



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Approving Addendum to Improvement Agreement for Public Improvements at 856 North Sacramento Street to Provide One-Year Time Extension

**MEETING DATE:** April 16, 2008

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Adopt a resolution approving the Addendum to the Improvement Agreement to provide one-year time extension for the Public Improvements at 856 North Sacramento Street and authorizing the City Manager to execute the agreement on behalf of the City.

**BACKGROUND INFORMATION:** The developer, Emile Atwood, has applied for a building permit to construct an office/retail building at 856 North Sacramento Street. There is no map required for this project. Public improvements, including curb, gutter, sidewalk and miscellaneous storm drainage improvements, are part of the off-site improvement requirement, as specified in LMC Chapter 15.44. The developer executed an improvement agreement for the required public improvements in June 2006. Under the terms of the improvement agreement, the developer had 365 days from the date of the agreement execution to complete the public improvements. The City has already approved an addendum to the improvement agreement to provide a one-year extension and now the developer is requesting another year extension. As a condition of the building permit, all public improvements must be completed prior to occupancy. All public improvements are expected to be completed by March 19, 2009.

The public improvements have not been completed as of this date, due to financial constraints on the part of the developer. The developer desires to comply with the requirements of the agreement and is requesting a time extension for completion of the public improvements. Staff feels this is a reasonable request and is recommending a one-year extension for the public improvements as specified under the terms of the original improvement agreement. The addendum also specifies that the developer pay all the additional costs of the document preparation (\$566) and provide the necessary contract security and insurance under the terms of the original agreement.

The developer has executed the agreement and paid the additional fees. Staff is recommending that Council approve the Addendum to the Improvement Agreement for the Public Improvements at 856 North Sacramento Street and authorize the City Manager execute the agreement on behalf of the City.

**FISCAL IMPACT:** There will be no financial impact to the City.

**FINANCING AVAILABLE:** Not applicable.

\_\_\_\_\_  
F. Wally Sandelin  
Public Works Director

Prepared by Chris Boyer, Junior Engineer  
FWS/CRB/pmf  
cc: Emile Atwood  
Junior Engineer Boyer

**APPROVED:** \_\_\_\_\_  
Blair King, City Manager

ADDENDUM  
to the  
IMPROVEMENT AGREEMENT  
for the  
PUBLIC IMPROVEMENTS  
of  
856 N Sacramento Street

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, hereinafter referred to as "City", and EMILE ATWOOD and J. CELIA ATWOOD, hereinafter referred to as "Developer".

RECITALS:

WHEREAS, Developer has applied to the City for issuance of a building permit allowing Developer to build on that parcel known as 856 N. Sacramento Street (APN 041-80-25); and

WHEREAS, Developer and the City have entered into an improvement agreement for the required public improvements which are a part of, or appurtenant to, the development, hereinafter called "project"; and

WHEREAS, the addendum improvement agreement is set to expire on May 26, 2008; and

WHEREAS, Developer desires to extend the term of the improvement agreement to allow extra time for the completion of the public improvements.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, it is hereby agreed between the parties as follows:

1. That this document is considered an addendum to the Improvement Agreement for the Public Improvements of 856 N. Sacramento Street.
2. Developer shall, within 365 calendar days from the date of this agreement or by March 16, 2009, whenever occur first, perform or cause to be performed all work and/or improvements described under the original improvement agreement.
3. Developer agrees to pay all additional costs for preparation and execution of this addendum.
4. Developer shall provide and keep current the necessary contract security and insurance as specified in the original improvement agreement.
5. All other terms and conditions of the original improvement agreement shall remain unchanged.

6. Execution

In Witness Whereof, Developer and City have caused their names to be hereunto affixed and the City of Lodi has caused its corporate name and seal to be hereunto affixed by its proper officers thereunto duly authorized.

Developers

\_\_\_\_\_  
Date

\_\_\_\_\_  
Emile Atwood

\_\_\_\_\_  
J. Celia Atwood

(CORPORATE SEAL)

CITY OF LODI, A MUNICIPAL CORPORATION

By: \_\_\_\_\_  
Blair King, City Manager

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Randi Johl, City Clerk

\_\_\_\_\_  
Date

APPROVED AS TO FORM:



\_\_\_\_\_  
D. Stephen Schwabauer, City Attorney

RESOLUTION NO. 2008-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING THE IMPROVEMENT AGREEMENT  
ADDENDUM FOR PUBLIC IMPROVEMENTS AT  
856 NORTH SACRAMENTO STREET

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WHEREAS, the developer, Emile Atwood, has applied for a building permit to construct an office/retail building at 856 North Sacramento Street. Public improvements, including curb, gutter, sidewalk, and miscellaneous storm drainage improvements, are part of the off-site improvement requirement, as specified in Lodi Municipal Code Chapter 15.44; and

WHEREAS, the developer executed an improvement agreement for the required public improvements in June 2006 and, pursuant to the terms thereof, the developer had 365 days from the date of the agreement execution to complete the public improvement. As a condition of the building permit, all public improvements must be completed prior to occupancy; and

WHEREAS, the City Council approved an addendum to the improvement agreement on May 16, 2007, to provide a one-year extension; and

WHEREAS, the public improvements have not been completed as of this date due to financial constraints on the part of the developer. The developer desires to comply with the requirements of the agreement and is requesting a time extension for completion of the public improvements, and staff therefore recommends a one-year extension for the public improvements as specified under the terms of the original improvement agreement; and

WHEREAS, the addendum also specifies that the developer pay all the additional costs of the document preparation (\$566) and provide the necessary contract security and insurance for the terms of the original agreement; and

WHEREAS, the developer has executed the agreement and paid the additional fees, and staff recommends that the City Council approve the Addendum to the Improvement Agreement for the Public Improvements at 856 North Sacramento Street and authorize the City Manager to execute the agreement on behalf of the City of Lodi.

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

1. That the Addendum to the Improvement Agreement for the Public Improvements at 856 North Sacramento Street is hereby approved, and further that the City Manager is authorized to execute said Addendum on behalf of the City of Lodi.

Dated: April 16, 2008

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I hereby certify that Resolution No. 2008-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 16, 2008, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk