically, the document must address the environmental consequence the project may have on the agricultural area in question. Moreover, the document makes no mention of the City of Lodi's White Slough Water Pollution Control Facility which contains 1,014 acres immediately adjacent to the project. Section 2.1.1.2 details how the project is consistent with all surrounding general plans. Again it fails to even reference the City of Lodi General Plan or the proximity of the plan to Lodi's detached annexation a few hundred feet to the north of the North Gateway interchange. L-3

Section 2.3.5 Threatened and Endangered Species Section 2.3.5 mentions impacts on a number of threatened species including the Giant Garter Snake (GGS). Although figure 2.2c reflects a large new interchange at the new North Gateway Interchange immediately adjacent to Telephone Cut. The GGS analysis fails to reference any loss of GGS habitat other than the .021 acres of aquatic habitat. An interchange cannot serve as GGS habitat given the multiple and compact roadway surfaces that would pose significant hazards to any snakes residing therein. As such at least 2 acres and more likely more acres of habitat will be permanently taken. The EIR proposes no mitigation for the loss of this habitat nor a Statement of Overriding Consideration. L-4

The EIR's failure to seriously address loss of GGS habitat is compounded by the lack of consideration of cumulative impacts as discussed above. Figure 2.2c's top image shows the existing condition and the bottom condition shows the development fostered by the construction of the freeway interchange, representing hundreds of homes and commercial structures immediately adjacent to Telephone Cut. When combined there must be massive impact on GGS habitat that even the EIR is forced to "presume" is present "[d]ue to the proximity of a known population and availability of suitable habitat...." (p. 175) L-4 cont.

Section 2.4 Cumulative Impacts As discussed above the EIR fails to consider cumulative impacts in any serious fashion because for every impact acknowledged, the EIR only studies them at the macro level. To say there is no impact to farmland or timberland (as the EIR does at page 189 with no explanation as to how that conclusion is reached) is a relatively simple thing. But to say it with regard to the 7,500 acres in growth it is necessary to make possible is quite another.

Section 2.4's discussion of Visual and Aesthetic impacts on page 189 is another example of the effort that went into this document. The EIR states that the only new landscape features are Otto Drive and North Gateway interchanges. However it concludes that the impact would be minor. A mere reference to figure 2.2c reveals just how facile that conclusion is. The before figure reveals acres of green space and farmland. The after reflects of the same acres subdivided for homes, mini storage and commercial strips. This same flaw flows through every reference in the cumulative impacts section. As such the EIR is defective. L-5

Finally, I respectfully request timely notice of any and all hearings and staff reports as well as any revisions that may occur concerning this project. We believe that as an adjacent property owner to the project and adjacent Public Agency, we should have received the Notice of Preparation as well as a direct notice of the release and availability of this Draft EIR. L-6

If you have any questions or would like to discuss these comments in more detail, please do not hesitate to contact me at 209-333-6711 or rbartlam@lodi.gov.

Sincerely,

Konradt Bartlam
Community Development Director
City of Lodi

Cc: City Manager
City Attorney

City of Lodi, Public Agency (November 11, 2009)

Response L-1: The transportation demand for the proposed project is based on the land uses identified in the 2035 City of Stockton General Plan (dated 2006), and the San Joaquin Council of Governments 2007 Regional Transportation Plan. Please see the Interstate 5 North Stockton Interchanges and Mainline Widening Final Traffic Operations Report dated January 2008 which addresses both existing, design year, and final buildout year traffic operations.

Caltrans is doing the design for this interchange as part of the project because, since the interchange is called for in Stockton's general plan, it makes sense to include it with this design package. Actual construction of the proposed interchange will not be part of this project, and will not take place until development in the area creates the need. When that happens, the developers who are building in the area will fund the construction.

The City of Stockton General Plan Environmental Impact Report (dated 2007) provided a program level Environmental Impact Report that analyzed the environmental impacts of land uses and growth inducing impacts in the 2035 City of Stockton General Plan. The 2035 City of Stockton General Plan outlines the land use types, projected traffic demands, and directly references the need for interchanges north of Eight Mile Road, and widening along Interstate 5. The proposed project does not introduce new land uses beyond those discussed in the City of Stockton General Plan Environmental Impact Report, see section 2.1.2 Growth. The proposed project is responding to the future growth demand generated by the General Plan and forecast traffic volumes. Therefore, the proposed project anticipates timing for future development and growth based on regional projections as needed to avoid congestion and to promote better air quality. The proposed project will follow or keep pace with growth, but will not provide the impetus for growth.

It is the position of the City of Stockton, the San Joaquin COG and Caltrans that the proposed freeway widening and interchange improvements are growth accommodating. Recognizing that growth in the City of Stockton is likely to occur based on the projected land uses described in the City of Stockton General Plan Environmental Impact Report, and that a considerable amount of this growth is projected for North Stockton and West Stockton, the forward planning approach to accommodate this growth with planned roadway improvements is the responsibility of the local agencies. To delay these improvements until growth inundates the local and regional circulation network would be irresponsible and would have significant and adverse effects on traffic, air quality, and quality of life.

Response L-2: Correction made: The NRCS form is under Appendix G; references to the NRCS form in the Environmental Impact Report have been corrected and reflect Appendix G, and not Appendix H.

Table 2.2 of the Farmland section describes the project's impacts and compares that with farmland resources in the County. Impacts represent less than .0001 percent of the County's farmland resources. As explained in the text of the Farmland section under Environmental Consequences, a NRCS rating of above 160 would warrant further examination of alternatives to reduce farmland impacts and would require avoidance, minimization, and mitigation measures. Based on the fact that the amount of total acres converted to non-agricultural uses represents less than .0001 percent of the County's total farmland, and that the NRCS rating (83.6) was substantially less than 160, this is substantive evidence that the proposed project will not induce a significant affect on agricultural resources under the CEQA Guidelines. Additionally, any significant farmland impacts that would have been created by this project were addressed programmatically in the City of Stockton 2035 General Plan Environmental Impact Report (2007), which included this project in described land uses.

Response L-3: The Community Impact Assessment (dated March 2009), discusses the process of how community boundaries were delineated, including agricultural areas north of Eight Mile Road. The Environmental Impact Report section on Community Impacts primarily focuses on certain communities in the project area that are directly impacted by the proposed project and which specifically require relocation of residents in those neighborhoods. Agricultural impacts are discussed under Farmland; please see responses L1 and L2. The City of Lodi White Slough Water Pollution Control Facility is about 1/2 mile away from the northernmost portion of the project area. No impacts from the proposed project are anticipated to the Lodi White Slough Water Pollution Control Facility. Open space lands to the north of the Stockton Sphere of Influence for use in spraying or spreading effluent generated by the plant will remain unaffected by the proposed project. The proposed project is not within the boundaries of the City of Lodi, nor within its Sphere of Influence, and this is why no reference is made to the City of Lodi General Plan.

Response L-4: The proposed project has undergone rigorous review by the U.S Fish and Wildlife Service under Section 7 consultation with Caltrans. The project was reviewed under the *Programmatic Biological Opinion on the Effects of Small Highway projects on the Threatened Giant Garter Snake in Butte, Colusa, Glenn, Sacramento, San Joaquin, Solano, Sutter, Yolo and Yuba Counties, California* issued to the Federal Highway

Administration on January 24, 2005. The Programmatic Biological Opinion establishes thresholds for impacts to giant garter snakes as well as standards for habitat suitability as described below.

The biological opinion defines giant garter snake habitat to include appropriate uplands within 200 feet of aquatic habitat. Based on the project design, approximately 0.2 acre of upland habitat located within 200 feet of Telephone Cut may be affected by the project at the proposed North Gateway Interchange.

The biological opinion identifies agricultural areas supporting row crops, small grains other than rice, vineyards and orchards as unsuitable for giant garter snakes because they lack adequate cover and are subject to frequent disturbance. Other frequently disturbed areas are similarly excluded as upland habitat. The entire area of the proposed North Gateway Interchange consist either of row crops or farm access roads, neither of which is considered suitable upland areas for giant garter snakes.

For the reasons given above, no impacts to giant garter snake have been identified at the proposed North Gateway Interchange and no mitigation has been proposed. Similarly, no cumulative impacts have been identified. As stated above, this area is predominantly agricultural row crops and is generally considered unsuitable for giant garter snakes.

Response L-5: Cumulative Impacts consist of an evaluation of impacts which are created as a result of the combination of the project together with all other projects which cumulatively contribute to degradation of an environmental resource. By their very nature cumulative impacts are assessed on a macro level, while project specific impacts are assessed on a smaller scale. The purpose of a cumulative impacts analysis is to determine whether a project's contribution to an environmental resource will be rendered cumulatively considerable and thus significant or whether the project's contribution to an environmental resource will be rendered less than cumulatively considerable and thus less than significant.

Farmland impacts were deemed to not be cumulatively considerable because the project's contribution to farmland impacts was considered less than significant (see Farmland impacts section) and because the project is consistent with the City of Stockton 2035 General Plan and other relevant planning documents. Please see Response L-1 regarding discussion of Growth Inducing Impacts. It should be noted that since the proposed project accommodates and responds to future growth, but is not the impetus for growth. Therefore, conversion of farmlands has no direct association with the project. The proposed transportation facilities are provided as a result of growth where such farmland

conversions have already occurred or are anticipated to occur due to adopted plans and entitlements.

Regarding the Visual and Aesthetics' graphic Figure 2.2c, the subdivisions and roadway infrastructure shown outside the boundaries of the proposed project reflect projected 2035 land uses based on the City of Stockton General Plan and are consistent with projected land use activities envisioned in the build-out year. While the graphic presents the subdivision layout, it is not an approved project and is intended to be representative of the potential future condition. As mentioned in the Environmental Impact Report, the proposed Gateway Interchange will only be built when land use development occurs and provides the transportation demand for this project. The land use designations for the areas surrounding the project have been accepted and approved in the City and County General Plans. Development contribution from these land developments will be required for the completion of this phase of the project build-out.

Response L-6: The City of Stockton and Caltrans will include the City of Lodi in all required noticing and distributions.

AGENDA ITEM J-02

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Consider Waste Management's Proposal to Provide $1,000,000 for Grape Bowl Renovation

MEETING DATE: April 7, 2010

PREPARED BY: City Manager

RECOMMENDED ACTION: Accept Waste Management's proposal to provide $1,000,000 for Grape Bowl renovation.

BACKGROUND INFORMATION: Waste Management has offered a conditional proposal to provide $1 million dollars for the renovation of the Lodi Grape Bowl. According to Waste Management, the *"proposal is guided by our long-standing business relationship with the City of Lodi and the many Waste Management employees and their family members, who have shared the privilege of competing on the Grape Bowl turf or sitting in the stands as cheering fans for so many decades."*

In brief, Waste Management is proposing to provide a total of $1 million dollars for Grape Bowl renovations to be paid in installments over eight years. An initial $100,000 will be paid as soon as practical, and then, commencing January 2011, 84 monthly installments until completed. As a part of this proposal, contingent upon customer satisfaction, Waste Management requests that the City Council now grant the optional seven-year franchise renewal commencing in 2024.

The Recreation Commission proposes these funds be used for field improvements, complete construction of new handicapped-accessible restrooms, complete construction of new handicapped-accessible concession stands, and then other facility improvements as funds may be available.

It is envisioned that if this proposal is accepted that money would be advanced from the Park Impact Fee Program for immediate renovations and then repaid, with interest, as Waste Management makes good on its commitments.

If the Council should choose to decline Waste Management's proposal, the current franchise agreement will remain in affect without change and the city will have the option of renewing its agreement with Waste Management in 2024. It is assumed that fund-raising for the Grape Bowl will continue, but the lack of this funding would be noticeable with the absence of permanent handicapped-accessible restrooms and concession stands.

No offer related to naming rights has been made or requested. However, this proposal would establish the minimum floor for the value of naming rights.

Please see attached letter.

APPROVED: _____
Blair King, City Manager

FISCAL IMPACT: One million dollars for the Grape Bowl would be provided over eight years. Waste Management has requested that the optional franchise extension scheduled for 2024 be granted now, conditioned upon customer satisfaction. Additionally, if the City chooses to increase the Industrial Waste Haulers Permit (a fee required of haulers that serve industrial customers that is currently $500 per year) Waste Management would not oppose an increase. To implement this increased fee for waste haulers, the City Council would need to take separate action and impose the fee upon all waste haulers operating in Lodi. This action is not envisioned to be taken any sooner than 2018.

_____

Blair King
City Manager

Attachments

RECEIVED

MAR 25 2010

CITY MANAGER'S OFFICE

Central Valley Waste Services, Inc.
A WASTE MANAGEMENT COMPANY

1333 E. Turner Road
P.O. Box 241001
Lodi, California 95241-9501
(209) 369-8274
(209) 369-6894 Fax

March 24, 2010

Mr. Blair King
City Manager
City of Lodi
221 W. Pine Street
Lodi, CA 95240

SUBJECT: LODI GRAPE BOWL RENOVATION FEE

Dear Mr. King

After thoughtful consideration of the City's request that Waste Management invest in the future of the City by financially participating in the renovation of the Lodi Grape Bowl, Waste Management is pleased to offer the City the following proposal.

Our proposal is guided by our long-standing business relationship with the City of Lodi and the many Waste Management employees and their family members, who have shared the privilege of competing on the Grape Bowl turf or sitting in the stands as cheering fans for so many decades.

Our proposal is as follows:

Waste Management would pay the City $1,000,000.00 in fees, specifically designated to renovate the Lodi Grape Bowl, subject to the following terms:

1. WM would make an initial payment of $100,000.00 on or before _____, 2010; and WM would pay the remaining $900,000.00 in 84 equal monthly installments of $10,714.29, with the first monthly payment due on January 15, 2011 and subsequent monthly payments due on the same day in the following 83 months. If the scheduled due date for the monthly payment is not a business day, then the due date would be delayed until the next business day. The City would bill Waste Management for the initial and monthly payments, and the City would deposit the payments in its Grape Bowl Renovation Fund Account. Waste Management's payment obligations would cease if the Collection Agreement were terminated.

2. The City would agree to amend Section 38(b) (Term of Agreement) of the Collection Agreement to insert the following sentence in between the first and second sentences: "Contractor shall have the unilateral option to renew this Agreement one additional time after exercising the first option set forth above. Contractor's second unilateral extension will be for an additional term of seven years commencing January 1, 2024 and ending December 31, 2030, which Contractor may exercise by giving the City notice thereof not later than December 31, 2022."

3. Subsequent to January 1, 2018, the Contractor would provide reasonable support to the City in its effort to implement an Industrial Waste Haulers Permit Fee structure with a fee of up to $100,000.00 for a permit term of five years. The permit fee would be non-refundable and non-transferable. The permit to haul Industrial Waste would be valid within the incorporated city limits of Lodi. Industrial Waste Hauler permittees would obtain, at their own expense, all permits and licenses required by Federal, State, and local laws and ordinances and maintain same in full force throughout the term of the permit.

4. As required by Section 5.q. of the Collection Agreement, Contractor would maintain quality of service throughout the term of the agreement. When the Contractor exercises a renewal option under Section 38(b) (as amended above), Contractor would submit a report to the City that would include quantitative measurements (for example, based on surveys, third-party studies or internal quality control programs) of the quality of Contractor's performance for significant customer service metrics and other contractual obligations. The City and Contractor would address and resolve any performance deficiencies that may be identified in the report in the manner described in Section 5.q.

5. Except as described above, the other terms and conditions of the Collection Agreement would remain in full force and effect and be binding on the parties.

I look forward to meeting with you at your convenience to discuss this matter.

Thank you for your continued confidence in Waste Management, we are grateful for the opportunity to invest in the future of Lodi and the beginning of a new sports tradition.

Please feel free to contact me at your convenience on my Cellular, 209 481-0161 or my direct landline 209 333-5610.

Sincerely,

Thomas A Sanchez

CC: Jim Rodems, City of Lodi
Alex Oseguera, Waste Management, Area Vice President

AGENDA ITEM J-03

CITY OF LODI
COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Awarding Contract for Lodi Grape Bowl All-Weather Surface Project to Western Engineering Contractors, Inc., of Loomis ($592,675), Approving Purchase and Installation of All-Weather Surface through Fieldturf USA, Inc., of Montreal, Quebec ($686,000) and Appropriating Funds ($1,366,000)

MEETING DATE: April 7, 2010

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution awarding the contract for the Lodi Grape Bowl All-Weather Surface Project to Western Engineering Contractors, Inc., of Loomis, in the amount of $592,675, approving purchase and installation of all-weather surface through Fieldturf USA, Inc., of Montreal, Quebec, in the amount of $686,000, and appropriating funds in the amount of $1,366,000.

BACKGROUND INFORMATION: The project will consist of an all-weather playing field, an 18-inch concrete curb, and a sidewalk path of travel to the handicapped parking area, all as presented in Exhibit A.

Plans and specifications for this project were approved on March 3, 2010. The City received the following nine bids for this project on March 24, 2010.

Bidder	Location	Bid
Engineer's Estimate		$600,000
Western Engineering Contractors	Loomis	$592,675
Goodland Landscape	Tracy	$672,000
Doug Veerkamp Engineering	Placerville	$695,769
A.M. Stephens Construction	Lodi	$699,850
Diede Construction	Woodbridge	$707,000
Lamon Construction	Yuba City	$758,000
McGuire and Hester	Oakland	$764,000
*Roebbelen Contracting	El Dorado Hills	$588,000
**Ford Construction	Lodi	$699,700

*Contractor only acknowledged receipt of Addendum No. 1.
**Contractor did not acknowledge receipt of any addenda.

Staff is recommending that the bids from Roebbelen Contracting and Ford Construction be rejected as non-responsive as their bid proposals did not include the receipt of addenda. There were two addenda and Addendum No. 2 added to the plans the Contractor's requirement to purchase and install geotextile fabric as part of the subgrade preparation. The City's design consultant estimated the cost of the fabric would increase the project cost by $40,000. Roebbelen now asserts that the fabric was calculated in its bid and that Stockton Blue emailed the addendum to the wrong email address. Neither assertion allows the City to waive the failure to acknowledge receipt of the addendum.

APPROVED: _____
Blair King, City Manager

The City must reject bids that do not comply with bid requirements unless the discrepancy does not 1) affect the amount of the bid; 2) give a bidder an advantage over others; 3) be a potential vehicle for favoritism; 4) influence others to avoid submitting bids; or 5) affect the ability to make bid comparisons (Ghillotti v Richmond 45 CA 4th 597). In this case, the City cannot hold Roebbelen to the requirement to pay for and install the $40,000 worth of fabric because it did not acknowledge receipt of the addendum or expressly list the fabric as included in its bid. This could give Roebbelen an advantage in that it had the opportunity to see the other bid results before deciding whether to assert that the amount was included in or not included in their bid (i.e., Roebbelen could say the $40,000 was in its bid if the next lowest bid was less than $40,000 more than their bid or say it was out if it was more than $40,000, giving them the option of either price point). It should be noted that staff is not accusing Roebbelen of attempting to exploit the bidding process. We agree this was probably an administrative error and it is likely that they honestly did include it in their bid. However, the bidding rules permit no exceptions where bid manipulation is possible, regardless of whether it actually happened.

Roebbelen's last issue is that they did not receive the email from Stockton Blue that forwarded Addendum No. 2. Unfortunately, that would only allow the City to reject all bids and rebid, not forgive the discrepancy. Staff does not recommend that option because 1) Roebbelen was told at a mandatory prebid meeting that a second addendum was forthcoming requiring contractor-supplied fabric; and 2) Roebbelen was also sent and received a second timely copy of Addendum No. 2 via facsimile.

Staff is also requesting Council approval for the purchase and installation of the all-weather surface through Fieldturf USA, Inc., using the California Multiple Award Schedule (CMAS) Contract No. 4-06-78-0031A. The State of California has developed a list of pre-approved all-weather surface manufacturers. The CMAS process will save the City some time and costs and will also eliminate the possibility of receiving bids from a less desirable supplier. The cost for the purchase and installation is estimated to be $686,000.

Per Lodi Municipal Code §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 public agencies, provided that their award was in compliance with their formally-adopted bidding or negotiation procedures.

On January 6, 2010, City Council earmarked $1,050,000 for the installation of all-weather surface at the Grape Bowl. To date, approximately $18,000 has been encumbered for printing and advertising costs and for the installation of lighting at this location, leaving $1,032,000 for the construction work at the site and for the purchase of the field. It is estimated the final construction cost will be approximately $680,000 for installation and $686,000 for the purchase of the field turf, totaling $1,366,000.

Council should also be aware that this all-weather surface project will only provide sufficient turf coverage to allow for the programming of football and soccer games. An aggregate base surface will be placed at the east and west ends of the Grape Bowl and also along an 11-foot strip between the all-weather surface and the bleachers. The scope of the all-weather surface project was scaled back in the hopes that the City would receive bids within our budgeted amount of $1,032,000.

FISCAL IMPACT: Installing an all-weather surface at the Grape Bowl with its existing amenities is less expensive than constructing a synthetic field at another location and adding the same amenities that exist at the Grape Bowl. Several conventional grass fields would need to be constructed to equal the

same recreational programming capacity as one all-weather surface. General Fund annual maintenance costs would be approximately $30,000 less than a comparable grass field.

FUNDING AVAILABLE: Requested Appropriation from Grape Bowl Project Account or Parks Impact Mitigation Fees (1217005): $1,366,000

Site Work: $680,000 (includes 14.7% contingency)
Turf: $686,000

_____
Jordan Ayers
Deputy City Manager/Internal Services Director

_____
James Rodems
Interim Parks and Recreation Director

_____
F. Wally Sandelin
Public Works Director

Prepared by Wesley K. Fujitani, Senior Civil Engineer
Attachment
cc: City Attorney
Parks Superintendent
Purchasing Officer
Management Analyst Areida-Yadav

Exhibit A

GRAPE BOWL
LODI, CA

CITY OF LODI, CALIFORNIA

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

W I T N E S S E T H :

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

The complete Contract consists of the following documents which are incorporated herein by this reference, to-wit:

Notice Inviting Bids	The July 2006 Edition
Information to Bidders	Standard Specifications
Bid Proposal	
Contract	
Specifications Division One and Two	
Geotechnical Report	
Plans	

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

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

ARTICLE II - The City hereby promises and agrees with the Contractor to employ, and does hereby employ, the Contractor to provide all materials and services not supplied by the City and to do the work according to the terms and conditions for the price herein, and hereby contracts to pay the same as set forth in Section 5.600, "Measurement, Acceptance and Payment," of the General Provisions, in the manner and upon the conditions above set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

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

ARTICLE IV - And the Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and for doing all the work contemplated and embraced in this agreement; also for all loss or damage arising out of the nature of the work aforesaid or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the City, and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work and for well and faithfully completing the work, and the whole thereof, in the manner and according to the Plans and Contract Documents and the requirements of the Engineer under them, to-wit:

Abbreviated Written Summary / Scope of work: Briefly and without force and effect upon the Contract Documents, the work of the Contract can be summarized to include as follows:

1. Construction of base for a new synthetic turf football / soccer field. (Synthetic turf system to be owner provided and installed NIC)
2. Perimeter paving, drainage, site furnishing improvements, and utility upgrades.
3. Demolition of existing field, structures, fencing, paving and utilities as indicated on the drawings.

CONTRACT ITEMS

ITEM NO.	DESCRIPTION	UNIT	EST'D. QTY	UNIT PRICE	TOTAL PRICE
1.	Perform the work necessary to construct new football/soccer field as shown on the plans and specifications for "Lodi Grape Bowl All Weather Turf Project " and as prepared by Beals Alliance.	LS	1	$592,675.00	$592,675.00
				TOTAL	$592,675.00

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

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

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

ARTICLE VIII - The Contractor agrees to commence work pursuant to this contract within 15 calendar days after the City Manager has executed the contract and to diligently prosecute to completion within 40 WORKING DAYS.

WHEN SIGNING THIS CONTRACT, THE CONTRACTOR AGREES THAT THE TIME OF COMPLETION FOR THIS CONTRACT IS REASONABLE AND THE CONTRACTOR AGREES TO PAY THE CITY LIQUIDATED DAMAGES AS SET FORTH IN SECTION 6-04 OF THE SPECIAL PROVISIONS. CONTRACTOR AGREES THAT THIS AMOUNT MAY BE DEDUCTED FROM THE AMOUNT DUE THE CONTRACTOR UNDER THE CONTRACT.

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

CONTRACTOR:

_____

By:_____

_____
Title

(CORPORATE SEAL)

CITY OF LODI

By:_____
Blair King
City Manager

Date:_____

Attest:

_____
City Clerk

Approved As To Form

_____
D. Stephen Schwabauer
City Attorney

RESOLUTION NO. 2010-____

A RESOLUTION OF THE LODI CITY COUNCIL AWARDING CONTRACT FOR LODI GRAPE BOWL ALL-WEATHER SURFACE PROJECT, APPROVING PURCHASE AND INSTALLATION OF ALL-WEATHER SURFACE USING CALIFORNIA MULTIPLE AWARD SCHEDULE, AND FURTHER APPROPRIATING FUNDS

==========

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on March 24, 2010, at 11:00 a.m. for the Lodi Grape Bowl All-Weather Surface Project, described in the plans and specifications therefore approved by the City Council on March 3, 2010; and

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

Bidder	**Bid**
Western Engineering Contractors	$592,675
Goodland Landscape	$672,000
Doug Veerkamp Engineering	$695,769
A.M. Stephens Construction	$699,850
Diede Construction	$707,000
Lamon Construction	$758,000
McGuire and Hester	$764,000
*Roebbelen Contracting	$588,000
**Ford Construction	$699,700

*This bid did not include Receipt of Addendum No. 2 and is considered non-responsive.
**This bid did not include Receipt of Addendum for either addenda and is considered non-responsive.

WHEREAS, staff recommends that the bids from Roebbelen Contracting and Ford Construction be rejected as non-responsive as their bid proposals did not include the receipt of addendum; and

WHEREAS, staff recommends awarding the contract for the Lodi Grape Bowl All-Weather Surface Project, to the lowest responsive bidder, Western Engineering Contractors, Inc., of Loomis, California; and

WHEREAS, staff recommends the purchase and installation of the all-weather surface through Fieldturf USA, Inc., of Montreal, Quebec, using the California Multiple Award Schedule (CMAS Contract No. 4-06-78-0031A); and

WHEREAS, per Lodi Municipal Code §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 public agencies, provided that their award was in compliance with their formally-adopted bidding or negotiation procedures.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby award the contract for the Lodi Grape Bowl All-Weather Surface Project, to the lowest responsive bidder, Western Engineering Contractors, Inc., of Loomis, California, in the amount of $592,675; and

BE IT FURTHER RESOLVED that the City Council does hereby approve the purchase and installation of the all-weather surface through Fieldturf USA, Inc., of Montreal, Quebec, in the amount of $686,000 utilizing the California Multiple Award Schedule (CMAS Contract No. 4-06-78-0031A); and

BE IT FURTHER RESOLVED that funds in the amount of $1,366,000 be appropriated from _____ for this project.

Dated: April 7, 2010

==========

I hereby certify that Resolution No. 2010-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2010, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

AGENDA ITEM J-04

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Provide Direction to Amend Fee Payment Agreement for 1341 East Kettleman Lane (Holiday Inn Express)

MEETING DATE: April 7, 2010

PREPARED BY: City Manager

RECOMMENDED ACTION: Direct the City Manager to prepare a revised Fee Payment Agreement for 1341 East Kettleman Lane (Holiday Inn Express).

BACKGROUND INFORMATION: For economic development, businesses purposes and fairness, the City Council has approved agreements to allow the payment of impact fees to be spread over time. Typically, the Council has approved these fee payment agreements for hardship cases or to make select businesses that provide jobs or tax benefits financially feasible. On March 19, 2008, the City Council approved a fee payment agreement for a new Holiday Inn Express motel at 1341 East Kettleman Lane developed by KFP GALT, LLC. The Fee Payment Agreement allowed $420,496.00 in impact fees to be paid in 20 equal semi-annual installments ($28,004.57) over a 10-year period. Interest was calculated on the then Local Agency Investment Fund (LAIF) rate of return plus one percent, which totaled 5.801 percent.

In the two years since the Holiday Inn opened, the economy entered the longest recession in eight decades (source: Dr. John Mitchell, BofC speech). The principal owners of the Holiday Inn Express have approached the city manager to request relief from the terms of the payment agreement. They are presently current with their payments but have stated that they are experiencing a severe financial hardship. According to financial information provided by the owners, the business is expected to experience a loss of approximately $120,000 for the eight months ending February 2010.

Staff is requesting that the Council direct the manager to revise the Fee Payment Agreement. It is proposed that the same interest rate methodology be used (LAIF rate plus 1 percent). The current LAIF rate is approximately 0.6 percent which would yield a rate of 1.6 percent for this agreement. Additionally, it is requested that the payments be suspended until January 1, 2011, with the remaining payments made in 20 semi-annual installments over a 10-year period (see attached schedule). The restructured payment schedule will not materially affect the impact fee program.

<u>This is not a request to waive fees, but a request to restructure payments.</u>

If the Council chooses not to direct the manager to amend the agreement, the business may fail and the General Fund could experience a loss of approximately $80,000 to $100,000 in annual Transient Occupancy Tax revenue, the loss of 30 jobs, and the consequences of dealing with a vacant hotel, including difficulty in collecting the impact fees from a subsequent operator or bank.

APPROVED: _____
Blair King, City Manager

Attached is the original Development Impact Mitigation Fee Summary Sheet, a new proposed fee payment amortization schedule and a draft revised Fee Payment Agreement.

FISCAL IMPACT: $381,684 in impact fees remain unpaid and are subject to the fee payment schedule. $48,813.09 in principal and $35,200.62 in interest has been paid. The interest rate charged for the outstanding balance, if Council so directs, would be reduced from 5.801 percent to 1.60 percent. Revising the payment schedule will increase the chance that the Holiday Inn Express will be a success in this market and continue to provide approximately $80,000 to $100,000 in Transient Occupancy Tax revenue to the General Fund and increase the likelihood of collection of the impact fees. The changes proposed in the timing of the fees is immaterial to the impact fee program.

_____
Blair King
City Manager

Attachments

cc: Daniel and Beth Kim, Holiday Inn Express

CITY OF LODI
PUBLIC WORKS DEPARTMENT

Development Impact Mitigation Fee
Summary Sheet

Subdivision: _____ Name _____ Tract # _____ File #

Parcel: **1341 E. Kettleman Lane** Address _____ Permit #

AP # _____

Developer/Owner: **KFP Management Inc.** Name

Address _____

Project Description: **Tuscany Comfort Suites**

GP Land Use Category: **Industrial** Parcel **Commercial Retail** Project (if different)

Fee Category	Account #	P	RAE	Adj.	F	A	T
1) Water Facilities	1821.6122	$ 5,046.00	0.64		$ 3,230.00	2.00	$ 6,460.00
2) Sewer Facilities - See Below					$ 0.00	2.00	$ 0.00
3) Storm Drainage Facilities	3261.6122	$ 18,454.00	1.33		$ 24,540.00	2.00	$ 49,080.00
4) Street Improvements	3321.6122	$ 14,355.00	2.08		$ 29,860.00	2.00	$ 59,720.00
5) Police Protection Facilities	12151.6122	$ 1,983.00	4.12		$ 8,170.00	2.00	$ 16,340.00
6) Fire Protection Facilities	12161.6122	$ 1,938.00	2.69		$ 5,210.00	2.00	$ 10,420.00
7) Parks & Recreation Facilities	12171.6122	$ 27,868.00	0.32		$ 8,920.00	2.00	$ 17,840.00
8) General City Fac. & Prog. Admin.	12181.6122	$ 8,012.00	0.89		$ 7,130.00	2.00	$ 14,260.00

Total 1-8: $ 174,120.00

Wastewater Capacity Fee: (1) $ 246,376.00

Grand Total: $ 420,496.00
due prior to project approval

P = Program Fee per Residential Acre Equivalent (RAE) per Resolution 2001-242 and 2004-238 as adjusted in conformance with LMC 15.64.050.
RAE = Residential Acre Equivalent per LMC §15.64.070, unless adjusted.
Adj. = Checked if RAE is adjusted, see Notes below.
F = Fee per acre (rounded to nearest $10.00) = P x RAE.
A = Gross acreage per LMC §15.64.020A & 15.64.060 (rounded to nearest 0.01 acre).
T = Total Fee for service category = A x F.

Notes:
1. Wastewater Capacity Impact Fee is based on a 138-bed hotel and 3 beds/sewer service unit (SSU) and represents 46 SSU. Each SSU is $5,356.00.
2. The fees are based on the January 2008 Development Impact Mitigation Fee Schedule.

By: _____ Approved: _____ Record #: _____

Date Billed: _____

Date Paid: _____ (Fee category 1 thru 8)

FEE PAYMENT AMORTIZATION SCHEDULE

Holiday Inn Express
1341 E. Kettleman Lane
(Portion of APN #049-250-87)

Total Fees: $420,496.00

Interest Rate: 5.801% (4.801% LAIF rate plus 1%) 1.60% (0.60% LAIF rate plus 1%)

Term: 10 years

Payment No.	Unpaid Balance	semi-annual Payment	Principal	Interest	Check Totals
1	$420,496.00	$28,004.57	$15,808.08	$12,196.49	$28,004.57
2	$404,687.92	$28,004.57	$16,266.60	$11,737.97	$28,004.57
3	$388,421.33	$28,004.57	$16,738.41	$11,266.16	$28,004.57
Terms Re-negotiated February 2010; Interest rate re-set and next payment deferred until January 2011					
1	$371,682.92	$26,131.51 *	$17,211.12	$8,920.39 *	$26,131.51
2	$354,471.79	$20,184.59	$17,348.81	$2,835.77	$20,184.59
3	$337,122.98	$20,184.59	$17,487.60	$2,696.98	$20,184.59
4	$319,635.38	$20,184.59	$17,627.50	$2,557.08	$20,184.59
5	$302,007.87	$20,184.59	$17,768.52	$2,416.06	$20,184.59
6	$284,239.35	$20,184.59	$17,910.67	$2,273.91	$20,184.59
7	$266,328.68	$20,184.59	$18,053.96	$2,130.63	$20,184.59
8	$248,274.72	$20,184.59	$18,198.39	$1,986.20	$20,184.59
9	$230,076.33	$20,184.59	$18,343.98	$1,840.61	$20,184.59
10	$211,732.35	$20,184.59	$18,490.73	$1,693.86	$20,184.59
11	$193,241.62	$20,184.59	$18,638.65	$1,545.93	$20,184.59
12	$174,602.97	$20,184.59	$18,787.76	$1,396.82	$20,184.59
13	$155,815.21	$20,184.59	$18,938.07	$1,246.52	$20,184.59
14	$136,877.14	$20,184.59	$19,089.57	$1,095.02	$20,184.59
15	$117,787.57	$20,184.59	$19,242.29	$942.30	$20,184.59
16	$98,545.29	$20,184.59	$19,396.22	$788.36	$20,184.59
17	$79,149.06	$20,184.59	$19,551.39	$633.19	$20,184.59
18	$59,597.67	$20,184.59	$19,707.81	$476.78	$20,184.59
19	$39,889.86	$20,184.59	$19,865.47	$319.12	$20,184.59
20	$20,024.39	$20,184.59	$20,024.39	$160.20	$20,184.59
			$420,496.00	$72,200.28	$492,696.28

* includes interest for 2010

WHEN RECORDED, RETURN TO:
City Clerk
City of Lodi
221 West Pine Street
Lodi, CA 95240

REVISED FEE PAYMENT AGREEMENT
1341 E. Kettleman Lane

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, hereinafter referred to as "City" and KFP GALT LLC, hereinafter referred to as "Owner".

RECITALS:

Owner is the owner of that certain real property situated in the City of Lodi, County of San Joaquin, and described as follows:

> Parcel 2, as shown on that certain parcel map filed for record March 14, 2008 in Book 24 of Parcel Maps, Page 176, San Joaquin County Records.

Owner is desirous of complying with existing City ordinances and policies regarding payment of the Wastewater Capacity Impact Fee and Development Impact Mitigation Fees as set forth in Title13, Chapter 13.12 and Title 15, Chapter 15.64, respectively, of the Lodi Municipal Code. Owner had previously entered into a Fee Payment Agreement with the City on March 19, 2008 to cover these costs. However, Owner has requested that this Agreement be revised to reflect the current Local Agency Investment Fund (LAIF) interest rate.

Council of the City will approve the payment of the remaining fees in twenty (20) semi-annual installments on condition that the owner first enter into and execute this agreement with the City.

NOW THEREFORE, in order to insure satisfactory performance by Owner of Owner's obligations under said City Code, the parties agree as follows:

1. Owner has provided the City with three payments of TWENTY EIGHT THOUSAND FOUR AND 57/100 DOLLARS ($28,004.57). The remaining balance due for the Development Impact Mitigation Fees and Wastewater Capacity Fees is now THREE HUNDRED SEVENTY ONE THOUSAND SIX HUNDRED EIGHTY TWO AND 92/100 DOLLARS ($371,682.92).
2. Owner agrees to pay the balance of the Development Impact Mitigation Fees and Wastewater Capacity Impact Fee in twenty (20) semi-annual payments at an interest rate of 1.600 percent as shown on the attached Development Impact Mitigation Fee Payment Amortization Schedule Sheet (Exhibit A).
3. The first payment shall be due no later than January 1, 2011. All subsequent payments are due no later than January 1 and July 1 of each year.
3. Each payment shall be credited first on interest due and the remainder on principal.
4. Upon sale, transfer or any other conveyance of the property, all fees payable under this agreement shall become immediately due and payable. This agreement shall have no right of assignment.

5. If Owner fails to meet any specified payment as set forth in Item #2 and Item #3 above within fifteen (15) days following the due date, the City Manager or the City Council may serve written notice upon Owner for breach of this agreement and the default of Owner.

6. In the event of any such notice of breach, Owner shall have the duty to pay, in full, the balance of the required fees. If the Owner, within five days after the serving of notice, does not give the City written notice of its intention to pay in full the balance of the unpaid development impact mitigation fees and wastewater capacity impact fee, and does not make such payment within five days after its notice to City, this agreement shall be considered void. City shall institute legal proceedings to recover the balance of the unpaid fees and for any excess cost or damage occasioned City thereby.

7. A copy of the Agreement shall be recorded in the office of the San Joaquin County Records, P. O. Box 1968, Stockton, California 95201-1968.

8. All notices herein required shall be in writing, and delivered in person or sent by registered mail, postage prepaid.

   Notices required to be given to City shall be addressed as follows:

   F. Wally Sandelin
   Public Works Director
   City of Lodi
   P. O. Box 3006
   Lodi, CA 95240-1910

   Notices required to be given to Owner shall be addressed as follows:

   KFP Galt, LLC
   2552 Cottonwood Dr.
   Lodi, CA 95242

IN WITNESS WHEREOF, the parties hereto have set their hands the day, month and year appearing opposite their names.

CITY OF LODI, a Municipal Corporation

Dated: _____ 2008

By: _____
Blair King, City Manager

Attest: _____
Randi Johl, City Clerk

KFP GALT LLC

Dated: _____ 2008

_____

Approved as to form: _____
D. Stephen Schwabauer
City Attorney

Dated: _____ 2008

AGENDA ITEM J-05

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Authorizing the City Manager to Execute a Purchase and Development Agreement with Eden Housing, Inc. Regarding Senior Housing Project at 2245 Tienda Drive.

MEETING DATE: April 7, 2010

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to execute a Purchase and Development Agreement with Eden Housing, Inc. regarding a senior housing project at 2245 Tienda Drive.

BACKGROUND INFORMATION: The attached Purchase and Development Agreement (PDA) sets the terms and conditions for the sale of the Tienda Drive property to Eden Housing, Inc., as well as the terms and conditions for the subsequent use and development of the property for senior housing. As the City's commitment of Community Development Block Grant (CDBG) and Home Investment Partnerships Act (HOME) funds to Eden Housing for land acquisition, pre-development and some development costs for this project are through our previous allocations of Urban County funds, the loan and regulatory agreements and the promissory note are drawn between Eden Housing, Inc. and San Joaquin County. The County remains the Responsible Entity for those funds and not the City of Lodi. Accordingly, the PDA is conditioned to require the execution of those documents with San Joaquin County prior to final execution of this PDA.

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 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.

APPROVED: _____

Blair King, City Manager

While the PDA requires 49 percent of the units to be affordable, the terms of the federal assistance that Eden Housing is receiving requires the entire development be affordable.

During the planning process for this project development there has been a significant amount of outreach to the surrounding neighborhood and to key agencies and organizations that the proposed project would likely serve, by both City staff and representatives from Eden Housing. During that outreach process, which included a number of one-on-one meetings with adjacent property owners as well as a presentation to a group of residents from the neighborhood, there was a great deal of community input which has led to the current design and layout. Early on we provided plan alternatives that utilized more of the back of the Roget Park property to address security concerns in that rear corner, but the consensus from the surrounding residents and from the Roget family representative was that they expected the existing park boundaries to be maintained. Those discussions also led to the creation of a larger buffer between the project and the residential properties to the north.

Through this outreach process we have received overwhelming support and approval from the surrounding neighborhood and the various agencies and organizations that this project would serve.

ENVIRONMENTAL ASSESSMENTS:
In accordance with the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration (MND) was prepared for this project. The Draft MND was circulated to responsible agencies as well as the State Clearinghouse for review. Also, the Draft MND was duly Noticed and made available for public review at City Hall, the Library, and on the City website. At the conclusion of the public review period, all written comments were responded to and incorporated in the Final MND.

In accordance with the National Environmental Protection Act (NEPA), an Environmental Assessment (EA) was prepared for this project. The Draft EA was also made available for public review and upon receiving no public comment, the final EA and a Notice of Finding No Significant Impact (FONSI) and Request for Release of Funds (RROF) were certified by San Joaquin County and forwarded to the U.S. Department of Housing and Urban Development (HUD) for comment and approval.

PLANNING COMMISSION REVIEW AND APPROVAL
On February 10, 2010, the Planning Commission reviewed and approved this project, which included the Site Plan and Architectural Review as well as the approval of a Tentative Map to create two parcels as the senior housing project has been split into two phases. The Planning Commission's approval of this project was conditioned to require one parking space per unit rather than the recommended three-quarters (3/4) of a space per unit. The developer and their architect were able to incorporate the additional parking by adjusting setback of the buildings both at the front and at the rear of the property.
There was no opposition to the project.

NEXT STEPS:
Assuming the City Council adopts the resolution, the next steps in the process include closing escrow on the property which is anticipated by June, 2010. If Eden Housing is successful in receiving HUD funding, the project could begin construction by early 2012 with occupancy approximately one year later.

FISCAL IMPACT: The purchase price of $630,000.00, which is based upon the most recent fair market appraisal of the land, will go into the Parks Fund and will fund the subsequent development of Roget Park, which is directly adjacent to this project.

FUNDING AVAILABLE: Urban County CDBG/HOME Program Funding

_____
Jordan Ayers, Deputy City Manager

_____
Konradt Bartlam
Community Development Director

KB/jw
Attachments

PURCHASE AND DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF LODI

AND

EDEN HOUSING, INC.

PURCHASE AND DEVELOPMENT AGREEMENT
(Lodi Senior Housing, 2245 Tienda Drive, Lodi, CA 95242)

This Purchase and Development Agreement (the "Agreement") is entered into as of _____, _____ (the "Effective Date"), by and between the City of Lodi, a California municipal corporation of the State of California (the "Seller") and Eden Housing, Inc., a California nonprofit public benefit corporation (the "Buyer"), with reference to the following facts:

RECITALS

A. The Seller owns that unimproved 3.39-acre parcel of real property located at 2245 Tienda Drive in Lodi, more particularly described in Exhibit A-1 and Exhibit A-2, attached hereto and incorporated herein (the "Property").

B. The Seller has determined that the desired future use of the Property shall be an affordable residential development that is age restricted for seniors. Accordingly, the Seller issued a Request for Qualifications ("RFQ") inviting submissions from developers interested in developing the Property with affordable housing for seniors with restrictions compatible with the requirements of the City's available funding sources: Community Development Block Grant Program ("CDBG") and Home Investment Partnership Act ("HOME") financing.

C. Buyer is a nonprofit affordable housing developer with extensive experience in constructing, owning and operating senior rental housing developments affordable to very low to lower income households.

D. In response to the Seller's RFQ, the Buyer submitted its proposal to construct, own and operate on the Property rental housing affordable to very low and lower income senior households (the "Senior Project"). On April 1, 2009, the Seller's City Council selected Eden as the Buyer for the Property and directed staff to proceed with the preparation of an Exclusive Right to Negotiate Agreement ("ERN") for the negotiation of a Purchase Agreement or a Disposition Development and Loan Agreement, the terms and conditions of which would govern the conveyance of the Property to the Buyer for the purpose of the development of the Senior Project by the Buyer.

E. On August 5, 2009, the City Council voted to unanimously approve the ERN, attached hereto as Exhibit B.

F. The purpose of this Agreement is to set forth Buyer's rights and obligations to purchase and develop the Property and Seller's obligation to sell the Property to Buyer in accordance with the terms of this Agreement.

G. Buyer intends to obtain a loan of CDBG and HOME funds from the County of San Joaquin ("County") and execute a Regulatory and Loan Agreement with the County prior to close of escrow for the Property.

H. This Agreement does not authorize the granting of the Land Use Approvals or the construction of the Development, as defined in Section 1.1. Such actions may be authorized and will become possible only upon subsequent discretionary action of the Seller separate and apart from this Agreement.

I. Notwithstanding anything to the contrary contained herein, the effectiveness of this Agreement, the Seller's obligations hereunder and the construction of the Development, defined in Section 1.1, below, are conditioned upon compliance with the California Environmental Quality Act ("CEQA"). No physical activity, not otherwise exempt from CEQA, shall commence on the Property without CEQA compliance. The City (i) prepared a Mitigated Negative Declaration in Compliance with CEQA, (ii) issued a Notice of Intent to Adopt a Mitigated Negative Declaration, and (iii) established a public review period extending from December 7, 2009 through January 5, 2010, all as required by law. Three (3) comments were received from the public and other agencies and all comments were responded to and incorporated into the Final Mitigated Negative Declaration, adopted by the City Council, prior to approving and authorizing the execution of this Agreement.

NOW, THEREFORE, in consideration of the recitals hereof and the mutual promises and covenants set forth in this Agreement, the parties agree as follows:

ARTICLE 1
DEFINITIONS AND EXHIBITS

Section 1.1 Definitions. The following capitalized terms have the meanings set forth in this Section 1.1, wherever used in this Agreement, unless otherwise provided:

1.1.1 "Agreement" means this Purchase and Development Agreement.

1.1.2 "Approved Development Budget" shall mean the proforma development budget, in the format attached as Exhibit C, including sources and uses of funds, as the same may be revised from time to time, and which shall be approved by the Seller prior to the transfer of the Property to Buyer.

1.1.3 "Buyer" means Eden Housing, Inc., a California nonprofit public benefit corporation or its approved successors and assigns.

1.1.4 "CDBG" means the Community Development Block Grant program.

1.1.5 "CEQA" means the California Environmental Quality Act and its implementing guidelines and regulations.

1.1.6 "County" means the County of San Joaquin, a political subdivision of the State of California.

1.1.7 "Default" has the meaning set forth in Section 11.1.

1.1.8 "Development" means the Property and the two (2) senior rental housing development projects and other improvements constructed on the Property.

1.1.9 “Effective Date" means the date first set forth above.

1.1.10 "Eden Housing” means Eden Housing, Inc., a California nonprofit public benefit corporation.

1.1.11 “Final Plans" mean the final plans, drawings and specifications for the Development which are subject to the approval of the Seller. A copy of the Final Plans shall be maintained on file with the Seller.

1.1.12 "Financing Plan" means the proposal for financing costs of development of the Development as proposed by Buyer and approved by the Seller as of the date of this Agreement. The Financing Plan may be revised from time to time with the approval of Seller. The Financing Plan, in the format attached as Exhibit D, shall be approved by Buyer and Seller prior to the transfer of the Property to Buyer.

1.1.13 "Land Use Approvals" means the permits and approvals necessary for the construction of the Development on the Property, including, but not limited to, necessary general plan and zoning code amendments, overall design and architectural review and approval by the Seller and any other applicable government entity.

1.1.14 "Property" means that certain real property described in Exhibit A-1 and Exhibit A-2.

1.1.15 "Seller" means the City of Lodi, a California municipal corporation.

1.1.16 "Transfer" has the meaning set forth in Section 10.3, below.

Section 1.2 Exhibits. The following exhibits are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A-1	Legal Description of the Property
Exhibit A-2	Legal Description of the Property
Exhibit B	Exclusive Negotiating Rights Agreement
Exhibit C	Approved Development Budget
Exhibit D	Financing Plan
Exhibit E	Schedule of Performance
Exhibit F	Scope of Development
Exhibit G	Preliminary Site Plan
Exhibit H	Seller Insurance Requirements
Exhibit I	HUD-Required Provisions Rider
Exhibit J	Assignment of Agreements
Exhibit K	Memorandum of Purchase and Development Agreement

ARTICLE 2
REPRESENTATIONS AND WARRANTIES OF THE BUYER

Section 2.1 Representations and Warranties. The Buyer hereby represents and warrants to the Seller as follows:

2.1.1 Organization. The Buyer is a duly organized, validly existing nonprofit public benefit corporation, 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. The Buyer has full power and authority to execute and deliver this Agreement and the necessary documents or instruments, pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

2.1.3 Authority of Persons Executing Documents. This Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this 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 the Buyer, and all actions required under the Buyer's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

2.1.4 Valid Binding Agreements. This 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 Agreement nor any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term 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 the Buyer, or any provision of the organizational documents of the Buyer, or will conflict with or constitute a breach of or a default under any agreement to which the Buyer is a party, or will result in the creation or imposition of any lien upon any assets or property of the Buyer, other than liens established pursuant hereto.

2.1.6 Compliance With Laws; Consents 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. The 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 the Buyer, threatened against or affecting the Buyer, at law or in equity, before or by any court, board, commission or agency which might, if determined adversely to the Buyer, materially affect the Buyer's ability to perform its obligations contemplated by this Agreement.

2.1.8 Financial Statements. The financial statements of the Buyer and other financial data and information furnished by the Buyer to the Seller fairly present the information contained therein. As of the date of this Agreement, there has not been any adverse, material change in the financial condition of the Buyer from that shown by such financial statements and other data and information.

2.1.9 Taxes. The 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 proceedings 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 the 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 the Buyer and its subsidiaries, taken as a whole, which would be expected to result in a material impairment of the ability of the Buyer to perform under this Agreement.

ARTICLE 3
DISPOSITION OF THE PROPERTY

The Seller shall convey to Buyer, and Buyer shall accept from the Seller, a fee interest in the Property, upon the satisfaction or waiver of all conditions precedent set forth in this Article.

Section 3.1 Purchase Price. The purchase price for the Property shall be Six Hundred Thirty Thousand Dollars ($630,000) ("Purchase Price") which shall be paid to Seller at the close of escrow.

Section 3.2 Escrow and Closing. This transaction shall be completed through an escrow numbered 54605-918488-09 established with North American Title Company located at 21060 Redwood Road, Suite 110, Castro Valley, CA 94546, Attention: Suzanne Smith, Branch Manager. The Buyer shall have the right to select the company issuing the title policy, notwithstanding North American Title Company acting as the

escrow holder. Each party shall promptly deposit all funds and documents as required by the escrow holder to complete this transaction.

Section 3.3 Costs of Closing and Escrow. The Buyer shall pay all title insurance premiums for policies the Buyer elects to purchase in connection with the lease of the Property and the financing of the Project, and all conveyance and recording fees, transfer taxes, escrow fees and closing costs incurred in connection with the transfer of the Property and the financing of the Project. Property taxes and assessments shall be prorated as of the date of Closing ("Closing Date").

3.3.1 Escrow Instructions; Deposit of Funds; Recordation of Documents. The Seller and Buyer shall provide Escrow Agent with copy of this Agreement, which together with such supplemental instructions as Seller or Buyer may provide and which are consistent with the intent of this Agreement or which are otherwise mutually agreed upon by the Seller and Buyer, shall serve as escrow instructions for the conveyance of Property.

3.3.2 Closing Date. Within the time period set forth in the Schedule of Performance, the Buyer and the Seller shall deposit into escrow executed copies documents necessary to close escrow. On the Closing Date and provided that all conditions precedent to the sale of the Property have been satisfied or waived, the Escrow Agent shall cause the Grant Deed to be recorded in the Official Records of San Joaquin County.

3.3.3 Closing Documents.

3.3.3.1 Seller Documents. Seller shall execute in Escrow, or deliver to Escrow Holder for delivery to Buyer at the Close of Escrow, each of the following:

(a) Grant Deed executed by Seller; and

(b) Memorandum of this Agreement.

3.3.3.2 Buyer Documents. Buyer shall execute in escrow, or deliver to Escrow Holder for delivery to Seller at the Close if Escrow, each of the following:

(a) Purchase money in the amount of Six Hundred Thirty Thousand ($630,000); and

(b) A fully executed copy of that certain Regulatory Agreement between Eden Housing and the County; and

(c) Memorandum of this Agreement; and

(d) The amount of the title and escrow costs and expenses and prorations required by this Agreement; and

(e) Any other document required by this Agreement which is to be recorded upon the acquisition of the Property by Buyer.

Section 3.4 Seller Pre-Disposition Requirements. The provisions of this Section 3.4, below, set forth the conditions precedent to Seller's obligation to convey the Property to Buyer.

3.4.1 No Default. There shall exist no conditions, event or act which would constitute a material breach or default under this Agreement, or Assignment of Agreements, or which, upon the giving of notice or the passage of time, or both, would constitute such a material breach or default.

3.4.2 Preliminary Financing Plan. The Buyer shall submit to the Seller for its review and approval its preliminary plan for the construction and permanent financing of the Project (the "Preliminary Financing Plan"). The Preliminary Financing Plan shall indicate all sources of funds necessary to pay, when due, the estimated costs of Project development, including, without limitation, hard and soft construction costs, and shall include development and operating proformas which set out the Buyer's preliminary plan for financing the cost of development, construction and operation of the Project. The parties acknowledge that the Preliminary Financing Plan is subject to change from time to time based on the funding sources, Project costs and other factors. Each such revision to the Preliminary Financing Plan shall be subject to Seller approval.

3.4.3 CEQA; NEPA. The Seller has completed its environmental assessment of the Development in accordance with the provisions of the California Environmental Quality Act ("CEQA") and has approved a Mitigated Negative Declaration in accordance with the provisions of CEQA. If HOME Funds are to be loaned to the Buyer, the Seller shall have fulfilled the requirements of NEPA.

Section 3.5 Buyer's Pre-Disposition Requirements. This Section 3.5 sets forth the conditions precedent to Buyer's obligation to purchase the Property from the Seller.

3.5.1 No Default. Seller shall not be in default under the terms of this Agreement, and all representations and warranties of Seller contained herein shall be true and correct in all material respects.

3.5.2 Title Policy. The Title Company (defined above in Section 3.2) is prepared to issue to Buyer, at Buyer's cost, an ALTA policy of title insurance, insuring Buyer's interest in the Property, subject only to (i) any lien for taxes accrued subsequent to the conveyance of the Property; (ii) assessments, conditions, covenants, restrictions or easements of record; (iii) utility easements to service the Property which do not interfere with its existing or intended use; and (iv) such other title exceptions that Buyer shall have approved in its reasonable discretion.

3.5.3 Changed Conditions. There have been no changed conditions with

respect to the permitted uses or condition of the Property which materially and adversely affect intended use of the Property or substantially increases the Buyer's Project costs.

Section 3.6 Condition of the Property.

3.6.1 Inspections. The Buyer acknowledges and agrees that: (i) the Buyer shall inspect the Property and the improvements located thereon, and shall examine the legal, environmental, zoning, land use, seismic, title, survey and physical characteristics and condition thereof; (ii) by acquiring title to the Property, the Buyer shall be deemed to have approved of all such characteristics and conditions; (iii) the Property and the improvements thereon are to be conveyed to, and accepted by the Buyer in their present condition "AS IS," "WHERE IS" AND WITH ALL FAULTS with no warranty expressed or implied regarding the condition of the soil, its geology, or the presence of known or unknown faults or Hazardous Materials, and no patent or latent defect or deficiency in the condition of the Property or the improvements thereon whether or not known or discovered, shall affect the rights of either the Seller or Buyer hereunder. The Buyer shall rely solely upon its own independent investigation concerning the physical condition of the Property and its compliance with applicable statutes, ordinances, rules and regulations. The Seller shall have no responsibility for site preparation, demolition, or any other removal or replacement of any improvements on the Property. Within Thirty (30) days of the Effective Date of this Agreement, the Seller shall provide copies of any documents in their possession, reports, studies, investigations (environmental or otherwise) and other documents in the possession and control of the Seller, including all contracts and other documentation in connection with the Seller's site clearance and demolition work, if any, on the Property during the Seller's ownership of the Property. Nothing in this Agreement, including this Section 3.6.1, shall limit, waive or relieve the Seller from any legal duty which the Seller may have to disclose any known defect.

3.6.2 Suitable for Intended Use. If following conveyance of the Property, the condition of the Property is not in all respects entirely suitable for the uses to which the Property will be put pursuant to this Agreement, Buyer may terminate this Agreement without fault pursuant to Article 4 provided that the Buyer gives the Seller thirty (30) days prior written notice of the termination. If the Buyer elects to proceed under this Agreement, it shall be the sole responsibility and obligation of Buyer to correct any soil, subsurface or structural conditions, demolish any improvements, and otherwise put the Property in a condition suitable for the Project to be constructed pursuant to this Agreement. The Buyer hereby waives any right to seek reimbursement from the Seller for costs Buyer incurs in connection with the correction of any physical condition on the Property, except to the extent such costs are related to Hazardous Materials known to Seller but not disclosed to Buyer.

3.6.3 Other Obligations.

3.6.3.1 It shall be the sole responsibility of the Buyer, at the Buyer's sole expense, to investigate and determine the soil conditions of the Property and the

suitability of such soil conditions for the construction of the Project by the Buyer. If the soil conditions are not in all respects entirely suitable for the use or uses to which the Property will be put, then it is the sole responsibility and obligation of the Buyer to take such action as may be necessary to place the soil conditions of the Property in a condition suitable for development of the Property.

3.6.3.2 The Seller agrees that it shall not charge Buyer a fee to process the General Plan amendment and land use designation change for the Property.

3.6.3.3The Seller shall use its due diligence and best efforts to prohibit the dumping of soil and/or other debris on the Property by any adjacent property owners or others, and if such dumping occurs have the debris removed and, in the case of soil, tested for contamination prior to removal from the Property.

3.6.3.4 Seller agrees to cooperate with and assist Buyer in a lot split of the approximately 3.39 acre Property, which shall be completed prior to the Closing Date. Buyer shall pay for all costs and expenses for the lot split. Seller's sole responsibility in connection with the lot split shall be to execute documents as the owner of the Property. The purpose of the lot split is to divide the Property into a southern parcel consisting of approximately 1.69 acres and a northern parcel consisting of approximately 1.7 acres. Buyer will first develop the southern parcel as an affordable rental housing project for very low to low income seniors. Buyer also intends to develop the northern parcel as an affordable rental housing project for very low to low income seniors.

Section 3.7 Access. Prior to conveyance of Property by the Seller, representatives of the Buyer shall have the right of access to the Property at all reasonable times, upon not less than two (2) business days written notice to the Seller, for the purpose of obtaining data and making surveys and tests necessary to carry out this Agreement. While any of the activities described in this Section are taking place, the Buyer shall maintain the insurance coverage's described in Section 8.10 and indemnify and hold the Seller harmless from any injury or damages arising out of any activity pursuant to this paragraph. The Buyer shall have access to all data and information on the Property available to the Seller, but without warranty or representation by the Seller as to the completeness, correctness or validity of such data and information, except as otherwise set forth in this Agreement.

Section 3.8 Indemnity, Hold Harmless and Waiver.

3.8.1 Buyer Indemnity. Notwithstanding Section 3.8.2, below, the Buyer agrees, from and after the date of conveyance of the Property under this Agreement, to defend, indemnify, protect and hold harmless the Seller and their officers, beneficiaries, employees, agents, attorneys, representatives, legal successors and assigns ("Indemnitees") from, regarding and against any and all liabilities, obligations, orders, decrees, judgments, liens, demands, actions, Environmental Response Actions, claims, losses, damages, fines, penalties, expenses, Environmental Response Costs or costs of any kind or nature whatsoever, together with fees (including, without limitation,

reasonable attorneys' fees and experts' and consultants' fees), whenever arising, unless caused in whole or in part by the negligence of any of the Indemnitees, resulting from or in connection with the construction of the Development by the Buyer, the general contractor or any subcontractor or supplier of or to the Development, the Buyer's occupancy or use of the Property or the Buyer's performance or non-performance under or with respect to this Agreement or the actual or claimed generation, storage, handling, transportation, use, presence, placement, migration and/or release of Hazardous Materials, at, on, in, beneath or from the Property (collectively referred to as "Contamination"). The Buyer's defense, indemnification, protection and hold harmless obligations herein shall include, without limitation, the duty to respond to any governmental inquiry, investigation, claim or demand regarding the Contamination, at the Buyer's sole cost. If the Buyer discovers Contamination or other materials subject to legal requirements or corrective action, the Buyer shall immediately notify the Seller of the same. Buyer's indemnity obligations under this paragraph shall not apply to (i) any Contamination caused by the Seller during the Seller's ownership of the Property, (ii) the Seller's or Seller's failure to disclose any known condition which the Seller is required to give to any transferee of real property, (iii) any placement of soil or other debris on the Property by adjacent property owners or others during the Seller's ownership of the Property, and (iv) liability of the Seller, not as the owner of the Property but as the owner of any adjacent property for Contamination originating or migrating from adjacent property owned by the Seller.

3.8.2 CEQA Lawsuit. In the event a CEQA lawsuit is brought which relates to this Agreement and/or the Development, the Parties shall meet and confer about whether to proceed with the Development.

3.8.3 Waiver. The Buyer hereby waives all rights, causes of action and claims the Buyer has or may have in the future against the Indemnitees arising out of or in connection with any Hazardous Materials, at, on, in, beneath or from the Property, unless the presence of such Hazardous Materials at, on, in, beneath or from the Property is caused in whole or in part by any of the Indemnitees, including (i) any Contamination caused by the Seller during the Seller's ownership of the Property, (ii) the Seller's or Seller's failure to disclose any known condition which the Seller is required to give to any transferee of real property, (iii) any placement of soil or other debris on the Property by adjacent property owners or others during the Seller's ownership of the Property, and (iv) liability of the Seller, not as the owner of the Property but as the owner of any adjacent property for Contamination originating or migrating from adjacent property owned by the Seller.

3.8.4 Materiality. The Buyer acknowledges and agrees that the defense, indemnification, protection and hold harmless obligations of the Buyer for the benefit of the Seller set forth in this Agreement are a material element of the consideration to the Seller for the performance of its obligations under this Agreement, and that the Seller would not have entered into this Agreement unless the Buyer's obligations were as provided for herein. The Buyer further acknowledges and agrees that the paragraph which extends representations, warranties, indemnifications, and/or covenants of the

Buyer to the benefit of the Seller shall not be satisfied, waived or otherwise extinguished by Seller's issuance of any Certification of Completion under Section 6.3.9 of this Agreement.

Section 3.9 Commissions. Each party represents and warrants to the other party that no broker or finder or other real estate agent is entitled to any commission, finder's fee or other compensation resulting from any action on its part. The Buyer and Seller each agree to indemnify the other and defend and hold harmless the other party from and against any loss, cost, or expense, including attorneys fees, incurred by such party, and against any claims, causes of action or the like brought by any broker, finder or similar agent for a commission or fee on account of this Agreement.

ARTICLE 4
TERMINATION OF AGREEMENT

Section 4.1 Termination of Agreement for Infeasibility and Other Specified Reasons. Provided that the Buyer is not in Default under this Agreement, this Agreement may be terminated by the Buyer under the following circumstances set forth in 4.1.1-4.1.3, below, by giving not less than Thirty (30) days prior written notice of such termination to the Seller.

4.1.1 General Plan is not amended with the new Land Use designation allowing the type development contemplated by this Agreement for the Property; or

4.1.2 The Property in unsuitable for the intended use as set forth in Section 1.1.8; or

4.1.3 The determination by the Buyer in its commercially reasonable discretion that the development costs associated with the construction of the Development make the Development financially infeasible.

The Buyer shall meet with the Seller to discuss Buyer's determination that the Development is financially infeasible and to discuss possible alternate plans acceptable to the Seller.

Section 4.2 Following termination under this Article, neither party shall have any rights or obligations under this Agreement, except that the provisions of Sections 3.7, 3.8.1, 3.9, 6.3.6, 6.3.10, 8.5.3 and 12.4 of this Agreement shall survive such termination and remain in full force and effect.

ARTICLE 5
PREDEVELOPMENT ACTIVITIES

This Article 5 sets forth various predevelopment obligations and activities that the Buyer shall seek diligently and in good faith to perform and achieve prior to commencement of construction of the Development. The tasks described below shall

be completed no later than the dates to be set forth in a Schedule of Performance in the format attached to this Agreement as Exhibit E, once approved by Buyer and Seller, subject to Force Majeure. The Schedule of Performance may be modified by the parties from time to time by attaching an updated Schedule of Performance that is dated and executed by the Buyer and by the City Manager on behalf of the Seller without formal amendment of this Agreement.

Section 5.1 CEQA Documentation. Within the time frame set forth in the Schedule, the Buyer shall prepare and submit to the Seller such plans, specifications, drawings, and other information, as specified by the Seller, are reasonably necessary for the Seller to perform the environmental review process required by CEQA. The Buyer shall provide the Seller any updated documentation of the Project in order to facilitate the Seller's performance of the CEQA review process.

Section 5.2 CEQA Review. Following execution of this Agreement and within the time frames set forth in the Schedule of Performance, the Seller, shall diligently complete any required environmental review of the Project in accordance with CEQA, subject to any exemption for which the Project may qualify. The Buyer acknowledges that the environmental review process under CEQA will involve preparation and consideration of additional information as well as consideration of input from interested organizations and individuals; that approval or disapproval of the Project following completion of the environmental review process is within the sole, complete, unfettered and absolute discretion of the Seller without limitation by or consideration of the terms of this Agreement; and that the Seller makes no representation regarding the ability or willingness of the Seller to approve development of the Project at the conclusion of the environmental review process required by CEQA, or regarding the imposition of any mitigation measures as conditions of any approval that may be imposed on the Project. The parties recognize that if as a result of the environmental review process the Project is not approved for development, both the Seller and the Buyer each have an independent right to terminate this Agreement. In the event the either party elects to terminate this Agreement pursuant to this paragraph, neither party shall have any further obligations under this agreement, except that the provisions of Sections 3.7, 3.8.1, 3.9, 6.3.6, 6.3.10, 8.5.3 and 12.4 of this Agreement shall survive such termination and remain in full force and effect. In addition, the Buyer acknowledges that any required approvals by any other local, state or federal agency may require additional environmental review, and that any approval by the Seller shall not bind any other local, state or federal agency to approve the Project or to impose mitigation measures which are consistent with the terms of this Agreement or with the terms of any mitigation measures required by the Seller pursuant to the Seller's environmental review. The Seller agrees to cooperate with the Buyer to obtain all necessary approvals by providing all information and studies in the possession and control of the Seller.

Nothing in this Agreement or otherwise shall bind or otherwise affect the Seller’s discretion in:

5.2.1 The preparation of any CEQA review document in accordance with CEQA

and normal public agency land use entitlement procedures;

5.2.2 Approving or rejecting such CEQA review in accordance with applicable CEQA standards;

5.2.3 Making or declining to make any findings necessary under CEQA to grant the Land Use Approvals and the proposed development of the Project contemplated by this Agreement and the Buyer's application for the Land Use Approvals; or

5.2.4 Imposing such mitigation measure(s) as condition(s) of the Land Approvals as the Seller deems appropriate under CEQA as a result of its consideration of the CEQA review documents.

Section 5.3 Preliminary Site Plan. The Buyer shall develop the Property and construct the Project in accordance with the Scope of Development, which shall be attached hereto as Exhibit F, when approved by Seller. The Parties agree that the Property and Improvements shall be developed as generally established in the Preliminary Site Plan as set forth on Exhibit G attached or to be attached hereto as the same may be updated from time to time with the approval of the Seller. Any material changes to the Preliminary Site Plan shall be subject to the approval of the Seller and shall be within the limitations of the Scope of Development and consistent with the overall plan for the development of the Property as provided in this Agreement. Neither party shall unreasonably withhold or delay consent to any material changes in the Preliminary Site Plan.

Section 5.4 Related Documentation. In addition to the Site Plan, the Buyer shall prepare all construction plans, drawings and related documents required to be submitted for approval by the Seller (or other governing body) for the construction of the Project. Seller's staff and the Buyer shall hold regular monthly progress meetings to coordinate the preparation of, submission to and review of all such documents, drawings and plans. The Seller and the Buyer shall communicate and consult informally as frequently as is necessary to insure that the formal submittal of any documents receives prompt and speedy consideration.

Section 5.5 Land Use Approvals. The Buyer shall exercise diligent good faith efforts to obtain all Additional Land Use Approvals necessary for the Development within the time set forth in the Schedule of Performance. The Buyer acknowledges that execution of this Agreement by the Seller does not constitute approval by the Seller of any required permits, applications, allocations, or maps, and in no way limits the discretion of the Seller in the permit, allocation and approval process.

Section 5.6 Funding Sources.

5.6.1 Tax-Exempt Bond Applications. Within the time set forth in the Schedule of Performance, the Buyer shall submit a timely and complete application to CDLAC for a preliminary allocation of tax-exempt bonds; provided, however, Buyer shall not be

required to submit an application for which an allocation would be received anytime after September of the application year.

5.6.2 Tax Credit Applications. Within the time set forth in the Schedule of Performance (subject to the limitations set forth in Section 5.6.1, above regarding submission for a bond allocation from CDLAC) , the Buyer shall submit a timely and complete application to TCAC for a preliminary reservation of 4% tax credits.

5.6.3 HUD 202 Capital Advance. Within the time set forth in the Schedule of Performance, the Buyer shall submit a timely and complete application for a HUD 202 Capital Advance Reservation to finance the Development.

5.6.4 Other Funding Sources. The Buyer shall submit timely and complete applications for the Other Funding Sources within the time set forth in the Schedule of Performance. The Buyer shall use good faith efforts to maximize the procurement of other sources of project funding so as to minimize the amount of the Loan.

Section 5.7 Financing Plan. Within the time set forth in the Schedule of Performance, the Buyer shall submit for Seller approval a Financing Plan (the "Financing Plan") containing the following:

5.7.1 An updated development budget (the "Development Budget") showing a "sources and uses" breakdown of the costs of constructing the Development; and

5.7.2 An operating proforma for the first Thirty (30) years of operation of the Development including funding for the provision of supportive services. If the Development does not have a rental subsidy committed, the Financing Plan shall demonstrate that the target population can pay the proposed rents; and

5.7.3 Copies of all required funding commitments for construction and permanent financing for the Development, including a preliminary tax credit reservation and an executed commitment letter from an equity investor acceptable to the Seller; and

5.7.4 Any other information that is reasonably necessary to the Seller in determining that the Buyer has the financial capability to pay all costs of constructing and operating the Development.

ARTICLE 6
CONSTRUCTION OF THE IMPROVEMENTS

Section 6.1 Commencement of Construction. The Buyer shall cause the commencement of construction of the Improvements no later than the date set forth in the Schedule of Performance, subject to Force Majeure.

Section 6.2 Completion of Construction. The Buyer shall diligently prosecute construction of the Improvements to completion, and shall cause the completion of the

construction of the Improvements no later than the date set forth in the Schedule of Performance, subject to Force Majeure. Upon completion of construction Buyer shall promptly apply for a final certificate of occupancy for the Development.

Section 6.3 Construction Obligations.

6.3.1 Construction Plans Must Be Approved; Construction in Accordance with Plans and Approvals. The Buyer shall not commence construction of the Development until the Buyer has received all required permits from the Seller Building Department. The Buyer shall construct the Development in accordance with the approved Construction Plans and all other permits and approvals granted by the Seller pertaining to development of the Development. The Buyer shall comply with all directions, rules and regulations of any fire marshal, health officer, building inspector or other officer of every governmental agency having jurisdiction over the Property or the Development. Each element of the work shall proceed only after procurement of each permit, license or other authorization that may be required for such element by any governmental agency having jurisdiction. All design and construction work on the Development shall be performed by licensed contractors, engineers or architects, as applicable.

6.3.2 Change in Construction Plans. If the Buyer desires to make any material change in the Construction Plans, the Buyer shall submit the proposed changes to the Seller for approval, which approval shall not be unreasonably withheld or delayed if the Construction Plans, as modified by any proposed change, conform to the requirements of this Agreement, the Scope of Development, the Development approvals and the Conditions of Approval. As used in the preceding sentence, “material change” means (i) any change for which approval of the Seller is required under the Seller's building approval process, (ii) any structural change, (iii) any change to the exterior of buildings, elevation, number of units, or increase or decrease of the square footage of the community building to the Development by more than 10%, or (iv) any single change order in excess of $50,000 or $250,000 in the aggregate. Unless such proposed change is rejected within three (3) business days, Seller shall be deemed to have approved such change. If rejected within such time period, the previously approved Construction Plans shall continue to remain in full force and effect. This section shall not apply to any approvals required by the Seller Building Department in connection with any building, grading or other permits issued for the Development.

Any change in the Construction Plans required in order to comply with applicable law shall be deemed approved, so long as such changes do not substantially, nor materially, change the architecture, design, function, use, or other amenities of the Development as shown on the latest approved Construction Plans.

6.3.3 Defects in Plans. The Seller shall not be responsible to the Buyer or to any third party for any defect in the Construction Plans or for any structural or other defect in any work done pursuant to the Construction Plans.

6.3.4 Performance and Payment Bonds. The Buyer shall deliver to the Seller copies of payment bonds in an amount equal to Fifty Percent (50%) and performance bonds in an amount equal to One Hundred Percent (100%) of the scheduled cost of the construction of the Improvements (the "Construction Bonds") for the construction of the Improvements. Such bonds shall (i) be in a form reasonably acceptably to the Seller, (ii) be issued by a surety licensed to do business in California and reasonably acceptable to the Seller, and (iii) name the Seller as a co-obligee. In lieu of such performance and payment bonds, the Buyer may submit evidence satisfactory to the Seller of the Buyer's ability to commence and complete construction of the Development in the form of a completion guaranty in a form and from a guarantor acceptable to Seller. Such evidence must be submitted in approvable form in sufficient time to allow the Seller to review and approve the information prior to the start of construction.

6.3.5 Construction Period Reporting. During the period of construction, but not more frequently than once a month, the Buyer shall submit to the Seller a written progress report of the construction when and as requested by the Seller. The report shall be in the form of a construction draw report generally submitted by general contractors with such additional detail as may reasonably be required by the Seller and shall include a reasonable number of construction photographs taken since the last report submitted by the Buyer.

6.3.6 Seller Right of Access. For the purposes of assuring compliance with this Agreement, representatives of the Seller shall have the reasonable right of access to the Property without charges or fees and at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing the Development. Such representatives of the Seller shall be those who are so identified in writing by the Seller’s City Manager. The Seller shall indemnify the Buyer and hold it harmless from any damage caused (including any reasonable damages or costs incurred by any wrongful delays caused by the Seller) or liability arising out of this right to access.

The Buyer acknowledges that the Seller is under no obligation, and Seller neither undertakes nor assumes any responsibility or duty, to Buyer or to any third party to in any manner review, supervise, or inspect the progress of construction or the operations of the Development. Buyer and all third parties shall rely entirely upon its or their own supervision and inspection in determining the quality and suitability of the materials and work, and the performance of architects, subcontractors, and material suppliers and all other matters relating to the construction and operation of the Development. Any review or inspection undertaken by the Seller is solely for the purpose of determining whether Buyer is properly discharging its obligations to Seller, and shall not be relied upon by Buyer or any third party as a warranty or representation by the Seller as to the quality of the design or construction of the Improvements or otherwise.

6.3.7 Prevailing Wages. The Buyer and all the Buyer’s subcontractors shall comply with the Davis-Bacon Act, 40 U.S.C. §§3141 et seq., California Health and Safety Code Section 33422.1, California Labor Code Section 1770 et seq., and all

regulations adopted pursuant thereto (referred to herein as, “Prevailing Wage Laws”), and be responsible for carrying out the requirements of such provisions, if and to the extent the Prevailing Wage Laws are applicable to this Development. The Buyer shall, and hereby agrees to, unconditionally indemnify, reimburse, defend, protect and hold harmless the Seller and their elective and appointive boards, commissions, officers, agents, attorneys, consultants and employees, and all of their respective successors and assigns, from and against any and all claims, demands, suits and actions at law or in equity, and losses, liabilities, expenses, penalties, fines, orders, judgments, injunctive or other relief, and costs and damages of every kind, nature and description (including but not limited to attorneys’ fees and court costs; with counsel reasonably acceptable to the Seller), and administrative, enforcement or judicial proceedings, whether known or unknown, and which directly or indirectly, in whole or in part, are caused by, arise from, or relate to, or are alleged to be caused by, arise from, or relate to, the payment or requirement of payment of prevailing wages or the requirement of competitive bidding in the construction of the Development, the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to California Labor Code Section 1770 et seq. and the Prevailing Wage Laws, or any act or omission of the Buyer related to this Agreement with respect to the payment or requirement of payment of prevailing wages or the requirement of competitive bidding, whether or not any insurance policies shall have been determined to be applicable to any such claims, demands, suits, actions, losses, liabilities, expenses, penalties, fines, orders, judgments, injunctive or other relief, costs, damages, or administrative, enforcement or judicial proceedings. It is further agreed that the Seller does not, and shall not, waive any rights against the Buyer which they may have by reason of this indemnity and hold harmless agreement because of the acceptance by the Seller, or the deposit with the Seller by the Buyer, of any of the insurance policies described in this Agreement.

6.3.8 Equal Opportunity in Contracting Construction. During the construction of the Development, the Buyer and all of the Buyer’s subcontractors shall not discriminate on the basis of race, religion, sex, or national origin in the hiring, firing, promoting or demoting of any person engaged in the construction work and shall require its contractors and subcontractors to refrain from discrimination on such basis.

6.3.9 Certificate of Completion. Promptly after completion of all construction and development of the Development, the Seller shall furnish the Buyer with a final Certificate of Completion upon written request therefore by the Buyer. Buyer agrees not to submit such written request until after receipt by Buyer of the certificate of occupancy from the Seller. The final Certificate of Completion shall be, and shall so state, conclusive determination of satisfactory completion of the construction of the Development in accordance with the provisions of this Agreement. Such Certificate of Completion shall be in such form as to permit it to be recorded in the Office of the County Recorder of San Joaquin County.

A Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of the Buyer to any holder of a mortgage or any insurer of a mortgage securing money loaned to finance the Development.

6.3.10 Compliance with Laws. The Buyer shall carry out the construction of the Development in conformity with all applicable state, local and federal laws, ordinances, rules and regulations, including all applicable state and federal labor laws and standards, the Seller zoning and development standards, building, plumbing, mechanical and electrical codes, all other provisions of the Seller's Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation, the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., Government Code Section 4450, et seq., Government Code Section 11135, et seq., and the Unruh Civil Rights Act, Civil Code Section 51, et seq..

6.3.11 Liens and Stop Notices. Until the recording of the Certificate of Completion, the Buyer shall not allow to be placed on the Property or any part thereof any lien or stop notice on account of materials supplied to or labor performed on behalf of the Buyer. If a claim of a lien or stop notice is given or recorded affecting the Development, the Buyer shall within thirty (30) days of such recording or service: (a) pay and discharge the same; or (b) effect the release thereof by recording and delivering to the party entitled thereto a surety bond in sufficient form and amount or provide other assurance satisfactory to Seller that the claim of lien or stop notice will be paid or discharged.

6.3.12 Right of Seller to Satisfy Liens on the Property. After the conveyance of the Property, if the Buyer fails to satisfy or discharge any lien or stop notice on the Property pursuant to Section 6.3.11 above, the Seller shall have the right, but not the obligation, to satisfy any such liens or stop notices at Buyer’s expense and without further notice to Buyer. In such event the Buyer shall be liable for and shall immediately reimburse Seller for such paid lien or stop notice. Alternatively, the Seller may require Buyer to immediately deposit with Seller the amount necessary to satisfy such lien or claim pending resolution thereof. The Seller may use such deposit to satisfy any claim or lien that is adversely determined against Buyer. Buyer shall file a valid notice of cessation or notice of completion upon cessation of construction of the Improvements for a continuous period of thirty (30) days or more, and shall take all other reasonable steps to forestall the assertion of claims or liens against the Property or the Improvements. The Seller may (but has no obligation to) record any notices of completion or cessation of labor, or any other notice that the Seller deems necessary or desirable to protect its interest in the Property and the Improvements.

ARTICLE 7
USE OF THE PROPERTY

Section 7.1 Uses. The Buyer covenants and agrees for itself, its successors and assigns, that the Buyer and its successors and assignees shall devote the Property to

the uses specified in this Agreement, and that the Property shall be used as an affordable housing development in accordance with the terms and conditions thereof.

Section 7.2 Affordable Housing. For a term of Fifty-Five (55) years commencing upon the issuance of a final certificate of occupancy for the Improvements, the City shall not require that more than forty-nine percent (49%) of the units on the Property be used solely for an affordable housing project in which residential units shall be available at Affordable Housing Rent to eligible very-low income senior or elderly households.

Section 7.3 Regulatory Agreement. Buyer will record a Regulatory Agreement to be entered into with the County, as required by available funding sources. Such Regulatory Agreement will restrict rental of each Affordable Unit to an affordable level and contain such rights to other mechanisms to insure that the Affordable Units all remain affordable.

ARTICLE 8
ONGOING OBLIGATIONS

Section 8.1 Marketing Plan. No later than three (3) months prior to the projected date of the completion of the construction of the Development, the Buyer shall submit to the Seller its plan for marketing the Development to income-eligible senior households, including information on affirmative marketing efforts and compliance with fair housing laws, including but limited to the information required under 24 CFR 92.351(a) (the "Marketing Plan").

Section 8.2 Financial Accountings and Post-Completion Audits. No later than ninety (90) calendar days following completion of construction of the Development, the Buyer shall provide to Seller a financial accounting of all sources and uses of funds for the Development. No later than one hundred fifty (150) calendar days following completion of construction of the Development, the Buyer shall submit an audited financial report showing the sources and uses of all funds utilized for the Development, as well as a copy of form 8609 that the Buyer is required to submit to TCAC.

Section 8.3 Records. The Buyer shall keep and maintain at the Development, or elsewhere with the Seller's written consent, full, complete and appropriate books, record and accounts relating to the Development, including all such books, records and accounts necessary or prudent to evidence and substantiate in full detail the Buyer's compliance with the terms and provisions of this Agreement. Books, records and accounts relating to the Buyer's compliance with the terms, provisions, covenants and conditions of this Agreement shall be kept and maintained in accordance with generally accepted accounting principles consistently applied, and shall be consistent with requirements of this Agreement. All such books, records, and accounts shall be open to and available for inspection and copying by the HUD, the Seller, its auditors or other authorized representatives at reasonable intervals during normal business hours. The Buyer shall permit any duly authorized representative of the HUD or the Seller to inspect and copy such records. Copies of all tax returns and other reports that Buyer

may be required to furnish to any governmental Seller shall at all reasonable times be open for inspection by the Seller at the place that the books, records and accounts of the Buyer are kept. The Buyer shall maintain complete, accurate, and current records pertaining to the Development for a period of not less than five (5) years after the creation of such records for all other expenditures in compliance with all HUD records and accounting requirements including but not limited to those set forth in Subpart K of 24 CFR 570 and 24 CFR 92.508. If any litigation, claim, negotiation, audit exception, monitoring, inspection or other action relating to the funds used for the Development is pending at the end of the record retention period stated herein, then the Buyer shall retain such records until such action and all related issues are resolved. Such records shall include but not be limited to:

8.3.1 Records providing a full description of the activities undertaken with the use of any HOME Funds and CDBG Funds; Records demonstrating that each activity undertaken meets one of the national objectives of the CDBG program set forth in 24 CFR 570.208;

8.3.2 Records demonstrating compliance with the HUD property standards and lead-based paint requirements;

8.3.3 Records required to determine the eligibility of activities under CDBG Regulations set forth in 24 CFR 570 et seq.;

8.3.4 Records demonstrating compliance with the affordability and income requirements for tenants;

8.3.5 Records documenting compliance with the fair housing, equal opportunity, and affirmative fair marketing requirements, as applicable;

8.3.6 Financial records as required by 24 CFR 92.505, 24 CFR 570.502, and OMB Circular A-110 (24 CFR 84);

8.3.7 Records demonstrating compliance with applicable relocation requirements which must be retained for at least five (5) years after the date by which persons displaced from the property have received final payments;

8.3.8 Records demonstrating that tenant leases comply with the HOME Requirements set forth in 24 CFR 92 et seq.; and

8.3.9 Records demonstrating compliance with Section 3 of the Housing and Urban Development Act of 1968 and other applicable labor requirements listed in Section 6.3.7 above, including certified payrolls from the Buyer's general contractor evidencing that applicable prevailing wages have been paid.

The Seller shall notify the Buyer of any records it deems insufficient. The Buyer shall have Twenty-One (21) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the Seller in such notice, or if a period longer

than Twenty-One (21) days is reasonably necessary to correct the deficiency, then the Buyer shall begin to correct the deficiency within twenty-one (21) days and correct the deficiency as soon as reasonably possible.

Section 8.4 Audits. The Buyer shall make available for examination at reasonable intervals and during normal business hours to Seller all books, accounts, reports, files, and other papers or property with respect to all matters covered by this Agreement, and shall permit Seller to audit, examine, and make excerpts or transcripts from such records. Seller may make audits of any conditions relating to this Agreement.

Section 8.5 Hazardous Materials.

8.5.1 Upon acquisition of the Property, the Buyer shall keep and maintain the Development in compliance with, and shall not cause or permit the Development to be in violation of any federal, state or local laws, ordinances or regulations relating to industrial hygiene or to the environmental conditions on, under or about the Development including, but not limited to, soil and ground water conditions. The Buyer shall not use, generate, manufacture, store or dispose of on, under, or about the Development or transport to or from the Development any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," hazardous wastes," "hazardous materials," or "toxic substances" under any applicable federal or state laws or regulations (collectively referred to hereinafter as "Hazardous Materials") except such of the foregoing as may be used in construction of the Development or customarily kept and used in and about residential property of this type.

8.5.2 The Buyer shall immediately advise the Seller in writing if at any time it receives written notice of (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against the Buyer or the Development pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, ("Hazardous Materials Law"); (ii) all claims made or threatened by any third party against the Buyer or the Development relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (ii) above are hereinafter referred to as "Hazardous Materials Claims"); and (iii) the Buyer's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Development that could cause the Development or any part thereof to be classified as "border-zone property" under the provision of California Health and Safety Code, Sections 25220 et seq., or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the Development under any Hazardous Materials Law.

8.5.3 The Seller shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorneys' fees in connection therewith paid

by the Buyer. The Buyer shall defend, indemnify, and hold harmless the Seller and the Seller and their council members, board members, directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on, under, or about the Development including without limitation: (a) all foreseeable consequential damages; (b) the costs of any required or necessary repair, cleanup or detoxification of the Development and the preparation and implementation of any closure, remedial or other required plans; and (c) all reasonable costs and expenses incurred by the Seller in connection with clauses (a) and (b), including but not limited to reasonable attorneys' fees. These obligations to indemnify shall survive termination of this Agreement. Buyer's indemnity obligations under this paragraph shall not apply to (i) any Contamination caused by the Seller during the Seller's ownership of the Property, (ii) the Seller's or Seller's failure to disclose any known condition which the Seller is required to give to any transferee of real property, (iii) any placement of soil or other debris on the Property by adjacent property owners or others during the Seller's ownership of the Property, and (iv) liability of the Seller, not as the owner of the Property but as the owner of any adjacent property for Contamination originating or migrating from adjacent property owned by the Seller.

8.5.4 Without the Seller's prior written consent, which shall not be unreasonably withheld, the Buyer shall not take any remedial action in response to the presence of any Hazardous Materials on, under or about the Development, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in the Seller's reasonable judgment, impair the value of the Seller's security hereunder; provided, however, that the Seller's prior consent shall not be necessary in the event that the presence of Hazardous Materials on, under, or about the Development either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain the Seller's consent before taking such action, provided that in such event the Buyer shall notify the Seller as soon as practicable of any action so taken. The Seller agrees not to withhold its consent, where such consent is required hereunder, if either (i) a particular remedial action is ordered by a court of competent jurisdiction, (ii) the Buyer will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (iii) the Buyer establishes to the reasonable satisfaction of the Seller that there is no reasonable alternative to such remedial action which would result in less impairment of the Seller's security hereunder; or (iv) the action has been agreed to by the Seller.

8.5.5 The Buyer hereby acknowledges and agrees that (i) this Section 8.5 is intended as the Seller's written request for information (and the Buyer's response) concerning the environmental condition of the Development as required by California Code of Civil Procedure Section 726.5, and (ii) each representation and warranty in this Agreement (together with any indemnity obligation applicable to a breach of any such representation and warranty) with respect to the environmental condition of the

Development is intended by the Parties to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

8.5.6 In the event that any portion of the Development is determined to be "environmentally impaired" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(3)) or to be an "affected parcel" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(1)), then, without otherwise limiting or in any way affecting the Seller's or the trustee's rights and remedies under this Agreement, the Seller may elect to exercise its rights under California Code of Civil Procedure Section 726.5(a) to (1) waive its lien on such environmentally impaired or affected portion of the Development and (2) exercise (a) the rights and remedies of an unsecured creditor, including reduction of its claim against the Buyer to judgment, and (b) any other rights and remedies permitted by law. For purposes of determining the Seller right to proceed as an unsecured creditor under California Code of Civil Procedure Section 726.5(a), the Buyer shall be deemed to have willfully permitted or acquiesced in a release or threatened release of hazardous materials, within the meaning of California Code of Civil Procedure Section 726.5(d)(1), if the release or threatened release of Hazardous Materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Development and the Buyer knew or should have known of the activity by such lessee, occupant, or user which caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) attorneys' fees, incurred by the Seller in connection with any action commenced under this paragraph, including any action required by California Code of Civil Procedure Section 726.5(b) to determine the degree to which the Development is environmentally impaired, shall be due and payable to the Seller upon its demand made at any time following the conclusion of such action.

Section 8.6 Maintenance and Damage.

8.6.1 During the course of both construction and operation of the Development, the Buyer shall maintain the Development in good repair and in a neat, clean and orderly condition. If there arises a condition in contravention of this requirement, and if the Buyer has not cured such condition within thirty (30) days after receiving a notice from the Seller of such a condition, then in addition to any other rights available to the Seller, the Seller shall have the right to perform all acts necessary to cure such condition, and to establish or enforce a lien or other encumbrance against the Development.

8.6.2 Subject to the requirements of senior lenders, and if economically feasible in the Seller's reasonable judgment after consultation with the Buyer, if any improvement now or in the future on the Development is damaged or destroyed, then the Buyer shall, at its cost and expense, diligently undertake to repair or restore such improvement consistent with the plans and specifications approved by the Seller with such changes as have been approved by the Seller. Such work or repair shall be commenced no later than the later of one hundred twenty (120) days, or such longer period approved by the Seller in writing, after the damage or loss occurs or thirty (30)

days following receipt of the insurance proceeds, and shall be complete within one (1) year thereafter. Any insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, then the Buyer shall make up the deficiency.

Section 8.7 Fees and Taxes. The Buyer shall be solely responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Development to the extent owned by the Buyer, and shall pay such charges prior to delinquency. However, the Buyer shall not be required to pay and discharge any such charge so long as (a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings, and (b) if requested by the Seller, the Buyer deposits with the Seller any funds or other forms of assurance that the Seller in good faith from time to time determines appropriate to protect the Seller from the consequences of the contest being unsuccessful. The parties acknowledge that Buyer will apply for a welfare exemption from real property taxes.

Section 8.8 Notice of Litigation. The Buyer shall promptly notify the Seller in writing of any litigation known to the Buyer affecting the Buyer or the Property and of any claims or disputes that involve a material risk of litigation.

Section 8.9 Non-Discrimination. The Buyer covenants by and for itself and its successors and assigns that there shall be no discrimination against or segregation of a person or of a group of persons on account of race, color, religion, creed, sex, sexual orientation, marital status, familial status, ancestry or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Development, nor shall the Buyer or any person claiming under or through the Buyer 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 Development.

Section 8.10 Insurance Requirements. The Buyer shall maintain the insurance coverage set forth in Exhibit H throughout the term of this Agreement.

Section 8.11 CDBG and HOME Requirements. The Buyer shall comply with all applicable laws and regulations governing the use of any CDBG Funds as set forth in 24 CFR 570 et seq. The Buyer shall comply with all applicable laws and regulations governing the use of any HOME Funds as set forth in 24 CFR 92 et seq. In the event of any conflict between this Agreement and applicable laws and regulations governing the use of any CDBG and/or HOME funds for the Development, the applicable laws and regulations shall govern.

The laws and regulations governing the use of any CDBG and/or HOME funds used for the Development include (but are not limited to) the following:

8.11.1 Environmental and Historic Preservation. 24 CFR 58 et seq., which prescribes procedures for compliance with the National Environmental Policy Act of

1969 (42 USC 4321-4361), and the additional laws and authorities listed at 24 CFR 58.5.

8.11.2 Applicability of OMB Circulars. The applicable policies, guidelines, and requirements of OMB Circulars Nos. A-87, A-102, Revised, A-110, A-122, and A-133.

8.11.3 Debarred, Suspended or Ineligible Contractors. The prohibition on the use of debarred, suspended, or ineligible contractors set forth in 24 CFR Part 24.

8.11.4 Civil Rights, Housing and Community Development, and Age Discrimination Acts. The Fair Housing Act (42 USC 3601 et seq.) and implementing regulations at 24 CFR 100 et seq.; Title VI of the Civil Rights Act of 1964 as amended; Title VIII of the Civil Rights Act of 1968 as amended; Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 504 of the Rehabilitation Act of 1973 (29 USC 794 et seq.); the Age Discrimination Act of 1975 (42 USC 6101 et seq.); Executive Order 11063 as amended by Executive Order 12259 and implementing regulations at 24 CFR 107 et seq.; Executive Order 11246 as amended by Executive Orders 11375, 12086, 11478, 12107; Executive Order 11625 as amended by Executive Order 12007; Executive Order 12432; and Executive Order 12138 as amended by Executive Order 12608.

8.11.5 Lead-Based Paint. The requirement of the Lead-Based Paint Poisoning Prevention Act, as amended (42 USC 4821 et seq.), the Residential Lead-Based Paint Hazard Reduction Act (42 USC 4851 et seq.), and implementing regulations at 24 CFR 35 et seq.

8.11.6 Relocation. The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4601 et seq.) and implementing regulations at 49 CFR 24 et seq.; Section 104(d) of the Housing and Community Development Act of 1974 and implementing regulations at 24 CFR 42 et seq.; 24 CFR 92.353; and California Government Code 7260 et seq. and implementing regulations at 25 California Code of Regulations 6000 et seq. These requirements do not supplant the additional relocation requirements listed above in Section 8.3.7.

8.11.7 Discrimination against the Disabled. The requirements of Section 504 of the Rehabilitation Act of 1973 (29 USC 794), and federal regulations issued pursuant thereto, which prohibit discrimination against the disabled in any federally assisted program, the requirements of the Architectural Barriers Act of 1968 (42 USC 4151-4157) and the applicable requirements of Title II and/or Title III of the Americans with Disabilities Act of 1990 (42 USC 12131 et seq.), and federal regulations issued pursuant thereto.

8.11.8 Clean Air and Water Acts. The Clean Air Act, as amended, 42 USC 7401 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq., and the regulations of the Environmental Protection Seller with respect thereto, at 40 CFR 1500 et seq., as amended from time to time.

8.11.9 Uniform Administrative Requirements – HOME. The provisions of 24 CFR 92.505 regarding cost and auditing requirements.

8.11.10 Uniform Administrative Requirements - CDBG. The provisions of 24 CFR 570.502 regarding cost and auditing requirements.

8.11.11 Training Opportunities. The requirements of Section 3 of the Housing and Urban Development Act of 1968 ("Section 3"), as amended, 12 USC 1701(u) requiring that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and agreements for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in, the areas of the project. The Buyer agrees to include the following language in all subcontracts executed under this Agreement:

8.11.11.1 The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 USC Section 1701u. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

8.11.11.2 The parties to this contract agree to comply with HUD's regulations in 24 CFR 135 et seq., which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.

8.11.11.3 The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause; and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference; shall set forth minimum number and job titles subject to hire; availability of apprenticeship and training positions; the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

8.11.11.4 The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR 135 et seq., and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR 135 et seq. The contractor will not subcontract

with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR 135 et seq.

8.11.11.5 The contractor will certify that any vacant employment positions, including training positions, that are filled (i) after the contractor is selected but before the contract is executed, and (ii) with persons other than those to whom the regulations of 24 CFR 135 et seq. require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR 135 et seq.

8.11.11.6 Noncompliance with HUD's regulations in 24 CFR 135 et seq. may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

8.11.11.7 With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 USC 450(e)) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

8.11.12 Labor Standards. The applicable labor requirements set forth in 24 CFR 92.354. The prevailing wage requirements of the Davis-Bacon Act and implementing rules and regulations (40 USC 3141-3148); the Copeland "Anti-Kickback" Act (40 USC 276(c)) which requires that workers be paid at least once a week without any deductions or rebates except permissible deductions; the Contract Work Hours and Safety Standards Act (40 USC 3701-3708) which requires that workers receive "overtime" compensation at a rate of 1.5 times their regular hourly wage after they have worked forty (40) hours in one (1) week; and Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

8.11.13 Drug Free Workplace. The requirements of the Drug Free Workplace Act of 1988 (P.L. 100-690) and implementing regulations at 24 CFR Part 24.

8.11.14 Anti-Lobbying; Disclosure Requirements. The disclosure requirements and prohibitions of 31 USC 1352 et seq. and implementing regulations at 24 CFR 87 et seq.

8.11.15 Historic Preservation. The historic preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470 et seq.) and the procedures set forth in 36 CFR 800 et seq.

8.11.16 Religious Organizations. If the Buyer is a religious organization, as

defined by the CDBG and/or HOME requirements, the Buyer shall comply with all conditions prescribed by HUD for the use of CDBG and/or HOME funds by religious organizations, including the First Amendment of the United States Constitution regarding church/state principles and the applicable constitutional prohibitions set forth in 24 CFR 570.200(j) and 24 CFR 92.257.

8.11.17 HUD Regulations. Any other HUD regulations present or as may be amended, added, or waived in the future pertaining to funds used for the Development, including but not limited to HUD regulations as may be promulgated regarding subrecipients.

8.11.18 Anti-Lobbying Certification. The Buyer certifies, to the best of the Buyer's knowledge or belief, that:

8.11.18.1 No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any Seller, 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;

8.11.18.2 No 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 Seller, 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, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by 31 USC 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than Ten Thousand Dollars ($10,000) and no more than One Hundred Thousand Dollars ($100,000) for such failure.

ARTICLE 9
CONDITIONS AFFECTING THIRD PARTY INTERESTS IN THE PROPERTY

Section 9.1 Security Financing; Rights of Holders.

9.1.1 No Encumbrances Except Mortgages, Deeds of Trust or Other Financing for the Development. Mortgages, deeds of trust, or any other form of conveyance required for any reasonable method of financing are permitted, but only for the purpose of securing loans of funds to be used for financing or refinancing the construction,

reconstruction, rehabilitation of the Development and any other expenditures necessary and appropriate to develop, own and operate the Property in accordance with the provisions of this Agreement. The Buyer shall notify the Seller in advance of any mortgage, deed of trust, or other form of conveyance for financing unless incorporated in the Financing Plan. Except as permitted in the Financing Plan approved by the Seller, the Buyer shall not enter into any such conveyance for financing without the prior written approval of the Seller and shall promptly notify the Seller of any mortgage, deed of trust, sale and lease-back or other financing conveyance, encumbrance or lien that has been created or attached thereto whether by voluntary act of the Buyer or otherwise unless incorporated in the Financing Plan. The words “mortgage” and “deed of trust,” as used herein, include all other appropriate modes of financing real estate acquisition, construction and land development. The Seller agrees to enter into a subordination agreement as requested by Buyer’s lender on terms reasonably acceptable to the Seller and lender to subordinate this Agreement to the security instruments of lender’s loan.

9.1.2 Holder Not Obligated to Construct Development. The holder of any mortgage, deed of trust or other security interest authorized by this Agreement shall in no way be obligated by the provisions of this Agreement to construct or complete the Development or to guarantee such construction or completion. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Property to any uses or to construct any improvements thereon other than those uses provided for or authorized by this Agreement.

No Mortgagee (including any Mortgagee who obtains title to Buyer's interest in the Property or any part thereof as a result of foreclosure proceedings or transfer in lieu or foreclosure) shall be obligated by the provisions of this Agreement to construct the improvements unless Mortgagee expressly assumes such obligation by written notice to Seller. Whether or not a Mortgagee elects to assume Buyer's obligation to construct the improvements, nothing in this Agreement shall be construed to permit such Mortgagee to construct any improvements other than the improvements authorized under this Agreement. If the Mortgagee elects to assume Buyer's obligation to construct the improvements, Mortgagee shall not be bound by the Schedule of Performance, provided that, upon assuming such obligation, Mortgagee and Seller shall execute a new Schedule of Performance and Mortgagee shall complete the Improvements in accordance with the new schedule of performance. If, after acquiring Buyer's interest in the Property, Mortgagee elects not to assume Buyer's obligation to complete the improvements, Mortgagee shall so notify Seller within sixty (60) days after Mortgagee's acquisition of the Buyer's interest in the Property, and Mortgagee shall use good faith efforts to sell such interest within six (6) months after delivery of such notice to a buyer who will construct the improvements. In the event that Buyer receives a Section 202 Capital Grant from HUD, if and for so long as the Property is subject to a HUD 202 Use Agreement and/or this Agreement, the Property shall be subject to the HUD-Required Provisions Rider, attached hereto as Exhibit I.

9.1.3 Notice of Default; Right to Cure. Whenever the Seller shall deliver any notice or demand to the Buyer with respect to any breach or default by the Buyer in

completion of construction of the Development, the Seller shall at the same time deliver a copy of such notice or demand to each holder of record of any security interest authorized by this Agreement who has previously made a written request to the Seller therefore. Each such holder shall (insofar as the rights of the Seller are concerned) have the right, at its option, within thirty (30) days after the receipt of the notice, to cure or remedy or commence to cure or remedy any such default and to add the cost thereof to the security interest debt and the lien on its security interest. In the event there is more than one such holder, the right to cure or remedy a breach or default of the Buyer under this paragraph shall be exercised by the holder first in priority or as the holders may otherwise agree among themselves, but there shall be only one exercise of such right to cure and remedy a breach or default of the Buyer under this paragraph. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Development (beyond the extent necessary to conserve or protect the Development or construction already made) without first having expressly assumed the Buyer's obligations to the Seller by written agreement satisfactory to the Seller. The holder in that event must agree to complete, in the manner provided in this Agreement, the Development to which the lien of such holder relates and submit evidence satisfactory to the Seller that it has the qualifications and financial responsibility necessary to perform such obligations. Any such holder properly completing such Development shall be entitled, upon written request made to the Seller, to a Certificate of Completion from the Seller.

9.1.4 Failure of Holder to Complete Improvements. In any case where, six (6) months after a default by the Buyer in completion of construction of the Improvements, the holder of any mortgage, deed of trust or other security interest creating a lien or encumbrance upon the Property has not exercised the option to construct, or if it has exercised the option and has not proceeded diligently with construction, the Seller may purchase the mortgage, deed of trust or other security interest by payment to the holder of the amount of the unpaid debt, plus any accrued and unpaid interest. If the Buyer's interest in the Property has vested in the holder, the Seller, if it so desires, shall be entitled to the conveyance of such interest in the Property from the holder to the Seller upon payment to the holder of an amount equal to the sum of the following:

9.1.4.1 The unpaid security interest debt at the time the interest became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings);

9.1.4.2 All expenses with respect to the reconveyance;

9.1.4.3 The net expenses, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent management of the Property and Development;

9.1.4.4 The costs of any authorized improvements made by such holder; and

9.1.4.5 An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the debt and had the debt continued in existence to the date of payment by the Seller.

In the event that Buyer receives a Section 202 Capital Grant from HUD, if and for so long as the Property is subject to a HUD 202 Use Agreement and/or this Agreement, the Property shall be subject to the HUD-Required Provisions Rider, attached hereto as Exhibit I.

9.1.4.6 Right of Seller to Cure Security Interest Default. In the event of a default or breach by the Buyer of a mortgage, deed of trust or other security interest with respect to the Property prior to completion of the Development and the holder has not exercised its option to complete the Development, the Seller may cure the default prior to completion of any foreclosure. In such event, the Seller shall be entitled to reimbursement from the Buyer of all costs and expenses incurred by the Seller in curing the default. The Seller shall also be entitled to a lien upon the Buyer's interest in the Property to the extent of such costs and disbursements. Any such lien shall be subject to mortgages, deeds of trust or other security interests executed for the sole purpose of obtaining funds to develop the Property as authorized herein.

ARTICLE 10 K
CHANGES IN BUYER

Section 10.1 Changes only Pursuant to this Agreement. The qualifications, experience and expertise of the Buyer are of particular concern to the Seller. It is because of these qualifications, experience and expertise that the Seller has entered into this Agreement. No voluntary or involuntary successor in interest to the Buyer shall acquire any rights or powers under this Agreement, other than pursuant to a Transfer permitted in Section 10.3. Any attempt to assign this Agreement or transfer any interest of the Buyer under this Agreement without the prior written consent of the Seller shall be null and void and shall confer no rights or privileges upon the purported assign.

Section 10.2 Prohibition Against Transfer of Property and Assignment of Agreement Prior To Completion. Prior to the recording of the Notice of Completion, the Buyer shall not voluntarily or involuntarily make or attempt any total or partial sale, transfer, conveyance, assignment or lease ("Transfer") of the whole or any part of the Property or the buildings or structures thereon or this Agreement without the prior written approval of the Seller which Seller may withhold in its sole and absolute discretion.

If the Buyer proposes a Transfer of the Property or a portion thereof, other than as authorized in Section 10.3, the proposed transferee shall have the qualifications and financial resources necessary and adequate as may be reasonably determined by the Seller to fulfill the obligations undertaken in this Agreement by the Buyer. Any transferee, by instrument in writing satisfactory to the Seller and in form recordable among the land records, for itself and its successors and assigns, and for the benefit of the Seller shall expressly assume all of the obligations of the Buyer under this

Agreement relating to the Property and agree to be subject to all the conditions and restrictions to which the Buyer is subject. There shall be submitted to the Seller for review all instruments and other legal documents proposed to affect any such Transfer; and if approved by the Seller its approval shall be indicated to the Buyer in writing. This Section 10.2 shall not be deemed to prevent the granting of easements, rights of way, licenses or permits to facilitate the development of the Property.

In the absence of specific written agreement by the Seller, no Transfer by the Buyer shall be deemed to relieve the Buyer or any other party from any obligations under this Agreement.

Section 10.3 Permitted Transfers With Prior Approval; Seller Pre-Approved Transfers.

10.3.1 Except as permitted under Subsections 10.3.2, 10.3.3, 10.3.4 and 10.3.5, any Transfer shall be permitted only after (1) the Seller, in its reasonable discretion, has delivered to the Buyer its prior written approval of such Transfer, and (2) the transferee has assumed the Buyer's obligations under this Agreement by signing an assignment assumption and release agreement, in a form prepared by the Seller, and such other reasonable documentation as the Seller may reasonably require to evidence such transferee's assumption of the Buyer's duties and obligations under this Agreement.

10.3.2 Buyer anticipates syndicating the low income housing tax credits that will be generated by the Development, which syndication will require (i) formation of a limited partnership, the general partner of which shall be a wholly-controlled affiliate of Buyer (the "Partnership" or the "Borrower") and the initial limited partner shall be Buyer or a wholly-controlled affiliate of Buyer and (ii) a subsequent transfer of the limited partner interest in Borrower to the initial investor limited partner(s). The Seller hereby approves the initial Transfer of the limited partner interest in Borrower, provided that (i) the amended and restated partnership agreement is submitted to the Seller for review and approval; and (ii) the partnership documents do not conflict with this Agreement.

10.3.3 The Seller hereby approves future Transfers of the investor limited partner(s) interest(s) in the Partnership provided that: (i) such Transfers do not affect the timing and amount of the limited partner capital contributions provided for in the amended partnership agreement approved by the Seller; and (ii) in subsequent Transfers, a wholly-owned or wholly-controlled affiliate of the initial investor limited partner retains a membership or partnership interest and/or serves as a managing member or managing general partner of the successor limited partner.

10.3.4 The Seller hereby approves a Transfer of the Property from the Borrower to a wholly-controlled affiliate of Eden Housing, Inc., and an assumption of this Agreement.

10.3.5 In the event a general partner of the Buyer is removed by an investor limited partner of the Buyer for cause following default under the partnership agreement, the Seller hereby approves the Transfer of the general partner interest to a 501(c)(3) tax

exempt nonprofit corporation selected by the limited partner and approved by the Seller, which approval shall not be withheld unreasonably.

ARTICLE 11
DEFAULT AND REMEDIES

Section 11.1 Events of Default. Each of the following shall constitute a "Default" by the Buyer under this Agreement:

11.1.1 Failure to Obtain Approvals. Failure of the Buyer to diligently and in good faith seek Land Use Approvals.

11.1.2 Failure to Construct. Notwithstanding Sec 4.1.3, failure of the Buyer to commence and prosecute to completion, construction of the Development within the time frames set forth in Schedule of Performance.

11.1.3 Breach of Covenants. Other than the failures addressed above in Subsections 11.1.1 and 11.1.2, failure of the Buyer to duly perform, comply with, or observe any of the conditions, terms or covenants of this Agreement, and such failure having continued uncured for Thirty (30) days after receipt of written notice thereof from the Seller to the Buyer or, if the breach cannot be cured within Thirty (30) days, the Buyer shall not be in breach so long as the Buyer is diligently undertaking to cure such breach and such breach is cured within sixty (60) days; provided, however, that if a different period or notice requirement is specified under any other provision of this Article 11, the specific provisions shall control.

11.1.4 Default Under Other Loans. A default is declared under any Approved Financing by the lender of such Approved Financing (subject to applicable notice and cure).

11.1.5 Insolvency. A court having jurisdiction shall have made or entered any decree or order (i) adjudging the Buyer to be bankrupt or insolvent, (ii) approving as properly filed a petition seeking reorganization of the Buyer or seeking any arrangement for the Buyer under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (iii) appointing a receiver, trustee, liquidator, or assignee of the Buyer in bankruptcy or insolvency or for any of their properties, (iv) directing the winding up or liquidation of the Buyer, if any such decree or order described in clauses (i) to (iv), inclusive, shall have continued unstayed or undischarged for a period of ninety (90) days; or (v) the Buyer shall have admitted in writing its inability to pay its debts as they fall due or shall have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (i) to (iv), inclusive. The occurrence of any of the events of Default in this paragraph shall act to accelerate automatically, without the need for any action by the Seller, the indebtedness evidenced by the Note.

11.1.6 Assignment; Attachment. The Buyer shall have assigned its assets for the benefit of its creditors or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within ninety (90) days after such event or, if sooner, prior to sale pursuant to such sequestration, attachment, or execution. The occurrence of any of the events of default in this Subsection shall act to accelerate automatically, without the need for any action by the Seller, the indebtedness evidenced by the Note.

11.1.7 Suspension; Dissolution. The Buyer shall have voluntarily suspended its business or the dissolution of the Buyer.

11.1.8 Liens on Property and the Development. There shall be filed any claim of lien (other than liens approved in writing by the Seller) against the Development, or any part thereof, or any interest or right made appurtenant thereto, and the continued maintenance of said claim of lien or notice to withhold for a period of twenty (20) days without discharge or satisfaction thereof or provision therefore (including, without limitation, the posting of bonds) satisfactory to the Seller.

11.1.9 Condemnation. The condemnation, seizure, or appropriation of all or the substantial part of the Property and the Development, except that condemnation by the Seller shall not be a Default.

11.1.10 Unauthorized Transfer. Any Transfer other than as permitted by Article 10.

11.1.11 Representation or Warranty Incorrect. Any representation or warranty of the Buyer contained in this Agreement, or in any application, financial statement, certificate, or report submitted to the Seller proves to have been incorrect in any material and adverse respect when made.

11.1.12 Applicability to General Partner. In the event the Buyer is a partnership, the occurrence of any of the events set forth in Subsection 11.1.6, Subsection 11.1.7 or Subsection 11.1.8 in relation to the general partner of the Buyer.

Section 11.2 Remedies. The occurrence of any Default hereunder following the expiration of all applicable notice and cure periods will, either at the option of the Seller or automatically where so specified, shall give the Seller the right to proceed with any and all remedies set forth in this Agreement, including but not limited to the following:

11.2.1 Assignment Agreement. The Seller may exercise all rights under the Assignment Agreements Plans and Specifications and Approvals ("Assignment of Agreements"), attached as Exhibit J. The Buyer shall promptly deliver to the Seller copies of all plans and specifications for the Development, all permits and approvals obtained in connection with the Development, and all applications for permits and approvals not yet obtained but needed in connection with the Development.

11.2.2 Right of Contest. The Buyer shall have the right to contest in good faith any claim, demand, levy, or assessment the assertion of which would constitute a Default hereunder. Any such contest shall be prosecuted diligently and in a manner unprejudicial to the Seller or the rights of the Seller hereunder.

11.2.3 Remedies Cumulative. No right, power, or remedy given to the Seller by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the Seller by the terms of any such instrument, or by any statute or otherwise against the Buyer and any other person. Neither the failure nor any delay on the part of the Seller to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the Seller of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

Section 11.3 Assignment of Agreements. Buyer assigns to the Seller its rights and obligations with respect to certain agreements, plans and specifications, and approvals, pursuant to the terms of the Assignment of Agreements. The Buyer shall execute the Assignment of Agreements concurrently with this Agreement. The Assignment of Agreements shall become effective upon an event of Default of the Buyer as defined in this Section, that remains uncured after expiration of the applicable cure period. The Seller shall not have any obligation under any contracts or agreements assigned pursuant to the Assignment of Plans until it expressly agrees in writing to be bound by such contracts or agreements. Upon an event of Default that has not been cured pursuant to this Agreement, the Seller may use any of the foregoing assigned documents for any purpose for which the Buyer could have used them for development of the Development subject to the limitations, if any, imposed by the third-party preparer of the assigned documents, or in the case of the assigned documents prepared by the Architect, subject to the terms of the Architect's consent executed by the Architect. The Buyer shall cooperate with the Seller to implement the Assignment of Plans and immediately deposit with the Seller for the Seller's use all the Documents.

ARTICLE 12
GENERAL PROVISIONS

Section 12.1 Relationship of Parties.

12.1.1 Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the Seller and the Buyer or the Buyer's agents, employees or contractors, and the Buyer shall at all times be deemed an independent contractor and shall be wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement for the development of the Development. In regards to the development of the Development, the Buyer shall be

solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding and all other laws and regulations governing such matters, and shall include requirements in each contract that contractors shall be solely responsible for similar matters relating to their employees. The Buyer agrees to be solely responsible for its own acts and those of its agents and employees.

12.1.2 The Architect has been selected by the Buyer as the architect for the Development, and the Buyer may, from time to time, select other consultants and vendors for the Development. Notwithstanding the preceding paragraph, the Seller shall have the right to provide input regarding the selection and, if necessary, the replacement of such other consultants or vendors employed by the Buyer to perform the construction contemplated by this Agreement, and shall have the right to provide input regarding the replacement of the previously selected Architect, if necessary. The Buyer shall consider in good faith such input from the Seller, and shall confer with the Seller, upon request, regarding such selection and replacement decisions.

Section 12.2 No Claims. Nothing contained in this Agreement shall create or justify any claim against the Seller, by any person the Buyer may have employed or with whom the Buyer may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the construction of the Development.

Section 12.3 Amendments. No alteration or variation of the terms of this Agreement shall be valid unless made in writing by the parties.

Section 12.4 Indemnification. Except as caused by the Seller's willful misconduct, the Buyer agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to the Seller) the Seller and its respective council members, officers and employees, from all suits, actions, claims, causes of action, costs, demands, judgments and liens arising out of the performance or non-performance of the obligations under this Agreement by the Buyer, Parties, the purchase and ownership of the Property by the Buyer, the development, marketing, rental, operation and management of the Development by the Buyer, Parties, or any documents executed by the Buyer in connection with the Development. The provisions of this Section 12.4 shall survive termination of this Agreement. The “Buyer Parties” shall mean the Buyer and its general partner, agents and representatives. Notwithstanding the foregoing, Section 3.8.2 shall apply.

Section 12.5 Non-Liability of Officials, Employees and Agents. No member, official, employee or agent of the Seller shall be personally liable to the Buyer Parties or their successors, in the event of any Default or breach by the Seller, or for any amount which may become due to the Buyer Parties or their successors or on any obligation under the terms of this Agreement. No director, officer, employee or agent of the Buyer Parties shall be personally liable to the Seller in the event of any Default or breach by the

Buyer, or for any amount which may become due to the Seller or on any obligation under the terms of this Agreement.

Section 12.6 No Third Party Beneficiaries. There shall be no third party beneficiaries to this Agreement.

Section 12.7 Action by the Seller. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent, request, extension of time, waiver of condition, termination, or other action by the Seller is required or permitted under this Agreement, such action may be given, made, or taken by the Seller's City Manager or his/her designee without further approval by the Seller's City Council, and any such action shall be in writing. The intended uses of the Property may not be changed, without approval of the Seller's City Council.

Section 12.8 Waivers. Any waiver by the Seller of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the Seller to take action on any breach or default of the Buyer or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to the Buyer to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the Seller to any act or omission by the Buyer shall not be construed to be consent to any other or subsequent act or omission or to waive the requirement for the Seller's written consent to future waivers.

Section 12.9 Notices, Demands and Communications. Formal notices, demands, and communications between the Seller and the Buyer shall be sufficiently given if and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, or faxed with a copy mailed within one business day of facsimile transmission, emailed with a copy mailed within one business day of emailed transmission to the principal office of the Seller and the Buyer as follows:

Seller:
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910
Attention: City Manager

With a copy to: The City Attorney and Housing Manager

Buyer:
Eden Housing, Inc.
22645 Grand Street
Hayward, California 94541-5031
Attention: Executive Director

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected party may from time to time designate by mail as provided in this Section. Receipt shall be deemed to have occurred on the date shown on a written receipt for delivery or refusal of delivery.

Section 12.10 Parties Bound. Except as otherwise limited herein, the provisions of this Agreement shall be binding upon and inure to the benefit of the parties and their heirs, executors, administrators, legal representatives, successors and assigns.

Section 12.11 Attorneys' Fees. If any lawsuit is commenced to enforce any of the terms of this Agreement, the prevailing party will have the right to recover its reasonable attorneys' fees and costs of suit from the other party.

Section 12.12 Severability. If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Section 12.13 Future Seller Actions. The parties acknowledge and agree that this Agreement does not constitute Seller approval of the Land Use Approvals or construction of the Development. The Seller retains full discretion to approve or disapprove the Land Use Approvals and construction of the Development.

Section 12.14 Counterparts; Multiple Originals. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, and all of which taken together shall constitute this Agreement.

Section 12.15 Force Majeure. In addition to specific provisions of this Agreement, performance by either party shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; quarantine restrictions; freight embargoes; lack of transportation; or court order; or any other similar causes (other than lack of funds of Buyer or Buyer's inability to finance the construction of the Development) beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the party claiming such extension is sent to the other within ten (10) business days from the commencement of the cause and such extension of time is not rejected in writing by the other party within ten business (10) days of receipt of the notice. In no event shall the Seller be required to agree to cumulative delays in excess of one hundred eighty (180) days.

Section 12.16 Time is of the Essence. Time is of the essence in this Agreement. Any reference to days means calendar days, unless otherwise specifically stated.

Section 12.17 Integration Clause. This Agreement, including all exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. This

Agreement shall not be amended or modified except by a written agreement executed by each of the parties hereto.

Section 12.18 Law Governing. This Agreement shall in all respects be governed by and construed under the law of the State of California. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of San Joaquin County in the State of California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

Section 12.19 Ambiguity. The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

Section 12.20 Gender. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identifications of the person or persons, firm or firms, corporation or corporations may require.

Section 12.21 Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

Section 12.22 Investor Limited Partner Provisions. If and when the Buyer transfers the Property to a limited partnership in accordance with Section 10.3 to qualify for low income housing tax credit financing, the Seller agrees to the following provisions for the benefit of Buyer's investor limited partner:

12.22.1 The Seller will give the limited partner a copy of any written notice (at the limited partner's address that the Seller gives to Buyer under this Agreement;

12.22.2 The Seller will give the limited partner Thirty (30) days after the limited partner's receipt of such notice to cure any other default under this Agreement;

12.22.3 If a default is incapable of being cured within Thirty (30) days, the Seller will give the limited partner an additional Ninety (90) days to cure such default provided the limited partner has commenced to cure such default and is diligently proceeding to cure such default through the end of such period;

12.22.4 If the limited partner cures such default, the Seller will accept such action as curing such default as if such cure were made by Buyer;

12.22.5 The Seller will permit the limited partner to transfer the limited partner's interest to any person or entity at any time provided that, if at the time of such transfer the limited partner has not made 100% of the capital contributions the limited partner is

required to make to Buyer, the limited partner shall remain liable to Buyer for such capital contributions;

12.22.6 The Seller will permit the limited partner to remove the general partner of Buyer, provided that the substitute general partner is reasonably acceptable to Seller; and

12.22.7 The Seller will permit insurance and condemnation proceeds to be used to rebuild the Development provided that (i) sufficient funds are provided from other sources to effectively rebuild the Development to a lawful multifamily housing complex, and (ii) subject to the rights of any senior lenders, Seller shall hold all such proceeds and disburse them based on the progress of construction, subject to such additional reasonable conditions as Seller may impose.

Section 12.23 HUD Required Provisions. If the Buyer receives a Section 202 Capital Grant from HUD and the Property and Buyer are subject to the HUD Use Agreement and HUD Regulatory Agreement, then upon the recordation of the HUD Use Agreement and HUD Regulatory Agreement against the Property, the Seller and Buyer agree to comply with the provisions contained in the HUD-Required Provisions Rider attached hereto as Exhibit I.

Section 12.24 Memorandum of Purchase and Development Agreement. The Parties shall execute and record a Memorandum of this Agreement in the form attached as Exhibit K hereto, giving notice of this Agreement.

[signature page to follow]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year shown below the name of each of the parties.

Eden Housing, Inc., a California nonprofit public benefit corporation

By: _____
Linda Mandolini, Executive Director

City of Lodi, a municipal corporation

By: _____
Its: City Manager

Approved as to Form:

_____
City Attorney

Attest:

_____
City Clerk

EXHIBIT A-1

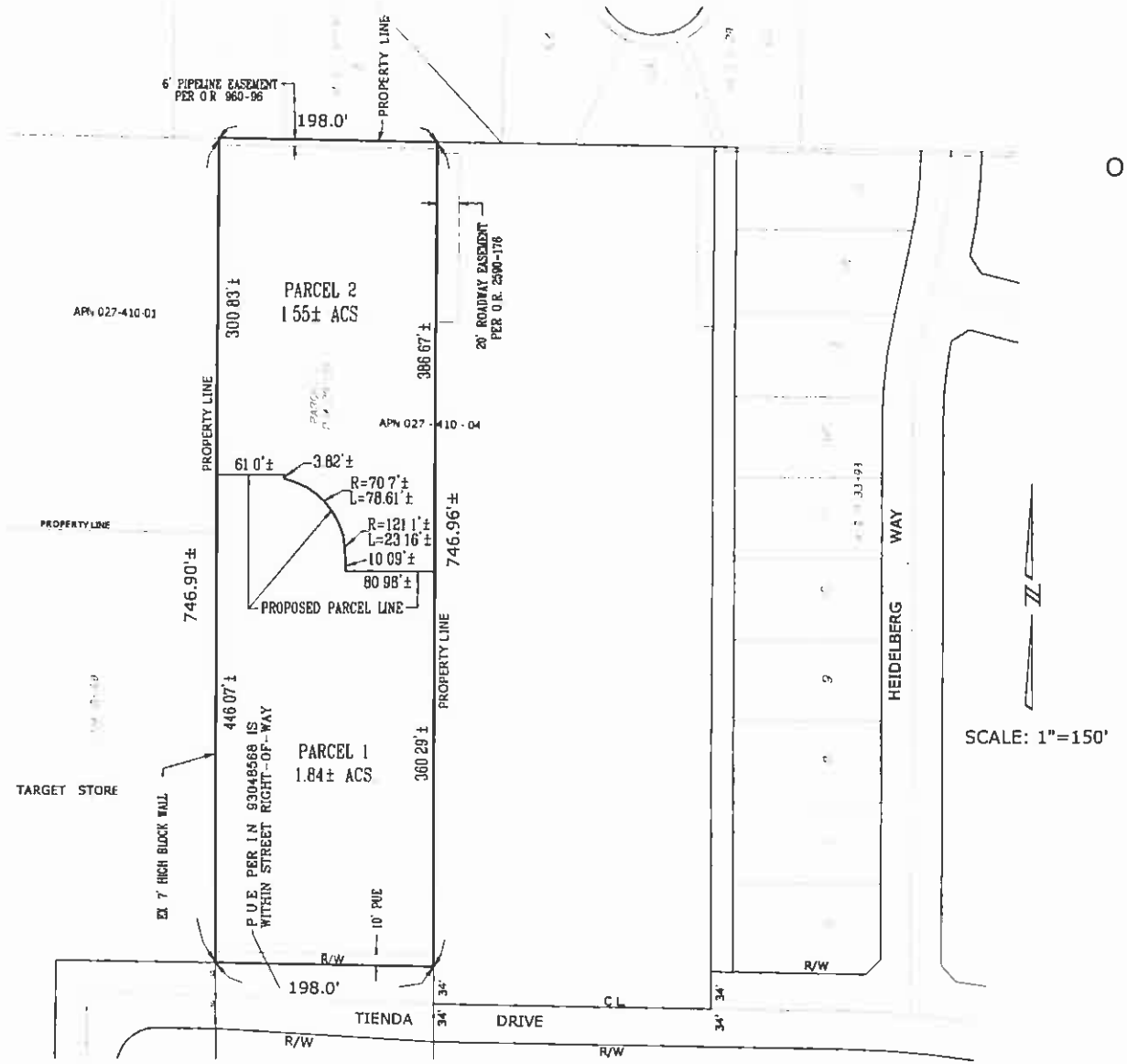
Legal Description of the Property

Parcel 1:

A portion of the south half of the southeast quarter of Section 10, Township 3 North, Range 6 East, Mount Diablo Base & Meridian, City of Lodi, San Joaquin County, California; being more particularly described as follows:

Parcel 1 as shown on that certain Parcel Map filed for record on _____, 20__, in Book _____ of Parcel Maps, Page _____, San Joaquin County Records.

A PORTION OF THE SOUTH HALF
OF THE SOUTHEAST QUARTER
OF SEC. 10, T.3 N.,R.6 E., M.D.B.& M.,
City of Lodi, San Joaquin County,
California



SCALE: 1"=150'

PREPARED IN THE OFFICE OF:

BAUMBACH & PIAZZA, INC.

CIVIL ENGINEERS • SURVEYORS

www.bpengineers.net 323 W. Elm St.

209.368.6618 Lodi, CA 95240

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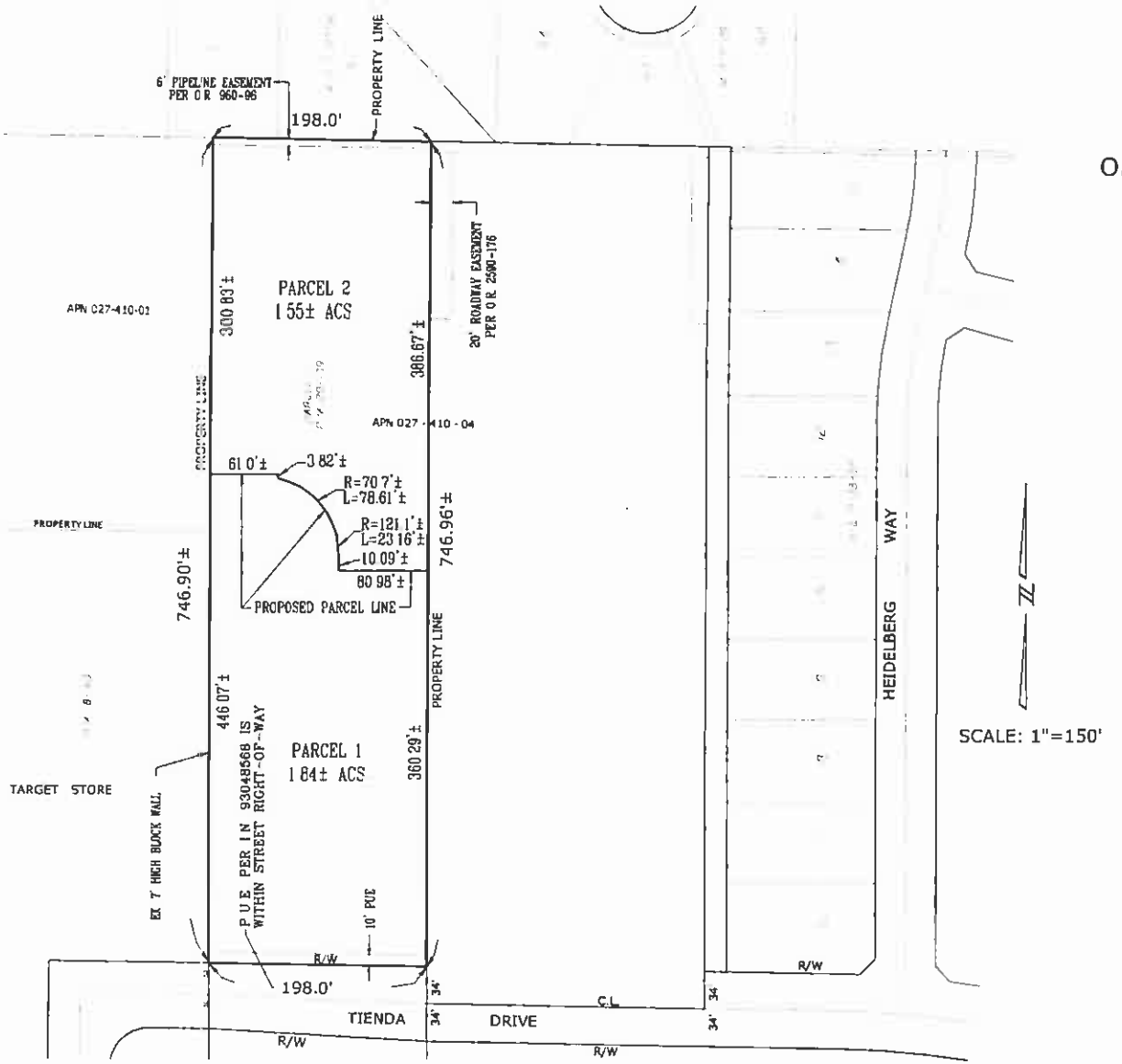
EXHIBIT A-2
Legal Description of the Property

Parcel 2:

A portion of the south half of the southeast quarter of Section 10, Township 3 North, Range 6 East, Mount Diablo Base & Meridian, City of Lodi, San Joaquin County, California; being more particularly described as follows:

Parcel 2 as shown on that certain Parcel Map filed for record on _____, 20__, in Book _____ of Parcel Maps, Page _____, San Joaquin County Records.

A PORTION OF THE SOUTH HALF
OF THE SOUTHEAST QUARTER
OF SEC. 10, T.3 N.,R.6 E., M.D.B.& M.,
City of Lodi, San Joaquin County,
California



PREPARED IN THE OFFICE OF:

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209.368.6618 Lodi, CA 95240

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EXHIBIT B

Exclusive Negotiating Rights Agreement

EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT

This Exclusive Right to Negotiate Agreement ("**Agreement**") is entered into effective as of 8/5, 2009 ("**Effective Date**"), by and between the City of Lodi, a municipal corporation ("**City**") and Eden Development, Inc., a California nonprofit public benefit corporation ("**Eden**"). City and Eden are referred to collectively as the "**Parties**."

RECITALS

A. The City owns that unimproved parcel consisting of approximately 3.39 acres located at 2245 Tienda Drive in the City of Lodi, more particularly described in Exhibit A attached hereto (the "**Property**").

B. The City has determined that the desired future use of the Property shall be an affordable rental residential development that is age restricted for seniors. Accordingly, the City issued a Request for Qualifications ("**RFQ**") inviting submissions from developers interested in developing the Property with affordable rental housing for seniors with restrictions compatible with the financing requirements of the Community Development Block Grant Program ("CDBG"), the Home Investment Partnership Act ("HOME") and the Department of Housing and Urban Development ("HUD") Section 202 Supportive Housing for the Elderly Program ("HUD 202").

C. In response to the City's RFQ, Eden submitted its qualifications to construct, own and operate rental housing affordable to very low and low income senior households at the Property (the "**Senior Project**"). On April 1, 2009, the City Council selected Eden as the developer for the Property and directed staff to proceed with the preparation of this Agreement for the exclusive right to negotiate an agreement whose terms and conditions would govern the conveyance of the Property to Eden for the development of the Senior Project, by Eden.

D. In reliance on the City Council's selection of Eden as the developer of the Property, Eden will commence its due diligence and predevelopment activities for the acquisition of the Property and development of the Senior Project, including submitting applications for project financing, which include but are not limited to CDBG, HOME and HUD 202 funds.

E. Until such time that the appropriate environmental assessment of the Senior Project is complete in accordance with the provisions of the California Environmental Quality Act ("CEQA") and the National Environmental Policy Act ("NEPA"), an Option to Purchase and Purchase Agreement ("Purchase Agreement") or a Disposition Development and Loan Agreement ("DDLA")cannot be entered into by the Parties. This Agreement is expressly conditioned on a subsequent determination to proceed with, modify or cancel the Senior Project based on the required environmental review, pursuant to CEQA and NEPA requirements.

F. The purpose of this Agreement is to set forth the Parties' common understanding that Eden shall have the exclusive right to negotiate a Purchase Agreement or a DDLA to develop the Property, and that for the term set forth in this Agreement, the City shall not discuss or negotiate development opportunities or rights with respect to the Property with any other person or

entity other than Eden, and that the Parties shall enter into a Purchase Agreement or DDLA, to be negotiated, upon environmental approval of the Senior Project.

G. As more fully set forth in this Agreement, the Parties acknowledge and agree that this Agreement does not grant Eden the right to acquire the Property or construct the Senior Project, nor does it obligate Eden to any activities or costs to acquire the Property or construct the Senior Project

H. In addition to the purpose set forth in Recital F, this Agreement provides evidence of the Parties intention regarding Eden's site control of the Property for the future acquisition and development of the Property, to induce potential project lenders to accept Eden's applications for project financing for the Senior Project.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

1. Disposition, Development and Loan Agreement. The Parties shall use their best efforts to successfully negotiate a Purchase Agreement or DDLA which shall describe the terms and conditions governing disposition of the Property for the development of the Senior Project. The Parties agree that a Purchase Agreement or DDLA shall include, without limitation, the following terms; provided however, nothing herein is intended to or shall limit the City's discretionary authority to approve, deny or condition specific land use entitlements for the Senior Project based on the required environmental review.

1.1. Senior Project.

1.1.1. Development Concept. The concept for the Senior Project includes the development of up to Ninety (90) rental housing units serving low-income seniors. The concept of "aging in place" (i.e., making sure that seniors can live independently even as they become frail), will be integral to the Senior Project. Accessibility will also be a priority. The Senior Project will have an elevator, include community spaces, laundry facilities and management offices, and all units will be fully adaptable and/or accessible.

1.1.2. Affordability Requirements. Upon conveyance of the Property to Eden, the Property will be subject to a recorded regulatory agreement between Eden and the City that will require Forty Nine Percent (49%) of the rental units be offered for rent and occupancy by very low and low income senior households at an affordable rent for a term of not less than Fifty Five (55) years.

1.2. Financial Terms.

1.2.1. Purchase Price. The purchase price for the Property shall be Six Hundred Thirty Dollars ($630,000), as is substantiated by a qualified appraisal dated July 2, 2009.

1.2.2. Financing.

1.2.2.1. City CDBG and/or HOME Loan to Eden. Eden shall apply to the City for a CDBG and HOME loan of funds which have been set aside by the City in the amount of $1,100,000.00, to finance the closing cost for Eden's acquisition of

the Property, with the balance of the loan proceeds used to finance predevelopment costs for the Senior Project. The City loan to Eden shall have, at a minimum, the following terms: be a nonrecourse loan secured by the Property; repaid on a residual receipts basis; shall be bear interest at a simple rate not to exceed 3% per annum and shall be contingent (i.e., no accrual of interest if the interest is not paid current annually) if necessary to make the Senior Project financially feasible; and shall mature 55 years from the final certificate of occupancy issued for the Senior Project.

1.2.2.2. State HOME Funds. On or before August 14, 2009, Eden shall apply to the State of California ("State") for a State HOME grant of funds in the approximate amount of $2, 800,000.00 to finance pre-development and development costs.

1.2.2.3. HUD Section 202 Funds. On or around September, 2009, Eden shall apply for HUD 202 funds in response to HUD's 2009 Notice of Funding Availability ("NOFA"). If the Senior Project is not selected for 2009 funding, Eden shall submit for HUD 202 financing in 2010 and 2011.

1.3 City Approvals. Eden shall be responsible for obtaining all approvals required by City for the Senior Project in accordance with City's standard application process for discretionary land use entitlements, including payment for all of City's costs of processing such approvals. Nothing set forth herein shall be construed as a grant of any such approvals, or as an obligation on the part of City to grant such approvals.

2. Purchase Agreement or DDLA Acknowledgments. The Parties agree that they shall use good faith efforts to seek City Council approval of a Purchase Agreement or DDLA by April 30, 2010. Eden expressly acknowledges that a Purchase Agreement or DDLA resulting from negotiations contemplated by this Agreement shall become effective only if a Purchase Agreement or DDLA is approved by the City Council following notice and hearing as required by applicable law and compliance with all other requirements of law, including without limitation CEQA and NEPA requirements. Without limiting the generality of the foregoing, this Agreement does not impose a binding obligation on the City to convey the Property to Eden, nor does it obligate the City to grant any approvals or authorizations required for the Senior Project. The Parties acknowledge that approval and execution of a Purchase Agreement or DDLA may precede formal approval and adoption of entitlements necessary for the development of the Senior Project, and the Parties agree that a Purchase Agreement or DDLA will provide that conveyance of the Property will be expressly contingent upon City Council approval, as applicable, of all discretionary entitlements required for the Senior Project.

3. Eden's Exclusive Right to Negotiate with City; Term. For a period of two (2) years commencing on the Effective Date (the "**Term**"), the City agrees that it will not, during the Term of this Agreement, directly or indirectly, through any officer, employee, agent, or otherwise, solicit, the submission of bids, offers or proposals by any person or entity with respect to the acquisition of any interest in the Property or the development of the Property, and the City shall not engage any broker, financial adviser or consultant to initiate or encourage proposals or offers from other parties with respect to the disposition or development of the Property or any portion thereof.

4. Eden's Studies; Right of Entry. During the Term, Eden shall use its best efforts to prepare, at Eden's expense, any studies, surveys, plans, specifications and reports ("**Eden's Studies**") Eden deems necessary or desirable in Eden's sole discretion, to determine the suitability of the Property for the Senior Project. Such studies may include, without limitation, title investigation, relocation plans, marketing, feasibility, soils, seismic and environmental studies, financial feasibility analyses and design studies. Eden shall be responsible for obtaining the City's advance written permission from the City Manager or his designee for access to the Property as may be necessary to prepare Eden's Studies. In connection with entry onto the Property, Eden shall and hereby agrees to indemnify, defend (with counsel approved by the City) and hold harmless the Indemnities (defined in Section 11) from and against all Claims (defined in Section 11) resulting from or arising in connection with entry upon the Property by Eden or Eden's agents, employees, consultants, contractors or subcontractors.

   4.1. Right of Entry Agreement; Copies of Reports/Tests. The City may require Eden to execute a right of entry agreement satisfactory to the City prior to entry onto the Property. The City Manager or his designee shall have authority to sign such agreement without further approval of the Council. Eden's inspection, examination, survey and review of the Property shall be at Eden's sole expense. Eden shall provide the City with copies of all reports and test results within ten (10) days following completion of such reports and testing, whether or not such reports and test results are completed prior to or after the expiration or earlier termination of this Agreement.

   4.2. Property Condition. Eden shall repair, restore and return the Property to its condition immediately preceding Eden's entry thereon at Eden's sole expense. Eden shall at all times keep the Property free and clear of all liens and encumbrances affecting title to the Property. Eden's indemnification obligations, obligations to provide reports and test results, and obligations to discharge liens that attach to the Property as set forth in Section 11 shall survive the expiration or earlier termination of this Agreement.

5. The City's Reports and Studies. Within fifteen (15) days following the Effective Date, the City shall make available to Eden for review or copying, at Eden's expense, all non-privileged studies, non-confidential surveys, plans, specifications, reports, and other documents concerning the physical condition of the Property that the City has in its possession or control.

6. Relationship of Parties. The Parties agree that nothing in this Agreement is intended to or shall be deemed or interpreted to create among them the relationship of buyer and seller, or of partners or joint venturers.

7. Confidentiality; Dissemination of Information. During the Term, each Party shall obtain the consent of the other Party prior to issuing or permitting any of its officers, employees or agents to issue any press release or other information to the press with respect to this Agreement; provided however, no Party shall be prohibited from supplying any information to its representatives, agents, attorneys, advisors, financing sources and others to the extent necessary to accomplish the activities contemplated hereby so long as such representatives, agents, attorneys, advisors, financing sources and others are made aware of the terms of this Section. Nothing contained in this Agreement shall prevent any Party at any time from

complying with the California Public Records Act, furnishing any required information to any governmental entity or authority pursuant to a legal requirement or from complying with its legal or contractual obligations.

8. Termination.

8.1. Mutual Consent. This Agreement may be terminated at any time by mutual written consent of the Parties.

8.2. City's Right to Terminate. The City shall have the right to terminate this Agreement upon its good faith and reasonable determination that Eden is not proceeding diligently and in good faith to carry out its obligations pursuant to this Agreement. The City shall exercise such right by providing at least thirty (30) days' advance written notice to Eden which notice shall describe the nature of Eden's default hereunder. Notwithstanding the foregoing, if Eden commences to cure such default within such thirty (30) day period and diligently prosecutes such cure to completion within the earliest feasible time, but not later than thirty (30) days following the date of the notice, this Agreement shall remain in effect.

8.3. Eden's Right to Terminate.

8.3.1. Financial or Physical Infeasibility. Eden shall have the right to terminate this Agreement, effective upon thirty (30) days' written notice to the City that Eden has determined the Senior Project is financially or physically infeasible and the City has reviewed and agreed, in its reasonable discretion, with Eden's determination.

8.3.2. Environmental and/or Entitlement Infeasibility. If the City Council is unable for any reason to adopt or approve the certification of environmental documents required for the Senior Project pursuant to NEPA, CEQA or to rezone the Property for the Senior Project, Eden shall have the right to terminate this Agreement and the City shall reimburse Eden for its actual out-of-pocket costs paid to third parties for predevelopment activities in connection with the proposed development of Property, provided the amount to be reimbursed shall not exceed Fifty Thousand Dollars ($50,000.00).

9. Effect of Termination or Expiration of the Term. Upon termination as provided herein, or upon the expiration of the Term (and any extensions thereof) without the Parties having successfully negotiated a Purchase Agreement or DDLA, this Agreement shall be void, and there shall be no further liability or obligation on the part of any of the Parties or their respective officers, employees, agents or other representatives; provided however, the provisions of Section 4.2, Section 7, Section 8.3.2 and Section 11, shall survive such termination.

10. Notices. Each notice, demand or other document required to be given hereunder ("Notice") shall be in writing and shall be delivered personally (including messenger or courier service with evidence of receipt) or sent by the United States Postal Service ("USPS"), certified mail, return receipt requested, with proper postage prepaid, addressed to the parties at the respective addresses set forth below. Each Notice shall be effective upon being so deposited, but the time

period in which a response to any such Notice must be given or any action taken with respect thereto shall commence to run from the date of receipt of the Notice by the addressee thereof.

If to the City: City of Lodi Community Development Department
221 W. Pine Street
Lodi, CA 95240
Attention: Joseph Wood, Neighborhood Services Manager

If to Eden: Eden Development, Inc.
22645 Grand Street
Hayward, CA 94541-5031
Attention: Executive Director

Copy to: D. Stephen Schwabauer, City Attorney
City of Lodi
221 W. Pine Street
Lodi, CA 95240

11. Indemnification. Eden hereby covenants to indemnify, hold harmless and defend the City and their respective elected and appointed officials, officers, agents, representatives and employees (all of the foregoing, collectively the "Indemnities") from and against all liability, loss, cost, claim, demand, action, suit, legal or administrative proceeding, penalty, deficiency, fine, damage and expense (including, without limitation, reasonable attorney's fees and costs of litigation) (all of the foregoing, collectively the "Claims") arising out of any act of negligence, misfeasance or willful misconduct of Eden in connection with this Agreement or the activities contemplated hereby. Eden shall have no indemnification obligation with respect to the negligence, misfeasance or willful misconduct of the City or for any Claims arising from the presence of any hazardous materials on the Property prior to conveyance of the Property to Eden. Eden's indemnification obligations set forth in this Section 11, shall survive the expiration or earlier termination of this Agreement. Nothwithstanding the foregoing, in the event a CEQA or NEPA lawsuit is brought which relates to this Agreement, and a Purchase Agreement or DDLA to be negotiated, and/or the Senior Project, the Parties shall meet and confer about whether to proceed with the Senior Project. If the parties are unable to agree, either party may terminate this Agreement without further obligation.

12. Severability. If any term or provision of this Agreement or the application thereof shall, to any extent, be held to be invalid or unenforceable, such term or provision shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining terms and provisions of this Agreement or the application of such terms and provisions to circumstances other than those as to which it is held invalid or unenforceable unless an essential purpose of this Agreement would be defeated by loss of the invalid or unenforceable provision.

13. Amendments; Counterparts. This Agreement may be amended only by a written instrument executed by the Parties or their successors in interest. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall

constitute one agreement.

14. Successors and Assigns; No Third-Party Beneficiaries. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns; provided however, that Eden shall not transfer or assign any of its rights hereunder by operation of law or otherwise without the prior written consent of the City, and any such transfer or assignment without such consent shall be void. Subject to the immediately preceding sentence, this Agreement is not intended to benefit, and shall not run to the benefit of or be enforceable by, any other person or entity other than the Parties and their permitted successors and assigns. The Parties acknowledge that Eden shall have the right to have a Purchase Agreement or DDLA entered into by, or assigned to, a limited partnership in which the general partner is a wholly-controlled affiliate of Eden.

15. Captions. The captions of the sections and articles of this Agreement are for convenience only and are not intended to affect the interpretation or construction of the provisions hereof.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of law.

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

CITY OF LODI
a California municipal corporation

By: _____
Blair King, City Manager

APPROVED AS TO FORM:

By: _____
D. Stephen Schwabauer, City Attorney

ATTEST:

By: _____
Randi Johl, City Clerk

EDEN DEVELOPMENT, INC.,
a California nonprofit public benefit corporation

By: _____
Name: Terese McNamee
Its: Chief Financial Officer and Acting Executive Director

EXHIBIT A:

The Property

EXHIBIT C

Approved Development Budget

Tienda Drive Senior Housing - Phase 1

Estimated Acquistion and Predevelopment Budget

Date 3/25/10

SOURCES of FUNDS	Acq./Predev.	
Predevelopment Loan	$ 684,522	
Other Predevelopment Loan: Eden LOC	$ -	
County CDBG/HOME funds	$ 865,000	By 6-30-10
State HOME funds	$ -	Est. 5-2010
HUD Capital Advance	$ -	
Tax Exempt Construction Loan	$ -	
FHLB - AHP	$ -	
LIH Tax Credit Equity - LP Contribution	$ -	
LIH Tax Credit Equity - GP Contribution	$ -	
Permanent Financing	$ -	
Permanent Financing - 2nd Mortgage	$ -	
Deferred Developer Fee	$ -	
TOTAL SOURCES	**$ 1,549,522**	

Surplus/(Deficit) 0

	HUD app - 8/09 Site Acquisition - 6/10	State HOME app - 8/10 Permit Submittal - 2/11	Permit Ready Letter - 7/11 CDLAC submit - 2/12 Construction close - 7/12

USES of FUNDS	Acq./Predev.	Jul 09-Jun 10	Jul 10-Jun 11	Jul 11-Jul 12
LAND & IMPROVEMENTS:				
Land Cost	$ 630,000	$ 630,000	$ -	$ -
Extensions	$ -	$ -	$ -	$ -
Permanent Relocation	$ -	$ -	$ -	$ -
Demolition	$ -	$ -	$ -	$ -
Environmental Remediation	$ -	$ -	$ -	$ -
Site Maintenance (i.e. Security, Clean-Up)	$ 5,000	$ -	$ 5,000	$ -
Site Value Beyond Cost	$ -	$ -	$ -	$ -
Title & Escrow - Land Acquisition	$ 5,000	$ 5,000	$ -	$ -
Legal - Land Acquisition	$ 30,000	$ 25,302	$ 4,698	$ -
Total Land & Improvements	**$ 670,000**	**$ 660,302**	**$ 9,698**	**$ -**
DESIGN & CONSULTING:				
Architect	$ 351,080	$ 115,942	$ 235,138	$ -
Civil Engineer	$ 57,350	$ 42,653	$ 14,698	$ -
Joint Trench Utility Design	$ 16,300	$ -	$ 8,150	$ 8,150
Construction Estimating/Management Services	$ 10,000	$ -	$ 5,000	$ 5,000
Engineering Reports (i.e. Topo, Noise, Soils, Traffic, Biology)	$ 60,000	$ 21,988	$ 10,000	$ 28,012
Environmental	$ 20,000	$ 12,720	$ 7,280	$ -
Testing & Inspection	$ -	$ -	$ -	$ -
Total Design & Consulting	**$ 514,730**	**$ 193,302**	**$ 280,266**	**$ 41,162**
CONSTRUCTION:				
Off-Site Improvements	$ -	$ -	$ -	$ -
On-Site Improvements	$ -	$ -	$ -	$ -
Commercial/Childcare Construction	$ -	$ -	$ -	$ -
Retail/Tenant Improvements	$ -	$ -	$ -	$ -
Unit Construction	$ -	$ -	$ -	$ -
Podium/Garage	$ -	$ -	$ -	$ -
General Requirements	$ -	$ -	$ -	$ -
GC Contingency	$ -	$ -	$ -	$ -
Contractor Overhead & Profit	$ -	$ -	$ -	$ -
Contractors Bond & Insurance	$ -	$ -	$ -	$ -
Pricing Escalation/Design Contingency	$ -	$ -	$ -	$ -
Furniture, Fixtures & Equipment (common area)	$ -	$ -	$ -	$ -
Construction Contingency	$ -	$ -	$ -	$ -
Total Construction	**$ -**	**$ -**	**$ -**	**$ -**
INDIRECT COSTS:				
Permits & Fees (not incl. building permit and related fees)	$ 117,000	$ 33,882	$ 83,118	$ -
Legal Fees - Constr. Loan Closing	$ -	$ -	$ -	$ -
Legal Fees - Perm. Loan Closing	$ -	$ -	$ -	$ -
Legal Fees - Organization	$ 6,000	$ 55	$ 5,945	$ -
Audit Fees	$ -	$ -	$ -	$ -
Sponsor Administration	$ 100,000	$ 100,000	$ -	$ -
Appraisal	$ 3,500	$ -	$ 3,500	$ -
Market Study	$ 9,500	$ 9,500	$ -	$ -
Rent/Up Marketing	$ -	$ -	$ -	$ -
Reserves:	$ -	$ -	$ -	$ -
Marketing & Bond Reserves	$ -	$ -	$ -	$ -
Initial Services Reserve	$ -	$ -	$ -	$ -
Operating Reserve	$ -	$ -	$ -	$ -
MHP Interest Reserve	$ -	$ -	$ -	$ -
Partnership Management	$ -	$ -	$ -	$ -
Investor Services Fee Reserve	$ -	$ -	$ -	$ -
HUD MCI	$ -	$ -	$ -	$ -
Soft Costs Contingency	$ 35,000	$ -	$ 35,000	$ -
Total Indirect Costs	**$ 271,000**	**$ 143,437**	**$ 127,563**	**$ -**
FINANCE & CARRYING COSTS:				
Liability/COC Insurance	$ -	$ -	$ -	$ -
Real Estate Taxes	$ -	$ -	$ -	$ -
Predevelopment Loan Interest (includes land carry)	$ 58,184	$ 6,917	$ 51,268	$ -
Costs of Issuance (Bonds)	$ -	$ -	$ -	$ -
Construction Loan Fees & Expenses	$ -	$ -	$ -	$ -
Construction Loan Interest	$ -	$ -	$ -	$ -
Permanent Financing Fees & Expenses	$ -	$ -	$ -	$ -
Title & Escrow - Construction Loan	$ -	$ -	$ -	$ -
Title & Escrow - Permanent Loan	$ -	$ -	$ -	$ -
Lender-Appraisal, Legal & Consulting (Inspections incl)	$ 8,000	$ -	$ -	$ 8,000
Total Finance & Carry Costs	**$ 66,184**	**$ 6,917**	**$ 51,268**	**$ 8,000**
TAX CREDITS/SYNDICATION EXPENSES:				
TCAC Application Fee	$ 2,000	$ -	$ -	$ 2,000
TCAC Reservation Fee	$ 4,268	$ -	$ -	$ 4,268
TCAC Performance Deposit	$ -	$ -	$ -	$ -
TCAC Performance Deposit Refund	$ -	$ -	$ -	$ -
TCAC Monitoring Fee	$ -	$ -	$ -	$ -
CDLAC Performance Deposit	$ 21,339	$ -	$ -	$ 21,339
CDLAC Performance Deposit Refund	$ -	$ -	$ -	$ -
Syndication Consultant	$ -	$ -	$ -	$ -
Syndication Legal Fees	$ -	$ -	$ -	$ -
Syndication-Investor Legal	$ -	$ -	$ -	$ -
Syndication Other: Bridge Loan Fees	$ -	$ -	$ -	$ -
Syndication Other: Bridge Loan/Dev Fee Interest	$ -	$ -	$ -	$ -
Total TCAC/Syndication	**$ 27,607**	**$ -**	**$ -**	**$ 27,607**
TOTAL DEVELOPMENT EXPENSES	**$ 1,549,522**	**$ 1,003,958**	**$ 468,794**	**$ 76,769**

EXHIBIT D
Financing Plan

Tienda Drive Senior Housing - Phase 1

SOURCES AND USES OF FUNDS

SOURCES of FUNDS	TOTAL	Acq./Predev.	Construction	Permanent	% of Total	Per Unit	Assumptions	TERMS	
Predevelopment Loan	$ -	$ 684,522	$ (684,522)	$ -	0.00%	$ -	4.25%	24	As of 3.25.10
Other Predevelopment Loan: Eden LOC	$ -	$ -	$ -	$ -	0.00%	$ -	6.00%	12	
County CDBG/HOME funds	$ 550,000	$ 865,000		$ (315,000)	4.73%	$ 14,103			
State HOME funds	$ 1,108,983		$ 1,108,983	$ -	9.54%	$ 28,435		Loan - 55 yr deferred loan @ 3% simple	
HUD Capital Advance	$ 6,030,006	$ -	$ -	$ 6,030,006	51.86%	$ 154,616			
Tax Exempt Construction Loan	$ -	$ -	$ 7,405,862	$ (7,405,862)	0.00%	$ -	4.50% int	Construction Loan @	
FHLB - AHP	$ 380,000	$ -	$ 380,000	$ -	3.27%	$ 9,744		Loan - 10 year forgiven @ 0%	
LIH Tax Credit Equity - LP Contribution	$ 2,909,616		$ 727,404	$ 2,182,212	25.02%	$ 74,606	0.65		
LIH Tax Credit Equity - GP Contribution	$ 648,809	$ -	$ -	$ 648,809	5.58%	$ 16,636			
Permanent Financing	$ -	$ -	$ -	$ -	0.00%	$ -			
Permanent Financing - 2nd Mortgage	$ -	$ -	$ -	$ -	0.00%	$ -			
Deferred Developer Fee	$ -	$ -	$ -	$ -	0.00%	$ -			
TOTAL SOURCES	**$ 11,627,414**	**$ 1,549,522**	**$ 8,937,728**	**$ 1,140,165**	**100.00%**	**$ 298,139**			
Surplus/(Deficit)	0	0	0	0.00					

USES of FUNDS	TOTAL	Acq./Predev.	Construction	Permanent	Basis Eligible	Cost/Unit	Cost/SqFt	Assumptions	Comments
LAND & IMPROVEMENTS:									
Land Cost	$ 315,000	$ 630,000	$ -	$ (315,000)	$ -	$ 8,077	$ 8		
Extensions	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Permanent Relocation	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Demolition	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Environmental Remediation	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Site Maintenance (i.e. Security, Clean-Up)	$ 5,000	$ 5,000	$ -	$ -	$ 5,000	$ 128	$ 0		
Site Value Beyond Cost	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Title & Escrow - Land Acquisition	$ 5,000	$ 5,000	$ -	$ -	$ -	$ 128	$ 0		
Legal - Site Control and Land Acquisition	$ 30,000	$ 30,000	$ -	$ -	$ -	$ 769	$ 1		
Total Land & Improvements	**$ 355,000**	**$ 670,000**	**$ -**	**$ (315,000)**	**$ 5,000**	**$ 9,103**	**$ 9**		
DESIGN & CONSULTING:									
Architect	$ 438,850	$ 351,080	$ 87,770	$ -	$ 438,850	$ 11,253	$ 12		
Civil Engineering	$ 61,150	$ 57,350	$ 3,800	$ -	$ 61,150	$ 1,568	$ 2		Baumbach Contract
Joint Trench Utility Design	$ 16,300	$ 16,300	$ -	$ -	$ 16,300	$ 418	$ 0		
Construction Estimating/Management Services	$ 75,000	$ 10,000	$ 65,000	$ -	$ 75,000	$ 1,923	$ 2		
Engineering Reports (i.e. Topo, Noise, Soils, Traffic, Biology)	$ 60,000	$ 60,000	$ -	$ -	$ 60,000	$ 1,538	$ 2		
Environmental	$ 20,000	$ 20,000	$ -	$ -	$ 20,000	$ 513	$ 1		
Testing & Inspection	$ 100,000	$ -	$ 100,000	$ -	$ 100,000	$ 2,564	$ 3		
Total Design & Consulting	**$ 771,300**	**$ 514,730**	**$ 256,570**	**$ -**	**$ 771,300**	**$ 19,777**	**$ 20**		
CONSTRUCTION:									
Off-Site Improvements		$ -	$ -	$ -	$ -	$ -	$ -		
On-Site Improvements	$ 988,539	$ -	$ 988,539	$ -	$ 494,270	$ 25,347	$ 26	$400,000	Brown Estimate 11.06.09
Commercial/Childcare Construction	$ -	$ -	$ -		$ -	$ -	$ 130		
Retail/Tenant Improvements	$ -	$ -	$ -	$ -	$ -	$ -	$ 65		Prevailing Wage/Davis Bacon Yes
Unit Construction	$ 3,644,130	$ -	$ 3,644,130	$ -	$ 3,644,130	$ 93,439	$ 96	$139	
Podium/Garage	$ -	$ -	$ -	$ -	$ -	$ -	$ 70		
General Requirements	$ 485,775	$ -	$ 485,775	$ -	$ 485,775	$ 12,456	$ 13	5%	Brown Estimate 11.06.09
GC Contingency		$ -	$ -		$ -	$ -	$ -	2%	Brown Estimate 11.06.09
Contractor Overhead & Profit	$ 258,760	$ -	$ 258,760	$ -	$ 258,760	$ 6,635	$ 7	6.00%	Brown Estimate 11.06.09
Contractors Bond & Insurance	$ 56,766	$ -	$ 56,766	$ -	$ 56,766	$ 1,456	$ 1	1.50%	Brown Estimate 11.06.09
Pricing Escalation/Design Contingency	$ 787,926	$ -	$ 787,926	$ -	$ 787,926	$ 20,203	$ 21	14.5%	
Furniture, Fixtures & Equipment (common area)	$ 39,000	$ -	$ 39,000	$ -	$ 39,000	$ 1,000	$ 1		
Construction Contingency	$ 313,045	$ -	$ 313,045	$ -	$ 313,045	$ 8,027	$ 8	5.00%	
Total Construction	**$ 6,573,940**	**$ -**	**$ 6,573,940**	**$ -**	**$ 6,079,671**	**$ 168,563**	**$ 173**	**262**	per NRSF, excl. contingency & FF&E
INDIRECT COSTS:									
Permits & Fees	$ 1,170,000	$ 117,000	$ 1,053,000	$ -	$ 1,170,000	$ 30,000	$ 31	$30,000	per unit estimate or per fee schedule if complete
Legal Fees - Constr. Loan Closing	$ 30,000	$ -	$ 30,000	$ -	$ 30,000	$ 769	$ 1		
Legal Fees - Perm. Loan Closing	$ 25,000	$ -	$ -	$ 25,000	$ 25,000	$ 641	$ 1		
Legal Fees - Organization	$ 6,000	$ 6,000	$ -	$ -	$ 6,000	$ 154	$ 0		
Audit Fees	$ 20,000	$ -	$ -	$ 20,000	$ -	$ 513	$ 1		
Sponsor Administration	$ 1,297,618	$ 100,000	$ 150,000	$ 1,047,618	$ 1,297,618	$ 33,272	$ 34		
Appraisal	$ 3,500	$ 3,500	$ -	$ -	$ -	$ 90	$ 0		re-certify the appraisal
Market Study	$ 9,500	$ 9,500	$ -	$ -	$ 9,500	$ 244	$ 0		
Rent/Up Marketing	$ 39,000	$ -	$ 39,000	$ -	$ -	$ 1,000	$ 1	1000	
Reserves:	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Marketing & Bond Reserves	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Initial Services Reserve		$ -	$ -	$ -	$ -	$ -	$ -	1%	
Operating Reserve	$ 105,300	$ -	$ -	$ 105,300	$ -	$ 2,700	$ 3		
Replacement Reserves	$ 25,505	$ -	$ -	$ 25,505	$ -	$ 654	$ 1	0.600%	
Partnership Management	$ 119,379	$ -	$ -	$ 119,379	$ -	$ 3,061	$ 3		
Investor Services Fee Reserve	$ 41,783	$ -	$ -	$ 41,783	$ -	$ 1,071	$ 1		
HUD MCI	$ 10,000	$ -	$ -	$ 10,000	$ -	$ 256	$ 0		
Soft Costs Contingency	$ 66,683	$ 35,000	$ 31,683	$ -	$ 66,683	$ 1,710	$ 2	2%	
Total Indirect Costs	**$ 2,969,268**	**$ 271,000**	**$ 1,303,683**	**$ 1,394,585**	**$ 2,604,801**	**$ 76,135**	**$ 78**		
FINANCE & CARRYING COSTS:									
Liability/COC Insurance	$ 78,747	$ -	$ 78,747	$ -	$ 78,747	$ 2,019	$ 2	0.6450%	
Real Estate Taxes	$ 3,528		$ 3,528		$ 3,528	$ 90	$ 0	1.120%	assumes 2 yrs, plus 1 yr during constr., reimb ~ perr
Predevelopment Loan Interest (includes land carry)	$ 58,184	$ 58,184	$ -	$ -	$ 58,184	$ 1,492	$ 2		
Costs of Issuance (Bonds)	$ 161,252	$ -	$ 161,252	$ -	$ -	$ 4,135	$ 4		
Construction Loan Fees & Expenses	$ 66,653	$ -	$ 66,653	$ -	$ 66,653	$ 1,709	$ 2	0.90%	
Construction Loan Interest	$ 402,694	$ -	$ 402,694	$ -	$ 180,518	$ 10,325	$ 11	50% AOB	
Permanent Financing Fees & Expenses	$ -	$ -	$ -	$ -	$ -	$ -	$ -	0.8%	
Title & Escrow - Construction Loan	$ 30,000	$ -	$ 30,000	$ -	$ 30,000	$ 769	$ 1		
Title & Escrow - Permanent Loan	$ 15,000	$ -	$ -	$ 15,000	$ 15,000	$ 385	$ 0		
Lender-Appraisal, Legal & Consulting (Inspections incl)	$ 55,000	$ 8,000	$ 47,000	$ -	$ 55,000	$ 1,410	$ 1		
Total Finance & Carry Costs	**$ 871,058**	**$ 66,184**	**$ 789,873**	**$ 15,000**	**$ 487,630**	**$ 22,335**	**$ 23**		
TAX CREDITS/SYNDICATION EXPENSES:									
TCAC Application Fee	$ 2,000	$ 2,000	$ -	$ -	$ -	$ 51	$ 0		
TCAC Reservation Fee	$ 4,268	$ 4,268	$ -	$ -	$ -	$ 109	$ 0	1%	of annual tax credit allocation
TCAC Performance Deposit	$ -	$ -	$ -	$ -	$ -	$ -	$ -	4%	of annual tax credit allocation
TCAC Performance Deposit Refund	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
TCAC Monitoring Fee	$ 15,580	$ -	$ -	$ 15,580	$ -	$ 399	$ 0	410	per unit (not including manager's unit)
CDLAC Performance Deposit	$ 21,339	$ 21,339	$ -	$ -	$ -	$ 547	$ 1	0.5%	of bond allocation
CDLAC Performance Deposit Refund	$ (21,339)	$ -	$ (21,339)	$ -	$ -	$ (547)	$ (1)		
Syndication Consultant	$ 30,000	$ -	$ -	$ 30,000	$ -	$ 769	$ 1		
Syndication Legal Fees	$ 35,000		$ 35,000	$ -	$ -	$ 897	$ 1		
Syndication-Investor Legal	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Syndication Other: Bridge Loan Fees	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Syndication Other: Bridge Loan/Dev Fee Interest	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Total TCAC/Syndication	**$ 86,848**	**$ 27,607**	**$ 13,661**	**$ 45,580**	**$ -**	**$ 2,227**	**$ 2**		
TOTAL DEVELOPMENT EXPENSES	**$ 11,627,414**	**$ 1,549,522**	**$ 8,937,728**	**$ 1,140,165**	**$ 9,948,402**	**$ 298,139**	**$ 306**		

Tienda Drive Senior Housing - Phase 2

SOURCES AND USES OF FUNDS

SOURCES of FUNDS	TOTAL	Acq./Predev.	Construction	Permanent	% of Total	Per Unit	Assumptions	TERMS	
Predevelopment Loan	$ -	$ 446,766	$ (446,766)	$ -	0.00%	$ -	4.25%	24	As of 3.25.10
Other Predevelopment Loan: Eden LOC	$ -	$ -	$ -	$ -	0.00%	$ -	6.00%	12	
City of Lodi CDBG/HOME funds	$ 550,000	$ 550,000		$ -	4.91%	$ 13,415			
State HOME funds	$ 391,652		$ 391,652	$ -	3.49%	$ 9,552		Loan - 55 yr deferred loan @ 3% simple	
HUD Capital Advance	$ 6,418,733	$ -	$ -	$ 6,418,733	57.28%	$ 156,554			
Tax Exempt Construction Loan	$ -	$ -	$ 7,690,326	$ (7,690,326)	0.00%	$ -	4.50% int	Construction Loan	
FHLB - AHP	$ 400,000	$ -	$ 400,000	$ -	3.57%	$ 9,756		Loan - 10 year forgiven @ 0%	
LIH Tax Credit Equity - LP Contribution	$ 2,817,972		$ 704,493	$ 2,113,479	25.15%	$ 68,731	0.65		
LIH Tax Credit Equity - GP Contribution	$ 628,373	$ -	$ -	$ 628,373	5.61%	$ 15,326			
Permanent Financing	$ -	$ -	$ -	$ -	0.00%	$ -			
Permanent Financing - 2nd Mortgage	$ -	$ -	$ -	$ -	0.00%	$ -			
Deferred Developer Fee	$ -	$ -	$ -	$ -	0.00%	$ -			
TOTAL SOURCES	**$ 11,206,731**	**$ 996,766**	**$ 8,739,706**	**$ 1,470,259**	**100.00%**	**$ 273,335**			
Surplus/(Deficit)	0	0	0	0.00					

USES of FUNDS	TOTAL	Acq./Predev.	Construction	Permanent	Basis Eligible	Cost/Unit	Cost/SqFt	Assumptions	Comments
LAND & IMPROVEMENTS:									
Land Cost	$ 315,000	$ 315,000	$ -	$ -	$ -	$ 7,683	$ 8		
Extensions	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Permanent Relocation	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Demolition	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Environmental Remediation	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Site Maintenance (i.e. Security, Clean-Up)	$ 5,000	$ 5,000	$ -	$ -	$ 5,000	$ 122	$ 0		
Site Value Beyond Cost	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Title & Escrow - Land Acquisition	$ 10,000	$ 10,000	$ -	$ -	$ -	$ 244	$ 0		
Legal - Land Acquisition	$ 5,000	$ 5,000	$ -	$ -	$ -	$ 122	$ 0		
Total Land & Improvements	**$ 335,000**	**$ 335,000**	**$ -**	**$ -**	**$ 5,000**	**$ 8,171**	**$ 9**		
DESIGN & CONSULTING:									
Architect (Civil included bc HUD)	$ 340,000	$ 272,000	$ 68,000	$ -	$ 340,000	$ 8,293	$ 9		
Joint Trench Utility Design	$ 16,300	$ 16,300	$ -	$ -	$ 16,300	$ 398	$ 0		
Construction Estimating/Management Services	$ 65,000	$ 10,000	$ 55,000	$ -	$ 65,000	$ 1,585	$ 2		
Engineering Reports (i.e. Topo, Noise, Soils, Traffic, Biology)	$ 40,000	$ 40,000	$ -	$ -	$ 40,000	$ 976	$ 1		
Environmental	$ 20,000	$ 20,000	$ -	$ -	$ 20,000	$ 488	$ 1		
Testing & Inspection	$ 70,000	$ -	$ 70,000	$ -	$ 70,000	$ 1,707	$ 2		
Total Design & Consulting	**$ 551,300**	**$ 358,300**	**$ 193,000**	**$ -**	**$ 551,300**	**$ 13,446**	**$ 14**		
CONSTRUCTION:									
Off-Site Improvements		$ -	$ -	$ -	$ -	$ -	$ -		
On-Site Improvements	$ 778,501	$ -	$ 778,501	$ -	$ 389,251	$ 18,988	$ 20	$400,000	Brown Estimate 11.06.09
Commercial/Childcare Construction	$ -	$ -	$ -		$ -	$ -	$ 130		
Retail/Tenant Improvements	$ -	$ -	$ -	$ -	$ -	$ -	$ 65		Prevailing Wage/Davis Bacon Yes
Unit Construction	$ 3,439,373	$ -	$ 3,439,373	$ -	$ 3,439,373	$ 83,887	89	$139	
Podium/Garage	$ -	$ -	$ -	$ -	$ -	$ -	$ 70		
General Requirements	$ 485,775	$ -	$ 485,775	$ -	$ 485,775	$ 11,848	$ 13	5%	Brown Estimate 11.06.09
GC Contingency		$ -	$ -		$ -	$ -	$ -	2%	Brown Estimate 11.06.09
Contractor Overhead & Profit	$ 237,810	$ -	$ 237,810	$ -	$ 237,810	$ 5,800	$ 6	6.00%	Brown Estimate 11.06.09
Contractors Bond & Insurance	$ 52,542	$ -	$ 52,542	$ -	$ 52,542	$ 1,282	$ 1	1.50%	Brown Estimate 11.06.09
Pricing Escalation/Design Contingency	$ 998,800	$ -	$ 998,800	$ -	$ 998,800	$ 24,361	$ 26	20.0%	
Furniture, Fixtures & Equipment (common area)	$ 41,000	$ -	$ 41,000	$ -	$ 41,000	$ 1,000	$ 1		
Construction Contingency	$ 301,690	$ -	$ 301,690	$ -	$ 301,690	$ 7,358	$ 8	5.00%	
Total Construction	**$ 6,335,491**	**$ -**	**$ 6,335,491**	**$ -**	**$ 5,946,241**	**$ 154,524**	**$ 164**	**240**	per NRSF, excl. contingency & FF&E
INDIRECT COSTS:									
Permits & Fees	$ 1,266,900	$ 126,690	$ 1,140,210	$ -	$ 1,266,900	$ 30,900	$ 33	$30,900	per unit estimate or per fee schedule if complete
Legal Fees - Constr. Loan Closing	$ 30,000	$ -	$ 30,000	$ -	$ 30,000	$ 732	$ 1		
Legal Fees - Perm. Loan Closing	$ 25,000	$ -	$ -	$ 25,000	$ 25,000	$ 610	$ 1		
Legal Fees - Organization	$ 6,000	$ 6,000	$ -	$ -	$ 6,000	$ 146	$ 0		
Audit Fees	$ 20,000	$ -	$ -	$ 20,000	$ -	$ 488	$ 1		
Sponsor Administration	$ 1,256,746	$ 50,000	$ 150,000	$ 1,056,746	$ 1,256,746	$ 30,652	$ 33		
Appraisal	$ 3,500	$ 3,500	$ -	$ -	$ -	$ 85	$ 0		re-certify the appraisal
Market Study	$ 9,500	$ 9,500	$ -	$ -	$ 9,500	$ 232	$ 0		
Rent/Up Marketing	$ 41,000	$ -	$ 41,000	$ -	$ -	$ 1,000	$ 1	1000	
Reserves:	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Marketing & Bond Reserves	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Initial Services Reserve		$ -	$ -	$ -	$ -	$ -	$ -	1%	
Operating Reserve	$ 110,700	$ -	$ -	$ 110,700	$ -	$ 2,700	$ 3		
Replacement Reserves	$ 25,251	$ -	$ -	$ 25,251	$ -	$ 616	$ 1	0.600%	
Partnership Management	$ 119,379	$ -	$ -	$ 119,379	$ -	$ 2,912	$ 3		
Investor Services Fee Reserve	$ 41,783	$ -	$ -	$ 41,783	$ -	$ 1,019	$ 1		
HUD MCI	$ 10,000	$ -	$ -	$ 10,000	$ -	$ 244	$ 0		
Soft Costs Contingency	$ 64,304	$ 35,000	$ 29,304	$ -	$ 64,304	$ 1,568	$ 2	2%	
Total Indirect Costs	**$ 3,030,063**	**$ 230,690**	**$ 1,390,514**	**$ 1,408,859**	**$ 2,658,450**	**$ 73,904**	**$ 78**		
FINANCE & CARRYING COSTS:									
Liability/COC Insurance	$ 75,898	$ -	$ 75,898	$ -	$ 75,898	$ 1,851	$ 2	0.6450%	
Real Estate Taxes	$ 3,528		$ 3,528		$ 3,528	$ 86	$ 0	1.120%	assumes 2 yrs, plus 1 yr during constr., reimb ~ perr
Predevelopment Loan Interest (includes land carry)	$ 37,975	$ 37,975	$ -	$ -	$ 37,975	$ 926	$ 1		
Costs of Issuance (Bonds)	$ 162,568	$ -	$ 162,568	$ -	$ -	$ 3,965	$ 4		
Construction Loan Fees & Expenses	$ 69,213	$ -	$ 69,213	$ -	$ 69,213	$ 1,688	$ 2	0.90%	
Construction Loan Interest	$ 418,161	$ -	$ 418,161	$ -	$ 187,452	$ 10,199	$ 11	50% AOB	
Permanent Financing Fees & Expenses	$ -	$ -	$ -	$ -	$ -	$ -	$ -	0.0%	
Title & Escrow - Construction Loan	$ 30,000	$ -	$ 30,000	$ -	$ 30,000	$ 732	$ 1		
Title & Escrow - Permanent Loan	$ 15,000	$ -	$ -	$ 15,000	$ 15,000	$ 366	$ 0		
Lender-Appraisal, Legal & Consulting (Inspections incl)	$ 55,000	$ 8,000	$ 47,000	$ -	$ 55,000	$ 1,341	$ 1		
Total Finance & Carry Costs	**$ 867,343**	**$ 45,975**	**$ 806,368**	**$ 15,000**	**$ 474,065**	**$ 21,155**	**$ 22**		
TAX CREDITS/SYNDICATION EXPENSES:									
TCAC Application Fee	$ 2,000	$ 2,000	$ -	$ -	$ -	$ 49	$ 0		
TCAC Reservation Fee	$ 4,133	$ 4,133	$ -	$ -	$ -	$ 101	$ 0	1%	of annual tax credit allocation
TCAC Performance Deposit	$ -	$ -	$ -	$ -	$ -	$ -	$ -	4%	of annual tax credit allocation
TCAC Performance Deposit Refund	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
TCAC Monitoring Fee	$ 16,400	$ -	$ -	$ 16,400	$ -	$ 400	$ 0	410	per unit (not including manager's unit)
CDLAC Performance Deposit	$ 20,667	$ 20,667	$ -	$ -	$ -	$ 504	$ 1	0.5%	of bond allocation
CDLAC Performance Deposit Refund	$ (20,667)	$ -	$ (20,667)	$ -	$ -	$ (504)	$ (1)		
Syndication Consultant	$ 30,000	$ -	$ -	$ 30,000	$ -	$ 732	$ 1		
Syndication Legal Fees	$ 35,000		$ 35,000	$ -	$ -	$ 854	$ 1		
Syndication-Investor Legal	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Syndication Other: Bridge Loan Fees	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Syndication Other: Bridge Loan/Dev Fee Interest	$ -	$ -	$ -	$ -	$ -	$ -	$ -		
Total TCAC/Syndication	**$ 87,533**	**$ 26,801**	**$ 14,333**	**$ 46,400**	**$ -**	**$ 2,135**	**$ 2**		
TOTAL DEVELOPMENT EXPENSES	**$ 11,206,731**	**$ 996,766**	**$ 8,739,706**	**$ 1,470,259**	**$ 9,635,056**	**$ 273,335**	**$ 290**		

EXHIBIT E

Schedule of Performance

TIENDA DRIVE SENIOR HOUSING
Preliminary HUD Schedule
April 7, 2010

(All dates set forth below are preliminary and are subject to change as the process moves forward. Each performance deadline is conditioned upon all prior performance deadlines being met in a timely manner.)

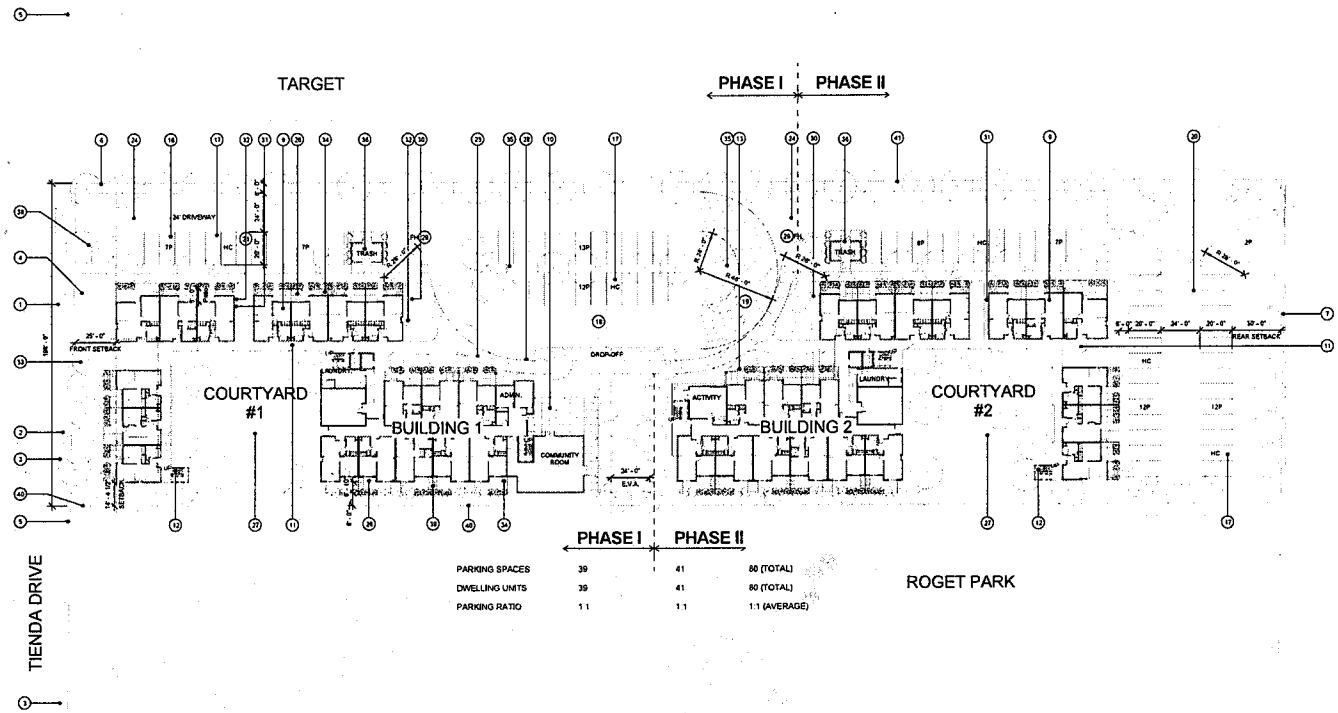
Project Milestone	Est. Target Date
1. Predevelopment activities started by Developer	April 2009 (Completed)
2. Developer submitted development concept to City for review.	May 2009 (Completed)
3. City to introduce development concepts to key community members	June 2009 (Completed)
4. Developer submits preliminary development proposal to City for review.	June 2009 (Completed)
5. Community Meeting – Introduce Development Team and present Proposed Site	July 14, 2009 (Completed)
6. City Council approves predevelopment and acquisition loan request and Exclusive Right to Negotiate	August 5, 2009 (Completed)
7. Developer submits application to State for HOME Investment Partnerships Program	August 14, 2009 (Completed)
8. Developer submits for Project Entitlements	October 20, 2009 (Completed)
9. Execute Option Agreement to Purchase Real Property	November 4, 2009 (Completed)
10. City completes Public Review of Draft of Initial Study/Mitigated Negative Declaration	November 24, 2009 (Completed)
11. Developer submits application to HUD for grant under Section 202	December 14, 2009 (Completed). If the project is not selected, Developer shall submit for HUD 202

Housing for the Elderly	Financing in 2010 and 2011.
12. Developer obtains Project Entitlements	February 10, 2010 (Completed)
13. City obtains Authority to Use Grant Funds	No later than April 7, 2010.
14. City Council approves General Plan Amendment	Anticipated for April 7, 2010.
15. City Council authorizes Purchase and Development Agreement	Anticipated for April 7, 2010.
16. Close of Escrow and Funding of HOME/CDBG Loan	No later than June 30, 2010.
17. Developer receives HUD 202 award	Approx. 7 months from item #11. If the project is not selected, Developer shall submit for HUD 202 Financing in 2010 and 2011.
18. Developer re-submits application to State (HCD) for HOME Investment Partnerships Program	Est. August 2010 (Developer intends to apply for State HOME application in response to 2010 NOFA; however, if the project is not selected, Developer shall submit for State HOME funds in 2011 and 2012)
19. Developer obtains permit ready letter	Approx. 12 months from item #17.
20. Developer to obtain final project bids and finalize construction contract	Approx. 3 months from item #19.
21. HUD project cost review	Approx. 2 months from item #20.
22. State announces HOME conditional reservation awards	Approx. 6 months from item #18.
23. State HOME loan documents finalized	Approx. 7 months from item #22.
24. Developer submits HUD "Firm Commitment Application"	After completion of the latter of items 21 and 23.

25. Gap Financing Identified and Approved by City.	Not later than 60 days prior to CDLAC/TCAC application submittal date.
26. Developer submits applications for bond financing through California Debt Limit Allocation Committee (CDLAC) and 4% Tax Credits through State Tax Credit Allocation Committee (TCAC) CDLAC and TCAC applications	Borrower shall monitor HUD's processing of the HUD Firm Commitment and shall submit the CDLAC application when it is reasonable to project that HUD will be able to issue the Firm Commitment within the 90-day CDLAC construction start deadline. Borrower shall not be obligated to obtain a CDLAC or TCAC allocation after September of any year.
27. Close on Construction Financing and Commencement of Construction	Within 90 days of CDLAC and TCAC allocations.
28. Construction Completion	Within 24 months of commencement of construction, or within deadlines established by funding source used, HUD, TCAC and/or CDLAC.
29. 100% Occupancy	Within 6 months of construction completion.

EXHIBIT F
Scope of Development

[to be inserted when approved by Seller]



	PHASE I	PHASE II	
PARKING SPACES	39	41	80 (TOTAL)
DWELLING UNITS	39	41	80 (TOTAL)
PARKING RATIO	1:1	1:1	1:1 (AVERAGE)

SITE PLAN 1
1" = 30'-0"

KEYNOTES - SITE PLAN	
KEYNOTE	DESCRIPTION
01 EXISTING IMPROVEMENTS	
1	EXISTING CURB CUT AT TIENDA DRIVE
2	EXISTING CONCRETE SIDEWALK
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
02 BUILDING FEATURES	
9	TYPICAL ONE BEDROOM SENIOR HOUSING UNIT
10	COVERED OUTDOOR AREA
11	COVERED EXTERIOR CORRIDOR
12	COVERED EXTERIOR EXIT STAIR

KEYNOTES - SITE PLAN	
KEYNOTE	DESCRIPTION
13	LINE OF ROOF OVERHANG
03 PAVING AND OTHER SITE IMPROVEMENTS	
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
22	DEDICATED TURN AROUND ZONE AT PARKING AREA
23	SIDEWALK WITH FLUSH CURB AT PASSENGER LOADING AREA WITH CONTINUOUS DETECTABLE WARNING BETWEEN TREE WELLS

KEYNOTES - SITE PLAN	
KEYNOTE	DESCRIPTION
24	AC PAVING AT DRIVEWAY
25	CONCRETE SIDEWALK, MIN. WIDTH 5'-0"
26	CONCRETE PATIOS
27	PLANTING AREAS, SEE LANDSCAPE DRAWINGS
28	BOLLARD
04 EQUIPMENT, LIGHTING, AND SERVICE AREAS	
29	FIRE HYDRANT
30	PAD MOUNTED ELECTRIC TRANSFORMERS
31	WALL MOUNTED ELECTRIC SWITCH GEAR AND METERS
32	GAS METER
33	BACK FLOW PREVENTER AT WATER SERVICE
34	AC UNITS LOCATED AT GRADE, APPROX. 36" TALL SCREENED BY WOOD FENCING
35	POLE MOUNTED LIGHT FIXTURES, 14' TALL WITH CUT-OFF REFLECTOR

KEYNOTES - SITE PLAN	
KEYNOTE	DESCRIPTION
36	WASTE HANDLING ENCLOSURE: 9' TALL MASONRY WALL WITH CEMENT PLASTER FINISH AND ASPHALT SHINGLE ROOFING TO MATCH BUILDINGS
05 FENCING AND OTHER IMPROVEMENTS	
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	PRE-CAST MASONRY WALL AT WEST PROPERTY LINE 7' TALL PRECAST PANELS WITH MASONRY PATTERN, PAINT FINISH

Pyatok Architects, Inc.
architecture planning research
1611 Telegraph Avenue, Suite 200
Oakland, California 94612
510.465.7010 p | 510.465.8575 f
www.pyatok.com

Consultants:

Landscape
Bruce Jett Associates, Inc.
2470 Mariner Square
Loop, Alameda, CA 94501

Civil
Baumbach & Piazza Inc.
323 W. Elm Street
Lodi, CA 95240

Tienda Drive Senior Housing

2245 Tienda Drive
Lodi, CA 95242

Client:
Eden Housing, Inc.
22645 Grand Street
Hayward, CA 94541

Stamp:

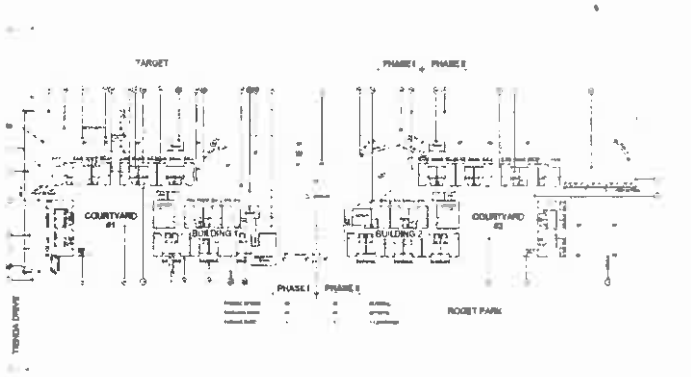
Job Number:	0906
Drawn by:	YS/MR
Checked by:	PW
Date:	March 22 2010
Scale:	1" = 30'-0"

Title
REVISED SITE PLAN

Sheet
A1.0

– PRELIMINARY –
Not-For-Construction

EXHIBIT G
Preliminary Site Plan



Tienda Drive Senior Housing

A1.0

EXHIBIT H

Seller Insurance Requirements

USE THE FOLLOWING ONLY IF THE SELLER DOES NOT HAVE ITS OWN INSURANCE REQUIREMENTS.

The Buyer shall maintain and keep in force, at the Buyer's sole cost and expense, the following insurance applicable to the Development in a form acceptable to the Seller's Executive Director with evidence of such coverage provided to the Seller's Executive Director within ten (10) days of execution of this Agreement, but in no event later than the initial disbursement of Loan funds pursuant to this Agreement:

(a) Workers' Compensation insurance to the extent required by law, including Employer's Liability coverage, with limits not less than One Million Dollars ($1,000,000) each accident.

(b) Commercial General Liability insurance with limits not less than Two Million Dollars ($2,000,000) each occurrence for Bodily Injury and Property Damage, including coverage for Contractual Liability, Personal Injury, Broadform Property Damage, and Products and Completed Operations.

(c) Comprehensive Automobile Liability insurance with limits not less than One Million Dollars ($1,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverage for owned, non-owned and hired vehicles, as applicable; provided, however, that if the Buyer does not own or lease vehicles for purposes of this Agreement, then no automobile insurance shall be required.

(d) Upon acquisition of the Property, property insurance, including during the course of construction builder's risk insurance, covering the Development, in form appropriate for the nature of such property, covering all risks of loss, excluding earthquake, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the Seller, naming the Seller as a Loss Payee, as its interests may appear. Flood insurance shall be obtained if required by applicable federal regulations.

(e) For any design professionals working on the Development, errors and omission coverage in a minimum amount of One Million Dollars ($1,000,000).

(f) The Buyer shall cause any general contractor or subcontractor working on the Development under direct contract with the Buyer or subcontract, to maintain insurance of the types and in at least the minimum amounts described in Subsections (a), (b), and (c) above, except that each subcontractor shall only be required to maintain the abovementioned insurance to the extent that such coverage is customarily maintained by such subcontractor and shall require that such

insurance shall meet all of the general requirements of subsections (i), (j) and (k) below.

(g) The required insurance shall be provided under an occurrence form, and the Buyer shall maintain such coverage continuously throughout the Term. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be two times the occurrence limits specified above; provided, however, that for subcontractors the general aggregate shall not be required to apply on a per project basis.

(h) Commercial General Liability and Comprehensive Automobile Liability insurance policies shall be endorsed to name as an additional insured the Seller and its officers, agents, employees and members of the Seller Council.

(i) All policies and bonds shall contain (a) the agreement of the insurer to give the Seller at least thirty (30) days' notice prior to cancellation (including, without limitation, for non payment of premium) or any material change in said policies; (b) an agreement that such policies are primary and non contributing with any insurance that may be carried by the Seller; (c) a provision that no act or omission of the Buyer shall affect or limit the obligation of the insurance carrier to pay the amount of any loss sustained; and (d) a waiver by the insurer of all rights of subrogation against the Seller and its authorized parties in connection with any loss or damage thereby insured against. Buyer shall provide certificates of insurance and original written endorsements as evidence of the required insurance coverage.

(j) If in connection with the use of the Seller Loan funds, death, serious personal injury, or substantial property damage occurs, Buyer shall immediately notify the Seller. Buyer shall promptly submit to the Seller a written report, in such form as may be required by the Seller, of all accidents which occur in connection with this Agreement. This report shall include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Buyer's contractor or subcontractor, if any; (3) name and address of Buyer's liability insurance carrier; and (4) a detailed description of the accident and whether any of the Seller's equipment, tools or material were involved.

EXHIBIT I
HUD-REQUIRED PROVISIONS RIDER

For value received, the undersigned agree that the following provisions shall be incorporated into and made a part of the following documents as amended (the "Junior Loan Documents") relating to the property commonly known as Tienda Drive Senior Housing (the "Project"): That certain Purchase and Development Agreement dated ____, 20092010 ("Agreement") and memorandum thereof recorded _____, 2010 as series no. _____ of San Joaquin County by the City of Lodi (the "City") and Eden Housing, Inc., its successors and assigns ("Eden Housing")

In the event of any conflict, inconsistency or ambiguity between the provisions of this Rider and the provisions of the Junior Loan Documents, the provisions of this Rider shall control. All capitalized terms used herein and not otherwise defined herein shall have the meaning given to such terms in the Junior Loan Documents. As used in this Rider, the term "HUD Loan Documents" shall mean the following documents relating to the HUD Section 202 Capital Advance for the Project (HUD Project No. 121-EE___-NP-WAH).

A. Deeds of Trust recorded concurrently herewith on the Property among Eden Housing as Ttrustor, North American Title Company as trustee and Eden Housing, Inc. as beneficiary, which beneficial interest will be assigned to HUD by that collateral assignment at closing (the "HUD Deed of Trust");

B. Regulatory Agreement between Eden Housing and HUD recorded currently herewith on the Property ("HUD Regulatory Agreement");

C. Capital Advance Program Use Agreement between Eden Housing and HUD recorded concurrently herewith on the Property (the "HUD Use Agreement"), incorporated by reference in the HUD Deed of Trust;

D. HUD Security Agreement between Eden Housing as the debtor and Eden Housing, Inc. as the secured party, which interest shall be assigned to HUD by that collateral assignment (the "HUD Security Agreement");

E. HUD Project Rental Assistance Contract (the "PRAC"); and

F. Other HUD Capital Advance documents.

1. Term of Rider. Notwithstanding anything else in this Rider to the contrary, the provisions of this Rider shall be and remain in effect only so long as any of the HUD Loan Documents are in effect; thereafter, this Rider and its requirements shall be deemed no longer in effect.

2. Subordination. The covenants contained in the Junior Loan Documents shall be subordinate to the rights of HUD under the HUD Loan Documents, and to the HUD rules and regulations pertaining thereto; and furthermore, the Junior Loan Documents shall not be enforceable against the HUD Secretary, his or her successors and assigns, should the HUD Secretary acquire title to the Project by power of sale, foreclosure, or by deed-in-lieu of foreclosure. In addition, so long as the HUD Loan Documents are in effect, in the event that there are any conflicts between the terms and conditions in the Junior Loan Documents and the terms and conditions of the HUD Loan Documents and HUD rules and regulations pertaining thereto, the HUD Loan Documents and HUD rules and regulations shall prevail. No default may be declared under the Junior Loan Documents without prior written HUD consent.

3. HUD Rules. During the time period in which Section 202 or the PRAC regulations apply to the Project, rents approved by HUD pursuant to the Section 202 program and the PRAC shall be deemed to be in compliance with the City Regulatory Agreement, and compliance by the Eden Housing with the Section 202 Regulations and the PRAC with respect to continued occupancy by households whose incomes exceed the eligible income limitations in Section 2 of the City Regulatory Agreement, or other matters set forth in the City Regulatory Agreement, shall be deemed to be in compliance with the requirements of the Junior Loan Documents. Nothing in the Junior Loan Documents shall in any way limit, interfere or conflict with the rights of HUD with respect to development, operation and management of the Project; nor can the Junior Loan Documents in any way jeopardize the continued operation of the project on terms at least as favorable to existing as well as future tenants.

4. Maturity Date. The Junior Note may not mature, and may not bear a maturity date, prior to the date on which the HUD Note matures. The term of the Junior Loan Documents shall be extended if the Junior Note matures, there are no residual receipts or non-Project funds available for repayment and the HUD Mortgage has not been retired in full or if HUD grants a deferment of amortization or forbearance that results in an extended maturity of the HUD Loan Documents.

5. Residual Receipts. As long as HUD, its successors or assigns, is the holder of the HUD Documents, any payments due from Project income from the Section 202 units under the Junior Loan Documents, or any prepayments made with Project income from the Section 202 units, shall be payable only from residual receipts of the Project, as that term is defined in the HUD Regulatory Agreement between HUD and the Eden Housing, and subject to the availability of residual receipts in accordance with the provision of said HUD Regulatory Agreement. No payments or prepayments using residual receipts can be made without HUD approval. Eden Housings may make payments or prepayments at any time without HUD approval using funds that do not come from Project income from the Section 202 units. The restrictions on payment imposed by this paragraph shall not excuse any default caused by the failure of the makers to pay the indebtedness evidenced by the City's junior Note.

6. Indemnification. Enforcement by the City of any indemnification provisions in the Junior Loan Documents will not and shall not result in any monetary claim against the Project, the HUD Capital Advance proceeds, any reserve or deposit required by HUD in connection with the HUD Capital Advance, or the rents or other income from the Section 202 units in the Project other than residual receipts authorized for release by HUD, without the prior written consent of HUD, but City shall have the right to add any amounts due the City pursuant to indemnification provisions in the Junior Loan Documents to the principal amount of the Loan and the Note and interest shall accrue thereon commencing on the date indemnification payments are due. In addition, any indemnification provisions shall not be enforceable against the HUD Secretary, his or her successors and assigns, should the HUD Secretary acquire title to the Project by power of sale, foreclosure, or by deed-in-lieu of foreclosure.

7. Transfer. Approval by HUD of a Transfer of Physical Assets (as defined in Handbook 4350.1, REV-1, Chapter 13) ("TPA") shall constitute approval of the transfer by the City, and the Eden Housing shall deliver to the City at the same time as its delivery to HUD, any application for HUD's approval of a proposed transfer. Also, the Eden Housing shall require the transferee to expressly assume the Eden Housing's obligations under the Junior Loan Documents; provided, however, HUD shall not be required to enforce the requirements of this sentence and if Eden Housing and any transferee fail to include such assumption in transfer documents, such failure shall not affect the validity of the transfer. The City shall have the right to specifically enforce the requirement that any transferee assume the Eden Housing's obligations under the Junior Loan Documents. In the absence of such written assumption, no transfer shall be deemed to relieve the transferor from any obligations under the Junior Loan Documents.

8. Default under Junior Loan Documents. The City shall not declare a default under the Junior Loan Documents unless it has received the prior written approval of HUD, and the right of the City to accelerate the Junior Note during the term of the HUD Loan Documents shall be enforceable only with the prior written approval of HUD.

9. Receiver. The City, for itself, its successors and assigns, further covenants and agrees that in the event of the appointment of a receiver in any action by the City, its successors and assigns, to foreclose the City's junior Deed of Trust, no rents, revenue or other income of the Project collected by the receiver or by the mortgagee-in-possession shall be utilized for the payment of interest, principal, or any other charges due and payable under the City's junior Deed of Trust, except from Residual Receipts, if any, as the term is defined in the HUD Regulatory Agreement. The appointment of a receiver shall require approval by the Secretary of HUD, and pursuant to HUD regulations, as long as the City is beneficiary under the Deed of Trust, the City cannot be mortgagee-in-possession. In the event of the appointment, by any court, of any person, other than HUD, the City, as a receiver or a mortgagee or party in possession, or in the event of any enforcement of any assignment of leases, rents, issues, profits, or contracts contained in the Junior Loan Documents, with or without court action, no rents, revenue or other income of the Project collected by the receiver, person in

possession or person pursuing enforcement as aforesaid, shall be utilized for the payment of interest, principal or any other amount due and payable under the provisions of the Junior Loan Documents, except from Residual Receipts in accordance with the HUD Regulatory Agreement. The receiver, person in possession or person pursuing enforcement shall operate the Project in accordance with all provisions of the HUD Documents.

10.Deed-in-Lieu of Foreclosure. In the event that HUD acquires title to the Project by deed-in-lieu of foreclosure, the lien of the City's junior Deed of Trust will automatically terminate subject to the conditions as hereinafter described. HUD may cure a default under the HUD Deed of Trust prior to conveyance by deed-in-lieu of foreclosure. HUD shall give written notice to the City of a proposed tender of title in the event HUD decides to accept a deed-in-lieu of foreclosure. HUD will only give such written notice if, at the time of the placing of the subordinate lien against the Property, HUD receives a copy of an endorsement to the title policy of the Eden Housing or City which indicates that (a) the City's junior Deed of Trust has been recorded, and (b) HUD is required to give notice of any proposed election or tender of a deed-in-lieu of foreclosure. Such notice shall be given at the address stated in the City's junior Deed of Trust or such other addresses as later on provided to HUD by written notice, and designated by the City as its legal business address. The City shall have thirty (30) days to cure the default after notice of intent to accept a deed-in-lieu of foreclosure is mailed.

11.Eden Housing's Notice to City. Notwithstanding the requirements set forth in Paragraph 10 above, in the event that Eden Housing contemplates executing a deed-in-lieu of foreclosure, Eden Housing shall first give the City thirty (30) days prior written notice; provided, however, that the failure of the Eden Housing to give said notice shall have no effect on the right of HUD to accept a deed-in-lieu of foreclosure.

12.Sale, Transfer or Assignment of the Junior Note. The City's junior Note is non-negotiable and may not be sold, transferred, assigned or pledged by the City except with the prior approval of HUD.

13.Amendment. No amendment to the Junior Loan Documents made after the date of this Rider shall have any force or affect until and unless such amendment is approved in writing by HUD.

[signature page to follow]

IN WITNESS WHEREOF, the undersigned have executed this Rider as follows:

EDEN HOUSING, INC. a California Nonprofit Public Benefit Corporation	CITY OF LODI
	By: _____
By: _____	Name: _____
	City Manager

EXHIBIT J

ASSIGNMENT OF AGREEMENTS, PLANS AND SPECIFICATIONS, AND APPROVALS

EDEN HOUSING, INC.

FOR VALUE RECEIVED, the undersigned, Eden Housing, Inc., a California nonprofit public benefit corporation (the "Buyer"), hereby assigns and transfers to the Seller of Lodi, a municipal corporation (the "Seller"), all of its right, title and interest in and to:

(1) All architectural, design, engineering, and construction contracts and development agreements, and any and all amendments, modifications, supplements, addenda and general conditions thereto (collectively "Agreements"), heretofore or hereafter entered into by any Contractor (as defined below) relating to the Property (identified in the Purchase and Development Agreement defined below)

(2) All studies and analyses, surveys, plans and specifications, shop drawings, working drawings, amendments, modifications, changes, supplements, general conditions and addenda thereto (collectively "Studies, Plans and Specifications") heretofore or hereafter prepared by any Contractor (as defined below); and

(3) All land use approvals, building permits, and other governmental approvals of any nature obtained for the Development (collectively, the "Land Use Approvals").

This Assignment is made pursuant to the terms of the Purchase and Development Agreement, dated as of _____, ~~2009~~2010 entered into between the Buyer and the Seller (the "Purchase and Development Agreement" or "Agreement"). Capitalized terms used but not defined in this Assignment shall have the meanings set forth in the Agreement.

For purposes of this Assignment, the term "Contractor" means any consultant, architect, construction contractor, engineer or other person or entity entering into Agreements with the Buyer and/or preparing Studies, Plans and Specifications for the Buyer with respect to the Development.

The Buyer hereby irrevocably appoints the Seller as its attorney-in-fact (which Seller is coupled with an interest) to, upon the occurrence of a Default by Buyer (after notice and opportunity to cure) or an event which, with notice or the passage of time or both would constitute a Default (after notice and opportunity to cure) under and as defined in Article 11 of the Agreement, demand, receive, and enforce any and all of the Buyer's rights with respect to the Studies, Plans and Specifications, Agreements and Land Use Approvals, and perform any and all acts in the name of the Buyer or in the name of the Seller with the same force and effect as if performed by the Buyer in the absence of this Assignment.

The Buyer represents and warrants to the Seller that no previous assignment(s) of its rights or interest in or to the Studies, Plans and Specifications, Agreements, and/or Land Use Approvals, has or have been made, and the Buyer agrees not to assign, sell, pledge, transfer, mortgage, or hypothecate its rights or interest therein (without prior written approval of the Seller Manager) so long as the Seller holds or retains any security interest under the Agreement.

This Assignment is made to secure: (1) payment to the Seller of all sums now or hereafter owing under the Promissory Note dated as of the date hereof made by the Buyer to the Seller, and any and all additional advances, modifications, extensions, renewals and amendments thereof; and (2) payment and performance by the Buyer of all its obligations under the Agreement.

This Assignment shall be governed by the laws of the State of California, except to the extent that Federal laws preempt the laws of the State of California, and the Buyer consents to the jurisdiction of any federal or State Court within the State of California having proper venue for the filing and maintenance of any action arising hereunder and agrees that the prevailing party in any such action shall be entitled, in addition to any other recovery, to reasonable attorneys' fees and costs.

This Assignment shall be binding upon and inure to the benefit of the heirs, legal representatives, assigns, and successors-in-interest of the Buyer and the Seller; provided, however, this shall not be construed and is not intended to waive the restrictions on assignment, sale, transfer, mortgage, pledge, hypothecation or encumbrance by the Buyer contained in the Agreement.

Executed by the Buyer on _____, ~~2009~~2010.

BUYER

EDEN HOUSING, INC., a California nonprofit public benefit corporation

By: _____

ARCHITECT'S/ENGINEER'S CONSENT

The undersigned architect and/or engineer (collectively referred to as "Architect") hereby consents to the foregoing Assignment of Agreements, Plans and Specifications, and Approvals ("Assignment"), of which this Architect's/Engineer's Consent ("Consent") is a part, and acknowledges that there presently exists no unpaid claims presently due to the Architect except as disclosed to the Seller with a copy to Architect arising out of the preparation and delivery of the Plans and Specification to the Buyer and/or the performance of the Architect's obligations under the Agreements, as the term "Agreements" is defined in the Assignment.

Architect agrees that if, at any time, the Seller shall become the owner of said Property, or, pursuant to its rights under the Agreement, elects to undertake or cause the completion of construction of the Development on any of the Property, in accordance with the Plans and Specifications, and gives Architect written notice of such election; then so long as the Architect has received, receives or continues to receive the compensations called for under the Agreements, the Seller may, at its option, use and rely on the Plans and Specifications for the purposes for which they were prepared, and Architect will continue to perform its obligations under the Agreements for the benefit and account of the Seller in the same manner as if performed for the benefit or account of the Buyer in the absence of this Assignment.

Architect further agrees that, in the event of a breach by the Buyer of the Agreements, or any agreement entered into with Architect in connection with the Plans and Specifications, so long as the Buyer's interest in the Agreements and Plans and Specifications is assigned to the Seller, Architect will give written notice to the Seller at the address shown below of such breach. The Seller shall have thirty (30) days from the receipt of such written notice of Default to remedy or cure said Default; provided, however, nothing herein shall require the Seller to cure said Default or to undertake completion of construction of the Improvements.

Architect warrants and represents that it/he/she has no knowledge of any prior assignment(s) of any interest in either the Plans and Specifications and/or the Agreements. Except as otherwise defined herein, the terms used herein shall have the meanings given them in the Assignment or the Predevelopment Loan Agreement, as applicable.

Executed by the Architect on _____, 20__

Address of Seller:
City of Lodi
Community Development Dept.
221 W. Pine Street, Lodi, CA 945240
(P.O. Box 3006, Lodi, CA 95241-1910)
Attention: Manager,
Neighborhood Services Division
Community Improvement

Address of Architect:

Architect: _____

By: _____

Its: _____

EXHIBIT K
Memorandum of Purchase and Development Agreement

Recording Requested By
And When Recorded Mail To:
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

With a Copy to and
Mail Tax Statements to:
Eden Housing, Inc.
22645 Grand Street
Hayward, CA 94541-5031

FREE RECORDING REQUESTED
(Gov't Code Section 6103)

MEMORANDUM OF PURCHASE AND DEVELOPMENT AGREEMENT

By this Memorandum of Purchase and Development Agreement made_____ __, 20__ made concurrently with the Purchase and Development Agreement ("Agreement") between the same parties covering the same property, more particularly described as the City of Lodi, a California municipal corporation and Eden Housing, Inc., a California nonprofit public benefit corporation (individually "Party" and collectively, "Parties") hereby agree the real property commonly known as approximately 3.39 acres located at 2245 Tienda Drive in the City of Lodi ("Property"), which Property is more particularly described in Exhibit A, attached hereto, shall be held, maintained and operated pursuant to the terms of the Agreement and the Exhibits attached, thereto.

This Memorandum may be executed in multiple originals, each of which is deemed an original, and may be signed in Counterparts.

IN WITNESS WHEREOF, the parties hereto have entered into this Memorandum as of the date set forth above.

Eden Housing, Inc.,
a California nonprofit public benefit corporation

By: _____ Date: _____,
~~2009~~2010
Linda Mandolini,
Executive Director

City of Lodi,
a California municipal corporation

By: _____ Date: _____,
~~2009~~2010
Blair King, City Manager

Approved as to Form:

By: _____
D. Stephen Schwabauer, City Attorney

STATE OF CALIFORNIA)
) ss:
COUNTY OF)

On _____, 20__, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person 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 _____

STATE OF CALIFORNIA)
) ss:
COUNTY)

On _____, 20__, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person 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 _____

RESOLUTION NO. 2010-____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO EXECUTE A
PURCHASE AND DEVELOPMENT AGREEMENT WITH
EDEN HOUSING, INC. REGARDING A SENIOR
HOUSING PROJECT AT 2245 TIENDA DRIVE.

==========

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a Purchase and Development Agreement with Eden Housing, Inc., a California corporation, for Eden's acquisition of City-owned property located at 2245 Tienda Drive, Lodi, California, and the subsequent development of an affordable senior housing project known as the "Tienda Drive Senior Housing Project," at that location.

Dated: April 7, 2010

==========

I hereby certify that Resolution No. 2010-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 7, 2010, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

AGENDA ITEM J-06

CITY OF LODI
COUNCIL COMMUNICATION

AGENDA TITLE: **Receive Presentation on a Proposed New Sales Tax (NST) Electric Rate Discount and Provide Electric Utility Department with Direction (EUD)**

MEETING DATE: **April 7, 2010**

PREPARED BY: **Interim Electric Utility Director**

RECOMMENDED ACTION: Receive a presentation on a proposed New Sales Tax (NST) Electric Rate Discount and provide Electric Utility Department with direction.

BACKGROUND INFORMATION: The Electric Utility Department has developed for City Council consideration a new electric utility rate incentive: the New Sales Tax (NST) Rate Discount. The proposed NST has three primary objectives:

1) Enhance sales tax revenue to Lodi's General Fund;
2) Reduce the vacancy rate of commercial properties in Lodi, thus reducing the potential for property neglect, vandalism and/or blight; and,
3) Strengthen Lodi's commitment to business growth and economic development during this temporary national economic downturn.

As proposed, NST would be available to commercial customers (G1, G2, G3, G4 or G5 electric utility rate) who generate at least $100,000 in sales tax or more per year for the City of Lodi pursuant to Bradley Burns Sales Tax, and occupy a property that has been vacant for a minimum of three months. As presented, the proposed rate discount would be 10 percent through Fiscal Year 2010/11 and 5 percent through Fiscal Year 2011/12.

The proposed resolution would have the incentive expire at the end of June 2012 at which point staff could assess whether economic conditions require renewal.

The discount could be in effect upon a customer occupancy date of July 1, 2010, with City Council approval by ordinance.

FISCAL IMPACT: Unknown. Dependent upon the number of participants, and how many of those would not occupy the vacant property without the discount.

FUNDING: Not applicable.

Kenneth A. Weisel
Interim Electric Utility Director

PREPARED BY: Rob Lechner, Manager, Customer Service and Programs

KAW/RL/lst

APPROVED: _____
Blair King, City Manager

AGENDA ITEM J-07

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving Salary Range and Reclassification for the Position of Substation/Meter Superintendent.

MEETING DATE: April 7, 2010

SUBMITTED BY: Human Resources Manager

RECOMMENDED ACTION: Adopt resolution approving salary range and reclassification for the position of Substation/Meter Superintendent.

BACKGROUND INFORMATION: The Substation/Meter Superintendent job description represents a reclassification of the Electric Systems Superintendent with a new salary range. This position's responsibilities include testing, repair, maintenance, power quality analysis, regulatory compliance, and documentation of the City's 60,000-volt substations, through which all power delivered to customers must pass.

This position remains vacant as the City has been unable to attract a qualified candidate for the past several months. It is an essential position for the Electric Utility Department and must be filled imminently as severe penalties (as much as $1,000,000 per day) can be imposed if the City does not ensure the utility's compliance with nationwide reliability standards, which is a key responsibility of this position.

Complicating our ability to recruit for this position is its current salary. Research indicates the City's compensation for the Electric Systems Superintendent is not competitive in the market and among comparable positions within the Electric Utility. Staff, therefore, recommends the new Substation/Meter Superintendent monthly salary range be $7,356.09 to $8,940.86, which is approximately 13 percent above the current range for the Electric Systems Superintendent, which it replaces.

It is expected the revised classification and salary range would allow the City to attract a qualified candidate. Absent these modifications, the City would be forced to reallocate a higher-salaried employee to perform the above functions, which would be more costly and affect the operations of other Electric Utility functions.

FISCAL IMPACT: At top step, the difference in base pay is $12,615 and will be included in the 2010/11 budget, if approved.

FUNDING AVAILABLE: All additional costs will be absorbed within existing appropriations.

Respectfully submitted,

_____
Jordan Ayers, Deputy City Manager/Internal Services Director

_____
Dean Gualco, Human Resources Manager

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2010-____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING SALARY RANGE AND
RECLASSIFICATION FOR THE POSITION OF
SUBSTATION/METER SUPERINTENDENT

==========

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the salary range, and reclassification for the position of Electric Systems Superintendent to Substation/Meter Superintendent;

BE IT FURTHER RESOLVED that the City Council hereby approves the following salary range for Substation/Meter Superintendent:

	Step A	**Step B**	**Step C**	**Step D**	**Step E**
Substation/Meter Superintendent	7356.09	7723.79	8109.36	8515.05	8940.86

Date: April 7, 2010

==========

I hereby certify that Resolution No. 2010-____ was passed and adopted by the Lodi City Council in a regular meeting held April 7, 2010, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk