LODI CITY COUNCIL

Carnegie Forum
305 West Pine Street, Lodi

TM

AGENDA – REGULAR MEETING

Date: April 19, 2006
Time: Closed Session 5:30 p.m.
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:
Susan J. Blackston
City Clerk
Telephone: (209) 333-6702

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 and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.

C-1 Call to Order / Roll Call

C-2 Announcement of Closed Session

a) Pursuant to Government Code §54956.9(c); conference with legal counsel – anticipated litigation/initiation of litigation – regarding County of San Joaquin EMS Order to change 911 Fire Dispatch Providers; one potential case

b) Actual litigation: Government Code §54956.9(a); one case; *People of the State of California; and the City of Lodi, California v. M & P Investments, et al*.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

c) Conference with Blair King, City Manager, and Jim Krueger, Deputy City Manager (Labor Negotiators), regarding Lodi Professional Firefighters, Police Management, and Association of Lodi City Employees regarding General Services pursuant to Government Code Section §54957.6

d) Conference with legal counsel – anticipated litigation – significant exposure to litigation pursuant to subdivision (b) of Section 54956.9; one case; pursuant to Government Code §54956.9(b)(3)(A) facts, due to not being known to potential plaintiffs, shall not be disclosed

C-3 Adjourn to Closed Session

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

C-4 Return to Open Session / Disclosure of Action

A. Call to Order / Roll call

B. Invocation – Pastor Bill Cummins, Bear Creek Community Church

C. Pledge of Allegiance

D. Presentations

D-1 Awards – None

D-2 Proclamations

a) National Volunteers Week (PD)

D-3 Presentations

a) Presentation to students of Jim Elliot Christian High School for advancing to the National Robotics Competition in Atlanta, Georgia

b) Presentation of donation for Lodi Station Parking Structure Wall Dog mural project by Central California Traction Company (PW)

E. Consent Calendar (Reading; comments by the public; Council action)

E-1 Receive Register of Claims in the amount of $6,541,342.33 (FIN)

E-2 Approve minutes (CLK)
a) March 1, 2006 (Regular Meeting)
b) March 21, 2006 (Shirtsleeve Session)
c) April 11, 2006 (Shirtsleeve Session)

Res. E-3 Adopt resolution approving plans and specifications; authorizing advertisement for bids for Municipal Service Center Compressed Natural Gas Fueling Station Expansion, 1331 South Ham Lane; and authorizing the City Manager to execute amendment to professional services agreement with T. Mitchell Engineers and Associates ($14,600) (PW)

E-4 Approve specifications and authorize advertisement for bids for 3,000 tons of asphalt materials for fiscal year 2006-07 (PW)

E-5 Approve specifications and authorize advertisement for bids for Annual Tree Trimming Contract (Power Line Clearing) for Electric Utility Department ($350,000) (EUD)

Res. E-6 Adopt resolution authorizing the Public Works Street Division to waive the bidding process and award to an existing professional services agreement for tree trimming between city of Brentwood and West Coast Arborists, Inc., for trimming of 510 trees ($25,000) and authorizing the City Manager to award the contract (PW)

E-7 Accept improvements under contract for Water Meter Installation Project (PW)

Res. E-8 Adopt resolution accepting improvements under contract for Kettleman Lane (Route 12) Gap Closure Project from Lower Sacramento Road to Ham Lane and from Stockton Street to Cherokee Lane and appropriating additional funds ($102,800) (PW)

E-9 Accept improvements under contract for Lodi Avenue Overlay (Lower Sacramento Road to Ham Lane) / Pacific Avenue Extension (Walnut Street to Lodi Avenue) Project (PW)

Res. E-10 Adopt resolution accepting improvements under contract for Lower Sacramento Road Widening Project, Kettleman Lane to Harney Lane and appropriating $5,000 and receive notification of Contract Change Orders and property owner reimbursement (PW)

Res. E-11 Adopt resolution accepting improvements for the Harney Lane Canal Crossing Project and appropriating additional funds for applicable reimbursements ($66,520) (PW)

Res. E-12 Adopt resolution accepting improvements at 33 North Cluff Avenue (PW)

Res. E-13 Adopt resolution approving improvement deferral agreement for 710 Willow Avenue (PW)

Res. E-14 Adopt resolution approving extension of the 2005-06 Annual Curb, Gutter, and Sidewalk Replacement contract with Jeff Case Construction Company for 2006-07 fiscal year with a three percent increase ($71,200) (PW)

Res. E-15 Adopt resolution supporting the Watershed Stakeholder Outreach Projects proposed by Central Sierra Resource Conservation & Development, Inc. (PW)

Res. E-16 Adopt resolution amending Traffic Resolution 97-148 by approving one-hour parking (school days only) on the north side of Century Boulevard in front of bus turnout at Tokay High School (PW)

Res. E-17 Adopt resolution approving Resource Adequacy Program for the City of Lodi (EUD)

Res. E-18 Adopt resolution approving the naming of Salas Park southwest baseball diamond for Michael Moore (PR)

Res. E-19 Adopt resolution supporting the preservation of the existing U.S. Department of Housing and Urban Development Community Development Block Grant program (CM)

Res. E-20 Adopt resolution supporting a Constitutional amendment to ensure that Proposition 42 revenues are used exclusively for state and local transportation projects and that revenues previously used to offset non-transportation purposes are reimbursed (CM)

E-21 Authorize Mayor to sign letters of opposition to the U.S. House of Representatives Committee on Energy and Commerce bill, *Communications, Opportunity, Promotion, and Enhancement Act of 2006* (Barton-Rush), and the California State Assembly bill, *AB 2987 (Nunez)*, to prevent the pre-emption of local control of cable television franchises (CM)

E-22 Set public hearing for May 3, 2006, to consider adopting resolution adjusting Consumer Price Index-based water and wastewater rates (PW)

F. 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.

G. Comments by the City Council Members on non-agenda items

H. Comments by the City Manager on non-agenda items

I. Public Hearings

Res. I-1 Public hearing to consider the appeal of the Planning Commission's decision of February 22, 2006, to approve a Use Permit for Vineyard Christian Middle School to place a private 6th, 7th, and 8th grade school on the grounds of Lodi Avenue Baptist Church at 2301 West Lodi Avenue (Applicant, Lodi Avenue Baptist Church; File #U-05-20) (CD)

J. Communications

J-1 Claims filed against the City of Lodi – None

J-2 Appointments

a) Post for expiring terms on the Greater Lodi Area Youth Commission (Adult Advisors), Library Board of Trustees, Lodi Arts Commission, Lodi Planning Commission, and San Joaquin County Commission on Aging (CLK)

J-3 Miscellaneous

a) Monthly Protocol Account Report (CLK)

K. Regular Calendar

Res. K-1 Adopt resolution implementing surface water treatment program utilizing Woodbridge Irrigation District contractual allotment and authorizing solicitation of water treatment plant proposals (PW)

K-2 Consider extending the active date to May 12, 2006, for an application submitted by San Joaquin Valley Land Company for entitlements related to development of a 220-acre site located immediately south of Harney Lane between State Route 99 and the Union Pacific Railroad, pending a decision by Blue Shield of California to remain and expand in Lodi (CM)

Res. K-3 Adopt resolution establishing Public Works Department engineering fees for various development services; amending Community Improvement fees for administrative procedures; and amending Planning fees to add pre-development review and hourly charges (PW / CD)

Res. K-4 Adopt resolution authorizing the City Manager to execute professional services agreement with Fehr & Peers Transportation Consultants, of Walnut Creek, for preparation of Travel Demand Forecasting Model for General Plan Update and appropriating funds ($160,000) (PW)

Res. K-5 Adopt resolution authorizing the City Manager to execute two agreements to prepare Environmental Impact Report amendments for the Lodi Shopping Center: one with Pacific Municipal Consultants for $72,000 and one with Bay Area Economics for $46,075 (CD)

K-6 Authorization to fill a previously "frozen" Junior/Assistant/Associate Planner position in the Community Development Department (CM)

Ord. (Introduce) K-7 Introduce ordinance imposing a Transactions and Use Tax to be administered by the State Board of Equalization and adding Chapter 3.09 to the Lodi Municipal Code, which shall be operative only IF two-thirds of the electors voting on the Fire & Facilities Sales Tax Measure (citizens initiative) vote to approve the imposition of the tax at the November 7, 2006, General Municipal Election (CLK)

K-8 Authorize the City Manager to execute fee adjustment agreement for Vintage Oaks Subdivision (PW)

L. Adjourn to Special Joint Meeting of the Lodi City Council and Redevelopment Agency

(RE: ITEMS L-1and L-2; see April 19, 2006, agenda for Special Joint Meeting of the Lodi City Council and Redevelopment Agency)

Ord. (Adopt) L-1 Ordinance No. 1775 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 15 – Buildings and Construction – of the Lodi Municipal Code by Adding Chapter 15.72 Relating to Eminent Domain" (CLK)

Ord. (Adopt) L-2 Ordinance No. 1776 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 2 – Administration and Personnel – of the Lodi Municipal Code by Adding Chapter 2.52.020 Relating to Eminent Domain" (CLK)

M. Ordinances

Ord. (Adopt) M-1 Ordinance No. 1772 entitled, "An Ordinance of the Lodi City Council Amending Chapter 13.20, 'Electrical Service,' by Amending Sections 13.20.175 Schedule MCA, 13.20.190 Schedule EA, 13.20.200 Schedule ED, 13.20.210 Schedule EM, 13.20.220 Schedule MR, 13.20.230 Schedule EL, 13.20.240 Schedule G1, 13.20.250 Schedule G2, 13.20.260 Schedule G3, 13.20.270 Schedule G4, 13.20.280 Schedule G5, and 13.20.310 Schedule I-1 Relating to Rate Schedules; Adding Section 13.20.235 Schedule ES (City Facilities Service); and Repealing Sections 13.20.202, 13.20.203, and 13.20.204" (CLK)

Ord. (Adopt) M-2 Ordinance No. 1777 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 1 – General Provisions – by Creating and Adding Chapter 1.10, 'Administrative Enforcement Provisions'" (CLK)

Ord. (Adopt) M-3 Ordinance No. 1778 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code by Repealing Chapter 2.34, 'Administrative Procedures for Administrative Proceedings,' in Its Entirety; Repealing and Reenacting Section 3.01.460, Business Tax Certification – 'Enforcement'; Repealing and Reenacting Section 10.56.020 (J), (K), and (L)-(1), Removal of Vehicles – 'Removal from Private Property'; Amending Building Code Section 15.04.060, 'Violation-Misdemeanor,' by Adding Section (C); Repealing and Reenacting Chapter 15.24, 'Housing Code,' Sections 15.24.30 – 15.24.70 and Sections 15.24.090 – 15.24.100; Repealing and Reenacting Sections 15.28.030, 15.28.070, 15.28.080, 15.28.090, 15.28.100, 15.28.120, and 15.28.140 Relating to the Abatement of Dangerous Buildings Code; Repealing Sections 15.30.040 – 15.30.220 and Reenacting Sections 15.30.040 – 15.30.060 Relating to Property Maintenance and the Designation of Certain Kinds of Nuisances; and Amending Chapter 15.31, 'Weed and Refuse Abatement,' by Adding Sections 15.31.150 – 15.31.170" (CLK)

M. 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.

_____
Susan J. Blackston
City Clerk

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LODI CITY COUNCIL

Carnegie Forum
305 West Pine Street, Lodi

TM

AGENDA – SPECIAL MEETING
Lodi City Council / Redevelopment Agency
Date: April 19, 2006
Time: 7:00 p.m.

For information regarding this agenda please contact:
Susan J. Blackston
City Clerk/Secretary
Telephone: (209) 333-6702

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SPECIAL JOINT MEETING

Lodi City Council / Redevelopment Agency

A. Roll call

B. Ordinances

(RE: ITEM B-1 and B-2; see April 19, 2006, Lodi City Council Regular Meeting agenda)

Ord. (Adopt) B-1 Ordinance No. 1775 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 15 – Buildings and Construction – of the Lodi Municipal Code by Adding Chapter 15.72 Relating to Eminent Domain" (CLK)

Ord. (Adopt) B-2 Ordinance No. 1776 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 2 – Administration and Personnel – of the Lodi Municipal Code by Adding Chapter 2.52.020 Relating to Eminent Domain" (CLK)

C. Adjournment

Pursuant to Section 54956.2(a) of the Government Code of the State of California, this agenda was posted at a place freely accessible to the public 24 hours in advance of the scheduled meeting.

_____
Susan J. Blackston
City Clerk/Secretary

NOTICE: Pursuant to Government Code §54954.3(a), public comments may be directed to the legislative body concerning any item contained on the agenda for this meeting* <u>*before*</u> (in the case of a Closed Session item) *or* <u>*during*</u> *consideration of the item.

AGENDA ITEM D-02a

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: National Volunteers' Week

MEETING DATE: April 19, 2006

PREPARED BY: Jerry J. Adams, Chief of Police

RECOMMENDED ACTION: That Mayor Hitchcock present a proclamation proclaiming the period of April 23 - 29, 2006 as National Volunteers' Week in the City of Lodi.

BACKGROUND INFORMATION: The Mayor has been requested to present a proclamation proclaiming the period of April 23 – 29, 2006 as National Volunteers' Week in the City of Lodi. Chief Jerry Adams will attend this meeting to accept the proclamation, along with Special Services Manager, Jeanie Biskup.

The Lodi Police Partners Program has been in operation for twelve years, providing endless hours of service to the Lodi Police Department. In 2005 Partners donated 26,850 hours to the Police Department with an estimated fiscal benefit of approximately $484,536. There are currently 96 Partners in the Program.

The Lodi Police Chaplaincy Program was formed in February of 1994. There are currently five dedicated volunteer local clergy participating. They are an essential part of the Lodi Police Department, providing counseling and support in times of crisis and tragedy to police personnel and the public.

The Lodi Police Reserve Program has existed almost as long as the Police Department itself. Many of today's full-time officers began as Reserves, and many Reserves have also gone on to work for a variety of State and Federal agencies. There are currently four Reserve Officers volunteering their services with the Lodi Police Department.

The Lodi Police Cadet Program offers local youths between the ages of 16 and 24, the opportunity to volunteer and gain valuable experience during their high school and college years. Eighteen Cadets participate at the present time. Many of these young people go on to become Reserve Officers, and like the Reserves, they often become full-time Police Officers for Lodi and other cities. The Lodi Police Department also partners with Lodi Unified School District through an R.O.P. Police Academy Program for young people interested in a law enforcement career. The academy environment is actually based on the traditional academy for police officers. There are currently 56 Juniors and Seniors enrolled in the academy.

In addition to the 125 "frontline" LPD volunteers, there are another 46 community volunteers who serve "behind the scenes" on the Crime Stoppers and Lodi Police Foundation Board of Directors (15), the Chaplain Board of Directors (6) and PALS volunteers (25) at the Animal Shelter. All of the listed individuals generously give of their time, talents, and often times their personal funds toward the betterment of the Lodi Police Department.

FISCAL IMPACT: None
FUNDING AVAILABLE: N/A

_____
Jerry J. Adams
Chief of Police

APPROVED: _____
Blair King, City Manager

AGENDA ITEM D-03a

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Presentation to Students of Jim Elliot Christian High School for Advancing to the National Robotics Competition in Atlanta, Georgia

MEETING DATE: April 19, 2006

PREPARED BY: City Clerk

RECOMMENDED ACTION: That Mayor Hitchcock present a Certificate of Recognition to students of Jim Elliot Christian High School for advancing to the National Robotics Competition in Atlanta, Georgia.

BACKGROUND INFORMATION: The Mayor has been requested to present a Certificate of Recognition to the students of Jim Elliot Christian High School who participated in the robotics competition at UC Davis March 23 – 25, 2006, at which its "Raptorbot" robot captured first place among 40 schools, thereby advancing them to the national competition in Atlanta, Georgia. Dottie Henry, Dean of Students, and the participating students will be at the meeting to accept the Certificate.

FISCAL IMPACT: N/A

FUNDING AVAILABLE: None required.

_____
Susan J. Blackston
City Clerk

APPROVED: _____
Blair King, City Manager

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AGENDA ITEM **D-03b**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Presentation of Donation for Lodi Station Parking Structure Walldog Mural Project by Central California Traction Company**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council receive the donation presented by the Central California Traction Company for the Lodi Station Parking Structure Walldog Mural project.

BACKGROUND INFORMATION: The Central California Traction Company (CCTC) has agreed to sponsor the Walldog Mural at the Lodi Station Parking Structure. Participation in the Mural project, and specifically at the Structure, was previously approved by the City Council.

This mural will be one of the largest and most dramatic of the eight murals being planned, as it will wrap around the corner of the building. A description of the mural is attached. This description will be incorporated into a plaque to be placed on the building.

Staff would like to thank and acknowledge the community spirit and outstanding cooperation of the CCTC and its owners, Union Pacific Railroad and Burlington Northern/Santa Fe, in this project which is an outcome of recent joint projects in the area, including the Measure K-funded Central City Railroad Safety Project which removed the tracks in Lodi Avenue.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

Richard C. Prima, Jr.
Public Works Director

RCP/pmf

Attachment

cc: Dave Buccalo, Central California Traction Company
George Sturm, Union Pacific Railroad
Debbie Valentine, Burlington Northern/Santa Fe
Tony Segale

APPROVED: _____
Blair King, City Manager

THE LODI STATION MURAL / Designed by Mark Oatis

This mural is designed in the Moderne or Art Deco style, which is appropriate to the Art Deco-influenced architectural design of the building itself. The mural will appear on the southern and eastern exposures of the parking structure and is intended to create interest from the eastern approach.

The mural's period design acknowledges the architectural theme but has much greater historic subtext.

The mural commemorates the events of August 16, 1927, when the Interstate Commerce Commission approved the sale of the Central California Traction Company to the Santa Fe, Western Pacific and Southern Pacific railroads. During the 1920's and earlier, buildings were often decorated in cast terra cotta tiles, many with bas-relief images that evoked the use of the building. The Lodi Station mural imagines a special terra cotta feature, commissioned by the partner railroads, ordered to honor the CCTC and to generate interest in its popular electric passenger service. The "tiles" would be composed of both sculptural and flat elements, having areas in both monochromatic color (to support the existing architectural scheme) and areas in brighter colors. With our mural, we will depict these effects through painted dimension, also known as Trompe l'oiel, or "fool the eye."

California was home to many important terra cotta designers and manufacturers, among them the Batchelder Tile Co., Malibu Tiles and California Faience. All operated during the mural's "Era of Significance."

The primary panel (on the east) is a Moderne Tableaux, with three bas-relief female figures in classical costume meant to represent the heritage railroads: they stand on a pedestal "engraved" with the 1927 date. In their arms, they hold a bear cub, which honors the State of California and the people of Lodi and which shows a relationship to the Arch, nearby. The primary panel is flanked by Art Deco columns, which intersect with the architectural frieze, above. The area above the panel contains the "newly commissioned" CCTC trademark, which sits in the middle of a field of Deco-styled scrollwork.

The secondary panel, facing south, is a smaller panel, located to the right of the parking entry. It represents a cast Art Deco sign, which identifies the Central California Traction Company and advertises, "Electric Service to Sacramento, Stockton and Points Intermediate." It is surrounded by the same architectural columns and scrollwork as the primary panel.

The frieze, above, runs the length of the south elevation, turns the corner and terminates at the primary panel. The frieze depicts stylized CCTC passenger cars, circa 1927, which are captured by additional cast trademarks – these also act as architectural capitals for the real building columns. The cars are numbered 201 through 208 – actual numbers which appeared on the cars during that era.

The mural will be rendered in water-based paint and will be painted during the Head West Letterhead meeting in Lodi, in May 2006.

AGENDA ITEM E-1

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Receive Register of Claims Dated April 04, 2006 in the Amount of $6,541,342.33

MEETING DATE: April 19, 2006

PREPARED BY: Management Analyst

RECOMMENDED ACTION: That the City Council receives the attached Register of Claims. The disclosure of the PCE/TCE expenditures is shown as a separate item on the Register of Claims.

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of $6,541,342.33 dated 4/04/2006 which includes PCE/TCE payments of $175,653.33 and Payroll in the amount of $1,137,971.50

FISCAL IMPACT: n/a

FUNDING AVAILABLE: As per attached report.

Ruby R. Paiste

Ruby R. Paiste, Interim Finance Director

RRP/kb

Attachments

APPROVED: _____

Blair King, City Manager

Accounts Payable Page - 1
Council Report Date - 04/04/06

As of Thursday	Fund	Name	Amount
03/23/06	00100	General Fund	725,031.15
	00160	Electric Utility Fund	4,376,793.53
	00161	Utility Outlay Reserve Fund	639.00
	00164	Public Benefits Fund	6,429.97
	00170	Waste Water Utility Fund	8,168.23
	00171	Waste Wtr Util-Capital Outlay	240.75
	00172	Waste Water Capital Reserve	47,348.57
	00180	Water Utility Fund	308,042.57
	00181	Water Utility-Capital Outlay	75.25
	00184	Water PCE-TCE-Settlements	3,460.19
	00210	Library Fund	5,802.66
	00234	Local Law Enforce Block Grant	2,882.40
	00235	LPD-Public Safety Prog AB 1913	5,455.40
	00270	Employee Benefits	23,586.85
	00300	General Liabilities	3,981.65
	00310	Worker's Comp Insurance	23,844.57
	00325	Measure K Funds	3,450.00
	00329	TDA - Streets	6,243.00
	00340	Comm Dev Special Rev Fund	19,121.73
	00459	H U D	694.00
	01211	Capital Outlay/General Fund	5,089.48
	01250	Dial-a-Ride/Transportation	126,273.35
	01410	Expendable Trust	63,932.10
Sum			5,766,586.40
	00183	Water PCE-TCE	175,653.33
Sum			175,653.33
Total for Week Sum			5,942,239.73

Accounts Payable Page - 1
Council Report Date - 04/04/06

As of Thursday	Fund	Name	Amount
03/30/06	00100	General Fund	416,689.31
	00160	Electric Utility Fund	774.62
	00161	Utility Outlay Reserve Fund	24,412.05
	00164	Public Benefits Fund	45.00
	00170	Waste Water Utility Fund	14,966.42
	00171	Waste Wtr Util-Capital Outlay	2.58
	00172	Waste Water Capital Reserve	16,300.00
	00180	Water Utility Fund	838.54
	00181	Water Utility-Capital Outlay	6,097.50
	00184	Water PCE-TCE-Settlements	19,250.02
	00190	Central Plume	33,264.28
	00192	Busy Bee Plume	562.50
	00194	South Central Western Plume	2,804.16
	00210	Library Fund	2,926.41
	00234	Local Law Enforce Block Grant	4,713.91
	00270	Employee Benefits	9,473.34
	00327	IMF(Local) Streets Facilities	20,041.01
	00340	Comm Dev Special Rev Fund	914.04
	00501	Lcr Assessment 95-1	1,258.88
	01211	Capital Outlay/General Fund	1,082.84
	01241	LTF-Pedestrian/Bike	1,850.00
	01250	Dial-a-Ride/Transportation	5,133.91
	01410	Expendable Trust	15,701.28
Sum			599,102.60

Total for Week
Sum 599,102.60

Council Report for Payroll Page - 1
Date - 04/04/06

Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	03/26/06	00100	General Fund	800,208.60
		00160	Electric Utility Fund	140,412.91
		00164	Public Benefits Fund	5,023.94
		00170	Waste Water Utility Fund	77,935.78
		00180	Water Utility Fund	8,685.89
		00210	Library Fund	31,424.88
		00235	LPD-Public Safety Prog AB 1913	148.44
		00340	Comm Dev Special Rev Fund	39,604.92
		01250	Dial-a-Ride/Transportation	2,852.17
Pay Period Total:				
Sum				1,106,297.53
Retiree	04/30/06	00100	General Fund	31,673.97
Pay Period Total:				
Sum				31,673.97

AGENDA ITEM E-02

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approve Minutes
a) March 1, 2006 (Regular Meeting)
b) March 21, 2006 (Shirtsleeve Session)
c) April 11, 2006 (Shirtsleeve Session)

MEETING DATE: April 19, 2006

PREPARED BY: City Clerk

RECOMMENDED ACTION: That the City Council approve the following minutes as prepared:
a) March 1, 2006 (Regular Meeting)
b) March 21, 2006 (Shirtsleeve Session)
c) April 11, 2006 (Shirtsleeve Session)

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

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

_____
Susan J. Blackston
City Clerk

SJB/JMP

Attachments

APPROVED: _____
Blair King, City Manager

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EXHIBIT A

LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, MARCH 1, 2006

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of March 1, 2006, was called to order by Mayor Hitchcock at 6:35 p.m.

Present: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – Hansen*

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

*NOTE: Council Member Hansen was absent due to his attendance at the American Public Power Association conference in Washington D.C.

C-2 ANNOUNCEMENT OF CLOSED SESSION

a) Actual litigation: Government Code §54956.9(a); one case; *Pacific Bell Telephone Company, a California corporation doing business as AT&T California, v. City of Lodi et al.*, San Joaquin County Superior Court, Case No. CV028523

C-3 ADJOURN TO CLOSED SESSION

At 6:35 p.m., Mayor Hitchcock adjourned the meeting to a Closed Session to discuss the above matter.

The Closed Session adjourned at 6:50 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:04 p.m., Mayor Hitchcock reconvened the City Council meeting, and City Attorney Schwabauer reported that no reportable action was taken in closed session.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of March 1, 2006, was called to order by Mayor Hitchcock at 7:04 p.m.

Present: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – Hansen*

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

*NOTE: Council Member Hansen was absent due to his attendance at the American Public Power Association conference in Washington D.C.

B. INVOCATION

The invocation was given by Reverend Michael Voytek, Providence Reformed Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hitchcock.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 (a) Mayor Hitchcock presented a proclamation to George Bradley, Street Superintendent, proclaiming Saturday, April 1, 2006, as “Arbor Day” in the City of Lodi.

D-2 (b) Mayor Hitchcock presented a proclamation to City Clerk Blackston proclaiming the week of March 12 – 18, 2006, as "Sunshine Week" recognizing the importance of preserving open government in the City of Lodi.

D-3 (a) Wayne Kildall, representing the Lodi Area All Veterans Plaza Foundation, presented a check in the amount of $10,000 to Mayor Hitchcock, accepting on behalf of the City, for the quarterly payment on loan from the City.

D-3 (b) Chief Jerry Adams presented Silver Star awards to Officer Sierra Brucia and Detective Mike Kermgard who demonstrated outstanding bravery above and beyond what is expected in the normal course of duty.

D-3 (c) City Clerk Blackston gave an update on the Centennial activities being planned for 2006. Mayor Hitchcock presented a Certificate of Recognition to David Diskin of Applied Office for donating his time and talent in designing and updating the Lodi Centennial website.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Mounce, Beckman second, approved the following items hereinafter set forth by the vote shown below:

Ayes: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – Hansen

E-1 Claims were approved in the amount of $2,272,856.32.

E-2 The minutes of January 18, 2006 (Regular Meeting), February 1, 2006 (Regular Meeting), and February 14, 2006 (Shirtsleeve Session) were approved as written.

E-3 Approved the specifications and authorized advertisement for bids for 2006 Handicap Ramp Retrofit Project.

E-4 Adopted Resolution No. 2006-32 accepting the improvements at the south end of Ackerman Drive at intersection of Neuharth Drive and Stockton Street.

E-5 Adopted Resolution No. 2006-33 accepting the improvements in Lalazar Estates, Tract No. 3435.

E-6 Adopted Resolution No. 2006-34 approving 2006 groundwater monitoring services with Treadwell & Rollo, Inc., and appropriating funds in the amount of $140,800.

E-7 Received background information on implementing Woodbridge Irrigation District Surface Water Program.

E-8 Adopted Resolution No. 2006-35 rescinding Resolution No. 2005-264 regarding SBC Encroachment Condition.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Jane Lea stated that she was one of the proponents of the water rate reduction initiative and reported that the petition would be ready to circulate by next week.
- Paul Inman announced that $6,500 was raised at the "Fat Sunday" youth jazz and blues vocal concert last week, which will be given to the Red Cross to assist in the continuing hurricane relief effort in the Gulf Coast.

- Barbara Flockhart reminded citizens that they must be registered voters of the city of Lodi to qualify to sign the water rate reduction initiative. She encouraged community members to help in circulating the petition for signatures. She mentioned that Lodi has many volunteers who contribute a great deal to the City. As a means to save money, she suggested that City employees not be allowed to take City cars home. She expressed sadness that the mature eucalyptus trees on Highway 99 between Elk Grove and Lodi were cut down.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Beckman noted that he had previously suggested a town hall meeting be held to gather ideas from the public about alternative ways to pay for the PCE/TCE groundwater cleanup. He felt that a Chamber of Commerce representative would be a good moderator for the meeting and that a Saturday afternoon at the Loel Center would be a time and bcation convenient for many people. He was told by members of the community that they would like their suggestions, comments, and questions listed and responded to at the meeting. He asked that the topic of eminent domain and a general plan amendment to designate a greenbelt area be scheduled and discussed at the Special March 29 City Council meeting.
- Mayor Pro Tempore Johnson commended Management Analyst Janet Hamilton for preparing the "white paper" analysis of financial challenges in providing local services (Item K-2). He suggested that it be posted on the City's website.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King reported that he, along with Deputy City Manager Krueger, Electric Utility Director Morrow, Mayor Pro Tempore Johnson, and Council Member Hansen, would be making a presentation to rating agencies in New York City on March 6. In accordance with Assembly Bill 1234, a report about the trip will be made at the March 15 City Council meeting.

I. PUBLIC HEARINGS

I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hitchcock called for the public hearing to consider and approve community input and proposals for uses of the City's 2006-07 Federal allocation of Community Development Block Grant (CDBG) and HOME Program funds and the reallocation of available funds from previous program years.

Joseph Wood, Community Improvement Manager, reported that the application period for 2006-07 CDBG funding was December 6 through January 13. Recommendations were submitted to the City Manager on February 16. Mr. Wood described the review process. The total allocation received is $3.6 million in CDBG funding and $1.6 million in HOME program funds. The County is the administrator of the program for Housing and Urban Development. There is an administrative cost set aside of 6% of CDBG funds and 10% of HOME program funds. The net allocation is distributed throughout the county. The grant formula allocation is based upon total population and percentage of low-income population within each jurisdiction. Lodi has an allocation of $717,587 in CDBG funds and $263,000 in HOME program funds. The summary of reallocated projects include: 1) Eastside Park Improvements, 2) Lodi Lake Handicapped Access, and 3) Lodi Community Center Expansion.

Mr. Wood reviewed the following requests and recommendations:

- Lodi Adult Literacy Program requested $11,000 for a financial literacy assistance project – recommended;
- LOEL Foundation requested $278,391 for the final installment for acquisition of property at 303 E. Oak Street – recommended with CDBG and HOME funds;
- LOEL Foundation requested $330,000 for acquisition of duplex at 331-333 E. Oak Street – *not* recommended;

- Lodi Parks & Recreation requested $100,000 for installation of new deck surfacing material at Enze Pool facility, $9,500 for Hale Park Americans with Disabilities Act parking improvements; and $5,250 for recreation annex parking accessibility improvements – all recommended with reallocated funding. Note: Parks & Recreation withdrew its request for $170,000 to replace the restroom building at Blakely Park.
- Second Harvest Food Bank requested $10,000 to expand food assistance programs – recommended;
- San Joaquin County Human Services Agency requested $70,383.50 to make site improvements for Lodi Community Center – recommend $44,000 from CDBG funds and the balance from reallocations;
- Emergency Food Bank requested $50,000 for Phase III of an ongoing expansion project at 7 W. Scotts, Stockton – *not* recommended as the project does not meet readiness criteria;
- Emergency Food Bank requested $7,000 for a new "Prime Foods" program – recommended through reallocations;
- Lodi Public Works requested $250,000 for handicapped ramp retrofit project – recommended $100,000 in CDBG funds and $55,000 in reallocations;
- Lodi Library requested $31,251 for renovation of entrances to the Library building to meet Americans with Disabilities Act requirements – recommended;
- Lodi Cat Connection requested $13,000 for a spay and neuter program – recommended $10,000 through reallocations;
- Fair Housing requested $26,620 for services to low-income residents – recommended;
- Lodi Community Development requested $500,000 for land acquisition for affordable housing – recommend $330,000;
- Lodi City Manager's Office requested $200,000 for economic development jobs program – recommend set aside of $150,000.

Hearing Opened to the Public

- Stephanie Allen, Library Services Coordinator, explained that the request for the Financial Literacy Assistance Project was for an expansion of the program. There will be a series of eight workshops on financial literacy topics. The funds would be used for development of training material, advertising, classroom rental fees, and $6,700 for workshop presenters, the program assistant, and coordinator.

- Sue Pixler, representing the Cat Connection, noted that its request of $13,000 was decreased from $16,000 it asked for the year before. The money would be used to pay for veterinary services. This would be an expansion of services to 500 people; however, there are additional advantages because of the number of unwanted animals that would not be born due to the spay and neuter program. This program lessens the number of feral cats and aggressive dogs in Lodi that place a burden on City services. Last year money was focused on helping low-income owners of pit-bull breed dogs, due to the number of incidents and bites occurring. Cat Connection will provide $3,000 to $4,500 toward the program this year. In addition, $1,000 will be contributed from People Assisting the Lodi Shelter, and $1,500 from United Way payroll contributions. Also, in years past, Lodi Animal Services has allowed the Cat Connection to some of its spay/neuter fund monies. Ms. Pixler expected the program to grow significantly over the next five years, preventing the birth of thousands of unwanted puppies and kittens, which taxpayers currently are paying the City shelter to take in, hold, and then euthanize due to a lack of homes. National statistics shows that between $2 and $3 dollars are saved by communities for every $1 invested in spay and neuter programs. The Cat Connection expects to have an ongoing spay/neuter program funded entirely by its fundraising efforts within the next two to three years. The number of impounds decreased by 100 last year; however, euthanasia increased dramatically.

- Paul Rengh, Director of the Second Harvest Food Bank, reported that there are 195 senior citizens enrolled in the senior brown bag program. There are two Food for Thought sites in Lodi, in which 65 Lodi youth participate. The Food Bank provides supplemental groceries to nine non-profit charities in Lodi. Second Harvest Food Bank delivered 567,000 pounds of food in the last 12 months at a value of $850,000. Its budget is $1.3 million, of which half is raised by the Food Bank and the remainder comes from grants, foundations, CDBG, and FEMA. Twelve percent of the Food Bank's services are contributed to Lodi. He anticipated a 5% increase in additional poundage of food distribution in the next year.

- Tim Vial, representing the Emergency Food Bank of Greater Stockton, stated that its client base is 100,000 annually, which are served on site and reached through 13 satellite pantries, one of which is in Lodi. The "Prime Foods for Healthy Families" is a nutrition education program, which will require $100,000 a year to buy dairy products, meat, fish, etc. He reported that hunger in the community is increasing.

Public Portion of Hearing Closed

MOTION:

Council Member Mounce made a motion, Hitchcock second, to adopt Resolution No. 2006-36 approving the projected use of funds for the 2006-07 Federal allocation of Community Development Block Grant and HOME Program funds, and further reallocating available funds from previous program years, as recommended.

DISCUSSION:

Council Member Beckman stated that, though all of the programs and projects which have requested funding are worthwhile, he could not support federal programs that take tax dollars only to be redistributed later, minus administrative fees.

Mayor Pro Tempore Johnson suggested that the Cat Connection funds be reduced to $5,000 with the balance of the funds applied to the Emergency Food Bank "Prime Foods" program.

In reference to the Cat Connection request, Mayor Hitchcock expressed concern that it would fund an ongoing service, rather than expanding or providing a new service. She expressed agreement with Mr. Johnson's suggestion.

AMENDED MOTION:

Council Member Mounce stated that she did not agree with reducing the Cat Connection's funding because she felt that its services save taxpayers money; however, she agreed to amend her motion to adopt Resolution No. 2006-36 approving the projected use of funds for the 2006-07 Federal allocation of Community Development Block Grant and HOME Program funds, and further reallocating available funds from previous program years, with the amendment of $12,000.50 reallocated from the Emergency Food Bank's new "Prime Foods" program (versus $7,000.50), and $5,000 reallocated from the Lodi Cat Connection's spay and neuter programs (versus $10,000).

VOTE:

The above amended motion carried by the following vote:

Ayes: Council Members – Johnson, Mounce, and Mayor Hitchcock
Noes: Council Members – Beckman
Absent: Council Members – Hansen

J. COMMUNICATIONS

J-1 Claims filed against the City of Lodi – None

J-2 The following postings/appointments were made:

a) The City Council, on motion of Council Member Mounce, Johnson second, directed the City Clerk to post for the following vacancies by the vote shown below:

Ayes: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – Hansen

Greater Lodi Area Youth Commission

Erin Brink	Term to expire May 31, 2006
Brooke Goodbary	Term to expire May 31, 2006
Jacqueline Hamilton	Term to expire May 31, 2006
Kevin Howard	Term to expire May 31, 2006
Sarah McConahey	Term to expire May 31, 2006

b) The City Council, on motion of Mayor Pro Tempore Johnson, Beckman second, made the following appointments to the League of California Cities Central Valley Division Executive Committee by the vote shown below:

Ayes: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – Hansen

Central Valley Division Executive Committee

Representative	JoAnne Mounce, Council Member
Alternate	Blair King, City Manager

J-3 Miscellaneous – None

NOTE: Mayor Hitchcock announced that the city of Galt won the fundraiser challenge with Lodi to raise the most money for the Lodi Disaster Recovery Coalition to pay furniture delivery costs to Louisiana hurricane victims. Galt Mayor Darryl Clare stated that he received $3,900 in donations.

RECESS

At 8:58 p.m., Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 9:10 p.m.

K. REGULAR CALENDAR

K-1 "Approve revised 2005-06 budget document pages"

Deputy City Manager Krueger explained that in the process associated with a two-year budget process, estimates were updated in the middle of each year. Subsequent to that there was a budget process that took place in the second year, which allowed for corrections of the previous year's budget. He noted that a one-year budget does allow for this follow up opportunity. He acknowledged that there were some errors in the 2005-06 budget. The 2002-03 General Fund beginning fund balance of $2,133,000 was based upon actual results confirmed by auditors. It showed revenues of $34,622,979 and expenditures of $36 million. A year-end audit adjustment for "other" relates to a difference in the way amounts are presented in the budget versus the way they end up being consolidated within the audit report. The net difference shows a *negative* $1,201,000. The fund balance for the General Fund went from $2.1 million down to a combined amount of reserved $292,000 and unreserved of $639,000. Mr. Krueger stated that the budget errors related to this calculation, i.e. the year-end audit adjustment and the difference between the revenues and

expenditures. The beginning fund balance for the fiscal year was $1.7 million and the actual amount was $800,000. When the 2004-05 budget was adopted, it was anticipated to have $2.1 million as the ending balance, though the actual amount was $1.5 million. Mr. Krueger explained that that had to do with the difference between what the estimated beginning balance was for 2004-05 and the actual ending fund balance from the previous year.
In reference to Electric Utility actual operating results, the ending fund balance was $6.3 million and what was shown in the budget document was $2.7 million. Mr. Krueger stated that based upon anticipated expenditures in 2005-06 and the revenues anticipated at the time the budget was prepared, this fiscal year would have ended with a deficit balance.

The 2001-02 Capital Outlay Fund ended with $19.4 million in the fund which was carried forward and flowed through as a $12.7 million ending balance that proceeded forward as a beginning balance in successive budget years. Mr. Krueger reported that in actuality, the beginning balance was far less than the amount that was stated in the budget document. It was thought the balance was $10 million, but it was actually $6.5 million.

MOTION/ VOTE:

The City Council, on motion of Council Member Beckman, Mounce second, approved the revised 2005-06 budget document pages. The motion carried by the following vote:

Ayes: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – Hansen

K-2 "Review analysis of financial challenges in providing local services"

Janet Hamilton, Management Analyst, explained that the City's tax base has eroded due to state actions. Public safety costs represent a greater percentage of the General Fund. Operational service levels continue only because of deferred maintenance. Ms. Hamilton stated that the public sees service levels remaining the same, but deferred maintenance, in the long run, will increase costs. In 1978, Proposition 13 cut property taxes by 50%. An unintended consequence of the proposition was that the state now has the power to allocate property taxes between the state and local government. Cities have less control over what property taxes come to the city. The city of Lodi only receives 16.5% of the property taxes collected in the City. In 1988, Proposition 98 mandated that the state maintain minimum funding for education. Lodi has lost over $17.5 million to the state. In 2004-05, $2.2 million was shifted from the city of Lodi to the state. Unfunded mandates by the state and federal government also burden cities, e.g. the Hayden Act extended the amount of time animal shelters must keep impounded animals; the City must meet higher standards for its wastewater and storm water discharge in addition to increasing its reporting and education efforts. In a recent survey citizens rated public safety services as a top priority. The City has addressed that by keeping staffing levels of public safety departments at a higher level than other General Fund employees. Lodi's population has grown by 16% since 1992-93; however, the City now has fewer employees than it did a decade ago. From 1992 through 2000, the City was able to maintain 3.3 employees per capita in the General Fund and in 2005 the number dropped to 2.8. Currently, public safety costs are 127% of the amount of combined sales and property taxes. Over the past five years, sales tax growth has been 13%. General Fund expenses have increased by 27%.

Ms. Hamilton reported that two ways cities have dealt with decreased revenue is through deferred maintenance and not setting funds aside for capital replacement. The short-term savings often lead to higher costs in the long term since it shortens the use of the life of facilities and equipment. It would require an additional $1.8 million to maintain streets at a desired level. Parks & Recreation estimates it needs an additional $1.86 million for maintenance costs. Public Works recommends an additional $1 million to adequately maintain buildings. A fixed asset replacement strategy would require an annual set aside

that would be available to replace capital assets at the end of its life cycle. Public Works estimates that a $2.5 million annual set aside would be needed for such a program (excluding Hutchins Street Square or White Slough facilities) and Parks & Recreation would need a $1.8 million set aside.

MOTION / VOTE:

There was no Council action taken on this matter.

K-3 "Adopt resolution establishing and adjusting rental fees for Parks and Recreation facilities"

Parks & Recreation Director Goehring requested removal of the All Veterans Plaza from the fee proposal and suggested that events held at that venue be limited to those which publicly honor veterans and/or military personnel and reflect the memorial and patriotic theme intended for the Plaza. He reported that on December 6, 2005, the Parks & Recreation Commission voted unanimously to remove the All Veterans Plaza from the fee proposal. Mr. Goehring noted that whole parks and soccer fields are a new addition to the Parks & Recreation Department's fee schedule. Mr. Goehring felt that the fee proposal is merely an interim solution to the long-term challenge of attempting to recover costs, especially if the ultimate goal is 100% cost recovery. Under the Department's current fee schedule, it is recovering 32.4% of costs. He reported that a Parks & Recreation Budget Review Task Force is currently being formed for the purpose of annually reviewing program costs and fees.

Mr. Goehring reported the following regarding the fee proposal:

- The average increase for picnic area rentals is 17%;
- Pool and beach rentals will increase 23%;
- Over the last ten years there has been a 12.5% increase in softball field rentals and a 9.6% increase in baseball field rentals; and
- Revenues are expected to increase $40,000 per fiscal year.

Mayor Hitchcock expressed concern with the concept of "whole park" fees, as she felt the public has a right to access. If it is to be instituted, there should be a limit on the number of times they can be rented. She asked staff to develop guidelines related to "whole park" fees and bring it back to Council.

Susan Bjork, Management Analyst, explained that most of the "whole parks" are in basin areas. Many are used by the Parks & Recreation Department much of the year for baseball and soccer, which precludes anyone else renting it during those times. She estimated that less than ten requests to reserve whole parks are made per year.

Mayor Pro Tempore Johnson asked that Council be kept apprised about what impact the fees have on the programs and participation.

Mr. Goehring estimated that since the three-tier fee system was implemented, 700 participants were lost during the course of the year, equating to a 10% loss. In reference to Ms. Hitchcock's concern, Mr. Goehring stated that Lodi Lake is limited to six major events per year.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Beckman second, adopted Resolution No. 2006-37 establishing and adjusting rental fees for Parks and Recreation facilities. The motion carried by the following vote:

Ayes: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – Hansen

K-4 "Adopt resolution establishing and adjusting rental fees for Hutchins Street Square"

Interim Community Center Director Baker stated that the proposal before Council includes offering a discount of 12% to 50% on certain facility rental fees on Sundays through Wednesday, which are traditionally slow days for Hutchins Street Square. The current fees will remain in place for the higher traffic days of Thursday through Saturday. A new fee of $1,200 for the west park would be instituted. This rate would be decreased to $750 Sundays through Wednesday. A new fee of $5,500 has been established for the entire Square, with a rate of $3,500 Sundays through Wednesdays. An additional $1,000 would be added to rent the surrounding park area with the Square.
Discussion ensued on the usage of security guards, to which Mr. Baker explained that, with the expenses involved in the facility and possibility of damage, there should be security when staff is not present. He pointed out that security guards are less expensive than paying employees overtime.

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Mounce second, adopted Resolution No. 2006-38 establishing and adjusting rental fees for Hutchins Street Square. The motion carried by the following vote:

Ayes: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – Hansen

K-5 "Adopt resolution approving Policy Statement for Code Enforcement Program"

Joseph Wood, Community Improvement Manager, recalled that a presentation was given to Council at the September 13, 2005, Shirtsleeve Session regarding current and proposed code enforcement policies, procedures, and processes. The proposed policy statement clarifies the general policies and procedures for code enforcement and provides a strategic framework for implementation of the Council's goals and objectives.

Mr. Wood reviewed the following prioritization of code enforcement complaints:

1. Violations that present an imminent threat to public health and safety;
2. Violations affecting storm water discharge to rivers or streams or other irreparable environmental damage;
3. Violations related to substandard housing and dangerous building conditions;
4. Violations related to inoperable, wrecked, dismantled or abandoned vehicles;
5. Focused enforcement projects:
   a. The abatement of nuisance and dangerous buildings;
   b. Violations or conditions which affect either an entire neighborhood or area, or the entire City;
   c. Address conditions noted at one property that are clearly visible at surrounding properties;
   d. Stop Work Orders for unpermitted activities; and
   e. Provide assistance with related code enforcement actions by other departments and agencies.
6. Any of the following types of violations that are having an adverse impact on a larger population or area:
   a. Violations involving on-going, unpermitted construction;
   b. Violations related to zoning or land use regulations;
   c. Violations related to property maintenance issues; and
   d. Violations related to noise regulations and other nuisance activities or conditions.

Mr. Wood stated that retaliatory complaints are not accepted if there is an active code enforcement case against the property. Once individuals take care of their property, staff would follow up on complaints they may have regarding other properties. Mr. Wood explained that neighborhoods are selected for focused enforcement by the Lodi Improvement Committee. Goals will be established and follow up done to determine its effectiveness. Police Partners volunteers can be utilized to support Community Improvement focused enforcement in neighborhood sweeps.

Mr. Wood reported that 309 compliance checks have been done by the Police Partners since they began assisting Code Enforcement in June 2005. This allows staff to close a case if compliance has been made and can move more quickly to the next step of enforcement if the issue has not been resolved. The Partners have distributed 72 educational brochures from June through January 2006.
In answer to questions posed by Mayor Hitchcock, Mr. Wood reported that, due to a state grant, Code Enforcement was able to purchase field computer equipment that allows staff to be more effective. In addition, administrative hearing and citation processes will further expedite work of the division and increase staff's capacity to respond to the volume of complaints. He stated that voluntary compliance averages 60% to 70%. Complaints are tracked and an aging list is established.

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Johnson second, adopted Resolution No. 2006-39 approving Policy Statement for Code Enforcement Program. The motion carried by the following vote:

Ayes: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – Hansen

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Council Member Beckman, Mounce second, voted to continue with the remainder of the meeting following the 11:00 p.m. hour by the vote shown below:

Ayes: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – Hansen

L. ORDINANCES

L-1 "Ordinance No. 1770 entitled, An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 12 – Streets, Sidewalks, and Public Places – by Adding Chapter 12.03, 'Sidewalks'"

Council Member Beckman suggested that, in light of previous public discourse on this subject and the fact that there is no urgency to the matter, a much more expanded effort to educate and promote the proposal should be done before it is presented for adoption.

Mayor Pro Tempore Johnson pointed out that there were presently no members of the public in the audience to address this issue and that he would support it.

Mayor Hitchcock also expressed support for the ordinance. She felt that the people who had previously been vocal on the issue had been so because they just discovered they were responsible for their sidewalks, which was the case prior to this ordinance being brought forward. The Council should protect taxpayers from those who do not maintain their sidewalks. The ordinance provides incentive for people to maintain their sidewalks to avoid a lawsuit that they will have liability for.

Council Member Mounce contended that the City is the biggest violator of sidewalks being in disrepair because of areas where City tree roots have damaged the sidewalks. She felt that the City should first repair sidewalks it is responsible for before it demands the same from private property owners.

Following reading of the title of Ordinance No. 1770 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 12 – Streets, Sidewalks, and Public Places – by Adding Chapter 12.03, 'Sidewalks,'" having been introduced at a regular meeting of the Lodi City Council held February 1, 2006, Mayor Hitchcock made a motion, second by Johnson, to waive reading of the ordinance in full and adopt and order it to print. The motion **failed** by the following vote:

Ayes: Council Members – Johnson and Mayor Hitchcock
Noes: Council Members – Beckman and Mounce
Absent: Council Members – Hansen
Abstain: Council Members – None

L-2 Following reading of the title of Ordinance No. 1771 entitled, "An Uncodified Ordinance of the Lodi City Council Amending the Official District Map of the City of Lodi and Thereby Rezoning 349, 401, and 415 East Harney Lane (APN 062-290-38, 062-290-37, and 062-290-14) from RMD, Residential Medium Density, to PD(38), Planned Development Number 38, for the Miller Ranch Development Project, and Further Approving the Associated Development Plan," having been introduced at a regular meeting of the Lodi City Council held February 15, 2006, the City Council, on motion of Mayor Pro Tempore Johnson, Mounce second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – Hansen
Abstain: Council Members – None

L-3 Following reading of the title of Ordinance No. 1773 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 17 – Zoning – Chapter 17.57, 'General Regulations and Exceptions,' by Repealing and Reenacting in its Entirety Section 17.57.180, 'Refuse Container Storage and Collection Areas,'" having been introduced at a regular meeting of the Lodi City Council held February 15, 2006, the City Council, on motion of Council Member Beckman, Mounce second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – Hansen
Abstain: Council Members – None

L-4 Following reading of the title of Ordinance No. 1774 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 13 – Public Services – Chapter 13.16, 'Solid Waste,' by Repealing and Reenacting Section 13.16.050 (A) Relating to Placement of Garbage Containers," having been introduced at a regular meeting of the Lodi City Council held February 15, 2006, the City Council, on motion of Council Member Beckman, Mounce second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Beckman, Johnson, Mounce, and Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – Hansen
Abstain: Council Members – None

M. ADJOURNMENT

The meeting was adjourned at 11:21 p.m. in memory of Jerry Burns, President of the Boosters of Boys & Girls Sports, who passed away on February 17; and Terri Winchell, Lodi resident who was killed on January 8, 1981.

ATTEST:

Susan J. Blackston
City Clerk

CITY OF LODI
INFORMAL INFORMATIONAL MEETING
"SHIRTSLEEVE" SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, MARCH 21, 2006

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, March 21, 2006, commencing at 7:00 a.m.

A. ROLL CALL

Present: Council Members – Beckman, Hansen, Johnson, and Mounce

Absent: Council Members – Mayor Hitchcock

Also Present: City Manager King, City Attorney Schwabauer, and Deputy City Clerk Taylor

B. TOPIC(S)

B-1 "Preview of proposed new Code Enforcement ordinance"

Community Development Director, Randy Hatch, presented an outline of the proposed Code Enforcement program (filed). He shared that the overall Code Enforcement program has three main components: Council priorities with regard to reactive and proactive measures, ordinance revisions to provide the tools to efficiently and expeditiously address code enforcement violations, and the modification and clarification of language guidelines to specifically address and resolve code violations.

Mr. Hatch outlined that current tools available to deal with Code Enforcement issues allow for Code Enforcement staff to review and verify a violation, send a courtesy notice stating the issue, and request voluntary compliance with the notice. He stated that approximately 70% to 80% of all code violations are resolved through voluntary compliance by the citizen and that, while most citizens are aware of the disorder or problem, they did not know it was a violation prior to the courtesy notice. If compliance is not achieved, a Notice of Violation is issued for zoning or nuisance situations, or a Notice of Order is issued for housing or dangerous conditions per the building code. Fees for non-compliance may be imposed and have the potential to be poorly received and even ignored because language regarding the implementation and collection of fees is unclear. Currently, fees must be collected using the court system to process these infractions and misdemeanors; however, this process is considered cumbersome for the court system and excessive for the caliber of violations.

Mr. Hatch explained that the newly proposed Code Enforcement tools have been designed not to replace the current system, but to clarify and enhance it, particularly where safety issues exist with regard to criminal complaints, abatement, and repetitive nuisance code violations. The proposal introduces an ordinance providing guidelines for the use of an administrative citation designed to capture the attention of offenders and to impose an appropriate fine to be paid for code violations. With code enforcement concentrating on resolving violations, additional administrative citations may be issued with additional fines imposed for those unwilling to adhere to the courtesy notice and subsequent orders to clean up or repair the cited property. As a key part of the administrative citation process, those refusing to adhere to the citation will be given an opportunity to appeal the citation with a hearing officer who will provide an unbiased judgment and resolution regarding the problem. Hearings may be held throughout the year as determined by the number of appeals received and the detail of the cases to be heard.

At the request of Council Member Hansen, Mr. Hatch explained that hiring an unbiased hearing officer is well received and commonplace in other communities, but will be a new practice in Lodi. As in other cities, a fee of approximately $500 per hearing would be paid to the hearing officer using fines collected through administrative citations equal to $100 per citation. He noted that appeals may be scheduled so that the hearing officer will hear a consecutive number of appeals in one afternoon for the hearing fee charged.

City Attorney Schwabauer shared that while the City uses in-house staff to hear appeals regarding parking citations, case law indicates this process is frowned upon when dealing with administrative citation hearings for code enforcement. Deputy City Attorney, Janice Magdich, added that another option might be to enter into an agreement with other city attorneys in the area to act as hearing officers, noting that this type of activity has been effective when hearing appeals related to dangerous animals. She added that the City could begin with this type of quid pro quo agreement and then could move toward a compensation format should the volume of hearings increase.

In response to Council Member Mounce, Mr. Hatch shared that staff intends to establish a fee to be charged to partially cover costs associated with administrative citation appeals, in part to discourage receiving an appeal for every administrative citation. He stated that the system is set up so that when courtesy notices are met with voluntary compliance, there are no fees imposed or collected.

Community Improvement Manager, Joseph Wood, stated that citizens who cannot physically or financially respond to courtesy notices with regard to repairs and maintenance can receive assistance. He noted that over the years a network has been established of groups that are willing to provide assistance for those that do not have the means by which to comply with notices. Since these citizens are matched with groups to help them respond through voluntary compliance, there are no fees incurred.

At the request of Mayor Pro Tempore Johnson, Mr. Wood explained that the current process makes the levying and cost recovery of non-compliance fees difficult. The initial fee for non-compliance is $100 and the second and subsequent fee is $300 per assessment with the burden upon the City to justify imposing fees on a daily, weekly, or monthly basis. He stated that the new ordinance and updated language provides a real incentive for compliance because administrative citations are $100 for the first citation, $250 for the second citation, and $500 for subsequent citations, and that fees may be imposed as often as daily. He added that, while the new program will allow staff to expedite and adapt the process when dealing with chronic, blatant, and more serious violations, the main purpose of code enforcement is to establish a comprehensive program to encourage compliance.

Community Development Director Hatch stated that some citizens may look forward to the appeal process if only for the opportunity to present their case to an unbiased hearing officer. He shared that the recommended administrative citation process is designed to focus on those citizens that need incentive to comply with established codes, and the process allows the City the ability to customize fines to the level of the violation. Additionally, Council may choose to establish small fines, e.g. $35, for minor violations such as leaving out trash cans at the curb. He shared that if individuals do not pay citations after being ordered to do so as a result of the appeal process, the City could choose to attach the fees to utility bills or other mechanisms for payment collection.

Deputy City Attorney Magdich explained that other options are available to both parties following the appeal process through the filing of civil proceedings, an appeal to the Superior Court, or the City may wish to file criminal charges.

In response to Council Member Hansen, Mr. Wood reported that he and both Code Enforcement Officers have received the proper training and will have the authority to issue citations, adding that he will oversee each case before an administration citation is issued and throughout the process toward compliance.

Council Member Beckman stated that he would not be in favor of attaching administrative citation fees and non-compliance fees to utility bills for payment. Mr. Hatch clarified that this is an effective tool in other communities, but difficulties occur when the violator is not the responsible named on the utility account. He noted that this practice is not a mechanism that is part of the recommendation currently before Council.

Council Member Mounce commented that landlords and tenants should be considered jointly responsible for ensuring that properties are in compliance and asked if staff has looked at the possibility of issuing liens against property for citations and fees.

City Manager King responded that in each case Council would be required to conduct a hearing, review an accounting of costs incurred in enforcing the property, provide the tenant an opportunity to state their case, and then either dismiss or direct that a lien be assessed on the property through the County Assessor's office.

Deputy City Attorney Magdich stated that municipalities can adopt ordinances to place liens to recover abatement costs, assessment costs, fines, and collection, or may also consider filing a civil action to obtain a judgment from the court, which can be recorded as a lien against the property. While staff's proposal does not reflect these options, the Council and City do have additional tools available as a final means to recover costs.

Community Improvement Manager Wood stated that one current process, the Notice of Substandard Conditions and Abatement Action, allows for an official document to be recorded placing a lien against the property. Attached to the title, it notifies parties interested in the property that an outstanding condition exists, which prevents its sale or refinance through normal transaction, making it a very effective tool in resolving liens and recovering costs. He shared that the proposed code enforcement tools will enhance the existing system by helping staff to encourage those few citizens who would not willingly comply to do so while supporting the City's cost recovery for code enforcement.

PUBLIC COMMENTS:

- Myrna Wetzel commented that she has seen people ignore notices of abatement for buildings that are unsafe and that they will sneak back in to live in the structure and hide from code enforcement officers even after the power has been shut off.

Council Member Mounce stated that upon its inception in 1993, the Lodi Improvement Committee's (formerly East Side Improvement Committee) main point of focus was creating a means to enforce codes to address specific problems in the older areas of Lodi. She commended Mr. Wood and his team for doing a great job and for bringing forth an updated plan that will provide the necessary tools for a successful Code Enforcement program.

C. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

D. ADJOURNMENT

No action was taken by the City Council. The meeting was adjourned at 7:56 a.m.

ATTEST:

Jacqueline L. Taylor
Deputy City Clerk

CITY OF LODI
INFORMAL INFORMATIONAL MEETING
"SHIRTSLEEVE" SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, APRIL 11, 2006

The April 11, 2006, Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was canceled.

ATTEST:

Susan J. Blackston
City Clerk

AGENDA ITEM **E-03**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Approving Plans and Specifications; Authorizing Advertisement for Bids for Municipal Service Center (MSC) Compressed Natural Gas (CNG) Fueling Station Expansion, 1331 South Ham Lane; and Authorizing City Manager to Execute Amendment to Professional Services Agreement with T. Mitchell Engineers and Associates ($14,600)**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council adopt a resolution approving plans and specifications; authorizing advertisement for bids for the Municipal Service Center (MSC) Compressed Natural Gas (CNG) Fueling Station Expansion project at 1331 South Ham Lane; and authorizing the City Manager to execute an amendment to the professional services agreement with T. Mitchell Engineers and Associates in the amount of $14,600.

BACKGROUND INFORMATION: At the December 7, 2005, meeting, the City Council approved specifications for the purchase of a CNG packaged electric motor drive compressor system for the Municipal Service Center (MSC) and authorized the City Manager to negotiate a contract with GreenField Compression, Inc. The equipment was ordered and will soon be ready for delivery. Staff is requesting approval of the plans and specifications to install this equipment at the MSC. In addition, at the November 2, 2005, meeting, the City Council approved a contract with T. Mitchell Engineers and Associates for work on the facility upgrades at the MSC and design and construction monitoring for the CNG Expansion project (equipment and installation).

Staff is recommending that the City Council authorize the City Manager to amend the existing agreement with T. Mitchell Engineers and Associates to add design work for a required CNG compliant heating system for the MSC shop and additional construction monitoring and administration. The CNG compliant heating system is required for the MSC shop to be able to be safely heated while CNG vehicles are being worked on (otherwise, these vehicles must be serviced outside). Staff will be returning to Council for authorization in late spring/early summer for the actual purchase and installation of the CNG compliant heating system. The additional construction monitoring and administration is required to ensure sufficient oversight of the CNG installation project. When the original agreement was drafted, it was anticipated that City Fleet Division staff would be providing a portion of the monitoring and administration, and, therefore, the hours included in the agreement with T. Mitchell Engineers and Associates were reduced. Due to staffing changes, the expected staff oversight is no longer available, and, therefore, staff is recommending amending the contract to have T. Mitchell Engineers and Associates perform the additional work.

APPROVED: _____
Blair King, City Manager

FISCAL IMPACT: Failure to award the contract would result in the new CNG equipment sitting in the yard, unable to be utilized. Also, the City would have no secondary backup for the fueling facility, requiring the City to look elsewhere for fuel should our system not function correctly. Failure to amend the agreement with T. Mitchell Engineers and Associates would result in the MSC shop not having a compliant heating system and would require the oversight of the equipment installation to be handled by the Fleet and Facilities staff, who do not have the manpower or time to do so.

FUNDING AVAILABLE: Funding for the installation and construction administration will be provided by a Congestion Mitigation and Air Quality (CMAQ) grant from the San Joaquin Council of Governments, using Transportation Development Act (TDA) funds as match. The design of the CNG compliant heating system will be funded from FTA Section 5307 and TDA.

_____
Ruby Paiste, Interim Finance Director

_____
Richard C. Prima, Jr.
Public Works Director

Prepared by Tiffani M. Fink, Transportation Manager

RCP/TMF/pmf

cc: Transportation Manager
Fleet and Facilities Manager
Tom Mitchell, T. Mitchell Engineers and Associates

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING PLANS AND SPECIFICATIONS, AUTHORIZING ADVERTISEMENT FOR BIDS FOR MUNICIPAL SERVICE CENTER (MSC) COMPRESSED NATURAL GAS (CNG) FUELING STATION EXPANSION, 1331 SOUTH HAM LANE; AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH T. MITCHELL ENGINEERS AND ASSOCIATES

==========

WHEREAS, at the December 7, 2005 meeting the City Council approved specifications for the purchase of a CNG packaged electric motor drive compressor system for the Municipal Service Center and authorized the City Manager to negotiate a contract with GreenField Compression, Inc.; and

WHEREAS, the equipment will soon be ready for delivery so therefore staff recommends approval of the plans and specifications for the installation of this equipment at the MSC; and

WHEREAS, at the November 2, 2005 meeting, the City Council approved a contract with T. Mitchell Engineers and Associates for work on the facility upgrades at the MSC and design and construction monitoring for the CNG Expansion project (equipment and installation); and

WHEREAS, staff recommends amending the existing agreement with T. Mitchell Engineers and Associates to add design work for a required CNG compliant heating system for the MSC shop and additional construction monitoring and administration.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the plans and specifications, authorizes advertisement for bids for Municipal Service Center (MSC) Compressed Natural Gas (CNG) Fueling Station Expansion, 1331 South Ham Lane; and

BE IT FURTHER RESOLVED that the Lodi City Council hereby authorizes the City Manager to execute Amendment to Professional Services Agreement with T. Mitchell Engineers and Associates to add design work for a required CNG compliant heating system for the MSC shop and additional construction monitoring and administration, in an amount not to exceed $14,600.

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

AGENDA ITEM **E-04**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Approve Specifications and Authorize Advertisement for Bids for 3,000 Tons of Asphalt Materials for Fiscal Year 2006/07**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council approve specifications and authorize advertisement for bids for 3,000 tons of asphalt materials for fiscal year 2006/07.

BACKGROUND INFORMATION: The asphalt materials purchase is needed to carry out the annual street maintenance program that is guided by the Pavement Management System used by the Street Division and is consistent with past practices. The street maintenance program includes the thin overlay program and routine pavement repairs at an estimated cost of $156,000. This is a simple purchase of materials which has traditionally been bid on by the only two asphalt suppliers in the area. The specifications are on file in the Public Works Department at the Municipal Service Center.

The amount of asphalt used by the Street Division has been reduced by 25%, from 4,000 tons to 3,000 tons, over the past two years due to budget reductions. The amount of asphalt requested for fiscal year 2006/07 is the same tonnage of asphalt approved for fiscal year 2005/06, but the estimated increase in cost of $33,700 over the last fiscal year is due to the escalating cost of asphalt. As the 2006/07 budget has not yet been finalized, should the full amount of funding needed not be made available, staff will reduce the amount of asphalt to match the level of funding. The request is being made now in order to have a supplier in place for the summer maintenance season.

FISCAL IMPACT: This budget expense will assist the Street Division in its continuing effort to maintain the City of Lodi's asphalt paving.

FUNDING AVAILABLE: The money for this material will be coming from the Street Operating Budget 2006/07.

_____
Ruby Paiste, Interim Finance Director

_____
Richard C. Prima, Jr.
Public Works Director

Prepared by Curt Juran, Assistant Street Superintendent
RCP/GMB/CJ/dsg
cc: Street Superintendent

APPROVED: _____
Blair King, City Manager

AGENDA ITEM **E-05**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Approve Specifications and Advertisement for Bids for Annual Tree Trimming Contract (Power Line Clearing) for Electric Utility Department ($350,000) (EUD)**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Electric Utility Director**

RECOMMENDED ACTION: That the City Council approve the specifications for a tree trimming contract for power line clearing and authorize advertisement for bids.

BACKGROUND INFORMATION: The Electric Utility Department has utilized a tree trimming contractor for its line clearing requirements since November 1988. The current contract with Trees, Inc. of Houston, Texas is due to expire on June 30, 2006 at the conclusion of the final extension year. Thus, it is necessary to advertise for bids for line clearing services after this date.

The Specifications for Tree Trimming have been updated. It has been prepared on a twelve-month basis with the option to extend annually thereafter, at the City's sole discretion, for a maximum of two additional years. The specifications would provide the City with a three-person Backyard Crew and a two-person Street Crew, including vehicles, equipment and other expenses for two crews. This is a reduction of one Backyard Crew from current contracting levels. The proposed level of activity, however, is believed to be sufficient to maintain the 130+ circuit miles of overhead transmission and distribution lines clear of growth on a three-year cycle. The possible need for to add another Backyard Crew shall be evaluated prior to any annual extension.

Maintaining an adequate line clearance program is a critical element to electric system reliability. Due to the excellent results the Department has experienced with contracting out this service (i.e. significant reduction of outage time and overall cost effectiveness), it is recommended that the contracting program be continued. The proposed tree trimming program covers the period of July 1, 2006 to June 30, 2007 with the option for up to two additional one year extensions covering fiscal years 2007-08 and 2008-09.

With the approval of the City Council, the Tree Trimming contract shall be advertised and the bid opening date has been set for May 17, 2006 at 11:00 AM.

FISCAL IMPACT: Decreased the number Tree Trimming Crews from three to two with the projected cost of $350,000 chargeable to the Operating Budget. (The fiscal year 2005-06 tree clearance budget is $548,201.)

APPROVED: _____
Blair King, City Manager

FUNDING AVAILABLE: The amount of $350,000 shall be included in the proposed budget for fiscal year 2006-07 under Account No. 160654 – Tree Trimming. Funding for extensions shall be allocated on a year-to-year basis.

_____
Ruby Paiste, Interim Finance Director

_____
George F. Morrow
Electric Utility Director

PREPARED BY: Demy Bucaneg, Jr., Sr. Power Engineer

GFM/DB/lst

cc: City Attorney

CITY OF LODI

ELECTRIC UTILITY DEPARTMENT

SPECIFICATIONS

FOR

TREE TRIMMING

April, 2006

SET NO. _____

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CITY OF LODI, CALIFORNIA

Sealed proposals will be received by the Purchasing Officer, Lodi City Hall, 300 West Pine Street, Lodi, CA 95240 (P.O. Box 3006, Lodi, CA 95241-1910) at or before

11:00 A.M., Wednesday, May 17, 2006

At that date and hour said sealed proposals will be publicly opened and read in the Public Works Conference Room, City Hall, 221 West Pine Street, Lodi, California. Bidders or their authorized representative are invited to be present.

The work consists of tree trimming for power line clearing in accordance with these specifications. The work area can be any area within city limits at the direction of the Electric Utility Director. The contract and contract price shall be in effect from July 1, 2006 through June 30, 2007, unless otherwise terminated. This agreement may be renewed at City's option on a year-to-year basis for a maximum of two (2) additional years. Prices shall be mutually agreed upon prior to such renewal of extension.

The Contractor shall begin work within ten (10) working days after date of Contract award.

In accordance with the provisions of Section 1770 to 1778 of the Labor Code of the State of California, the City of Lodi has ascertained that the general rate of per diem wages and wage rated for holidays and overtime applicable to the locality in which the work is to be done are as set forth in Resolution No. 4222 of the City of Lodi, copies of which are on file in the office of the City Clerk.

The Contractor shall make travel and subsistence payment to each worker needed to execute the work, as such travel and subsistence payment are defined in the applicable collective bargaining agreements in accordance with Section 1773.8 of the Labor Code.

If a craft or classification used on the project is not shown on the wage determination, the Contractor may be required to pay the wage rate of that craft or classification most closely related to it, as shown in the general determinations.

The City of Lodi hereby notifies all bidders that it will affirmatively insure that, in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex or national origin in consideration for an award.

For any moneys earned by the Contractor and withheld by the City of Lodi to ensure the performance of the Contract, the Contractor may, at Contractor's request and expense, substitute securities equivalent to the amount withheld in the form and manner and subject to the conditions provided in Section 22300 of the Public Contract Code of the State of California.

The Contractor may be required to submit copies of payroll records.

The contract documents are available at the office of the Electric Utility Director, 1331 So. Ham Lane, Lodi, CA 95242, telephone (209) 333-6762.

No bid will be considered unless it is submitted on a proposal form furnished by the City of Lodi.

The prime contractor on this project shall possess a valid State of California Class C-61 or approved equal contractor's license.

The City of Lodi reserves the right to reject any or all bids, to waive any informality in any bid, to accept other than the lowest bid, or not to award the bid.

Reference is hereby made to said specifications for further details, which specifications and this notice shall be considered part of any contract made pursuant thereto.

CITY OF LODI
Joel E. Harris
Purchasing Officer

2.100 BID OPENING

A. The Purchasing Officer will receive sealed bids at City Hall Annex, 300 West Pine Street, Lodi, California, 95240 (P.O. Box 3006, Lodi, California 95241-1910) until

11:00 A.M., Wednesday, May 17, 2006

At that time, in the Public Works Conference Room, City Hall, 221 West Pine Street, Lodi, California, bids will be publicly opened and read. Bidders or their authorized representatives are invited to be present.

B. The proposal shall be submitted as directed in the "Notice Inviting Bids" under sealed cover, plainly marked

Proposal – Tree Trimming
Bid Opening – **May 17, 2006**

Proposals which are not properly marked may be disregarded. Only proposals actually received by the Purchasing Officer by the time set for the bid opening will be accepted.

2.200 EXAMINATION OF CONTRACT DOCUMENT AND SITE OF WORK

The Bidder is required to examine carefully the site, Information to Bidders, Bid Proposal, Contract, General Provisions and Special Provisions, and the plans for the work contemplated, and it will be assumed that the Bidder has investigated and is satisfied as to the conditions to be encountered, as to the character, quality and quantities of work to be performed and materials to be furnished and as to the requirements of the General Provisions, the Special Provisions of the Contract. It is mutually agreed that submission of a bid proposal shall be considered prima facie evidence that the bidder has made such examination.

2.300 REGISTRATION OF CONTRACTORS

Before submitting bids, contractors shall be licensed in California in accordance with the provisions of Chapter 9 of Division III of the Business and Professions Code to perform work as specified in the Specifications.

2.400 PROPOSAL FORM

Prospective bidders are furnished with one proposal form included in the specifications.

A. The proposal must be signed with the full name and address of the bidder, by an authorized representative of the company.

B. The purchaser reserves the right to accept other than the lowest bid or to reject any or all bids.

2.500 REJECTION OF PROPOSALS

Bids may be rejected if they show any alterations of proposal form, additions not called for, or alternative bids not properly documented. Bids proposing equipment with which the City has no prior in-service experience may be rejected. Erasures or irregularities of any kind may also be cause for rejection.

2.600 BIDDERS GUARANTEE

All bids shall be presented under sealed cover and shall be accompanied by cash, cashier's check, certified check, or bidder's bond, made payable to the City of Lodi, for an amount equal to 10% of the submitted bid amount, and no bid shall be considered unless such cash, cashier's check, certified check or bidder's bond is enclosed therewith.

All bidder's guarantees will be returned to the respective bidders after the contract has been awarded, except for those bid guarantees of bidders who may be given further consideration if the low bidder does not elect to execute the contract. After the award, if the Contractor awarded the bid does not execute the contract, the bidder's guarantee will be forfeited. All bidder guarantees of unsuccessful bidders will be returned upon receiving the executed contract.

2.700 BIDDERS RESPONSIBILITY FOR SUBCONTRACTORS

Any subcontractor doing work in excess of one-half of one percent (1/2%) of the total contract price shall be designed on the form provided in accordance with section 4100, et. seq., of the Government Code.

Bidder shall be fully responsible for all work of subcontractors, and shall be liable for any failure or omissions to comply with the specifications for this equipment.

2.800 AWARD OF CONTRACT

A. The award of the contract, if it be awarded, will be to the lowest responsible bidder whose bid proposal complies with all the requirements described herein.

B. In evaluating the bids and determining lowest total to the City, the City will consider the Sales Tax Credit in the amount of one percent (1%) of the purchase price of the equipment, which is rebated to the City of Lodi when such purchase is consummated at the retailer's place of business and such business:

   1. Is located within the City of Lodi;

   2. Is licensed by the California State Board of Equalization to collect sales tax at the local place of business;

   3. Maintains a valid City of Lodi Business License.

C. Where alternative bids are received, the City Council reserves the right to select the bid most advantageous to the City. The award, if made, will be made within thirty days after opening of the bids.

D. In case of tie bids, consideration will given to bids as described in "Award of Bid", paragraph B, above. If that section does not apply to resolution of the tie, the tie will be broken by a coin toss, conducted by the City Purchasing Officer. Tie bidders will be notified and may be present.

2.900 EXECUTION OF CONTRACT

The contract shall be signed by the successful Bidder and returned, together with the contract bond, within ten (10) working days, after the Bidder has received notice that the contract has been awarded. No proposal shall be considered binding upon the City until the execution of the contract.

Failure to execute a contract and file an acceptable bond as provided herein within ten (10) working days, after the Bidder has received notice that the contract has been awarded shall be just cause for the annulment of the award and the forfeiture of the bidder's deposit.

2.1000 CONTRACT BONDS

The Contractor shall furnish one good and sufficient faithful performance bond in the amount equal to 100% of the contract amount.

This bond will be required at the time the signed contract is returned to the City.

2.1100 NOTIFICATION OF SURETY COMPANIES

The surety companies shall familiarize themselves with all the provisions and conditions of the contract. If is understood and agreed that they waive the right of special notification of any modifications or alterations, omissions or reductions, extra or additional work, extensions of time or any other act or acts by the City of Lodi or its authorized agents under the terms of the contract; and failure to so notify the surety companies of such changes shall in no way relieve the surety or sureties of their obligations under this contract.

2.1200 INSURANCE CERTIFICATE

The Contractor shall furnish a certificate of insurance to the City of Lodi in accordance with Section 5.413 "Public Liability and Property Damage Insurance" and Section 5.414 "Compensation Insurance" of the General Provisions at the time the signed contract is returned to the City.

2.1300 WORKER'S COMPENSATION INSURANCE

The Contractor shall carry full Worker's Compensation Insurance coverage for all persons employed in carrying out the work, including subcontractor's employees, under this contract in accordance with the "Worker's Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any acts amendatory thereof.

2.1400 BID EVALUATION

The lowest responsible bidder will be determined, as follows:

A. Contract price for bid evaluation will be the sum of one times the hourly rate for a “Back Yard Crew”, and one times the hourly rate for a “Street Crew”. The bid will be awarded to one contractor only based on the above summation and the Contractor meeting all other terms and conditions of these specifications.

   Note, the crew bid price to be all inclusive, i.e., labor, overheads, supervision, equipment, disposal costs, fees, licenses, etc., all to be included;

And Consideration Given To

B. The ability, capacity, skill, character, integrity, reputation, experience and efficiency of the bidder;

And

C. The quality and condition of the equipment and tools to be provided by the bidder.

2.1500 REFERENCES

The bidder shall submit with his/her bid at least three (3) references indicating contact people in other electric utilities for whom the bidder has performed line clearing work within the past two (2) years.

2.1600 EQUIPMENT REVIEW

The City reserves the right to review/inspect the equipment the bidder intends to use during the execution of this contract as well as the contractor’s equipment fleet in general.

2.1700 CONTRACT EXTENSION

The contract and contract price shall be in effect from July 1, 2006 through June 30, 2007. This agreement may be renewed at City’s option on a year-to-year basis for a maximum of two (2) additional years. Prices shall be mutually agreed upon prior to such renewal or extensions. The maximum escalation/de-escalation in contract price beginning with and in effect through a fiscal year period shall be the percentage increase/decrease in salary obtained by the electric unit represented by IBEW in the preceding fiscal year.

2.1800 DRIVERS LICENSE

All crewmembers shall have a valid State of California driver’s license permitting operation of the vehicles used in conjunction with this tree trimming contract.

2.1900 CLOTHING

For crew safety and personal appearance to the public, crewmembers shall wear clothing and footwear appropriate for the work being performed. There shall be no sneakers or other soft footwear worn on the job site. Clothing shall be clean and free of tears and holes.

CITY OF LODI, CALIFORNIA

TO: The Lodi City Council
Lodi City Hall Annex
212 West Pine Street
P.O. Box 3006
Lodi CA 95241-1910

The undersigned, as bidder, declares to have carefully examined the Notice Inviting Bids, Information to Bidders and Specifications filed for furnishing and delivering this equipment, and agrees to be fully informed regarding all of the conditions affecting the equipment to be furnished for the completion of the order, and that the information was secured by personal investigation and research and not from any estimate of a City engineer; and that no claim will be made against the City by reason of estimates, test or representations of any officer or agent of the City; and proposes and agrees if the proposal be accepted, to furnish the City of Lodi the necessary equipment specified in the bid, in the manner and time therein set forth. It has been noted the City of Lodi reserves the right to accept all or part of this bid, to reject any or all bids, or to accept other than the lowest bid.

The item listed below is to be in accordance with the City of Lodi specifications attached hereto. The bidder will submit a detailed list of any and all exceptions taken to these specifications by either listing those exceptions in the space provided on the said specifications attached or, when such space is inadequate, by listing those exceptions on a separate paper by item in the same order of the City's specifications. In the absence of such a list, it will be understood that the bidder's proposal is based on strict conformance to the specifications in all respects. If exceptions are taken, they will be cleared before the award is made.

If awarded the contract, the undersigned agrees to furnish and deliver the equipment described in the specifications and to take in full payment therefor the following unit and total prices, to-wit:

The undersigned declares that the specifications have been carefully examined for Tree Trimming.

The undersigned further agrees to be responsible for the work of its subcontractors.

UNIT	DESCRIPTION	PRICE PER HOUR
1	Backyard Crew *	$
1	Street Crew *	$

* Including labor, overheads, supervision, equipment, disposal costs, fees, licenses, etc.

The following bid items will be used to compensate for emergency after-hours work and to evaluate "Downtime".

UNIT	DESCRIPTION	PRICE PER HOUR STRAIGHT TIME
1	Helper/Groundman	$ _____/ hr.
1	Tree Trimmer	$ _____/ hr.
1	Crew Leader	$ _____/ hr.
1	Chipper	$ _____/ hr.
1	Dump Truck	$ _____/ hr.
1	Aerial boom with dump truck	$ _____/ hr.
	Percent to be added to above labor rates for overhead	_____ %
	Percent to be added to above labor rates for overtime including overhead	_____ %

The undersigned agrees that if this Bid Proposal is accepted, at the time of the signing of the contract, one good and sufficient performance bond will be furnished in the amount equal to $20,000.

All bidder's guarantees will be returned to the respective bidders after the contract has been awarded, except for those bid guarantees of bidders who may be given further consideration if the low bidder does not elect to execute the contract. After the award, if the Contractor awarded the bid does not execute the contract, the bidder's guarantee will be forfeited. All bidder guarantees of unsuccessful bidders will be returned upon receiving the executed contract. Accompanying this Bid Proposal is _____ (insert the words "Cash, Certified Check, Cashier's Check or Bidder's Bond", as the case may be) payable to the City of Lodi in the amount of $2,500 which is to be deposited with the City of Lodi as required.

The undersigned further agrees that in case of default in executing the required contract, together with the necessary bonds, within ten (10) working days after receiving the contract for signature, the proceeds of the deposit accompanying the bid shall become the property of the City of Lodi, California, and this Bid Proposal and the acceptance thereof may be considered null and void. However, if the undersigned shall execute the contract and furnish the bond required within the time aforesaid, the deposit shall be returned forthwith.

It is understood that no verbal agreement or conversation with any officer, agent or employee of the City, either before or after the execution of the Contract, shall affect or modify any of the terms or obligations of this Bid Proposal.

The undersigned declares that the only person or persons interested in this proposal as principal or principals is or are the undersigned, and that no person other than the undersigned has any interest in this Bid Proposal or in the contract proposed to be taken; that this proposal is made without any connection with any other person or persons making a bid or proposal for the same purpose; that the proposal is in all respects fair and in good faith and without collusion or fraud; that no City Officer, either elected or appointed, and no City Employee is, shall be or become directly or indirectly interested as principal or principals in this Bid Proposal or in the contract proposed to be made, or in the supplies, work or business to which it relates or in any portions of the profits thereof.

The following information is furnished relative to each subcontractor who will perform work or labor or render services to the undersigned in and about the construction of the project in an amount in excess of one-half of one percent (1/2%) of the total amount of this bid. The undersigned agrees that any portions of the work in excess of one-half of one percent (1/2%) of the total amount of this bid and for which no subcontractor is designed herein, will be performed by the undersigned.

Name of Subcontractor	Address	Description of Work
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The Undersigned is licensed in accordance with the laws of the State of California, License No.

_____, Classification _____

Federal Contractor/Employer I.D. No. _____

_____ Dated:_____, 19_____

NAME OF COMPANY _____

DATE _____

BY (Print Name) _____

ADDRESS _____

CITY, STATE, ZIP _____

PHONE NUMBER _____

AUTHORIZED SIGNATURE _____

TITLE _____

CITY OF LODI, CALIFORNIA

THIS CONTRACT made on _____by and between the City of Lodi, State of California, herein referred to as the "City", and _____ 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 1999 Edition
Information to Bidders	Standard Specifications,
General Provisions	State of California
Special Provisions	Department of Transportation
Bid Proposal	Agency
Contract	Department of Transportation
Contract Bond	

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 bond bearing even date with these present and hereunto annexed, and Contractor agrees with City, at Contractor's cost and expense, to furnish all labor, equipment and disposal necessary to perform and services (line clearing) in a good workmanlike manner and to the satisfaction of the City as shown and describe 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 services 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 - And the Contractor agrees to receive and accept the following prices as full compensation for furnishing 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 it 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 of discontinuance of work and for well and faithfully completing the work, and the whole thereof, in the manner and according to the Contract Documents and the requirements of the Electric Utility Director under them, to-wit:

The undersigned declares that the specifications have been carefully examined for Tree Trimming

The undersigned further agrees to be responsible for the work of its subcontractors.

UNIT	DESCRIPTION	PRICE PER HOUR
1	Backyard Crew *	$ _____
1	Street Crew *	$ _____

* Including labor, overheads, supervision, equipment, disposal costs, fees, licenses, etc.

The following bid items will be used to compensate for emergency after-hours work and to evaluate "Downtime".

UNIT	DESCRIPTION		PRICE PER HOUR STRAIGHT TIME
1	Helper/Groundsman	$	_____/hr.
1	Tree Trimmer	$	_____/ hr.
1	Crew Leader	$	_____/ hr.
1	Chipper	$	_____/ hr.
1	Dump Truck	$	_____/ hr.
1	Aerial boom with dump truck	$	_____/ hr.
	Percent to be added to above labor rates for overhead		_____%
	Percent to be added to above labor rates for overtime including overhead		_____%

ARTICLE IV - 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 workmen's 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 V - 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 VI - The Contractor agrees to commence work pursuant to this contract within (10) working days after contract award.

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

_____ _____
Blair King, City Manager Date

ATTEST:

_____ _____
Susan J. Blackston, City Clerk Date

APPROVED AS TO FORM:

_____ _____
D. Stephen Schwabauer, City Attorney Date

CONTRACTOR

_____

_____

_____ _____
Name Date

5.100 SCOPE OF WORK

5.101 WORK TO BE DONE

The work to be done consists of furnishing all labor, materials, methods and processes, implements, tools and machinery, except as otherwise specified, which are necessary and required to construct and complete the work designated in these specifications and to leave the grounds in a neat condition.

5.102 ALTERATIONS

By mutual consent in writing of the parties signatory to the contract, alterations or deviations, increases or decreases, and additions or omissions in the specifications may be made and the same shall in no way affect or make void the contract.

The City of Lodi reserves the right to increase or decrease the quantity of any item or portion of the work, or to omit portions of the work as may be deemed necessary or expedient by the Electric Utility Director.

5.103 DELETED

5.104 CLEANING UP

The Contractor shall not allow the site of the work to become littered with trash and waste material, but shall maintain the same in a neat and orderly condition throughout the construction period. The Electric Utility Director shall have the right to determine what is or is not waste material or rubbish and the place and manner of disposal.

The Contractor shall remove and dispose of all trees designated by the Electric Utility Director as obstructions to the proper completion of the work.

Upon completion and before making application for final acceptance of the work, the Contractor shall clean the street or road, borrow pits, and all ground occupied by Contractor in connection with the work of all rubbish, excess materials, temporary structures, and equipment; and all parts of the work shall be left in a neat and presentable condition, acceptable to the Electric Utility Director.

5.200 CONTROL OF WORK

5.201 AUTHORITY OF THE ELECTRIC UTILITY DIRECTOR

The Electric Utility Director shall decide any and all questions which may arise as to the quality or acceptability or materials furnished and work performed, and as to the manner of performance and rate of progress of the work; all questions which arise as to the interpretation of the plans and specifications; all questions as to the acceptable fulfillment of the contract on the part of the Contractor; and all questions as to claim and compensation.

The Electric Utility Director’s decision shall be final. The Electric Utility Director shall have executive authority to enforce and make effective such decisions and orders as the Contractor fails to carry out promptly.

5.202 DELETED

5.203 DELETED

5.204 COORDINATION OF SPECIFICATIONS

The specifications including all supplementary documents are essential parts of the contract and a requirement occurring in one is as binding as though occurring in all. They are intended to be cooperative, to describe, and to provide for a complete work.

Special Provisions shall govern over General Provisions.

5.205 INTERPRETATION OF SPECIFICATIONS

Should it appear that the work to be done, or any matter relative thereto, is not sufficiently detailed or explained in the specifications, the Contractor shall apply to the Electric Utility Director for such further explanations as may be necessary, and shall conform to such explanation or interpretation as part of the contract so far as may be consistent with the intent of the original specifications. In the event of doubt or question relative to the true meaning of the contract documents, reference shall be made to the Electric Utility Director, whose decision thereon shall be final.

5.206 ORDER OF WORK

When required by the Special Provisions, the Contractor shall follow the sequence of operations as set forth therein.

Full compensation for conforming with such requirements will be considered as included in the prices paid for the various contract items of work, and no additional compensation will be allowed therefor.

5.207 SPECIFICATIONS ON JOB SITE

A complete, approved set of specifications and change orders shall be kept on the job site and available at all times. Non-availability shall be deemed a cause for temporary suspension of work.

5.208 SUPERINTENDENCE

Before starting work, the Contractor shall designate in writing an authorized representative who shall have the authority to represent and act for the Contractor, and shall be a certified Arborist.

Said authorized representative shall be present at the site of the work at all times while work is actually in progress on the contract. When work is not in progress and during periods when work is suspended, arrangements acceptable to the Electric Utility Director shall be made for any emergency work which may be required.

Whenever the Contractor of Contractor's authorized representative is not present on any particular part of the work where it may be desired to give direction, orders will be given by the Electric Utility Director, which shall be received and obeyed by the superintendent or supervisor who may have charge of the particular work in reference to which the orders are given.

Any order given by the Electric Utility Director not otherwise required by the specifications to be in writing, will, on request of the Contractor, be given or confirmed in writing.

5.209 DELETED

5.210 INSPECTION

The Electric Utility Director shall at all times have access to the work during its construction, and shall be furnished with every reasonable facility or ascertaining the workmanship is in accordance with the requirements and intentions of the specifications and the General Provisions. All work done and services furnished shall be subject to the Electric Utility Director's inspection.

Whenever the Contractor varies the period during which work is carried on each day, due notices shall be given to the Electric Utility Director so that proper inspection may be provided.

The inspection of the work shall not relieve the Contractor of any obligations to fulfill the contract as prescribed. Work not meeting such requirements shall be made good, and unsuitable work may be rejected, notwithstanding that such work have been previously inspected by the Electric Utility Director or that payment therefor has been included in a progress estimate.

5.211 REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK

All work which is defective or deficient in any of the requirements of these specifications shall be remedied, or removed and replaced by the Contractor in an acceptable manner, and no compensation will be allowed for such correction.

Upon failure on the part of the Contractor to comply forthwith any order of the Electric Utility Director made under the provisions of this section, the Electric Utility Director shall have authority to cause defective work to be remedied, or removed and replaced, and unauthorized work to be removed and to deduct the costs thereof from any moneys due to become due to the Contractor.

5.212 FINAL INSPECTION

Whenever the work provided and contemplated by the Contract shall have been satisfactorily completed and the final cleaning up performed, and the Electric Utility Director notified in writing, the Electric Utility Director will make the final inspection.

5.300 DELETED

5.400 LEGAL RELATIONS AND RESPONSIBILITIES

5.401 LAWS TO BE OBSERVED

The Contractor shall keep him/herself fully informed of all existing and future State and National laws and all municipal ordinances and regulation of the City of Lodi which in any manner affect those engaged or employed in the work, or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having jurisdiction or authority over the same.

5.402 LABOR DISCRIMINATION

Attention is directed to Section 1735 of the Labor Code which reads as follows:

1735. No discrimination shall be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such persons, except as provided in Section 1420, and every Contractor for public works violating this section is subject to all the penalties imposed for a violation of this chapter.

5.403 PERMITS AND LICENSES

Except as otherwise provided, the Contractor shall procure all permits and licenses, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work.

5.404 CONTRACTOR'S LICENSING LAWS

Attention is directed to the provisions of Chapter 9 of Division 3 of the Business and Professions Code concerning the licensing of contractors.

All bidders and contractors shall be licensed in accordance with the laws of the State of California and any bidder or contractor not so licensed is subject to the penalties imposed by such laws.

5.405 PATENTS

The Contractor shall assume all responsibilities arising from the use of patented materials, equipment, devices or processes used on or incorporated in the work.

5.406 SAFETY PROVISIONS

The Contractor shall conform to the rules and regulations pertaining to safety established by the California Division of Industrial Safety.

5.407 PUBLIC CONVENIENCE AND SAFETY

The Contractor shall so conduct the operation as to cause the least possible obstruction and inconvenience to public traffic. Unless other existing streets are stipulated in the Special Provisions to be used as detours, all traffic shall be permitted to pass through the work.

Residents along the road or street shall be provided passage as far as practicable. Convenient access to driveways, houses and buildings along the road or street shall be maintained and temporary crossing shall be provided and maintained to good condition. Not more than one cross or intersecting street or road shall be closed at any one time without the approval of the City Engineer.

The Contractor shall furnish, erect and maintain such fences, barriers, lights, signs and flag persons as are necessary to give adequate warning to the public at all times that the road or street is obstructed and of any dangerous conditions to be encountered as a result thereof, and shall also erect and maintain such warning and directional signs as may be furnished by the City.

Signs, lights, flags and other warning and safety devices shall conform to the requirements set forth in the current "Manual of Warning Signs, Lights and Devices for use in Performance of Work upon Highways,"

issued by the State of California Department of Transportation. Copies of this manual are on file with the City of Lodi Public Works Department.

No material or equipment shall be stored where it will interfere with the free and safe passage of public traffic, and at the end of each day's work and at other times when operations are suspended for any reason, the Contractor shall remove all equipment and other obstructions from that portion of the roadway open for use by public traffic.

Full compensation for doing the above-mentioned work shall be included in the price paid for the various contract items of work, and no additional compensation will be allowed therefor.

5.408 PRESERVATION OF PROPERTY

Due care shall be exercised to avoid injury to existing improvements or facilities, utility facilities and adjacent property, and trees, shrubs and other plants that are not to be trimmed and / or removed.

Trees, shrubs and other plants that are not to be trimmed or removed, and pole lines, fences, signs, markers and monuments, buildings and structures, and any other above ground improvements or facilities and all underground facilities shown on the plans or brought to the Contractor's attention during the contract, within or adjacent to the highway, shall be protected from injury or damage; and if ordered by the Electric Utility Director, the Contractor shall provide and install suitable safeguards, approved by the Electric Utility Director, to protect such objects from injury of damage. Such objects injured or damaged by reason of the Contractor's operations shall be replaced or restored to a condition as good as when the Contractor entered upon the work, or as good as required by the specifications accompanying the contract. The Electric Utility Director may make or cause to be made such temporary repairs as are necessary to restore to service any damaged facility. The cost of such repairs shall be borne by the Contractor under the contract.

Full compensation for furnishing all labor, materials, tools, equipment and incidentals, and for doing all the work involved in protecting or repairing property as specified in this section, shall be considered as included in the prices paid for the various contract items of work, and no additional compensation will be allowed therefor.

5.409 RESPONSIBILITY FOR DAMAGE

The City of Lodi, the City Council, all officers and employees or agent shall not be answerable or accountable in any manner for any loss or damage that may happen to the work or any part thereof; or for any material or equipment used in performing the work; or for injury or damage to any person or persons, either work personnel or the public; for damage to adjoining property from any cause whatsoever during the progress of the work or any time before final acceptance with the exception of those injuries or damages arising out of the active negligence of the City of Lodi or its agents, officers or employees.

The Contractor shall indemnify and hold harmless the City of Lodi, the City Council, all officers and employees or agent from any suits, claims or actions brought by any person or persons for or on account of any injuries or damages sustained or arising in the construction of the work or in consequence thereof. The City Council may retain as much of the money due the Contractor as shall be considered necessary until disposition has been made of such suits or claims for damages as aforesaid.

5.410 CONTRACTOR'S RESPONSIBILITY FOR WORK

Except as provided above, until the formal acceptance of the work by the City Council, the Contractor shall have the charge and care thereof and shall bear the risk of injury or damage to any part thereof by the action of the elements from any other cause, whether arising from the execution or from the non-execution of the work.

The Contractor shall rebuild, repair, restore and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expenses thereof, except such injuries or damages occasioned by acts of the Federal Government or the public enemy.

5.411 NO PERSONAL LIABILITY

Neither the City Council, the Electric Utility Director, nor any other officer or authorized assistant or agent or employee shall be personally responsible for any liability arising under the contract.

5.412 RESPONSIBILITY OF CITY

The City of Lodi shall not be held responsible for the care or protection of any material or parts of the work prior to final acceptance, except as expressly provided in these specifications.

5.413 INSURANCE REQUIREMENTS FOR CONTRACTOR

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

COMPREHENSIVE GENERAL LIABILITY

$1,000,000 Bodily Injury - Ea. Occurrence/Aggregate
$1,000,000 Property Damage - Ea. Occurrence/Aggregate

or

$1,000,000 Combined Single Limits

COMPREHENSIVE AUTOMOBILE LIABILITY

$1,000,000 Bodily Injury - Ea. Person
$1,000,000 Bodily Injury - Ea. Occurrence
$1,000,000 Property Damage - Ea. Occurrence

or

$1,000,000 Combined Single Limits

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

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

(a) Additional Named Insured Endorsement

Such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed Boards, Commissions, Officers, Agents and Employees as additional named Insureds insofar as work performed by the insured under written contract with the City of Lodi.

(b) Primary Insurance Endorsement

Such insurance as is afforded by the endorsement for the Additional Insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the insurance afforded by this endorsement. This language shall be furnished on an endorsement attached to the certificate of insurance.

(c) Severability of Interest Clause

The term “insured” is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limit of the company’s liability.

(d) Notice of Cancellation or Change in Coverage Endorsement

This policy may not be cancelled nor the coverage reduced by the company without 30 days prior written notice of such cancellation or reduction in coverage to the City Attorney, City of Lodi, P. O. Box 3006, Lodi, CA 95241-1910.

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

“Claims made” coverage requiring the insureds to give notice of any potential liability during a time period shorter than that found in the Tort Claims Act shall be unacceptable.

5.414 COMPENSATION INSURANCE

The Contractor shall take out and maintain during the life of this contract, Worker’s Compensation Insurance for all of Contractor’s employees employed at the site of the project and, if any work is sublet, Contractor shall require the subcontractor similarly to provide Worker’s Compensation Insurance for all of the latter’s employees unless such employees are covered by the protection afforded by the Contractor. In case any class of employees engaged in hazardous work under this contract at the site of the project is not protected under the Worker’s Compensation Statute, the Contractor shall provide and shall cause

each subcontractor to provide insurance for the protection of said employees. This policy may not be cancelled nor the coverage reduced by the company without 30 days prior written notice of such cancellation or reduction in coverage to the City Attorney, City of Lodi, P. O. Box 3006, Lodi, CA 95241-1910.

5.415 GUARANTEE AND WARRANTY (MODIFIED)

If, in the opinion of the Electric Utility Director, defective work creates a dangerous condition or requires immediate correction or attention to prevent further loss to the City or to prevent interruption of operations of the City, the City will attempt to give the notice required. If the Contractor cannot be contacted or does not comply with the Electric Utility Director's request for correction within a reasonable time as determined by the Electric Utility Director, the City may, notwithstanding the provisions of this section, proceed to make such correction or provide such attention and the costs of such correction or attention shall be charged against the Contractor.

Such action by the City will not relieve the Contractor of the guarantees provided in this section or elsewhere in the contract.

This section does not in any way limit the guarantee on any items for which longer guarantee is specified nor on any items for which a manufacturer gives a guarantee for a longer period, not does it limit other remedies of the City in respect to latent defects, fraud or implied warranties.

5.416 COOPERATION

Should construction be underway by other agencies or by other contractors within or adjacent to the limits for the work specified, or should work of any other nature by underway by other forces within or adjacent to said limits, the Contractor shall schedule and coordinate the work with the other contractors and agencies so there is the least amount of conflict during all phases of construction. The Contractor is also responsible for making all necessary agreements with other contractors as required during construction.

5.500 PROSECUTION AND PROGRESS

5.501 SUBCONTRACTING

The Contractor shall give personal attention to the fulfillment of the contract and shall keep the work under control.

Subcontractor will not be recognized as such and all persons engaged in the work of construction will be considered as employees of the Contractor, and their work shall be subject to the provisions of the contract and specifications.

Where a portion of the work subcontracted by the Contractor is not being prosecuted in a manner satisfactory to the Electric Utility Director, the subcontractor shall be removed immediately on the requisition of the Electric Utility Director and shall not again be employed on the work.

5.502 ASSIGNMENT

The performance of the contract may not be assigned, except upon written consent of the City. Consent will not be given to any proposed assignment which would relieve the original Contractor or Contractor's surety of their responsibilities under the contract, nor will the City consent to any assignment of a part of the work under the contract.

5.503 (DELETED)

5.504 (DELETED)

5.505 CHARACTER OF WORK PERSONNEL

If any subcontractor or person employed by the Contractor fails or refuses to carry out the directions of the Electric Utility Director or appears to the Electric Utility Director to be incompetent or to act in a disorderly or improper manner, that person shall be discharged immediately on the requisition of the Electric Utility Director, and such person shall not again be employed on the work.

5.506 TEMPORARY SUSPENSION OF WORK

The Electric Utility Director shall have the authority to suspend the work wholly or in part, for such period as Electric Utility Director may deem necessary, due to unsuitable weather or to such other conditions as are considered unfavorable for the suitable prosecution of the work, or for such time as the Electric Utility Director may deem necessary, due to the failure on the part of the Contractor to carry our orders given, or to perform any provisions of the contract. The Contractor shall immediately obey such order of the Electric Utility Director and shall not resume the work until ordered in writing by the Electric Utility Director.

In the event that suspension of work is ordered as provided above, and should such suspension be ordered by reason of the failure of the Contractor to carry our orders or to perform any provision of the contract; or by reason of weather conditions being unsuitable for performing any item or items of work which, in the sole opinion of the Electric Utility Director could have been performed prior to the occurrence of such unsuitable weather conditions had the Contractor diligently prosecuted the work when weather conditions were suitable; the Contractor, at Contractor's expense, shall do all the work necessary to provide a safe, smooth and unobstructed passageway through construction for use by public traffic during the period of such suspension as provided in Section 7-1.08, "Public Convenience," and 7-1.09, "Public Safety," of the Standard Specifications, and as provided in the Contract Specifications. In the event that the Contractor fails to perform the work above specified, the City may perform such work and the cost thereof will be deducted from moneys due or to become due the Contractor.

5.507 (DELETED)

5.508 TERMINATION OF CONTRACT

Failure to prosecute the work diligently is grounds for termination of the Contractor's control over the work by the City of Lodi as provided in Section 14394 of the Government code of the State of California.

5.509 RIGHT-OF WAY

The necessary rights-of-way and easements for the work will be provided by the City of Lodi. The Contractor shall make arrangements and pay all expenses for additional area required by Contractor outside of the limits of right-of-way, unless otherwise provided in the Special Provisions.

5.600 MEASUREMENT, ACCEPTANCE AND PAYMENT

5.601 PAYMENT

The City of Lodi shall pay the Contractor monthly upon presentation of invoice delineating all work performed the previous month. Payment for work performed the last month of this contract will be made per Section 5.603 and 5.606.

5.602 SUBSTITUTION OF SECURITIES FOR WITHHELD AMOUNT

Pursuant to Section 22300 of the Public Contract Code of the State of California, securities may be substituted for any moneys withheld by a public agency to ensure performance under a contract. At the request and expense of the Contractor, securities equivalent to the amount withheld shall be deposited with the public agency, or with a state or federally chartered bank as the escrow agent, who shall pay such moneys to the Contractor upon satisfactory completion of the contract.

5.603 FINAL ACCEPTANCE OF THE WORK

The Contractor will notify the Electric Utility Director in writing of the completion. The Electric Utility Director will check as to the actual completion, and when satisfied will recommend acceptance to the City Council. The date of completion will be the date of acceptance of the work by the City Council.

5.604 (DELETED)

5.605 CLAIMS FOR DAMAGES

If the Contractor shall claim compensation for any damage sustained by reason of the acts of the City or its agents, Contractor shall, within five days after sustaining of such damage make to the Electric Utility Director a written statement of the damage sustained. On or before the fifteenth day of the month succeeding that in which any such damage shall have been sustained, the Contractor shall file with the Electric Utility Director an itemized statement of the details and amount of such damage, and unless such statement shall be made as thus required, claims for compensation shall be forfeited and invalidated and Contractor shall not be entitled to consideration of payment on account of any such damage.

5.606 FINAL PAYMENT

The Electric Utility Director shall, after the satisfactory completion of the contract, make a final estimate of the amount of work done thereunder, and the value of such work, and the City of Lodi shall pay the entire sum so found to be due after deducting therefrom all previous payments and all amounts to be kept and all amounts to be retained under the provisions of the contract. All prior partial estimates and payments shall be subject to correction in the final estimate and payment. The final payment shall not be due and payable until the expiration of 30 days after filing of notice of completion provided no liens have been filed.

It is mutually agreed between the parties to the contract that any payments made under the contract, except the final payment, shall not be conclusive evidence of the performance of the contract, either wholly or in part, against any claim of the City of Lodi, and no payment shall be construed to be an acceptance of any defective work or improper materials.

And the Contractor further agrees that the payment of the final amount due under the contract, and the adjustment and payment for any work done in accordance with any alterations of the same, shall release

the City of Lodi, the City Council, and all officers and employees from any and all claims or liability on account of work performed under the contract of any alteration thereof.

5.700 STANDARD SPECIFICATIONS

The work embraced herein shall be done in accordance with the appropriate provisions of construction details of the specifications entitled, “State of California, Business and Transportation Agency, Department of Transportation, Standard Specifications, July 1999,” insofar as the same may apply, which specifications are hereinafter referred to as the Standard Specifications and in accordance with the following Special Provisions.

Whenever in the contract documents or the Standard Specifications the term “State” is used, it shall be understood to mean and refer to the City of Lodi.

Other items appearing in the Standard Specifications, the General Provisions, and the Special Provisions, shall have the intent and meaning specified in Section 1, Definition of Terms of the Standard Specifications.

6.01 DESCRIPTION OF WORK

The work consists of line clearing (tree trimming) for subtransmission, distribution and secondary circuits including overhead services within city limits at the direction of the Electric Utility Director. Distribution circuits shall be cleared a minimum of six (6) feet. This agreement may be renewed at City's option on a year-to-year basis for a maximum of three (3) additional years. Prices shall be mutually agreed upon to such renewal or extension (see Section 2.1700 for detail).

6.02 CONTROL OF MATERIAL

a) Wood Wood shall be cut into lengths easily manageable by one person in order to prevent injury when lifting.

b) Residents Right to Wood The resident on whose property the tree(s) is growing shall have first choice over any wood collected from such trees.

c) Disposal Contractor to dispose of all material generated as a result of work performed, provided conditions described in 6.02 (b) do not apply.

Disposal of material shall be at the "Central Valley Waste Services" transfer station located at Turner Road and Cluff Avenue and/or at any other recycle and/or composting site within a total driving time (to and from) not to exceed ½ hour as measured from city limits if outside the city and to the exclusive approval of the Electric Utility Director. All fees associated with disposal shall be borne by the Contractor. Weigh slip for each disposal shall be submitted to the Electric Utility Director.

6.03 GUARANTY AND WARRANTY

The Contractor shall guaranty and warrant all tools and equipment supplied as being fit for the purpose intended. The Contractor shall guaranty and warrant all work performed as having been accomplished in a proper and workmanlike manner.

The City is hereby authorized to perform additional trimming work if the Contractor fails to make or undertake with due diligence the aforesaid additional trimming work within (10) days after he is given written notice of such unsatisfactory work provided, however, that in case of emergency where, in the opinion of the Engineer of Work, providing a reasonable attempt has been made to notify the Contractor, delay would cause serious loss or damages, or a serious hazard to the public, the additional trimming may be performed or lights, signs, and barricades erected without prior notice to the Contractor, and the Contractor shall pay the entire cost thereof. At the completion of the work, the Faithful Performance Bond may be reduced at the discretion of the Lodi City Council to not less than ten (10) percent of the contract price to cover said guarantee.

6.04 COORDINATION OF WORK

The Contractor shall be responsible for coordinating all activity with the Electric Utility Director. Scheduled work shall be performed during normal working hours, 7:00 a.m. to 3:30 p.m., Monday through Friday. The Electric Utility Director shall have the authority to change the hours to work to meet the needs of the City. Work will be performed on an as-needed basis as determined by the Electric Utility Director.

6.05 EMERGENCY WORK

Emergency call-out work shall be coordinated between Contractor and Electric Utility Director on a verbal authorization basis. The Electric utility Director reserves the right to furnish such staff, equipment, tools and materials required as is deemed expedient, and the contractor shall have no claim for payment on the cost of such items. All emergency work shall be reported daily upon separate report sheets, furnished to the Electric Utility Director and signed by both parties. These reports shall thereafter be considered the true record of emergency work done. It is the responsibility of the Contractor to ensure that its personnel are available on a timely basis (e.g. within 30 minutes) for after hours emergency tree work. The Contractor shall provide a means to immediately contact its designated representative for after hours work.

6.06 TEMPORARY SUSPENSION

The Contractor shall have the authority to suspend the work wholly or in part, for such a period as he may deem necessary, due to unsuitable weather or to such other conditions as are considered unfavorable for the suitable prosecution of the work.

6.07 BEGINNING WORK

Contractor shall respond to work requests from the Electric Utility Director within five (5) days.

6.08 WORK CENTER

Contractor shall establish a work center in a centralized location of the work area as a base for daily operations.

6.09 PARKING

The City may, at its option, make available to Contractor arrangements for parking on City premises, in aid of performance of this contract. Contractor shall hold City harmless and shall indemnify City for any and all damages arising from or related to such parking arrangements.

6.10 CREWS AND EQUIPMENT

a) “Backyard Crew” consisting of line clearing foreman, line clearing climber and groundman/helper equipped with chipper, dump truck and incidental power and hand tools.

b) “Street Crew” consisting of line clearing foreman and line clearing climber equipped with chipper, insulated aerial boom with dump body and incidental power and hand tools.

The successful bidder shall be capable of furnishing one ‘Backyard Crew’ with all the necessary tools and equipment for twelve months as well as one ‘Street Crew’ with all necessary tools and equipment for twelve months. If requested by the Electric Utility Director in writing, additional tree clearance crews will be supplied by the Contractor during extension periods or upon a minimum of thirty (30) days written notice.

6.11 BILLING AND PAYMENT

The Contractor shall submit one invoice for payment to the Electric Utility Director for all work performed during the previous month. The invoice shall indicate the type of work completed, type of species of the tree(s), quantities, location(s), dates work accomplished, and crew hours, i.e., 'Backyard Crew' and/or 'Street Crew.' A weekly billing cycle, to be approved by the Electric Utility Director, may be acceptable.

Payment will be made after approval of the invoice by the Electric Utility Director and will be based on hours worked by either crew configuration times the respective bid prices per hour per crew. Such payment shall be all inclusive and no additional payment will be made for such items as supervision, disposal of material, disposal fees, other fees or licenses, etc. Computation of hours worked shall be computed to the nearest quarter (1/4) hour. Down time as a result of equipment failure will be subtracted from the above payment and be based on hourly rates quoted for both equipment and personnel involved.

6.12 TERMINATION OF CONTRACT

This contract can be terminated at any time by the Electric Utility Director at his sole discretion.

6.13 SAFETY

American National Standard ANSI 2133.1 standards for tree care operations - pruning, trimming, repairing, maintaining, and removing trees, and cutting brush - safety requirements is made a part of these Standard Tree Trimming Specifications.

6.14 GENERAL OBJECTIVES

Prune trees to accomplish the following: to select and develop permanent scaffold branches that are smaller in diameter than the trunk or branch to which they are attached, which have vertical spacing from 18 to 48 inches and radial orientation so as not to overlay on another; to eliminate diseased or damaged growth; to eliminate narrow V-shaped branch forks that lack strength; to reduce toppling and wind damaged by thinning out crowns; to maintain growth within space limitations; to maintain a natural appearance; to balance crown with roots (same instructions are in force when clearing electrical energized lines). Evergreen trees should be thinned out and shaped when necessary to prevent wind and storm damage. The primary pruning of deciduous trees should be done during the dormant season. Damaged trees, or those that constitute health or safety hazards, should be pruned at any time of the year as required. All pruning cuts should be made to lateral branches or to outside of branch collar with the trunk. Under no circumstance should "stubbing" ever be performed.

6.15 PRUNING CATEGORIES

a) Thinning and shaping - all trees are to be pruned to follow the natural growth of the tree.

b) Height reduction - prune top growth to reduce overall height of tree by approximately 20%, but no lower than 15 feet, except where necessary to maintain adequate clearance from energized lines. Does not include changing the scaffolding structure of the tree.

6.16 TREE PRUNING AND REMOVAL REQUIREMENTS

The instructions defined herein are the City's standards for clearing of lines and provide details and directions to the Contractor. The Contractor shall perform the following services in a professional workmanship like manner consistent with all appropriate rules of safety.

a) Follow the shape suggested by the natural growth habits of each tree species.

b) Cut the laterals to preserve the natural form of the tree, leaving the head open enough for the branching system to show and permitting dead material to be easily cleaned out and light to show through the head. Tree foliage shall not be reduced by more than 20%.

c) Do not use spurs unless removing the tree.

d) Crown reduction should be used to reduce the height or spread of a tree in conjunction with thinning cuts.

e) All limbs, one inch in diameter or over, shall be removed using three cuts where there is a chance of the bark tearing at the crotch. Removing large limbs the undercut should be at least one-third of the diameter. Make the second one to three inches further from the crotch than the first. The final cut is made outside of branch collar. Cuts shall not be made so large that they will prevent normal sap flow.

f) On trees known to be diseased, pruning tools as well as cut surfaces shall be disinfected with a ten percent (10%) chlorine bleach solution or sterilant after each cut and between trees where there is danger of transmitting the disease on tools.

g) Pruning with hand pruners will be permitted. Small limbs, including suckers and water spouts, shall be cut close to the trunk or branch from which they arise.

h) All cut branches three and one-half inches or larger in diameter shall be lowered by proper ropes to the ground. Any damage caused by dropped limbs shall be repaired promptly at the Contractor's expense and to the satisfaction of the Electric Utility Director.

i) Pruning around high voltage distribution and transmission lines shall be done by a certified and qualified line clearance tree trimmer.

j) Do not spray any cuts.

k) All trees to be completely removed shall be cut to grade.

l) Remove all loose bark hanging in crotches of all Eucalyptus trees.

6.17 PROPERTY OWNER NOTIFICATION

Property owners shall be notified a minimum of 24 hours prior to any trimming on their property. Door knob hangers may be used if contact cannot be made with the occupant of the property. Notification is not required for emergency call-out work.

6.18 CITY NOTIFICATION

The City of Lodi shall be notified 48 hours in advance in order to de-energize a line section.

The Contractor shall notify the System Operator daily of the work area for the day and shall obtain a no-test order on lines in the work area.

Each crew supervisor or crew leader shall report to the Electric Utility Superintendent at the beginning of each work day for specific assignments.

6.19 EMERGENCY WORK

Emergency call-out work shall be coordinated between the Contractor and the Electric Utility Director on a verbal authorization basis.

6.20 OVERTIME WORK

Authorization for overtime work shall be obtained from the Electric Utility Director prior to commencing any overtime work.

6.21 RECORD KEEPING

A complete record of all tree work shall be submitted daily to the Electric Utility Director. Line clearance records will include type of tree work performed, date, species, type of crew, tools required, hours, locations and any other information required by the Electric Utility Director. The Electric Utility Department will supply the Contractor with the record keeping forms.

6.22 QUALIFICATIONS

The following qualifications shall apply to line clearing Foremen, climbers and apprentice climbers. Line clearing Foreman shall have completed an approved apprenticeship in line clearing and have a minimum of one year experience as a foreman. Line clearing climber shall have completed an approved apprenticeship in line clearing 18 months. Apprentices shall be utilized as Groundman. Crew must be trained in CPR, First Aid and Aerial rescue. Written documentation shall be provided on each crew member for approval by the Electric Utility Director.

AGENDA ITEM **E-06**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Authorizing Public Works Street Division to Waive the Bidding Process and Award to an Existing Professional Services Agreement for Tree Trimming between City of Brentwood and West Coast Arborists, Inc., for Trimming of 510 Trees ($25,000) and Authorizing City Manager to Award the Contract**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council adopt a resolution authorizing Public Works Street Division to waive the bidding process and award to an existing professional services agreement for tree trimming between the City of Brentwood and West Coast Arborists, Inc., for the trimming of 510 trees at an estimated project cost of $25,000 and authorizing the City Manager to award the contract.

BACKGROUND INFORMATION: The City of Brentwood and West Coast Arborists, Inc., have a professional services agreement in place which was implemented on March 22, 2005, and runs through the end of fiscal year 2007/08. Specifications were prepared and competitive bids received by the City of Brentwood for tree trimming. West Coast Arborists, Inc., met specifications and provided the most competitive bid. Both entities are agreeable to the City of Lodi's participation. If given approval, the City could take advantage of an exceptional value which would allow for trimming groups of trees at a cost of $49 per tree. Quotes were received from three vendors, with the lowest quote being an average cost of $110 per tree. While these quotes were for a smaller number of trees, the other agency bids were competitive. This agreement would reduce the City's cost by more than half. We do not believe we would receive lower prices in a separate bid.

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 California public agencies, provided that their award was in compliance with their formally-adopted bidding or negotiation procedures.

Staff recommends contracting with West Coast Arborists, Inc., through the City of Brentwood professional services agreement. West Coast Arborists, Inc., is a reputable contractor and has performed work for Lodi in the past. The cost of this agreement would come from the Trees Operating budget and would have no additional impact on the General Fund. The estimated project cost will be based on 510 trees, but the City may add or remove quantities to accommodate need and the limitations of the operating budget.

FISCAL IMPACT: Provides for an excellent opportunity to receive an exceptional price for much-need maintenance. Money is in place in the operating budget. Pending the outcome of this contract, staff will reevaluate our contracting methods for future tree maintenance work.

FUNDING AVAILABLE: Funds for this project will come from the 2005/06 Street Operating budget.

_____
Ruby Paiste, Interim Finance Director

_____
Richard C. Prima, Jr.
Public Works Director

Prepared by Curt Juran, Assistant Street Superintendent
cc: George M. Bradley, Street Superintendent
Ray Fye, Tree Operations Supervisor

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE UTILIZATION OF AN EXISTING PROFESSIONAL SERVICES AGREEMENT FOR TREE TRIMMING BETWEEN THE CITY OF BRENTWOOD AND WEST COAST ARBORISTS, INC., FOR TRIMMING 510 TREES, FURTHER AUTHORIZING THE CITY MANAGER TO AWARD THE CONTRACT IN AN AMOUNT NOT TO EXCEED $25,000

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WHERES, pursuant to 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 California public agencies, provided that their award was in compliance with their formally-adopted bidding or negotiation procedures.

WHEREAS, the City of Brentwood and West Coast Arborists, Inc., have a professional services agreement in place which was implemented on January 3, 2006, and runs through the end of fiscal year 2007/08. Specifications were prepared and competitive bids received by the City of Brentwood for tree trimming. West Coast Arborists, Inc., met specifications and provided the most competitive bid. Both entities are agreeable to the City of Lodi's participation. If given approval to tag on to the Brentwood agreement, the City could take advantage of an exceptional value which would allow for trimming groups of trees at a cost of $49 per tree; and

WHEREAS, quotes were received from three vendors, with the lowest quote being an average cost of $110 per tree, and utilizing this agreement would reduce the City's cost by more than half; and

WHEREAS, staff recommends contracting with West Coast Arborists, Inc., through the City of Brentwood professional services agreement, with the City's estimated project cost to be based on 510 trees, but the City may add or remove quantities to accommodate need and the limitations of the operating budget.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the utilization of an existing Professional Services Agreement for Tree Trimming between the City of Brentwood and West Coast Arborists, Inc., for trimming 510 trees; and

BE IT FURTHER RESOLVED that the Lodi City Council hereby authorizes the City Manager to award the contract in an amount not to exceed $25,000.

Dated: April 19, 2006

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I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

AGENDA ITEM **E-07**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Accept Improvements Under Contract for Water Meter Installation Project**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council accept the improvements under the "Water Meter Installation Project" contract.

BACKGROUND INFORMATION: The project was awarded to Arrow Construction, of Modesto, on January 4, 2006, in the amount of $52,831. The contract has been completed in substantial conformance with the plans and specifications approved by City Council.

The Water Meter Installation Project is a pilot project intended to initiate compliance with Assembly Bill 2572 to install meters on all of the approximately 17,000 unmetered services within the City by January 1, 2025. The project included the installation of 394 domestic water meters with remote-read capabilities. The meters were installed in existing water meter boxes within the project area, as shown on the attached map.

The contract completion date was May 3, 2006, and the actual completion date was March 24, 2006. The final contract price was $48,462. The difference between the contract amount and the final contract price is mainly due to the contract item to perform meter alignment adjustments. Arrow Construction was able to install all of the water meters without needing to reset or replace any meter box installations. The contract included a $4,000 item to pay the contractor for any necessary work on the meter boxes and this contract item was not used.

Following acceptance by the City Council, the City Engineer will file a Notice of Completion with the County Recorder's office.

FISCAL IMPACT: In addition to the initial capital costs, it is anticipated that operation and maintenance costs will increase over time to repair and maintain the water meters.

FUNDING AVAILABLE: Water Utility Capital Outlay Fund (Installation Only): $48,462

_____
Ruby Paiste, Interim Finance Director

_____
Richard C. Prima, Jr.
Public Works Director

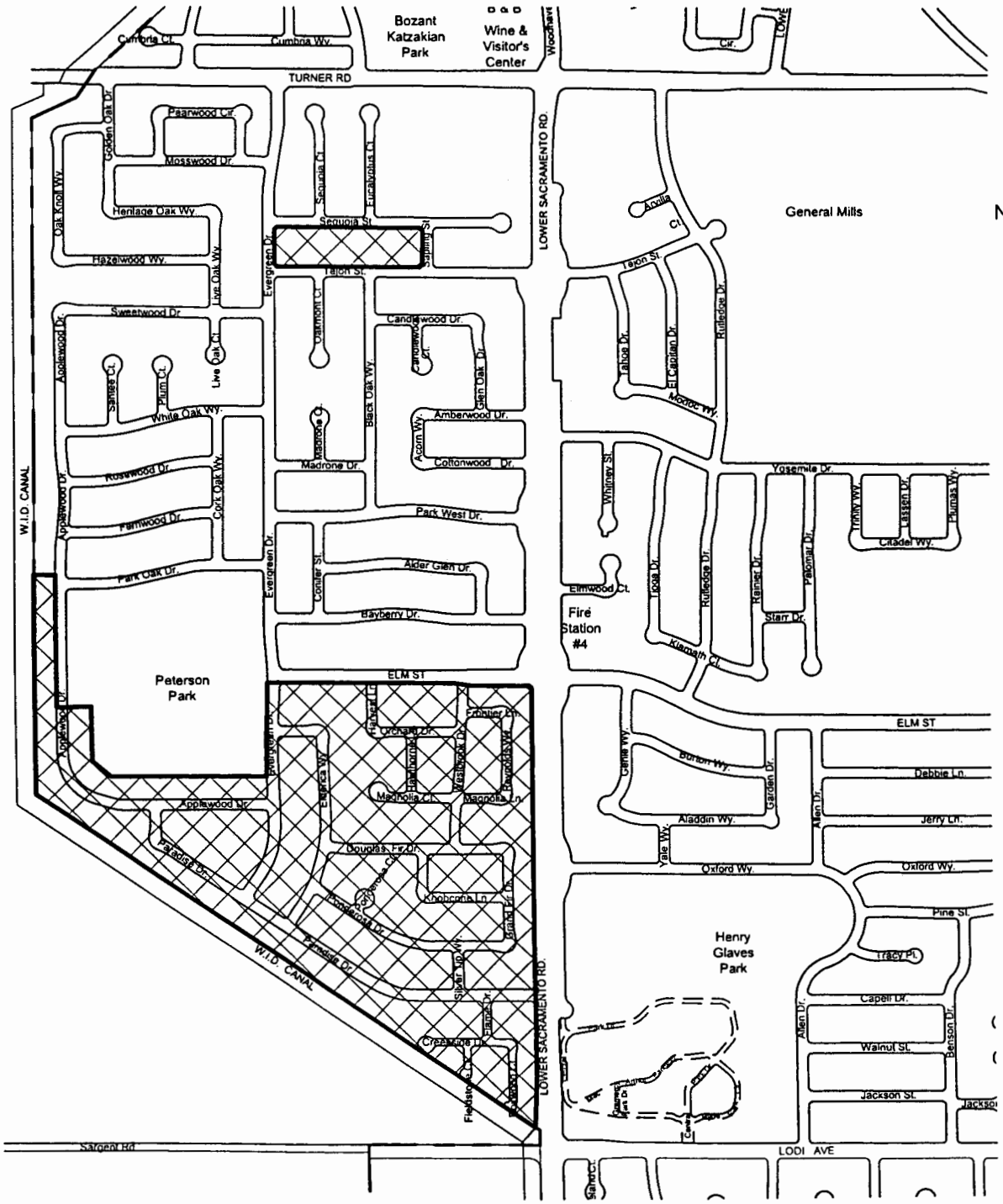
Prepared by Wesley K. Fujitani, Senior Civil Engineer
RCP/WKF/pmf
Attachment
cc: Joel Harris, Purchasing Officer
Charlie Swimley, Senior Civil Engineer
Frank Beeler, Assistant Water/Wastewater Superintendent
Kevin Gaither, Senior Engineering Technician

APPROVED: _____
Blair King, City Manager

CITY OF LODI

PUBLIC WORKS DEPARTMENT

VICINITY MAP WATER METER INSTALLATION LOCATIONS



METER INSTALL LOCATIONS

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AGENDA ITEM **E-08**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Accepting Improvements Under Contract for Kettleman Lane (Route 12) Gap Closure Project from Lower Sacramento Road to Ham Lane and from Stockton Street to Cherokee Lane and Appropriating Additional Funds ($102,800)**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council adopt a resolution accepting the improvements under the "Kettleman Lane (Route 12) Gap Closure Project from Lower Sacramento Road to Ham Lane and from Stockton Street to Cherokee Lane" contract and appropriating additional funds.

BACKGROUND INFORMATION: The project was awarded to Teichert Construction, of Stockton, on September 7, 2003, in the amount of $2,060,827. The contract has been completed in substantial conformance with the plans and specifications approved by City Council.

The project consisted of improving Kettleman Lane (State Highway 12) from Lower Sacramento Road to Ham Lane, and from Stockton Street to Cherokee Lane. The improvements included constructing a raised landscaped median at both locations, widening the westbound direction of Kettleman Lane from Lakeshore Drive to Tienda Drive, modifying the Tienda Drive and Kettleman Lane traffic signal to accommodate westbound dual left turns, widening the WalMart driveway to accommodate the two proposed inbound lanes, installing street lights, modifying the Ham Lane/Kettleman Lane and Cherokee Lane/ Kettleman Lane traffic signals to accommodate eastbound dual left-turn lanes, and constructing a traffic signal interconnect system. These improvements now provide a continuous four-lane roadway with a raised median from Lower Sacramento Road to Cherokee Lane.

The final contract price was $2,430,037.37. The difference between the contract amount and the final contract price is mainly due to contract change orders which added work to the contract and which addressed field conditions which were different than what was shown in the plans and specifications. Council was provided with more detailed information on these change orders during previous Council meetings.

On July 25, 2003, San Joaquin Council of Government (SJCOG) approved a Measure K Flexible Congestion Relief Fund amendment to program $2.629 million for the Kettleman Lane Widening/Gap Closure Project. As part of the cooperative agreement with SJCOG, the City of Lodi agreed to participate by paying for 4% of the project costs. Staff is now requesting an appropriation of $102,800 from Street Impact fees to cover the City's portion of this project. The total project cost for the Kettleman Gap Closure project is $2,570,000 (this total includes engineering costs for design work, construction

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APPROVED: _____
Blair King, City Manager

management, construction staking, testing costs, and other miscellaneous construction costs and purchases associated with the Kettleman Lane Gap Closure project).

Following acceptance by the City Council, the City Engineer will file a Notice of Completion with the County Recorder's office.

FISCAL IMPACT: As part of the City's maintenance agreement with Caltrans, the City has agreed to provide street sweeping and landscape maintenance along this portion of Highway 12. There will be an increased cost to maintain the new medians and a slight increase in street sweeping costs.

FUNDING AVAILABLE:

Requested Appropriation:	Street Impact Fees	$ 102,800
Project Estimate (including construction management costs):		$2,570,000

_____
Ruby Paiste, Interim Finance Director

_____
Richard C. Prima, Jr.
Public Works Director

Wesley K. Fujitani, Senior Civil Engineer

RCP/WKF/pmf

cc: Joel Harris, Purchasing Officer
George Bradley, Street Superintendent

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL ACCEPTING IMPROVEMENTS UNDER CONTRACT FOR KETTLEMAN LANE (ROUTE 12) GAP CLOSURE PROJECT FROM LOWER SACRAMENTO ROAD TO HAM LANE AND FROM STOCKTON STREET TO CHEROKEE LANE; AND FURTHER APPROPRIATING ADDITIONAL FUNDS FOR THE PROJECT

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WHEREAS, the Kettleman Lane (Route 12) Gap Closure Project was awarded to Teichert Construction, of Stockton, on September 7, 2003, in the amount of $2,060,827.00; and

WHEREAS, the contract has been completed in substantial conformance with the plans and specifications approved by City Council; and

WHEREAS, the project consisted of improving Kettleman Lane (State Highway 12) from Lower Sacramento Road to Ham Lane, and from Stockton Street to Cherokee Lane. The improvements included constructing a raised landscaped median at both locations, widening the westbound direction of Kettleman Lane from Lakeshore Drive to Tienda Drive, modifying the Tienda Drive and Kettleman Lane traffic signal to accommodate westbound dual left turns, widening the WalMart driveway to accommodate the two proposed inbound lanes, installing street lights, modifying the Ham Lane/Kettleman Lane and Cherokee Lane/ Kettleman Lane traffic signals to accommodate eastbound dual left turn lanes, and constructing a traffic signal interconnect system; and

WHEREAS, these improvements now provide a continuous four-lane roadway with a raised median from Lower Sacramento Road to Cherokee Lane; and

WHEREAS, due to contract change orders which added work to the contract and which addressed field conditions which were different than what was shown in the plans and specifications, additional funds are necessary; and

WHEREAS, at the July 25, 2003, Board meeting, San Joaquin Council of Government (SJCOG) approved an amendment to program $2.629 million in Measure K Flexible Congestion Relief funds for the Kettleman Lane Widening/Gap Closure Project; and

WHEREAS, as part of the cooperative agreement with SJCOG, the City of Lodi agreed to participate by paying for 4% of the project costs, therefore staff recommends appropriating $102,800 from Street Impact fees to cover the City's portion of this project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby accept the improvements under the contract for Kettleman Lane (Route 12) Gap Closure Project from Lower Sacramento Road to Ham Lane and from Stockton Street to Cherokee Lane, and directs the City Engineer to file a Notice of Completion with the County Recorder's office; and

BE IT FURTHER RESOLVED that the City Council of the City of Lodi does hereby appropriate additional funds in the amount of $102,800 from the Street Impact Fees for this project.

Dated: April 19, 2006

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I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Accept Improvements Under Contract for Lodi Avenue Overlay (Lower Sacramento Road to Ham Lane)/Pacific Avenue Extension (Walnut Street to Lodi Avenue) Project**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council accept the improvements under the "Lodi Avenue Overlay (Lower Sacramento Road to Ham Lane)/ Pacific Avenue Extension (Walnut Street to Lodi Avenue) Project" contract.

BACKGROUND INFORMATION: The project was awarded to Granite Construction, of French Camp, on July 20, 2005, in the amount of $729,985.00. The contract has been completed in substantial conformance with the plans and specifications approved by City Council.

This project is comprised of two separate but contiguous elements of work paid for by separate funding sources.

The first element of work consisted of installing a 0.15-foot thick asphalt pavement overlay on Lodi Avenue, between Lower Sacramento Road and Ham Lane, which included approximately 3,700 tons of asphalt concrete and 35,400 square yards of pavement reinforcement fabric; pavement grinding; pavement striping; wheelchair ramps; installing 1,100 linear feet of 15-inch diameter storm drain pipeline; and other incidental and related work. This portion of the work was funded by Measure K Maintenance and Wastewater funds. The storm drain improvements were performed prior to the overlay to address deficiencies associated with the local drainage system serving Leland Court.

The second element of work consisted of constructing a roadway extension of Pacific Avenue between Walnut Street and Lodi Avenue. This work was performed in cooperation with the Lodi Unified School District and included approximately 450 linear feet of roadway improvements that will facilitate traffic flow (including school buses) during school operations. The roadway extension was constructed on School District property and will remain a District-owned and -maintained facility.

Plans and specifications for this project were approved on March 16, 2005. The City received the following two bids for this project:

Bidder	Location	Bid
Engineer's Estimate		$726,364.00
Granite Construction	French Camp	$729,985.00
George Reed, Inc.	Lodi	$824,524.25

APPROVED: _____
Blair King, City Manager

The final contract price was $785,480.10. The difference between the contract amount and the final contract price is mainly due to contract change orders which compensated the contractor for signal modifications at Lodi Avenue and Mills Avenue, adjusted the quantity of pavement reinforcing fabric, made crosswalk modifications, modified a manhole and chain link fence in the Pacific Avenue portion of the project, and included other minor miscellaneous items of work.

Following acceptance by the City Council, the City Engineer will file a Notice of Completion with the County Recorder's office.

FISCAL IMPACT: The project is anticipated to reduce storm drain and pavement maintenance costs along the Lodi Avenue corridor between Lower Sacramento Road and Ham Lane. No fiscal impact is associated with the Pacific Avenue extension since the facility will continue to be owned and maintained by the Lodi Unified School District.

FUNDING AVAILABLE:

Measure K Maintenance:	$	490,480.10
Wastewater Fund:	$	175,000.00
Safe Routes to School Grant:	$	108,000.00
Lodi Unified School District	$	12,000.00

_____
Ruby Paiste, Interim Finance Director

_____
Richard C. Prima, Jr.
Public Works Director

Prepared by Wesley K. Fujitani, Senior Civil Engineer

RCP/WKF/pmf

cc: Joel Harris, Purchasing Officer
Senior Traffic Engineer
Transportation Manager
Street Superintendent

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Accepting Improvements Under Contract for Lower Sacramento Road Widening Project, Kettleman Lane to Harney Lane, and Appropriating $5,000 and Receive Notification of Contract Change Orders and Property Owner Reimbursement**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council adopt a resolution accepting the improvements under the "Lower Sacramento Road Widening Project, Kettleman Lane to Harney Lane" contract and appropriating $5,000. In accordance with the Contract Change Order Policy, the City Council is being informed of the change orders approved by the City Manager for this project since the July 20, 2005, Council meeting. The Council is also being informed of reimbursement that is due to the property owner.

BACKGROUND INFORMATION: The project was awarded to George Reed, Inc., of Lodi, on March 16, 2005, in the amount of $2,623,300. The contract has been completed in substantial conformance with the plans and specifications approved by City Council.

The original contract completion date was January 6, 2006. Changes in the design and scope of work resulted in the extension of the completion date to January 26, 2006. The project was substantially complete and in use by the City on November 1, 2005. The delay in final acceptance of the project was due to issues with the weather and coordination with the associated County project. Detailed below is a description of contract change orders approved by the City Manager since the July 20, 2005 Council meeting. The total cost of change orders to date is $708,267.88 or 27% of the original contract. Change Order No. 1 ($12,815) was for the removal of trees within the street right of way. Change Order No. 2 ($466,762.25) was a major redesign of the project that included adding the median areas to the roadway and was approved by Council on July 20, 2005. Excluding Change Order No. 2, the total of contract change orders is $241,505.63 or 9.21% of the original contract. Including all change orders, the total contract amount to date is $3,331,567.88. More detailed descriptions and backup information for the change orders are available in the Public Works Department.

Change Order No. 3 – This change order is for the cost of adding electrical conduit crossings for future development as requested by the Electric Utility Department. ($20,278.20)

Change Order No. 4 – This change order is for the cost of importing soil for the median landscape areas. This work was originally planned to be included in the Median Landscape contract but was included in the roadway project so that traffic would be less impacted. ($39,340.00)

Change Order No. 5 – This change order is for the cost of rebuilding two existing sewer manholes, change in the materials used for 13 water blow-off valves, and removal and replacement of unsuitable subgrade materials. ($29,080.36)

Change Order No. 6 – This change order is for the cost of adding tactile warning devices at the sidewalk curb ramps, as required by the Americans with Disabilities Act (ADA). ($3,127.00)

Change Order No. 7 – This change order is for the cost of additional work the contractor had to perform due to errors in design and surveying during construction. ($43,119.17) This cost was offset by additional work performed and higher cost of materials which was included at no additional cost to the City.

APPROVED: _____
Blair King, City Manager

Change Order No. 8 – This change order is for the cost of additional street signage required to meet standard needs until associated projects (County Curve, etc.) are completed. ($3,944.50)

Change Order No. 9 – This change order is for the cost of repairing damaged electrical conduits. ($6,053.93)

Change Order No. 10 – This change order is for costs the contractor incurred providing concrete demolition and water and storm drain service to the property at 13786 Lower Sacramento Road. The City was obligated for these services under the right-of-way agreement. ($5,309.06)

Change Order No. 11 – This change order is for the cost of adding the concrete apron at the landscape medians. This work was originally planned to be included in the Median Landscape contract but was included in the roadway project so that traffic would be less impacted. ($20,150.00)

Change Order No. 12 – This change order is for the cost impacts to the contractor as a result of construction staking, design coordination and work schedule issues. The contractor worked extra shifts to meet the original road opening deadline (November 1, 2005). The issues that created the delays were not within the contractor's control. ($38,288.41)

Change Order No. 13 – This change order is for the cost of repairing three trench settlement areas. One area is at a PG&E trench. PG&E will be charged for costs associated with their trench. (Not to Exceed $20,000.00)

Included in the project cost are improvements to the property at 13786 Lower Sacramento Road associated with the provision of sewer service, water service, driveway access restoration of site drainage that was agreed upon by the City Council during a closed session on May 4, 2005. The property owner contracted for these services. The total improvement project cost for the work amounted to $43,416.00 that consists of $37,600.00 in construction costs and $5,816.00 in fees. The fees will be reimbursed upon sale, development or significant modification/remodel to the existing residence. The actual improvement costs exceeded the staff estimate of $15,000.00 due to unforeseen site conditions. Staff believes the costs to be reasonable and justified with receipts.

Following acceptance by the City Council, the City Engineer will file a Notice of Completion with the County Recorder's office.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Requested Appropriation: $5,000 from Measure K Congestion Relief funds. There are sufficient funds budgeted for this project for payment of the change orders listed above.

_____
Ruby Paiste, Interim Finance Director

_____
Richard C. Prima, Jr.
Public Works Director

Prepared by Gary Wiman, Construction Project Manager
RCP/GW/pmf
cc: Joel Harris, Purchasing Officer
Gary Wiman, Construction Project Manager

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL ACCEPTING IMPROVEMENTS UNDER CONTRACT FOR LOWER SACRAMENTO ROAD WIDENING PROJECT, KETTLEMAN LANE TO HARNEY LANE, AND FURTHER APPROPRIATING $5,000 AND RECEIVE NOTIFICATION OF CONTRACT CHANGE ORDERS AND PROPERTY OWNER REIMBURSEMENT

==========

WHEREAS, the contract for the Lower Sacramento Road Widening Project, Kettleman Lane to Harney Lane project was awarded to George Reed, Inc., of Lodi, on March 16, 2005, in the amount of $2,623,300; and

WHEREAS, the original contract completion date was January 6, 2006. Changes in the design and scope of work resulted in the extension of the completion date to January 26, 2006. The project was substantially complete and in use by the City on November 1, 2005. The delay in final acceptance of the project was due to issues with the weather and coordination with the associated County project; and

WHEREAS, the contract has been completed in substantial conformance with the plans and specifications approved by City Council; and

WHEREAS, the total cost of change orders to date is $708,267.88 or 27% of the original contract. Contract Change Orders as approved by the City Manager since July 20, 2005, are identified as follows:

Change Order No. 2 - was a major redesign of the project that included adding the median areas to the roadway and was approved by Council on July 20, 2005 ($466,762.25).

Change Order No. 3 – This change order is for the cost of adding electrical conduit crossings for future development as requested by the Electric Utility Department. ($20,278.20)

Change Order No. 4 – This change order is for the cost of importing soil for the median landscape areas. This work was originally planned to be included in the Median Landscape contract but was included in the roadway project so that traffic would be less impacted ($39,340.00).

Change Order No. 5 – This change order is for the cost of rebuilding two existing sewer manholes, change in the materials used for 13 water blow-off valves, and removal and replacement of unsuitable subgrade materials ($29,080.36).

Change Order No. 6 – This change order is for the cost of adding ADA-required tactile warning devices at the sidewalk curb ramps ($3,127.00).

Change Order No. 7 – This change order is for the cost of additional work the contractor had to perform due to errors in design and surveying during construction ($43,119.17).

Change Order No. 8 – This change order is for the cost of additional street signage required to meet standard needs until associated projects (County Curve, etc.) are completed ($3,944.50).

Change Order No. 9 – This change order is for the cost of repairing damaged electrical conduits ($6,053.93).

Change Order No. 10 – This change order is for costs the contractor incurred providing concrete demolition and water and storm drain service to the property at 13786 Lower Sacramento Road. The City was obligated for these services under the right-of-way agreement ($5,309.06).

Change Order No. 11 – This change order is for the cost of adding the concrete apron at the landscape medians. This work was originally planned to be included in the Median Landscape contract but was included in the roadway project so that traffic would be less impacted ($20,150.00).

Change Order No. 12 – This change order is for the cost impacts to the contractor as a result of construction staking, design coordination and work schedule issues. The contractor worked extra shifts to meet the original road opening deadline (November 1, 2005). The issues that created the delays were not within the contractor's control ($38,288.41).

Change Order No. 13 – This change order is for the cost of repairing three trench settlement areas. One area is at a PG&E trench. PG&E will be charged for costs associated with their trench (Not to Exceed $20,000.00).

WHEREAS, included in the project cost are improvements to the property at 13786 Lower Sacramento Road associated with the provision of sewer service, water service, driveway access restoration of site drainage that was agreed upon by the City Council during a closed session on May 4, 2005. The property owner contracted for these services. The total improvement project cost for the work amounted to $43,416.00 that consists of $37,600.00 in construction costs and $5,816.00 in fees. The fees will be reimbursed upon sale, development or significant modification/remodel to the existing residence. The actual improvement costs exceeded the staff estimate of $15,000.00 due to unforeseen site conditions. Staff believes the costs to be reasonable and justified with receipts.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby accept the improvements under the contract for Lower Sacramento Road Widening Project, Kettleman Lane to Harney Lane and hereby directs the City Engineer to file a Notice of Completion with the County Recorder's office; and

BE IT FURTHER RESOLVED, that the Lodi City Council hereby receives Notification of Contract Change Orders and Property Owner Reimbursement; and

BE IT FURTHER RESOLVED that the City Council of the City of Lodi does hereby appropriate $5,000 for reimbursement to the property owner.

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Accepting Improvements for the Harney Lane Canal Crossing Project and Appropriating Additional Funds for Applicable Reimbursements ($66,520)**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council adopt a resolution accepting the Harney Lane Canal Crossing improvements and appropriating additional funds for applicable reimbursements.

BACKGROUND INFORMATION: Improvements at the Harney Lane Canal Crossing have been completed in substantial conformance with the requirements of the Improvement Agreement between the City of Lodi and K & W Development, LLC, as approved by the City Council on November 17, 2004, and as shown on Drawings No. 004D019-01 through 004D019-09.

The project consists of widening the Woodbridge Irrigation District (WID) canal crossing at Harney Lane, located east of the Century Meadows One, Unit 3 development and west of Ham Lane.

The widening of the canal crossing was required as a condition of approval for the adjacent Century Meadows One, Unit 3 residential development. Under the terms of the improvement agreement for that project approved by Council on November 3, 2004, the developer, K & W Development, LLC, was required to enter into a separate improvement agreement with the City covering the installation of improvements to widen the WID canal crossing at Harney Lane and extend a 10-inch public water main across the WID canal.

The Harney Lane WID canal crossing and associated water main extension are included in the Streets and Water Facilities categories of the Development Impact Mitigation Fee Program. City Council, at its meeting of November 17, 2004, approved an appropriation of $832,000 to cover the City's portion of the canal crossing costs. Staff is now requesting an additional appropriation of $66,519.84 to cover extra work items performed during the construction of the new canal crossing. The attached exhibit shows a break down of the total costs for this project. The extra work items include an additional $43,350 to remove and replace unsuitable material beneath the new box culvert; $20,595 to extend electric conduit to Ham Lane; $19,636 to revise the wrought iron fence layout; $13,348 to add expansion joints to the 10-inch water main across the box culvert; and $7,210 for other miscellaneous items of work.

The actual testing costs for this project were less than expected, and the original improvement agreement included a contingency of $29,131. The request for additional funds is less than the cost of all of the extra work items.

APPROVED: _____
Blair King, City Manager

FISCAL IMPACT: There should be a slight decrease in long-term maintenance costs as a result of this project.

FUNDING:

IMF – Local Street Facilities	(MBC004)	$ 53,171.84
IMF – Water Facilities	(MWSX006)	$ 13,348.00

_____
Ruby Paiste, Interim Finance Director

_____
Richard C. Prima, Jr.
Public Works Director

Prepared by Wesley K. Fujitani, Senior Civil Engineer

RCP/WKF/pmf

Attachment

cc: City Attorney
Senior Civil Engineer - Development Services
Street Superintendent
Senior Engineering Technician
Woodbridge Irrigation District

HARNEY LANE CANAL CROSSING

		Project Costs from Improvement Agreement	Actual Project Costs
Demolition		$ 17,000.00	$ 17,000.00
Cutoff Dam and Diversion Pipeline		$ 49,000.00	$ 49,000.00
Culvert Structure		$ 276,600.00	$ 276,600.00
Concrete Work		$ 25,000.00	$ 25,000.00
Slope Protection		$ 32,800.00	$ 32,800.00
Water Main and Fittings		$ 18,500.00	$ 18,500.00
Fencing		$ 108,000.00	$ 108,000.00
Utility Conduits		$ 3,000.00	$ 3,000.00
Fill and Import Material		$ 25,800.00	$ 25,800.00
Harney Lane Pavement Section		$ 122,254.00	$ 122,254.00
Signage and Striping		$ 30,000.00	$ 30,000.00
Traffic Control		$ 10,000.00	$ 10,000.00
Permit Fee and Contract Costs		$ 9,044.00	$ 9,044.00
Contingencies		$ 29,130.97	$ -
Engineering, Design & Improvement Plans		$ 35,309.21	$ 35,521.66
Construction Staking, Billing Review, As-built Plans and Certifications		$ 22,566.77	$ 21,907.24
Compaction Testing, Concrete Testing		$ 17,995.05	$ 9,964.00
	EXTRA WORK ITEMS		
	Overexcavation and Recompaction		$ 43,350.00
	Install Expansion Joints in 10-inch Water Main		$ 13,348.00
	Extend Elec. Conduit to Ham Lane		$ 20,585.00
	Add 8-inch Steet Casing for Gas Utility		$ 1,666.37
	Relocate Utility Conduit		$ 713.32
	Revise Striping Layout and Perform Additional Striping		$ 4,830.00
	Revise Wrought Iron Fence		$ 19,636.25
TOTAL		$ 832,000.00	$ 898,519.84

When Recorded, Return to:
City of Lodi City Clerk's Office
P.O. Box 3006
Lodi, CA 95241-1910

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL
ACCEPTING THE DEVELOPMENT IMPROVEMENTS
INCLUDED IN THE IMPROVEMENT AGREEMENT FOR
HARNEY LANE CANAL CROSSING IMPROVEMENTS,
AND FURTHER APPROPRIATING ADDITIONAL FUNDS
FOR APPLICABLE REIMBURSEMENTS

==========

The City Council of the City of Lodi finds:

1. That the requirements of the Improvement Agreement between the City of Lodi and K & W Development, LLC for the improvements in Harney Lane Canal Crossing Improvements have been substantially complied with. The improvements are shown on Drawing Nos. 004D019-01 through 004D019-09, on file in the Public Works Department and as specifically set forth in the plans and specifications approved by the City Council on November 17, 2004; and

2. That additional funds be appropriated in the amount of $66,520 for applicable reimbursements.

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

AGENDA ITEM **E-12**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Accepting Improvements at 33 North Cluff Avenue**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council adopt a resolution accepting the development improvements at 33 North Cluff Avenue.

BACKGROUND INFORMATION: Improvements at 33 North Cluff Avenue have been completed in substantial conformance with the requirements of the improvement agreement between the City of Lodi and Cluff LLC, a California Limited Liability Company, and Robert Burns Construction, Inc., a California Corporation, as approved by the City Manager on April 6, 2004, and as shown on Drawings No. 003D056-01 through 003D056-5.

The improvements included the widening of the west side of Cluff Avenue. Approximately 530 lineal feet of curb, gutter and sidewalk, approximately 10,500 square feet of asphalt pavement and utility connections for the new parcels were installed. The right-of-way for Cluff Avenue had been previously dedicated to the City of Lodi. No public streets were dedicated as a condition of this improvement agreement.

FISCAL IMPACT: There will be a slight increase in long-term maintenance costs due to the new street improvements that have been added to the City's system.

FUNDING AVAILABLE: Not applicable.

_____
Richard C. Prima, Jr.
Public Works Director

Prepared by Wesley K. Fujitani, Senior Civil Engineer

RCP/WKF/pmf

cc: City Attorney
Senior Civil Engineer - Development Services
Senior Traffic Engineer
Street Superintendent
Senior Engineering Technician
Chief Building Inspector

APPROVED: _____
Blair King, City Manager

When Recorded, Return to:
City of Lodi City Clerk's Office
P.O. Box 3006
Lodi, CA 95241-1910

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL
ACCEPTING THE DEVELOPMENT IMPROVEMENTS
INCLUDED IN THE IMPROVEMENT AGREEMENT FOR
33 NORTH CLUFF AVENUE

==========

The City Council of the City of Lodi finds:

1. That the requirements of the Improvement Agreement between the City of Lodi and Cluff LLC, a California Limited Liability Company, and Robert Burns Construction, Inc., a California Corporation, for the development improvements at 33 North Cluff Avenue have been substantially complied with. The improvements are shown on Drawing Nos. 003D056-01 through 003D056-5, on file in the Public Works Department and as specifically set forth in the plans and specifications approved by the City Council on April 6, 2004; and

2. That no public streets were dedicated as a condition of this improvement agreement.

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

AGENDA ITEM **E-13**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Approving Improvement Deferral Agreement for 710 Willow Avenue**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council adopt a resolution approving an improvement deferral agreement for 710 Willow Avenue and authorize the City Manager and City Clerk to execute the agreement on behalf of the City.

BACKGROUND INFORMATION: The owner of the property, Rosalie Hayles, has submitted a building permit application to construct a pool house/recreation room on the subject property.

Installation of frontage improvements (curb, gutter, sidewalk and pavement) and street lights is required as a condition of building permit issuance, as set forth in Lodi Municipal Code 15.44. Since there are currently no other street lights and frontage improvements on the adjacent properties in the area, the owner has requested a deferral agreement for such improvements. Staff feel that this is reasonable based on past practice for similar requests in the same area. Staff recommends deferral, based on what we understand was Council's preference that was incorporated into the draft policy (see attached), which was not adopted due to other issues.

The owner has signed an improvement deferral agreement and paid the necessary document preparation and recording fees for the agreement. The agreement, in part, states that the owner will pay for and complete the design and installation of the required improvements at time of installation of such improvements on adjacent parcels, or at the request of the City, whichever occurs first.

Staff recommends approval of the improvement deferral agreement.

FISCAL IMPACT: Improvement Deferral Agreement Fee ($1,500) and recording fees have been paid by the property owner.

FUNDING AVAILABLE: Not applicable.

_____
Richard C. Prima, Jr.
Public Works Director

Prepared by Lyman Chang, Associate Civil Engineer

RCP/LC/pmf

cc: Rosalie J. Hayles
Associate Civil Engineer, Chang

APPROVED: _____
Blair King, City Manager

City of Lodi

CURB, GUTTER & SIDEWALK INSTALLATION POLICY — September 2005

Resolution xx-xx adopted by the City Council at its meeting of September 7, 2005.

I. GOALS - The goals of this policy are to:

a) Improve the City's sidewalk system to encourage walking and improve safety by eliminating "gaps" in the sidewalk network

b) Utilize opportunities provided by State law to place costs with the appropriate party

c) Provide for procedures that are efficient to administer

II. SIDEWALK INSTALLATION

a) Curb, gutter and sidewalk installation (and repair) is required with new development and with certain building permits per the Lodi Municipal Code.

b) In other circumstances, the City will provide grant funding, as available, for new installations at residential properties which completely fill in gaps in the sidewalk system. Phase 1 of the grant program consists of 50% grant funding (100% grant for persons with full disability and low-income eligibility). This phase will extend through 2010 unless modified by the City Council. Phase 2 consists of remaining residential parcels from Phase 1 in which the owner declined to participate and other parcels and will be property-owner funded. It is the City's intent to require installation of sidewalk in Phase 2.

c) "Residential properties" is intended, for the purpose of this policy, to mean residentially-zoned property being used for housing. However, the City Manager may authorize exceptions at "gap" locations where there exists a mixture of residential properties and non-residential uses.

d) To receive grant funding, the property owner must agree to provide right-of-way for the new sidewalk and relocate fences and sprinklers if necessary, at no cost to the City. The City will relocate its utilities if necessary at no cost to the property owner.

e) City staff shall report to Council near the completion of Phase 1, prior to moving into Phase 2. The report shall include the then-current locations of missing sidewalk.

f) This program does not apply to entire subdivisions which were approved for development without sidewalks (Kristmont Acres, Peach and Willow Streets).

III. FEES, PAYMENT & DEFERRAL

a) Encroachment permit and administrative fees will be waived for property owners who undertake installation/maintenance without formal notice. Fees are applicable to cases in which the City (or its contractor) does the work and processes formal notices.

b) The City will advance funds for installation without interest if the property owner agrees to make payments over the course of 12 months and upon execution of a written payment agreement with the City.

c) The City Manager is authorized to establish procedures to implement this policy and to execute payment agreements pertaining to this policy and to file liens with the County Tax Collector and/or Recorder as appropriate to secure payment.

WHEN RECORDED, RETURN TO:
City Clerk
City of Lodi
221 West Pine Street
Lodi, CA 95240

IMPROVEMENT DEFERRAL AGREEMENT
710 Willow Avenue, Lodi, California
(APN 027-110-13)

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, hereinafter referred to as "City" and ROSALIE J. HAYLES, Trustee of the HAYLES REVOCABLE TRUST Dated April 8, 1997, 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, known as 710 Willow Avenue (APN 027-110-13) and described as follows:

> LOT 2 of TRACT NO. 139 WISNER TRACT, FILED FOR RECORD JANUARY 7, 1947, IN VOLUME 11 OF MAPS AND PLATS, PAGE 131, SAN JOAQUIN COUNTY RECORDS.

Building applications (B16815) has been submitted to construct a pool house/recreation room on the subject property. Installation of public improvements along Willow Avenue are required as a condition of permit issuance in accordance with existing City ordinances and policies regarding off-site improvements as set forth in Title 15, Chapter 15.44 of the Lodi Municipal Code. Required improvements include the installation of curb, gutter, sidewalks, asphalt pavement and streetlight along the Willow Avenue right-of-way fronting the subject parcel. Owner is desirous of complying with existing City ordinances and policies regarding off-site improvements. However, since the street frontage improvements have not been installed on the adjacent properties on Willow Avenue, Owner has requested that the required improvements on Willow Avenue to be deferred.

Council of the City will approve the deferral of the required Willow Avenue improvements on condition that the Owner first enter into and execute this agreement with 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 agrees to pay for and complete the design and installation of the required improvements on Willow Avenue in accordance with City Standards, including payment for engineering and other applicable City fees, at the time of development of adjacent parcels, or at the request of the City, whichever occurs first.

2. Owners agrees to dedicate the necessary easements to allow construction of the said improvements at the time of such improvement installation is required.

3. Owner agrees to undertake the design and construction of the required improvements within 90 days after written notice is given by the City, and will complete the required improvements within 120 days from the date of notice.

4. This agreement shall run with the land and be binding on the Owner, its heirs, successors or assigns.

5. If Owner fails to complete the required improvements with the time period specified in Item #3 above, the City is hereby authorized to complete the improvements for the account at the expense of Owner, and may file suit against Owner, its heirs, successors or assigns for the costs incurred, as well as for a reasonable sum to be allowed as and for the City's attorney fees incurred in connection with such litigation for the collection of the monies due or may file a lien against said property for the costs incurred.

6. 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.

7. 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:

Richard C. Prima, Jr.
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:

Rosalie Hayles
710 Willow Avenue
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: _____ 2006

By: _____
Blair King, City Manager

Attest: _____
Susan J. Blackston, City Clerk

Owner

Dated: 4-4-06 2006

Rosalie J. Hayles
Rosalie J. Hayles

_____

Approved as to form: _____
D. Stephen Schwabauer, City Attorney

Dated: _____ 2006

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING IMPROVEMENT DEFERRAL
AGREEMENT FOR 710 WILLOW AVENUE

==========

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve an Improvement Deferral Agreement for 710 Willow Avenue; and

BE IT FURTHER RESOLVED, that the City Manager and City Clerk are hereby authorized to execute the Agreement on behalf of the City of Lodi.

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

AGENDA ITEM **E-14**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Approving Extension of the 2005/06 Annual Curb, Gutter and Sidewalk Replacement Contract with Jeff Case Construction Company for 2006/07 Fiscal Year with a Three Percent Increase ($71,200)**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council adopt a resolution approving a one-year extension of the 2005/06 Curb, Gutter and Sidewalk Replacement contract with Jeff Case Construction Company for the 2006/07 fiscal year, with a three percent increase, at a cost of $71,200.

BACKGROUND INFORMATION: The annual curb, gutter and sidewalk replacement contract is administered by the Street Division. This contract is for replacement of miscellaneous concrete work as guided by the sidewalk replacement program and sidewalk inventory. Jeff Case Construction Company is the provider currently under contract. Section 6-04.03 of the contract allows that "by mutual agreement, the City and Contractor may enter into an agreement for an annual extension of this contract based upon the same terms and conditions set forth herein." Jeff Case Construction Company has agreed to honor the prices from the existing 2005/06 contact with a three percent increase (cost sheet attached) to cover increased costs of materials and fuel for the 2006/07 fiscal year. Staff feels this increase is more than justified due to the increased cost for fuel and concrete. The possible number of renewals is not specified, but this is only the first renewal. All miscellaneous concrete bids in past years have been very close in cost, and Jeff Case Construction has provided excellent service and a very good product.

FISCAL IMPACT: The extent of actual work done will be tied to the level of funds available after the beginning of the 2006/07 fiscal year.

FUNDING AVAILABLE: Funding for this contract will be coming from various funds as approved in the Budget for sidewalk work.

_____
Ruby Paiste, Interim Finance Director

_____
Richard C. Prima, Jr.
Public Works Director

Prepared by Curt Juran, Assistant Street Superintendent
RCP/GMB/CJ/dsg
Attachment (Cost Sheet)
cc: George M. Bradley, Street Superintendent

APPROVED: _____
Blair King, City Manager

CITY OF LODI

Public Works Department

Jeff Case Bid Tab

PROJECT SOURCE: 2005-06 SIDEWALK REPAIR PROGRAM AND MISCELLANEOUS CONCRETE WORK.

2006-07 SIDEWALK REPAIR PROGRAM AND MISCELLANEOUS CONCRETE WORK WITH 3% INCREASE

Item	Description	2005-2006 Bid Costs				2006-2007 Costs with 3% Increase	
		Qty	Unit	Price	Total	Unit Price With 3% increase	Total Price With 3% increase
1	Saw Cut Concrete	200	LF	$4.75	$950.00	$4.89	$978.50
2	Remove Sidewalk or Asphalt Concrete	1000	SF	$5.50	$5,500.00	$5.67	$5,665.00
3	Remove Commercial Sidewalk	150	SF	$6.50	$975.00	$6.70	$1,004.25
4	Remove Square-Type Curb and Gutter	50	LF	$10.00	$500.00	$10.30	$515.00
5	Remove Vertical-Type Curb and Gutter	20	LF	$10.00	$200.00	$10.30	$206.00
6	Remove Driveway-Type Curb and Gutter	50	LF	$10.00	$500.00	$10.30	$515.00
7	Remove Commercial-Type Curb and Gutter	50	LF	$12.00	$600.00	$12.36	$618.00
8	Root Surgery Under Sidewalk or in Planter Area	1	EA	$350.00	$350.00	$360.50	$360.50
9	Root Surgery Under Curb and Gutter	1	EA	$400.00	$400.00	$412.00	$412.00
10	Install Sidewalk or Residential Driveway (0 - 75 SF)	100	SF	$10.00	$1,000.00	$10.30	$1,030.00
11	Install Sidewalk or Residential Driveway (76 - 300 SF)	500	SF	$6.00	$3,000.00	$6.18	$3,090.00
12	Install Sidewalk or Residential Driveway (>300 SF)	2500	SF	$5.00	$12,500.00	$5.15	$12,875.00
~~13~~	~~Install Handicap Ramp~~ (Separate Contract)	~~0~~	~~SF~~	~~$0.00~~	~~$0.00~~	$0.00	$0.00
14	Install Square-Type Curb and Gutter 7-inch or less (0 - 20 LF)	20	LF	$25.00	$500.00	$25.75	$515.00
15	Install Square-Type Curb and Gutter 7-inch or less (>20 LF)	75	LF	$25.00	$1,875.00	$25.75	$1,931.25

CITY OF LODI

Public Works Department

Jeff Case Bid Tab

PROJECT SOURCE: 2005-06 SIDEWALK REPAIR PROGRAM AND MISCELLANEOUS CONCRETE WORK.

2006-07 SIDEWALK REPAIR PROGRAM AND MISCELLANEOUS CONCRETE WORK WITH 3% INCREASE

Item	Description	2005-2006 Bid Costs				2006-2007 Costs with 3% Increase	
		Qty	Unit	Price	Total	Unit Price With 3% increase	Total Price With 3% increase
16	Install Square-Type Curb and Gutter Greater than 7-inch (0 - 20 LF)	50	LF	$25.00	$1,250.00	$25.75	$1,287.50
17	Install Square-Type Curb and Gutter Greater than 7-inch (>20 LF)	75	LF	$25.00	$1,875.00	$25.75	$1,931.25
18	Install Vertical-Type Curb and Gutter (0 - 20 LF)	75	LF	$25.00	$1,875.00	$25.75	$1,931.25
19	Install Vertical-Type Curb and Gutter (>20 LF)	100	LF	$20.00	$2,000.00	$20.60	$2,060.00
20	Install Driveway-Type Curb and Gutter (0 - 20 LF)	100	LF	$25.00	$2,500.00	$25.75	$2,575.00
21	Install Driveway-Type Curb and Gutter (>20 LF)	1000	LF	$20.00	$20,000.00	$20.60	$20,600.00
22	Install Tree Well	1	EA	$350.00	$350.00	$360.50	$360.50
23	Install Furnished Side-Inlet Catch Basin Assembly	3	EA	$750.00	$2,250.00	$772.50	$2,317.50
24	Install Catch Basin Barrel	3	EA	$1,400.00	$4,200.00	$1,442.00	$4,326.00
25	Install Furnished Street Name Sign Base	1	LF	$150.00	$150.00	$154.50	$154.50
26	Miscellaneous Concrete Subgrade Compaction	1000	LF	$2.75	$2,750.00	$2.83	$2,832.50
27	Move-In Cost for Jobs (<$200)	2	EA	$500.00	$1,000.00	$515.00	$1,030.00
					$69,050.00		**$71,121.50**

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING EXTENSION OF THE 2005/06 ANNUAL CURB, GUTTER, AND SIDEWALK REPLACEMENT CONTRACT WITH JEFF CASE CONSTRUCTION COMPANY FOR FISCAL YEAR 2006/07 WITH A THREE PERCENT INCREASE

==========

WHEREAS, The annual curb, gutter and sidewalk replacement contract is administered by the Street Division for the replacement of miscellaneous concrete work as guided by the sidewalk replacement program and sidewalk inventory; and

WHEREAS, Jeff Case Construction Company is the provider currently under contract and has agreed to honor the prices from the existing 2005/06 contract with a three percent increase (cost sheet attached) to cover increased costs of materials and fuel for the 2006/07 fiscal year; and

WHEREAS, staff concurs that this increase is more than justified due to the increased cost for fuel and concrete.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby approves the extension of the 2005/06 Annual Curb, Gutter and Sidewalk Replacement Contract with Jeff Case Construction Company for fiscal year 2006/07 in an amount not to exceed $71,200.

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

AGENDA ITEM **E-15**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Supporting the Watershed Stakeholder Outreach Projects Proposed by Central Sierra Resource Conservation & Development, Inc.**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council adopt a resolution supporting the watershed stakeholder outreach projects proposed by Central Sierra Resource Conservation & Development, Inc.

BACKGROUND INFORMATION: The City of Lodi should support the watershed stakeholder outreach projects proposed by Central Sierra Resource Conservation & Development, Inc. (CSRC&D). The project goal is to increase regional partnerships and public participation in watershed restoration, planning, and educational activities. The proposals include a series of workshops and meetings involving public and private stakeholders from throughout the watershed; outreach programs to K – 12 schools; and citizen-based assessment teams. Watershed health and protection of watershed values into the future is a primary concern to our community. Their proposals will address the importance of protecting the Mokelumne River upstream from Lodi. Improved communication between stakeholders within and beyond our watershed will improve our watershed and could save many hours during development of local implementation plans and strategies. Reduction of meetings for multi-watershed organizations is an efficient and novel goal. The City of Lodi looks forward to the implementation of the following CSRC&D Central Sierra Watershed Partnership projects:
Amador Dry Creek/Calaveras Watershed Capacity – Assess and Plan No. 11642STR and Central Sierra Regional Outreach Program – No. 9642STR.

FISCAL IMPACT: None.

FUNDING AVAILABLE: Not Applicable.

Richard C. Prima, Jr.
Public Works Director

Prepared by Frank Beeler, Assistant Water/Wastewater Superintendent

RCP/FB/dsg

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL SUPPORTING
THE WATERSHED STAKEHOLDER OUTREACH PROJECTS
PROPOSED BY CENTRAL SIERRA RESOURCE
CONSERVATION & DEVELOPMENT, INC.

==========

WHEREAS, the Central Sierra Resource Conservation & Development, Inc. (CSRC&D) is seeking support of watershed stakeholder outreach projects listed as follows: Amador Dry Creek/Calaveras Watershed Capacity – Assess and Plan No. 11642STR and Central Sierra Regional Outreach Program – No. 9642STR; and

WHEREAS, the project goal is to increase regional partnerships and public participation in watershed restoration, planning, and educational activities; and

WHEREAS, the proposals include a series of workshops and meetings involving public and private stakeholders from throughout the watershed; outreach programs to K – 12 schools; and citizen-based assessment teams; and

WHEREAS, watershed health and protection of watershed values into the future is a primary concern to our community, and CSRC&D's proposals will address the importance of protecting the Mokelumne River upstream from Lodi; and

WHEREAS, improved communication between stakeholders within and beyond our watershed will improve our watershed and could save many hours during development of local implementation plans and strategies. Reduction of meetings for multi-watershed organizations is an efficient and novel goal.

WHEREAS, staff recommends supporting the watershed stakeholder outreach projects proposed by Central Sierra Resource Conservation & Development, Inc.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby supports the watershed stakeholder outreach projects proposed by Central Sierra Resource Conservation & Development, Inc.

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

AGENDA ITEM **E-16**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Amending Traffic Resolution 97-148 by Approving One-Hour Parking (School Days Only) on the North Side of Century Boulevard in Front of Bus Turnout at Tokay High School**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council adopt a resolution amending Traffic Resolution 97-148 by approving the installation of one-hour parking (school days only) on the north side of Century Boulevard in front of the bus turnout at Tokay High School, as shown on Exhibit A.

BACKGROUND INFORMATION: The City has received requests from Lodi Unified School District to remove the majority of the existing bus parking on the north side of Century Boulevard, adjacent to the bus turnout, and replace with one-hour parking. The request is predicated by the reduction in buses at the school site and the need for short-term visitor parking. This area can also be used for student drop-off and pick-up and will be in effect on school days only. The Police Department School Resource Officer and Traffic Service Officers have indicated they will provide enforcement of the one-hour restriction on an on-call basis.

Also, staff is planning to extend the existing passenger loading zone on the east side of Ham Lane, just north of the student parking lot driveway, an additional 66 feet, totaling approximately 132 feet. Council action is not required for the passenger loading zone installation and is included in this communication for informational purposes. This is the only passenger loading zone on Ham Lane adjacent to the high school. Field observations revealed the current passenger loading zone is heavily used in the morning and afternoon. Extending the zone will encourage parents to drop off students on Ham Lane, where students do not have to cross the street, as is the case on the south side of Century Boulevard. There is also a passenger loading zone on Century Boulevard adjacent to the school.

Based on the School District's request and our observations at the school site, we recommend that Council approve the installation of one-hour parking (school days only) on the north side of Century Boulevard in front of the bus turnout at Tokay High School, as shown on Exhibit A.

FISCAL IMPACT: Minimal to none. Maintenance for new improvements is offset by reduced maintenance of removed markings and signage.

FUNDING AVAILABLE: None required. School District to pay the approximate $1,462 cost for modifications.

Richard C. Prima, Jr.
Public Works Director

Prepared by Rick S. Kiriu, Senior Engineering Technician
RCP/RSK/pmf
Attachment

cc: City Attorney
Street Superintendent
LUSD Director of Transportation - Fuglsang
Motor Officer Kaufman
Police Chief
Senior Traffic Engineer
Police Sergeant Carillo
City Engineer
Tokay High School Vice Principal – Robinson
Tokay High School Resource Officer Lopez

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING ONE-HOUR PARKING (SCHOOL DAYS ONLY) ON THE NORTH SIDE OF CENTURY BOULEVARD IN FRONT OF BUS TURNOUT AT TOKAY HIGH SCHOOL, AND THEREBY AMENDING TRAFFIC RESOLUTION NO. 97-148

==========

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby approve the installation of one-hour parking (school days only) on the north side of Century Boulevard in front of the bus turnout at Tokay High School, as shown on Exhibit A attached hereto; and

BE IT FURTHER RESOLVED that City of Lodi Traffic Resolution No. 97-148, Section 3, "Street Parking Restrictions," is hereby amended by installing one-hour parking (school days only) on the north side of Century Boulevard in front of the bus turnout at Tokay High School

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

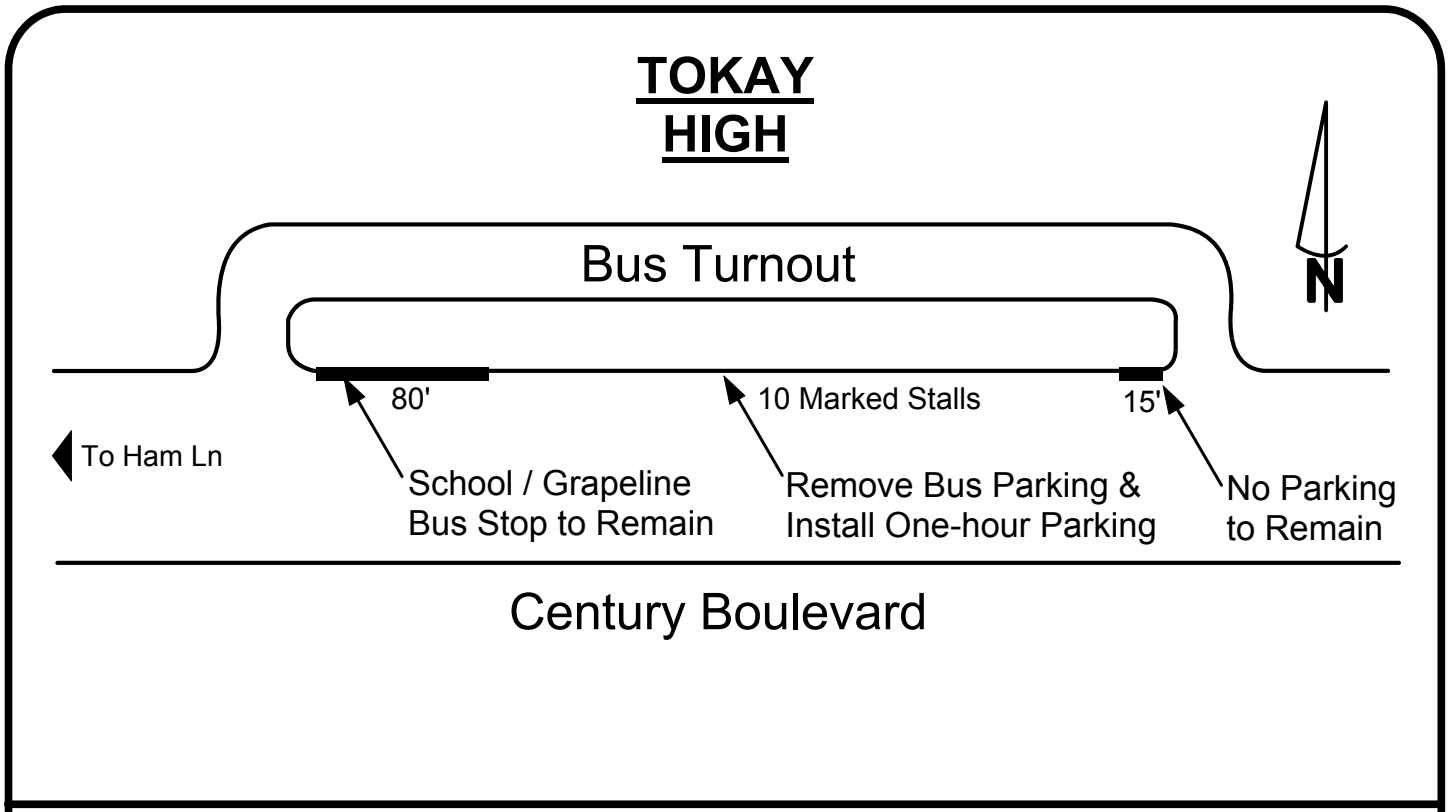
Exhibit A

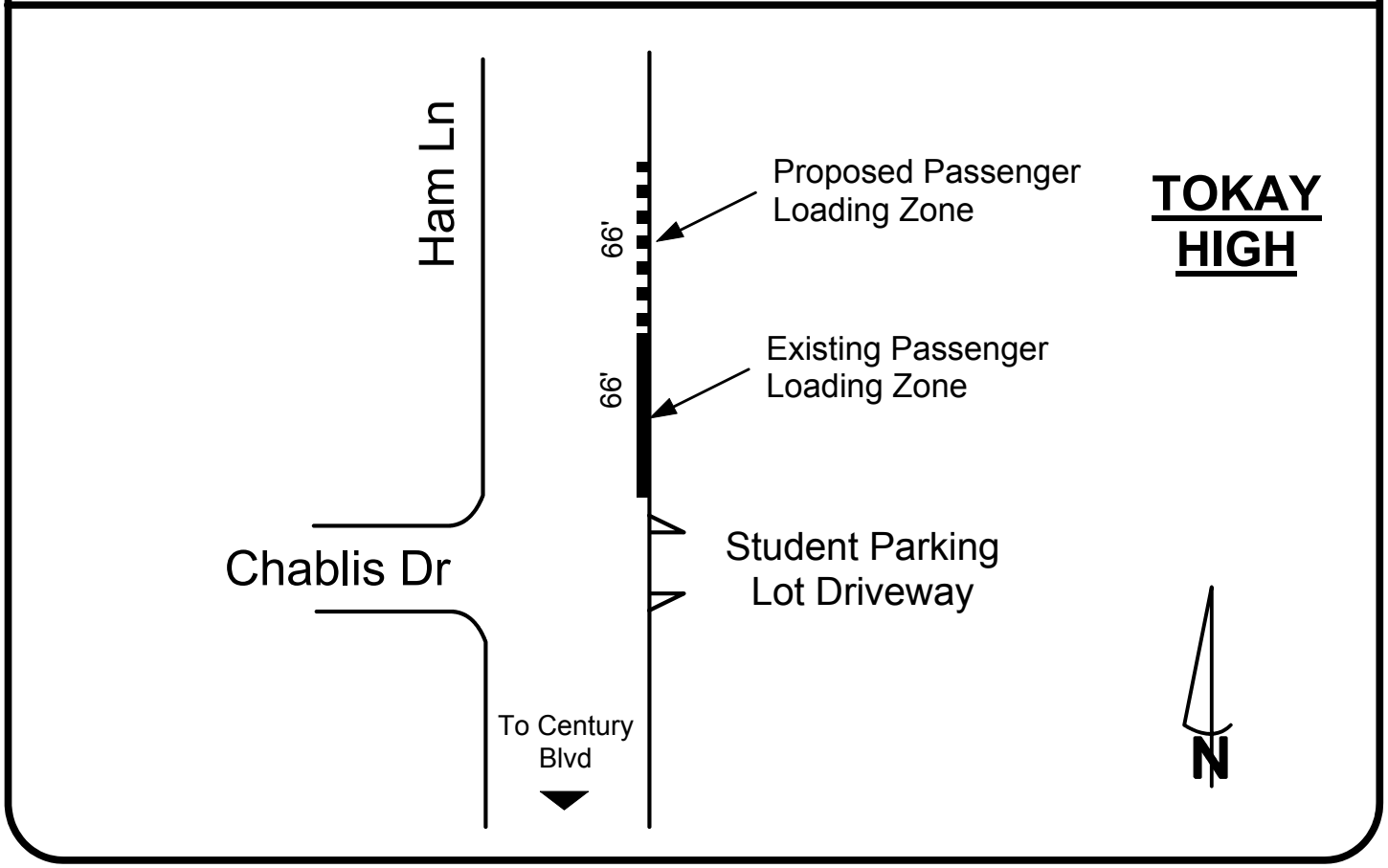
CITY OF LODI

PUBLIC WORKS DEPARTMENT

Tokay High School

Proposed Parking Modifications





K:\Traffic\Tokay_Hi March 2006

AGENDA ITEM E-17

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt resolution approving Resource Adequacy Program for the City of Lodi (EUD)**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Electric Utility Director**

RECOMMENDED ACTION: That the City Council, as Local Regulatory Authority (LRA), by resolution approve the attached Resource Adequacy Program for the City of Lodi.

BACKGROUND INFORMATION: In September 2005, the California legislature adopted Assembly Bill 380 establishing resource adequacy requirements for all load-serving entities. This legislation requires that it be demonstrated that sufficient capacity has been acquired to serve forecasted customer load and a fifteen percent reserve margin.

On March 13, 2006, the California Independent System Operator Corporation ("CAISO") submitted for filing at the Federal Energy Regulatory Commission (FERC), an amendment to the CAISO Tariff to establish an Interim Reliability Requirements Program ("IRRP"). The purpose of this amendment is to implement a Resource Adequacy (RA) program on an interim basis, until the implementation of the CAISO's Market Redesign and Technology Update ("MRTU"), scheduled for fall 2007. If the amendment is accepted by FERC, the CAISO IRRP will place RA obligations on all entities, including local publicly-owned electric utilities, such as Lodi Electric Utility. Due to the proposed implementation dates for the RA program, it is necessary for NCPA and the member cities to move expeditiously and present approved language to the CAISO by May 12, 2006. Absent approved language, it is possible NCPA members could automatically fall under the CAISO default RA provisions. This outcome would remove aspects of local control as well as present risk/cost uncertainties associated with the draft CAISO requirements.

NCPA staff, in cooperation with the NCPA members, has developed a Resource Adequacy Program that is recommended for adoption by the local regulatory authority of each member that would otherwise be subject to the CAISO's default RA criteria established in the CAISO Tariff. The NCPA developed Resource Adequacy Program has been approved by the NCPA Commission. The developed Resource Adequacy program contains the following elements:

- Demand Forecast and Protocols
- Planning Reserve Margin
- Resource Counting Conventions
- Compliance and Enforcement

Under the proposed Resource Adequacy Program, the Northern California Power Agency will be responsible for filing annual and monthly Resource Adequacy information for member agencies such as

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APPROVED: _____
Blair King, City Manager

Lodi Electric to the CAISO. Under the recommended Resource Adequacy Program, Lodi Electric is required to maintain a planning reserve of 15 percent over its peak load during the months of May through September. Lodi Electric is expected to have sufficient accredited resources to meet these criteria for 2006.

FISCAL IMPACT: None

FUNDING: N/A

George F. Morrow
Electric Utility Director

Prepared By: Sondra Huff, Senior Rate Analyst

GFM/SH/mw

Attachments

Cc: Northern California Power Agency
City Attorney

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL ADOPTING
AND AUTHORIZING THE USE OF THE RESOURCE
ADEQUACY PROGRAM FOR THE CITY OF LODI

==========

WHEREAS, The California Independent System Operator (CAISO), in order to insure sufficient resources to reliably serve the load in its control area, requires the regulatory authority for each load serving entity in its control area to adopt a Resource Adequacy Program; and

WHEREAS, the Northern California Power Agency (NCPA), in cooperation with its members, has developed such a Resource Adequacy Program; and

WHEREAS, the NCPA Commission recommends that each of its members in the CAISO control area adopt the Resource Adequacy Program; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby adopts and authorizes the use of the Resource Adequacy Program attached hereto marked Exhibit A.

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

RESOURCE ADEQUACY PROGRAM FOR THE CITY OF LODI

The City Council for the City of Lodi, California, the Local Regulatory Authority (LRA) for Lodi Electric Utility, hereby adopts the following Resource Adequacy Program for the City's Electric Utility. Capitalized terms not otherwise defined herein shall be defined as set forth in the Master Definitions Supplement of the California Independent System Operator Corporation ("CAISO"). This Resource Adequacy Program shall remain in effect, subject to modification by the City Council until the implementation of the CAISO's Market Redesign and Technology Upgrade ("MRTU") Tariff.

1 RESOURCE ADEQUACY

1.1 Submission of Annual Resource Adequacy Plan

Northern California Power Agency ("NCPA") will submit an annual Resource Adequacy Resource Plan to the CAISO, as the Scheduling Coordinator, on behalf of the NCPAB members on a schedule and in the format set forth by the NCPAB member LRA. For the purpose of this Section 1, NCPAB members include those MSS Operator entities identified in Schedule 18 of the Metered Subsystem Aggregator Agreement. The annual Resource Adequacy Plan should include the NCPAB members Demand Forecasts for each of the five summer months (May – September), established in Section 1.5, and identify the Resource Adequacy Qualified Capacity, established under Section 1.9, that the NCPAB members will rely upon to satisfy 90% of each of the five summer months Demand Forecasts plus the monthly Planning Reserve Margin, established under Section 1.6, for the relevant reporting year.

1.2 Submission of Monthly Resource Adequacy Plan

NCPA will submit a monthly Resource Adequacy Plan to the CAISO, as the Scheduling Coordinator, on behalf of the NCPAB members by the last business day of the second month prior to the compliance month and in the form set forth by the NCPAB member LRA. The monthly Resource Adequacy Plan should include the NCPAB members monthly Demand Forecast, established in Section 1.5, and identify the Resource Adequacy Qualified Capacity, established under Section 1.9, that the NCPAB members will rely upon to satisfy the monthly Demand Forecast plus the monthly Planning Reserve Margin, established under Section 1.6, for the relevant reporting month.

1.3 Submission of Supply Plan

Scheduling Coordinators representing Resource Adequacy Resources supplying Resource Adequacy Qualified Capacity are required, pursuant to the CAISO Tariff, to provide the CAISO with annual and monthly Supply Plans. NCPA will submit an annual Supply Plan to the CAISO on behalf of the NCPAB members and Silicon Valley Power ("SVP") on a schedule and in the format set forth by the NCPA member LRA. NCPA will submit a monthly Supply Plan to the CAISO on behalf of the NCPAB members and SVP by the last business day of the second month prior to the compliance month and in the form set forth by the NCPAB member LRA and SVP LRA. Both the annual and monthly Supply Plans shall include a listing of the NCPAB member's and SVP's commitments to provide Resource Adequacy Qualified Capacity to any Load Serving Entity for the applicable reporting period.

1.4 Resource Adequacy Plan Compliance and Enforcement

Once the CAISO has received the monthly Resource Adequacy Plan submitted by NCPA on behalf of its NCPAB members, the CAISO will verify that the NCPAB members have procured sufficient Net Qualified Capacity to comply with the Planning Reserve Margin, established in Section 1.6. To the extent the annual or monthly Resource Adequacy Plan does not include

sufficient Net Qualified Capacity to satisfy the Planning Reserve Margin, established in Section 1.6, or in the case of a mismatch between information included in the annual or monthly Resource Adequacy Plan and a Supply Plan submitted by the Scheduling Coordinator of a resource identified in the annual or monthly Resource Adequacy Plan, the CAISO will notify NCPA and attempt to resolve the issue. To the extent that NCPA is unable to resolve the identified issue, the CAISO will notify the NCPAB member LRA of the potential deficiency.

Once the NCPAB member LRA is informed of the deficiency and confirms that the NCPAB member's annual or monthly Resource Adequacy Plan is deficient, the NCPAB member LRA may determine if and how the deficiency will be resolved. If the CAISO identifies a mismatch between information included in the annual or monthly Resource Adequacy Plan and a Supply Plan submitted by the Scheduling Coordinator of a resource identified in the annual or monthly Resource Adequacy Plan, and the identified mismatch is not resolved prior to the 10th day before the effective month, the CAISO will accept the value contained in the Supply Plan to set the Net Qualified Capacity value for the applicable reporting month.

To the extent that a NCPAB member LRA requires its NCPAB member to resolve an identified deficiency in the annual or monthly Resource Adequacy Plan, and the NCPAB member has not resolved the identified deficiency, the NCPAB member must explain why the identified deficiency has not been resolved to its LRA, and possibly incur penalties or other sanctions adopted by the LRA. NCPA is required to report to the CAISO within thirty (30) days of any action taken by the appropriate LRA in response to the deficiency notification if the LRA does not provide public access to records or information regarding action taken for violations of its Resource Adequacy policies or rules.

1.5 Demand Forecasts

The monthly Demand Forecast included in the annual and monthly Resource Adequacy Plan shall be based on the monthly peak Demand responsibility of the NCPAB members that is consistent with the forecasts provided to the CAISO under Section 6.1 of the Metered Subsystem Aggregator Agreement. For the purposes of Section 1, Demand shall be equal to Load plus firm Exports plus any NCPAB member on-demand obligation to third parties, measured in megawatts. For the purposes of this Section 1.5, the peak Demand responsibility shall be equal to the aggregated NCPAB member coincident peak Demand Forecast for the relevant month irrespective of the CAISO system coincident peak.

1.6 Planning Reserve Margin

The annual and monthly Resource Adequacy Plan will include a Planning Reserve Margin equal to no less that 15% of the monthly peak Demand responsibility set forth in Section 1.5.

1.7 ISO Authority to Dispatch NCPA Resources

The CAISO's authority to Dispatch any portion of the capacity of any Generating Unit of NCPA, other than in accordance with a bid submitted to the CAISO by NCPA's Scheduling Coordinator, is set forth in and subject to Section 7.1 of the Metered Subsystem Aggregation Agreement.

1.8 Resource Adequacy Qualified Capacity

Resource Adequacy Qualified Capacity shall be the quantity of capacity from a resource stated in megawatts which is listed in the annual and/or monthly Resource Adequacy Plan. Qualified Capacity is the capacity from a resource prior to the application of the Net Capacity determination that shall be made pursuant to the provisions of the CAISO Tariff. The criteria for determining the types of resources that may be eligible to provide Qualified Capacity and for calculating Qualified Capacity from eligible resource types is provided in Section 1.9.

1.9 Qualified Capacity Criteria

1.9.1 Net Dependable Capacity

Net Dependable Capacity ("NDC") defined by North American Electric Reliability Council ("NERC") Generating Availability Data System ("GADS") information will be used to determine the Qualified Capacity of some of the resource types identified in Section 1.9. For the purpose of Section 1.9, NDC is equal to Gross Dependable Capacity ("GDC") less the unit capacity utilized for the unit station service or auxiliaries. GDC is equal to Gross Maximum Capacity ("GMC") modified for seasonal limitations over a specified period of time. GMC is the maximum capacity a unit can sustain over a specified period of time when not restricted by seasonal or other deratings.

1.9.2 NCPA System

As defined in the Metered Subsystem Aggregator Agreement, the NCPA System means all transmission and distribution facilities owned or controlled by the NCPA MSS members, and all Generating Units within the ISO Control Area owned or controlled by NCPA members.

1.9.3 Jointly-Owned Facilities

A jointly-owned facility must either be identified in Schedule 14 of the Metered Subsystem Aggregation Agreement, located within the NCPA System, a Participating Generator, or a Qualified Facility to be considered Qualified Capacity. The Qualified Capacity for the entire facility will be determined based on the type of resource as described elsewhere in Section 1.9. The NCPAB member's entitlement to the Qualified Capacity of the facility may encompass the entire Qualified Capacity of the facility, or may be limited to a portion of the Qualified Capacity of the facility. The total amount of Qualified Capacity that may be identified in the annual and or either the monthly Resource Adequacy Plan is limited to the total jointly-owned facility Qualified Capacity determined in Section 1.9.

1.9.4 Thermal

Thermal generating facilities must either be identified in Schedule 14 of the Metered Subsystem Aggregation Agreement, located within the NCPA System, a Participating Generator, or a Qualified Facility to be considered Qualified Capacity. Thermal generating facilities that are not required to sign a Participating Generator Agreement pursuant to Section 2.2.1 of the CAISO Participating Generator Agreement are also eligible to be identified as Qualified Capacity. The Qualified Capacity of thermal facility will be based on Net Dependable Capacity as defined in Section 1.9.1.

1.9.5 Hydro

Hydro generating facilities must either be identified in Schedule 14 of the Metered Subsystem Aggregation Agreement, located within the NCPA System, a Participating Generator, or a Qualified Facility to be considered Qualified Capacity. The Qualified Capacity of a pond or pumped storage hydro facility will be based on Net Dependable Capacity as defined in Section 1.9.1, minus variable head de-rate based on current reservoir levels with dry year (1-in-5 dry year) forecasted inflows. The Qualified Capacity of a run-of-river hydro facility will be based on Net Dependable Capacity as defined in Section 1.9.1, minus actual or forecasted conveyance flow, stream flow, or canal head de-rate.

1.9.6 Unit-Specific Contracts

Unit-specific contracts will fully qualify as Resource Adequacy Qualified Capacity. The generating facility identified in the contract must either be identified in Schedule 14 of the Metered

Subsystem Aggregation Agreement, located within the NCPA System, a Participating Generator, or a Qualified Facility to be considered Qualified Capacity. The generating facilities identified in the contract that are not required to sign a Participating Generator Agreement pursuant to Section 2.2.1 of the CAISO Participating Generator Agreement are also eligible to be identified as Qualified Capacity.

1.9.7 Firm Physical Contracts

Firm energy contracts which contain provisions to ensure reliable physical delivery and that do not contemplate frequent financial settlement for non-delivery, or that contain provisions that identify non-delivery as a default condition subject to contract termination, will fully qualify as Resource Adequacy Qualified Capacity.

1.9.8 Industry Standard Contracts with Liquidated Damages Provisions

Firm energy contacts with liquidated damages provisions as generally reflected in Service Schedule C of the Western Systems Power Pool Agreement or the Firm LD product of the Edison Electric Institute pro forma agreement, or any other similar firm energy contract that provides the seller an option not to deliver based on economic reasons will count as Qualified Capacity until a commercially available industry standardized capacity based product is readily available, and which is provided under an agreement similar to the Western Systems Power Pool Agreement or the Edison Electric Institute pro forma agreement.

1.9.9 Wind and Solar

The Qualified Capacity of firm wind and solar generating facilities, with backup sources of generation, will be based on Net Dependable Capacity as defined in Section 1.9.1.

Wind and solar generating facilities without backup sources of generation must be participants in the CAISO's Participating Intermittent Resource Program ("PIRP"). The Qualified Capacity of wind and solar facilities without backup sources of generation will be based on their monthly historic noon to 6:00 p.m. capacity factor, using a three-year rolling average.

New wind and solar generating facilities without backup sources of generation which do not have three years of historic performance data will be assigned a default Qualified Capacity for each year of missing historical performance as follows:

(1) the Qualified Capacity of another solar or wind generator with historic data located in the same weather regime with similar technology adjusted for the nameplate capacity ratio of a new generator and the similarly situated proxy generator.

The default Qualified Capacity values will be replaced on a year by year basis with actual performance data as the data becomes available to form a three year rolling average.

1.9.10 Geothermal

Geothermal generating facilities must either be identified in Schedule 14 of the Metered Subsystem Aggregation Agreement, located within the NCPA System, a Participating Generator, or a Qualified Facility to be considered Qualified Capacity. The Qualified Capacity of a geothermal facility will be based on Net Dependable Capacity as defined in Section 1.9.1, adjusted for steam field degradation.

1.9.11 Treatment of Qualified Capacity of QFs

The NCPAB members do not currently have any Qualifying Facilities ("QFs") with effective contracts under the Public Utility Regulatory Policies Act as of the drafting of this document. Therefore, the NCPAB members LRA have not identified Qualified Capacity Criteria in Section 1.9 for Qualifying Facilities. If in the future the NCPAB members decide to acquire and identify Qualified Capacity in either the annual or monthly Resource Adequacy Plan sourced from Qualifying Facilities, the NCPAB members LRA reserves the right to establish Qualified Capacity Criteria in Section 1.9.

1.9.12 Dispatchable Demand Resource and Participating Loads

Dispatchable Demand resources and Non-Dispatchable Demand resources must either be identified in Schedule 10B of the Metered Subsystem Aggregation Agreement or located within the NCPA System to be considered Qualified Capacity. Participating Loads must either be identified in Schedule 14 of the Metered Subsystem Aggregation Agreement or located within the NCPA System to be considered Qualified Capacity. Dispatchable Demand resources, Non-Dispatchable Demand resources, and Participating Loads must be available at least 48 hours during the five summer months (May – September) to be counted in either the annual or monthly Resource Adequacy Plan as Qualified Capacity. If a Dispatchable Demand resource or Participating Load is available for the minimum requirement, the megawatt quantity reduction stipulated in the contract or program will be treated as supply and be eligible to be listed as Qualified Capacity. If a Non-Dispatchable Demand resource is available for the minimum requirement, the megawatt quantity reduction stipulated in the contract or program, adjusted to reflect the contract or programs average historical performance, will be treated as supply and be eligible to be listed as Qualified Capacity.

1.9.13 Facilities Under Construction

The Qualified Capacity for facilities under construction will be determined based on the type of resource as described elsewhere in Section 1.9. The facility will be eligible to be identified as Qualified Capacity in the annual or monthly Resource Adequacy Plan of the NCPAB members pursuant to the anticipated operational date of the facility.

1.9.14 Dynamically Scheduled System Resources

The Qualified Capacity of a Dynamically Scheduled System Resource to which the NCPAB member has an entitlement shall be the amount of the NCPAB member's entitlement, subject to the deliverability screen pursuant to the provisions of the CAISO Tariff and to, and or, the applicable provisions of the Metered Subsystem Aggregator Agreement. Eligibility as Qualified Capacity is contingent upon the NCPAB members securing transmission through any intervening Control Areas for the resource entitlement that cannot be curtailed for economic reasons or bumped by higher priority transmission. The Qualified Capacity provided by a Dynamically Scheduled System Resource will be limited by the NCPAB member's allocated import capacity at the import Scheduling Points, which is determined pursuant to the provisions of the CAISO Tariff.

1.9.15 Non-Dynamically Scheduled System Resources

The Qualified Capacity of a Non-Dynamically Scheduled System Resources to which the NCPAB member has an entitlement shall be the amount of the NCPAB member's entitlement, subject to the deliverability screen pursuant to the provisions of the CAISO Tariff and to, and or, the provisions of the Metered Subsystem Aggregator Agreement. The Qualified Capacity provided by a Non-Dynamically Scheduled System Resource will be limited by the NCPAB member's allocated import capacity at the import Scheduling Points, which is determined pursuant to the provisions of the CAISO Tariff.

1.9.16 NCPA System Transmission Ownership Rights

The capacity entitlement, measured in megawatts, of the NCPA system transmission ownership rights in the CAISO Control Area at the Control Area Scheduling Points will be eligible to be identified as Qualified Capacity in the annual and monthly Resource Adequacy Plans. The capacity entitlement of the NCPA system transmission ownership rights in the CAISO Control Area at the Control Area Scheduling Points are listed in Schedule 13 of the Metered Subsystem Aggregation Agreement, and include but are not limited to the COTP Terminus (as described in the ISO-SMUD Interconnected Control Area Operating Agreement) and the Plumas-Sierra Rural Electric Cooperative transmission ownership rights up to the Marble Substation Scheduling Point (as described in the ISO's Interconnected Control Area Operating Agreement with Sierra Pacific Power Co. for the Marble Substation intertie).

AGENDA ITEM **E-18**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt resolution approving the naming of Salas Park southwest baseball diamond for Michael Moore

MEETING DATE: April 19, 2006

PREPARED BY: Parks and Recreation Director

RECOMMENDED ACTION: That the City Council adopt a resolution approving the naming of Salas Park Southwest baseball diamond for Michael Moore.

BACKGROUND INFORMATION: At the November 2, 2005, City Council meeting, the Council adopted Resolution No. 2005-236 that approved the Policy and Procedure Guidelines for Naming of Parks, Recreation Facilities, and Parks Features. In accordance with Section III, Procedures, of the Guidelines, Citizen input and/or written requests shall be directed to the Parks and Recreation Director to initiate the process of naming or renaming a City park, recreation facility or park feature. Written requests will then be submitted by the Director to the Parks and Recreation Commission for its approval and recommendation to Council.

Mike Moore coached baseball for the BOBS and the City of Lodi Parks and Recreation Department for many years. He coached in the 1980's and 1990's during the time his boys were growing up. Mike coached many tournament teams including a trip to the Pacific Southwest Regional in Oakland, CA and also in Utah.

Mike retired from the State of California and was diagnosed with cancer. While fighting the disease, he returned to his love of coaching baseball. He coached at Galt High School for several years and also returned to the fields of Lodi where he continued to fulfill his passion for coaching and working with young ballplayers. Mike coached nine and ten year olds until his passing in 2005.

Michael was the consummate baseball teacher. He cared for the players and made them realize their importance as players and individuals. Baseball coaches come and go, but baseball teachers are a rare breed. Michael Moore was that very special rare breed.

This item was presented to the Parks and Recreation Commission at their April 4, 2006, meeting where it was approved unanimously to move it forward to the City Council.

FISCAL IMPACT: None

APPROVED: _____
Blair King, City Manager

FUNDING: The BOBS will be purchasing and installing the signage.

Tony C. Goehring
Parks and Recreation Director

TG:tl

cc: City Attorney
Tom Alexander, Recreation Supervisor

PARKS COMMISSION
POLICY AND PROCEDURE GUIDELINES

Subject: Naming or Renaming of Parks, Recreation Facilities, and Parks Features

---

I. OBJECTIVE

A. To establish a uniform policy and procedure regarding the naming or renaming of parks, recreation facilities, and parks features.

B. To facilitate the prompt naming of such facilities so they will be readily identified and will reflect on the history and geography of our local community.

C. To encourage public participation in the naming of such facilities, and as well, the dedication of land or funds by individuals or groups for public use who wish to perpetuate a name of their choice.

II. POLICY

A. Neighborhood parks adjacent to public schools may be named similarly.

B. Neighborhood parks not adjacent to schools, major parks, recreation facilities, and special features within parks such as playgrounds, picnic areas, sports fields, structures, groves of trees, etc. may be named for the following:

1. Geographic features, such as adjacent streets, neighborhoods, plants or trees, lakes or rivers, etc.

2. Events or persons of historical significance.

3. Individuals, living or deceased, or organizations of local significance bearing a relationship to the City of Lodi or its parks and recreation system. Generally this relationship is noted by outstanding and unusual contributions to the community in terms of leadership, involvement, or substantial and significant donations of land and/or funds.

III. PROCEDURE

A. Citizen input and/or written requests shall be directed to the Parks and Recreation Director to initiate the process of naming or renaming a City park, recreation facility or park feature.

B. The Parks and Recreation Director shall receive and review potential names submitted for a new City park, recreation facility or park feature. Upon review, the Parks and Recreation Director shall forward all requests and/or submissions made to the Parks and Recreation Commission. Jointly, the Parks and Recreation Commission and the Parks and Recreation Director will determine the appropriate means of soliciting public input, if deemed necessary, in naming the park, recreation facility or park feature. Such may include, but not necessarily be limited to, advertising in a local newspaper, inviting citizens to participate in the naming process or convening an ad hoc committee composed of representatives of various sectors of the community.

A deadline date for submission of names shall be 45 days from the date the Parks and Recreation Commission determine to proceed with public input. Notification of a public hearing will be posted in compliance with the Brown Act.

C. The Parks and Recreation Director shall receive these written suggestions and refer a master list of proposed names to the Parks and Recreation Commission following a determined deadline for submissions.

D. The Parks and Recreation Commission shall review the proposed names and the recommendation of the Parks and Recreation Director. The Parks and Recreation Commission shall then recommend the name deemed the most appropriate and forward its recommendation to the City Council for final consideration and/or approval and adoption of an appropriate resolution.

Boosters of Boys/Girls Sports Organization

Parks & Recreation Department: 125 N. Stockton Street / Lodi, California 95240
Telephone (209) 333-6742

March 30, 2006

Dear Mr. Goehring

The Boosters of Boys/Girls Sports Organization would like to name the Salas Southwest Diamond in honor of longtime coach and benefactor Mike Moore.

Mike passed away in the summer of 2005. He was an outstanding coach and teacher of baseball. He coached most recently in 2005 at the 10 year old Farm level. Naming that field for him would be especially special to the recent players whose lives he touched.

Sincerely

Kim Ruoff

Kim Ruoff
B.O.B.S. President

B.O.B.S.
EXECUTIVE BOARD
OFFICERS

KIM RUOFF, PRESIDENT
EDDIE LONG, VICE PRESIDENT
RICK ENGELHARDT, SECRETARY
STEVE BROWN, TREASURER

BOARD OF DIRECTORS

DAN BELDEN
TED COFFEE
MARK CORREA
BOB CUNNINGHAM
CLAY HALL
CHRIS HARRIS
RAY HUEY JR.
TONI JUMP
MICHAEL LANG
FRAN LIVELY
TONY RODRIGUEZ
BOB SHEPARD
ROB SHEPARD
KEN SHERMAN
HECTOR SOLIS
CHARLIE SWIMLEY
DELANE SWINK

TOM ALEXANDER
ADVISOR

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE NAMING OF THE SALAS PARK SOUTHWEST BASEBALL DIAMOND THE "MICHAEL MOORE BASEBALL DIAMOND"

==========

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council hereby names the Salas Park Southwest baseball diamond the "Michael Moore Baseball Diamond."

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

AGENDA ITEM E-19

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Supporting the Preservation of the Existing U.S. Department of Housing and Urban Development Community Development Block Grant Program

MEETING DATE: April 19, 2006

PREPARED BY: Management Analyst, City Manager's Office

RECOMMENDED ACTION: Adopt resolution supporting the preservation of the existing U.S. Department of Housing and Urban Development Community Development Block Grant program.

BACKGROUND INFORMATION: For more than 30 years, America's cities, including both small and large in California, have used Community Development Block Grant (CDBG) funds to create jobs, provide affordable housing, eliminate blight and generate new economic investment. CDBG funds have played a critical role in community and economic development in the City of Lodi. Since 1996, over $12 million has been allocated to projects that benefit the community, projects such as:

- Economic Development
- Relocation of the Salvation Army
- The Lodi Boys and Girls Club
- Lodi House
- Loel Center
- Low-interest loan program for first time home buyers
- Handicap ramp retrofits for sidewalks
- Park and playground equipment

The President has proposed to reduce the CDBG program to $3.03 billion for fiscal year 2006, which is a 25 percent lower than its current funding level of $4.18 billion. Without proper funding for CDBG, the economic well-being of the City of Lodi and other communities in California will be threatened. The City of Lodi requests that Congress enact a FY 2007 budget and appropriations package that fully funds CDBG at no less than the $4.18 billion, which is equal to the FY 2006 allocation.

FISCAL IMPACT: A 25% reduction in funding would reduce the City of Lodi's CDBG allocation by $197,500 and would require amendment of the CDBG plan for 2007.

_____
Janet L. Hamilton
Management Analyst

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL IN
OPPOSITION TO PROPOSAL TO CUT $1 BILLION FROM
THE 2006-07 FEDERAL BUDGET FOR COMMUNITY
DEVELOPMENT BLOCK GRANT PROGRAMS

==========

WHEREAS, for more than 30 years America's cities have used Community Development Block Grant (CDBG) funds to create jobs, provide affordable housing, eliminate blight and generate new economic investment; and

WHEREAS, CDBG funds have played a critical role in community and economic development in the City of Lodi, and since 1996, over $12 million has been allocated to projects that benefit the community, such as Economic Development, Façade Improvement Program or the recent incentive program. Others have been for the community good, such as the relocation of the Salvation Army, the Lodi Boys and Girls Club, Lodi House, and the Loel Center; and

WHEREAS, CDBGs have allowed the City to offer a low-interest loan program for first time homebuyers, and have also been the key funding source for the City's handicap ramp installations; and

WHEREAS, the President has proposed to reduce the CDBG program to $3.03 billion for fiscal year 2006 - 25 percent lower than its current funding level of $4.18 billion. Without proper funding for CDBG, the economic well-being of the City of Lodi and other communities in California will be threatened.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Lodi hereby supports the preservation of the existing Community Development Block Grant Program, and requests that Congress enact a FY 2007 budget and appropriations package that fully funds CDBG at no less than the $4.18 billion, which is equal to the FY 2006 allocation.

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBER –

SUSAN J. BLACKSTON
City Clerk

2006-____

AGENDA ITEM E-20

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution in Support of a Constitutional Amendment to Ensure that Proposition 42 Revenues are Used Exclusively for State and Local Transportation Projects, and that Revenues Previously Used to Offset Non-transportation Purposes are Reimbursed

MEETING DATE: April 19, 2006

PREPARED BY: Management Analyst, City Manager's Office

RECOMMENDED ACTION: Adopt resolution in support of a constitutional amendment to ensure that Proposition 42 revenues are used exclusively for state and local transportation projects, and that revenues previously used to offset non-transportation purposes be reimbursed.

BACKGROUND INFORMATION: In 2002, 69 percent of voters approved Proposition 42, a Traffic Congestion Relief Measure that dedicated the sales tax on gasoline to transportation programs. Funds were to be allocated on a 40/40/20 split, with 40 percent available to cities and counties for street and road maintenance; 40 percent to the State Transportation Improvement Projects; and 20 percent to transit systems. Proposition 42 allows these funds to be transferred to the state general fund and appropriated for non-transportation purposes during times when the state is in fiscal difficulty. The funds have been transferred to the state general fund in each of the last two fiscal years since Proposition 42 passed, resulting in a diversion of $2.5 billion from local street improvement to the state's general fund for non-transportation purposes.

As a result, a measure is being circulated to qualify a constitutional amendment for the November 2006 ballot that would ensure that future revenues raised by Proposition 42 are dedicated to state and local transportation projects only. The measure also requires the state to reimburse the $2.5 billion in funds previously spent on non-transportation expenses to be repaid in ten years. Ensuring that Proposition 42 revenues are used solely for transportation projects, along with the reimbursement of prior revenues, will greatly assist the City of Lodi in meeting its street maintenance obligations to the benefits of its residents, visitors, and businesses.

FISCAL IMPACT: Estimated Proposition 42 revenue for the City of Lodi for FY 05/06 is $252,000.

_____
Janet L. Hamilton
Management Analyst

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL IN SUPPORT OF A CONSTITUTIONAL AMENDMENT TO ENSURE THAT PROPOSITION 42 REVENUES ARE USED EXCLUSIVELY FOR STATE AND LOCAL TRANSPORTATION PROJECTS, AND THAT REVENUES PREVIOUSLY USED TO OFFSET NON-TRANSPORTATION PURPOSES ARE REIMBURSED

==========

WHEREAS, the City of Lodi engages in periodic capital improvement assessments and planning relating to the condition of its transportation infrastructure; and

WHEREAS, the City is concerned that it is not able to maintain its transportation infrastructure consistent with public works best practices because of limited funding availability; and

WHEREAS, constraints on the City's ability to fully fund local transportation infrastructure projects adversely affect residents, visitors, and businesses within the City; and

WHEREAS, the City had anticipated receiving monies for this purpose as the result of Proposition 42, approved by the state's voters in March 2002, which dedicated the state sales tax paid on gasoline to state and local transportation infrastructure projects and programs; and

WHEREAS, Proposition 42 contains a provision that allows the state to transfer the sales tax on gasoline to non-transportation state purposes during times of fiscal need; and

WHEREAS, as a result, some $2.5 billion in Proposition 42 monies has been spent over the past three years for non-transportation purposes; and

WHEREAS, a measure is being circulated to qualify a constitutional amendment for the November 2006 ballot that would ensure that future revenues raised by Proposition 42 are dedicated to state and local transportation projects only; and

WHEREAS, the measure also requires the state to reimburse the $2.5 billion in funds previously spent on non-transportation expenses to be repaid in 10 years; and

WHEREAS, ensuring that Proposition 42 revenues are used solely for transportation projects, along with the reimbursement of prior revenues, will greatly assist the City of Lodi in meeting its street maintenance obligations to the benefits of its residents, visitors, and businesses.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi hereby supports a constitutional amendment to ensure that Proposition 42 revenues are used exclusively for state and local transportation projects, and that revenues previously used to offset non-transportation purposes be reimbursed.

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

AGENDA ITEM E-21

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Authorize Mayor to Sign Letters of Opposition to the U.S. House of Representatives Committee on Energy and Commerce Bill, *Communications, Opportunity, Promotion, and Enhancement Act of 2006 (Barton-Rush)* and the *California State Assembly Bill, AB 2987 (Nunez)* to Prevent the Pre-emption of Local Control of Cable Television Franchises

MEETING DATE: April 19, 2006

PREPARED BY: Management Analyst, City Manager's Office

RECOMMENDED ACTION: Authorize Mayor to sign letters of opposition to the U.S. House of Representatives Committee on Energy and Commerce bill, Communications, *Opportunity, Promotion, and Enhancement Act of 2006* (Barton-Rush) and the California State Assembly bill, *AB 2987 (Nunez)* to prevent the pre-emption of local control of cable television franchises.

BACKGROUND INFORMATION: The U.S. House of Representatives Committee on Energy and Commerce is expected to vote on the *Communications, Opportunity, Promotion, and Enhancement Act of 2006 (Barton-Rush)* bill the week of April 24, 2006. As it is currently crafted, the bill nationalizes franchising of video/cable service, preempts local oversight of the rights-of-way, does not provide sufficient enforcement of audit authority, does not keep local government fiscally whole and does not ensure service to all within a reasonable period of time. As such, the City of Lodi opposes the telecommunications bills and supports the following key amendments:

- *Rights-of-Way Enforcement and Revenues:* Keeps local government financially whole
- *Cable Service/IPTV:* Keeps local government financially whole
- *Build Out:* Service to all within a reasonable period of time
- *Anti-Redlining:* Local government has authority to prevent discrimination
- *PEG:* 1% or per-sub equivalent of the largest incumbent's pre-existing obligation
- *Enforcement:* Disputes relating to rights-of-way management go to courts, not FCC

Also troubling at the state level is *AB 2987 (Nunez)*. Specific concerns regarding this bill are threats to:

- Consumer protection and customer service
- Video services to libraries and schools
- PEG channels and PEG support
- Public rights-of-way
- Revenues
- Encourages redlining

APPROVED: _____
Blair King, City Manager

Telecommunications reform has the potential to dramatically impact the city's franchise fees, as well as affect the city's ability to ensure public access to vital information services, public safety and economic development.

Both the League of California Cities and the U.S. Conference of Mayors have asked that cities oppose these bills.

FISCAL IMPACT: At risk are the franchise fees collected for cable television services. Annual revenues generated from the Cable Television Franchise are approximately $230,000.

_____

Janet L. Hamilton
Management Analyst

CITY COUNCIL

SUSAN HITCHCOCK,
Mayor

BOB JOHNSON,
Mayor Pro Tempore

JOHN BECKMAN

LARRY D. HANSEN

JOANNE MOUNCE

CITY OF LODI

BLAIR KING,
City Manager

SUSAN J. BLACKSTON,
City Clerk

D. STEPHEN SCHWABAUER,
City Attorney

CITY HALL, 221 WEST PINE STREET / P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702 / FAX (209) 333-6807 / www.lodi.gov

April 18, 2006

The revolutionary changes in communications technology are forcing a serious reexamination of the regulatory framework for the telecommunications industry at the federal, state and local levels. For the purposes of this communication, telecommunications means the transmission of voice, data and video services to businesses and consumers in our communities. The 2006 state and congressional legislative sessions are poised to focus on this issue and we can expect a new paradigm for the regulation of telecommunications services to emerge in the not-too-distant future.

From the perspective of California's city officials we approach this debate with a combination of optimism and concern. We are optimistic because of the promise of new and robust telecommunications services for our communities that will enhance the quality of life, improve the business climate and give local agencies the tools to better protect our citizens. On the other hand, we have concerns that vital local resources and authority may be ignored in this debate and in turn cause financial hardship and loss of control over an important taxpayer investment – the local transportation system (the public's right-of-way).

This communication to you serves as our city's statement that we are going to take this debate seriously and want to open up an on-going dialogue with you as this debate progresses in Congress and the state legislature. To guide us in this debate, the League of California Cities has adopted the following principles, and the City of Lodi agrees with those principles, for you to consider in this debate. Those principles are:

REVENUE PROTECTIONS

- Protect the authority of local governments to collect revenues from telecommunications providers and ensure that any future changes are revenue neutral for local governments.
- Regulatory fees and/or taxes should apply equitably to all telecommunications service providers.
- A guarantee that all existing and any new fees/taxes remain with local governments to support local public services and mitigate impacts on local rights-of-way.
- Oppose any state or federal legislation that would pre-empt or threaten local taxation authority

RIGHTS-OF-WAY

- To protect the public's investment, the control of public rights-of-way must remain local.
- Local government must retain full control over the time, place and manner for the use of

the public right-of-way in providing telecommunications services, including the appearance and aesthetics of equipment placed within it.

ACCESS

- All local community residents should be provided access to all available telecommunications services.
- Telecommunications providers should be required to specify a reasonable timeframe for deployment of telecommunications services that includes a clear plan for the sequencing of the build-out of these facilities within the entire franchise area.

PUBLIC EDUCATION AND GOVERNMENT (PEG) SUPPORT

- The resources required of new entrants should be used to meet PEG support requirements in a balanced manner in partnership with incumbent providers.
- For cities currently without PEG support revenues, a minimum percentage of required support needs to be determined.

INSTITUTIONAL OR FIBER NETWORK (INET)

- The authority for interested communities to establish INET services and support for educational and local government facilities should remain at the local level.

PUBLIC SAFETY SERVICES

- The authority for E-911 and 911 services should remain with local government, including any compensation for the use of the right-of-way. All E-911 and 911 calls made by voice over internet protocol shall be routed to local public safety answering points (PSAPs); i.e., local dispatch centers.
- All video providers must provide local emergency notification service.

CUSTOMER SERVICE PROTECTION

- State consumer protection laws should continue to apply as a minimum standard and should be enforced at the local level. Local governments should retain the authority to assess penalties to improve customer service

OTHER ISSUES

- Existing telecommunications providers and new entrants shall adhere to local city policies on public utility under-grounding.

It is our intent to contact your office and set up a meeting to discuss these principles and issues of importance to local government, our constituents and yours. We hope this will prove helpful in starting the dialogue. We look forward to speaking with you in the near future.

Sincerely,

Susan Y. Hitchcock
Mayor, City of Lodi

AGENDA ITEM **E-22**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Set Public Hearing for May 3, 2006, to Consider Adopting Resolution Adjusting CPI-Based Water and Wastewater Rates**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council set a public hearing for May 3, 2006, to consider adopting a resolution adjusting CPI-based water and wastewater rates.

BACKGROUND INFORMATION: In the spring of 2004, the City Council approved rate increases for water and wastewater services. The City-wide public notification and resolution passed at that time included provisions for future rate adjustments based on the Consumer Price Index (CPI).

Resolution No. 2004-77 states that the index to be used shall be the San Francisco-Oakland-San Jose CPI for all items (unadjusted) and the rate increase shall not exceed the percentage change in the CPI index since the previous adjustment. The price index for December 2004 was 199.5 and 203.4 for December 2005, which translates to 1.95%. This increase on all water and wastewater service charges results in adjusted rates as shown on the attached tables. The rate increase is on all water and wastewater service charges, except for the PCE/TCE charges under water service. (The PCE/TCE rate analysis included a cost inflation allowance in establishing those increases with the three-step increase.) The increase amount for a 3-bedroom home is $0.52 for water and $0.49 for wastewater. The effective date of the increase is July 1, 2006.

FISCAL IMPACT: Increased annual water and wastewater fund revenue (approximately $140,000 and $150,000, respectively).

FUNDING AVAILABLE: Not applicable.

Richard C. Prima, Jr.
Public Works Director

Prepared by Rebecca Areida, Management Analyst

RCP/RA/pmf

Attachments

cc: Steve Mann, Information Systems Manager

APPROVED: _____
Blair King, City Manager

City of Lodi Water Utility
Proposed Water Rates

	Current Rates				Rates Effective 7/1/2006			
Single-Family Residential	Base	Infr.	PCE/ TCE	Monthly Total	Base	Infr.	PCE/TCE (2nd step)	Monthly Total
1 BR - House	13.67	4.97	2.43	21.07	13.94	5.07	4.86	23.87
2 BR - House	16.41	5.97	2.92	25.30	16.73	6.09	5.84	28.66
3 BR - House	19.68	7.15	3.50	30.33	20.06	7.29	7.00	34.35
4 BR - House	23.64	8.60	4.20	36.44	24.10	8.77	8.41	41.28
5 BR - House	28.36	10.32	5.04	43.72	28.91	10.52	10.09	49.52
6 BR - House	34.03	12.38	6.05	52.46	34.69	12.62	12.10	59.41
7 BR - House	40.82	14.85	7.26	62.93	41.62	15.14	14.52	71.28
Multi-Family Residential								
1 BR - APT	11.73	4.27	2.09	18.09	11.96	4.35	4.17	20.48
2 BR - APT	14.07	5.12	2.50	21.69	14.34	5.22	5.00	24.56
3 BR - APT (1)	16.88	6.14	3.00	26.02	17.21	6.26	6.00	29.47
Flat Rate Commercial/Industrial Customers - Varies, Increase all by 1.95% except PCE/TCE surcharge								
Metered Rate (2)	Base	Infr. $/ccf	PCE/ TCE	Total	Base	Infr. $/ccf	PCE/ TCE	Total
Commodity Charge per 100 cu. Ft.	0.490	0.233		0.723	0.500	0.238		0.738
monthly charge								
Comm. 5/8"	14.35		3.19	17.54	14.63		6.37	21.00
Comm. .75"	15.77		3.50	19.27	16.08		7.00	23.08
Comm. 1"	23.65		5.25	28.90	24.11		10.51	34.62
Comm. 1.5"	31.53		7.00	38.53	32.14		14.00	46.14
Comm. 2"	39.42		8.76	48.18	40.19		17.51	57.70
Comm. 3"	55.19		12.26	67.45	56.27		24.51	80.78
Comm. 4"	70.96		15.76	86.72	72.34		31.52	103.86
Comm. 6"	102.50		22.77	125.27	104.50		45.53	150.03
Comm. 8"	134.06		29.75	163.81	136.67		59.50	196.17
Comm. 10"	165.60		36.75	202.35	168.83		73.50	242.33
Construction Water Charges per 100 cu. Ft.	0.723				0.738			

(1) plus 20% for each additional bedroom

(2) Monthly total for metered commercial customers depends on amount of water used

(3) Established City Utility Disc

City of Lodi Wastewater Utility
Proposed Wastewater Rates

	Current Rates			Rates Effective 7/1/2006		
Residential	Base	Infr.	Monthly Total	Base	Infr.	Monthly Total
1 BR	10.81	4.39	15.20	11.02	4.47	15.49
2 BR	14.41	5.85	20.26	14.69	5.96	20.65
3 BR	18.05	7.31	25.36	18.36	7.45	25.81
4 BR	21.65	8.78	30.43	22.04	8.94	30.98
5 BR	25.25	10.24	35.49	25.71	10.43	36.14
6 BR	28.85	11.70	40.55	29.38	11.92	41.30
7 BR	32.47	13.16	45.63	33.05	13.41	46.46

Moderate Strength (annual per SSU)	243.12	247.80
High Strength User:		
Flow (per MG, annual basis)	2,052.00	2,092.01
BOD (per 1,000 lbs.,annual basis)	338.64	345.24
SS (per 1,000 lb., annual basis)	211.73	215.86
Grease Incepter & Septic Holding Tank Waste within City Limits (per 1,000 gal.)	179.30	182.80
Septic (only) Holding Tank Waste Outside City limits (per 1,000 gal.)	380.64	388.06
Disposal to Storm Drain System (per MG)	188.33	192.00
Disposal to Industrial System:		
Flow (per MG, annual basis)	1,309.48	n/a rates adusted annually per LMC § 13.12.210
BOD (per 1,000 lbs., annual basis)	22.82	
Winery Waste (per 1,000 gal.)	181.56	185.10

(1) Established City Utility Discounts apply to above rates

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

NOTE: Resolution will be prepared following Council action.

AGENDA ITEM **I-01**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Conduct a public hearing to consider the appeal of the Planning Commission's decision of February 22, 2006, to approve a Use Permit for Vineyard Christian Middle School to place a private 6th, 7th and 8th grade school on the grounds of Lodi Avenue Baptist Church at 2301 West Lodi Avenue (Applicant, Lodi Avenue Baptist Church; File #U-05-20).

MEETING DATE: April 19, 2006

PREPARED BY: Community Development Department

RECOMMENDED ACTION: That the City Council deny the appeal and uphold the Planning Commission's decision to grant a Use Permit for Vineyard Christian Middle School to locate a private middle school on the grounds of Lodi Avenue Baptist Church, 2301 West Lodi Ave.

BACKGROUND INFORMATION: At their meeting of February 8, 2006 the Lodi Planning Commission held a Public Hearing to consider the request of Vineyard Christian Middle School for a Use Permit to locate a private school on the property of Lodi Avenue Baptist Church, 2301 West Lodi Avenue. Following extensive public testimony and discussion, the Public Hearing was continued to the following meeting date of February 22, 2006 to allow the Planning Commission to receive additional information from all interested parties and City staff. Based on the information received at the Public Hearings, the Planning Commission voted to approve the Use Permit at the meeting of February 22, 2006. (see attached February 8, 2006 and February 22, 2006 Planning Commission staff reports)

Review of Public Hearings of February 8, 2005 and February 22, 2006.

During the Public Hearings of February 8, 2006 and February 22, 2006, some of the residents of the neighborhood near the proposed school site spoke in opposition to the granting of the Use Permit for the Vineyard Christian Middle School. Their primary concern was the impact that the school would have on their neighborhood, which they characterized as a quiet residential area. The neighbors expressed concerns about added traffic on Allen Drive, and increased noise and litter that they felt would be a result of the proposed school. They were also concerned about the aesthetic impacts the school buildings would have on their neighborhood.

In order to address the neighbor's concerns, the Planning Commission continued the Public Hearing of February 8, 2006 to their next meeting of February 22, 2006. They directed staff to work with the applicant to determine if there were solutions that could be developed that would address the concerns of the neighbors. At the February 22 meeting, staff presented the Planning Commission with several

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APPROVED: _____
Blair King, City Manager

possible conditions that could be placed on the project to address some of the issues raised by the neighbors. The Planning Commission also took additional public comments regarding the project and the new conditions. Based on the information presented at the public hearings, the Planning Commission determined that the Lodi Avenue Baptist Church property at 2301 West Lodi Avenue was an appropriate location for the proposed Vineyard Christian Middle School and approved the Use Permit 4 to 3. (Kiser, Moran, White opposed).

As part of their presentation before the Planning Commission, residents of the neighborhood submitted to the Planning Commission a petition signed by a number of the residents expressing their opposition to the proposed school. Following the Planning Commission's approval of the Use Permit, some of the neighbors submitted an appeal requesting that the City Council overturn the actions of the Planning commission and deny the Vineyard Christian Middle School Use Permit.

COUNCIL OPTIONS:

- Deny appeal – confirm Planning Commissions action of approval. This is the recommended action.
- Grant appeal – granting the appeal would reverse the Planning Commission approval denying the Use Permit for the school.

FISCAL IMPACT: No Fiscal Impact

FUNDING AVAILABLE: No Funding Required.

Randy Hatch
Community Development Director

Attachments:

- Planning Commission Resolution No. P.C. 06-05
- Vicinity Map
- aerial map
- site plan: Exhibit A
  Exhibit B
- Exhibit C – Proposed Parking lot instructions
- Planning Commission Staff Reports:
  February 8, 2006
  February 22, 2006
- Planning Commission Minutes:
  February 8, 2006
  February 22, 2006
- Written Comments

cc: City Attorney

RESOLUTION NO. P.C. 06-05

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF LODI AVENUE BAPTIST CHURCH FOR A USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE ON CHURCH PROPERTY AT 2301 WEST LODI AVENUE

WHEREAS, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code, Section 17.72.070; and

WHEREAS, the Planning Commission continued the public hearing from February 8, 2006 to the meeting of February 22, 2006 in order to receive additional information from the applicant and City staff; and

WHEREAS, the project proponent is Lodi Avenue Baptist Church; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred; and

WHEREAS, the property is zoned R-1, residential single-family; and

WHEREAS, the property is located at 2301 West Lodi Avenue, Lodi, CA (APN 029-130-31); and

WHEREAS, the property currently is occupied by Lodi Avenue Baptist Church and contains church buildings and a church parsonage; and

WHEREAS, Vineyard Christian Middle School is a private 6th, 7th and 8th grade middle school with an enrollment of up to 84 students, that would like to occupy a portion of the church property; and

WHEREAS, Vineyard Christian Middle School (VCMS) is not directly affiliated with the Lodi Avenue Baptist Church and will only be leasing space on their property; and

WHEREAS, schools are permitted in R-1, residential single-family zones, subject to securing a Use Permit in accordance with Section 17.09.030 of the City of Lodi Municipal Code; and

WHEREAS, there is sufficient unused land on the church property to accommodate the proposed school without adversely affecting the current church operations; and

WHEREAS, Vineyard Christian Middle School operates Monday through Friday on a traditional school schedule; and

WHEREAS, the school anticipates that most extra-curricular events; including athletic programs, practices and games will be held off-site at other local facilities; and

WHEREAS, the Vineyard Christian Middle School is a closed campus and students will not leave campus during school hours with out the permission of the school administration; and

Based upon the evidence within the staff report and the project file, the Planning Commission of the City of Lodi makes the following findings:

1. The project is categorically exempt according to the California Environmental Quality Act, §15332, Class 32 (In-fill Development Projects). The project is located in an area that is fully developed and served by public utilities; is less than 5-acres in size; the property has no natural habitat and no significant environmental impacts are anticipated and no mitigation measures have been required.

2. It is determined that the proposed school is a permitted use in a residential single-family zone subject to securing a Use Permit.
3. It is determined that the church property has sufficient available space to accommodate the five modular school buildings and a playground area.
4. It is determined that because the church and the school have different schedules for the use of the property, the two uses will be compatible and will be able to share the property.
5. It is determined that the school can operate at this location without creating an adverse impact on the surrounding neighborhood.
6. It is determined that the 47 parking spaces on site are expected to be adequate for both the school and church.

NOW THEREFORE, BE IT RESOLVED, DETERMINED, AND ORDERED, that Use Permit Application No. U-05-020 is hereby approved, subject to the following conditions:

A. The final site plan and building elevations for the project be reviewed and approved by the City of Lodi Site Plan and Architectural Review Committee (SPARC) prior to any buildings being permanently located on the property.

B. All construction is done with proper Building Department and Fire Department approvals and permits.

C. The parking layout will be reconfigured to accommodate the school buildings and to maximize the number of parking spaces on the site. If parking problems develop for either the school or church the City reserves the right to revisit parking needs and may require additional parking conditions.

D. The Vineyard Christian Middle School (VCMS) shall modify the existing parking lot, including driveways to accommodate the traffic ingress and egress plan shown on Exhibit A. This will require the closure of the center driveway and new signing at the two remaining driveways. The northern driveway shall be signed “School Entrance” and the south driveway shall be signed “School Exit”, “Right Turn Only”. Additional pavement directional arrows maybe required and the parking stalls realigned to match the direction of traffic flow.

E The VCMS shall modify their school hours so they will not directly conflict with the hours of St. Peters Lutheran School. The hours can be earlier or later, which ever works better for the school. The time difference shall be at least 10 minutes.

F. The VCMS shall prepare “Parking Lot Instructions” which shall be subject to review and approval by the Community Development Director. The School shall provide the family of each student a copy of the document and have them agree to adhere to the requirements.

G. That VCMS shall have an adult monitor the drop-off and pick-up periods each school day. The monitor will make sure that the traffic flows smoothly and safely by assisting parents and making sure that the “Parking Lot Instructions” are followed. The monitor shall also make sure that there is no unnecessary use of car horns or excessively loud car stereos.

H. The VCMS shall upgrade the landscaping along Allen Drive to improve the appearance of the school from the street. These features will include new

shrubs, trees and any other items deemed appropriate by SPARC. The VCMS shall also construct a fence (the design to be approved by SPARC) along the east side of the school as a separator between the school grounds and Allen Drive.

I. VCMS shall provide an adequate number of garbage receptacles placed around the campus. The School shall monitor the litter problem, particularly during the lunch period to assure that litter is placed in the containers. The School shall also clean up any loose litter to prevent it from blowing onto neighboring properties or the street.

J. The VCMS provide the neighbors with the name and telephone number of a school contact so that they can contact this person if there are any questions or problems related to the neighborhood that arise once the school is in operation at this location.

K. The regular school hours shall be Monday through Friday approximately 8:30 am to 3:10 pm (or modified per condition E) with some allowance for additional time for special school events. No outdoor competitive sport events other than those associated with physical education or normal school activities shall be held on-site.

L. The VCMS coordinate their schedule for activities with the Lodi Ave. Baptist Church to minimize scheduling conflicts.

M. Payment of Development Impact Mitigation Fees at building permit issuance. The fees represent the additional impact placed on City facilities by the use of the site for school purposes. Public Works staff estimates that the fees will be $57,301.04. Fee calculations are shown on the Development Impact Mitigation Fee Summary Sheet which will be provided to the applicant. The fees are based on information contained in the use permit application and represent 84 students, 5 full time equivalent (FTE) employees, a building area of 4,000 square feet and a building pad area of 14,000 square feet. <u>This is only an estimate. The actual fees to be paid will be based on the plans submitted for the issuance of a building permit for the project and will be those in effect at the time of issuance of the building permit.</u> A change in the fees is anticipated in the near future.

N. Installation of traffic signs and markings for the school zone in conformance with the Manual of Uniform Traffic Control (MUTC) will be required as a condition of approval for the building permit for the project. A layout prepared by City staff showing the locations of the required signs and markings is available for reference. The work must be completed prior to final inspection for the building permit or commencement of classes, whichever occurs first.

O. The applicant may elect to have the traffic signs and markings done by City crews at the applicant's expense or by the applicant's contractor. If the work is done by City crews, we estimate the cost to be approximately $2,856.00 (cost estimate available) which will be collected at the time of issuance of the building permit. If the work is done by the applicant's contractor, the contractor shall obtain an encroachment permit from the Public Works Department prior to the commencement of work. All work shall be done in conformance with City standards and specifications.

P. No variance from any City of Lodi adopted code, policy or specification is granted or implied by the approval of this resolution.

Dated: February 22, 2006

I hereby certify that Resolution No. 06-05 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on February 22, 2006 by the following vote:

AYES:	Commissioners:	Cummins, Haugan, Kuehne, and Chair Heinitz
NOES:	Commissioners:	Kiser, Moran, and White
ABSENT:	Commissioners:	None
ABSTAIN:	Commissioners:	None

ATTEST: _____
Secretary, Planning Commission

CITY OF LODI
PLANNING COMMISSION
Staff Report

MEETING DATE: February 8, 2006

APPLICATION NO: Use Permit U-05-020

REQUEST: The request of Lodi Avenue Baptist Church for approval of a Use Permit to allow operation of the Vineyard Christian Middle School on their property at 2301 W. Lodi Ave.

LOCATION: 2301 West Lodi Ave.
APN 029-130-31

APPLICANT: Lodi Avenue Baptist Church
2301 West Lodi Ave.
Lodi, CA 95242

PROPERTY OWNER: 1st Southern Baptist
2301 West Lodi Ave.
Lodi, CA 95242

RECOMMENDATION

Staff recommends that the Planning Commission approve the Use Permit request of Lodi Avenue Baptist Church to allow the Vineyard Christian Middle School to locate a private middle school on their church property at 2301 West Lodi Ave., subject to the conditions in the attached resolution.

SUMMARY

Lodi Avenue Baptist Church is proposing to locate a Christian middle school (six, seventh and eighth grade) on a portion of their church property at 2301 West Lodi Ave. The school, Vineyard Christian Middle School (VCMS), is currently located on the site of Woodbridge School, which is currently being remodeled. When the Woodbridge School remodel is complete, VCMS will need to relocate to a different site. Lodi Avenue Baptist Church has made available an unused portion of their property for the school. Before VCMS can relocate to this property, they will need to secure a Use Permit from the Lodi Planning Commission for the operation of a school. The school will operate Monday through Friday, from 8:30 am to 3:10 pm. The school has a student population of 75 that will be housed in five modular buildings that will be moved on to the site.

PROJECT/AREA DESCRIPTION

General Plan Designation: LDR, Low density residential.

Zoning Designation: R-1, residential single-family

Property Size: 2.64-acres.

The adjacent zoning and land use designations are as follows:

North: R-1, residential single-family and Public. The property immediately north of the church property contains a private swimming club that is open seasonally. North of the pool is Henry Glaves Park, a City park/basin.

South: R-1. The area to the south, across Lodi Ave. is single-family residential.

East: R-1. The area to the east, across Allen Drive is single-family residential.

West: PD (27) Planned Development. West of the church site is Parkview Terrace, an 8.2-acre planned unit development that contains an adult residential community.

BACKGROUND

Vineyard Christian Middle School is an existing private 6th, 7th and 8th grade Christian middle school that is located on a temporary basis on the grounds of the Woodbridge School, a school site owned by the Lodi Unified School District (LUSD). The LUSD buildings on the site are being extensively remodeled to provide a modern elementary school facility. During the remodeling all the LUSD students have been relocated to other schools and no public school students are currently on site. The VCMS students are housed in modular classroom buildings located on a corner of the school property. The Woodbridge Elementary School is scheduled to reopen in the fall of 2006. When this happens, VCMS will have to relocate, and they have selected the Lodi Ave. Baptist Church property at 2301 West Lodi Ave. as their choice for a new school site. The VCMS is not directly affiliated with the Lodi Ave. Baptist Church and will only be leasing land from the church.

ANALYSIS

The Lodi Avenue Baptist Church is located on a 2.6-acre parcel of land at the northwest corner of Allen Drive and West Lodi Ave. The church and related Sunday school classrooms are located on the south half of the property. The north half of the property contains a portion of the church parking lot, an open lawn area and a church parsonage, which is located on the northern-most portion of the property. The Vineyard Christian Middle School will be located in the center of the property between the church and the church parsonage. The proposed site is partially paved and partially planted in lawn. The classrooms will be placed on the paved area which is currently part of the church parking lot and the lawn area will serve as the school playground. Placement of the school buildings on the paved area will result in the loss of approximately 14 parking spaces, leaving the church with approximately 47 parking spaces. The City's parking standards are based on one parking space required for every four seats in the church sanctuary. The Lodi Ave. Baptist Church has a sanctuary that seats 300 people. This requires 75 parking spaces. According to the church, their normal Sunday services are attended by 80 to 100 parishioners. Based on their actual attendance, they will have sufficient parking, even after the reduction in the number of parking spaces.

Vineyard Christian Middle School is proposing to place five modular buildings on the church site. Each of the buildings is 20'x 40' in size. Four of the units will be classrooms and the fifth unit will house an office and restroom facilities. The five buildings will be arranged in a U-shape facing south. The grass area to the north of the buildings will serve as outdoor play areas. There will also be some paved play areas adjacent to the classrooms. Parking for the 5 staff members will be provided adjacent to the school. A 5-foot high fence will be constructed along the east side of the school to provide a separator between the school and Allen Drive.

According to their application, VCMS has a student population of 75 middle-school students who attend school from 8:30 am to 3:10 pm. Monday through Friday on a traditional school calendar.

For a period of one-half hour before and after school, students are regularly dropped off or picked up by parents or guardians. A regular school day includes seven 45-minute class periods, a 15-minute morning break, and a 45-minute lunch period. Students eat lunch outside on picnic tables or in the class rooms. The school is a closed campus. The school does offer a sports program but most practices and games are held off-site at other Lodi facilities. The application states that activities conducted before or after the hours of 8:00 am or 4:00 pm are typically held off campus.

The school will operate during daytime hours, Monday through Friday. By contrast, the church is most active on weekends, particularly on Sundays and on certain weekday nights. Because the facilities operate on different schedules, there should be minimal conflict between the church and the school. According to the site plan there is sufficient space on the Lodi Avenue Baptist church property to accommodate the school without significantly impacting the church. The area that the school will occupy is currently unused by the church and will not affect their operations.

The church property is located on the corner of Lodi Ave. and Allen Drive. Lodi Ave. is a major east-west arterial serving much of central Lodi and has an average daily vehicle trip count of 6,900 vehicles per day. Lodi Avenue along with Allen Drive will provide the access to the school site. Allen Drive has an average daily trip count of 761, fairly typical for a residential street. Figures provided by the school indicate that the school will have 75 students and 5 employees. Using data from the Institute of Traffic Engineers (ITE), middle schools generate 1.6 vehicle trips per students/employees. The school could generate 130 additional daily vehicle trips. It is likely that some students will carpool, walk or bike to school, reducing the number of vehicle trips. The increase in traffic volume will probably be most noticeable on Allen Drive. The impact of the additional vehicles will be lessened to some degree by the fact that the school site is near the intersection of Lodi Ave. so many of the vehicle trips will only travel one or two blocks of Allen Drive. While the additional vehicle trips may be noticeable to neighbors, particularly the 5 or 6 houses that are directly across from the church property, an increase of 130 vehicle trips on Allen Drive is still within the acceptable traffic volume for a residential street.

The school will have some buffering from surrounding properties. The properties most directly affected will be the 6 corner parcels along the east side of Allen Drive directly across the street from the church property. They will experience some increase in traffic on Allen Drive adjacent to their properties and an increase in the level of activity on the church property, including noise as a result of the presence of the school. Properties to the south will be buffered by the existing church buildings on the property as well as Lodi Ave., a four-lane street that separates them from the church property. The property to the west is an adult residential community. They are separated from the church property by a six-foot high block wall. The block wall surrounds their complex on three sides and is higher along Lodi Ave. and Lower Sacramento Road. Because of the wall and the fact that their entrance is on Lodi Ave., they will not be directly affected by the increased traffic or be visually affected by the increase in the level of activity created by the school. They may experience some increase in noise although it will be limited to day time hours and primarily during periods when the students are outside of the classrooms.

The block wall separating the properties will reduce the noise levels and there are numerous trees planted on both sides of the fence that visually screen the school site from the houses to the west.. To the north, there is a church parsonage, a private seasonal swim club facility and a City park/basin. Only the church parsonage will be affected to any degree and presumably the church has considered this before making the site available to the school. Overall, the school will be buffered as well as most school sites in Lodi. Almost all schools in Lodi are located in residential areas and most have residences that face, side or rear to the school property. Schools are a permitted use in residential zones with approval of a Use Permit. In most cases the schools, particularly the public schools, have a much larger student population and a much larger campus. Generally speaking, schools and neighborhoods seem to coexist and the sponsors of the Vineyard

Christian Middle school seem willing to address any problems that may come up once the school is in operation.

ENVIRONMENTAL ASSESSMENTS

The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §15332, Class 32. The project is classified as an "In-fill Project", less than 5-acres in size; surrounded by urban development and served by City utilities; consistent with the zoning and where no significant environmental impacts are anticipated and no mitigation measures have been required.

PUBLIC HEARING NOTICE

Legal Notice for the Use Permit was published on January 28, 2006. 62 public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve the Use Permit with Alternate Conditions
- Deny the Use Permit
- Continue the Request

Respectfully Submitted,

David Morimoto
Senior Planner

Concurred,

Randy Hatch
Community Development Director

ATTACHMENTS
1. Vicinity Map
2. Site Plans
3. Aerial photo
4. Draft Resolution

RH/pp/dm/kc

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CITY OF LODI
PLANNING COMMISSION
Supplemental Staff Report

MEETING DATE:	February 22, 2006
APPLICATION NO:	Use Permit U-05-020
REQUEST:	The request of Lodi Avenue Baptist Church for approval of a Use Permit to allow operation of the Vineyard Christian Middle School on their property at 2301 W. Lodi Ave.
LOCATION:	2301 West Lodi Ave. APN 029-130-31
APPLICANT:	Lodi Avenue Baptist Church 2301 West Lodi Ave. Lodi, CA 95242
PROPERTY OWNER:	1st Southern Baptist 2301 West Lodi Ave. Lodi, CA 95242

RECOMMENDATION

Staff recommends that the Planning Commission approve the Use Permit request of Lodi Avenue Baptist Church to allow the Vineyard Christian Middle School to locate a private middle school on their church property at 2301 West Lodi Ave., subject to the conditions in the attached resolution and any of the attached supplemental conditions.

SUMMARY

Lodi Avenue Baptist Church is proposing to locate a Christian middle school (six, seventh and eighth grade) on a portion of their church property at 2301 West Lodi Ave. The school, Vineyard Christian Middle School (VCMS), is currently located on the site of Woodbridge School, which is currently being remodeled. When the Woodbridge School remodel is complete, VCMS will need to relocate to a different site. Lodi Avenue Baptist Church has made available an unused portion of their property for the school. Before VCMS can relocate to this property, they will need to secure a Use Permit from the Lodi Planning Commission for the operation of a school. The school will operate Monday through Friday, from 8:30 am to 3:10 pm. The school has a student population of 75 that will be housed in five modular buildings that will be moved on to the site.

PROJECT/AREA DESCRIPTION

General Plan Designation:	LDR, Low density residential.
Zoning Designation:	R-1, residential single-family
Property Size:	2.64-acres.

The adjacent zoning and land use designations are as follows:

North: R-1, residential single-family and Public. The property immediately north of the church property contains a private swimming club that is open seasonally. North of the pool is Henry Glaves Park, a City park/basin.

South: R-1. The area to the south, across Lodi Ave. is single-family residential.

East: R-1. The area to the east, across Allen Drive is single-family residential.

West: PD (27) Planned Development. West of the church site is Parkview Terrace, an 8.2-acre planned unit development that contains an adult residential community.

BACKGROUND

At the Planning Commission meeting of February 8, 2006, a public hearing was held to consider the request of the Lodi Avenue Baptist Church for a Use Permit to allow the Vineyard Christian Middle School to locate their school on the Church property. At the meeting, several neighbors of the Church spoke to express their objections to the proposed school being placed on this property. The issues the neighbors were most concerned with are as follows:

1). Traffic on Allen Drive.

Neighbors were concerned that the proposed school will generate additional traffic on Allen Drive. They indicated that Allen Drive was a residential street with relatively low traffic volumes. They were concerned that the addition of 75 students and 5 staff would impact the street and neighborhood, particularly during morning and afternoon pick-up and drop-off periods. They also felt that the problem was compounded by the nearby St. Peters Lutheran School located at the corner of Oxford Way and Lower Sacramento Road. They felt that many of the parents of students at St. Peters also used Allen Drive to come and go from that school. They felt the combination of traffic from both schools would create a hazardous situation on Allen Drive.

2). Increased activity, noise and litter as a result of the school being located on this property.

Neighbors were concerned that the school will generated more activity on the church property relative to what was there now. They felt that the church was a relatively unobtrusive use, with activity primarily on Sundays and during special events at the church. The school will have students on site Monday through Friday, 9 months a year. They felt that the added presence of students would create noise and litter that will affect the neighborhood.

3). Aesthetic concerns.

Neighbors were concerned about the visual effects the school would have on the neighborhood. The applicant's are proposing to move 5 modular buildings onto the property. These will include 4 classrooms buildings and one office building. The neighbors expressed concern about the appearance of the buildings and how they would look from their residences across Allen Drive. They noted that the property is open along the Allen Drive frontage and there is no fence or other type of screening. There are only a limited number of trees planted along Allen Drive and no shrubs or other landscaping that could serve to screen the property.

ANALYSIS

Staff has reviewed the concerns expressed at the meeting and has the following comments:

1). Traffic.

Based on our calculations, the school could generate 130 additional vehicle trips per day. This would be in addition to the current volume of 761 vehicle trips per day on Allen Drive. The capacity of Allen Drive is approximately 2000 vehicle trips per day. Even with the addition of the school traffic, the potential total of 900 vehicle trips will be less then 50% of the design capacity for Allen Drive. In our estimation, the added traffic will not significant impact the capacity or the safety of traffic on Allen Drive.

While the added traffic will not be an engineering issue, staff acknowledges that the neighbors, particularly those immediately adjacent to the school site will notice an increase in traffic. This will be most noticeable during the pick-up and drop-off periods. The perceivable change is compounded by the fact that traffic volumes on Allen Drive are relatively low so any increase is noticeable. It is possible that over time the neighbors will become accustom to the school traffic and the additional traffic will become less noticeable. In staff's opinion, the additional traffic generated by the school is not so much an engineering issue of traffic safety or congestion but more of an issue of perception by the neighborhood and the public. The street clearly has the capacity to safely handle the anticipated traffic volumes generated by the school. Whether the possible effects on the neighborhood are acceptable is more of a policy issue then a traffic engineering issue. The City and the applicants would like to explore every reasonable alternative to try to reduce the traffic effects on the neighborhood. Staff has worked with the school to try to come up with ideas that may help the situation. The following options are put forth for consideration:

a) Rearrange the driveway layout and the travel route of vehicles entering and exiting the school property. Two alternatives are been suggested to the original driveway proposal. Alternate 1 (Exhibit A) is to require vehicles to enter the school grounds at the northern most drive way. Vehicles will proceed to a designated area, to pick-up or drop-off their student and proceed south through the parking lot and exit at the southern most driveway, turning right onto Allen Drive. Under this alternative, the center driveway will be temporarily closed during school hours. Alternate 2 (exhibit B) will have the vehicles entering the northern-most driveway then proceed to the drop-off zone. The vehicles will then loop around the entire parking lot and will exit the property at the center driveway, making a right hand turn onto Allen Drive. Under this alternative, the southern most driveway would be temporarily closed during school hours. Under both alternatives, new on-site signing would be required to designate the path of travel for vehicles and to designate the right-turn-only at the exit driveway.

   Both alternatives provide increased vehicle stacking room on-site. By allowing vehicles to maneuver in the parking lot there is less chance of vehicles having to wait on Allen Drive before entering the property. Requiring that exiting vehicles only turn right on Allen Drive will mean that most vehicles will only travel a short distance on Allen when exiting the property and that there will be fewer conflicts with passing traffic. Alternative 1 will further reduce the impact by having the vehicles exit at the driveway closest to the Lodi Ave. intersection. This will further limit the distance exiting vehicles

will travel on Allen Drive. This alternative will also spread the vehicles over two more widely separated driveways instead of concentrating then at the center of the property.

b) The VCMS has also suggested the following methods that they feel will help alleviate the traffic situation:

i. One is to stagger their school start and finish times with St. Peters Elementary School, to reduce the amount of overlap. VCMS will be willing to start either earlier or later then St. Peters, depending on what works better for each school. This will reduce the concentration of traffic and spread it out over a slightly longer time span.

ii. Another suggestion made by VCMS is to have an adult traffic monitor onsite every morning and afternoon during drop-off and pick-up times. This person will monitor the traffic flow and work with parents to get students on and off the property safely and with minimal conflicts with passing street traffic. This person would also monitor the students to make sure they get to class safely.

iii. Finally VCMS has created a parking lot instruction sheet (exhibit c) that they will hand-out to each school family. The sheet contains the procedure for the pick-up and drop-off of students. This includes the requirement that during both drop-off and pick-up vehicles must be in a parking space before students may exit or enter the vehicle. They are also planning to require that all drop-offs and pick-ups be made from vehicles that are in the parking lot. Students can not exit or enter vehicles parked on Allen Drive.

2). <u>Addressing the question of increased activity on the property and the related potential for noise and litter.</u>

a) There is no question that the VCMS will bring more people onto the property. This problem is somewhat off set by the limited number of students (75) enrolled in the school and the limited number of grades (3 class rooms). Unlike larger schools that have multiple lunch periods and P.E. or recess periods that stretch throughout the day, VCMS will have a single break in the morning and a single lunch period. The rest of the time, students will be in the class room. Additionally, the school will be a closed campus so students will not be leaving campus to eat lunch. The closed campus and the single lunch period will reduce the impacts on the surrounding neighborhood by limiting the time students are outside of the classroom. Having a closed campus will also make it easier to monitor any potential litter problem. School supervisors can make sure students put their lunch litter in designated garbage cans. Also students will not be out in the neighborhood during lunch periods.

Having students on the site will increase the ambient noise level during school hours. There will be some increase in noise during drop-off and pick-up periods and when students are outside the class room. This is a relatively quiet neighborhood so it is possible that nearby neighbors will hear some increased level of noise. What level of disturbance they will experience is hard to quantify. Generally school related noise is not considered an unusual noise source by the City's Noise Ordinance. Schools have historically been considered part of residential neighborhoods and are permitted by the City Zoning Ordinance in residential zones. Almost all schools in Lodi as well as in

other cities are located in residential areas. Schools and their related noises have traditionally been accepted as part of the every day activity of communities. VCMS will not have school buses or traditional sports fields so they will generate less noise then most schools.

VCMS can reduce the potential noise problems by monitoring vehicles entering and exiting the school property. Vehicles should avoid using their car horn or playing loud stereos. Students can also be monitored to avoid unnecessarily loud noises when they are outdoors.

3). Aesthetics.

a) In order to improve the appearance of the proposed school site, one of the conditions of approval will be that the project be reviewed by the Site Plan and Architectural Committee (SPARC). The Committee can require the applicant to add various features to their project to improve the overall appearance of the project. This could include fencing; additional landscaping, especially along Allen Drive; changes in the color or appearance of the buildings; parking lot improvements and other site related changes that the Committee feels will improve the design of the school.

ENVIRONMENTAL ASSESSMENTS

The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §15332, Class 32. The project is classified as an "In-fill Project", less than 5-acres in size; surrounded by urban development and served by City utilities; consistent with the zoning and where no significant environmental impacts are anticipated and no mitigation measures have been required.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve the Use Permit with Alternate Conditions
- Deny the Use Permit
- Continue the Request

Respectfully Submitted,

David Morimoto
Senior Planner

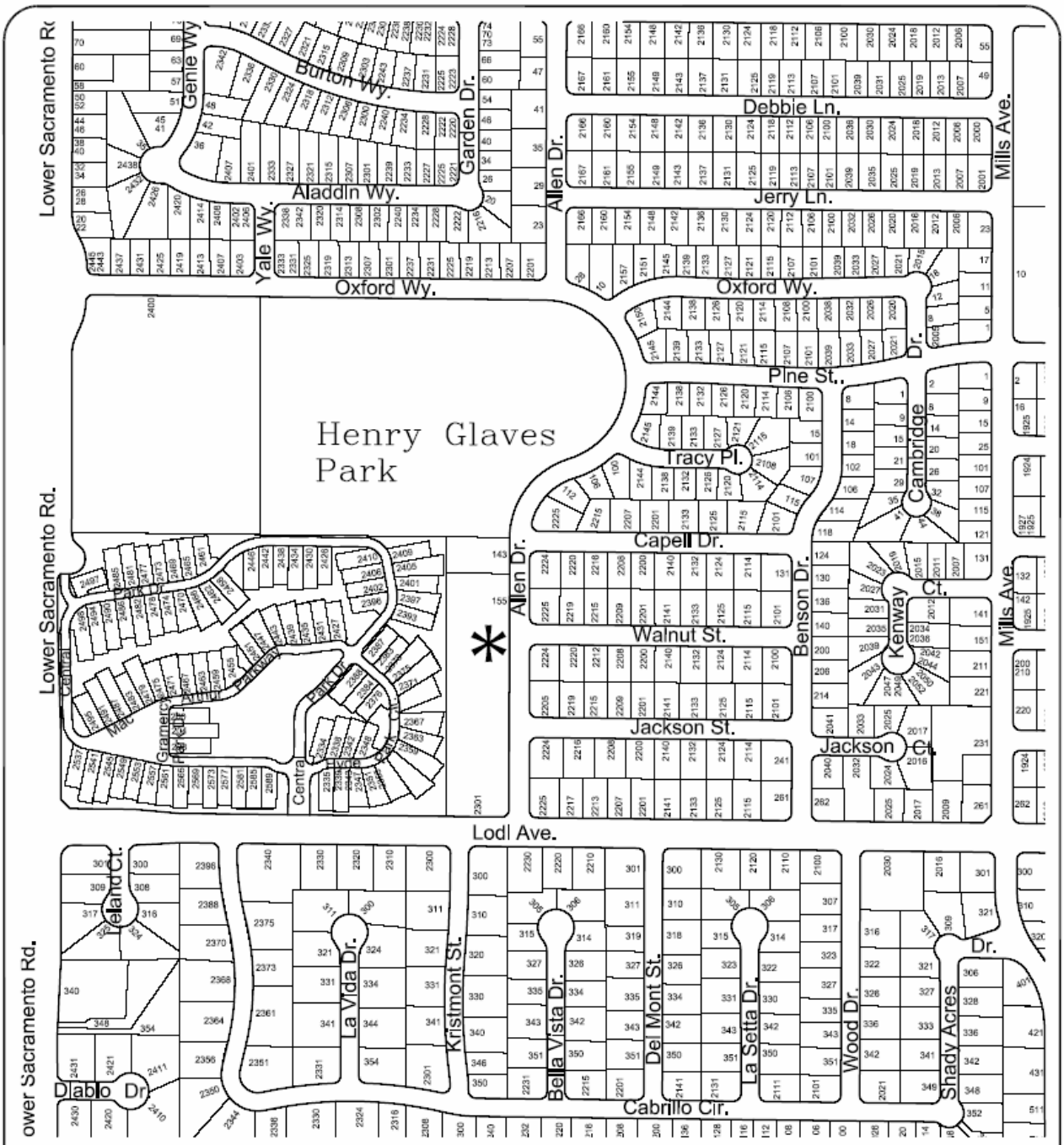
Concurred,

Randy Hatch
Community Development Director

ATTACHMENTS

1. Original staff report
2. Exhibits
3. Vicinity Map
4. Draft Resolution & Supplemental Conditions

RH/pp/dm/kc
J:\Community Development\Planning\STAFFRPT\2005\U-05-019r.doc



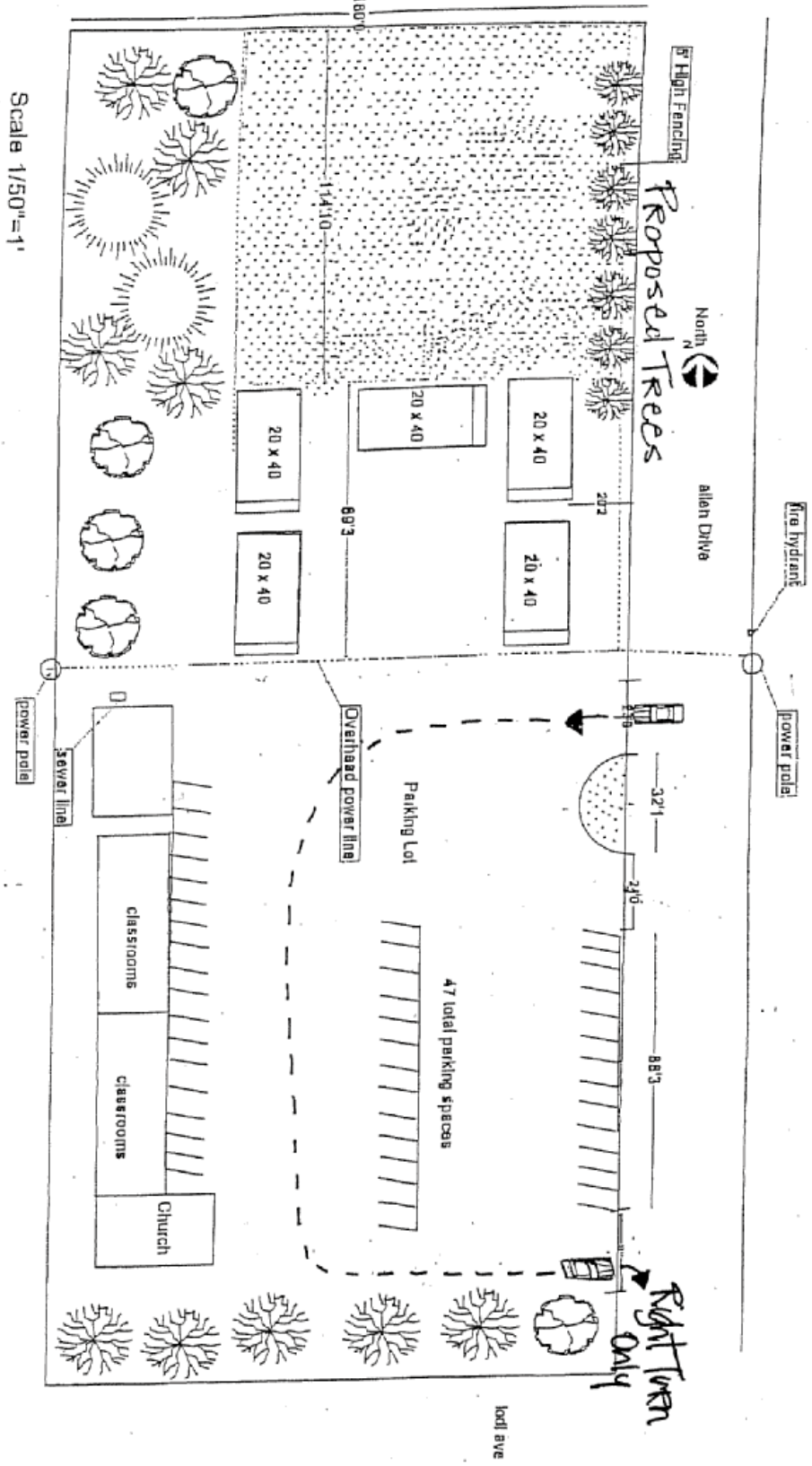
VICINITY MAP

Lodi Avenue Baptist
Use Permit for Vinewood Christian
Middle School
2301 West Lodi Avenue
Use Permit: U-05-020

Vicinity Map

Aerial

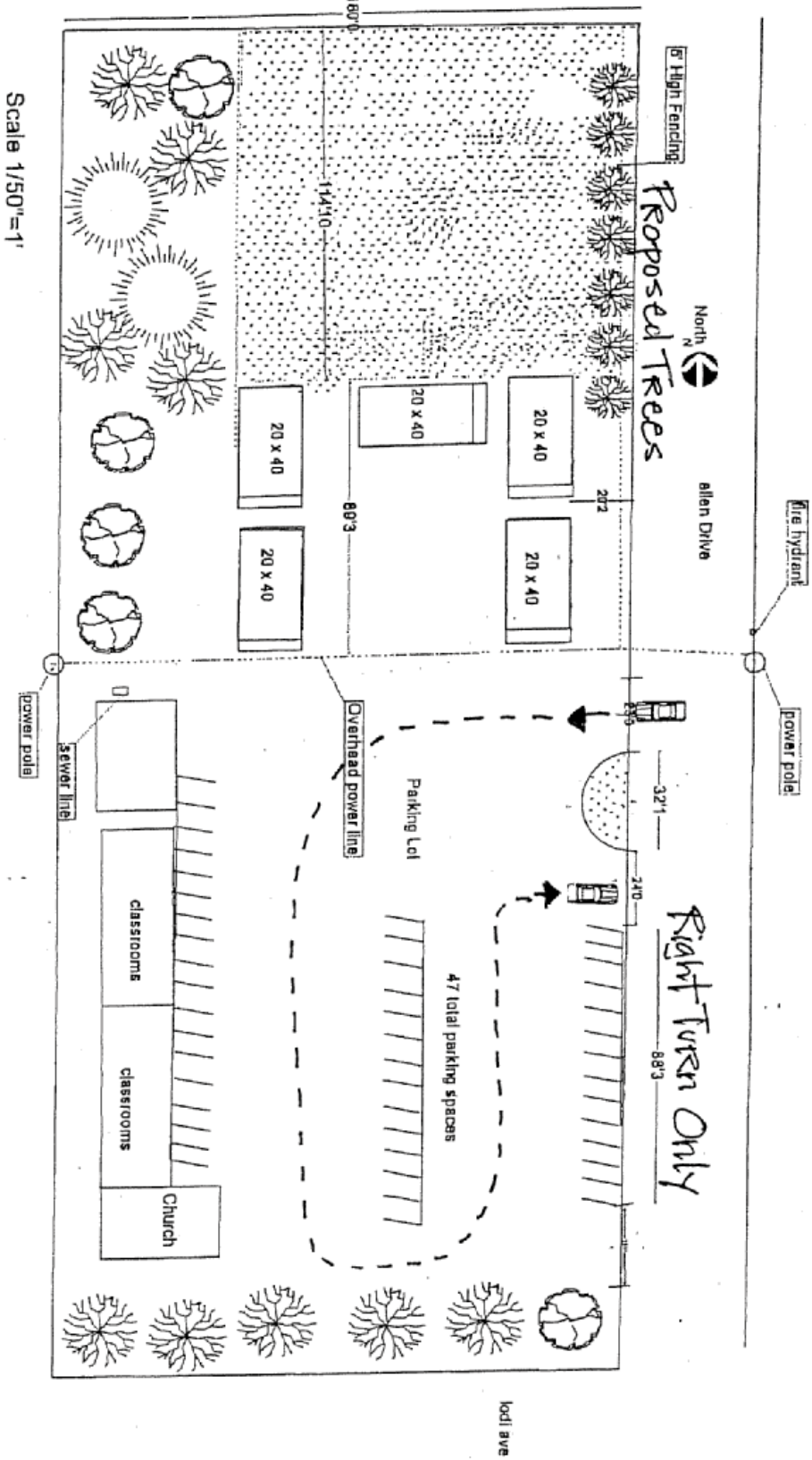
City of Lodi, Community Development, Planning Division.



Scale 1/50"=1'

Exhibit A

City of Lodi, Community Development, Planning Division.



Scale 1/50"=1'

Exhibit B

ATTENTION

VINEYARD CHRISTIAN MIDDLE SCHOOL FAMILIES!

IMPORTANT PARKING LOT INSTRUCTIONS

Beginning immediately, note the following directions for parking lot procedures:

- Please use the **PARKING LOT ONLY** for pickup and drop-off of students. **DO NOT** park or stop on Allen Drive.
- Please enter the school parking lot from Allen Drive. Access the parking lot from the **NORTH** driveway only.
- Proceed into the parking lot, heading due west, following the circular flow of traffic– as indicated on the attached map.
- **DO NOT** stop in the flow of traffic...pull into a parking spot and park!
- During morning drop off, students are to exit the cars **ONLY** after they are parked, and proceed to the campus. Students will be assisted by parking lot attendant.
- After school, students will wait on campus. With the assistance of the parking lot attendant, students will access **ONLY** parked vehicles.
- When exiting the parking lot, pull back into the flow of traffic and exit from the **SOUTH** driveway **ONLY**- as indicated on the attached map. When entering onto Allen Drive, make a **RIGHT TURN ONLY**.
- Proceed south on Allen Drive to Lodi Avenue.

Please keep traffic on Allen Drive to a minimum. Access to VCMS between the hours of 8:00 a.m. and 4:00 p.m. is limited to the parking lot. Thank you for your cooperation in the matter.

Exhibit C

LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, FEBRUARY 8, 2006

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of February 8, 2006, was called to order by Chair Heinitz at 7:00 p.m.

Present: Planning Commissioners – Cummins, Haugan, Kuehne, Moran, White, and Chair Heinitz

Absent: Planning Commissioners – None

Also Present: Community Development Director Randy Hatch, Senior Planner David Morimoto, Planner Manager Peter Pirnejad, Deputy City Attorney Janice Magdich, and Administrative Secretary Kari Chadwick

2. MINUTES

a) None

Note: Item "b" was heard first.

3. PUBLIC HEARINGS

a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Heinitz called for the public hearing to consider The request for approval of a Use Permit to allow Vineyard Christian Middle School to operate a private 6th -8th grade school on the property (including the placement of portable buildings) at 2301 West Lodi Avenue. (File#: U-05-020, Applicant: Lodi Avenue Baptist Church) CEQA Status: Exempt Resolution #: P.C. 06-05.

David Morimoto, Senior Planner, reported that The Vineyard Christian Middle School (VMCS) is an existing school that is located on the Woodbridge Middle School grounds. In the fall of 2006 the LUSD plans to open the campus again as a grade school and therefore the private school is in need of a new home. The site they have selected is Lodi Avenue Baptist Church property. The Church is surrounded by single family homes on the east, south and west sides and to the north is a community pool and Glaves Park. VMCS would like to locate the buildings in the middle section of the parcel. The zoning ordinance does allow for a school in residential neighborhoods with a Use Permit. They would like to open at the 2301 West Lodi Avenue address in the fall of 2006. They operate Monday through Friday on a standard school calendar during the hours of 8:30 – 3:10 p.m. with a half hour before and after for drop offs and pickups. They would like to locate five modular buildings in the center of the property. Three of the buildings will be used for classrooms, one for a multi-purpose room, and the fifth will be a combination of office and restrooms. They will be a tenant leasing the area from the church not an affiliate of the church. There will be no sporting events held on the premise other than regular PE activities. A five foot fence will be put along Allen Drive to help secure the school area from Allen Drive.

In response to Chair Heinitz, Mr. Morimoto stated that the fence would start at the north end and come down to the parking lot area. The applicant hasn't indicated what style of fence they plan on putting up.

In response to Commissioner Cummins, Mr. Morimoto stated that the current parking is sufficient for the current church attendance but would fall short if the church was filled to capacity. There is parking available on the street but that is not used to meet required parking.

In response to Commissioner Moran, Mr. Morimoto stated that the traffic on Lodi Avenue would not be significantly affected but Allen Drive would get an increase of 130 vehicle trips per operating day. Paula Fernandez in the Public Works department didn't feel that the traffic in the intersection would be significant. Public Works did anticipate having to post for a school zone and the painting of crosswalks.

In response to Chair Heinitz, Mr. Morimoto stated that there is not a requirement for the amount of grass area that a school has to have. It would be possible to push the modulars back further onto the grass area to allow more parking if necessary.

In response to Vice Chair Kuehne, Mr. Morimoto stated that the traffic department didn't indicate that there was a problem given the amount of accidents.

In response to Commissioner Moran, Mr. Morimoto stated that the applicants have indicated that they will be moving the dumpsters so the flow of traffic in and out of parking lot would be more cohesive. Randy Hatch, Director, added that the final plans are not before the Planning Commission because the design process will go to SPARC if the Use Permit is approved.

Mr. Morimoto mentioned that the Community Development Department received three letters in protest of the project and they have been copied for the Commissioners. He also went through photos taken of the property and the surrounding areas.

In response to Commissioner White, Mr. Morimoto stated that there are seventy five students currently enrolled in the school.

Hearing Opened to the Public

- George Lepart, representative for Vineyard Christian Middle School, read a letter in support of the school from Pat Patrick, Chamber of Commerce. The church and LUSD have had a very good relationship. The School has made many improvements to the current site and plan to do the same to the project site. A chain link fence does not meet the standards for this school and has not been an option in the design process. Mr. Lepart shared some future design ideas shone on design boards.

In response to Commissioner Cummins, Mr. Lepart stated that there could only be a maximum of 84 total students which works out to be 28 students per grade.

In response to Vice Chair Kuehne, Mr. Lepart stated that the School meetings/Chapel will be held in one of the modular buildings and Vinewood Community Church has agreed to be their home sports complex. The student teacher ratio will not increase. He also stated that the flow of the drop off and pick up will be whatever it needs to be to work cooperatively with the surrounding neighborhood and staffs recommendations. The School start and stop times can be modified to work along with the times of St. Peters School.

In response to Chair Heinitz, Mr. Lepart stated that the modulars will be removed when the addition to the church is made.

In response to Commissioner Haugan, Mr. Lepart stated that the cost is not something that the school is worried about at this time. The results that are seen in the students that come from the school are what make it worth the effort. Previously used modulars are what will probably be used on the site, but regardless of what is used they will be made to be sightly and tidy.

Pastor Mike Abdollahzadeh, Senior Pastor of Lodi Avenue Baptist Church, came forward to express the support of the church officials and the congregation for this project.

In response to Chair Heinitz, Pastor Abdollahzadeh stated that he had approached some of the neighbors that were out walking and it was not well received. He also stated that some of the school board members also went in small groups around the neighborhood, but was not aware of the results of that outing.

Paula Peterson, 2224 Jackson Street, came forward to express her reluctants to have the school in her neighborhood because of the traffic issues. She and her husband walk everyday and see the way the parents drive. Her husband was hit by one of the "responsible" parents dropping off their child at St. Peters. The traffic is already bad and will be an issue. Mrs. Peterson also expressed her concern with the lack of area that the students have for physical education. She would also like to know where the students will be eating their lunches.

Linda Reichert, 2219 West Walnut Street, came forward to express her reluctance to have the school in the neighborhood because of the traffic and the lack of facilities for the students to eat their lunch and have some recreation area. The grass area along the fence is currently used by the cats in the neighborhood for hunting and for a sandbox. It is not sanitary for children. It is also an ankle breaker with all the pot holes that are there. Her other concerns are regarding landscaping, the type of fencing and the entire look of the area after the modulars are placed on the property. Chair Heinitz reassured her that this would not be the final step in the process for the school. They will still have to go before the SPARC Committee for a site plan review. She would also like everyone to keep in mind that this school is not a neighborhood school in so far as the students attending the school are not from the neighborhood which means that all the students will have to be driven to and from the school.

In response to Vice Chair Kuehne, Mr. Lepart stated that the lunch area will be outside in good weather and in the portables when the weather is poor.

Public Portion of Hearing Closed

- In response to Commissioner Haugan, Mr. Hatch stated that the Public Works Department has taken into account the information regarding the traffic that already exists. He also stated that there will be 47 parking spaces left for cars after the modulars have been put into place and that there will be space available for picking up the children during bad weather.

Commissioner Cummins stated that all schools have traffic issues. The school is a positive move toward meeting our infill needs. He is also comfortable with SPARC handling the aesthetics of the project.

MOTION:

Commissioner Cummins motioned, Heinitz second for the purpose of discussion only to approve the request for approval of a Use Permit to allow Vineyard Christian Middle School to operate a private 6th -8th grade school on the property (including the placement of portable buildings) at 2301 West Lodi Avenue.

Discussion on the motion:

Chair Heinitz stated that he is a big supporter of the people coming out and stating their opinion. He has a big concern with the traffic issue because like Mrs. Reichert said this is not a neighborhood school and that will mean up to an additional seventy-five cars twice a day on that street.

Motion never went to vote.

MOTION:

Vice Chair Kuehne motioned, Cummins second to add an amendment to the original wording to modify condition, Item K with a start time of 8:30 a.m. to a finish time of 3:05 p.m.

Under discussion on the motion:

Commissioner Haugan would like to see the project happen but would like to see the request continued with additional work by staff to see if something can be done with the traffic issue to help gain the support of the people that live there, but as the motion stands now he would have to vote no.

In response to Commissioner Cummins, Mr. Hatch stated that the Public Works Department determined that the increase in traffic would not be significant over and above the current pattern. Staff can go back and request further information if that is helpful to satisfy everybody's concerns. Mr. Hatch also stated that the intersection does not warrant a traffic light.

Commissioner Moran would have to vote no at this point. She would like more information from Public Works regarding the traffic issue.

The motion failed by the following vote:

Ayes: Commissioners – Kuehne and Cummins
Noes: Commissioners – Haugan, Moran, White, and Chair Heinitz
Abstain: Commissioners – None

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Haugan, Kuehne second, to continue the Item to the meeting of February 22, 2006.

Ayes: Commissioners – Cummins, Haugan, Kuehne, Moran, White, and Chair Heinitz
Noes: Commissioners – None
Abstain: Commissioners – None

The motion to continue carried.

b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Heinitz called for the public hearing to consider The request for approval of a Tentative Parcel Map to allow an existing office building to be divided into a six-unit office condominium at 1745 West Kettleman Lane. (File#: 05-P-009, Applicant: Western Professional Buildings)
CEQA Status: Exempt Resolution #: P.C. 06-06

David Morimoto, Senior Planner, reported that this item had a related item before the Planning Commission last year when the lot was created. A six unit office building has been constructed and the offices were designed to be six separate units with separate entries under one single owner. The idea now is to create six separate office condominiums with six separate owners with an association to manage the property (e.g., landscaping, repairs, etc.). The parcel would be owned in common by all the owners of the condos. The property is surrounded by other offices and single-family residents.

In response to Chair Heinitz, Mr. Morimoto stated that the offices were constructed with a potential property line wall. The building code does not treat this type of condo the same

as a residential condo. The Buyers will have to go through the Department of Real Estate for CC&R's.

In response to Commissioner Haugan, Mr. Morimoto stated that the CC&R's would cover the agreement of who takes care of the grounds. Randy Hatch, Community Development Director, stated that there is a condition in the resolution (section 4) that gives City staff the opportunity to review and modify the CC&R's if necessary to insure property maintenance.

Hearing Opened to the Public

- Brian Gorbet, Dillon and Murphy Engineers, came forward to answer questions and stated that he concurred with Staffs findings.

Public Portion of Hearing Closed

- No Commission Discussion

MOTION / VOTE:

The Planning Commission, motion of Commissioner Haugan, Moran second, to approve the request for approval of a Tentative Parcel Map to allow an existing office building to be divided into a six-unit office condominium at 1745 West Kettleman Lane. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Haugan, Kuehne, Moran, White, and Chair Heinitz
Noes: Commissioners – None
Abstain: Commissioners – None

4. PLANNING MATTERS

A new section that will be appearing from time to time will be "Planning Matters" it will consist of articles and information that might be of interest.

Mr. Hatch reported on current larger planning projects. There has been forward movement in the Frontiers EIR, a draft is expected in March. The Blue Shield/Reynolds Ranch NOP is out for comment and in another month or so we will have an EIR for that.

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Next week council will hold the Miller Ranch Public Hearing.
Mayor Pro Tempore Johnson asked to re-visit the Council authorization to get proposals to hire a consultant regarding the greenbelt issue.

7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

8. UPDATE ON COMMUNITY SEPARATOR/GREENBELT TASK FORCE

None

9. ART IN PUBLIC PLACES

None

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Commissioner Haugan asked if the Commission should have a CEQA desk book. Mr. Hatch responded that there are many books and manuals available but the best place for the Commissioners to get information is at the Monterey Conference.

Janice Magdich invited the Commissioners to participate in the Centennial Cookbook that the City is putting together.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:45 p.m.

ATTEST:

Randy Hatch
Community Development Director

LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, FEBRUARY 22, 2006

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of February 22, 2006, was called to order by Chair Heinitz at 7:00 p.m.

Present: Planning Commissioners – Cummins, Haugan, Kiser, Kuehne, Moran, White, and Chair Heinitz

Absent: Planning Commissioners – None

Also Present: Community Development Director Randy Hatch, Senior Planner David Morimoto, Deputy City Attorney Janice Magdich, City Engineer Wally Sandelin, and Administrative Secretary Kari Chadwick

Introduction of the new Planning Commissioner Wendel Kiser

2. MINUTES

a) None

3. PUBLIC HEARINGS

a) Pursuant to action taken by the Planning Commission on February 8, 2006 to continue the Public Hearing to February 22, 2006, Chair Heinitz re-opened the public hearing to consider the request for approval of a Use Permit to allow Vineyard Christian Middle School to operate a private 6th -8th grade school on the property (including the placement of portable buildings) at 2301 West Lodi Avenue. (File#: U-05-020, Applicant: Lodi Avenue Baptist Church) CEQA Status: Exempt Resolution #: P.C. 06-05.

David Morimoto reported that at the previous meeting on February 8, 2006 some of the neighbors brought to staffs attention some of their concerns. There were three major issues consisting of traffic problems, the possibility of littering, and the look of the property with portables and screening. The traffic increase on Allen Drive will be approximately 130 trips per day. The last traffic count on Allen Drive was approximately 761 vehicle trips per day and staff feels that the street can handle the additional traffic because the capacity of the street is roughly 2000 vehicle trips per day. The neighbors would most likely notice the additional traffic on Allen Drive but that increase would not rise to a significant level, a level beyond the roads design capacity. Staff came up with two new alternatives for the traffic flow to help minimize the adverse affect to the neighborhood which are shown in exhibit A and B (see attached), in the packet. The driveways not in use would be blocked off.

In response to Chair Heinitz, Wally Sandlin, City Engineer, stated that adding a condition of putting up no parking signs on Allen Drive could be a possibility. It would be subject to the review of both the Police Department and the City Council.

In response to Chair Heinitz, Mr. Morimoto stated that the supplemental conditions following the proposed Resolution are alternatives for the Commissioners to choose from. He also stated that taking a driveway down the entire length of the property was an idea that was looked at but a good deal of the grass area would have to be taken up.

David Morimoto also reported that the Vineyard Christian Middle School (VCMS) would be willing to acknowledge St. Peters by staggering the drop off and pick up times and they have already talked with the St. Peters Principal. VCMS are also going to have an

adult traffic monitor at both times. The school officials are going to create a handout of how to drop off and pick up their students to pass out to all the parents.

In response to Commissioner Moran, Mr. Sandlin stated that there has been one accident reported at the corner of Allen Drive and Lodi Avenue in the last four years. It involved two vehicles traveling east bound on Lodi Avenue. Mr. Morimoto added that the incident in which the gentleman was hit happened over in front of St. Peters.

In response to Vice Chair Kuehne, Mr. Morimoto stated that Staff felt exhibit A spread out the traffic the best.

Hearing Re-Opened to the Public

- George Lepart, Vineyard Christian Middle School, came forward to thank the staff and honored the neighbors for all of their respect shown at the Hearing. The VCMS Board went out and observed the area during the high traffic times for five consecutive days and created a chart to show the flow of traffic for both the north and south bound directions on Allen Drive. The information gathered was the same as what the City had reported previously. It was never the intent to stage the drop offs or pick ups on Allen Drive. The adult monitor has already been put in place at the current site and will continue at the new one. The School is more than willing to stager times to help alleviate the traffic issue. A chain link fence was never an option of the School. VCMS intends to put something up that will be indicative of the neighborhood and of the Church. A liaison is being established to interface with the neighborhood during this time and throughout the entire process of getting this project up and running.

Dean Ruiz, 1118 Chateau Court with Hakeem, Ellis & Marengo, stated that the staff report indicates that staff feels this is an opportunity for infill. The applicant has gone above and beyond to be accommodating and has indicated that they are willing to work with the neighborhood. The School is looking forward to working with SPARC so that an aethically pleasing plan for both the school and the neighborhood can be established. There has been no history indicating that noise or littering will be a problem with this project.

Pat Patrick, 2848 Applewood Drive, came forward to support the project. He stated that he is looking at the project from three different angles, one from a leadership position in the community, two from a consumer of the educational product that the school produces and third as a Dad. He supports the application because this type of school is good for creating good citizens for our community. Having an up-close and personal view of the quality of this organization, he sees no economic reason for the property values to go down in the neighborhood. As a dad, the school has been a very positive experience for he and his family.

David Johnson, 2200 Jackson Street, came forward to oppose the project. He and his wife live about a half a block from the project site. They shopped around before they bought the house. They bought there because they liked how quite the street was. They had to pay top dollar for the house because of the location. They paid it because they wanted a quite, low traffic area for their kids play in the yard.

Paula Peterson, 2224 Jackson Street, came forward to oppose the project. She and the neighbors have been canvassing the neighborhood and the feeling is the same. She feels that people will pick the path of least resistance and when the traffic can't get across Lodi Avenue people will start using the neighborhood streets to get to an from the school. Mrs. Peterson handed in a map depicting the neighborhood which showed the

homes that are for and against the project. She stated that she and her husband bought in the neighborhood for the quite and would like to keep it that way. There have been two car accidents that have ended up in the Pastor's yard and a car that recently came across Lodi Avenue, part of the Church property and ended up in her neighbor's yard. There are traffic accidents, it is a hectic corner.

Paul Taormina, 2225 Jackson Street, came forward to oppose the project. The area is already noisy with the garbage lid slamming. Pastor Mike Abdollahzadeh has been asked to address this already and nothing has been done. People litter by throwing beer cans and bottles in the area. Then there will be the added noise from dogs being walked and barking at the added commotion. We just don't want this school across the street from us.

Bob Peterson, 2224 Jackson Street, came forward to oppose the project. At the last meeting Pastor Mike came forward to talk about his enlightenment in regards to this project and how he approached two of the neighbors and after telling them about the project he was shocked and dismayed at their negativity toward the project. What Pastor Mike forgot to mention was that he told them that the project would not go forward without neighborhood support. While canvassing the neighborhood, we found that there was only one household that had attended Lodi Avenue Baptist Church actually living in the neighborhood. Pastor Mike's daughter is the only student that we know of that actually lives in the neighborhood that will be attending the school, all the other students will have to be driven in from other areas. A neighborhood should have the right to shape its own destiny.

Dean Walker, 2207 Capell, came forward to oppose the project. The site has only 60 parking spaces and some of those will have to go to make room for the portables. The site has no room to grow and churches and schools want to thrive and grow. Lodi Avenue will have a lot of extra traffic and left hand turns off Allen Drive will cause more problems than have been addressed. The buildings will be portables and will be unsightly for the neighborhood. He was disappointed with the lack of notification to all of the property owners that will be affected.

Linda Engrav-Clarke, 2101 Jackson Street, came forward to support the project. She signed the petition that was passed around and after signing the petition read the letter that came with it and had regrets. She tried to take her name off of it but was unable to get a hold of Mrs. Peterson. The letter gives the impression that all children are noisy and that all portables are ugly and that isn't the case. The letter also referred to speeding which is already a problem, but she felt that if this tight nit neighborhood felt speeding was such a problem she would have had a petition presented to her regarding that issue. She questions the intent of the petition and feels that the Church and School are trying to accommodate the needs and wishes regarding the concerns that the neighborhood has brought forward.

Kevin Stevens, 1408 Graffigna Avenue, came forward in support of the project. He is a parent of two children that have been involved with the school since it's inception. The parents and students have stepped up and shown that they do care about the neighborhood that their school is in by the actions shown at the Woodbridge Middle School site. The improvements made there were made by them. The students are taught honor and respect and it shows in both the look and attitude of the school. He coaches a soccer team at the Henry Glaves Park and during that season the traffic and noise far exceed the expectation of the schools traffic. He would like to be able to live in

this neighborhood and wouldn't mind living across the street from this school because of the people that will be there.

Mary Colbert, 2133 Jackson Street, came forward to oppose the project. She has lived in the neighborhood for a long time and has made the decision to stay. She is concerned about the traffic filtering down Jackson Street. She is very concerned with what will happen down the road as staff changes with the school. She then drew correlations with a public school in the Bay Area and the problems that her daughter has had with the students and the lack of respect shown by them to her daughters property. She can hear the soccer games and the pool in the summer time because she is outside more. She and her husband looked at several homes before buying on Jackson Street and avoided a home on Virginia Street because of it's proximity to Vinewood School.

Scott Gaston, 2307 Aladdin Way, came forward to support the project. He lives one block in from Glaves Park and has a child going to the Vineyard Christian Middle School. He doesn't feel traffic will be a problem. Everyone bought in the neighborhood with the church already there and given the property size should have expected the church to try and grow. The quality of the staff and parents that are involved with the school are top notch and he is very glad to have his daughter become a recent addition to the student body. He was not approached with a petition against the school but if he had been he would not have signed it.

Myrna Pitchford, 1525 West Elm Street, came forward to support the project. The differences between a public and private school are like black and white. The kids will be more of a help in the area than a problem because of what they are taught. Everything changes and there are so many other things that could go into this area that could be worse for the neighborhood.

Chris Johnson, 2200 Jackson Street, came forward to oppose the project. She went to a Christian School and kids are kids and will be loud. She bought the house because of the quite and the traffic will take that away. She understands that the parents that are taking their children to this school want to have an environment where they can instill the proper values in them and hopes they can find a site where they can do that and are able to grow as well. Trash even with the best intentions will inevitable find it's way into the surrounding neighborhood.

Michele Borges, 2124 Jackson Street, came forward to oppose the project. She has children that go to a private school and parents are people and will get in a hurry and will not always follow the rules. She is concerned with the children playing in the yard and just getting out of the neighborhood to take her kids to school, which is already a problem. She stated that the student body size where her child goes is 200+.

Alyssa Oliver, 707 South Church Street, came forward to support the project. She feels the residents have a fear of the unknown. VCMS is not a public school. The top attendance of the School is 87 students. There are no plans for growth. She as a founding board member stated that if the school is going to grow it will look for a new site. Trash is an issue for the school also and past practice will show that there will be a positive change. The only noise will be daytime noise during PE, recesses and at lunch time. The public schools in the area release between 2:15 and 2:30 p.m. and VCMS releases at 3:00 p.m. leaving a significant gap to help alleviate the traffic issues. It is unfair to compare a K-8 public school to a 6-8 Christian school. This will be a positive place in the neighborhood.

In the response to Chair Heinitz, Mr. Hatch stated that the school will be limited to exactly what they are asking for which is 75 students and if they wish to increase it they must come back with an amendment to the Use Permit.

Nicholas Bettencourt, 2114 Jackson Street, came forward to oppose the project. This is not a character issue it's a safety issue for our kids. We bought in the neighborhood without a school and that is what we want. It isn't fair to have this school going in down the street from where we live; this is being force feed down our throats.

Linda Engrav-Clark, 2101 Jackson Street, came forward a second time in support of the project. She bought the home in 1993 and knows that change happens. The people that bought in the area knew the church was there and could see the potential of growth.

George Lepart, Vineyard Christian Middle School, came forward to answer some of the statements made by the neighborhood. He also wanted to clarify that there are currently 75 students enrolled in the school and the maximum would be 84 which is 28 students per grade.

Chair Heinitz stated that the Commission and Staff are trying their very best to find a solution that will satisfy everyone's needs.

Public Portion of Hearing Closed

- Chair Heinitz asked to have the map brought back up again so he could see where the church's entrances and exits lined up with Jackson or Walnut Streets and received clarification of which entrances and exits would be used for drop offs and pick ups.

In response to Commissioner Moran, Mr. Hatch stated that if there is an expansion of the church then they would have to come back and get an amendment for the church or the school. If there were any new construction it would be brought back to the Commission.

In response to Commissioner Haugan, Mr. Hatch stated that the document was prepared for 75 students but the Commission can change it tonight to the mentioned 84. There are no set rules regarding the number of students per class from the City's point of view. The number of students per modular will come to staffs attention when the building department gets the application for the building permit.

OPEN TO APPLICANT FOR CLARIFICATION:

In the response to Vice Chair Kuehne, Mr. Lepart stated that the maximum number of students will be 28 per grade which is one sixth grade, one seventh grade, and one eighth grade class. The fourth modular will be for multi-purpose use.

CLOSED TO APPLICANT

Commissioner Haugan and Chair Heinitz both stated that it does make a difference how many students are allowed now and it should be clarified in the resolution tonight.

In response to Commissioner Kiser, Mr. Hatch stated that the supplemental conditions and traffic options should address the traffic issue. Conditions can be added to hold the school responsible for the way their students arrive and leave based on the chosen

conditions. It would be difficult to enforce, but the school can be held responsible if the actions are not adhered to.

Vice Chair Kuehne noted that the people were split on the issue. He also went to St. Peters and talked with the principal about the complaints that were filed and found that they were usually on the days that a school function occurred outside of school hours. He also said that he could not remember any accidents occurring around the school. The traffic flow seemed to flow well in the Allen Street and Lodi Avenue area.

MOTION / VOTE:

The Planning Commission, motion of Vice Chair Kuehne, Cummins second, to approve the amendment of section G at the 8th whereas to read that the total student population be 84 students and would reflect the appropriate dollar change.

In response to Commissioner Haugan, Mr. Hatch stated that amendments can be made and voted on before the main motion.

Commissioner Cummins commented that churches house schools all over the City and it has been a common practice for many years. He is in support of this project.

The motion carried by the following vote:

Ayes: Commissioners – Cummins, Haugan, Kiser, Kuehne, Moran, White, and Chair Heinitz

Noes: Commissioners – None
Abstain: Commissioners – None

MOTION / VOTE:

The Planning Commission, motion of Haugan, Kuehne second, to approve the amendment of Item J to include that the Vineyard Christian Middle School shall install additional features along Allen Drive to screen the school from the street. These features can include new fencing, shrubs, trees and any other items deemed appropriate by SPARC. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Haugan, Kiser, Kuehne, Moran, White, and Chair Heinitz
Noes: Commissioners – None
Abstain: Commissioners – None

In response to Commissioner Kiser, Mr. Hatch stated that the applicant must go to SPARC and the issue of the look and age of the portables can be handled there.

MOTION / VOTE:

The Planning Commission, motion of Kuehne, Cummins second, to approve the supplemental conditions numbers 1, 3, 4, 5, & 7 as provided. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Haugan, Kiser, Kuehne, Moran, White and Chair Heinitz
Noes: Commissioners – None
Abstain: Commissioners – None

MOTION / VOTE:

The Planning Commission, motion of Commissioner Cummins, Kuehne second, to approve the request for approval of a Use Permit to allow Vineyard Christian Middle School to operate a private 6th -8th grade school on the property (including the placement of portable buildings) at 2301 West Lodi Avenue subject to the conditions of the attached resolution as well as the additions of the supplemental conditions numbered 1, 3, 4, 5, & 7 as well as the amended Item G and Item J blended with supplemental condition number 6.

Commissioner Moran stated her opposition to items 5 and 6 of the resolution because she has not seen anything to show that the traffic will not have an adverse effect on the neighborhood. She also has an issue with the lack of parking spaces should the church decide to take on a variety of activities over and above the regular church services. She can not support this project.

Commissioner Haugan stated that he has been to the site and has not seen anything to show that the traffic will be an issue. He believes that this is a good use for the property. He would also like to see the trash set behind a screen and recycling bins used. He supports this project.

Chair Heinitz went out and looked to see how Zion Middle School cues their parents in for drop offs and pick ups and they are very diligent about taking their traffic completely off of Ham Lane and everything is done in their parking lot. They do have a bigger parking lot than this project, but he had no doubt that the Vineyard School will be just as diligent about getting the cars off of the street. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Haugan, Kuehne, and Chair Heinitz
Noes: Commissioners – Kiser, Moran, and White
Abstain: Commissioners – None

4. PLANNING MATTERS

Staff received the proposals for the General Plan and the draft of the Zoning Ordinance.

Janice Magdich went over the policy passed by council, regarding outside of meeting communication; just letting everyone know if there has been any communication with anyone that directly relates to the issue at hand outside of this forum.

In response to Chair Heinitz, Ms. Magdich stated that it is always a good idea when obvious opposition is present to mention the appeal process.

In response to Commissioner Moran, Ms. Magdich stated that the disclosure of outside communication should come before starting the deliberation portion of the Public Hearing.

In response to Commissioner Cummins, Mr. Hatch stated that staff gives Commissioners all the City's rules and regulations (the facts), it is the Commissions job to interpret for the public in regards to the intangibles.(ie. Aesthetics)

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Randy Hatch reported that the Miller Ranch project received the approvals from Council. There were two conditions added to collect for any additional fees incurred by the outside consultant and extra planning time for additional review.

7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

8. UPDATE ON COMMUNITY SEPARATOR/GREENBELT TASK FORCE

None

9. ART IN PUBLIC PLACES

None

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

In response to Chair Heinitz, Mr. Hatch stated that the Blue Shield/Reynolds Ranch Project does have to go through a process starting with the Planning Commission. The City Council authorized staff to hire an outside consultant to try to sheppard it through as fast as it can get done. The site is in the General Plan as a planned residential reserve.

In response to Commissioner Moran, Peter Pirnejad, Planning Manager, stated that the scoping meeting for the Blue Shield/Reynolds Ranch EIR was last week and a presentation before the Planning Commission is scheduled for when the draft EIR has been prepared. The NOP runs through March 7, 2006.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 9:40 p.m.

ATTEST:

Randy Hatch
Community Development Director

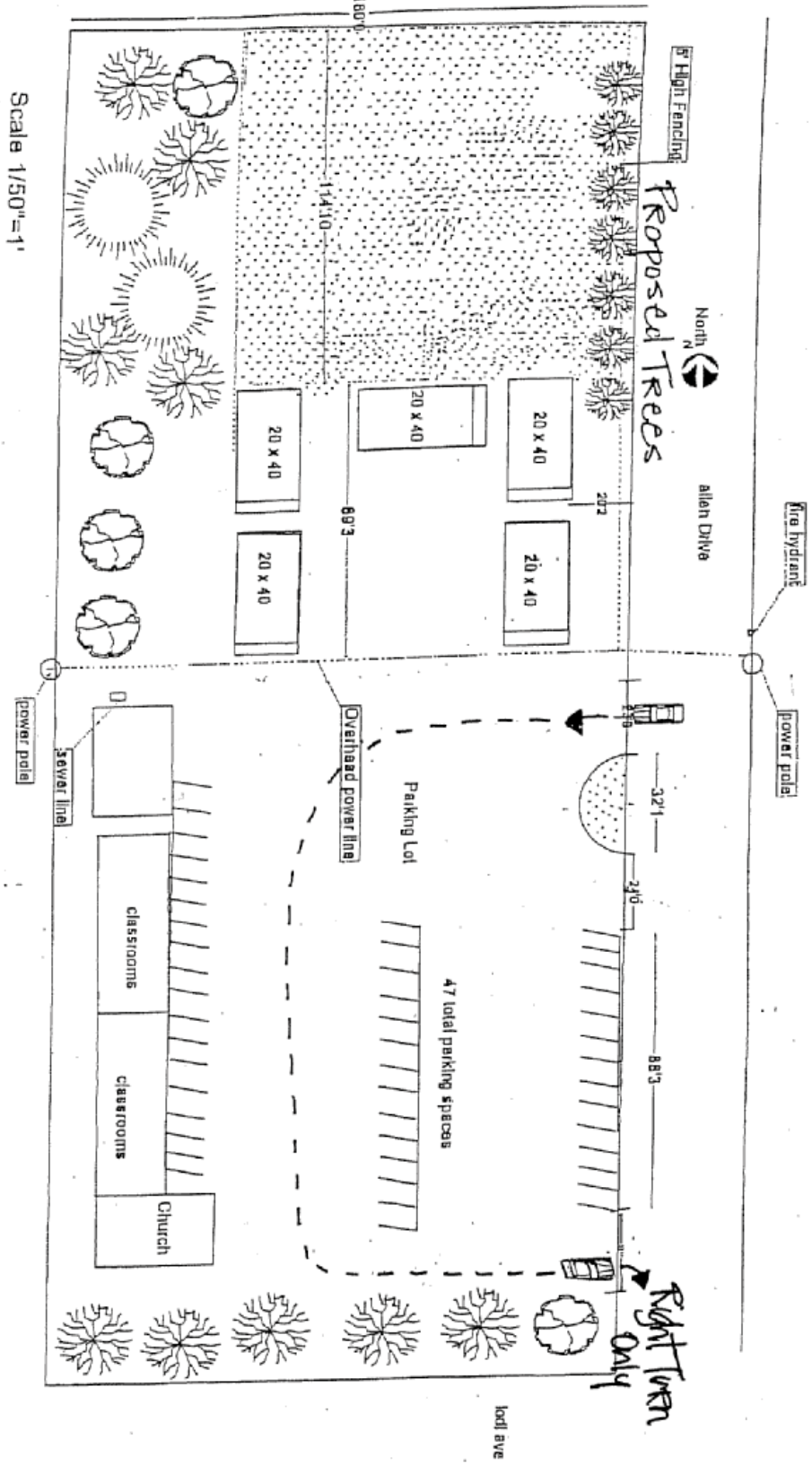


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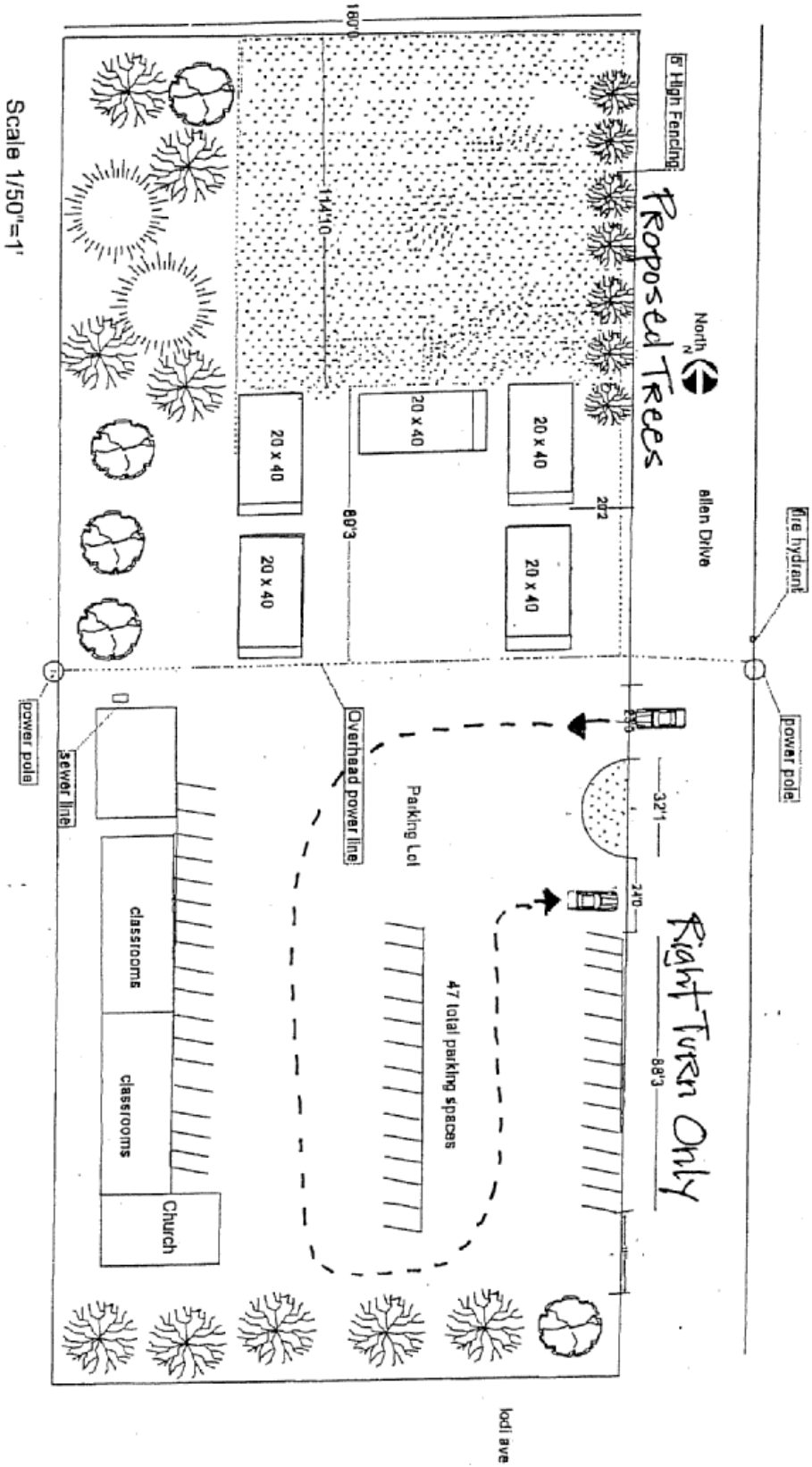
Exhibit A



Scale 1/50"=1'

Exhibit B

RECEIVED
FEB 0 1 2006
COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

January 30, 2006

City of Lodi Planning Commission
Community Development Director
P.O. Box 3006
Lodi, California
95241-1910

Chairman, Members of Lodi Planning Commission:

Reference is made to the pending public hearing to consider a Use Permit to allow the Vineyard Middle School to locate at the Lodi Avenue Baptist Church. I apologize that due to other conflicts we will not be able to attend the February 8, 2006 hearing to consider this item. However, we want to register our objection to this Use Permit being approved. While we have always enjoyed the Lodi Avenue Baptist Church as our neighbors, the location of a school on their property is wrong for several reasons.

First, placing the school in this location will no doubt require the location of more portable buildings on the property. As you have no doubt noticed during your on-site review of the property, it is not very deep which will mean the portables will be located in full view of residences in the area, not very pleasing aesthetically to say the least.

Secondly, there is the matter of increased traffic in the neighborhood. Assuming the enrollment is only 75 people, that's150 extra vehicles in the neighborhood each day. We have lived in our house for 36 years and bought here originally because of the quiet neighborhood.

Thirdly, there is the issue of increased noise from the students attending the school. We're certainly not opposed to the students, but we bought next to a church, not a school. Lastly, there is the matter of increased trash that all schools seem to generate. Prevailing winds will bring it directly into our yard.

Having said the above, I question the decision to consider this request without requiring that an Environmental Impact Report be prepared to address the above issues, as well as those not mentioned. As a former Lodi Planning Commissioner I would not have considered this request without an EIR addressing all of the potential adverse impacts of the project to the community. How can you consider this permit as Exempt?

I would hope that you will consider very carefully what you are being asked to approve, consider what it will do to the local community, put yourself in our position and vote **No**.

Thank-You for hearing our concerns,

Sincerely,

W. John Schmidt
2216 W. Walnut St.
Lodi, Ca. 95242

Sandra M Schmidt
2216 W. Walnut St.
Lodi, Ca. 95242

February 2, 2006

RECEIVED
FEB 0 3 2006
COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

Randy Hatch
Community Development Director
City of Lodi Planning Commission
P.O. Box 3006
Lodi, CA 95241-1910

To: Director, Members of Lodi Planning Commission

Re: RESOLUTION #: P.C. 06-05
We are expressing our opposition to the approval of a Use Permit, Vineyard Christian Middle School to locate on the property at 2301 West Lodi Ave.

Due to prior commitments, we are unable to attend the meeting on February 8, 2006.

We have lived at 2225 West Walnut Street (north-east corner of Walnut and Allen), which is across the street from the proposed school site, for 34 years. We have never had any problems with Lodi Avenue Baptist Church; however, to establish a school in this mostly residential area will present some problems.

1. More portable buildings on this property. It does not appear to be large enough to accommodate them and they would not present a good appearance in this residential area.

2. More noise will certainly surround us with the increase of cars and students. There may be even more trash for us to pick up as we try to keep our streets free of litter, which many of us do. We knew the church was here when we moved to our home, but never thought we would be living by a school. We certainly approve of students in a clean and good environment, but there must be a better local location for them.

3. The traffic in this area, on a two-lane street, will increase immensely, with the dropping off and picking up of students. We really wonder for the safety of the children. In times past we have had cars try to make the curve by our close park as fast as they can; even having them crash into neighbors yards and trees, and speeding so fast their cars have turned around in the middle of the street. How safe will it be?

4. Before you allow your approval of P.C. 06-05, please think of us living so close and crowded with traffic, and how a school located so near will affect us.

Please vote NO. We respect your careful consideration.

Sincerely,

O. Carlton Martin Edna L. Martin

O. Carlton Martin and Edna L. Martin
2225 W. Walnut St.
Lodi, CA 95242-3238

February 5, 2006

RECEIVED
FEB 07 2006
COMMUNITY DEVELOPMENT DEPT
CITY OF LODI

Randy Hatch
Community Development Director
P.O. Box 3006
Lodi, CA 95241-1910

RE: File # U-05-020 Lodi Avenue Baptist Church requesting a Use Permit to allow Vineyard Christian Middle School to locate a private school on the property at 2301 W. Lodi Ave.

We are **AGAINST** the approval of this Use Permit.

We have resided at 2225 Jackson Street (N.E. corner of Jackson and Allen) for nearly 17 years. The proposed area for the school is directly across from our bedroom window (on Allen Drive side). Obviously, when we bought our house the church was there, but we never anticipated a school being there too. If we had wanted to live across from a school, we would have bought a house across from a school. A while back, the church put a mobile home on the site that was only supposed to be temporary, however it remains there today.

As we understand it, they will move portable buildings to the site. This is mostly a residential neighborhood and we feel that the appearance of these portables will be degrading to the neighborhood. Let us mention again, that these will be located across from our bedroom window. We will not welcome the noise of cars, car doors slamming, loud talking of students, heating and air conditioning units on the portables and other noises that are associated with schools. Imagine this happening to you.

Allen Drive is a two-lane street. We all ready have a traffic problem. Speeding is the biggest problem. There is a private school located at Elm and Oxford and a lot of the parents that drop off their children drive up Oxford which loops around and becomes Allen Drive. Several times there have been crashes onto yards and into trees because of speeding.

Litter is also a concern. For several years, again across from our bedroom window, on the church property there has been a newspaper recycle bin and a trash dumpster. People have dumped at all hours - day and night. Even with these dumpsters, we are cleaning up litter that has blown into our yard from across the street. Obviously, the dumpsters will be relocated, but we will still have the potential of more trash and litter in the area.

We're sure that there are other locations more suitable for their school. We do not feel that our neighborhood is. We urge you to please vote **NO.** Thank you for your consideration.

Paul Taormina & Dana Ashbaugh
2225 Jackson Street
Lodi, CA 95242
(209) 333-1800

LODI CHAMBER OF COMMERCE

February 7, 2006

Lodi Planning Commission
City Hall, City of Lodi

Dear Commissioners,

I'm out of town an unable to speak personally before you tonight. Therefore I want to speak through this letter on behalf of the relocation of Vineyard Christian School.

Vineyard is a distinguished organization; Vineyard strives for the combination of educational excellence and the spiritual preparation of young people. Vineyard is all about preparing young people to be successful in life. From what I know, there is no middle-school educational experience better than Vineyard. It is important to have such an institution as it "raises the bar" of educational standards for other schools here in Lodi.

The faculty and board of directors at Vineyard are some of the most professional, caring and dedicated people in Lodi. The project as I understand it, places the school on the property of Lodi Avenue Baptist Church, just off Lodi Avenue. This combination is a winner for students and the city alike as it promotes cohesiveness and is positive for both organizations.

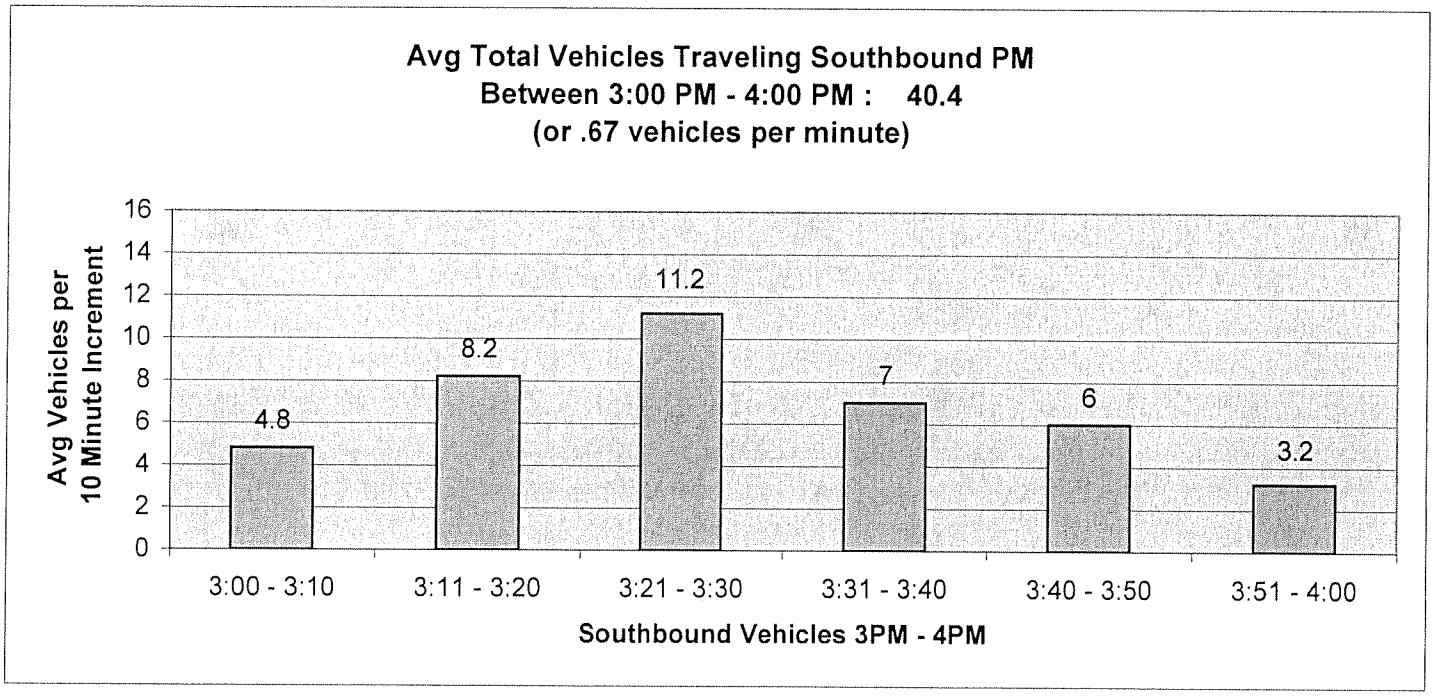
I wholeheartedly support this project and ask you to do the same tonight.

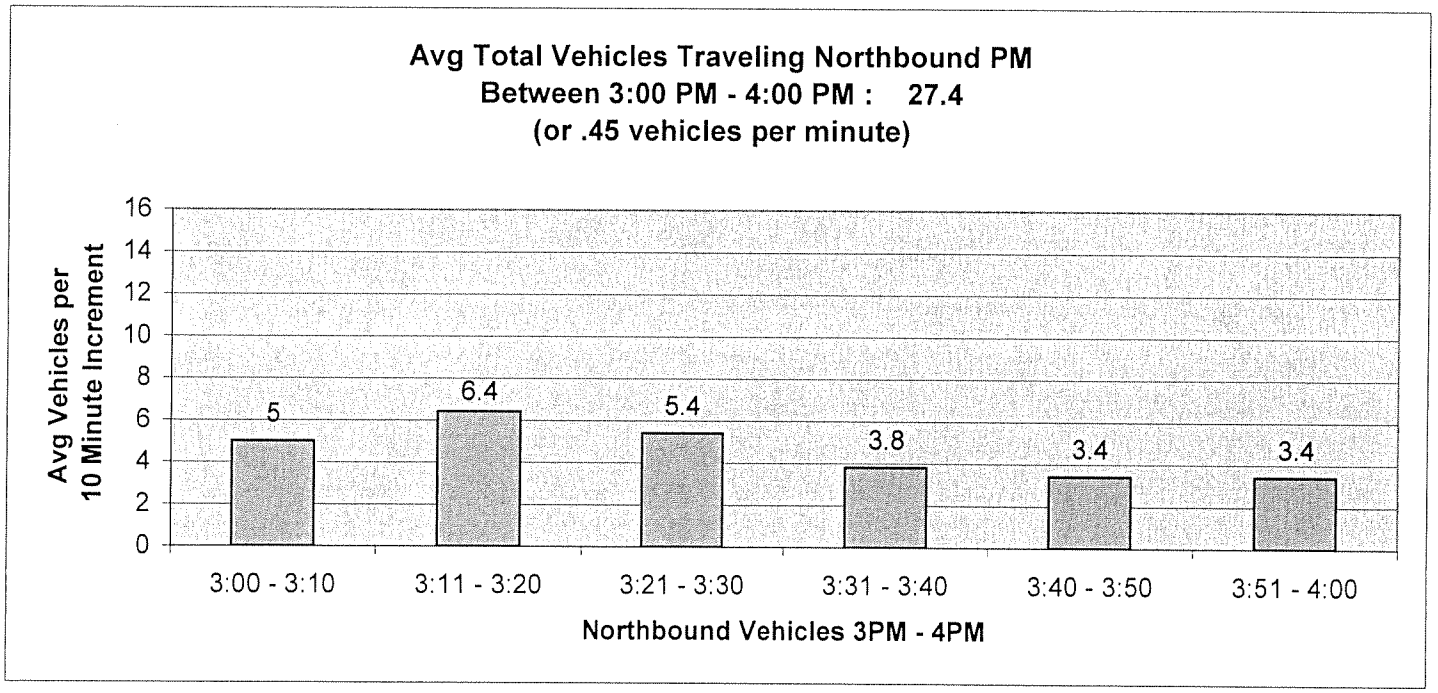
Sincerely,

Pat Patrick
President / CEO
Lodi Chamber of Commerce

Prepared by Applicant

Study Period February 10 - February 16, 2006





February 10th, 2006

8:00AM - 9:00AM

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6	Yes	8:13 AM	1		8:24 AM	2
7		8:14 AM	2		8:38 AM	1
8	Yes	8:15 AM	2		8:42 AM	1
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3:00PM - 4:00PM

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18		3:23 PM	2	Yes	3:29 PM	1
19		3:24 PM	2		3:30 PM	1
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February 13th, 2006

8:00AM - 9:00AM

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56	Yes	8:57 AM	1			
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3:00PM - 4:00PM

#	NEIGHB	TIME	# IN CAR	NEIGHB	TIME	# IN CAR
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7	Yes	3:12 PM	1		3:15 PM	1
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20		3:24 PM	2		3:37 PM	2
21		3:25 PM	2		3:42 PM	3
22		3:25 PM	2		3:42 PM	1
23		3:25 PM	3		3:45 PM	1
24		3:26 PM	1	Yes	3:50 PM	1
25		3:27 PM	1		3:52 PM	1
26		3:27 PM	1		3:52 PM	1
27		3:29 PM	2		3:55 PM	1
28		3:31 PM	1		3:59 PM	2
29		3:33 PM	1			
30		3:33 PM	1			
31	Yes	3:33 PM	2			
32		3:34 PM	1			
33		3:34 PM	1			
34		3:34 PM	2			
35		3:35 PM	1			
36		3:36 PM	3			
37	Yes	3:38 PM	1			
38	Yes	3:40 PM	2			
39		3:41 PM	1			
40	Yes	3:42 PM	1			
41		3:43 PM	2			
42		3:44 PM	1			
43		3:44 PM	2			
44		3:48 PM	1			
45	Yes	3:48 PM	2			
46		3:56 PM	1			
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February 14th, 2006

8:00AM - 9:00AM

#	Southbound to LODI AVE. NEIGHB	TIME	# IN CAR	Northbound from LODI AVE. NEIGHB	TIME	# IN CAR
1	Yes	8:00 AM	1	Yes	8:00 AM	1
2		8:01 AM	1	Yes	8:00 AM	1
3		8:02 AM	1	Yes	8:03 AM	1
4		8:03 AM	1	Yes	8:07 AM	2
5	Yes	8:03 AM	1	Yes	8:10 AM	1
6		8:04 AM	1		8:12 AM	1
7		8:05 AM	1		8:14 AM	2
8		8:05 AM	1	Yes	8:15 AM	2
9		8:06 AM	1		8:16 AM	2
10		8:06 AM	1		8:19 AM	1
11		8:07 AM	1		8:20 AM	1
12		8:08 AM	1		8:20 AM	1
13		8:10 AM	1	Yes	8:21 AM	1
14		8:11 AM	1	Yes	8:28 AM	1
15		8:11 AM	1		8:28 AM	1
16		8:13 AM	1		8:30 AM	1
17		8:14 AM	2	Yes	8:31 AM	1
18		8:15 AM	1		8:32 AM	1
19		8:15 AM	1	Yes	8:34 AM	1
20		8:15 AM	1	Yes	8:43 AM	1
21		8:16 AM	1	Yes	8:44 AM	1
22		8:16 AM	1	Yes	8:46 AM	1
23		8:17 AM	1	Yes	8:52 AM	1
24	Yes	8:18 AM	1		8:55 AM	1
25		8:18 AM	1		8:56 AM	1
26		8:21 AM	1			
27		8:21 AM	2			
28		8:21 AM	1			
29	Yes	8:23 AM	2			
30		8:25 AM	1			
31		8:25 AM	1			
32		8:25 AM	2			
33		8:25 AM	1			
34		8:26 AM	1			
35		8:27 AM	1			
36		8:27 AM	1			
37	Yes	8:28 AM	1			
38	Yes	8:28 AM	1			
39		8:29 AM	1			
40		8:29 AM	1			
41		8:29 AM	1			
42		8:36 AM	1			
43		8:39 AM	1			
44		8:40 AM	2			
45	Yes	8:40 AM	1			
46		8:40 AM	1			
47		8:45 AM	1			
48		8:47 AM	2			
49	Yes	8:48 AM	1			
50		8:59 AM	1			
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3:00PM - 4:00PM

#	Southbound to LODI AVE. NEIGHB	TIME	# IN CAR	Northbound from LODI AVE. NEIGHB	TIME	# IN CAR
1		3:00 PM	1		3:00 PM	1
2		3:06 PM	1	Yes	3:06 PM	1
3		3:07 PM	1		3:06 PM	1
4		3:08 PM	1		3:09 PM	2
5		3:08 PM	3		3:10 PM	1
6	Yes	3:10 PM	1		3:12 PM	1
7		3:14 PM	1	Yes	3:14 PM	1
8		3:16 PM	2		3:15 PM	1
9		3:16 PM	4		3:15 PM	1
10		3:17 PM	5		3:15 PM	1
11		3:18 PM	3		3:16 PM	1
12		3:22 PM	2	Yes	3:19 PM	2
13		3:22 PM	1		3:21 PM	1
14		3:22 PM	2		3:21 PM	2
15		3:22 PM	4		3:22 PM	1
16		3:23 PM	4		3:23 PM	1
17		3:23 PM	3	Yes	3:29 PM	1
18		3:25 PM	1		3:29 PM	1
19		3:25 PM	2		3:34 PM	1
20		3:25 PM	1		3:36 PM	3
21		3:29 PM	1		3:38 PM	1
22		3:29 PM	1		3:38 PM	1
23		3:30 PM	1	Yes	3:42 PM	1
24		3:32 PM	2		3:46 PM	1
25		3:35 PM	1		3:46 PM	1
26		3:36 PM	1		3:47 PM	1
27		3:38 PM	1		3:51 PM	1
28		3:42 PM	1		3:54 PM	1
29		3:43 PM	1		3:59 PM	2
30		3:44 PM	2		3:59 PM	1
31		3:44 PM	1			
32		3:45 PM	1			
33		3:47 PM	2			
34		3:50 PM	1			
35		3:53 PM	2			
36	Yes	3:55 AM	1			
37		3:56 PM	1			
38	Yes	3:59 PM	1			
39		3:59 PM	1			
40						
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February 15th, 2006

8:00AM - 9:00AM

#	NEIGHB	TIME	# IN CAR		NEIGHB	TIME	# IN CAR
	Southbound to LODI AVE.				Northbound from LODI AVE.		
1		8:00 AM	1			8:01 AM	1
2		8:00 AM	1			8:03 AM	1
3		8:03 AM	1			8:06 AM	1
4		8:04 AM	1			8:07 AM	1
5		8:04 AM	1		Yes	8:11 AM	1
6		8:05 AM	2			8:16 AM	2
7		8:06 AM	1			8:17 AM	1
8		8:07 AM	1			8:20 AM	1
9		8:08 AM	2			8:21 AM	1
10		8:08 AM	1			8:23 AM	2
11		8:09 AM	2			8:28 AM	1
12		8:11 AM	1			8:29 AM	2
13		8:11 AM	1			8:32 AM	1
14		8:11 AM	1			8:35 AM	1
15		8:13 AM	1			8:37 AM	1
16		8:13 AM	2			8:39 AM	1
17		8:15 AM	2			8:40 AM	1
18		8:15 AM	1			8:49 AM	2
19		8:16 AM	1			8:49 AM	1
20		8:18 AM	1		Yes	8:57 AM	1
21		8:19 AM	1				
22		8:19 AM	2				
23		8:20 AM	1				
24		8:20 AM	1				
25		8:20 AM	1				
26		8:22 AM	1				
27		8:24 AM	1				
28		8:24 AM	1				
29		8:24 AM	1				
30		8:25 AM	2				
31		8:25 AM	1				
32		8:28 AM	1				
33		8:28 AM	1				
34		8:28 AM	2				
35		8:29 AM	1				
36		8:37 AM	1				
37		8:37 AM	1				
38		8:38 AM	1				
39		8:38 AM	2				
40		8:41 AM	2				
41		8:41 AM	1				
42	Yes	8:42 AM	2				
43		8:43 AM	1				
44		8:44 AM	1				
45		8:44 AM	2				
46		8:47 AM	1				
47		8:51 AM	1				
48							
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3:00PM - 4:00PM

#	NEIGHB	TIME	# IN CAR		NEIGHB	TIME	# IN CAR
	Southbound to LODI AVE.				Northbound from LODI AVE.		
1		3:02 PM	1			3:09 PM	1
2		3:02 PM	1			3:13 PM	1
3	Yes	3:06 PM	1			3:15 PM	1
4		3:07 PM	1		Yes	3:17 PM	2
5		3:08 PM	3		Yes	3:19 PM	1
6	Yes	3:08 PM	1		Yes	3:21 PM	2
7	Yes	3:12 PM	1			3:21 PM	1
8		3:12 PM	1			3:24 PM	1
9		3:12 PM	1		Yes	3:25 PM	1
10		3:13 PM	1		Yes	3:29 PM	1
11		3:15 PM	2		Yes	3:38 PM	2
12	Yes	3:16 PM	1			3:38 PM	1
13		3:17 PM	1			3:40 PM	2
14	Yes	3:19 PM	2		Yes	3:42 PM	1
15		3:19 PM	1		Yes	3:43 PM	1
16		3:20 PM	2		Yes	3:45 PM	1
17		3:20 PM	2			3:47 PM	2
18		3:20 PM	2			3:49 PM	1
19	Yes	3:22 PM	1			3:52 PM	1
20		3:22 PM	1			3:56 PM	1
21		3:23 PM	1			3:58 PM	1
22		3:23 PM	2				
23		3:24 PM	2				
24		3:24 PM	2				
25		3:26 PM	2				
26	Yes	3:27 PM	4				
27		3:27 PM	3				
28		3:27 PM	1				
29		3:30 PM	2				
30		3:32 PM	1				
31		3:33 PM	2				
32	Yes	3:35 PM	1				
33		3:37 PM	3				
34		3:38 PM	1				
35		3:40 PM	1				
36		3:41 PM	2				
37		3:45 PM	2				
38		3:45 PM	1				
39		3:46 PM	1				
40		3:48 PM	1				
41		3:48 PM	1				
42		3:49 PM	2				
43	Yes	3:52 PM	1				
44	Yes	3:56 PM	1				
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February 16th, 2006

8:00AM - 9:00AM

Southbound to LODI AVE.				Northbound from LODI AVE.		
#	NEIGHB	TIME	# IN CAR	NEIGHB	TIME	# IN CAR
1	Yes	8:01 AM	1		8:00 AM	1
2		8:03 AM	1	Yes	8:04 AM	2
3	Yes	8:03 AM	1	Yes	8:05 AM	1
4		8:04 AM	1		8:08 AM	1
5		8:05 AM	3		8:08 AM	1
6		8:06 AM	2	Yes	8:09 AM	1
7		8:06 AM	1	Yes	8:09 AM	2
8		8:07 AM	1	Yes	8:10 AM	1
9		8:08 AM	1		8:10 AM	1
10		8:08 AM	1		8:13 AM	1
11		8:10 AM	1		8:17 AM	1
12		8:10 AM	1		8:20 AM	2
13		8:11 AM	1	Yes	8:23 AM	1
14		8:12 AM	1	Yes	8:27 AM	1
15		8:12 AM	1		8:28 AM	1
16		8:13 AM	1	Yes	8:41 AM	1
17		8:13 AM	2	Yes	8:42 AM	2
18		8:14 AM	1		8:42 AM	1
19		8:14 AM	1	Yes	8:43 AM	1
20	Yes	8:14 AM	1	Yes	8:49 AM	1
21		8:15 AM	1		8:51 AM	1
22		8:16 AM	1	Yes	8:52 AM	1
23		8:16 AM	1		8:55 AM	1
24		8:17 AM	2			
25		8:18 AM	1			
26	Yes	8:18 AM	2			
27		8:18 AM	1			
28		8:19 AM	1			
29		8:19 AM	1			
30		8:19 AM	1			
31	Yes	8:20 AM	1			
32		8:22 AM	1			
33		8:24 AM	1			
34		8:24 AM	1			
35		8:26 AM	1			
36		8:26 AM	1			
37		8:27 AM	1			
38		8:28 AM	1			
39		8:28 AM	2			
40	Yes	8:31 AM	1			
41	Yes	8:31 AM	1			
42		8:32 AM	2			
43		8:32 AM	2			
44		8:35 AM	1			
45	Yes	8:35 AM	1			
46		8:36 AM	1			
47	Yes	8:38 AM	1			
48		8:39 AM	1			
49		8:46 AM	2			
50		8:46 AM	1			
51	Yes	8:47 AM	1			
52		8:49 AM	1			
53	Yes	8:49 AM	1			
54		8:50 AM	1			
55		8:51 AM	1			
56		8:52 AM	1			
57		8:53 AM	1			
58		8:54 AM	1			
59		8:59 AM	1			
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3:00PM - 4:00PM

Southbound to LODI AVE.				Northbound from LODI AVE.		
#	NEIGHB	TIME	# IN CAR	NEIGHB	TIME	# IN CAR
1	Yes	3:07 PM	2		3:02 PM	1
2		3:13 PM	1		3:03 PM	1
3		3:17 PM	2		3:06 PM	1
4		3:17 PM	2		3:06 PM	1
5		3:19 PM	1		3:08 PM	2
6		3:20 PM	2		3:10 PM	2
7		3:21 PM	3		3:11 PM	1
8		3:22 PM	1		3:14 PM	1
9		3:22 PM	2		3:15 PM	1
10		3:25 PM	2	Yes	3:15 PM	1
11		3:26 PM	2	Yes	3:17 PM	1
12		3:27 PM	1		3:19 PM	1
13		3:28 PM	2		3:20 PM	1
14		3:29 PM	2		3:20 PM	1
15		3:30 PM	2		3:21 PM	1
16		3:34 PM	1		3:22 PM	1
17		3:34 PM	2		3:24 PM	1
18		3:35 PM	2	Yes	3:24 PM	1
19		3:38 PM	1		3:24 PM	1
20	Yes	3:38 PM	1		3:25 PM	1
21		3:39 PM	1		3:26 PM	2
22		3:43 PM	2		3:31 PM	1
23		3:45 PM	2	Yes	3:42 PM	1
24		3:46 PM	1		3:45 PM	1
25		3:48 PM	2	Yes	3:48 PM	1
26		3:49 PM	1		3:54 PM	1
27		3:51 PM	2	Yes	3:54 PM	2
28		3:57 PM	1	Yes	3:56 PM	1
29		3:58 PM	1			
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RECEIVED

FEB 22 2006

COMMUNITY DEVELOPMENT DEPT.
CITY OF LODI

February 22, 2006

To: Lodi Planning Commission

We are opposed to the Use Permit allowing Vineyard Christian Middle School to locate at 2301 W. Lodi Avenue (corner of Lodi Avenue and Allen Drive).

We are submitting petitions signed by the residents of the surrounding neighborhood opposing the proposed school due to an increase in traffic and noise. We feel that the proposed site is not large enough to accommodate a middle school.

Thank you for your consideration in this matter.

Sincerely,

The Residents of:
W. Jackson Street
W. Walnut Street
Capell Street
Benson Drive
W. Pine Street
Allen Drive

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Janice Pinkham
SIGNATURE: Janice Pinkham
DATE: 2-14-06
ADDRESS: 2140 Capell Dr.
Lodi, Ca 95242

Members of Lodi Ave Baptist Church

NAME: Elbert Pinkham
SIGNATURE: Elbert Pinkham
DATE: 2-14-06
ADDRESS: 2140 Capell Dr
Lodi Ca. 95242

NAME: Michele Borges
SIGNATURE: [illegible]
DATE: 2/15/06
ADDRESS: 2124 Jackson ST
Lodi CA 95242

NAME: Mark Borges
SIGNATURE: Mark Borges
DATE: 2-15-06
ADDRESS: 2124 Jackson ST.
Lodi, CA 95242

NAME: Daniel Ross
SIGNATURE: Daniel Ross
DATE: 2-15-06
ADDRESS: 2201 Jackson St.
Lodi, CA 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: VERNON BAUER
SIGNATURE: Vernon Bauer
DATE: 2-11-06
ADDRESS: 2140 W. Walnut

NAME: Karen Goss
SIGNATURE: Karen Goss
DATE: 2/11/06
ADDRESS: 2224 W Walnut St

NAME: Edna L. Martin
SIGNATURE: 2225 W. Walnut
DATE: 2-11-06
ADDRESS: 2225 W. Walnut
EDNA L. MARTIN

NAME: Carlton Martin
SIGNATURE: Carlton Martin
DATE: 2-11-06
ADDRESS: 2225 W Walnut St
Lodi, CA 95242

NAME: LINDA W. REICHERT
SIGNATURE: Linda W. Reichert
DATE: 2-11-2006
ADDRESS: 2219 W. Walnut St
Lodi, CA 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: W. JOHN SCHMIDT
SIGNATURE: W John Schmidt
DATE: 2/9/06
ADDRESS: 2216 W. WALNUT ST
LODI CA. 95242

NAME: Sandra M. Schmidt
SIGNATURE: Sandra M. Schmidt
DATE: 2/9/06
ADDRESS: 2216 W. Walnut St.
Lodi, CA 95242

NAME: Elizabeth A Weatherman
SIGNATURE: Elizabeth A Weatherman
DATE: 2-10-06
ADDRESS: 2216 Jackson St
Lodi, Ca 95242

NAME: Julian G. Weatherman
SIGNATURE: Julian G. Weatherman
DATE: 2-10-06
ADDRESS: 2216 Jackson St
Lodi, Ca 95242

NAME: Nicy Nunez
SIGNATURE: [illegible]
DATE: 02/10/06
ADDRESS: 2209 JACKSON ST
LODI CA 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Bob Healy
SIGNATURE: [signature]
DATE: 2-10-06
ADDRESS: 2170 Jackson
Lodi, CA 95242

NAME: Paula Peterson
SIGNATURE: Paula Peterson
DATE: 2/10/06
ADDRESS: 2224 Jackson St
Lodi, CA 95242

NAME: Robert Peterson
SIGNATURE: Robert Peterson
DATE: 2-10-06
ADDRESS: 2224 JACKSON St
LODI, CA 95242

NAME: Dana Ashbaugh
SIGNATURE: Dana Ashbaugh
DATE: 2-11-06
ADDRESS: 2225 JACKSON St.
Lodi, CA 95242

NAME: Allison Reichert
SIGNATURE: Allison Reichert
DATE: 2/11/06
ADDRESS: 2219 W. Walnut St.
Lodi, CA 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Collette Corell
SIGNATURE: Collette Corell
DATE: 2/11/06
ADDRESS: 2215 W. Walnut
Lodi CA 95242

NAME: PATRICIA F PAULE
SIGNATURE: Patricia F Paule
DATE: 2-11-06
ADDRESS: 2101 W. Walnut St
Lodi Ca 95242

NAME: LOREN G PAULE
SIGNATURE: Loren G Paule
DATE: 2-11-06
ADDRESS: 2101 W. WALNUT ST.
LODI CA 95242

NAME: Joe McGrath
SIGNATURE: Joe McGrath
DATE: 02/11/06
ADDRESS: 2119 W. Walnut St
Lodi CA 95242

NAME: Barbara Hicks
SIGNATURE: Barbara Hicks
DATE: 2-11-06
ADDRESS: 2132 W. Walnut
Lodi, Ca. 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Emil Koepplin
SIGNATURE: ~~Anna~~ Emil Koepplin
DATE: 2-10-06
ADDRESS: 2219 Jackson St
Lodi Ca 95242

NAME: ANNA KOEPPLIN
SIGNATURE: Anna Koepplin
DATE: 2-10-06
ADDRESS: 2219 Jackson St
Lodi, Ca 95242

NAME: Sarra Peterson
SIGNATURE: S Peterson
DATE: 2/10/06
ADDRESS: 2215 Jackson St.
Lodi, CA 95242

NAME: Erik Peterson
SIGNATURE: Erik J Peterson
DATE: 2/10/06
ADDRESS: 2215 Jackson St.
Lodi, CA 95242

NAME: Jackie Healy
SIGNATURE: Jackie Healy
DATE: 2/10/06
ADDRESS: 2140 Jackson St.
Lodi, CA 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: James Reimer
SIGNATURE: James Reimer
DATE: 2/11/06
ADDRESS: 2219 W. Walnut St
Lodi, CA

NAME: Jo White
SIGNATURE: Jo White
DATE: 2-11-06
ADDRESS: 2141 Jackson
LODI CA 95242

NAME: Brenda Wright
SIGNATURE: Brenda Wright
DATE: 2-11-06
ADDRESS: 2125 Jackson St.
Lodi, Ca. 95242

NAME: DAVID WRIGHT
SIGNATURE: David Wright
DATE: 2-11-06
ADDRESS: 2125 JACKSON ST.
LODI CA 95242

NAME: CHARLES AHR
SIGNATURE: Charles Ahr
DATE: 2-11-06
ADDRESS: 241 BENSON

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Anne Morken
SIGNATURE: Anne Morken
DATE: 2/19/06
ADDRESS: 2224 Capell Drive
Lodi, CA 95242

NAME: IREACY M. DORTH
SIGNATURE: Ireacy M. Dorth
DATE: 02/19/06
ADDRESS: 2225 CAPELL DR.
LODI, CA 95242

NAME: DANIEL P. DORTH
SIGNATURE: Daniel P. Dorth
DATE: 2/19/06
ADDRESS: 2225 CAPELL DR.
LODI, CA 95242

NAME: Robin Daniels
SIGNATURE: Robin Daniels
DATE: 2/20/06
ADDRESS: 2124 West Walnut Street
Lodi, CA 95242

NAME: CRAIG DANIELS
SIGNATURE: [illegible]
DATE: 2/20/05
ADDRESS: 2124 WEST WALNUT
LODI CA 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Roseanna Ahr
SIGNATURE: Roseanna Ahr
DATE: 2-11-06
ADDRESS: 241 Benson DR
Lodi, CA 95242

NAME: Shelly Schatz
SIGNATURE: Shelly Schatz
DATE: 2-11-06
ADDRESS: 2132 W. Jackson St.
Lodi CA 95242

NAME: Glen Schatz
SIGNATURE: Glen Schatz
DATE: 2-11-06
ADDRESS: 2132 W. Jackson
Lodi, CA 95242

NAME: Chris Johnson
SIGNATURE: Chris Johnson
DATE: 2-11-06
ADDRESS: 2200 JACKSON St.
Lodi CA 95242

NAME: DAVE JOHNSON
SIGNATURE: Dave Johnson
DATE: 2-11-06
ADDRESS: 2200 Jackson ST.
LODI, CA 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Angela Garem
SIGNATURE: Angela Garem
DATE: Feb 11, 2006
ADDRESS: 131 Benson Dr. Lodi CA 95242

NAME: Mike Garem
SIGNATURE: Mike Garem
DATE: 2-11-06
ADDRESS: 131 BENSON Dr Lodi CA 95242

NAME: Paul Fournier
SIGNATURE: Paul Fournier
DATE: 2-11-06
ADDRESS: 2225 JACKSON
LODI CA 95242

NAME: Michelle McGrath Surgert
SIGNATURE: Michelle McGrath Surgert
DATE: 2-11-06
ADDRESS: 2114 W Walnut St
Lodi CA 95242

NAME: Sandy Alberta
SIGNATURE: Sandy Alberta
DATE: 2/11/06
ADDRESS: 2133 W. Walnut St
Lodi Ca. 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: DEREK ALBERTSON
SIGNATURE: Derek Albertson
DATE: 2-11-06
ADDRESS: 2133 W. WALNUT LODI 95242

NAME: Ruth Smida
SIGNATURE: 2125 W. WALNUT
DATE: Lodi, CA 95242
ADDRESS: 2/14/06
Ruth A. Smida

NAME: JOHN A JUST
SIGNATURE: John A. Just
DATE: 2-14-06
ADDRESS: 2124 Capell Dr.
Lodi

NAME: Kerry Cunningham
SIGNATURE: Kerry Cunningham
DATE: 2-14-06
ADDRESS: 2125 Capell Drive
Lodi

NAME: ALMA MASIC
SIGNATURE: Alma Masic
DATE: 2.14.06
ADDRESS: 2133 W. CAPELL DR
LODI, CA 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Dolores L. HANSON
SIGNATURE: Dolores L. Hanson
DATE: 11 Feb 2006
ADDRESS: 2208 JACKSON ST
LODI, CA 95242

NAME: KALIE BOSS
SIGNATURE:
DATE: 2-15-06
ADDRESS: 2201 Jackson St.
Lodi CA 95242

NAME: Mary Nell Colbert
SIGNATURE: 2133 Jackson Street - Lodi
DATE: February 15, 2006
ADDRESS:
Mary Colbert

NAME: Donald R Colbert
SIGNATURE: Don R Colbert
DATE: 2/15/06
ADDRESS: 2133 JACKSON ST.
Lodi - CA 95242

NAME: Shirley MacLaughlin
SIGNATURE: Shirley MacLaughlin
DATE: 2-19-06
ADDRESS: 2115 Jackson Street
Lodi, CA 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: CRIS CLARKE
SIGNATURE: Cris J. Clarke
DATE: 2/19/06
ADDRESS: 2101 JACKSON ST.
LODI, CA 95242

NAME: LINDA ENGRAV-CLARKE
SIGNATURE: Linda Engrav Clarke
DATE: 2/19/06
ADDRESS: 2101 JACKSON ST.
LODI, CA 95242

NAME: YOSHIKO D. TAKAO
SIGNATURE: Yoshiko D. Takao
DATE: 2/19/06
ADDRESS: 2115 W. Walnut St.
Lodi, CA 95242

NAME: NICHOLAS A. BETTENCOURT
SIGNATURE: Nicholas A. Bettencourt
DATE: 2114 Jackson St. 2/19/2006
ADDRESS: LODI, CA 95242

NAME: Karen Bettencourt
SIGNATURE: Karen Bettencourt
DATE: 2/19/06
ADDRESS: 2114 JACKSON ST
LODI, CA. 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Sharon Dais
SIGNATURE: Sharon Dais
DATE: 2/19/06
ADDRESS: 2200 Capell Dr.
Lodi CA 95242

NAME: Pamela J. Matlock
SIGNATURE: Pamela J. Matlock
DATE: 2/20/05
ADDRESS: 2215 W. Capell Dr.
Lodi, CA 95242

NAME: Tracy Garcia
SIGNATURE: 106 Allen Dr Tracy Garcia
DATE: 2-20-06
ADDRESS: 106 Allen Dr.
Lodi, Ca. 95242

NAME: Arnold Garcia
SIGNATURE: [illegible]
DATE: 2-20-06
ADDRESS: 106 Allen Dr
Lodi, Ca. 95242

NAME: Dawn Hammons
SIGNATURE: Dawn Hammons
DATE: 2-20-06
ADDRESS: 100 S. Allen Dr.
Lodi, CA. 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Bryan Rogers
SIGNATURE: [illegible]
DATE: 2/13/06
ADDRESS: 115 Benson Dr.
Lodi, CA 95242

NAME: Tina Rogers
SIGNATURE: Tina M Rogers
DATE: 2/13/06
ADDRESS: 115 Benson Dr.
Lodi, CA 95242

NAME: NANCY WEIBLE
SIGNATURE: Nancy Weible
DATE: 2-14-06
ADDRESS: 2200 W. Walnut St.
Lodi, Calif 95242

NAME: JAMES BUSHNELL
SIGNATURE: [illegible]
DATE: 2/14/06
ADDRESS: 2201 W WALNUT

NAME: LUVERNE SMIDA
SIGNATURE: 2125 W WALNUT
DATE: LODI CA.
ADDRESS: 2/14/06
[illegible]

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: DOUGLAS HAUSER
SIGNATURE: Douglas Hauser
DATE: 2-20-06
ADDRESS: 14 BENSON DR.

NAME: Charlene Bess
SIGNATURE: Charlene Bess
DATE: 2-20-06
ADDRESS: 106 Benson Dr.

NAME: LISA Iliff
SIGNATURE: Lisa Iliff
DATE: 2/20/06
ADDRESS: 114 Benson Drive

NAME: Don Bettencourt
SIGNATURE: Don Bettencourt
DATE: 2/20/06
ADDRESS: 2701 Capell ST.
Lodi, CA. 95242

NAME: Ray Davis
SIGNATURE: Ray Davis
DATE: 2/20/06
ADDRESS: 136 Benson Drive
Lodi, Ca. 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Janet DAVIS
SIGNATURE: Janet Davis
DATE: 2/20/06
ADDRESS: 136 Benson Dr.
Lodi CA 95242

NAME: Robert Martinez
SIGNATURE: Robert Martinez
DATE: 2-21-06
ADDRESS: 140 BENSON DR
Lodi CA 95242

NAME: John Stellatino
SIGNATURE:
DATE: 2-24-006
ADDRESS: 130 Benson

NAME: JOSEPH OLIPHANT & Mrs
SIGNATURE: Joseph Oliphant
DATE: 2-21-06
ADDRESS: 200 Benson Drive
Lodi

NAME: WAYNE & DENISE LOCKMILLER
SIGNATURE: Denise L Lockmiller
DATE: 2/21/06
ADDRESS: 2106 W. PINE ST LODI, CA 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Carla Hilton
SIGNATURE: [illegible]
DATE: 2-20-06
ADDRESS: 2316 Capell Drive
Lodi Ca 95242

NAME: [illegible]
SIGNATURE:
DATE: 2-21-06
ADDRESS: 107 Benson Dr
Lodi, Ca. 95242

NAME: Harold Williams
SIGNATURE:
DATE: 2-21-06
ADDRESS: 107 BENSON DR

NAME: Gilbert & [redacted] Woell
SIGNATURE: Velda Woell
DATE: 2/21/06
ADDRESS: 15 Benson Dr
Lodi, Calif

NAME: DAN CASTELANELLI
SIGNATURE: Dan Castelanelli
DATE: 2/21/06
ADDRESS: 101 BENSON DR.
Lodi, CA 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Kevin Burns
SIGNATURE: Kevin Burns
DATE: 2-20-06
ADDRESS: 2144 W. Pine St.
Lodi Ca. 95242

NAME: BRIDGET J YONO
SIGNATURE: Bridget M. Yono
DATE: 2-20-06
ADDRESS: 2145 W. PINE ST
LODI. CA. 95242.

NAME: BOB S. YONO
SIGNATURE:
DATE: 2.20.06
ADDRESS: 2145 W. PINE ST
LODI. CA. 95242

NAME: MR. & MRS. GABRIEL
SIGNATURE:
DATE: 2-20-06
ADDRESS: 2126 W. PINE ST.
LODI, CA 95242

NAME: Pat McDonald
SIGNATURE: Pat McDonald
DATE: 2-20-06
ADDRESS: 2129 W. Pine St.
Lodi, CA 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Edward Ojeda
SIGNATURE: Edward Ojeda
DATE: FEB. 20, 2006
ADDRESS: 2120 W. PINE ST.
LODI, CA 95242

NAME: Katie Riedinger
SIGNATURE: Katie Riedinger
DATE: 2-20-06
ADDRESS: 2114 W. Pine st
LODI, CA 95242

NAME: Tim Robbins
SIGNATURE: Tim Robbins
DATE: 2-20-06
ADDRESS: 2115 W Pine LODI CA. 95242

NAME: Cathy Barnes
SIGNATURE: Cathy Barnes
DATE: 2-20-06
ADDRESS: 2039 W. Pine St
Lodi, Ca 95242

NAME: Theodore Eachus
SIGNATURE: Theodore Eachus
DATE: 2/20/06
ADDRESS: 2033 W. Pine St.
Lodi, CA. 95242

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Thomas J Orozco
SIGNATURE: [illegible]
DATE: 2-20-06
ADDRESS: 2114 Capell DR 95242

NAME: Thomas OROZCO
SIGNATURE: [illegible]
DATE: 2-20-06
ADDRESS: 2114 Capell DR 95242

NAME: Brenda Orozco
SIGNATURE: Brenda Orozco
DATE: 02-20-06
ADDRESS: 2114 Capell Dr.
Lodi, CA. 95242

NAME:
SIGNATURE:
DATE:
ADDRESS:

NAME:
SIGNATURE:
DATE:
ADDRESS:

TO: LODI CITY PLANNING COMMISSION

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I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Darlene K. Castelanelli
SIGNATURE: Darlene K. Castelanelli
DATE: 2-21-06
ADDRESS: 101 Benson drive
Lodi, CA 95242

NAME: Robbie BRANDI
SIGNATURE: Robbie Brandi
DATE: 2321 W Pine
ADDRESS: Lodi Ca

NAME: Linda Bianchi
SIGNATURE: Linda Bianchi
DATE: 2-21-06
ADDRESS: 2121 W. Pine St.
Lodi CA. 95242

NAME:
SIGNATURE:
DATE:
ADDRESS:

NAME:
SIGNATURE:
DATE:
ADDRESS:

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: Sharon Hasenfus
SIGNATURE: Sharon Hasenfus
DATE: 2/20/06
ADDRESS: 2208 Capell Dr.
Lodi CA 95242

NAME: Charles Hasenfus
SIGNATURE: Charles Hasenfus
DATE: 2/20/06
ADDRESS: 2208 Capell Dr
Lodi, Calif. 95242

NAME:
SIGNATURE:
DATE:
ADDRESS:

NAME:
SIGNATURE:
DATE:
ADDRESS:

NAME:
SIGNATURE:
DATE:
ADDRESS:

TO: LODI CITY PLANNING COMMISSION

THIS PETITION **OPPOSES** THE REQUESTED USE PERMIT TO ALLOW VINEYARD CHRISTIAN MIDDLE SCHOOL TO LOCATE A PRIVATE 6TH - 8TH GRADE SCHOOL ON THE PROPERTY AT 2301 W. LODI AVENUE. (FILE #: U-05-020, APPLICATE: LODI AVENUE BAPTIST CHURCH).

I **OPPOSE** THE ABOVE MENTIONED USE PERMIT.

NAME: [illegible]
SIGNATURE: [illegible]
DATE: 2/20/06
ADDRESS: 2207 Capwell
Lodi CA

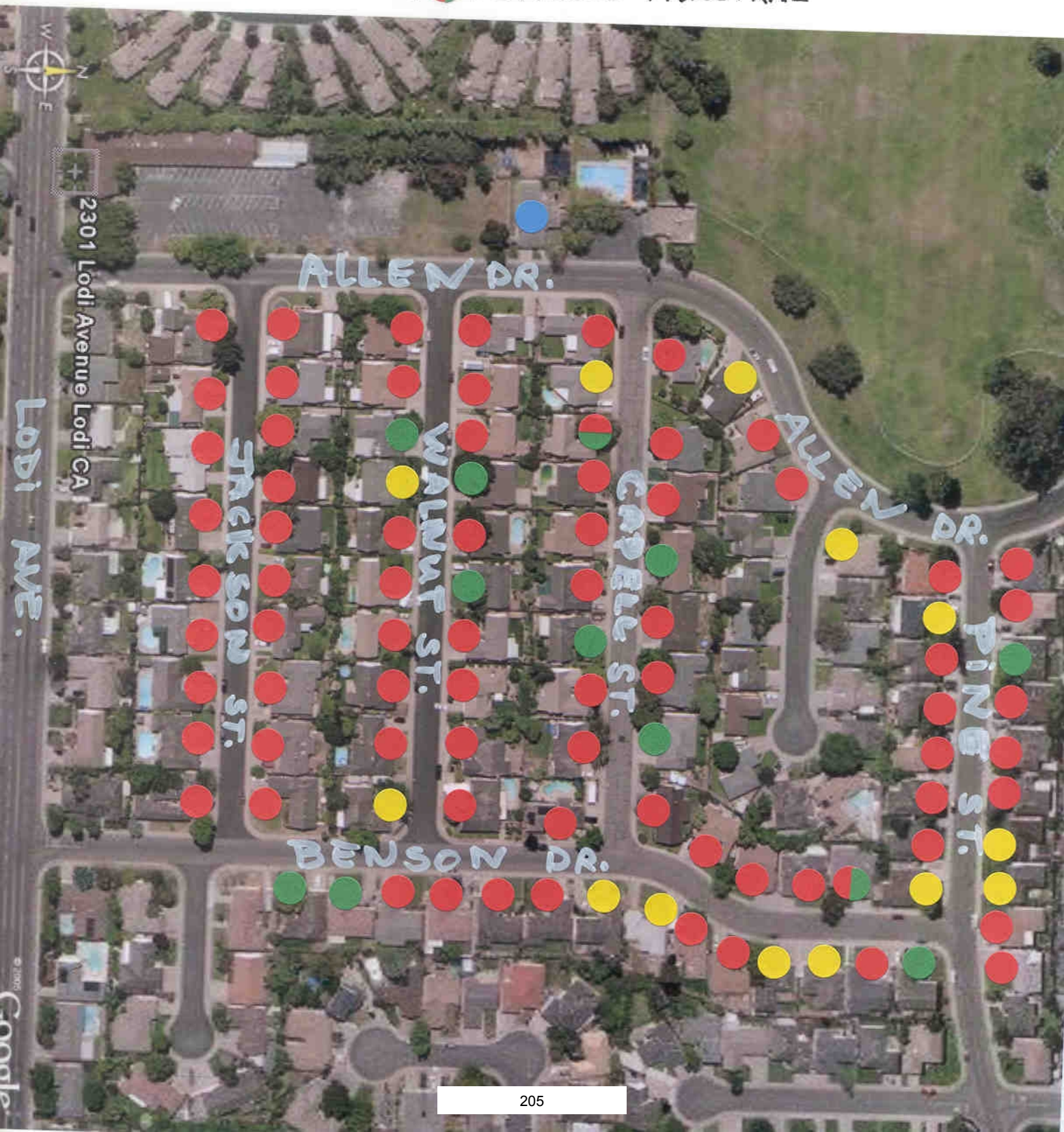
NAME: Wayne Lockmiller Wayne Lockmiller
SIGNATURE: Wayne Lockmiller
DATE: Feb 21, 2006
ADDRESS: 2106 W Pine St
Lodi Ca 95242

NAME:
SIGNATURE:
DATE:
ADDRESS:

NAME:
SIGNATURE:
DATE:
ADDRESS:

NAME:
SIGNATURE:
DATE:
ADDRESS:

72 OPPOSED
13 UNABLE TO CONTACT
10 NEUTRAL
2 1 OPPOSED - 1 NEUTRAL
1 APPROVES



February 26, 2006

✓ CC ___HR
X CM ___IS
X CA ___LIB
X CD ___PR
___EUD ___PD
___FIN ___PW
___FD ___COM

CITY CLERK'S NOTE:
Appeal fee has not yet been received.
Deadline to file is March 8, 2006.

Council Member John Beckman
Lodi City Council
C/O City Clerks Office
P.O. Box 3006
Lodi, 95241-1941

RE: Use Permit for Vineyard Christian Middle School

Dear Council Member John Beckman,

The Planning Commission voted 4-3 to allow a Use Permit for Vineyard Christian Middle School to relocate their 5 portable buildings to the parking lot of Lodi Avenue Baptist Church located at 2301 W. Lodi Avenue (corner of Lodi Avenue and Allen Drive).

Clearly, two of the planning commissioners had their minds made up at the first of the two hearings. Commissioner Bill Cummins said he was a Minister and Commissioner Doug Kuehne has children that attend St. Peter's School and is totally pro-private school. They both should have excused themselves from voting because they are bias. Neither of them was interested in the neighborhood's concerns or opinions.

At the second hearing, a petition was presented to the commission. Over 100 signatures were collected from the residents of Benson Tract opposing the Use Permit. It was irresponsible to ignore the fact that the majority of the neighborhood – people who live and own property in the area – opposes the school. We don't have a say in what happens to our neighborhood?

Vineyard Christian Middle School is a 6th, 7th & 8th grade school with 84 students. It is not a neighborhood school. Only one student lives in our neighborhood and it happens to be Lodi Avenue Baptist Church's minister's child. All the others will be driven to and from school.

We currently live in a fairly quiet neighborhood. We want to keep it that way. We do not want the added traffic and noise. We all ready have that with St. Peter's School. We are also concerned about our property values.

We know of another location that is more appropriate for their school site and it was brought to their attention.

We are appealing the planning commission's decision to grant the Use Permit. We urge you to oppose the Use Permit. Thank you for your consideration in this matter.

Sincerely,

Paul Taormina & Dana Ashbaugh
2225 Jackson Street
Lodi, CA 95242
(209) 333-1800

March 5, 2006

Council Member
Lodi City Council
C/O City Clerks Office
P.O. Box 3006
Lodi, 95241-1941

X CC
X CM
X CA
X CD
__ EUD
__ FIN
__ FD
__ HR
__ IS
__ LIB
__ PR
__ PD
__ PW
__ COM

RE: Use Permit for Vineyard Christian Middle School

Dear Council Member

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We know of another location that is more appropriate for their school site and it was brought to their attention.

We are appealing the planning commission's decision to grant the Use Permit. We urge you to oppose the Use Permit. Thank you for your consideration in this matter.

Sincerely,

Emil Kaeppelin
Anna Kaeppelin
2219 Jackson St
Lodi, Ca 95242

Lodi City Council: Mar. 29, 2006

We are traveling and wont be able to attend the appeal meeting on april 19, 2006. We do want to again state our feelings of no school in our neighborhood on allen Dr. We are a very small neighborhood and not many thru streets. We do not need any extra traffic - cars or pedestrians on these streets. There will be congestion at the stop sign at Lodi Ave. There will be noise and any kind of portables do not improve the looks of any property. There is also a person that has been registered as a sex offender living within one block.

We really like our neighborhood and hope you can see the way to leave it that way.

Respectfully,
Patricia Paule
Loren Paule

2101 W. Walnut
Lodi, Ca. 95242

RECEIVED
APR - 3 2006
City Clerk
City of Lodi

You stand out in any crowd!

CITY CLERK'S NOTE:
This communication pertains to the appeal of the Planning Commission's decision on 02-22-06 to approve a Use Permit (U-05-020) for Vineyard Christian Middle School to place a private 6th, 7th, and 8th grade school on the grounds of Lodi Avenue Baptist Church at 2301 W. Lodi Avenue. The public hearing before the City Council has been scheduled for April 19, 2006.
CC: City Council, City Manager, City Attorney, and Community Development Director

CITY CLERK'S NOTE:
This communication pertains to the appeal of the Planning Commission's decision on 02-22-06 to approve a Use Permit (U-05-020) for Vineyard Christian Middle School to place a private 6th, 7th, and 8th grade school on the grounds of Lodi Avenue Baptist Church at 2301 W. Lodi Avenue. The public hearing before the City Council has been scheduled for April 19, 2006.
CC: City Council, City Manager, City Attorney, and Community Development Director

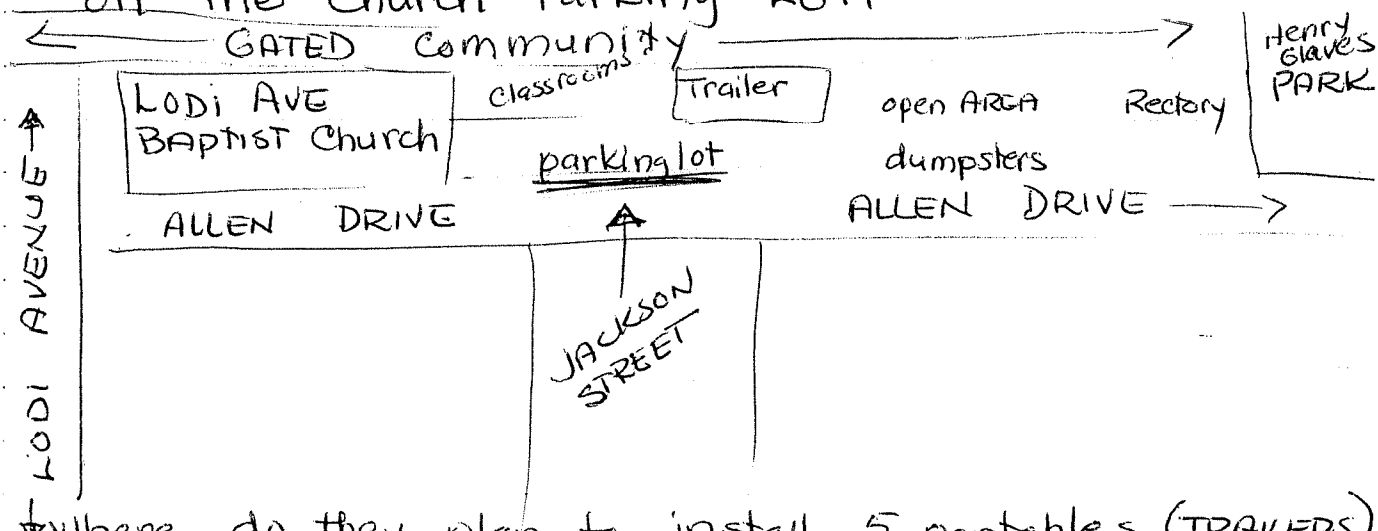
RECEIVED
MAR 29 2006
City Clerk
City of Lodi

2208 Jackson Street
Lodi, California 95242
home phone (209) 369-4138

March 24, 2006

To whom it may concern:

I too am a homeowner on Jackson Street — Just 3 houses east of the church parking lot of the LODI AVENUE Baptist Church. Our short street ends at ALLEN DRIVE and if you were to cross the street you would be on the Church Parking Lot.



Where do they plan to install 5 portables (TRAILERS) on this small site!!! Where will the children have a playground for P.E.?

I would like to request members of the City Council and members of the PLANNING COMMISSION to please go inspect the Church site and visualize how they plan to put 5 portables on that available Church space.

If the members of the LODI AVENUE Baptist Church are s[illegible]ing a school why

don't they purchase land for a new site that would be big enough to build permanent buildings. (example - St. Peters Lutheran School has a lovely campus with permanent buildings and adequate parking for staff and visitors.)

The site at the corner of LODI AVENUE and ALLEN DRIVE does not have adequate space.

This has been a quiet, wonderful neighborhood for the 30+ years that I have lived in my home. There will be added traffic, noise and commotion. Will the portables add value to our property all along this street? Go by the schools with portables and ask yourself - "Do I want them by my home!!!"

Please listen to the citizens that live in this neighborhood and realize that we should all have the opportunity to express our views since its our area that will be affected by traffic bringing 84 (+ or -) students to the church site daily!!!

Dolores L. HANSON
LODI

RECEIVED
MAR 29 2006
City Clerk
City of Lodi

3-27-06

CITY CLERK'S NOTE:
This communication pertains to the appeal of the Planning Commission's decision on 02-22-06 to approve a Use Permit (U-05-020) for Vineyard Christian Middle School to place a private 6th, 7th, and 8th grade school on the grounds of Lodi Avenue Baptist Church at 2301 W. Lodi Avenue. The public hearing before the City Council has been scheduled for April 19, 2006.
CC: City Council, City Manager, City Attorney, and Community Development Director

Dear Sirs

We object to a school on Allen Dr Vineyard Middle School.

We live at 2125 W. Walnut Lodi.

Mr. & Mrs. Luverne Smida
2125 W. Walnut St.
Lodi, CA 95242

Luverne Smida
Ruth Smida
Phone # 334-0814

CITY CLERK'S NOTE:
This communication pertains to the appeal of the Planning Commission's decision on 02-22-06 to approve a Use Permit (U-05-020) for Vineyard Christian Middle School to place a private 6th, 7th, and 8th grade school on the grounds of Lodi Avenue Baptist Church at 2301 W. Lodi Avenue. The public hearing before the City Council has been scheduled for April 19, 2006.
CC: City Council, City Manager, City Attorney, and Community Development Director

RECEIVED
APR - 3 2006
City Clerk
City of Lodi

Lodi City Council
C/O City Clerk's Office
P.O. Box 3006
Lodi, Ca. 95241-1941

Mayor Susan Hitchcock, Members of
The Lodi City Council:

Thank you for the opportunity to express our concerns about the pending Vineyard Christian School Use Permit to be considered by the City Council on April 19, 2006.

Having lived across the street from the Lodi Avenue Baptist Church for nearly 36 years we have always considered them as extremely good neighbors, always considerate of those around them. However, their decision to allow a school to locate on this small piece of property is not a good decision, one that certainly does not conform to their past consideration of the neighborhood.

As you may have noticed from your site-visit to this rather shallow piece of property, the proposed portable buildings will be in full view of the residences across the street, certainly detracting from the nice, aesthetically pleasing residential atmosphere we've strived to maintain throughout the years. Principal Karen Hale is quoted in the March 7, 2006 edition of the Lodi News Sentinel as saying "Anyone who knows us knows we can be nothing but a blessing." I would submit that she and the parents bringing their children to our neighborhood, only to leave at the end of each day to go home to their nice neighborhoods, unobstructed by portable buildings, could easily say something like that. But, how about those of us that must contend with this 24 hours a day, knowing that our property values have been adversely affected by being located in sight of these buildings?

Secondly, and with all due respect to city's Traffic Department, Allen Drive is not a safe street in this area. In the time we've lived here we've seen two cars "driven", and wrecked, on corner lots across from the church property, and one wrecked on the area being proposed for the school, all as a result of drivers losing control while coming out of the curve just north of the proposed site. Perhaps, as we've heard, police records don't show this but we've witnessed it and have spoken to police on site at one of the accidents.

We are not opposed to Christian schools, in fact we are supportive of them, but this is not the proper location for one. We therefore urge that you, as a representative of all of us, consider the neighborhood that will be most affected by this school, and vote No on this Use Permit. Thank-you for considering our feelings.

Sincerely,

W. John Schmidt

W. John Schmidt
2216 W. Walnut St.
Lodi, Ca. 95242

Sandra M. Schmidt

Sandra M. Schmidt
2216 W. Walnut St.
Lodi, Ca. 95242

PROOF OF PUBLICATION

(2015.5 C.C.C.P.)

STATE OF CALIFORNIA

County of San Joaquin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the Lodi News-Sentinel, a newspaper of general circulation, printed and published daily except Sundays and holidays, in the City of Lodi, California, County of San Joaquin and which newspaper had been adjudicated a newspaper of general circulation by the Superior Court, Department 3, of the County of San Joaquin, State of California, under the date of May 26th, 1953. Case Number 65990; that the notice of which the annexed is a printed copy (set in type not smaller than non-pareil) has been published in each regular and entire issue of said newspaper and not in any supplement thereto on the following dates to-wit:

March 18th

all in the year 2006.

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated at Lodi, California, this 18th day of March 2006.

Diane Rosales

Signature

This space is for the County Clerk's Filing Stamp

RECEIVED
2006 APR -7 PM 4:24
CITY CLERK
CITY OF LODI

Proof of Publication of
Notice of Public Hearing for April 19, 2006 for the appeal of the Planning Commission decision of February 22, 2006 to approve a Use Permit for Vineyard Christian Middle School to Place a Private 6th, 7th, 8th Grade School on the Grounds of Lodi Avenue Baptist Church at 2301 West Lodi Avenue (File #U-05-020)

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on Wednesday, April 19, 2006 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 matter:

a) Appeal of the Planning Commission's decision of February 22, 2006 to approve a Use Permit for Vineyard Christian Middle School to place a private 6th, 7th and 8th grade school on the grounds of Lodi Avenue Baptist Church at 2301 West Lodi Avenue. (File #U-05-020)

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 W. 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 at, or prior to, the public hearing.

By Order of the Lodi City Council:
Susan J. Blackston
City Clerk

Dated: March 15, 2006

Approved as to form:

D. Stephen Schwabauer
City Attorney
March 18, 2006 – 05511644

5511644

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: **NOTICE OF PUBLIC HEARING FOR April 19, 2006 for the appeal of the Planning Commission's decision of February 22, 2006 to approve a Use Permit for Vineyard Christian Middle School to place a private 6th, 7th and 8th grade school on the grounds of Lodi Avenue Baptist Church at 2301 West Lodi Avenue. (File #U-05-020).**

LEGAL AD

PUBLISH DATE: **March 18, 2006**

TEAR SHEETS WANTED: **Three (3) please**

SEND AFFIDAVIT AND BILL TO:

SUSAN BLACKSTON, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: March 16, 2006

ORDERED BY:

SUSAN J. BLACKSTON
CITY CLERK

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

JACQUELINE L. TAYLOR, CMC
DEPUTY CITY CLERK

Dana R. Chapman

DANA R. CHAPMAN
ADMINISTRATIVE CLERK

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

LNS DIANE Faxed to the Sentinel at 369-1084 at 9:55 AM (time) on 3/16/05 (date) 2 (pages)
Phoned to confirm receipt of all pages at 2:15 (time) ___ JLT ✓ DRC ___ JMP (initials)

forms\advins.doc

DECLARATION OF POSTING

PUBLIC HEARING FOR April 19, 2006 for the appeal of the Planning Commission's decision of February 22, 2006 to approve a Use Permit for Vineyard Christian Middle School to place a private 6th, 7th and 8th grade school on the grounds of *Lodi Avenue Baptist Church at 2301 West Lodi Avenue.* (File # U-05-020).

On Friday March 17, 2006, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing for the appeal of the Planning Commission's decision of February 22, 2006 to approve a Use Permit for Vineyard Christian Middle School to place a private 6th, 7th and 8th grade school on the grounds of Lodi Avenue Baptist Church at 2301 West Lodi Avenue. (File #U-05-020) 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 17, 2006, at Lodi, California.

ORDERED BY:

SUSAN J. BLACKSTON
CITY CLERK

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

JACQUELINE L. TAYLOR, CMC
DEPUTY CITY CLERK

DANA R. CHAPMAN
ADMINISTRATIVE CLERK

N:\Administration\CLERK\Forms\DECPOSTCD.DOC

CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING
Date: April 19, 2006
Time: 7:00 p.m.

For information regarding this notice please contact:
Susan J. Blackston
City Clerk
Telephone: (209) 333-6702

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN *that on* **Wednesday, April 19, 2006** 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 matter:

a) Appeal of the Planning Commission's decision of February 22, 2006 to approve a Use Permit for Vineyard Christian Middle School to place a private 6th, 7th and 8th grade school on the grounds of Lodi *Avenue Baptist Church at* 2301 West Lodi Avenue. (File #U-05-020)

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 W. 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 at, or prior to, the public hearing.

By Order of the Lodi City Council:

Susan J. Blackston
City Clerk

Dated: March 15, 2006

Approved as to form:

D. Stephen Schwabauer
City Attorney

DECLARATION OF MAILING

PUBLIC HEARING FOR April 19, 2006 for the appeal of the Planning Commission's decision of February 22, 2006 to approve a Use Permit for Vineyard Christian Middle School to place a private 6th, 7th and 8th grade school on the grounds of Lodi Avenue Baptist Church at 2301 West Lodi Avenue. (File #U-05-020)

On March 16, 2006, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, for the appeal of the Planning Commission's decision of February 22, 2006 to approve a Use Permit for Vineyard Christian Middle School to place a private 6th, 7th and 8th grade school on the grounds of Lodi Avenue Baptist Church at 2301 West Lodi Avenue. (File #U-05-020)

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 16, 2006, at Lodi, California.

ORDERED BY:

SUSAN BLACKSTON
CITY CLERK, CITY OF LODI

ORDERED BY:

JENNIFER M. PERRIN, CMC
DEPUTY CITY CLERK

JACQUELINE L. TAYLOR, CMC
DEPUTY CITY CLERK

DANA R. CHAPMAN
ADMINISTRATIVE CLERK

Forms/decmail.doc

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

CITY OF LODI

~ Centennial Anniversary 1906–2006 ~

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6702
FAX (209) 333-6807
cityclrk@lodi.gov

BLAIR KING, City Manager
SUSAN J. BLACKSTON
City Clerk
D. STEPHEN SCHWABAUER
City Attorney

March 16, 2006

**MAILED CERTIFIED MAIL
AND REGULAR U.S. POSTAL DELIVERY**

Robert Peterson
2224 Jackson Street
Lodi, CA 95242

NOTICE OF CITY COUNCIL PUBLIC HEARING – April 19, 2006

This letter is to notify you that a public hearing will be held by the City Council on **Wednesday, April 19, 2006**, at **7:00 p.m.**, or as soon thereafter as the matter can be heard, at the Carnegie Forum, 305 W. Pine Street, Lodi.

This hearing is being held to consider your appeal of the Planning Commission decision on February 22, 2006 to approve a Use Permit to allow Vineyard Christian Middle School to operate a private 6th to 8th grade school on the property (including the placement of portable buildings) at 2301 West Lodi Avenue – File# U-05-020; Applicant: Lodi Avenue Baptist Church.

If you challenge the proposed action 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 Council at, or prior to, the public hearing. *Note: Written correspondence for the City Council may be mailed in c/o the City Clerk's Office, P.O. Box 3006, Lodi, CA 95241-1910, or delivered to the City Clerk at 221 West Pine Street, Lodi, California.*

Should you have any questions, please contact my office or Community Development Director Randy Hatch at (209) 333-6711.

Sincerely,

Susan J. Blackston
City Clerk

cc: Community Development Director

AGENDA ITEM J-02a

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Post for Expiring Terms on the Greater Lodi Area Youth Commission (Adult Advisors), Library Board of Trustees, Lodi Arts Commission, Lodi Planning Commission, and San Joaquin County Commission on Aging

MEETING DATE: April 19, 2006

PREPARED BY: City Clerk

RECOMMENDED ACTION: That Council, by motion action, direct the City Clerk to post for the expiring terms on the Greater Lodi Area Youth Commission (Adult Advisors), Library Board of Trustees, Lodi Arts Commission, Lodi Planning Commission, and San Joaquin County Commission on Aging.

BACKGROUND INFORMATION: Several terms on various boards and commissions are due to expire shortly. It is, therefore, recommended that the City Council direct the City Clerk to post for the expiring terms below.

Greater Lodi Area Youth Commission
(Adult Advisors)

Dale Jones	Term to expire May 31, 2006
Elizabeth Mazzeo	Term to expire May 31, 2006
Brad VanderHamm	Term to expire May 31, 2006

Library Board of Trustees

Tariq Din	Term to expire June 30, 2006
Christine Lavond	Term to expire June 30, 2006

Lodi Arts Commission

Ben Burgess	Term to expire July 1, 2006
Nancy Carey	Term to expire July 1, 2006
Patrick Stockar	Term to expire July 1, 2006

Lodi Planning Commission

Dennis Haugan	Term to expire June 30, 2006

San Joaquin County Commission on Aging

Terri Whitmire	Term to expire June 30, 2006

APPROVED: _____
Blair King, City Manager

council/councom/Posting1.doc

Government Code Section 54970 et seq. requires that the City Clerk post for vacancies to allow citizens interested in serving to submit an application. The City Council is requested to direct the City Clerk to make the necessary postings.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Susan J. Blackston
City Clerk

SJB/JMP

AGENDA ITEM J-03a

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Monthly Protocol Account Report

MEETING DATE: April 19, 2006

PREPARED BY: City Clerk

RECOMMENDED ACTION: None required, information only.

BACKGROUND INFORMATION: The City Council, at its meeting of July 19, 2000, adopted Resolution No. 2000-126 approving a policy relating to the City's "Protocol Account." As a part of this policy, it was directed that a monthly itemized report of the "Protocol Account" be provided to the City Council.

Attached please find the cumulative report through March 31, 2006.

FISCAL IMPACT: N/A

FUNDING AVAILABLE: See attached.

Susan J. Blackston
City Clerk

SJB/jmp

Attachment

APPROVED: _____
Blair King, City Manager

council/councom/protocolreport.doc

PROTOCOL ACCOUNT SUMMARY
Cumulative Report
July 1, 2005 through March 31, 2006

Date	Vendor	Description	Amount	Balance
				Starting Bal. $12,000.
07-05-05	Lakewood Drugs	Clock – farewell gift from City to Dep. City Mgr. J. Keeter	43.05	
07-08-05	Lasting Impressions	Engraving (on J. Keeter gift)	42.99	
07-12-05	Touch of Mesquite*	*Deposit for catering services at Aug. 18 Annual Boards & Commissions Reception	320.00	
07-14-05	Security at HSS	3.5 hrs x $15 (Aug. 18 event)	52.50	
07-26-05	O.C. Tanner	3 City grape emblems (supply for future City gifts)	70.29	
08-17-05	Arthur's Party World	Balloon decorations (for Aug. 18 Boards & Commissions Recognition Reception)	44.18	
08-17-05	Lowe's	Table flowers & baskets (for Aug. 18 Boards & Commissions Recognition Reception)	72.46	
08-17-05	Lodi Wine & Visitors Center	Wine (for Aug. 18 Boards & Commissions Recognition Reception)	232.16	
08-17-05	Arthur's Party World	Table decorations (for Aug. 18 Boards & Commissions Recognition Reception)	34.31	
08-17-05	Michael's	Table decorations (for Aug. 18 Boards & Commissions Recognition Reception)	7.85	
08-17-05	Smart & Final	Napkins, plates, glasses (for Aug. 18 Boards & Commissions Recognition Reception)	105.67	
08-24-05	Touch of Mesquite	Catering services (for Aug. 18 Boards & Commissions Recognition Reception) *Note: See deposit 7-12-05.	1,035.55	
11-08-05	Lasting Impressions	Engraving perpetual plaque 2005 Community Service Award	18.75	
11-11-05	JoAnn's Fabric	Ribbon for certificates	6.11	
11-30-05	Travis Catering	Catering services for Joint luncheon meeting with Faith Community/City Council	676.67	
11-30-05	Lowe's	Table centerpieces for Joint luncheon meeting with Faith Community/City Council	87.64	

11-30-05	Fritz Chin Photography	Group photo 11”x14” for community service award recipients	189.00	
12-01-05	Lasting Impressions	Outgoing Mayor’s Plaque	88.89	
12-02-05	Dekra-Lite	Two (2) Centennial Banners	326.43	
12-07-05	Black Tie	Catering services for 12-7-05 Council reorganization reception	900.00	
12-09-05	Staples	Christmas Cards for Holiday Deliveries (to City staff)	12.99	
12-13-05	Specialty Cakes	Baked goods for holiday deliveries by Council to all City departments	488.00	
01-02-06	Dayspring Pen Shop	Centennial pens #160	347.65	
01-04-06	Specialty Cakes	Centennial cake for kickoff Council meeting	65.00	
01-04-06	Jerry Tyson	Photographer – one hour at Jan. 4 kickoff event	75.00	
01-10-06	Myshopangel.com	Centennial bags #250 (for Wall Dogs visiting artists hospitality bags)	208.87	
02-06-06	Stockton Blue	Sign for first oak tree planting	43.64	
03-07-06	Positive Promotions	300 children’s activity books for May 21 Celebration on Central Event/Council Booth	173.65	
03-07-06	Dayspring Pen Shop	67 key chains w/Centennial logo for August 2006 Boards & Commissions Recognition Event – hosted by Council	175.10	
03-28-06	Abrahamson Printing	1,000 envelopes for cardstock (City seal embossed invitations)	92.94	
			Total Expenditures: ($6,037.34)	*Ending Bal.* **$5,962.66**

AGENDA ITEM **K-01**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Implementing Surface Water Treatment Program Utilizing Woodbridge Irrigation District Contractual Allotment and Authorizing Solicitation of Water Treatment Plant Proposals**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council adopt a resolution implementing the surface water treatment program utilizing the Woodbridge Irrigation District (WID) 6,000 acre-feet contractual allotment by authorizing the solicitation of proposals from three water consulting firms for preliminary water treatment plant studies. **This staff report contains similar information to that presented at the March 1, 2006 Council meeting. Additional information to address comments received by staff have been added and are identified by bold text.**

BACKGROUND INFORMATION: On several past occasions, the City Council has received information regarding the acquisition and usage of 6,000 acre-feet per year of Mokelumne River water from Woodbridge Irrigation District. In May 2003, the City contracted with WID to provide untreated surface water to Lodi for 40 years. At the September 21, 2004 Shirtsleeve Meeting, the Water Supply Options Report was presented to the Council. At the April 19, 2005 Shirtsleeve meeting, staff again presented alternatives for implementing the 6,000 acre-feet per year surface water supply. On April 20, 2005, Council approved hiring a consultant to further study and develop a recommendation for full implementation of the WID surface water supply. On June 9, 2005, Council was sent a copy of the WID Surface Water Implementation Study. On November 1, 2005, Council received a presentation from the consultant and the recommendation that the City go to a conjunctive use water supply system – one that utilizes ground water and treated surface water to serve the demands of Lodi's customers.

Over the course of the past three years, a number of alternatives have been considered with the most effort focused upon "treat and drink" and "groundwater recharge." Some of the other alternatives included: 1) injection well recharge, 2) raw water irrigation of parks and schools, 3) recharge ponds within the City limits, 4) recharge ponds using North San Joaquin Water Conservation District facilities, 5) East Bay Municipal Utility District banking, and 6) interim supply to Stockton recharge ponds.

At the regional level, City of Lodi has been participating in several water supply programs that will, in the future, bring additional water supplies to the City and the other agencies in the region. Examples include the Mokelumne River Water and Power Authority MORE Project that seeks to capture unappropriated flows in the Mokelumne River. Also, Lodi is collaborating with Stockton East Water District and North San Joaquin Water Conservation District on a pilot-scale recharge project next to Micke Grove Park. North San Joaquin Water Conservation District recently passed a land-use assessment for a pilot groundwater recharge project and is evaluating multiple sites in its district.

APPROVED: _____
Blair King, City Manager

At present, the City is using 17,300 acre-feet per year to meet the demands of existing customers. Resulting from the installation of water meters that is currently underway, a reduction in demand (through conservation) is realistically expected to be 2,400 acre-feet per year. Therefore, the anticipated future demand for existing Lodi will be approximately 15,000 acre-feet per year. As presented in the 2005 Urban Water Management Plan, the safe, long-term yield of the groundwater underlying the City is 15,000 acre-feet per year.

The City Council is being asked to support staff's recommendation to pursue the "treat and drink" alternative on the basis it is the "**highest and best use**" of the WID water, given a number of factors that are compared below.

Cost

The estimated construction cost for a surface water treatment plant and associated facilities is estimated to be up to $25 million. These costs are inclusive of site acquisition, surface water diversion piping, ultrafiltration (without pretreatment) using membrane technology, chlorine disinfection, distribution piping, and storage tanks. This alternative does eliminate the need to construct additional wells to serve new demands.

The estimated construction cost for a groundwater recharge program is estimated to be $30 million. This assumes a recharge field 88 acres in size adjacent to the WID canal at $300,000 per acre, including site improvements and pipe appurtenances. Construction of five new wells is included in the estimate.

In either scenario, new development is expected to fund the capital improvements. Operating and maintenance costs are considerably higher for the "treat and drink" alternative. The estimated change to current rates would be an increase of approximately 15%, if the burden were shared City-wide.

Staff has received comments stating the recharge option costs have been over estimated and that the Micke Grove Trust lands could be acquired for constructing the recharge basins at a minimal cost. However, the current lease holder has stated intent to farm the Trust property and may not be willing to surrender the lease for the purpose of constructing recharge basins. Therefore, the estimate is based on purchasing the land needed for constructing the recharge basins in the immediate vicinity of the Lodi City limits or adjacent to the current General Plan boundary. Certainly, if land costs are lower, the recharge project would have a lower capital and operating cost compared to the treatment plant option. However, this assumes current conditions pertaining to water quality (see later comments).

Groundwater Rights

The rights to groundwater resulting from surface recharge are not clearly defined in a groundwater basin in an overdraft condition that is not yet adjudicated. Further, the City is assuming we would be getting credit from a recharge program toward meeting requirements of SB 221/SB 610 Water Supply Assessments. Discussions with legal experts on the issue indicated the City's rights to recharged groundwater would best be secured by obtaining a formal resolution from each water agency within the basin limits. It is staff's opinion this could be a daunting task. And, the recommendation relative to securing water supply credits to meet SB221/SB610 requirements was to treat and drink the water.

Benefit

Criteria to evaluate benefits to the City of Lodi and the region include: 1) direct benefit to the groundwater resource, 2) long-term water quality, 3) sharing the regional burden, and 4) time of use. Each is discussed below.

Benefit to the Groundwater Resource

In the context that the water demands of existing Lodi are matched by the safe yield of the groundwater resource, the "treat and drink" alternative eliminates further mining of the groundwater and, thereby, results in the highest direct benefit.

Groundwater recharge programs have a number of inherent losses, including evaporation, uptake by plant materials, and capture within the soil column. These losses can be as high as 30 percent **although proper basin location and construction could improve performance and efficiency.** In addition, the recharge water, once it reaches the groundwater "stream", moves away for the Lodi point of use and toward the central-county depression.

Currently, the groundwater depression is located south and east of Lodi. Recent modeling work performed by San Joaquin County suggests the groundwater depression will shift from its current location to a location (south easterly) more directly east or northeast of Lodi over the next 20+ years. If this prediction becomes reality, the City would want to construct recharge basins at the westerly boundary of the City to assure the City could then extract the water from the ground through its wells.

Long-Term Water Quality

Lodi has long enjoyed a high quality of water that is pumped from the ground through wells that are clustered in relatively close proximity to the Mokelumne River. Not only has the quality of water been excellent, but the yield from each well has been relatively high, with an average of approximately 1,400 gallons per minute per well. Based upon experience and water quality information for areas southerly and westerly of the City, new wells in these areas are expected to have higher salinity levels and lower yields. **As the basin continues to be overdrafted, there is a high risk that groundwater quality will degrade and that future wells will need treatment systems that are not included in the cost estimate.**

For the "treat and drink" alternative, the salinity in the water will be lower than found in the groundwater and this will result in a lowering of salinity levels in the wastewater. This provides a long-term tangible benefit to the City as the State is expected to impose limits on salinity for discharges to the Delta. Lowering the salinity of our "source water" will avoid very costly improvements to remove salinity at the wastewater end of the use cycle.

A groundwater recharge program will essentially not alter the water quality characteristics of the City's groundwater resource.

The "treat and drink" alternative will result in chlorination of the entire City water system, as is required by State regulation. Most in the industry agree that chlorination requirements will also be imposed upon all groundwater users in the foreseeable future. Lodi is the largest community in the State solely using groundwater without regular chlorination.

Sharing the Regional Burden

On a regional basis, the various cities and agencies are collaboratively working to enhance the supply side of the region's groundwater resource. On a conceptual level, the principal strategies to achieve this goal include: 1) securing additional surface water resources, 2) elimination or deferral of further groundwater pumping, 3) banking through recharge or deferral of pumping, and 4) regional recharge. The MORE project was described above. Stockton Delta Water Treatment Plant will begin treating 56,000 acre-feet per year within three years. Lodi's water treatment plant can begin producing 6,000 acre-feet per year of drinking water within 4.5 years. A recharge program would provide somewhat less regional benefit by virtue of the losses described above.

Time of Use

Water demands within the City are highest in the spring, summer and fall. Conversely, the lowest demands are in the winter. Our WID water is available from March 1 through October 15 and this perfectly matches our highest demand period. Lodi has secured high quality water that melds with demands, both in quantity and in time. To store such water in the ground to be pumped out later does not make a lot of sense.

As is the strategy of many of the regional recharge programs, excess water that usually becomes available in the winter months is diverted to fallow fields for percolation. Often times, this water is sediment laden and well suited for groundwater recharge. The City of Lodi could pursue a similar strategy by diverting storm drainage water to recharge areas and/or by altering designs for new developments to incorporate recharge facilities.

Recommendation

Staff is requesting City Council approval to initiate implementation of a surface water treatment program that would utilize the WID 6,000 acre-feet contractual allotment. The first steps will be to solicit proposals from three water consulting firms: HDR, RMC, and West Yost & Associates, all of whom were previously pre-qualified for Lodi water studies. The time frame from proposal solicitation to final deliverables is 12 months and the estimated cost is expected to range from $250,000 to $500,000. Three alternative treatment plant scenarios are currently envisioned: 1) stand-alone Lodi plant, 2) partnering in the Stockton Delta Water Treatment Plant, and 3) stand-alone Lodi plant sharing "source water" with the Stockton Delta Water Treatment Plant.

FISCAL IMPACT: No fiscal impact at this time. Staff will return to Council requesting authorization to execute a professional services agreement with the successful firm.

FUNDING AVAILABLE: Not applicable.

Richard C. Prima, Jr.
Public Works Director

Prepared by F. Wally Sandelin, City Engineer
RCP/FWS/pmf
J:\Water\CImplementSurfaceWaterProgram (2).doc 4/13/2006

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL
IMPLEMENTING SURFACE WATER TREATMENT
PROGRAM UTILIZING WOODBRIDGE IRRIGATION
DISTRICT CONTRACTUAL ALLOTMENT AND
AUTHORIZING SOLICITATION OF WATER TREATMENT
PLANT PROPOSALS

==========

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council hereby implements the surface water treatment program utilizing the Woodbridge Irrigation District 6,000 acre-feet contractual allotment by authorizing the solicitation of proposals from three water consulting firms for preliminary water treatment plant studies.

Dated: April 19, 2006
==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

AGENDA ITEM **K-02**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Consider extending the active date to May 12, 2006 for an application submitted by San Joaquin Valley Land Company for entitlements related to development of a 220 acre site located immediately south of Harney Lane between State Route 99 and the Union Pacific Railroad, pending a decision by Blue Shield of California to remain and expand in Lodi

MEETING DATE: April 19, 2006

PREPARED BY: City Manager

RECOMMENDED ACTION: Council direction requested.

BACKGROUND INFORMATION: On January 18, 2006, the City Council authorized the City Manager to enter into an agreement between Blue Shield of California and San Joaquin Valley Land Company to provide for reimbursement of costs related to engineering and planning for the development of approximately 220 acres, of which 20 acres is intended to accommodate a new Blue Shield of California office, 41 acres of regional retail shopping, and 134 acres of residential and supporting uses such as parks and schools.

This agreement contemplated that Blue Shield would make a decision by February 28, 2006 on whether to pursue the purchase of the office site to the exclusion of other possible sites in San Joaquin County. If Blue Shield did not make a decision by the decision date, the application would be withdrawn.

The applicant and Blue Shield have requested relief from the decision date deadline. Blue Shield has indicated that they now expect to make a decision no later than May 12, 2006. Blue Shield has communicated that this is an important corporate decision involving the long term future of the company and its employees. The decision is more difficult and complex than originally anticipated when Blue Shield agreed to the decision date. Staff is aware that Blue Shield is actively conducting due diligence as evidenced by its frequent contacts with staff and requests for information. This due diligence is being conducted in earnest at the highest levels of the organization.

FISCAL IMPACT: All costs related to processing the land use application are being passed-on to the applicant. Economic benefits from the project if approved have not been analyzed or quantified.

FUNDING AVAILABLE: Not Applicable

_____
Blair King, City Manager

APPROVED: _____
Blair King, City Manager

AGENDA ITEM **K-03**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Establishing Public Works Department Engineering Fees for Various Development Services; Amending Community Improvement Fees for Administrative Procedures; and Amending Planning Fees to Add Pre-Development Review and Hourly Charges**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director and Community Development Director**

RECOMMENDED ACTION: That the City Council adopt a resolution establishing Public Works Department Engineering fees for various development services; amending Community Improvement fees for administrative procedures; and amending Planning fees to add pre-development review and hourly charges.

BACKGROUND INFORMATION:

Public Works

It is common practice for the Community Development Department to request review, comments, conditions and approval by Public Works Department staff as part of their review process for various development services, such as the review of annexation applications, development plans, tentative parcel and subdivision maps and site plan and architectural (SPARC) applications. Historically, the Public Works Department Engineering Division staff costs related to these activities were considered to be covered by the fees collected by the Community Development Department. With the adoption of the restructured Community Development Department fee schedule in May 2005 and the establishment of a Special Revenue Fund for Community Development Department services, this is no longer the case.

In an effort to recover Public Works Department staff costs related to these discretionary services and reduce the burden on the General Fund, staff is recommending the establishment of seven new Engineering fees. They are: 1) Annexation, 2) Development Plan, 3) Tentative Subdivision Map, 4) Tentative Parcel Map/Non-Residential Condominium Conversion, 5) Site Plan and Architectural Review, 6) Building Permit – Commercial/Industrial and 7) Building Permit – Residential. The typical services provided by Public Works Department Engineering Division staff related to these activities are described in Exhibit A.

In order to set fees appropriately, staff performed an analysis of personnel time and associated costs typically required to perform each task. Those costs include the cost of Public Works staff (salary plus benefits) plus the "fully loaded" costs for City-wide overhead (vehicle maintenance, building maintenance, telephone, etc.) and internal services (Finance, City Attorney, etc.). The proposed fees are shown on Exhibit B. We also surveyed neighboring communities in late 2005 for fees charged for these services. The results of the fee survey are shown on Exhibit C.

APPROVED: _____
Blair King, City Manager

The fees represent the level of effort and associated costs for an average development project. The applicability of the standard fee shall be determined by the Public Works Director or his designee. For example, the Development Plan fee represents the time required for a typical single-family residential development having 75 lots or less and does not cover the cost of reviewing a large-scale residential development. Single-family residential projects having more than 75 lots or multi-tenant commercial/industrial projects will be charged on a time and cost basis. The proposed hourly rate by staff position is shown on Exhibit D. The hourly rate is also based on salary plus benefits and the "fully loaded" costs for City-wide overhead.

The fee schedule for existing Engineering fees, except plan check and inspection, includes a provision for an annual adjustment on July 1 based on the Consumer Price Index (Western Region, Urban, unadjusted) for the previous calendar year. The new Engineering fees, because they are based upon actual time and cost, will be monitored by staff and these fees will need to be updated from time to time to reflect changes in salary, benefits and overhead costs.

It is recommended that the new fees take effect June 1, 2006. It is further recommended that any applications subject to review by the Public Works Department that are submitted after the effective date shall be subject to the new fees.

Community Development

On April 5, 2006, the City Council introduced an ordinance amending code enforcement procedures and establishing administrative citations and administrative enforcement hearings. That ordinance is before the Council for final adoption at this meeting.

The ordinance establishes administrative citation fines but does not address all administrative fees. Such fees are established by resolution. Attached as Exhibit E is the proposed updated Community Improvement Fee Schedule to include new procedures established by the new code enforcement ordinance.

Also, for Council consideration is an updated Planning Fee Schedule. In May 2005, Council approved a new fee schedule for Planning fees. Based upon staff research, the new Planning fees were based primarily on an average of Planning fees charged in surrounding Cities. While this new fee schedule did increase Planning fees, it does not achieve full cost recovery except for only in the simplest of circumstances.

It is staff's desire to amend the fee schedule as shown in Exhibit F with the notation "plus hourly" to reflect actual staff time spent working on the request. Staff will collect the set fee for the Planning permit at time of application and then track staff time spent processing the permit. At conclusion of the permit processing (i.e., Planning Commission or City Council approval) staff will reconcile staff time spent processing the permit plus other required administrative charges (legal notice publishing costs, mail hearing notice costs, etc.) with the fee collected at application submittal. If not substantially equal, staff will then collect the balance due from the applicant as part of the issuance of the Planning permit.

Staff proposes two new procedures with their fee be added to the Planning Fee Schedule. One of these new procedures is a Pre-development Review. The intent is to provide a service where staff meets with an interested party to informally consider a proposal and perform an initial evaluation and a basic "fatal

flaw" analysis to provide the applicant with a general reaction and initial guidance. It is staff's intent to meet with the applicant 7 to 10 working days after submittal to have the applicant explain his proposal and to receive verbal comments from staff. Planning staff would coordinate the meeting and invite staff from Engineering, Fire, Utilities and other City departments as needed. Staff proposes a fee of $250 be established. While not likely to fully cover City staff time, the fee would partially cover City costs and discourage frivolous use of staff time. Too high a fee may discourage the use of this service. The second new fee is for a non-residential condominium conversion. The State Map Act and City code (LMC §16.12.030) allow for the administrative review and approval of the conversion of non-residential buildings to condominiums. This administrative procedure goes through all the staff review of a parcel map but does not go to the Planning Commission for a public hearing and Commission approval. Staff proposes a fee of $2,000 plus hourly be established. Both of these new procedures are primarily proposed as a service to the development community to get projects off to a productive start and to save time for the development community at no loss to staff review.

Since staff time would be tracked and charged to the project, it is necessary to adopt the staff hourly rate by position. The proposed hourly rate reflects total salary plus benefits and does include overhead for materials, vehicle use, building maintenance and utilities. Exhibit G establishes these hourly rates for Community Improvement and Planning. These rates will need to be updated from time to time to reflect changes in salary, benefits and overhead costs.

FISCAL IMPACT: These new and updated fees and charges will help to insure that new development pays the costs of services provided to address new development. These fees will help to make the Public Works Department and Community Development Department self-supporting. Public Works staff estimates an annual increase in revenue on the order of $100,000 from Engineering fees alone, based on development and building permit activity in 2005.

FUNDING AVAILABLE: Not Applicable.

Richard C. Prima, Jr.
Public Works Director

Randy Hatch
Community Development Director

Prepared by Sharon A. Welch, Senior Civil Engineer and Randy Hatch, Community Development Director
RCP/RH/SAW/pmf
Attachments
cc: City Engineer
Senior Civil Engineer Welch
Associate Civil Engineer Chang
Community Development Director
Planning Manager
Community Improvement Manager

EXHIBIT A

ENGINEERING STAFF SERVICES

1) Annexation
    a. Review existing infrastructure (underground utilities, street improvements, water supply, etc.) in the vicinity of the proposed annexation
    b. Review existing utility master plans to broadly identify potential development issues, such as utility extensions, drainage requirements, street widening improvements, etc.
    c. Provide written comments and conditions to the Community Development Department
2) Development Plan
    a. Review existing infrastructure adjacent to proposed development site
    b. Review proposed site layout with respect to traffic circulation, street right-of-way, proposed utility alignments, if provided, and other development requirements
    c. Review existing utility master plans and identify infrastructure requirements such as utility extensions, drainage requirements, street widening improvements, etc.
    d. Identify existing public utility easements affecting the development site
    e. Research and identify any outstanding improvement deferral agreements, reimbursement agreements/resolutions, etc., and fees to be collected by the City
    f. Interact with developer or Planning Division staff as necessary to obtain a good understanding of the proposed development and feasible alternatives for providing public services to the project
    g. Provide written comments/conditions, including comments/conditions provided by the Electric Utility Department, to the Community Development Department
3) Tentative Subdivision Map
    a. Task work includes all items listed above for Development Plan review but with increased level of detail.
    b. Specify improvement plan check requirements, required agreements, abandonment of existing private utilities, funding arrangements for proposed improvements to be publicly maintained (masonry walls, landscaping, etc.) and required approvals from other agencies (Caltrans, San Joaquin County, etc.)
    c. Comments/conditions provided by the Public Works Department Water/Wastewater Division and Electric Utility Department are incorporated into the written comments/conditions provided by the Engineering Division.
4) Tentative Parcel Map & Non-Residential Condominium Conversion
    a. Review existing infrastructure adjacent to and currently serving the existing parcel. This usually includes a field review by Water/Wastewater Division personnel.
    b. Identify public improvements to be completed and fees to be paid both prior to map filing and at the time of parcel development.
    c. Provide written comments/conditions, including comments/conditions provided by the Water/Wastewater Division and Electric Utility Department, to the Community Development Department
5) Site Plan and Architectural Review (SPARC)
    a. Review proposed site layout with respect to right-of-way or easement dedications, public improvements, driveway locations, utilities and required fees

   b. Provide written comments/conditions to the Community Development Department

6) Building Permit – Commercial/Industrial
   a. Review project plans for Public Works related issues, including dedications, street improvements, required utility extensions and services, encroachment permit requirements, etc., and provide written comments/requirements for plan revisions to the building permit applicant. Plan review usually includes a field review by Water/Wastewater Division staff.
   b. Provide additional review and comments for plan revision submittals and interact with applicant during the plan review process, up to and including plan approval
   c. Calculate and collect any required fees, such as development impact fees, wastewater capacity impact fees, utility service installation charges, water meter charges, reimbursement fees, etc.
   d. Communicate with Building Division staff during the plan review process
7) Building Permit – Residential
   a. Task work includes all the items required for commercial/industrial projects but on a much smaller scale. These projects are generally much less complex than commercial/industrial projects and require less staff time for review and approval.

EXHIBIT B

Engineering Fee	Proposed Fee [1]
Annexation [2]	$630
Development Plan [2]	$1050 plus $15/lot over 5 lots
Tentative Subdivision Map [2]	$1050 1-5 lots plus $15/lot over 5 lots
Tentative Parcel Map & Non-Residential Condominium Conversion	$840
Site Plan	$420
Building Permit - Commmercial/Industrial/Multi-Family	$600
Building Permit - Single-Family Residential	$110

(1) These fees shall be adjusted annually by the inflation rate based on the prior calendar year as determined by the Consumer Price Index (Western Region, Urban, unadjusted), The rate of inflation (or deflation) is applied to the fees to determine the fees for the subsequent year. Said fee adjustments, if any, will be made automatically effective July 1 of each year.

(2) Based on single-family residential developments having 75 lots or less. Single family residential projects having more than 75 lots or multi-tenant commercial/industrial projects will be charged on a time and cost basis. The applicability of the standard fee shall be determined by the Public Works Director.

J:\DEV_SERV\Development Fees\Fee Update 2006_Ex B_C.xls

EXHIBIT C

	Lodi Proposed Fee	San Joaquin County	Galt	Ripon [1]	Stockton [2]	Tracy [1]	Lathrop [1]
Annexation	$630	Research $110 Processing - Actual Cost		$2,343	$5,185 (20-100 acres)	$10,500	Actual Cost
Development Plan	$1050 plus $15/lot over 5 lots					$3,800	
Tentative Subdivision Map	$1050 1-5 Lots plus $15/lot over 5 lots	$4308 plus $13/lot (vested map)	$2,500	$3,124	$4,251 plus $107/lot over 4 lots	$10,000 (5-100 Lots) $15,600 (101+ Lots)	$3,620
Tentative Parcel Map	$840	$908 plus $53/lot over 2 lots (vested map)	$2,500	$1,875	$3,189	$7,300	$3,620
Site Plan	$420	$40-$126 depending on project		$549			$1,255
Building Permit - Commmercial/Industrial/Multi-Family	$600	$50	$558		$264		
Building Permit - Single-Family Residential	$110	$50	$31		$30		

[1] Fees shown include engineering and planning fees; no separate fee for engineering.
[2] Fees for Annexation, Tentative Subdivision Map and Tentative Parcel Map include engineering and planning fees; no separate fee for engineering.

EXHIBIT D

PUBLIC WORKS ENGINEERING HOURLY RATE[(1)]

• Public Works Director	$110/Hr
• City Engineer	$90/Hr
• Senior Civil Engineer	$80/Hr
• Senior Traffic Engineer	$80/Hr
• Associate Civil Engineer	$75/Hr
• Senior Engineering Technician	$60/Hr
• Assistant Engineer	TBD if filled
• Junior Engineer	TBD if filled
• Engineering Technician	TBD if filled

(1) These hourly rates are fully burdened, which includes salary, all benefits, and overhead.

EXHIBIT E

FEE SCHEDULE

City of Lodi Community Development Department – Community Improvement Division

	Current	Proposed
Initial Field Inspection Fee	0	$50
Initial Compliance Inspection	0	$50

Both of the aforementioned fees would be waived if voluntary compliance is obtained within given deadline.

Code Compliance Permit Fee	$100/hr	$100/hr
Reinspection Fee	n/a	$50
Initial Non-Compliance Fee	$100	$100
Subsequent Non-Compliance Fees	$300	$300
Initial Appeal Fee	$300	$100
Second Appeal Fee	n/a	$300

EXHIBIT F

FEE SCHEDULE

CITY OF LODI, COMMUNITY DEVELOPMENT DEPARTMENT, 221 W. PINE ST., LODI, CA 95240
PHONE: (209) 333-6711 FAX: (209) 333-6842

PLANNING:	FEE
ADMINISTRATIVE DEVIATION	$350 + HOURLY
ANNEXATION	$4,000 + HOURLY
APPEALS	$300
DEVELOPMENT PLAN REVIEW	$2,500 + HOURLY
ENVIRONMENTAL IMPACT REPORT	HOURLY
GENERAL PLAN AMENDMENT	$3,000 + HOURLY
HOME OCCUPATION	$100
LANDSCAPE REVIEW	$175 + HOURLY
LIVE ENTERTAINMENT PERMIT	$200
LOT LINE ADJUSTMENT	$650 + HOURLY
MITIGATION MONITORING	$HOURLY
NEGATIVE DECLARATION	$900 + HOURLY
TENTATIVE PARCEL MAP	$2,500 + HOURLY
NON-RESIDENTIAL CONDOMINIUM CONVERSIONS	$2,000 + HOURLY
PRELIMINARY ENVIRONMENTAL ASSESSMENT	$250 + HOURLY
REZONE	$2,000 + HOURLY
SITE PLAN AND ARCHITECTURAL REVIEW (SPARC)	$1,875 + HOURLY
TENTATIVE SUBDIVISION MAP	$4,600 + HOURLY
USE PERMIT	$2,000 + HOURLY
VARIANCE	$1,000 + HOURLY
PRE-DEVELOPMENT REVIEW	$250
DOCUMENT IMAGING	$50/APPLICATION
STAFF CONSULTATION (INCLUDING LETTERS)	HOURLY

THE APPLICATION FEES LISTED ABOVE ARE REFUNDABLE UNDER THE FOLLOWING CIRCUMSTANCES:

- WITHIN 30-DAYS OF APPLICATION – 75% REFUND.
- AFTER PROJECT ACCEPTANCE AND CIRCULATION FOR REVIEW – 50% REFUND.
- AFTER FORMULATION OF STAFF RECOMMENDATION TO PLANNING COMMISSION AND/OR CITY COUNCIL, OR 90-DAYS, WHICHEVER COMES FIRST – NO REFUND.

STAFF REQUESTS FOR INFORMATION, CORRECTIONS, OR AMENDMENTS MUST BE SUBMITTED WITHIN 30-DAYS. IF A PROJECT IS INACTIVE BEYOND 30-DAYS, THE APPLICATION WILL BE RETURNED AND A REFUND PROCESSED.

BUILDING: SEE "BUILDING FEES COLLECTED AT PERMIT ISSUANCE"

Effective 7/1/2005

EXHIBIT G

COMMUNITY DEVELOPMENT HOURLY RATE❖

COMMUNITY IMPROVEMENT

• Community Improvement Manager	$70/Hr
• Community Improvement Officers	$45/Hr
• Administrative Clerk	$30/Hr

PLANNING

• Community Development Director	$100/Hr
• Planning Manager	$80/Hr
• Senior Planner	$65/Hr
• Associate Planner	$55/Hr
• Assistant Planner	TBD if filled
• Junior Planner	TBD if filled
• Contract Planner	TBD when used
• Administrative Secretary	$40/Hr

❖ These hourly rates are fully burdened which includes: salary, all benefits, and overhead

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL IDENTIFYING PUBLIC WORKS ENGINEERING FEES FOR VARIOUS DEVELOPMENT SERVICES; AMENDING COMMUNITY IMPROVEMENT FEES FOR ADMINISTRATIVE PROCEDURES; AND AMENDING PLANNING FEES

==========

WHEREAS, the Lodi Municipal Code requires the City Council, by Resolution, to set fees for various services provided by the City of Lodi to recover those costs associated with providing specific services and programs; and

Public Works:

WHEREAS, it is common practice for the Community Development Department to request review, comments, conditions and approval by Public Works Department staff as part of their review process for various development services, such as the review of annexation applications, development plans, tentative parcel and subdivision maps and site plan and architectural (SPARC) applications; and

WHEREAS, historically, the Public Works Department Engineering Division staff costs related to these activities were considered to be covered by the fees collected by the Community Development Department. With the adoption of a new Planning fee schedule in May 2005 and the establishment of a Special Revenue Fund for Community Development Department services, this is no longer the case.

WHEREAS, in an effort to recover Public Works Department staff costs related to these discretionary services and reduce the burden on the General Fund, staff is recommending seven Engineering fees be collected by the Public Works Department. They are: 1) Annexation, 2) Development Plan, 3) Tentative Subdivision Map, 4) Tentative Parcel Map/Non-Residential Condominium Conversion, 5) Site Plan and Architectural Review, 6) Building Permit – Commercial/Industrial and 7) Building Permit – Residential; and

WHEREAS, in order to set fees appropriately, staff performed an analysis of personnel time and associated costs typically required to perform each task. Those costs include the cost of Public Works staff (salary plus benefits) plus the "fully loaded" costs for Citywide overhead (vehicle maintenance, building maintenance, telephone, etc.) and internal services (Finance, City Attorney, etc.). The proposed fees are shown on Exhibit A; and

WHEREAS, the fees represent the level of effort and associated costs for an average development project. The applicability of the standard fee shall be determined by the Public Works Director or his designee with projects exceeding an average level of staff work being charged on a time and cost basis. The proposed hourly rate by staff position is shown on Exhibit B. The hourly rate is also based on salary plus benefits and the "fully loaded" costs for City-wide overhead; and

WHEREAS, the fee schedule for existing Engineering fees, except plan check and inspection, includes a provision for an annual adjustment on July 1 based on the Consumer Price Index (Western Region, Urban, unadjusted) for the previous calendar year. Staff will continue to monitor the staff time and costs associated with all Engineering services and may return to Council from time to time for adjustments to the fees.

WHEREAS, it is recommended that the new fees take effect on June 1, 2006. It is further recommended that any applications subject to review by the Public Works Department that are submitted after the effective date shall be subject to the new fees.

Community Development:

WHEREAS, on April 19, 2006, the City Council introduced an ordinance amending code enforcement procedures and establishing administrative citations and administrative enforcement hearings; and

WHEREAS, the ordinance establishes administrative citation fines but does not address all administrative fees. Such fees are established by resolution. Attached as Exhibit C is the proposed updated Community Improvement Fee Schedule to include procedures established by the amended code enforcement ordinance; and

WHEREAS, in May 2005 the City Council approved a new fee schedule for Planning fees that was based primarily on an average of Planning fees charged in surrounding cities. While this new fee schedule did increase Planning fees, it does not achieve Council policy of full cost recovery, except for only in the simplest of circumstances; and

WHEREAS, staff recommends amending the fee schedule as shown in Exhibit D with the notation "plus hourly" to reflect actual staff time spent working on the request. Staff will collect the set fee for the Planning permit at time of application and then track staff time spent processing the permit. At conclusion of the permit processing (i.e., Planning Commission or City Council approval) staff will reconcile staff time spent processing the permit plus other required administrative charges (legal publishing, hearing notice, etc.) with the fee collected at application submittal. If not substantially equal, staff will then collect the balance due from the applicant; and

WHEREAS, staff proposes two procedures with their fee be added to the Planning Fee Schedule (Exhibit D). One of these procedures is a Pre-development Review, the second fee is for a non-residential condominium conversion; and

WHEREAS, since staff time would be tracked and charged to the project, it is necessary to adopt the staff hourly rate by position. The proposed hourly rate reflects total salary plus benefits and does include overhead for materials, vehicle use, building maintenance and utilities. Exhibit E establishes these hourly rates for Community Improvement and Planning. These rates will need to be updated by Resolution from time to time to reflect changes in salary, benefits and overhead costs.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby implement the fee schedules attached hereto marked Exhibit A, B, C. D, E, and made a part of this Resolution; and

BE IT FURTHER RESOLVED, that the Engineering fees will also be subject to an annual adjustment on July 1 based on the Consumer Price Index (Western Region, Urban, unadjusted) for the previous calendar year; and

BE IT FURTHER RESOLVED, that any applications subject to review by the Public Works or Community Development Departments that are submitted after the effective date of this Resolution shall be subject to the new fees; and

RESOLVED FURTHER that all resolutions or parts of resolutions in conflict herewith are repealed insofar as such conflict may exist; and

RESOLVED FURTHER that this resolution shall be published one time in the Lodi News Sentinel, a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect on June 1, 2006.

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

EXHIBIT A

Engineering Fee	Proposed Fee [1]
Annexation [2]	$630
Development Plan [2]	$1050 plus $15/lot over 5 lots
Tentative Subdivision Map [2]	$1050 1-5 lots plus $15/lot over 5 lots
Tentative Parcel Map & Non-Residential Condominium Conversion	$840
Site Plan	$420
Building Permit - Commmercial/Industrial/Multi-Family	$600
Building Permit - Single-Family Residential	$110

(1) These fees shall be adjusted annually by the inflation rate based on the prior calendar year as determined by the Consumer Price Index (Western Region, Urban, unadjusted), The rate of inflation (or deflation) is applied to the fees to determine the fees for the subsequent year. Said fee adjustments, if any, will be made automatically effective July 1 of each year.

(2) Based on single-family residential developments having 75 lots or less. Single family residential projects having more than 75 lots or multi-tenant commercial/industrial projects will be charged on a time and cost basis. The applicability of the standard fee shall be determined by the Public Works Director.

EXHIBIT B

PUBLIC WORKS ENGINEERING HOURLY RATE (1)

• Public Works Director	$110/Hr
• City Engineer	$90/Hr
• Senior Civil Engineer	$80/Hr
• Senior Traffic Engineer	$80/Hr
• Associate Civil Engineer	$75/Hr
• Senior Engineering Technician	$60/Hr
• Assistant Engineer	TBD if filled
• Junior Engineer	TBD if filled
• Engineering Technician	TBD if filled

(1). These hourly rates are fully burdened, which includes salary, all benefits, and overhead.

EXHIBIT C

FEE SCHEDULE

City of Lodi Community Development Department – Community Improvement Division

	Current	Proposed
Initial Field Inspection Fee	0	$50
Initial Compliance Inspection	0	$50

Both of the aforementioned fees would be waived if voluntary compliance is obtained within given deadline.

Code Compliance Permit Fee	$100/hr	$100/hr
Reinspection Fee	n/a	$50
Initial Non-Compliance Fee	$100	$100
Subsequent Non-Compliance Fees	$300	$300
Initial Appeal Fee	$300	$100
Second Appeal Fee	n/a	$300

EXHIBIT D

EXHIBIT F

FEE SCHEDULE

CITY OF LODI, COMMUNITY DEVELOPMENT DEPARTMENT, 221 W. PINE ST., LODI, CA 95240
PHONE: (209) 333-6711 FAX: (209) 333-6842

PLANNING:	FEE
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ANNEXATION	$4,000 + HOURLY
APPEALS	$300
DEVELOPMENT PLAN REVIEW	$2,500 + HOURLY
ENVIRONMENTAL IMPACT REPORT	HOURLY
GENERAL PLAN AMENDMENT	$3,000 + HOURLY
HOME OCCUPATION	$100
LANDSCAPE REVIEW	$175 + HOURLY
LIVE ENTERTAINMENT PERMIT	$200
LOT LINE ADJUSTMENT	$650 + HOURLY
MITIGATION MONITORING	$HOURLY
NEGATIVE DECLARATION	$900 + HOURLY
TENTATIVE PARCEL MAP	$2,500 + HOURLY
NON-RESIDENTIAL CONDOMINIUM CONVERSIONS	$2,000 + HOURLY
PRELIMINARY ENVIRONMENTAL ASSESSMENT	$250 + HOURLY
REZONE	$2,000 + HOURLY
SITE PLAN AND ARCHITECTURAL REVIEW (SPARC)	$1,875 + HOURLY
TENTATIVE SUBDIVISION MAP	$4,600 + HOURLY
USE PERMIT	$2,000 + HOURLY
VARIANCE	$1,000 + HOURLY
PRE-DEVELOPMENT REVIEW	$250
DOCUMENT IMAGING	$50/APPLICATION
STAFF CONSULTATION (INCLUDING LETTERS)	HOURLY

THE APPLICATION FEES LISTED ABOVE ARE REFUNDABLE UNDER THE FOLLOWING CIRCUMSTANCES:

- WITHIN 30-DAYS OF APPLICATION – 75% REFUND.
- AFTER PROJECT ACCEPTANCE AND CIRCULATION FOR REVIEW – 50% REFUND.
- AFTER FORMULATION OF STAFF RECOMMENDATION TO PLANNING COMMISSION AND/OR CITY COUNCIL, OR 90-DAYS, WHICHEVER COMES FIRST – NO REFUND.

STAFF REQUESTS FOR INFORMATION, CORRECTIONS, OR AMENDMENTS MUST BE SUBMITTED WITHIN 30-DAYS. IF A PROJECT IS INACTIVE BEYOND 30-DAYS, THE APPLICATION WILL BE RETURNED AND A REFUND PROCESSED.

BUILDING: SEE "BUILDING FEES COLLECTED AT PERMIT ISSUANCE"

Effective 7/1/2005

EXHIBIT E

COMMUNITY DEVELOPMENT HOURLY RATE❖

COMMUNITY IMPROVEMENT

• Community Improvement Manager	$70/Hr
• Community Improvement Officers	$45/Hr
• Administrative Clerk	$30/Hr

PLANNING

• Community Development Director	$100/Hr
• Planning Manager	$80/Hr
• Senior Planner	$65/Hr
• Associate Planner	$55/Hr
• Assistant Planner	TBD if filled
• Junior Planner	TBD if filled
• Contract Planner	TBD when used
• Administrative Secretary	$40/Hr

❖ These hourly rates are fully burdened which includes: salary, all benefits, and overhead

AGENDA ITEM **K-04**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Adopt Resolution Authorizing City Manager to Execute Professional Services Agreement with Fehr & Peers Transportation Consultants, of Walnut Creek, for Preparation of Travel Demand Forecasting Model for General Plan Update and Appropriating Funds ($160,000)**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council adopt a resolution authorizing the City Manager to execute a professional services agreement with Fehr & Peers Transportation Consultants, of Walnut Creek, for preparation of a travel demand forecasting model for General Plan update and appropriating funds in the amount of $160,000.

BACKGROUND INFORMATION: The City Council has directed staff to proceed with the update of the City of Lodi General Plan.

The existing traffic model for the City was prepared in 1990, in conjunction with the current General Plan. A number of subsequent traffic analyses have been completed using the 1990 traffic model, the SJCOG regional model, and derivatives thereof.

Staff recommends preparation of a new travel demand model for existing conditions within the City to accelerate the schedule of the General Plan traffic analysis and this will result in fiscal efficiency by preparing the existing conditions model in advance. In addition, the model will be able to identify areas with excess traffic carrying capacity for consideration in designating land-use in the new General Plan.

Requests for proposals were sent to two firms pre-qualified for the General Plan consultant teams. A single proposal was received from Fehr & Peers. This company has done a substantial amount of traffic planning in the area, including Lodi, and is well-suited to do this work.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: IMF General City Facilities

_____
Ruby Paiste, Interim Finance Director

_____
Richard C. Prima, Jr.
Public Works Director

Prepared by F. Wally Sandelin, City Engineer
RCP/FWS/pmf
cc: Randy Hatch, Community Development Director
Paula Fernandez, Senior Traffic Engineer

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE PROFESSIONAL SERVICES AGREEMENT WITH FEHR & PEERS TRANSPORTATION CONSULTANTS, FOR PREPARATION OF TRAVEL DEMAND FORECASTING MODEL FOR GENERAL PLAN UPDATE AND FURTHER APPROPRIATING FUNDS

==========

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council hereby authorizes the City Manager to execute a Professional Services Agreement with Fehr & Peers Transportation Consultants, of Walnut Creek, California for the preparation of a travel demand forecasting model for General Plan Update; and

BE IT FURTHER RESOLVED, that funds in the amount of $160,000 be appropriated from IMF General City Facilities for this project.

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

AGENDA ITEM **K-05**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt resolution authorizing the City Manager to execute two agreements to prepare Environmental Impact Report Amendments for the Lodi Shopping Center; one agreement with Pacific Municipal Consultants for $72,000.00 and one agreement with Bay Area Economics for $46,075.00.

MEETING DATE: April 19, 2006

PREPARED BY: Randy Hatch, Community Development Director

RECOMMENDED ACTION: That the City Council adopt resolution authorizing the City Manager to execute two agreements to prepare Environment Impact Report (EIR) Amendments for the Lodi Shopping Center; one agreement with Pacific Municipal Consultants for $72,000.00 and one agreement with Bay Area Economics for $46,075.00.

BACKGROUND INFORMATION: As the Council is aware the City evaluated and ultimately Council approved planning entitlements and certified an Environmental Impact Report (EIR) for the Lodi Shopping Center at the southwest corner of Kettleman Lane and Lower Sacramento Road. This center is anchored by a Super Wal-Mart and contains other retail tenants. The City's certification of the EIR was challenged in court and on December 19, 2005 the San Joaquin County Superior Court found the EIR to be deficient in two specific aspects. This action voided City entitlements for the project. The Council has directed staff to address the deficiencies found by the Superior Court and amend the original EIR.

Staff in close cooperation with our attorney on this case, has been in discussions with our original EIR consultant to prepare an approach to address the deficiencies found by the Court. Attached are the scopes of work by Pacific Municipal Consultants (PMC) and Bay Area Economics (BAE) to complete this work. While PMC continues as the prime consultant on this work, BAE has been added to specifically prepare the economic impacts analysis needed due to the Court's decision. The schedule for this work is included in PMC's proposal and has a target date of January 17, 2007 for the first public hearing (before the Planning Commission).

FISCAL IMPACT: The cost for this work effort is $72,000.00 for PMC and $46,075.00 for BEA. All of these costs will be paid for by the developer (Browman Development Company).

FUNDING AVAILABLE: N/A

_____
Ruby Paiste, Interim Finance Director

_____
Randy Hatch
Community Development Director

RH/kjc
Attachments: Resolution, PMC Proposal, & BAE Proposal
cc: City Attorney

APPROVED: _____
Blair King, City Manager

PMC

PACIFIC MUNICIPAL CONSULTANTS

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SAN DIEGO
10951 Sorrento Valley Road
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San Diego, CA 92121
Phone (858) 453-3602
Fax (858) 453-3628

April 10, 2006

Mr. Randy Hatch
Community Development Director
City of Lodi
City Hall
21 West Pine Street
P.O. Box 3006
Lodi, CA 95241

Re: Proposal to Prepare the Amendments to the Lodi Shopping Center EIR

Dear Mr. Hatch:

Pacific Municipal Consultants is pleased to submit this proposal to prepare the Amendments to the Lodi Shopping Center EIR. The following scope of work outlines our understanding of the assignment, and the expected content of the EIR Amendments, and provides an overview of PMC's involvement in the review and revision process through to EIR certification. This is followed by a schedule outlining the timeline for this process, and the estimated budget needed to complete the scope of work.

SCOPE OF WORK

Project Understanding

For purposes of this scope of work, it is assumed that the project description for the Lodi Shopping Center will be the same as described in the previously certified Lodi Shopping Center EIR.

General Approach

It is understood that the certification of the original EIR has been rescinded. However, since only limited portions of the EIR will need to be revised and recirculated, it is understood that the EIR revisions will be contained in a supplemental document. It is the intent of City staff that the original EIR, as amended by the supplemental document, will be carried forward for certification. Because the original EIR is not currently a certified document, the supplemental document cannot be called "Supplemental EIR," "Subsequent EIR," or "EIR Addendum," since these terms have specific meaning under CEQA in that they all function to amend EIRs which have been certified. As such, PMC proposes to call the subject document an "EIR Amendments document" since this is not a CEQA term and yet accurately describes the function of the document.

The primary purpose of the EIR Amendments document will be to address those aspects of the original Lodi Shopping Center EIR that were found to be deficient by the San Joaquin County Superior Court in its decision issued on December 19, 2005. In particular, the EIR Amendments document is to revise the urban decay analysis in the EIR and to address the project's potential energy effects. This scope of work also includes revisions to the Project Alternatives section of the EIR, as well as a modified statement of Project Objectives, as requested by City staff.

In addition, the City of Lodi has indicated that it has made a significant change in policy with respect to protection of agricultural land since the original EIR was certified on February 3, 2005. It is anticipated that City Council will formally adopt a policy requiring new development projects to provide mitigation for conversion of prime agricultural land, specifically in the form of agricultural easements or in-lieu payments at a prescribed ratio. Since the previously certified EIR does not identify this as a mitigation measure, the City staff has directed that the EIR Amendments document include a revised discussion of agricultural impacts which identifies agricultural easements as a mitigation measure.

In short, the EIR Amendments document is to contain substantive discussions on the subjects of urban decay, energy resources, agricultural resources, and project alternatives, and will include a modified Statement of Project Objectives. The proposed content of each of these discussions is outlined below under "Task 2 - Prepare Administrative Draft EIR Amendments." Since the remainder of the previously certified EIR was not deemed deficient by the Superior Court, the EIR Amendments document will contain no other topical discussions apart from those identified above. However, for informational purposes, the EIR Amendments document will include the 'Summary of Impacts and Mitigations' and the 'Project Description' from the original EIR.

It is understood that the entire EIR will need to be recertified. However, since the remaining portions of the original EIR are still valid and not subject to change, there is no need to recirculate the original EIR for public and agency review. However, the Planning Commission and the City Council (on appeal) will need to have the original EIR, along with the EIR Amendments document, in order to recertify the entire EIR. For this purpose, it is recommended that the previous DEIR be revised to include the text amendments included in the previous Final EIR, and that the entire document be renamed consolidated Final EIR (Volumes I and II). In order to avoid confusion with respect to the revised sections, it is recommended that the passages of the previous EIR which are revised in the EIR Amendments document be overwritten with strikeouts, with a note accompanying each such passage indicating that the revised passage is found in the EIR Amendments document. For the convenience of the reviewers, it is proposed that the public review draft of the EIR Amendments document include a CD containing the original consolidated Final EIR (Volumes I and II) and the Draft EIR Amendments document.

TASK 1 – PREPARE NOTICE OF PREPARATION

As required under CEQA, a Notice of Preparation (NOP) will be prepared which notifies the public and agencies that the EIR Amendments document is being prepared, and which invites their input on issues of concern. The NOP will include a project description and the list of issues to be covered in the EIR Amendments document. It is assumed that City staff will distribute the NOP to the agencies and other interested parties.

TASK 2 - PREPARE ADMINISTRATIVE DRAFT EIR AMENDMENTS DOCUMENT

The content of the EIR Amendments document and the work tasks for the individual topic areas, as currently anticipated, are described below. The format of the EIR Amendments document will be identical to the previously certified EIR and will use the same numbering system for individual sections of the document.

INTRODUCTION

This brief introductory section will discuss the background of the EIR Amendments document, and will explain the rationale for limiting the scope of issues to be addressed in the document. The City's process for preparation and review of the EIR Amendments document will also be described.

SUMMARY

This section will include a brief description of the project and a summary table that lists the potential impacts identified in both the original EIR and the EIR Amendments document (newly added or modified language would be distinguished in some manner), along with the corresponding mitigation measures and the level of significance after mitigation.

II. PROJECT DESCRIPTION

It is expected that this chapter will be identical to the corresponding chapter in the original EIR, except that the Statement of Project Objectives will be modified.

III. ENVIRONMENTAL SETTING, IMPACTS AND MITIGATION MEASURES

This chapter will include an introductory note indicating that only the revised portions of the EIR are included in this document. It will note that all other aspects of the original EIR are still deemed valid, and that the following sections are to be considered replacements for the corresponding sections the original EIR.

A. Land Use – The EIR Amendments document would include only a revised version of "Impact A3. Potential for Blight Due to Socioeconomic Impacts." (The reader would be referred to the original FEIR for discussion of other land use issues.) The new discussion of urban blight will be based entirely on the economic impact report to be prepared by Bay Area Economics under direct contract to the City. The new economic report is intended to replace the previous economic report by ADE. Although the BAE report will comprise a full economic impact study, it will focus on the competitive effects of the Wal-Mart Supercenter upon existing businesses within the trade area. The study will also include a specific analysis of the effects of the Lodi Shopping Center on downtown businesses. Most importantly, this section will address the cumulative effects of several existing and planned Wal-Mart Supercenters in the area, an issue which was raised by the Superior Court. However, the economic report will not evaluate the potential urban decay resulting from the vacancy of the existing Wal-mart

applicant to retenant this space will be adequate to prevent the physical deterioration of this space. The economic report by BAE will be included as a technical appendix to the EIR Amendments document.

B. Agricultural Resources – Much of the discussion in the original EIR section, particularly the 'Environmental Setting' and 'Regulatory Setting' discussions, is still valid. However, these discussions will be reproduced in the EIR Amendments document in order to provide a context for the revised discussion under "Impact B1. Agricultural Land Conversion." Although much of this impact and mitigation discussion is also still valid, it will be revised and updated to reflect current City policy direction concerning the use of conservation easements as mitigation for conversion of prime farmland. The new discussion will describe, in detail, a new City policy on agricultural mitigation (expected to be adopted within the next two months), including prescribed replacement ratios, designated areas for acquisition of easements, management of easements or in-lieu fees, and other aspects of implementation, as appropriate. The most significant modification introduced by the SEIR will be the identification of new mitigation measure requiring the acquisition of an agricultural easement at a prescribed ratio, or payment of in-lieu fees at a prescribed rate. However, it will be acknowledged that since this mitigation will not prevent the conversion of irreplaceable prime farmland, the level of impact remaining after mitigation will still be significant and unavoidable. As such, the requirement to adopt a Statement of Overriding Considerations for agricultural resources will remain.

C. Energy – This represents a new section which was specifically directed by the Superior Court to be added to the EIR. This section will follow the format of the other EIR sections and will begin with an overview of CEQA requirements and guidance for the discussion of energy impacts. The focus of the discussion will be on whether the project results in "inefficient, wasteful, and unnecessary consumption of energy." As appropriate, the guidance contained in CEQA Guidelines' "Appendix F – Energy Conservation" will be followed in preparing the analysis of energy impacts. In particular, this will cover the energy usage of the project, the capacity of the existing energy generation and distribution systems to accommodate the energy needs of the project, and the specific elements of the project which are intended to conserve energy.

III. CUMULATIVE IMPACTS

This chapter will be selectively revised to include revised discussions for the three topics of concern, namely land use (urban decay), agricultural resources, and energy. It will be noted that all other aspects of the cumulative analysis are not subject to change.

IV. ALTERNATIVES TO THE PROPOSED PROJECT

The existing alternatives discussion will be revised to reflect the modifications to the project objectives, and to incorporate other changes as directed by City staff. It is assumed that up to two new alternatives will be added to this chapter, with the specific descriptions of the alternatives to be determined in consultation with City staff.

APPENDIX A

The Notice of Preparation (NOP) for the EIR Amendments document, the comments received on the NOP, will be included as Appendix A to the EIR Amendments document.

APPENDIX B

The Economic Impact Report by Bay Area Economics will be contained in this appendix.

PRINTING AND DELIVERY

Upon completion of the Administrative Draft EIR Amendments document, 10 copies of the document will be printed and delivered to the City staff for their review, along with an electronic copy of the text in MS Word. (Five copies will be printed for use by the applicant.)

TASK 3 - REVISE EIR AMENDMENTS DOCUMENT

Based on comments received from the City staff, the Administrative Draft EIR Amendments document will be revised. It is expected that submittal of electronic copies (via email) of the revised EIR Amendments document and economic study will be sufficient for this round of review.

TASK 4 - PREPARE DRAFT EIR AMENDMENTS DOCUMENT

Based on staff comments received on the Revised Administrative Draft EIR Amendments document, a preliminary Draft EIR Amendments document will be prepared which incorporates the changes requested. It is anticipated that only an electronic copy of the text will need to be submitted at this stage. Typically, this phase of the process consists of a series of quick review and revision cycles, conducted via email, until the City determines that the Draft EIR Amendments document is acceptable for public review. A total of 50 hard copies of the Draft EIR Amendments document will be produced and submitted to the City, along with one reproducible hard copy. Each hard copy of the document will include an electronic copy of the document on CD in PDF format, which will be inserted in a pocket part inside the back cover. (As noted, the CD will include the original FEIR [Volumes I and II] and the Draft EIR Amendments document.) This scope of work includes the forwarding to the State Clearinghouse of an additional 15 hard copies of the full Draft EIR Amendments document along with the Notice of Completion (NOC). It is assumed that the City will distribute the document to local agencies and other interested parties. The 45-day public and agency review period will commence once the documents are submitted to the State Clearinghouse and made available for public review.

TASK 5 - PREPARE FINAL EIR AMENDMENTS DOCUMENT

At the conclusion of the 45-day review period, the comment letters from the agencies and the public will be reviewed and discussed with City staff. The draft responses to comments will then be prepared, along with an addendum section containing any text revisions to the EIR Amendments document. Upon completion, an administrative Final EIR Amendments document will be submitted to the City in electronic form for their review. Based on the comments received from the staff, final revisions to the document will be made. The Final EIR Amendments document will

submitted to the City in electronic form for their review. Based on the comments received from the staff, final revisions to the document will be made. The Final EIR Amendments document will include the summary of impacts and mitigations from the Draft EIR Amendments document, the comment letters, responses to comments, and text amendments. A total of 65 hard copies of the Final EIR Amendments document will be submitted (each with a CD of the document inside the back cover), along with one reproducible copy. In addition, 20 hard copies of the consolidated original FEIR (i.e., original DEIR revised to incorporate text changes specified in the original FEIR) will be produced for use by the Planning Commission, City Council, and staff.

Since it is difficult to predict the volume of comments that will be submitted on the Draft EIR Amendments document or the degree of controversy that the project will generate, the level of effort required to prepare responses to the comments cannot be estimated with accuracy. For purposes of this scope of work, a budget allocation equivalent to approximately 60 hours professional time has been devoted to the preparation of the Final EIR Amendments document. If additional effort is required beyond this allocation, additional budget authorization may be required, depending on budget remaining at the time.

MITIGATION MONITORING AND REPORTING PROGRAM

The previously adopted Mitigation Monitoring and Reporting Program (MMRP) for the project will be modified to reflect changes to the mitigation measures.

CEQA FINDINGS

This scope of work includes preparation of draft CEQA findings, including a Statement of Overriding Considerations, for use by City staff.

MEETINGS

It is anticipated that up to two meetings with City staff on the EIR Amendments document will be required during the course of the environmental review process, but that the bulk of the ongoing coordination will occur by telephone or email.

PUBLIC HEARINGS

It is anticipated that attendance at two public hearings on the project and EIR may be required before Planning Commission, and the City Council will hold one hearing on appeal. Therefore, attendance at a total of three public hearings is included in this scope of work.

Schedule

The following schedule sets forth the estimated time requirements for each step in the preparation and review process for the EIR Amendments document. This represents an optimal time-line and may be optimistic with respect to review and revision cycles. For example, additional time may be needed if major revisions to the economic report are required, or if greater than expected efforts are required to respond to comments received from public agencies or the public during the 45-day review period.

Tasks/Steps	Time Elapsed (Weeks)	Target Date
Authorization to Proceed/Consultant Contracts Executed	2.0	4/24
BAE – Admin. Draft Economic Impact Study Completed	8.0	6/19
PMC – Review of Admin. Draft Economic Study Completed	1.0	6/26
BAE – Draft Economic Impact Study Completed	1.0	7/5
PMC – ADSEIR Completed/Printed/Submitted	2.0	7/17
City – Review of ADSEIR	4.0	8/14
PMC/BAE – Revisions to Economic Report and ADSEIR	3.0	9/5
City – Review of Revised ADSEIR	2.0	9/18
PMC/City – Final Revision and Review Cycles	2.0	10/2
PMC – Coordinate Printing and Distribution of DSEIR	1.0	10/6
Public and Agency Review Period for DSEIR	6.5	11/20
PMC – Prepare Responses to Comments/Admin. Final SEIR	3.0	12/8
City –Review of Administrative FSEIR	2.0	12/22
PMC/City – Final Revision and Review Cycles	1.0	12/29
PMC – Coordinate Printing and Distribution of FSEIR	1.0	1/5
Planning Commission Hearing2 (min. 10 days from release of FSEIR)	2.0	1/17

[1] This completion date assumes that the City's detailed policy guidance on agricultural mitigation will be issued by mid-June.
[2] Planning Commission meets on the 2nd and 4th Wednesdays of each month.

FEE ESTIMATE

It is estimated that the total budget to complete the proposed scope of work will be $60,000. The table below provides a breakdown of this fee estimate by task.

This fee estimate is subject to the notes and assumptions listed below the table. The City will be billed monthly on a time-and-expenses basis. No additional work efforts, outside of this scope of work and/or budget estimate, would be undertaken without the express prior authorization of the City. In order to cover possible future contract amendments which may be necessitated by unforeseen circumstances, it is recommended that an additional 20 percent be held in reserve by the City as a contingency. This would bring the total recommended budget to $72,000.

TASK	STAFF HOURS/BUDGET Project Manager $150	Totals
Rate		
1. Project Startup/Prepare Notice of Preparation	45	
2. Prepare Admin. Draft SEIR	110	
3. Revise ADSEIR	45	
4. Prepare Draft SEIR	33	
5. Prepare Final SEIR/MMRP/CEQA Findings	90	
Meetings and Hearings	40	
Total Hours Rate	363 $150	
Total Labor Cost		$54,450
Document Printing/Production of CDs		5,000
Misc. Direct Costs (Travel, delivery, etc.)		550
Total Fee Estimate		**$60,000**
Contingency (20%)		12,000
Total Recommended Budget		**$72,000**

BUDGET NOTES AND ASSUMPTIONS

1. Two iterations only of the Administrative Draft EIR Amendments document are contemplated.

2. This proposal includes the evaluation of up to two additional project alternatives, to be identified in consultation with City staff.

3. A total of 60 hours has been budgeted for preparation of the Final EIR Amendments document. If substantial additional efforts are required, such additional efforts could require a contract amendment depending on the unspent budget remaining at the time.

4. Attendance at two meetings with City staff and three public hearings is included.

5. This proposal includes preparation of the draft Notice of Preparation, Notice of Completion, and draft CEQA findings for use by City staff. This proposal does not include preparation, handling or distribution of any other required notices such as notice of scoping meeting, public hearing notices, or Notice of Determination. It is assumed that the City staff will take full responsibility for preparation and timely distribution, posting, and publication of all required notices.

6. This proposal includes delivery of completed documents and CDs to the City, the State Clearinghouse, and the applicant. This proposal does not include distribution of documents to any other agencies, entities or individuals; nor does it include compilation of distribution lists, mailing addresses, or lists of surrounding property owners. It is assumed that the City staff will take full responsibility for all of these tasks.

7. Any additional efforts which may be required in the preparation of the EIR Amendments document, beyond those specifically included in this scope of work, may require a budget adjustment.

8. This scope of work and budget are predicated on the assumption that the preparation and processing of the EIR will proceed expeditiously without prolonged periods of inactivity which could create inefficiencies due to stopping and restarting work.

In closing, we are looking forward to working with you on this project.

Sincerely,

PACIFIC MUNICIPAL CONSULTANTS

Tad Stearn
Principal

c: Bert Verrips, Project Manager
PMC Contracts

bae

February 3, 2006

Mr. Randy Hatch
Community Development Director
City of Lodi
City Hall
21 West Pine Street
P.O. Box 3006
Lodi, CA 95241

Dear Mr. Hatch:

We are pleased to submit the attached scope for an Economic Impacts Analysis for the Lodi Shopping Center proposed for the southwest corner of Lower Sacramento and West Kettleman. Attached are our scope, qualifications for key personnel, and relevant projects.

If you have any other questions regarding our proposed scope of services or any other portion of this proposal please do not hesitate to call me at 510.547.9380.

Best regards,

Raymond Kennedy

Raymond Kennedy
Senior Associate

Bay Area Economics

Headquarters
1285 66th Street
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Introduction

The City of Lodi has received an application for the Lodi Shopping Center proposed for the southwest corner of Lower Sacramento and West Kettleman. This center will be anchored by a Wal-Mart Supercenter, with various other ancillary retail and commercial uses. Recent court decisions with respect to large retail projects have indicated that a complete EIR should include an economic impact analysis to assess potential issues of urban decay and physical deterioration due to possible closure of competing stores and subsequent vacancies and decline of their respective shopping centers or downtown. In Lodi, the EIR was completed, but the Superior Court found that the urban decay analysis portion of the EIR was deficient, so a new analysis must be undertaken. Bay Area Economics (BAE) is well-qualified for this work, with experience in these kinds of economic impact studies as well as a large body of retail analysis. Following is a Scope of Services, an overview of BAE, descriptions of key staff to be assigned to this project, and relevant past experience.

Scope of Services

The scope will be completed in the context of the following retail uses for the center as proposed at approximately 350,000 square feet, based on current knowledge of potential tenant mix. BAE will contact the project applicant to obtain the latest available information regarding prospective tenants aside from the known Wal-Mart Supercenter.

1. *Big box general merchandise discount retailer with groceries.* It is assumed that a Wal-Mart Supercenter will be the anchor of the proposed project, occupying well over half the built space.
2. *Pharmacy.* The developers are attempting to attract a drug store such as Rite-Aid or Walgreen's to the project.
3. *Restaurants.* Several of the spaces in the site plan are configured as either fast food or sit-down restaurants.
4. *Other retail and services.* Additional tenants or uses will be noted as information becomes available. Those spaces that cannot be placed in one of the categories above will be considered in a general "other retail" category. The retail analysis will be completed in the context of possibly finding retail categories that are not currently well-represented in Lodi. It is also likely that some of the space will be occupied by personal services, business and professional services, and financial institutions.

Task 1: Start-up Meeting

This project will commence with a meeting with City staff and other parties to discuss the project, including goals and objectives, schedule, expectations, and constraints, opportunities, and limitations of the study. Background information, including but not limited to the project application, site plans, and taxable sales data, and previous studies will also be discussed and made available to BAE if available at time of startup.

Task 2: Identify Key Retail Nodes in Lodi and Surrounding Communities

With assistance from City staff and previous studies, BAE will identify other major retail nodes in the area, focusing primarily on the specific uses listed above, including locating all nearby existing, under construction, and planned Wal-Mart Supercenters. As part of this assessment BAE will also attempt to get reliable information on the square footage of the major competing supermarket outlets; this information should be available from City records, especially for recently built stores. Other potential sources include visual estimates and aerial photos. Additional information will be obtained as available from retail real estate brokers and property managers, and store management. Of particular importance are the existing supermarkets; these are the stores most likely to be impacted by the Wal-Mart expansion and relocation.

This analysis will include an area tour to visit the major competing retail nodes, including downtown Lodi, and to assess "on the ground" how well these nodes are faring, by observing the level of customer traffic, the general level of retail vacancy and the vacancy level in specific centers (especially noting vacancies of large/anchor spaces). Any existing "urban/suburban decay" in retail centers will also be noted. This is key to the findings, since existing conditions should not be attributed to the proposed project. As part of this subtask, BAE will determine whether any additional retail centers are planned for Lodi or surrounding communities, especially Stockton. Any such projects will be considered in an analysis of potential cumulative impacts.

Task 3: Retail Sales Trends

BAE will analyze data regarding overall retail sales trends in these areas, with an emphasis on consideration of the categories of the prototype uses listed above. The primary data source will be published taxable sales data from the State Board of Equalization and the City of Lodi. Especially useful will be any data the City has available on subareas such as downtown. BAE will also look at data from the California Census of Retail Trade, which provides data from 2002. This source is useful in providing total sales data rather than just taxable sales; this is critical to estimating impacts in the supermarket sector, where most sales are not taxable.

Task 4: Define Trade Area for Proposed Project

The Trade Area boundaries will be delineated in large part by the location of nearby Wal-Mart Supercenters, either existing, planned or under construction. The Trade Area for the project will be determined primarily by the location of nearby competing Supercenters. Additionally, preliminary demographic analysis (see next task) will help in defining Trade Area boundaries.

Task 5: Demographic and Economic Overview of Lodi and the Trade Area

Retail sales potential is dictated in large part by the purchasing power of an area's residents. For this task, BAE will look at basic demographic characteristics for Lodi and the Trade Area, including total population, total households, household composition, age distribution, and resident income, since all these characteristics define the spending patterns for a geography. The analysis will look at historic data and projections, and compare to a larger area, such as California. Data sources will include the decennial U.S. Census, the State Department of

Finance, the City of Lodi, Claritas (a private vendor of population estimates and projections), and the San Joaquin County Council of Governments.

Task 6: Estimate Sales Generated by Lodi and Trade Area

For this subtask, BAE will estimate sales generated by consumers in Lodi and the Trade Area, for a range of store categories, with particular focus on the likely store types for the proposed center. This estimate will be based on population distribution and density and distance of other competing outlets from Lodi and the project site. Potential sales for Lodi will be estimated based on benchmarks from other geographies such as San Joaquin County, the State of California, and communities with a demographic profile similar to Lodi. As a final step in this task, the increase in annual demand will be converted into estimated supportable square footage for major retail categories of stores likely to locate in a retail center of this type, using industry benchmarks for average sales per square foot.

Task 7: Leakage Analysis for Lodi and the Trade Area

Based on the results of the above tasks, BAE will estimate the extent to which Lodi is currently capturing sales from or losing sales to surrounding locales. While the emphasis will be on specific retail types known for the proposed project, leakage of sales in other categories may indicate types of retailers that the project could attract for spaces currently not targeted for a particular niche.

Task 8: Assess Performance of Competing Retail Nodes

While a leakage analysis is critical to understanding the potential for additional retail expenditures in a locale, a complete impacts assessment must take the additional step of evaluating the performance of existing competitive outlets regardless of the leakage analysis. For instance, a city might not have any leakage of sales in supermarkets, but may have an oversupply of supermarkets as indicated by poor performance at existing outlets. Conversely, there might not be any leakage but existing outlets could be performing well above industry norms, indicating that an additional supermarket could be absorbed without putting a competitor out of business.

This analysis will focus on the key competitive categories of large general merchandise outlets and supermarkets and their centers. Synthesizing information gathered on sales performance and store size, BAE will develop an estimate of average sales per square foot for the existing outlets for large general merchandise outlets and supermarkets. These averages can then be compared to industry benchmarks, such as average sales for all Wal-Mart stores or their competitors, data derived from industry surveys, etc.

When possible, this analysis can be refined by looking at individual competitors, since overall strong per store or per square foot sales might mask poor performance at one outlet. Pursuant to this goal, if made available BAE will review confidential taxable sales data from the City for any competitors in the City and use these data to refine the analysis. BAE has used confidential State Board of Equalization sales tax data provided by local jurisdictions in previous studies, and is well-versed in the rules regarding confidentiality and disclosure of the data. As a result

of these rules, sales estimates regarding individual existing stores may be excluded from the published EIR but will be made available to City staff as permitted. If the confidential data is not made available, BAE will use the most recent published taxable sales data available, and attempt to gather data on individual competitors through self-reporting, analysis of each chain's average sales, field observation, or other methods.

When large retail projects like this are built in smaller cities, there is often concern from various parties regarding the effect on downtown, its retailers, and its overall viability. As part of this task, BAE will also assess the performance of downtown Lodi. BAE will inventory the existing mix of retailers in downtown Lodi, and consider downtown's market position vis-à-vis the proposed center.

Task 9: Estimated Potential Sales in New Project and Impacts on Existing Retailers

Based on typical sales performance for the major tenant types or for another standard if that seems appropriate due to locational advantages or other factors, and for a more generic standard for shopping centers for the remaining uses, BAE will estimate sales captured by the proposed project. This will then be compared to potential sales growth and leakage in Lodi and the Trade Area as determined above to factor out sales that will not be captured from existing outlets. This will be done for two points in time, project opening (likely defined as when the Wal-Mart opens) and project build out a few years later. These dates will be selected in consultation with the City and the developer.

The remaining sales will be assumed to be taken from existing outlets. Once the proposed project's impacts are taken into consideration, performance will be evaluated relative to current conditions (as shown by Task 8 above) and again to industry standards, to see how the net loss of sales will affect the existing outlets. To the extent possible without breaching confidentiality rules for taxable sales data, BAE will note particular competitors most likely to be adversely impacted by the proposed project. If the analysis indicates that particular stores are at risk of closure, these stores will be noted. This analysis will look at all the major retail concentrations in Lodi, including downtown.

As the final part of this task, BAE will consider impacts related to the physical context for the major competitors. In other words, BAE will see how the competitors are integrated into a surrounding retail context (e.g., major anchor in a community-serving center or large retailer in a shopping district) and assess likely secondary business impacts due to a decline in business or closure of a major anchor.

Task 10: Determination of Urban Decay and Physical Deterioration

Two conditions are necessary, but not sufficient in themselves, for a large new retail development of this type to lead to urban/suburban decay and physical deterioration. First, the introduction of new competitors must lead to the closure and vacancies of existing retail spaces. Potential closures will be indicated by the analysis in Task 9. Second, the real estate market conditions must be such that the vacated space is not re-leased in a timely manner. Based on

the above tasks, findings will be made about the likelihood that other retail nodes might close or suffer losses of key retail tenants as a result of the proposed center. Impacts might include secondary business closures and moves resulting from the loss of the anchors at other neighborhood and regional centers. This task will include an overview of existing retail real estate conditions in Lodi, including current vacancies and potential for re-tenanting of any store space vacated as a result of the proposed center. BAE will assess the likelihood that overall retail demand in the area will lead to absorption of vacated spaces in the event existing retailers close their stores due to negative impacts from the opening of the proposed center. This assessment will rely on broker interviews and field surveys to estimate current vacancy and absorption trends for retail in Lodi. The current physical condition of the competing retail centers will also be taken into consideration, since any center already exhibiting high vacancies, deferred maintenance, or other signs of decline would be more likely to fall into a condition of urban or suburban decay.

The end result of this analysis will be an assessment, by retail node or center, of the likelihood of resulting urban decay and physical deterioration resulting from long-term vacancies, deferred maintenance, secondary business closures, and the inability to re-tenant existing stores.

Task 11: Preparation of Written Report

A written report for the project will be prepared, which details the assumptions and conclusion of the analysis. The report will meet the requirements of the City of Lodi and CEQA Guidelines and will be initially submitted (one copy, camera ready) as an Administrative Draft. The report will also be provided electronically.

Task 12: Respond to Comments on Administrative Draft

BAE will respond to comments provided by the City of Lodi, the EIR prime consultant, and other parties on the Administrative Draft, and will be available to take part in a telephone conferences to discuss comments on this document. Additional study and site visits are excluded from this task, and the revisions will be limited to two cycles, with additional revisions completed on a time and materials basis. The output of this task will be a Public Review Draft.

Task 13: Respond to Comments on Public Review Draft Economic Impact Analysis

BAE will be available by phone conference with City staff and the EIR prime consultant to discuss public comments, and will prepare responses to those comments as needed as part of the preparation of the Final EIR.

Task 14: Attend Three Planning Commission and/or City Council Public Hearings

As part of this scope, BAE will be available to attend a total of three public hearings regarding its Report and the EIR. Additional meetings will be billed on a time and materials basis as discussed below.

Schedule and Budget

BAE will complete an Administrative Draft by April 15, 2006, assuming verbal approval by February 15, 2006. A Final Draft (for public review) will be completed within 10 business days of receipt of comments on the Administrative Draft. At that point, the schedule will be dictated by the overall EIR process and CEQA rules.

BAE proposes to provide the above-described services on a time and materials basis for a total of $46,075, including expenses, as shown in the attached budget. BAE will bill on a monthly basis based on percentage of project completed, with bills due within 30 days of receipt. Additional meetings or other tasks will be billed at BAE's hourly rates plus expenses, as follows:

Managing Principal	$225/hr
Principal	$210/hr
Vice President	$190/hr
Senior Associate	$175/hr
Associate	$105/hr
Analyst	$80/hr

These rates are for work completed in 2006; BAE reserves the right to adjust these rates if the project continues beyond the end of calendar year 2006.

BAE carries General Liability Insurance in the amount of $2 million per occurrence with an aggregate limit of $4 million, including coverage for automobile liability and completed products. BAE also carries Workman's Compensation as required by law. We are able to provide the City with a Certificate of Insurance naming it as an additional insured on our policy. BAE does not carry Errors and Omissions or Professional Liability Insurance due to the nature of our work, which involves analysis and reporting on economic, planning, and development issues. Most of what we do involves estimates, ranges of numbers, and findings and recommendations that are informational to decision-makers. The results of our work do not create physical structures or other products that bear liability to their users. Although Professional Liability coverage is available for professional services that are similar to ours, we have found that the policies are not written to match exactly with our services, and that the costs are not commensurate with any risk borne by us or our clients.

Budget

Task	BAE Hours: Janet Smith-Heimer Mng. Principal $225	Raymond Kennedy Sr. Assoc. $175	Analyst $80	Total Budget
1 Start-up Meeting	-	4	4	$1,020
2 Identify Key Retail Nodes	-	20	24	5,420
3 Retail Sales Trends	-	6	12	2,010
4 Define Trade Area(s) for Proposed Project	-	6	2	1,210
5 Demographic and Economic Overview of Lodi and the Trade Area	-	4	8	1,340
6 Estimate Sales Generated by Lodi and Trade Area	-	8	4	1,720
7 Leakage Analysis for Lodi and the Trade Area	-	16	-	2,800
8 Assess Performance of Competing Retail Nodes	-	8	16	2,680
9 Estimated Potential Sales in New Project and Impacts on Existing Retailers	-	16	-	2,800
10 Determination of Urban Decay and Physical Deterioration	1	8	6	2,105
11 Preparation of Written Report	2	40	6	7,930
12 Respond to Comments on Administrative Draft	1	20	4	4,045
13 Respond to Comments on Public Review Draft	1	24	4	4,745
14 Attend Two Meetings: Planning Commission and/or City Council	-	30	-	5,250
LABOR	**5**	**210**	**90**	**$45,075**
EXPENSES (includes data purchase and mileage)				**$1,000**
TOTAL BAE BUDGET				**$46,075**

About BAE

Since 1986, BAE has focused on **The Economics of Place™**, providing comprehensive real estate and urban development services to public, private, non-profit, and institutional clients throughout the U.S. Our projects reflect our commitment to excellence, stewardship of communities and resources, and dedication to the future of our places.

BAE's experience ranges from statewide policy studies to regional initiatives to local development projects. Based in Berkeley, California, with additional offices in San Francisco, the Sacramento region, and Washington D.C., we translate the best national practices into local solutions to enhance communities and neighborhoods.

Our expertise includes:

- Development Feasibility
- Redevelopment & Revitalization
- Affordable Housing
- Economic Development
- Public/Private Transactions
- Community Facilities
- Public Finance
- Economic Impacts
- Place and Site Marketing
- Litigation Support

We have also developed unique expertise in non-place aspects of urban development including sustainability, technology transfer, targeted industry studies, child care, and social services.

Our key asset is our highly-skilled core team of staff members who have worked together for many years. Collectively, we bring our training in real estate development, city planning, geography, economic development, marketing, and public policy to every engagement. Many BAE staff members are expert in community involvement and strategic planning, while others excel in technical analysis and the application of GIS to urban problems. We pioneered the use of survey research to target urban housing products, and we have provided real estate advisory services to some of the largest mission-driven revitalization efforts in the U.S.

The outstanding quality of our work has been recognized by the American Planning Association (APA) and the National Association of Installation Developers (NAID) through numerous awards for excellence. The *San Francisco Business Times* has recognized BAE as one of the 100 Largest Women-Owned Bay Area Businesses each year since 2000.

BAE's legal name is BAE Urban Economics, Inc. This project will be undertaken by the Emeryville office, located at 1285 66th Street, Emeryville, CA 94608. Our phone number is (510) 547-9380.

BAE Project Team

This project will be managed by Janet Smith-Heimer, Managing Principal, with day-to-day project management by Raymond Kennedy, Senior Associate, who will be assisted by additional research staff as needed.

Janet Smith-Heimer, M.B.A., Managing Principal

Janet Smith-Heimer manages the Berkeley headquarters office and directs most of its projects. She has specialized in real estate economics and development since 1978. Through her experience, she has gained a unique understanding of urban policy, real estate analysis, and development, and urban policy. She is a nationally recognized expert in affordable housing, economic development, and public/private partnerships.

Since founding BAE in 1986, Ms. Smith-Heimer has managed assignments for some of the largest public/private projects in the U.S. Her work includes transaction structuring and feasibility support for numerous urban projects in San Francisco including Piers 27-31, a mixed-use waterfront recreation and urban entertainment complex; the Old Mint, a historic reuse project; Hotel Vitale, a boutique hotel on publicly-owned land; and the Presidio of San Francisco, one of the world's largest sustainable development project. She has also provided strategic planning, market and financial analysis, and negotiation support to military base reuse projects such as the conversion of Mare Island Naval Shipyard to a mixed-use community.

Ms. Smith-Heimer has directed many economic development strategic planning processes for cities as diverse as a suburban edge (Tracy, CA) to a thriving high income community with a strong new downtown (Walnut Creek, CA). She has also directed numerous downtown and business district revitalization strategies, including work in Oakland, Phoenix, Seattle, San Jose, Chico, Sacramento, and Stockton. Many of these assignments included resident surveys, detailed leakage analyses, retail store trends research, small business technical assistance, and detailed action plans for implementation.

One of Ms. Smith-Heimer's areas of expertise is in housing, including affordable and market-rate project types. She has managed feasibility studies for downtown housing, transit-oriented housing, luxury subdivisions, condominium conversions, and employee housing programs. She has developed in-depth knowledge of elderly housing products, particularly through her work with Transamerica Senior Living, Inc., and has worked on the development of affordable housing, including for-sale units for low-income households, SROs, HOPE VI, and rental projects. She wrote *The California Affordable Housing Cost Study* (1993) as well as numerous policy analyses of affordable and special needs housing programs.

Ms. Smith-Heimer serves as a lead instructor for the ULI Real Estate School, and speaks regularly at U.C. Berkeley. Her publications include "Downtown Housing Market Analysis" (*Market Analysis*, Urban Land Institute, 2001), "From the Military to the Marketplace: An Update on Northern California Base Conversions" (*Urban Land*, 1996), and *Recommended Redevelopment Practices* (California Debt Advisory Commission, 1995).

Ms. Smith-Heimer received an M.B.A. from Golden Gate University and a Bachelor of Urban Planning from the University of Cincinnati. She is a member of ULI, the American Planning Association, and the Congress for New Urbanism. She serves on the board of The Development Fund, a national economic development organization, and as Board Chair of Sustainable Agricultural Education (SAGE), a non-profit devoted to the urban-rural edge.

Raymond Kennedy, M.A., Senior Associate

Mr. Kennedy has completed retail analyses and economic impact studies for many "big box" merchandisers, including proposed projects in Tracy, Antioch, Eureka, Morgan Hill, and Windsor CA and Bozeman, MT. He is currently working on similar impact studies for "big box" retail projects in Porterville, Redding, and Petaluma. This work includes supervising research staff and undertaking the analysis of retail leakage, supportable square footage, and potential economic decay and physical deterioration. Mr. Kennedy has specialized in demographic research, retail market studies, financial analysis, and survey research since joining BAE in 1988. His quantitative work is characterized by a combination of innovative data analysis and sophisticated computer applications. He completed detailed cash flow analyses for military base conversion projects including the Presidio of San Francisco, Mare Island Naval Shipyard, and NAS Alameda, as well as for housing and mixed-use projects in Oakland, San Jose, and California's Central Valley. He has also supported market feasibility studies of live/work units and affordable housing projects throughout the U.S., and analyzed the benefits of redevelopment in San Jose. Mr. Kennedy received a B.A. in Anthropology and an M.A. in Geography from the University of Cincinnati. He also completed specialized training in real estate financial analysis at the University of California, Berkeley.

Relevant Project Experience

These include projects completed by BAE related to big-box and downtown retail development.

Impacts of Proposed New WINCO and Wal-Mart Expansion

City of Tracy, CA

As part of the EIR process for these two proposed projects, BAE is currently analyzing the impacts of a new WINCO and proposed Wal-Mart grocery component on other supermarkets and their shopping centers by analyzing potential supportable grocery sales within the trade area. The final reports for each EIR will include conclusions regarding potential urban decay and physical deterioration related to the opening of these new and expanded outlets.

Impacts of Proposed Bozeman MT Wal-Mart Expansion

Wal-Mart Corporation/City of Bozeman

BAE analyzed the near-term impacts of a proposed Wal-Mart grocery component on other supermarkets by analyzing potential supportable grocery sales within the trade area. Concurrently, the City of Bozeman was considering a moratorium on big box development projects in order to preserve its small town ambiance, perceived to be a major attraction for high technology companies. To address this concern, BAE assessed longer-term impacts of Bozeman's changing retail patterns on high technology firms' interest in the area by interviewing firms regarding their location criteria and concerns about the area's competitive advantages.

Eureka Wal-Mart Economic Impacts Study

City of Eureka

Bay Area Economics evaluated the economic impacts of proposed new "big-box" retail outlets in Eureka (including a proposed Wal-Mart), including the effects on existing retailers in Eureka, impacts on jobs and employment, the potential for increased shopping opportunities for area residents, and fiscal impacts of the proposed project on the City's General Fund.

WinCo Economic Impacts Analysis

City of Antioch, CA

Bay Area Economics assessed a variety of potential impacts resulting from a proposed WinCo project in Antioch. The analysis included a profile of the retail grocery industry and local retail sales trends, and evaluated impacts on the City's fiscal conditions, the availability of grocery items at a variety of outlets, and local employment, including whether local housing is affordable for the proposed project's workers.

Economic Impacts Assessment of New Retail Development

City of Antioch

In response to a developer's proposal to build a 250,000 square foot retail center with a general merchandise retailer, food store and/or a home improvement store as potential anchors, the City of Antioch retained BAE to document existing retail trends in the City and the trade area to be served by the proposed center, and to assess the impact this proposed development would have

on the City's existing retail outlets. The assignment presented demographic and economic trends, trade area retail conditions and trends, and a leakage analysis. It also described overall trends within the retail industry; profiled several major retailers, including Wal-Mart, Target, and Home Depot; and identified strategies small independent retailers typically employ to compete effectively with "big box" retailers like Wal-Mart. The study culminated in an impacts assessment estimating the potential loss in sales that existing stores may experience as a result of new competition, as well as estimating net changes in employment and impacts to the General Fund.

Impact Analysis for Proposed New Shopping Center

City of Morgan Hill, CA

BAE assessed retail market conditions in Morgan Hill as part of the EIR process for this project which as proposed will include a Target, a movie theater complex, and other retail uses. BAE analyzed retail sales leakage and the potential for additional capture of sales in Morgan Hill. The report assessed the potential impacts on existing retail nodes in Morgan Hill, and concluded with an analysis of the potential for urban decay and physical deterioration due to the opening of this project. The Final EIR was approved by the City Council in November 2006.

Retail Impacts Analysis

Town of Windsor

As an outgrowth of BAE's work for the Town of Windsor during its first General Plan process, this assignment examined the impacts on local merchants of a proposed 360,000 square foot regional shopping center anchored by a Wal-Mart store. Work included in-depth analysis of store-by-store retail sales and the mix of goods currently sold in the Windsor trade area.

Larkspur Downtown Specific Plan

City of Larkspur, CA

As part of the Downtown Larkspur Specific Plan, BAE conducted a full market study for retail, residential, and office uses. Work included detailed analysis of store-specific taxable sales and interaction with a Task Force. This project, completed in association with an urban design firm, received the 1992 Comprehensive Planning: Small Jurisdiction Award from the Northern California Section of the American Planning Association.

Chico Downtown Market Study and Revitalization Strategy

City of Chico, CA

Chico, a university town, had experienced substantial sales growth in suburban mall and "big box" development, leading to concerns about downtown economic vitality. This project assessed retail sales volumes and store sales performance, identified special niches, and formulated a revitalization strategy for downtown Chico. The study also analyzed the perceived predominance of adult-oriented entertainment venues and bars, and their negative impacts on the downtown retailing environment.

Downtown Retail Tenant Recruitment

City of Davis, CA

The City of Davis retained BAE to identify target niches and to initiate a downtown recruitment strategy to strengthen downtown's position as the primary retail center for the community and to create a downtown tenant mix of unique independent retailers. BAE analyzed local demographics, developed a list of potential new downtown retailers, contacted a sample of this list, and marketed downtown to prospective businesses.

Downtown Revitalization Market Study

City of Benicia, CA

For this historic community on the San Francisco Bay, BAE worked with the Economic Development Committee to analyze the market potential for various land uses. The area has a strong artist community, as well as numerous specialty retail shops and a one-mile scenic main street terminating at a newly renovated historic depot. Local merchants were focused primarily on strengthening their customer base, and the City was interested in exploring support for an artists' co-op gallery and additional lodging facilities. BAE analyzed retail sales leakage, conducted a telephone resident survey to assess local shopping patterns and opportunities, identified additional stores that could be attracted downtown, interviewed artists and profiled case studies of successful arts co-operative programs, and recommended strategies to ensure that future mixed use development maintained the view corridors and pedestrian orientation.

Lemoore Downtown Specific Plan

City of Lemoore, CA

In association with an urban designer, BAE conducted a detailed market analysis and revitalization strategy as part of the Downtown Specific Plan for this Central Valley community. Our work included estimates of retail sales capturable from a nearby military installation, and re-positioning and promotional strategies. We also identified specific retail stores to target for attraction. This project received the 1994 national *Planning Implementation: Small Jurisdiction Award* from the American Planning Association.

Santa Rosa Core Area Enhancement Strategy

City of Santa Rosa

For this study, BAE completed an inventory of existing uses in Santa Rosa's downtown, extensively utilizing GIS to map the distribution of these uses. BAE also conducted interviews with key stakeholders including retailers, property owners, and city officials, and recommended strategies to enhance the Core Area. The strategies include ways to strength the land use mix, creating a coordinated marketing effort, developing an urban design plan, and creating a "flagship goal/vision" for the Core Area.

RESOLUTION NO. 2006-____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING
THE CITY MANAGER TO EXECUTE AGREEMENTS TO PREPARE
EIR AMENDMENTS FOR THE LODI SHOPPING CENTER

==========

NOW, THEREFORE, BE IT RESOLVED, that the Lodi City Council hereby authorizes the City Manager to execute two Agreements to prepare EIR amendments for the Lodi Shopping Center as follows:

1) Pacific Municipal Consultants in an amount not to exceed $72,000; and

2) Bay Area Economics in an amount not to exceed $46,075; and

BE IT FURTHER RESOLVED that the above-referenced costs will be paid by the Developer, Browman Development Company.

Dated: April 19, 2006

==========

I hereby certify that Resolution No. 2006-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON
City Clerk

2006-____

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Authorization to fill a previously "frozen" Junior/Assistant/Associate Planner position in the Community Development Department.

MEETING DATE: April 19, 2006

PREPARED BY: City Manager

RECOMMENDED ACTION: Authorize the City Manager to fill, at his discretion, a previously "frozen" Junior/Assistant/Associate Planner position.

BACKGROUND INFORMATION: In order to balance the Fiscal Year 2005-06 budget, and to replenish financial reserves, 29 General Fund positions were either held vacant, "frozen", or in some cases eliminated. One of the frozen positions was a Planner in the Community Development Department.

The Planning Division of the Community Development Department is authorized at a staffing level of four positions. As of last month, three positions were filled and the fourth was frozen and vacant. Due to the resignation of Associate Planner Mark Meissner, now two Planner positions are vacant. These two vacant positions are authorized to be filled at the Junior, Assistant, or Associate Planner level, depending upon the qualifications of the applicant.

The work load of the Planning Division has been reviewed and it has been determined that both Planner positions need to be filled at this time. The volume of work has increased and the Division's productivity, taking into account the best efforts of staff, is expected to decline due to the loss of an experienced Planner.

The Community Development Department budget is $1,964,680, of which $350,000 is General Fund transfer. The Community Development Department has taken in more funds than originally budgeted and can absorb the additional expense. Additionally, the Community Development Department has saved approximately $100,000 in salary savings over the course of the fiscal year. Although recruitment will commence this Fiscal Year, as a practical matter due to the employee selection and hiring process, the position may not be filled and costs not incurred until next Fiscal Year.

The cost of a fully-burdened (with full benefits) Junior Planner at "A" step is $6,091 per month. The cost of a fully-burdened Assistant Planner at "A" step is $6,579 per month. The cost for a fully-burdened Associate Planner at "A" step is $7,115 per month.

If this action is approved, this will be the second frozen position authorized for funding. A Police Department Lieutenant position was previously unfrozen during mid-year budget review.

APPROVED: _____
Blair King, City Manager

FISCAL IMPACT: The range of additional costs is approximately $6,091 per month to $7,115 per month. However, depending upon the length of time for the recruitment, no costs may be incurred this Fiscal Year. A fully-staffed Planning Division will allow work to be addressed with a lower paid employee freeing the time of higher compensated employees to focus on more complex issues requiring a greater level of experience and skill.

FUNDING AVAILABLE: Funds are available in the Community Development Budget for FY 05-06 if needed.

_____
Ruby Paiste, Interim Finance Director

_____
Blair King, City Manager

AGENDA ITEM K-07

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Introduce Ordinance Imposing a Transactions and Use Tax to be Administered by the State Board of Equalization and Adding Chapter 3.09 to the Lodi Municipal Code, Which Shall be Operative only IF Two-Thirds of the Electors Voting on the Fire & Facilities Sales Tax Measure (citizens initiative) Vote to Approve the Imposition of the Tax at the November 7, 2006 General Municipal Election

MEETING DATE: April 19, 2006

PREPARED BY: City Clerk

RECOMMENDED ACTION: That the City Council introduce the attached ordinance imposing a Transactions and Use Tax to be administered by the State Board of Equalization and adding Chapter 3.09 to the Lodi Municipal Code, which shall be operative only IF two-thirds of the electors voting on the Fire & Facilities Sales Tax measure (citizens initiative) vote to approve the imposition of the tax at the November 7, 2006, General Municipal Election.

BACKGROUND INFORMATION: Representatives of the California State Board of Equalization have informed the City that, pursuant to Section 7285.91 (see below) of the Revenue and Taxation Code, the Lodi City Council is to adopt the proposed "Fire & Facilities Sales Tax" ordinance PRIOR TO the November 7, 2006 election. The ordinance would become operative only IF two-thirds of the electors voting on the measure vote to approve the imposition of the tax at the November 7, 2006 General Municipal Election. The City Attorney will provide a "blue sheet" at the meeting on the legal context of this issue.

Section 7285.91 of the Revenue and Taxation Code:

As an alternative to the procedure set forth in Section 7285.9, the governing body of any city may levy, increase, or extend a transactions and use tax for specific purposes. The tax may be levied, increased, or extended at a rate of 0.25 percent, or a multiple thereof, for the purpose for which it is established, if all of the following requirements are met:

(a) **The ordinance proposing that tax is approved by a two-thirds vote of all members of the governing body and is subsequently approved by a two-thirds vote of the qualified voters of the city voting in an election on the issue.**

(b) The transactions and use tax conforms to the Transactions and Use Tax Law Part 1.6 (commencing with Section 7251).

(c) The ordinance includes an expenditure plan describing the specific projects for which the revenues from the tax may be expended.

On April 6, 2005 the City Council adopted Resolution 2005-65 accepting the Certificate of Sufficiency of the petition for the "Fire & Facilities Sales Tax" initiative and Resolution 2005-66 placing the measure on the ballot for the November 7, 2006 General Municipal Election. On November 8, 2005 staff presented a fiscal impact study on the initiative, as was directed by Council on April 6, 2005.

FISCAL IMPACT: NONE (to preliminarily adopt this ordinance).

FUNDING AVAILABLE: N/A

Attachment

Susan J. Blackston, City Clerk

APPROVED: _____
Blair King, City Manager

council/councom/InitiativeFire&Facilities.doc

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI IMPOSING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION AND ADDING CHAPTER 3.09 TO THE LODI MUNICIPAL CODE

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THE PEOPLE OF THE CITY OF LODI DO ORDAIN AS FOLLOWS:

SECTION 1. The Lodi Municipal Code is hereby amended by the addition of Chapter 3.09, which shall read as follows:

3.09.010 Title and Effect

This chapter shall be known as the City of Lodi Transactions and Use Tax Ordinance. This chapter shall be applicable in the incorporated territory of the City of Lodi ("City"). This chapter shall complement, and not replace or supersede, the City's existing sales and use tax, as such tax is described in Chapter 3.08 of the Municipal Code.

3.09.020 Operative Date

As used in Chapter 3.09, "Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this chapter. If this chapter is approved by the voters at the November 7, 2006, election, the operative date shall be April 1, 2007.

3.09.030 Purpose

This chapter is adopted to achieve the following, among other purposes, and the City Council directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2, which authorizes the City to adopt this tax chapter, which shall be operative if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax chapter that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax chapter that imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax chapter that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

3.09.040 Expenditure Plan

A. The Expenditure Plan is designed to ensure that the City accomplishes the specific projects listed below with the revenue generated from the transactions and use tax. The revenue from the transactions and use tax shall be expended on these specific projects in the following order of priority:

1. Placing paramedics on fire engines in the City (up to $700,000 per year for six years);
2. Design and construction of Fire Station #5, which shall be located in the southeast portion of the City (up to $2,000,000);
3. Construction of the Lodi Aquatics Center (up to $9,000,000);
4. Design and construction of a replacement for Fire Station #2, which shall be located in the eastern portion of the City (up to $2,000,000);
5. Construction of a downtown indoor sports center (up to $9,000,000); and
6. Maintenance and operation of the facilities above (up to $1,500,000).

B. Once the City has collected revenue from this transactions and use tax in the amount of $700,000, it shall hire an appropriate number of paramedics and begin providing paramedic services on fire engines in the City within twelve months. Thereafter, subject to its ongoing duty to expend $700,000 per year to fund paramedics pursuant to this Expenditure Plan, once the City collects the amount listed for each subsequent project it shall begin design or construction of the designated facilities within six months.

C. The City Council shall appoint an advisory committee to ensure that the revenue from the transactions and use tax is spent in accordance with the actual terms and overall intent of this chapter. The committee shall consist of five individuals and shall, at all times, include one member of Lodi Professional Firefighters Local 1225, one member of the Lodi City Swim Club, one member of the Lodi Sports Foundation, one member of the City Council, and one person selected at large by the City Council in its discretion. Each member of the advisory committee shall serve for a term of two years, which term may be renewed by the City Council. In the event of a vacancy on the committee, the City Council shall appoint an appropriate replacement member.

D. If the City Council and the advisory committee both determine that the maximum dollar amount to be spent on one or more of these projects is insufficient to achieve the goals of this chapter, the City Council may increase the maximum dollar amount for such project(s), provided that it first holds a noticed public hearing and makes specific findings that the increased expenditures for one or more projects is necessary to complete such project(s) in an effective manner and to fulfill the intent of this chapter.

E. If the City Council and the advisory committee both determine that the order of priority for these projects should be changed, the City Council may change the order of priority, provided that it first holds a noticed public hearing and makes specific findings that the change in the order of priority is in the best interests of the City and its residents.

F. Once revenue in the amounts listed above has been spent on the services and facilities included in each of these projects, any remaining revenue raised through this transactions and use tax shall be spent to help maintain such services and facilities.

3.09.050 Contract with State

Prior to the Operative Date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax chapter; provided that, if the City shall not have contracted with the State Board of Equalization prior to the Operative Date, it shall nevertheless so contract and in such a case the Operative Date shall be the first day of the first calendar quarter following the execution of such a contract.

3.09.060 Transactions Tax Rate

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of .25% (one quarter of one percent) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the Operative Date of this chapter.

3.09.070 Place of Sale

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

3.09.080 Use Tax Rate

An excise tax is hereby imposed on the storage, use, or other consumption in the City of tangible personal property purchased from any retailer on and after the Operative Date of this chapter for storage, use, or other consumption in said territory at the rate of .25% (one quarter of one percent) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.09.090 Adoption of Provisions of State Law

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.

3.09.100 Limitations on Adoption of State Law and Collection of Use Taxes

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use, or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use, or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use, or other consumption of tangible personal property, which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797, or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

3.09.110 Permit not Required

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

3.09.120 Exemptions and Exclusions

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City, which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

   a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

   b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this chapter.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the Operative Date of this chapter.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this chapter, the storage, use, or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.
3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this chapter.
4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the Operative Date of this chapter.
5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use, or other consumption of which is subject to the use tax.

3.09.130 Amendments

All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter. Except as provided above and in Section 3.40.140, this chapter may be amended only by the voters pursuant to the provisions of Elections Code section 9217 and as provided by law.

3.09.140 Termination of Tax

The transactions and use tax imposed by this Chapter shall terminate ten years from the Operative Date.

3.09.150 Enjoining Collection Forbidden

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

SECTION 2. Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SECTION 3. Effective Date. This chapter is related to the levying and collecting of the City transactions and use tax and shall take effect immediately (see Section 1, 3.09.020, "Operative Date").

SECTION 4. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 5. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 6. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect immediately after its passage and approval (see Section 1, 3.09.020, "Operative Date").

Attest: Approved this _____ day of _____, 2006.

_____	_____
SUSAN J. BLACKSTON	SUSAN HITCHCOCK
City Clerk	Mayor

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. _____ was introduced at a regular meeting of the City Council of the City of Lodi held April 19, 2006, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

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

SUSAN J. BLACKSTON
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

AGENDA ITEM **K-08**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: **Authorize City Manager to Execute Fee Adjustment Agreement for Vintage Oaks Subdivision**

MEETING DATE: **April 19, 2006**

PREPARED BY: **Public Works Director**

RECOMMENDED ACTION: That the City Council authorize the City Manager to execute an impact fee adjustment agreement for Vintage Oaks Subdivision.

BACKGROUND INFORMATION: On November 3, 2004, Council approved Resolution No. 2004-239 which updated development impact mitigation fees. The old fee was $57,266 per acre and it increased by $13,475 to $70,741 per acre, or 24%, effective January 2005, including the regular *Engineering News-Record* update. At that time, in the resolution, following public discussion, the Council provided a window of time for projects with a completed development application to pay the fees at the previous rate provided the fees were actually paid by December 31, 2005.

On September 21, 2005, the City Council approved the Final Map and Improvement Agreement for the Vintage Oaks Subdivision project which included the following language regarding payment of impact fees:

> Development Impact Mitigation Fees for water, wastewater, street improvements, storm drain, police, fire, parks and recreation and general city facilities are required for this project. Payment of the fees shall be deferred until the project is ready for acceptance. Acceptance of the public improvements will be contingent upon payment of the deferred fees. The amounts shown in this agreement for these deferred fees are those in effect at the time of execution of this agreement and are subject to revision if not paid prior to January 1, 2006, in conformance with Resolution No. 2004-238, approved by the City Council on November 3, 2004. If the deferred fees are not paid prior to January 1, 2006, the actual fees to be paid will be those in effect at the time of payment. If payment for the deferred fees is made on or after January 1, 2006, this agreement shall in no way limit the City's ability to charge the Developer the fees in effect at the time the Developer pays the deferred fees.

On December 21, 2005, the City Council adopted another resolution effectively eliminating this fee window, providing that "The increased fees in Resolution No. 2004-238 will not apply to any project which has satisfied all elements necessary under California Law to be exempt from increases in impact fees."

On January 31, 2006, the City sent a letter to the Vintage Oaks developers, represented by Mr. Jeffrey Kirst, with an updated invoice for the fees, since the project was nearing completion. The fees increased by $51,693.07 (from $249,576.47 to $301,269.54). Staff's position is that had he contacted us regarding paying the fees in December of 2005, we would have accepted payment at the previous rates.

The developer was well aware of the scheduled increase (he spoke at the Council meeting in 2004), however, he was under the impression he fell within the "window" for the previous fees and is disputing the increase being applied to his project. He has also stated that had he known staff would have

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APPROVED: _____
Blair King, City Manager

accepted the fees, they would have been paid in December. Finally, he notes that completion of his project was delayed due to City work on Lower Sacramento Road and related coordination issues.

Due to the communication not being entirely clear and the desire to avoid a formal dispute, we have agreed that splitting the increase in half is a reasonable compromise.

Staff has also made it clear to the developer that waiver of all or part of the fees would require Council approval. If approved, the City Attorney would draft a simple agreement describing the fee reduction for execution by the applicant and the City Manager.

FISCAL IMPACT: Approval would mean losing $25,846.54 in fee program revenue but avoiding potential, unknown costs to resolve any formal dispute.

FUNDING AVAILABLE: Not applicable.

Richard C. Prima, Jr.
Public Works Director

RCP/pmf

cc: Jeffery Kirst, Vintage Oaks L.P.

LODI CITY COUNCIL

Carnegie Forum
305 West Pine Street, Lodi

TM

AGENDA – SPECIAL MEETING
Lodi City Council / Redevelopment Agency
Date: April 19, 2006
Time: 7:00 p.m.

For information regarding this agenda please contact:
Susan J. Blackston
City Clerk/Secretary
Telephone: (209) 333-6702

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 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.

SPECIAL JOINT MEETING

Lodi City Council / Redevelopment Agency

A. Roll call

B. Ordinances

(RE: ITEM B-1 and B-2; see April 19, 2006, Lodi City Council Regular Meeting agenda)

Ord. (Adopt) B-1 Ordinance No. 1775 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 15 – Buildings and Construction – of the Lodi Municipal Code by Adding Chapter 15.72 Relating to Eminent Domain" (CLK)

Ord. (Adopt) B-2 Ordinance No. 1776 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 2 – Administration and Personnel – of the Lodi Municipal Code by Adding Chapter 2.52.020 Relating to Eminent Domain" (CLK)

C. Adjournment

Pursuant to Section 54956.2(a) of the Government Code of the State of California, this agenda was posted at a place freely accessible to the public 24 hours in advance of the scheduled meeting.

_____
Susan J. Blackston
City Clerk/Secretary

NOTICE: Pursuant to Government Code §54954.3(a), public comments may be directed to the legislative body concerning any item contained on the agenda for this meeting* <u>*before*</u> (in the case of a Closed Session item) *or* <u>*during*</u> *consideration of the item.

AGENDA ITEM L-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Ordinance No. 1775 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 15 – Buildings and Construction – of the Lodi Municipal Code by Adding Chapter 15.72 Relating to Eminent Domain"

MEETING DATE: April 19, 2006

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1775.

BACKGROUND INFORMATION: Ordinance No. 1775 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 15 – Buildings and Construction – of the Lodi Municipal Code by Adding Chapter 15.72 Relating to Eminent Domain" was introduced at the Special Joint Meeting of the City Council and the Redevelopment Agency of the City of Lodi meeting of March 29, 2006.

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

Ordinances take effect 30 days after their final passage. ***Cal. Gov't Code § 36937***.

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Susan J. Blackston
City Clerk

SJB/JMP
Attachments

APPROVED: _____
Blair King, City Manager

council/councom/Ordinance4.doc

ORDINANCE NO. 1775

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI AMENDING TITLE 15 - BUILDINGS AND CONSTRUCTION - OF THE LODI MUNICIPAL CODE BY ADDING CHAPTER 15.72 RELATING TO EMINENT DOMAIN

==========

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Title 15 - Buildings and Construction - of the Lodi Municipal Code is hereby amended by adding thereto Chapter 15.72 relating to eminent domain and shall read as follows:

WHEREAS, this Ordinance shall be known as "The Homeowner and Property Protection Ordinance"; and

WHEREAS, eminent domain has been subject to abuse in California, whereby local governmental entities have condemned property and transferred it, by sale, lease, or otherwise, to the control, management, or exploitation of private entities for private use and profit on the theory that generalized public benefits will flow therefrom; and

WHEREAS, the United States Supreme Court, in Kelo v. City of New London, ____ U.S.____ (2005), has held that the United States Constitution does not prevent the transfer of property, seized through eminent domain, to private entities for private profit; and

WHEREAS, it is the intent of the Lodi City Council that private property shall not be taken or damaged for the use, exploitation, or management of any private party, including, but not limited to, the use, exploitation, or management of property taken or damaged by a corporation or other business entity for private profit, as is currently permitted under the United States Constitution under Kelo v. City of New London, ___U.S.___ (2005); and

WHEREAS, it is not the intent of this Ordinance to prevent the rental of space in a government building or any other government-owned property for incidental commercial enterprises, including, but not limited to, gift shops, newsstands, and private nonprofit entities such as churches and other religious and civic organizations; and

WHEREAS, this Ordinance shall apply only to condemnation actions that are completed after this Ordinance goes into effect.

(a) Property taken by eminent domain by the City of Lodi shall be owned and occupied by the condemnor or another governmental agency utilizing the property for the stated public use by agreement with the condemnor, or may be leased only to entities that are regulated by the Public Utilities Commission or to private nonprofit entities. All property that is taken by eminent domain shall be used only for a public use or as set forth above.

(b) If any property taken through eminent domain after the effective date of this Ordinance ceases to be used for the stated public use, within ten years of its original acquisition, the former owner of the property or a beneficiary or an heir, if a beneficiary or heir has been designated for this purpose, shall have the right to reacquire the property at the original purchase price or fair market value of the property, whichever is lesser, before the property may be otherwise sold or transferred.

SECTION 2 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

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

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

Approved this 19th day of April, 2006.

_____
SUSAN HITCHCOCK
Mayor

Attest:

SUSAN J. BLACKSTON
City Clerk

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1775 was introduced at a Special Joint meeting of the Lodi City Council and Redevelopment Agency of the City of Lodi held March 29, 2006, and was thereafter passed, adopted, and ordered to print at a Special Joint meeting of the Lodi City Council and Redevelopment Agency of the City of Lodi held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1775 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

AGENDA ITEM L-02

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Ordinance No. 1776 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 2 – Administration and Personnel – of the Lodi Municipal Code by Adding Chapter 2.52.020 Relating to Eminent Domain"

MEETING DATE: April 19, 2006

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1776.

BACKGROUND INFORMATION: Ordinance No. 1776 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 2 – Administration and Personnel – of the Lodi Municipal Code by Adding Chapter 2.52.020 Relating to Eminent Domain" was introduced at the Special Joint Meeting of the City Council and the Redevelopment Agency of the City of Lodi meeting of March 29, 2006.

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

Ordinances take effect 30 days after their final passage. ***Cal. Gov't Code § 36937***.

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Susan J. Blackston
City Clerk

SJB/JMP
Attachments

APPROVED: _____
Blair King, City Manager

council/councom/Ordinance5.doc

ORDINANCE NO. 1776

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LODI AMENDING TITLE 2 - ADMINISTRATION AND
PERSONNEL - OF THE LODI MUNICIPAL CODE BY ADDING
CHAPTER 2.52.020 RELATING TO EMINENT DOMAIN

==========

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Title 2 - Administration and Personnel - of the Lodi Municipal Code is hereby amended by adding thereto Chapter 2.52.020 relating to eminent domain and shall read as follows:

WHEREAS, this Ordinance shall be known as "The Homeowner and Property Protection Ordinance"; and

WHEREAS, eminent domain has been subject to abuse in California, whereby local governmental entities have condemned property and transferred it, by sale, lease, or otherwise, to the control, management, or exploitation of private entities for private use and profit on the theory that generalized public benefits will flow therefrom; and

WHEREAS, the United States Supreme Court, in Kelo v. City of New London, ____ U.S.____ (2005), has held that the United States Constitution does not prevent the transfer of property, seized through eminent domain, to private entities for private profit; and

WHEREAS, it is the intent of the Lodi City Council that private property shall not be taken or damaged for the use, exploitation, or management of any private party, including, but not limited to, the use, exploitation, or management of property taken or damaged by a corporation or other business entity for private profit, as is currently permitted under the United States Constitution under Kelo v. City of New London, ___U.S.___ (2005) by the Redevelopment Agency; and

WHEREAS, it is not the intent of this Ordinance to prevent the rental of space in a government building or any other government-owned property for incidental commercial enterprises, including, but not limited to, gift shops, newsstands, and private nonprofit entities such as churches and other religious and civic organizations; and

WHEREAS, this Ordinance shall apply only to condemnation actions that are completed after this Ordinance goes into effect.

(a) Property taken by eminent domain by the Redevelopment Agency of the City of Lodi shall be owned and occupied by the condemnor or another governmental agency utilizing the property for the stated public use by agreement with the condemnor, or may be leased only to entities that are regulated by the Public Utilities Commission or to private nonprofit entities. All property that is taken by eminent domain shall be used only for a public use or as set forth above.

(b) If any property taken through eminent domain after the effective date of this Ordinance ceases to be used for the stated public use, within ten years of its original acquisition, the former owner of the property or a beneficiary or an heir, if a beneficiary or heir has been designated for this purpose, shall have the right to reacquire the property at the original purchase price or fair market value of the property, whichever is lesser, before the property may be otherwise sold or transferred.

SECTION 2 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

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

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

Approved this 19th day of April, 2006.

_____
SUSAN HITCHCOCK
Mayor

Attest:

SUSAN J. BLACKSTON
City Clerk

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1776 was introduced at a Special Joint meeting of the Lodi City Council and Redevelopment Agency of the City of Lodi held March 29, 2006, and was thereafter passed, adopted, and ordered to print at a Special Joint meeting of the Lodi City Council and Redevelopment Agency of the City of Lodi held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1776 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

Approved as to Form:

SUSAN J. BLACKSTON
City Clerk

_____
D. STEPHEN SCHWABAUER
City Attorney

AGENDA ITEM M-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Ordinance No. 1772 Entitled, "An Ordinance of the Lodi City Council Amending Chapter 13.20, 'Electrical Service,' by Amending Sections 13.20.175 Schedule MCA, 13.20.190 Schedule EA, 13.20.200 Schedule ED, 13.20.210 Schedule EM, 13.20.220 Schedule MR, 13.20.230 Schedule EL, 13.20.240 Schedule G1, 13.20.250 Schedule G2, 13.20.260 Schedule G3, 13.20.270 Schedule G4, 13.20.280 Schedule G5, and 13.20.310 Schedule I-1 Relating to Rate Schedules; Adding Section 13.20.235 Schedule ES (City Facilities Service); and Repealing Sections 13.20.202, 13.20.203, and 13.20.204"

MEETING DATE: April 19, 2006

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1772.

BACKGROUND INFORMATION: Ordinance No. 1772 entitled, "An Ordinance of the Lodi City Council Amending Chapter 13.20, 'Electrical Service,' by Amending Sections 13.20.175 Schedule MCA, 13.20.190 Schedule EA, 13.20.200 Schedule ED, 13.20.210 Schedule EM, 13.20.220 Schedule MR, 13.20.230 Schedule EL, 13.20.240 Schedule G1, 13.20.250 Schedule G2, 13.20.260 Schedule G3, 13.20.270 Schedule G4, 13.20.280 Schedule G5, and 13.20.310 Schedule I-1 Relating to Rate Schedules; Adding Section 13.20.235 Schedule ES (City Facilities Service); and Repealing Sections 13.20.202, 13.20.203, and 13.20.204" was introduced at the regular City Council meeting of February 15, 2006.

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

Ordinances take effect 30 days after their final passage. ***Cal. Gov't Code § 36937***.

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

_____
Susan J. Blackston
City Clerk

SJB
Attachment

APPROVED: _____
Blair King, City Manager

council/councom/Ordinance1.doc

ORDINANCE NO. 1772

AN ORDINANCE OF THE LODI CITY COUNCIL AMENDING CHAPTER 13.20, "ELECTRICAL SERVICE," BY AMENDING SECTIONS 13.20.175 SCHEDULE MCA, 13.20.190 SCHEDULE EA, 13.20.200 SCHEDULE ED, 13.20.210 SCHEDULE EM, 13.20.220 SCHEDULE MR, 13.20.230 SCHEDULE EL, 13.20.240 SCHEDULE G1, 13.20.250 SCHEDULE G2, 13.20.260 SCHEDULE G3, 13.20.270 SCHEDULE G4, 13.20.280 SCHEDULE G5, AND 13.20.310 SCHEDULE I-1 RELATING TO RATE SCHEDULES; ADDING SECTION 13.20.235 SCHEDULE ES (CITY FACILITIES SERVICE); AND REPEALING SECTIONS 13.20.202, 13.20.203, AND 13.20.204

==========

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. The sale of electric energy by the City of Lodi shall be at the rates hereinafter set forth.

SECTION 2. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by amending Section 13.20.175 – Schedule MCA – Market Cost Adjustment – See schedule attached hereto, marked Exhibit A and thereby made a part hereof.

SECTION 3. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by amending Section 13.20.190 – Schedule EA – Residential Service – See schedule attached hereto, marked Exhibit B and thereby made a part hereof.

SECTION 4. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by amending Section 13.20.200 – Schedule ED – Residential SHARE Program Service – See schedule attached hereto, marked Exhibit C and thereby made a part hereof.

SECTION 5. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by amending Section 13.20.210 – Schedule EM – Mobile Home Park Service – See schedule attached hereto, marked Exhibit D and thereby made a part hereof.

SECTION 6. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by amending Section 13.20.220 Schedule MR – Residential Medical Rider – See schedule attached hereto, marked Exhibit E and thereby made a part hereof.

SECTION 7. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by amending Section 13.20.230 – Schedule EL – Outdoor Dusk-to-Dawn Lighting – See schedule attached hereto, marked Exhibit F and thereby made a part hereof.

SECTION 8. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by amending Section 13.20.240 – Schedule G1 – General Service – Group 1 Commercial/Industrial – See schedule attached hereto, marked Exhibit G and thereby made a part hereof.

SECTION 9. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by amending Section 13.20.250 – Schedule G2 – General Service – Group 2 Commercial/Industrial – See schedule attached hereto, marked Exhibit H and thereby made a part hereof.

SECTION 10. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by amending Section 13.20.260 – Schedule G3 – General Service – Group 3 Commercial/Industrial – See schedule attached hereto, marked Exhibit I and thereby made a part hereof.

SECTION 11. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by amending Section 13.20.270 – Schedule G4 – General Service – Group 4 Commercial/Industrial – See schedule attached hereto, marked Exhibit J and thereby made a part hereof.

SECTION 12. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by amending Section 13.20.280 – Schedule G5 – General Service – Group 5 Commercial/Industrial – See schedule attached hereto, marked Exhibit K and thereby made a part hereof.

SECTION 13. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by amending Section 13.20.310 Schedule I1 – General Service – Group 5 Commercial/Industrial – Optional – See schedule attached hereto, marked Exhibit L and thereby made a part hereof.

SECTION 14. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by adding Section 13.20.235 – Schedule ES – City Facilities Service – See schedule attached hereto, marked Exhibit M and thereby made a part hereof.

SECTION 15. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by repealing Section 13.20.202 – Schedule EE – Residential All Electric Service in its entirety.

SECTION 16. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by repealing Section 13.20.203 – Schedule EF – Residential All Electric SHARE Program Service in its entirety.

SECTION 17. Lodi Municipal Code Chapter 13.20 – Electrical Service, Article III. Rates, is hereby amended by repealing Section 13.20.204 – Schedule EF – Residential All Electric SHARE Program Service in its entirety.

SECTION 18. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 19. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 20. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 21. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

SECTION 22. The revised Schedules referenced above shall be effective on applicable electric utility billings prepared by the City of Lodi on or after June 1, 2006.

Approved this 19th day of April, 2006

SUSAN HITCHCOCK
MAYOR

ATTEST:

SUSAN J. BLACKSTON
City Clerk

State of California County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1772 was introduced at a regular meeting of the City Council of the City of Lodi held February 15, 2006, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1772 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON
City Clerk

Approved to Form:

D. STEPHEN SCHWABAUER
City Attorney

CITY OF LODI
ELECTRIC UTILITY DEPARTMENT

SCHEDULE MCA **EXHIBIT A**

MARKET COST ADJUSTMENT

APPLICABILITY:

When in effect, this schedule is applicable to all areas served by the City and to all kilowatt-hours billed under all rate schedules as defined under the special conditions of the rate schedules labeled Market Cost Adjustment and/or Purchased Power Cost Adjustment. Generally, power supply costs will be recovered through application of the base rates. In the event that substantial changes in projected power supply costs occur, either increases or decreases, the Market Cost Adjustment will be activated to provide for increases or decreases in the City's charges for electric service.

RATES:

The Market Cost Adjustment (MCA) is applied to specific classes as a cents per kWh charge by a Market Cost Adjustment Billing Factor (MCABF). For some classes, the MCA may be zero. The following schedule provides the MCABF by class.

MARKET COST ADJUSTMENT BILLING FACTOR

The Market Cost Adjustment Billing Factor by designated rate schedule, in cents per kilowatt-hour, shall be shown in the Section. Certain classes may have a tiered MCABF by level of monthly consumption.

EA		
Tier	kWh	cents per kWh
1	All Levels	0

ED		
Tier	kWh	cents per kWh
1	All Levels	0

Class	Type	cents per kWh
ES	All	0
EM	All	0
EL	All	0

Commercial/Industrial		
Class	Type	cents per kWh
G1	All	0
G2	All	0
G3	All	0
G4	All	0
G5	All	0
I1	<4,000 kW	0
I1	≥4,000 kW	0

CITY OF LODI
ELECTRIC UTILITY DEPARTMENT

SCHEDULE EA

EXHIBIT B

RESIDENTIAL SERVICE

APPLICABILITY:

This schedule is applicable to single-phase domestic power service in single-family and multi-family dwellings separately metered by the City including those on discontinued all electric rate schedule, EE.

RATES:

Minimum Charge $5.00

Energy Charge is by Tier of kWh usage:

	Tier 1 (Baseline)	Tier 2 (101-130% of baseline)	Tier 3 131-200% of baseline)	Tier 4 (201-300% of baseline)	Tier 5 (Over 300% of baseline)
$/kWh	$0.1420	$0.1450	$0.2235	$0.3180	$0.3300

Summer (May through October) Energy Tiers

	Tier 1 (Baseline)	Tier 2 (101-130% of baseline)	Tier 3 131-200% of baseline)	Tier 4 (201-300% of baseline)	Tier 5 (Over 300% of baseline)
Beginning Tier kWh/month	0	482	626	963	>1,443
Ending Tier kWh/month	481	625	962	1,443	

Winter (November through April) Energy Tiers

	Tier 1 (Baseline)	Tier 2 (101-130% of baseline)	Tier 3 131-200% of baseline)	Tier 4 (201-300% of baseline)	Tier 5 (Over 300% of baseline)
Beginning Tier kWh/month	0	392	509	783	>1,173
Ending Tier kWh/month	391	508	782	1,173	

MARKET COST ADJUSTMENT (MCA):

A Market cost adjustment may be included in each bill for service. The adjustment shall be the product of the total kilowatt-hours (kWh) for which the bill is rendered times the adjustment amount per kWh. The adjustment amount per kWh will be calculated to reflect amounts charged the City by various suppliers of bulk power not covered in the above rates.

BILLING CYCLE CHARGE (MONTHLY BILL):

The billing cycle charge is the higher of the sum of the Minimum Charge and the MCA or the sum of the Energy Charge and the MCA.

SPECIAL CONDITIONS:

(a) When a business or commercial establishment is conducted in conjunction with a residence and both are measured through one meter, this rate does not apply.

(b) This rate does not apply to service used for common area and facilities in multi-family dwellings.

(c) An additional first block medical quantity is available as described in Schedule MR, Residential Medical Rider.

FIXED INCOME DISCOUNT:

For those customers who are on fixed incomes below $45,000 annually and who are over 62 years of age, and do not qualify for any other discount, a discount of 5% shall apply to the electric bill. Procedures as to qualification will be established by the Electric Utility Department.

CITY OF LODI
ELECTRIC UTILITY DEPARTMENT

SCHEDULE ED

EXHIBIT C

RESIDENTIAL SHARE PROGRAM SERVICE

APPLICABILITY:

Applicable to domestic service in single-family and multi-family dwellings separately metered by the City of Lodi where the customer meets all the Special Conditions of this rate schedule including those on discontinued All Electric SHARE rate schedule, EF.

RATES:

Customers under this schedule will have bills computed using the EA rate schedule less a 30% discount. This bill will include EA base rate and applicable EA Market Cost Adjustments (MCA) with a 30% discount.

MCA:

A market cost adjustment may be included in each bill for service. The adjustment shall be the product of the total kilowatt-hours (kWh) for which the bill is rendered times the adjustment amount per kWh. The adjustment amount per kWh will reflect amounts charged the City by various suppliers of bulk power not covered in the above rates.

BILLING CYCLE CHARGE (MONTHLY BILL):

The billing cycle charge is the higher of the Minimum Charge and MCA, or the sum of the Energy Charge and MCA.

SPECIAL CONDITIONS:

(a) When a business or commercial establishment is conducted in conjunction with a residence and both are measured through one meter, this rate does not apply.

(b) This rate does not apply to service used for common area and facilities in multi-family dwellings.

(c) Single Household Alternative Rate for Energy (SHARE) Eligibility: To be eligible to receive SHARE an applicant must complete an application and qualify based on the eligibility criteria shown on the table below.

Number of Persons in Household	Maximum Annual Household Income
1-2	$22,000
3	$25,900
4	$31,100
Each additional member	$ 5,200

(d) Completed applications must be submitted to the City of Lodi Finance Department. The City of Lodi Finance Department shall certify the eligibility of all applicants.

(e) All applicants will be required to certify income eligibility for the SHARE program. Customers must sign a statement upon application indicating that the City of Lodi may verify the Customer's eligibility at any time. If verification established that the Customer is ineligible, the Customer will be removed from the program and the City of Lodi may render corrective billings.

Effective June 1, 2006
Ordinance No. 1772

Canceling Ordinance 1710

CITY OF LODI
ELECTRIC UTILITY DEPARTMENT

SCHEDULE EM

EXHIBIT D

MOBILE HOME PARK SERVICE

APPLICABILITY:

This schedule is applicable to service supplied to mobile home parks through one meter and sub-metered to all individual mobile home units.

RATES:

Customer Charge	$ 4.87
Energy Charge:	
Summer (May 1 through October 31)	
First 440 kWh, per kWh	.10197
Over 440 kWh, per kWh	.14025
Winter (November 1 through April 30)	
First 400 kWh, per kWh	.10197
Over 400 kWh, per kWh	.14025
MINIMUM CHARGE:	
All kWh, per kWh	.05000

DISCOUNT:

Per number of occupied mobile home park units wired for service ..... $ 8.13

MARKET COST ADJUSTMENT (MCA):

A market cost adjustment may be included in each bill for service. The adjustment shall be the product of the total kilowatt-hours (kWh) for which the bill is rendered times the adjustment amount per kWh. The adjustment amount per kWh will reflect amounts charged the City of Lodi by various suppliers of bulk power not covered in the above rates.

BILLING CYCLE CHARGE (MONTHLY BILL):

The Billing Cycle Charge is the higher of the Minimum Charge or the sum of the Customer Charge, Energy Charge, Discount and MCA.

SPECIAL CONDITIONS:

(a) This rate is available only for mobile home park master metering in service prior to March 31, 1989.

(b) It is the responsibility of the master-metered customer to notify the City Finance Department within 15 days following any change in the number of occupied mobile home park units wired for service.

(c) Miscellaneous electric loads such as general lighting, laundry rooms, general maintenance, and other similar use incidental to the operation of the premises as a multi-family accommodation will be considered domestic use.

(d) To qualify for Single Household Alternative Rate for Energy (SHARE) the sub-metered tenants of the master-metered City of Lodi Customer will submit an application, including the tenant's unit number, to the City of Lodi Finance Department. The City of Lodi Finance Department will notify the master-metered Customer of the tenant's certification.

(e) Certification will be required to determine income eligibility for the SHARE program. Sub-metered tenants of the master metered City of Lodi Customer must sign a statement upon application indicating that the City of Lodi may verify the sub-metered tenant's eligibility at any time. The master-metered Customer, not the City of Lodi, is responsible for extending the SHARE program to tenants certified to receive them. If verification establishes that the SHARE tenant is ineligible, the tenant will be removed from the master-metered Customer's qualified tenants and the City of Lodi may render corrective billings.

(f) The master-metered Customer shall not bill any sub-metered tenant more than that tenant would be billed if that tenant were an individual customer of the City of Lodi. For a qualifying SHARE tenant, the master-metered Customer shall bill the qualifying tenant at the applicable rates equivalent to Schedule ED, Residential SHARE Program Service. A non-qualifying tenant shall be billed at the applicable rates equivalent to Schedule EA, Residential Service.

CITY OF LODI
ELECTRIC UTILITY DEPARTMENT

SCHEDULE MR **EXHIBIT E**

RESIDENTIAL MEDICAL DISCOUNT

APPLICABILITY:

Qualifying residential customers on Schedule EA are entitled to a discount of 25% from the total bill. Qualifying residential customers on Schedule ED are entitled to a discount of 5% from the total bill. The total bill includes base rate charges and applicable EA Market Cost Adjustments (MCA).

Master-metered customers with qualifying tenant(s) on Schedule EM are entitled to an additional 500 kilowatt-hours (kWh) per billing cycle (monthly bill) for each qualifying household or mobile home unit at the lower priced first block rate.

If a customer or full-time resident in the home or mobile home unit has one or more of the medical conditions listed below, contact the Electric Utility Department to request a City application, "Declaration of Eligibility for Medical Discount." Only one medical discount adjustment per household or mobile home unit is available.

QUALIFYING CONDITIONS:

To qualify for the Medical Discount, the customer will be required to submit a completed City application, including the certification of a doctor of medicine or osteopathy licensed to practice in the State of California that a customer or other full time resident in the home is:

(a) Dependent on a life-support device used in the home.

(b) Paraplegic, hemiplegic, or quadriplegic person having special air-conditioning needs.

(c) A multiple-sclerosis patient with special heating or air-conditioning needs.

(d) Medical conditions other than multiple sclerosis, paraplegia, hemiplegia, or quadriplegia may qualify customers for medical quantities for electric heating or air conditioning. Any such conditions will be reviewed on an individual basis.

LIFE SUPPORT DEVICES:

A life support device is any medical device necessary to sustain life or relied upon for mobility. To qualify under this schedule, the device must be used in the home and must run on electricity supplied by the City of Lodi.

The term "life support device" includes, but is not limited to respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, IPPB machines and motorized wheelchairs.

CITY OF LODI
ELECTRIC UTILITY DEPARTMENT

SCHEDULE MR

RESIDENTIAL MEDICAL DISCOUNT

HEATING AND AIR CONDITIONING:

Special heating and/or air-conditioning needs will qualify for a Medical Discount under this rider only if the main source of energy for heating or air conditioning is electricity supplied by the City of Lodi.

MEDICAL DISCOUNT FOR MOBILE HOME PARK SERVICE CUSTOMERS:

Residential tenants of mobile home park service customers can also qualify for Medical Discount. If one or more of the customer's tenant(s) have a medical condition that qualifies under the conditions listed above, contact the Electric Utility Department to apply.

Any Medical Discount must be passed on to the qualifying tenant(s) when tenants are billed for the electricity they use.

CITY OF LODI
ELECTRIC UTILITY DEPARTMENT

EXHIBIT F

SCHEDULE EL

OUTDOOR DUSK-TO-DAWN LIGHTING

APPLICABILITY:

This schedule is applicable to City-owned and maintained outdoor overhead area lighting service. Dusk-to-Dawn lighting may not be used for street lighting purposes.

RATES:

For each 6,000 lumen gas discharge lamp.....	$12.15 per billing cycle
For each 18,000 lumen gas discharge lamp.....	$22.56 per billing cycle

SPECIAL CONDITIONS:

(a) Lamps shall be approximately 6,000 or 18,000 lumen gas discharge with luminaire and bracket, as specified by the City of Lodi Electric Utility Department, and shall be supported on City-owned poles which are used to carry distribution system circuits for other City purposes and shall be at locations approved by the City of Lodi. Lamps will be controlled from dusk to dawn each night so as to give approximately 4,380 hours of service annually.

(b) Upon receipt of notice from a customer of failure of light to operate as scheduled, the City of Lodi Electric Utility Department will, within a reasonable period of time, make the necessary repairs.

(c) Relocation of existing outdoor lighting service equipment or the installation of additional facilities required other than mentioned in (a) above shall be at customer's expense prior to starting work.

CITY OF LODI
ELECTRIC UTILITY DEPARTMENT

EXHIBIT G

SCHEDULE G1

GENERAL SERVICE - GROUP 1 COMMERCIAL/INDUSTRIAL

APPLICABILITY:

This schedule is applicable to customers with single-phase or three-phase service, or to a combination thereof, whose energy consumption does not exceed 8,000 kilowatt-hours (kWh) per billing cycle for three consecutive billing cycles. This schedule is not available for service when another commercial/industrial schedule is applicable.

Assignment to Schedule: If, in the judgement of the City, an account is expected to have usage below 8,000 kWh per billing cycle, the City has the option of placing the account immediately on this schedule.

When an account billed on this schedule permanently changes the nature of electrical operations to such an extent that the account would in time qualify for another rate schedule, such billing change will be made as soon as practicable after verification of said changes.

If energy consumption equals or exceeds 8,000 kWh for three consecutive billing cycles, the City will transfer the account to the appropriate rate schedule. If the demand reaches or exceeds 400 kW for three consecutive billing cycles, the account will be transferred to the appropriate rate schedule.

RATES:

Customer Charge: (per meter per billing cycle)

Single-Phase Service	$7.00
Three-Phase or Combination Service	10.35

Energy Charge: ($ per kWh)

Summer (May through October)	$0.17984
Winter (November through April)	$0.13300

MARKET COST ADJUSTMENT (MCA):

A market cost adjustment may be included in each bill for service. The adjustment shall be the product of the total kilowatt-hours (kWh) for which the bill is rendered times the adjustment amount per kWh. The adjustment amount per kWh will be calculated to reflect amounts charged the City by various suppliers of bulk power not covered in the above rates.

COMMUNITY BENEFITS INCENTIVE DISCOUNT:

G1-Non-profit (as defined in Federal Internal Revenue 501 (c) (3)) Industrial/Commercial customers who are currently receiving Federal Community Development Block Grant funds or have received such funds not more than two years before preparation of the current billing cycle charge are eligible for the following discount on Energy and Demand charges:

July 1, 1996 and after 30%

It is the customer's responsibility to notify the Finance Department of this eligibility.

This discount may not be used in conjunction with any other incentive discount.

BILLING CYCLE CHARGE (MONTHLY BILL):

The billing cycle charge is the sum of the Customer Charge, the Energy Charge and the MCA.

CITY OF LODI
ELECTRIC UTILITY DEPARTMENT

EXHIBIT H

SCHEDULE G2

GENERAL SERVICE - GROUP 2 COMMERCIAL/INDUSTRIAL

APPLICABILITY:

This schedule will be applied to accounts with energy consumption in excess of 8,000 kilowatt-hours (kWh) for three consecutive billing cycles. This schedule is not available for service when another commercial/industrial schedule is applicable.

Billing Demand: The billing demand in any billing cycle will be the maximum average power taken during any metering interval in the period, but not less than the diversified resistance welder load. (The customary metering interval is 15 minutes; in cases where the use of energy is intermittent or subject to violent fluctuations, a 5-minute interval may be used.)

Assignment to Schedule: If, in the judgement of the City, an account is expected to have usage over 8,000 kWh per billing cycle, the City has the option of placing the account immediately on this schedule.

When an account billed on this schedule permanently changes the nature of electrical operations to such an extent that the account would in time qualify for another rate schedule, such billing change will be made as soon as practicable after verification of said changes. It shall be the responsibility of the customer to notify the City of any such changes.

If energy consumption drops below 8,000 kWh and remains there for 12 consecutive billing cycles, the City will transfer the account to the appropriate schedule. If the billing demand reaches or exceeds 400 kW for three consecutive billing cycles, the account will be transferred to the appropriate rate schedule as soon as practicable.

RATES:

Customer Charge: (per meter per billing cycle) $56.38

Demand Charge:
All kW of billing demand, per kW 3.90

Energy Charge: (per kWh)

Summer (May through October) $0.14780
Winter (November through April) $0.11831

MARKET COST ADJUSTMENT (MCA):

A market cost adjustment may be included in each bill for service. The adjustment shall be the product of the total kilowatt-hours (kWh) for which the bill is rendered times the adjustment amount per kWh. The adjustment amount per kWh will be calculated to reflect amounts charged the City by various suppliers of bulk power not covered in the above rates.

VOLTAGE DISCOUNT:

When delivery is made at the same primary distribution voltage as that of the line from which the service is supplied, a 4% discount will be allowed on the sum of the Demand Charge and the Energy Charge.

COMMUNITY BENEFITS INCENTIVE DISCOUNT:

G1-Non-profit (as defined in Federal Internal Revenue 501 (c) (3)) Industrial/Commercial customers who are currently receiving Federal Community Development Block Grant funds or have received such funds not more than two years before preparation of the current billing cycle charge are eligible for the following discount on Energy and Demand charges:

July 1, 1996 and after 30%

It is the customer's responsibility to notify the Finance Department of this eligibility.

This discount may not be used in conjunction with any other incentive discount.

BILLING CYCLE CHARGE (MONTHLY BILL):

The billing cycle charge is the sum of the Customer Charge, the Demand Charge, the Energy Charge, the MCA and the voltage discount, if applicable.

CITY OF LODI
ELECTRIC UTILITY DEPARTMENT

EXHIBIT I

SCHEDULE G3

GENERAL SERVICE - GROUP 3 COMMERCIAL/INDUSTRIAL

APPLICABILITY:

This schedule shall be applied to accounts with billing period demands of between 400 kilowatts (kW) and 500 kW for three consecutive billing cycles. This schedule is not available for service when another commercial/industrial schedule is applicable.

Demand: The billing period and peak period demands will be the maximum average power taken during any 15-minute interval in the billing period and peak period, respectively, but not less than the diversified resistance welder load. In cases where the use of energy is intermittent or subject to violent fluctuations, a 5-minute interval may be used.

Assignment to Schedule: If, in the judgement of the City, an account is expected to have billing period demand of 400 kW or more and less than 500 kW per billing cycle, the City has the option of placing the account immediately on this schedule.

When an account billed on this schedule permanently changes the nature of electrical operations to such an extent that the account would in time qualify for another rate schedule, such billing change will be made as soon as practicable after verification of said changes. It shall be the responsibility of the customer to notify the City of any such changes.

If billing period demand drops below 400 kW and remains there for 12 consecutive billing cycles, the City will transfer the account to the appropriate rate schedule. If billing period demand reaches or exceeds 500 kW for three consecutive billing cycles, the account will be transferred to the appropriate rate schedule.

RATES:

Customer Charge (per meter per billing cycle)..... $128.13

Service Voltage:	Secondary (G3-S)		Primary (G3-P)	
Season:	Summer	Winter	Summer	Winter
Demand Charges:				
Per kW of peak period demand	$10.92	--	$10.25	--
Per kW of billing period demand	$ 3.90	$ 3.90	$ 3.02	$ 3.02
Energy Charge:				
Peak period (per kWh)	0.16086	--	0.15505	--
Partial peak period (per kWh)	0.12884	0.11675	0.12463	0.11314
Off peak period (per kWh)	0.11068	0.10655	0.10737	0.10345

MARKET COST ADJUSTMENT (MCA):

A market cost adjustment may be included in each bill for service. The adjustment shall be the product of the total kilowatt-hours (kWh) for which the bill is rendered times the adjustment amount per kWh. The adjustment amount per kWh will be calculated to reflect amounts charged the City by various suppliers of bulk power not covered in the above rates.

TYPES OF CHARGES:

The billing cycle charge for service is the sum of the Customer Charge, the Demand Charges, the Energy Charges, the MCA and the Power Factor Adjustment:

CUSTOMER CHARGE: The Customer Charge is a flat monthly fee.

DEMAND CHARGES: This schedule has two Demand Charges: A peak period Demand Charge and a billing period Demand Charge. The peak period Demand Charge per kW applies to the maximum average power taken during any metering interval during the billing cycle's peak hours. The billing period Demand Charge per kW applies to the maximum average power taken during any metering interval at any time during the billing cycle. The bill will include both Demand Charges. Time periods are defined below.

ENERGY CHARGES: This schedule has three Energy Charges: A peak period Energy Charge, a partial peak period Energy Charge, and an off peak period Energy Charge. The peak period Energy Charge per kWh applies to the total kWh used during the billing cycle's peak hours. Partial peak period Energy Charge per kWh applies to the total kWh used during the billing cycle's partial peak hours. Off peak period Energy Charge per

kWh applies to the total kWh used during the billing cycle's off peak hours. The bill will include all of these Energy Charges. Time periods are defined below.

MCA: The MCA is a per kWh charge applied to the total kWh used during the billing cycle.

Monthly charges may be decreased or increased based upon power factor as defined below.

As shown on the rates above, Demand and Energy Charges are based on the voltage at which service is taken. Service voltages are defined below.

DEFINITION OF SERVICE VOLTAGE:

The service voltage classes are:

(a) Primary: Service Voltage class for service at 12,000 volts (nominal).

(b) Secondary: Service Voltage class for service at available voltages below 12,000 volts (nominal).

POWER FACTOR ADJUSTMENT:

Bills will be adjusted for billing cycle average power factor as follows:

The total charge (except taxes and customer charge) for any billing cycle as computed on the above rates shall be decreased or increased, respectively, by 0.0006% for each 0.01 percentage point that the average power factor of the customer's load in the billing cycle is greater or less than 85.00%, such average power factor to be computed (to the nearest hundredth of a percent) from the ratio of lagging kilovolt ampere-hours to kilowatt-hours consumed in the billing cycle.

Customers with service entrance equipment unable to accommodate the City's reactive metering equipment shall have their billing power factor determined by testing performed by the City.

DEFINITION OF TIME PERIODS:

Times of the year and times of the day are defined as follows:

SUMMER: (May 1 through October 31)

Peak: 3:00 p.m. to 7:00 p.m. Monday through Friday (except holidays).

Partial Peak: 8:30 a.m. to 3:00 p.m. and 7:00 p.m. to 9:30 p.m. Monday through Friday (except holidays).

Off Peak: 9:30 p.m. to 8:30 a.m. Monday through Friday and all day Saturday, Sunday and holidays.

WINTER: (November 1 through April 30)

Partial Peak: 8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays).

Off Peak: 9:30 p.m. to 8:30 a.m. Monday through Friday and all day Saturday, Sunday and holidays.

HOLIDAYS:

"Holidays," for the purpose of this rate schedule, are New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, the day after Thanksgiving Day and Christmas Day. The dates will be based on those days on which the holidays are legally observed.

CITY OF LODI
ELECTRIC UTILITY DEPARTMENT

EXHIBIT J

SCHEDULE G4

GENERAL SERVICE - GROUP 4 COMMERCIAL/INDUSTRIAL

APPLICABILITY:

This schedule shall be applied to accounts with billing period demands of between 500 kilowatts (kW) and 1,000 kW for three consecutive billing cycles. This schedule is not available for service when another commercial/industrial schedule is applicable.

Demand: The billing period and peak period demands will be the maximum average power taken during any 15-minute interval in the billing period and peak period, respectively, but not less than the diversified resistance welder load. In cases where the use of energy is intermittent or subject to violent fluctuations, a 5-minute interval may be used.

Assignment to Schedule: If, in the judgement of the City, an account is expected to have billing period demand between 500 kW and 1,000 kW per billing cycle, the City has the option of placing the account immediately on this schedule.

When an account billed on this schedule permanently changes the nature of electrical operations to such an extent that the account would in time qualify for another rate schedule, such billing change will be made as soon as practicable after verification of said changes. It shall be the responsibility of the customer to notify the City of any such changes.

If billing period demand drops below 500 kW and remains there for 12 consecutive billing cycles, the City will transfer the account to the appropriate rate schedule. If billing period demand reaches or exceeds 1,000 kW for three consecutive billing cycles, the account will be transferred to the appropriate rate schedule.

RATES:

Customer Charge (per meter per billing cycle) $128.13

Service Voltage:	Secondary (G4-S)		Primary (G4-P)	
Season:	Summer	Winter	Summer	Winter
Demand Charges:				
Per kW of peak period demand.....	$10.92	–	$10.25	–
Per kW of billing period demand.....	$ 3.90	$ 3.90	$ 3.02	$ 3.02
Energy Charges:				
Peak period (per kWh).	0.14849	—	0.14274	–
Partial peak period (per kWh).....	0.11643	0.10506	0.11229	0.10149
Off peak period (per kWh).....	0.09830	0 .09494	0.09506	0.09188

MARKET COST ADJUSTMENT (MCA):

A market cost adjustment may be included in each bill for service. The adjustment shall be the product of the total kilowatt-hours (kWh) for which the bill is rendered times the adjustment amount per kWh. The adjustment amount per kWh will be calculated to reflect *amounts charged the city by various suppliers of bulk power not covered in the above* rates.

TYPES OF CHARGES:

The billing cycle charge for service is the sum of the Customer Charge, the Demand Charges, the Energy Charges, the MCA and the Power Factor Adjustment:

CUSTOMER CHARGE: The Customer Charge is a flat monthly fee.

DEMAND CHARGES: This schedule has two Demand Charges: A peak period Demand Charge and a billing period Demand Charge. The peak period Demand Charge per kW applies to the maximum average power taken during any metering interval during the billing cycle's peak hours. The billing period Demand Charge per kW applies to the maximum average power taken during any metering interval at any time during the billing cycle. The bill will include both of these Demand Charges. Time periods are defined below.

ENERGY CHARGES: This schedule has three Energy Charges: A peak period Energy Charge, a partial peak period Energy Charge, and an off peak period Energy Charge. The peak period Energy Charge per kWh applies to the total kWh used during the billing cycle's peak hours. Partial peak period Energy Charge per kWh applies to the total kWh used during the billing cycle's partial peak hours. Off peak period Energy Charge per kWh applies to the total kWh used during the billing cycle's off peak hours. The bill will include all of these Energy Charges. Time periods are defined below.

MCA: The MCA is a per kWh charge applied to the total kWh used during the billing cycle.

Monthly charges may be decreased or increased based upon power factor as defined below.

As shown on the rates above, Demand and Energy Charges are based on the voltage at which service is taken. Service Voltages are defined below.

DEFINITION OF SERVICE VOLTAGE:

The service voltage classes are:

(a) Primary: Service Voltage class for service at 12,000 volts (nominal).

(b) Secondary: Service Voltage class for service at available voltages below 12,000 volts (nominal).

POWER FACTOR ADJUSTMENT:

Bills will be adjusted for billing cycle average power factors as follows:

The total charge (except taxes and customer charge) for any billing cycle as computed on the above rates shall be decreased or increased, respectively, by 0.0006% for each 0.01 percentage point that the average power factor of the customer's load in the billing cycle is greater or less than 85.00%, such average power factor to be computed (to the nearest hundredth of a percent) from the ratio of lagging kilovolt ampere-hours to kilowatt-hours consumed in the billing cycle.

Customers with service entrance equipment unable to accommodate the City's reactive metering equipment shall have their billing power factor determined by testing performed by the City.

DEFINITION OF TIME PERIODS:

Times of the year and times of the day are defined as follows:

SUMMER (May 1 through October 31)

Peak: 3:00 p.m. to 7:00 p.m. Monday through Friday (except holidays).

Partial Peak: 8:30 a.m. to 3:00 p.m. and 7:00 p.m. to 9:30 p.m. Monday through Friday (except holidays).

Off Peak: 9:30 p.m. to 8:30 a.m. Monday through Friday and all day Saturday, Sunday and holidays.

WINTER (November 1 through April 30)

Partial Peak: 8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays).

Off Peak: 9:30 p.m. to 8:30 a.m. Monday through Friday and all day Saturday, Sunday and holidays.

HOLIDAYS:

"Holidays," for the purpose of this rate schedule, are New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the Day after Thanksgiving Day and Christmas Day. The dates will be based on those days on which the holidays are legally observed.

CITY OF LODI
ELECTRIC UTILITY DEPARTMENT

EXHIBIT K

SCHEDULE G5

GENERAL SERVICE - GROUP 5 COMMERCIAL/INDUSTRIAL

APPLICABILITY:

This schedule shall be applied to accounts with billing period demands of 1,000 kilowatts (kW) or more for three consecutive months, unless the customer elects an optional rate schedule the account would otherwise qualify for.

Demand: The billing period and peak period demands will be the maximum average power taken during any 15-minute interval in the billing period and peak period, respectively, but not less than the diversified resistance welder load. In cases where the use of energy is intermittent or subject to violent fluctuations, a 5-minute interval may be used.

Assignment to Schedule: If, in the judgement of the City, an account is expected to have billing period demand of 1,000 kW or more per billing cycle, the City has the option of placing the account immediately on this schedule.

When an account billed on this schedule permanently changes the nature of electrical operations to such an extent that the account would in time qualify for another rate schedule, such billing change will be made as soon as practicable after verification of said changes. It shall be the responsibility of the customer to notify the City of any such change.

If billing period demand drops below 1,000 kW and remains there for 12 consecutive billing cycles, the City will transfer the account to the appropriate rate schedule

RATES:

Customer Charge (per meter per billing cycle) $128.13

Service Voltage:	Secondary (G5-S)		Primary (G5-P)	
Season:	Summer	Winter	Summer	Winter
Demand Charges:				
Per kW of peak period demand.....	$10.92	–	$10.25	–
Per kW of billing period demand.....	$ 3.90	$ 3.90	$ 3.02	$ 3.02
Energy Charges:				
Peak period (per kWh).....	0.13681	–	0.13137	–
Partial peak period (per kWh).....	0.10481	0.09357	0.10097	0.09029
Off peak period (per kWh).....	0.08868	0.08580	0.08565	0.08291
Economic Stimulus Rate Credit: (per kWh).....	0.00410	0.00410	0.00410	0.00410

MARKET COST ADJUSTMENT (MCA):

A market cost adjustment may be included in each bill for service. The adjustment shall be the product of the total kilowatt-hours (kWh) for which the bill is rendered times the adjustment amount per kWh. The adjustment amount per kWh will be calculated to reflect amounts charged the City by various suppliers of bulk power not covered in the above rates.

TYPES OF CHARGES:

The billing cycle for service is the sum of the Customer Charge, the Demand Charges, the Energy Charges, the MCA and the Power Factor Adjustment.

CUSTOMER CHARGE: The Customer Charge is a flat monthly fee.

DEMAND CHARGES: This schedule has two Demand Charges: A peak period Demand Charge and a billing period Demand Charge. The peak period Demand Charge per kW applies to the maximum average power taken during any metering interval during the billing cycle's peak hours. The billing period Demand Charge per kW applies to the maximum average power taken during any metering interval at any time during the billing cycle. The bill will include both of these Demand Charges. Time periods are defined below.

ENERGY CHARGES: This schedule has three Energy Charges: A peak period Energy Charge, a partial peak period Energy Charge, and an off peak period Energy Charge. The peak period Energy Charge per kWh applies to the total kWh used during the billing cycle's peak hours. Partial peak period Energy Charge per kWh applies to the total kWh used during the billing cycle's partial peak hours. Off peak period Energy Charge per kWh applies to the total kWh used during the billing cycle's off peak hours. The bill will include all of these Energy Charges. Time periods are defined below.

MCA: The MCA is a per kWh charge applied to the total kWh used during the billing cycle.

Monthly charges may be decreased or increased based upon power factor as defined below.

As shown on the rates above, Demand and Energy Charges are based on the voltage at which service is taken. Service Voltages are defined below.

DEFINITION OF SERVICE VOLTAGE:

The service voltage classes are:

(a) Primary: Service Voltage class for service at 12,000 volts (nominal).

(b) Secondary: Service Voltage class for service at available voltages below 12,000 volts (nominal).

POWER FACTOR ADJUSTMENTS:

Bills will be adjusted for billing cycle average power factor as follows:

The total charge (except taxes and customer charge) for any billing cycle as computed on the above rates shall be decreased or increased, respectively, by 0.0006% for each 0.01 percentage point that the average power factor of the customer's load in the billing cycle is greater or less than 85.00%, such average power factor to be computed (to the nearest hundredth of a percent) from the ratio of lagging kilovolt ampere-hours to kilowatt-hours consumed in the billing cycle.

Customers with service entrance equipment unable to accommodate the City's reactive metering equipment shall have their billing power factor determined by testing performed by the City.

DEFINITION OF TIME PERIODS:

Times of the year and times of the day are defined as follows:

SUMMER: (May 1 through October 31)

Peak:	3:00 p.m. to 7:00 p.m. Monday through Friday (except holidays).
Partial Peak:	8:30 a.m. to 3:00 p.m. and 7:00 p.m. to 9:30 p.m. Monday through Friday (except holidays).
Off Peak:	9:30 p.m. to 8:30 a.m. Monday through Friday and all day Saturday, Sunday and holidays.

WINTER: (November 1 through April 30)

Partial Peak:	8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays).
Off Peak:	9:30 p.m. to 8:30 a.m. Monday through Friday and all day Saturday, Sunday and holidays.

HOLIDAYS:

"Holidays," for the purpose of this rate schedule, are New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, the day after Thanksgiving Day and Christmas Day. The dates will be based on those days on which the holidays are legally observed.

CITY OF LODI
ELECTRIC UTILITY DEPARTMENT

EXHIBIT L

SCHEDULE I1

GENERAL SERVICE – GROUP 5 – COMMERCIAL / INDUSTRIAL – OPTIONAL

APPLICABILITY:

This schedule is an optional rate for accounts who would otherwise qualify for primary service under the G5 rate schedule with billing period demands of 1,000 kilowatts (kW) or more for three consecutive months.

Demand: The billing period and peak period demands will be the maximum average power taken during any 15-minute period interval in the billing period and peak period, respectively, but not less than the diversified resistance welder load. In cases where the use of energy is intermittent or subject to violent fluctuations, a 5-minute interval may be used.

Assignment to Schedule: Assignment to this schedule is at the option of the customer and does not supersede any standby service contracts.

This rate schedule is prospective and not subject to rebate or retroactivity.

When a customer chooses to be assigned to this schedule, the customer elects the City of Lodi (City) to be the sole electric power requirements provider of choice. The customer must give the City three year written notice before the customer can elect to use another electric power requirements provider.

When a customer has a measurable incremental permanent load increase of 200 kW or greater, over the highest billing period demand in the previous twelve (12) months the customer will be eligible for a ten (10) percent discount on the incremental Demand and Energy charges. Such billing change will be made as soon as practicable after verification of said changes and is not subject to rebate or retroactivity. It shall be the responsibility of the customer to notify the City of any such change.

When an account billed on this schedule qualifies for another City bundled rate schedule, the customer may elect to be billed on that other rate schedule. When a customer chooses to be assigned to another bundled rate a three-year written notice is still required before the customer can elect to use another electric power requirements provider.

If the billing period demand drops below 1,000 kW and remains there for 12 consecutive billing cycles, the City will transfer the account to the appropriate rate schedule and the customer will be subject to the requirements of the appropriate schedule, rather than schedule I1.

RATES:

Customer Charge (per meter per billing cycle) $128.13

Service Voltage:	Primary (I1-P)	
Season	Summer	Winter
Demand Charges:		
Per kW of peak period demand.....	$10.25	--
Per kW of billing period demand.....	$ 3.02	$ 3.02

Energy Charges:

< 4000 kW	Summer	Winter
Peak period (per kWh)	0.13361	--
Partial peak period (per kWh)	0.10292	0.09497
Off peak period (per kWh)	0.08805	0.08740

≥4000 kW	Summer	Winter
Peak period (per kWh)	0.12741	--
Partial peak period (per kWh)	0.09672	0.08877
Off peak period (per kWh)	0.08185	0.08120

Economic Stimulus Rate Credit: (per kWh)	0.01294	0.01294

MARKET COST ADJUSTMENT (MCA):

A market cost adjustment may be included in each bill for service. The adjustment shall be the product of the total kilowatt-hours (kWh) for which the bill is rendered times the adjustment amount per kWh. The adjustment amount per kWh will be calculated to reflect amounts charged the City by various suppliers of bulk power not covered in the above rates.

TYPES OF CHARGES:

The billing cycle charge for service is the sum of the Customer Charge, the Demand Charges, the Energy Charges, the MCA and the Power Factor Adjustment:

CUSTOMER CHARGE: The Customer Charge is a flat monthly fee.

DEMAND CHARGES: This schedule has two Demand Charges: A peak period Demand Charge and a billing period Demand Charge. The peak period Demand Charge per kW applies to the maximum average power

taken during any metering interval during the billing cycle's peak hours. The billing period Demand Charge per kW applies to the maximum average power taken during any metering interval at any time during the billing cycle. The bill will include both of these Demand Charges. Time periods are defined below.

ENERGY CHARGES: This schedule has three Energy Charges: A peak period Energy Charge, a partial peak period Energy Charge, and an off peak period Energy Charge. The peak period Energy Charge per kWh applies to the total kWh used during the billing cycle's peak hours. Partial peak period Energy Charge per kWh applies to the total kWh used during the billing cycle's partial peak hours. Off peak period Energy Charge per kWh applies to the total kWh used during the billing cycles off peak hours. The bill will include all of these Energy Charges. Time periods are defined below.

MCA: The MCA is a per kWh charge applied to the total kWh used during the billing cycle.

Monthly charges may be decreased or increased based upon power factor as defined below.

As shown on the rates above, Demand and Energy Charges are based on the voltage at which service is taken. Service Voltage is defined below.

DEFINITION OF SERVICE VOLTAGE:

The service voltage class:

Primary: Service Voltage class for service at 12,000 volts (nominal).

POWER FACTOR ADJUSTMENTS:

Bills will be adjusted for billing cycle average power factor as follows:

The total charge (except taxes and customer charge) for any billing cycle as computed on the above rates shall be decreased or increased, respectively, by 0.0006% for each 0.01 percentage point that the average power factor of the customer's load in the billing cycle is greater or less than 85.00%, such average power factor to be computed (to the nearest hundredth of a percent) from the ratio of lagging kilovolt ampere-hours to kilowatt-hours consumed in the billing cycle.

Customer with service entrance equipment unable to accommodate the City's reactive metering equipment shall have their billing power factor determined by testing performed by the City.

GENERAL SERVICE – GROUP 5 – COMMERCIAL / INDUSTRIAL – OPTIONAL

DEFINITION OF TIME PERIODS:

Times of the year and times of the day are defined as follows:

SUMMER (May 1 through October 31)

Peak: 3:00 p.m. to 7:00 p.m. Monday through Friday (except holidays).

Partial Peak: 8:30 a.m. to 3:00 p.m. and 7:00 p.m. to 9:30 p.m. Monday through Friday (except holidays).

Off Peak: 9:30 p.m. to 8:30 a.m. Monday through Friday and all day Saturday, Sunday and holidays.

WINTER (November 1 through April 30)

Partial Peak: 8:30 a.m. to 9:30 p.m. Monday through Friday (except holidays).

Off Peak: 9:30 p.m. to 8:30 a.m. Monday through Friday and all day Saturday, Sunday and holidays.

HOLIDAYS

"Holidays," for the purpose of this rate schedule, are New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, the day after Thanksgiving Day and Christmas Day. The dates will be based on those days on which the holidays are legally observed.

CITY OF LODI
ELECTRIC UTILITY DEPARTMENT

SCHEDULE ES

EXHIBIT M

CITY FACILITIES SERVICE

APPLICABILITY:

This schedule is applicable only to those city facilities currently on schedule ES.

RATES:

Minimum Charge $5.00

Energy Charge per kWh..... $ .10427

MARKET COST ADJUSTMENT (MCA):

A Market Cost Adjustment (MCA) may be included in each bill for service. The adjustment shall be the product of the total kilowatt-hours (kWh) for which the bill is rendered times the adjustment amount per kWh. The adjustment amount per kWh will be calculated to reflect amounts charged the City by various suppliers of bulk power not covered in the above rates.

BILLING CYCLE CHARGE (MONTHLY BILL):

The billing cycle charge is the higher of the sum of the Minimum Charge and the MCA or the sum of the Energy Charge and the MCA.

AGENDA ITEM M-02

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Ordinance No. 1777 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 1 – General Provisions – by Creating and Adding Chapter 1.10, 'Administrative Enforcement Provisions'"

MEETING DATE: April 19, 2006

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1777.

BACKGROUND INFORMATION: Ordinance No. 1777 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 1 – General Provisions – by Creating and Adding Chapter 1.10, 'Administrative Enforcement Provisions'" was introduced at the regular City Council meeting of April 5, 2006.

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

Ordinances take effect 30 days after their final passage. ***Cal. Gov't Code § 36937***.

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

_____
Susan J. Blackston
City Clerk

SJB

Attachment

APPROVED: _____
Blair King, City Manager

council/councom/Ordinance2.doc

ORDINANCE NO. 1777

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
AMENDING LODI MUNICIPAL CODE TITLE 1 – GENERAL
PROVISIONS – BY CREATING AND ADDING CHAPTER 1.10,
"ADMINISTRATIVE ENFORCEMENT PROVISIONS"

==========

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

SECTION 1. CHAPTER 1.10, "ADMINISTRATIVE ENFORCEMENT PROVISIONS," is hereby added to Lodi Municipal Code Title 1 – GENERAL PROVISIONS – as follows:

CHAPTER 1.10

ADMINISTRATIVE ENFORCEMENT PROVISIONS

Article I – Code Enforcement – Administrative Provisions
Sections:
1.10.010 Declaration of purpose
1.10.020 Definitions
1.10.030 Administrative enforcement authority
1.10.040 Authority to inspect
1.10.050 Code enforcement fees; purpose
1.10.060 Assessment of reinspection fees
1.10.070 Amount of reinspection fees
1.10.080 Code enforcement fees exemption
1.10.090 Notification of assessment of reinspection fees
1.10.100 Collection of reinspection fee

Article II – Notice of Violation
Sections:
1.10.110 Notice of violation; procedures
1.10.120 Service of notices
1.10.130 Proof of notice
1.10.140 Recordation of notices of violation; purpose
1.10.150 Procedures for recordation
1.10.160 Service of notice of violation
1.10.170 Procedures to appeal recordation
1.10.180 Appeal hearing; recordation of notice
1.10.190 Notice of compliance; removal procedures
1.10.200 Prohibition against issuance of municipal permits
1.10.210 Cancellation of recorded notice of violation

Article III – Administrative Citations
Sections:
1.10.220 Administrative citations; authority
1.10.230 Administrative citations; procedures
1.10.240 Contents of administrative citation
1.10.250 Appeal of administrative citation
1.10.260 Fines for administrative citations
1.10.270 Failure to pay administrative fine
1.10.280 Allocation of administrative fine

Article IV – Abatement
Sections:

1.10.290 Abatements; declaration of purpose
1.10.300 Authority
1.10.310 General provisions
1.10.320 Abatement of a public nuisance by the City
1.10.330 Summary abatement
1.10.340 Authority
1.10.350 Procedures

Article V – Administrative Penalties
Sections:

1.10.360 Declaration of Purpose
1.10.370 Authority
1.10.380 Procedures; issuance of notice and order
1.10.390 Determination of civil penalties
1.10.400 Recovery of civil penalties
1.10.410 Cancellation of code enforcement lien
1.10.420 Administrative costs
1.10.430 Failure to comply with notice and order
1.10.440 Civil penalties hearing

Article VI – Administrative Hearings
Sections:

1.10.450 Administrative hearing procedures
1.10.460 Procedures for requesting an appeals hearing
1.10.470 Procedures for notification of administrative hearing
1.10.480 Procedures at administrative hearing
1.10.490 Failure to attend administrative hearing
1.10.500 Administrative order
1.10.510 Judicial review
1.10.520 Failure to comply with the administrative order; misdemeanor

Article I – CODE ENFORCEMENT – ADMINISTRATIVE PROVISIONS

Section 1.10.010 Declaration of purpose.

A. The City Council finds that the enforcement of the Lodi Municipal Code and applicable state codes throughout the City is an important public service. Code Enforcement is vital to the protection of the public's health, safety, and quality of life. The City Council recognizes that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative enforcement hearings and judicial proceedings. After consideration of the recommendations of the Community Improvement Division, the City Council further finds that a comprehensive code enforcement system requires a variety of judicial remedies and administrative remedies to enforce violations of this Code and applicable state codes. The City Council also finds that there is a need to establish uniform procedures for administrative enforcement hearings conducted pursuant to this Code. It is the purpose and intent of the City Council to afford due process of law to any person who is directly affected by an administrative action. Due process of law includes: adequate notice, an opportunity to participate in the administrative hearing process and an adequate explanation of the reasons justifying the administrative action. These procedures are also intended to establish a forum to efficiently, expeditiously, and fairly resolve issues raised in any administrative enforcement action. The City Attorney is authorized to develop policies and procedures relating to the qualifications, appointment, and compensation of hearing officers, hearing officer powers, hearing procedures, scope of the hearing, subpoena powers, and other matters relating to administrative enforcement hearings.

B. The procedures established in this Chapter shall be in addition to criminal, civil, or other legal remedies established by law, which may be pursued to address violations of this Code or applicable state codes and the use of this Chapter shall be at the sole discretion of the City.

Section 1.10.020 Definitions.

A. ADMINISTRATIVE CITATION: means a document issued by a Community Improvement Officer to a person violating the provisions of this Code or applicable state code.

B. ADMINISTRATIVE ORDER: means an order issued by an Administrative Hearing Officer after a hearing requiring a Responsible Person to correct violations, abate a public nuisance, pay administrative fines, civil penalties, administrative costs, authorize the City to abate a public nuisance, assess a Code Enforcement Lien, or take any other action as authorized or required by this Code and applicable state codes.

C. ASSESSMENT LIEN: means a lien recorded with the San Joaquin County Recorder's Office for the purposes of collecting outstanding administrative citation fines, civil penalties, and administrative costs imposed as part of a cost recovery, administrative or judicial code enforcement action. It shall also mean the same as a Code Enforcement Lien.

D. CODE ENFORCEMENT LIEN: see definition of Assessment Lien.

E. CODE ENFORCEMENT OFFICER: means a person authorized to enforce violations of the Lodi Municipal Code, adopted Uniform Codes, and applicable state codes within their City department's jurisdiction.

F. DIRECTOR: shall include each of the directors of the following City departments: Planning and Community Development, Public Works, Parks, Recreation and Facilities, Municipal Utilities, Finance, and the Department of Public Safety and any of their designated agents or representatives within their jurisdiction.

G. HEARING OFFICER (or Administrative Hearing Officer): means any person appointed by the City Attorney to preside over administrative hearings.

H. NOTICE AND ORDER: means a document used in abatement actions and assessment of civil penalties involving serious code violations, which provide notice of Municipal Code, adopted Uniform Codes, or applicable state code violations and orders a Responsible Person to take certain steps to correct the violations within a definitive period of time. Civil penalties may also be imposed in conjunction with this Notice.

I. NOTICE OF COMPLIANCE: means a document issued by a Director, which represents that a property has been brought into compliance with the criteria set forth under this Code.

J. NOTICE OF SATISFACTION: means a document or form, which indicates that all outstanding civil penalties and costs have either been paid in full, or that the City has negotiated an agreed amount, or that a subsequent administrative or judicial decision has resolved the outstanding debt.

K. NOTICE OF VIOLATION: means a written notice, which informs a Responsible Person of code violations present on the subject property, lists the required compliance actions, and contains specific information as required by this Code. The Notice of Violation may be recorded with the San Joaquin County Recorder's Office.

L. OWNER: applied to a building or land, shall include any part owner, joint owner, tenant, tenant in common, joint tenant, of the whole or a part of such building or land.

M. PERSON: unless it otherwise appears from the context as used, includes any person, firm, association, organization, partnership, business trust, company, corporation, public agency, school district, the State of California, its political subdivisions and/or instrumentalities thereof or any other entity which is recognized by law as the subject of rights or duties.

N. PROPERTY OWNER: means the record owner of real property as listed on the last equalized assessment roll maintained by the San Joaquin County Assessor.

O. RESPONSIBLE PERSON: means a person who a Director determines is responsible for causing, permitting, or maintaining a public nuisance or a violation of the Lodi Municipal Code, adopted Uniform Codes, or applicable state codes. The term “Responsible Person” includes, but is not limited to, a property owner, tenant, person with a legal interest in the subject property, person in possession of the subject property, or person that exercises custody and control over the subject property.

P. SHALL is mandatory and MAY is permissive. However, the use of the word “shall” in this Chapter is not intended and shall not impose any mandatory duty to third parties by the City of Lodi, its commissions, boards, officers, agents, or employees and is not intended and shall not impose any liability on the City of Lodi, its commissions, boards, officers, agents, or employees.

Section 1.10.030 Administrative enforcement authority.

The Community Development Director, designated Community Improvement Officers, the Fire Chief, and other City Directors and/or their designated agents have the authority and powers necessary to determine whether a violation of this Code or applicable state codes exists and the authority to take appropriate action to gain compliance with the provisions of this Code or applicable state codes. These powers include the power to issue Notices of Violation, Administrative Citations, Notices and Orders, and civil penalties, the power to inspect public and private property, and use the administrative remedies which are available under this Code, adopted Uniform Codes, or applicable state codes.

Section 1.10.040 Authority to inspect.

A Director, a Community Improvement Officer, or other duly authorized agent are authorized to enter upon any property or premises within the City to ascertain whether the provisions of this Code or applicable state codes are being obeyed, and to make any examinations and surveys as may be necessary in the performance of their enforcement duties. These may include the taking of photographs, samples, or other physical evidence such as the use of a sound level measurement device to measure noise disturbances. All inspections, entries, examinations, and surveys shall be done in a reasonable manner. If an owner, occupant, or agent or other Responsible Person refuses permission to enter or inspect, the Community Improvement Officer may seek an administrative inspection warrant pursuant to the procedures provided for in the California Code of Civil Procedure.

Section 1.10.050 Code enforcement fees; purpose.

A. The City Council finds there is a need to recover costs incurred by the City in its code enforcement efforts including time spent by City personnel inspecting and reinspecting properties throughout the City, preparing and posting the various notices that are required under this Code whenever a property is found to be in violation of a mandatory provision, processing a case file, towing inoperative vehicles, obtaining inspection warrants, and preparing for and appearing at Administrative Hearings, which procedures all become necessary when a Responsible Person fails to voluntarily correct code violations on his or her property. These additional code enforcement efforts are not usually undertaken or employed until after a Responsible Person has failed to respond on a voluntary basis to notices and/or warnings from the City or volunteers.

B. The City Council further finds the assessment of fees for the services listed in subsection A, are an appropriate method to recover costs incurred for the additional work that is undertaken by City staff when a responsible person fails to voluntarily correct code violations on his or her property in a timely manner. The assessment and collection of these code enforcement fees shall not preclude the imposition of, and shall be in addition to, any administrative or judicial civil penalties or fines for violations of this Code or applicable state codes.

Section 1.10.060 Assessment of reinspection fees.

A. Whenever a Community Improvement Officer and/or designated staff inspects, reinspects, processes a case file, prepares and posts a Notice of Intent to Abate, a Notice of Violation, Notice to Vacate, Notice and Order of Demolition, Abandoned Vehicle Abatement Notice, seeks and obtains an inspection warrant, prepares for and appears at an Administrative Hearing, or any other action as may be hereinafter designated by Resolution of the City Council, for which an action has been initiated to obtain compliance with this Code or applicable state code, a Director shall assess the appropriate code enforcement fee against the Responsible Person.

Section 1.10.070 Amount of reinspection fees.

A code enforcement fee schedule shall be established and revised as necessary by the City Council to reflect current costs. The code enforcement fee schedule shall be filed in the City Clerk's office.

Section 1.10.080 Code enforcement fees exemption.

No fee shall be charged if any of the following circumstances exist:

A. A Notice of Compliance has been issued;

B. It is determined that the previously identified Responsible Person has not caused the code violation; or

C. The Responsible Person fully complies with any Notice of Violation or warning before the compliance reinspection deadline set by Code Enforcement staff.

Section 1.10.090 Notification of assessment of reinspection fees.

A. Where the assessment of code enforcement fees is authorized under this Chapter, the Director shall provide the Responsible Person with a written notice assessing code enforcement fees. The written assessment shall contain the following information: (1) The amount of fees charged; (2) The corresponding dates when code enforcement action took place; and (3) A deadline by which the code enforcement fee must be paid.

B. Notification of the code enforcement fee assessment shall be provided to the Responsible Person by any of the means outlined in this Chapter.

C. Code Enforcement fees may be assessed as part of any judicial or administrative enforcement action as provided for in this Chapter.

D. Code Enforcement fees collected pursuant to this Chapter shall not be duplicated in any other action to recover these identical costs.

E. The failure of any Responsible Person to receive notice of the code enforcement fees shall not affect the validity of any fees imposed under this Chapter.

Section 1.10.100 Collection of reinspection fee.

The City shall collect the assessed code enforcement and late fees by the use of all appropriate legal means, including but not limited to: referral to the Finance Department for collection or assessment against the property.

Article II – NOTICE OF VIOLATION

Section 1.10.110 Notice of violation; procedures.

Whenever it is determined that a violation of this Code, adopted Uniform Codes, or applicable state codes exists, the Director, the Community Improvement Officer, or other duly authorized agent may issue a Notice of Violation to the Responsible Person(s). The Notice of Violation shall include the following information:

A. The name of the Responsible Party;
B. The name of the owner, if different from the Responsible Person;
C. Street address of the property at issue;
D. The code sections in violation;
E. A description of the conditions which violates the applicable codes;
F. A list of necessary corrections to bring the property into compliance;
G. A deadline or specific date to correct the violations listed in the Notice of Violation; and
H. A list of the potential consequences for failure to comply with the Notice including, but not limited to: criminal prosecution, civil injunction, administrative abatement, administrative citations, civil penalties, revocation of permits, recordation of the Notice of Violation, and withholding of future municipal permits.

Section 1.10.120 Service of notices.

Whenever any notice is required to be given under this Code, the notice shall be served in the following manner unless a different procedure is specifically stated to apply:

A. Personal service or certified mail, postage prepaid, return receipt requested. Simultaneously, the same notice shall be sent by regular mail to the Responsible Person. If a notice that is sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail.

B. Posting the notice conspicuously on or in front of the subject property.

C. Mailings to the Property Owner shall be sent to the address listed in the last equalized assessment roll of the San Joaquin County Assessor.

D. In the event the Responsible Person is someone other than the Property Owner, a copy of the notice shall also be mailed to the Property Owner.

Service by certified or regular mail in the manner described above shall be effective on the date of mailing.

The failure of any person with an interest in the subject property to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under this Chapter.

The notice requirements in this section do not apply to initial Notices of Violation, Courtesy Notices, which may be sent by regular mail. Service of a Courtesy Notice by regular mail is effective on the date of mailing.

Section 1.10.130 Proof of notice.

Proof of giving any notice may be made by the certificate of any officer or employee of the City, or by affidavit of any person over the age of eighteen years, which shows service in conformity with this Chapter, or other provisions of law applicable to the subject matter concerned.

Section 1.10.140 Recordation of notices of violation; purpose.

The City Council finds that there is a need to give notice of pending enforcement actions to persons who may subsequently acquire the property as a means by which to ensure the violations will be corrected. An appropriate method to accomplish this is through the issuance and recordation of Notices of Violation. The procedures established in this Chapter shall be in addition to criminal, civil, or any other remedy established by law, which may be pursued to address violations of this Code or applicable state codes.

Section 1.10.150 Procedures for recordation.

A. Once a Director has issued a Notice of Violation to a Responsible Person and the property remains in violation after the deadline established in the Notice of Violation, the Director may record the Notice of Violation with the San Joaquin County Recorder's Office.

B. Before recordation, a Director shall provide to the Responsible Person a Notice of Intent to Record stating that a Notice of Violation will be recorded unless a written request to appeal this action is received pursuant to the procedures outlined in this Chapter. The letter shall be served in accordance with the methods set forth in this Chapter.

C. If a written request to appeal is not received within the time frame specified, the Director may thereafter cause the Notice of Violation to be recorded, if the violations remain.

D. The recorded Notice of Violation shall include the name of the Property Owner, the assessor's parcel number, the street address, the parcel's legal description, and a copy of the latest Notice of Violation.

E. Any costs associated with recording or removal of the Notice of Violation may be assessed against the property as provided for in this Chapter.

Section 1.10.160 Service of notice of violation.

A copy of the recorded Notice of Violation shall be mailed to the Responsible Person and to the Property Owner and/or any other persons who have requested copies of such Notices pursuant to any of the methods of service set forth in this Chapter.

Section 1.10.170 Procedures to appeal recordation.

A. An appeal of the Director's Notice of Intent to Record the Notice of Violation shall follow the procedures set forth in this Chapter.

B. Upon receiving a written appeal, the Director shall schedule a hearing pursuant to the procedures set forth in this Chapter. The purpose of the hearing is for the Responsible Person or Property Owner to state any reasons why a Notice of Violation should not be recorded.

C. The failure of any person to file an appeal in accordance with these provisions shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded Notice of Violation.

Section 1.10.180 Appeal hearing; recordation of notice.

A. At the appeal hearing, the Hearing Officer shall only consider evidence that is consistent with the City Attorney's rules and procedures for administrative hearings, and that is relevant to the following issues:

1. Whether the conditions listed in the Notice of Violation violate the this Code or applicable state codes; and

2. Whether the Director afforded the Responsible Person with due process by adhering to the notification procedures specified in this Chapter.

B. If the Hearing Officer affirms the Director's decision, the Director may proceed to record the Notice of Violation.

C. If the Hearing Officer determines that recordation is improper, the Hearing Officer shall invalidate the Director's decision to record the Notice of Violation.

Section 1.10.190 Notice of compliance; removal procedures.

A. When the violations listed on the Notice of Violation have been corrected, the Responsible Person or Property Owner may file with the Director a written request for a Notice of Compliance on a form provided by the City.

B. Once the Director receives this request, the Director shall reinspect the property within ten (10) days from receipt of the request to determine whether the violations listed in the Notice of Violation have been corrected and whether all necessary permits have been issued and final inspections have been performed.

C. The Director shall provide a Notice of Compliance to the Responsible Person or Property Owner if the Director determines that:

1. all violations listed in the recorded Notice of Violation have been corrected; and
2. all necessary permits have been issued and finalized; and
3. all administrative fines or civil penalties have been paid; and
4. the party requesting the issuance of the Notice of Compliance has paid an administrative fee to reimburse the City for all administrative costs.

D. Administrative costs may include costs incurred in the investigation, inspection, reinspection, title search, appeal hearing, and any other processing costs associated with the violations specified on the Notice of Violation.

E. If the Director denies a request to issue a Notice of Compliance, the Director shall serve the requesting party, the Responsible Person, and the Property Owner with a written explanation within five (5) days from the inspection setting forth the reasons for the denial. The written explanation shall be served by any of the methods of service listed in this Chapter

F. The Director's decision denying a request to issue a Notice of Compliance constitutes the final decision in the matter and is not appealable.

Section 1.10.200 Prohibition against issuance of municipal permits.

For properties where a Notice of Violation has been recorded, the City may withhold permits for repair, construction, and/or alteration on the affected property until a Notice of Compliance has been issued by the Director. The City may not withhold permits, which are necessary to obtain a Notice of Compliance or which are necessary to correct serious health and safety violations.

Section 1.10.210 Cancellation of recorded notice of violation.

The Director shall record or cause to be recorded the Notice of Compliance with the San Joaquin County Recorder's Office. The recordation of the Notice of Compliance shall have the effect of canceling the recorded Notice of Violation.

Article III – ADMINISTRATIVE CITATIONS

Section 1.10.220 Administrative citations; authority.

A. Any person violating any provisions of this Code, adopted Uniform Codes, or applicable state code may be issued an Administrative Citation by a Community Improvement Officer as provided in this Chapter.

B. Each and every day a violation of this Code, adopted Uniform Codes, or applicable state code exists constitutes a separate and distinct offense.

C. An administrative fine shall be assessed by means of an Administrative Citation issued by the Community Improvement Officer and shall be payable directly to the City unless otherwise noted on the Citation.

D. Fines assessed by means of an Administrative Citation shall be collected in accordance with the procedures specified in this Chapter.

Section 1.10.230 Administrative citations; procedures.

A. Upon discovering any violation of this Code, adopted Uniform Codes, or applicable state codes, a Community Improvement Officer may issue an Administrative Citation to a Responsible Person in the manner prescribed in this Chapter. The Administrative Citation shall be issued on a form approved by the City Attorney.

B. If the Responsible Person is a commercial business, the Community Improvement Officer shall attempt to locate the business owner and issue the business owner an Administrative Citation. If the Code Enforcement Officer can only locate the manager of the commercial business, the Administrative Citation may be given to the manager of the business. A copy of the Administrative Citation shall also be mailed to the business owner or Responsible Person in the manner prescribed in this Chapter.

C. The Administrative Citation shall be signed by the issuing Code Enforcement Officer.

D. Method of Service.

1. Signature. Once the Responsible Person is located, the Code Enforcement Officer shall attempt to obtain the signature of that person on the Administrative Citation. However, if the Responsible Person refuses or fails to sign the Administrative Citation, it shall not affect the validity of the citation and subsequent proceedings.

2. If the Community Improvement Officer is unable to locate the Responsible Person, then the Administrative Citation shall be mailed to the Responsible Person in the manner prescribed in this Chapter.

3. Posting. If no one can be located at the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy subsequently mailed to the Responsible Person in the manner prescribed by this Chapter.

E. A copy of the Administrative Citation shall thereafter be mailed to the Responsible Person and to the owner of the property if different from the Responsible Person in the manner prescribed by this Chapter. The failure of any person with an interest in the property to receive notice shall not affect the validity of any proceedings taken under this Chapter.

Section 1.10.240 Contents of administrative citation.

Any Administrative Citation that is issued shall contain all of the following information:

A. The date and location of the violations and the approximate time the violations were observed;

B. The code sections violated and a brief description of how the sections are violated;

C. Where appropriate, the action required to correct the violations;

D. Set forth a deadline by which the violations must be corrected and the consequences of failing to comply;

E. The amount of fine imposed for the violations, if any;

F. An explanation as to how the fine shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the fine; and

G. Identify all rights and procedures of appeal.

Section 1.10.250 Appeal of administrative citation.

An appeal from the issuance of an Administrative Citation shall follow the procedures set forth in this Chapter.

Section 1.10.260 Fines for administrative citations.

A. If the Responsible Person fails to correct the violation, subsequent Administrative Citations may be issued for the same violations. The amount of the fine shall increase at a rate specified in subsection (B) below.

B. The fines assessed for each Administrative Citation issued for the same violations shall be as follows:

1. First Administrative Citation: $100.00
2. Second Administrative Citation: $250.00
3. Third and subsequent Administrative Citation(s): $500.00

C. Payment of the fine shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the City.

D. All fines assessed shall be payable to the City of Lodi, unless otherwise directed on the citation.

E. The Community Development Director is authorized, under direction and upon approval of the City Attorney, to establish policies and procedures for the certification, decertification, and conduct of the Community Awareness and Responsibility Education Classes, to establish that persons receiving a fine under an Administrative Citation have the option of attending a certified Community Awareness and Responsibility Education Class prior to the citation becoming delinquent in lieu of paying the fine. A person may not use this option more than once in any twelve (12)-month period.

F. For all delinquent, unpaid Administrative Citation fines, there shall be a penalty imposed in the amount of ten percent (10%) of the citation fine amount and an additional one percent (1%) per month of the total amount of such fine for each month during the time that said fine remains unpaid after its delinquency date. The delinquency date for an Administrative Citation fine shall be sixty (60) days following the imposition of the fine, or the appeal determination of the Administrative Hearing Officer, whichever is later.

Section 1.10.270 Failure to pay administrative citation fine.

The failure of any person to pay the fines assessed by an Administrative Citation within the time

specified on the Citation may result in the Director referring the matter to the Finance Department or other designated agent for collection. Alternatively, the Director shall pursue any other legal remedy to collect the fines including, but not limited to, those remedies provided in Title 1, Chapter 1.08 of this Code.

Section 1.10.280 Allocation of administrative citation fines.

Administrative fines collected pursuant to this Article shall be deposited into the Special Revenue Fund.

Article IV – ABATEMENT

Section 1.10.290 Abatements; declaration of purpose.

The City Council finds that it is necessary to establish appropriate procedures for the administrative and summary abatement of public nuisances and code violations. The procedures established in this Chapter are in addition to any other legal remedy, criminal or civil, established by law which may be pursued to address violations of this Code or applicable state codes. This Chapter governs all other nuisance abatement procedures established in other chapters of this Code unless other procedures are specifically stated to apply.

Section 1.10.300 Authority.

Any condition caused, maintained, or permitted to exist in violation of any provisions of this Code or an applicable state code, which constitutes a public nuisance, may be abated by the City pursuant to the procedures set forth in this Article.

Section 1.10.310 General procedures.

A. Abatement Notice

1. Whenever the Director determines that public or private property or any portion of public or private property is a public nuisance as generally defined in Section 15.30.030 or as declared in any other specific section of this Code, including adopted Uniform Codes or applicable state codes, an Abatement Notice may be issued to the Responsible Person to abate the public nuisance.

2. The Abatement Notice shall contain a description of the subject property in general terms reasonably sufficient to identify the location of the property. It shall refer to specific sections of this Code, adopted Uniform Codes, or applicable state code violations, which render the property a public nuisance.

3. The Abatement Notice shall describe the action required to abate the public nuisance, which may include, but is not limited to: corrections, repairs, demolition, removal, obtaining the necessary permits, vacation of tenants or occupants, or other appropriate action and shall establish time frames by which each action must occur.

4. The Abatement Notice shall explain the consequences should the Responsible Person fail to comply with the terms of the notice.

5. The Abatement Notice shall identify all applicable hearing and appeal rights.

B. Service of Abatement Notice

1. The Abatement Notice shall be served by any of the methods of service listed in this Chapter.

Section 1.10.320 Abatement of a public nuisance by the City.

A. Once the Director follows the procedures set forth herein and the time for compliance has lapsed, if the violations remain, the nuisance conditions may be abated by City personnel or by a private contractor.

B. City personnel or a private contractor can enter upon private property in a reasonable manner as provided by law to abate the nuisance conditions as specified in the Abatement Notice or Abatement Order.

C. If the Responsible Person abates the nuisance conditions before the City performs the actual abatement pursuant to an Abatement Notice or Abatement Order, the Director may still assess all costs incurred by the City against the Responsible Person pursuant to the procedures set forth herein.

D. When abatement is completed, a report describing the work performed and an itemized account of the total abatement costs shall be prepared by the Director. The report shall contain the names and addresses of the Responsible Persons of each parcel, the name and address of the Property Owner, if different from the Responsible Person, the tax assessor's parcel number, and a legal description of the property, if the Responsible Person is an owner.

E. The Director shall schedule a confirmation of costs hearing before an Administrative Hearing Officer pursuant to the procedures set forth in this Chapter, unless waived in writing by all Responsible Persons.

F. All administrative and actual costs incurred by the city in abating the violations may be assessed and recovered against the Responsible Person pursuant to the provisions set forth in this Chapter.

Section 1.10.330 Summary abatement.

This Article governs the procedures relating to summary abatement of public nuisances.

Section 1.10.340 Authority.

Whenever the Director determines that an imminent health and safety hazard exists that requires immediate correction or elimination, the Director may exercise the following powers without prior notice to the Responsible Person:

A. Order the immediate vacation of any tenants and prohibit occupancy of the subject property until all repairs are completed; or

B. Post the premises as unsafe, substandard, or dangerous; or

C. Board, fence, or secure the building or site; or

D. Raze and grade that portion of the premises or site to prevent further collapse and remove any hazard to the general public; or

E. Make any minimal emergency repairs as necessary to eliminate any imminent health and safety hazard; or

F. Take any other action as appropriate under the circumstances.

Section 1.10.350 Procedures.

A. The Director shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard. Costs incurred by the City during the summary abatement process shall be assessed, collected, and recovered against the Responsible Person through the procedures outlined in this Chapter.

B. The Director may also pursue any other administrative or judicial remedy established by law to abate any remaining public nuisance.

Article V – Administrative Penalties.

Section 1.10.360 Declaration of purpose.

The City Council finds that there is a need for an alternative method of enforcement for enforcing more serious violations of this Code, adopted Uniform Codes, and applicable state codes. The City Council further finds that the assessment of civil penalties through an administrative hearing procedure for code violations is a necessary alternative method of code enforcement. The administrative assessment of civil penalties is in addition to any other administrative or judicial remedy established by law, which may be pursued by the City to address serious violations of this Code, adopted Uniform Codes, or applicable state codes.

Section 1.10.370 Authority.

A. Any person violating any provision of this Code, adopted Uniform Codes, or applicable state code may be subject to the assessment of civil penalties pursuant to the administrative procedures provided in this Chapter.

B. Each and every day a violation of any provision of this Code or applicable state code exists constitutes a separate and distinct violation.

C. Civil penalties may be directly assessed in conjunction with a Notice and Order issued by the Director, or affirmed by a Hearing Officer. Civil penalties assessed shall be collected in accordance with the procedures specified in this Chapter.

D. Civil penalties for violations of any provision of this Code, adopted Uniform Codes, or applicable state codes shall be assessed at a daily rate determined by the Director or Hearing Officer pursuant to the criteria listed in this Chapter. Except as authorized pursuant to State and Federal laws, the maximum civil penalty shall be $1,000 per violation per day with the maximum amount of civil penalties not exceeding $100,000 per parcel or structure for any related series of violations occurring within the twelve (12)-month period immediately proceeding the latest violation.

Section 1.10.380 Procedures; issuance of notice and order.

A. Whenever the Director determines that a violation of one or more provisions of this Code, adopted Uniform Codes, or applicable state codes has occurred or continues to exist, a civil penalty may be issued in conjunction with a Notice and Order to the Responsible Person.

B. The Notice and Order shall refer to all code sections violated and describe how each section is or has been violated.

C. The Notice and Order shall refer to the dates and locations of the violations.

D. The Notice and Order shall address the action required to correct the outstanding violations and establish time frames for completion.

E. The Notice and Order shall establish a daily amount of civil penalties. The Director shall determine the daily amount of civil penalties pursuant to the criteria in set forth in this Article.

F. The Notice and Order shall identify a date when the civil penalties began to accrue and a date when the assessment of civil penalties ended, unless the violation is continuous. In the case of a continuous violation, there shall be an ongoing assessment of penalties at the daily rate established in the Notice and Order until the violations are corrected.

G. If a Director determines that the violations are continuing, the Notice and Order shall demand that the Responsible Person cease and desist from further action causing the violations, or take affirmative action to cease from maintaining or permitting the violation to exist, and commence and complete all action to correct the outstanding violations under the guidance of the appropriate City Departments.

H. The Notice and Order shall enumerate any other consequences should the Responsible Person fail to comply with the terms and deadlines as prescribed in the Notice and Order.

I. The Notice and Order shall identify appropriate hearing procedures as required by this Chapter.

J. The Notice and Order shall be served upon the Responsible Person by any one of the methods of service listed in this Chapter.

K. The Notice and Order shall identify the factors used by the Director in determining the duration and the daily amount of civil penalties.

L. More than one Notice and Order may be issued against the same Responsible Person if it encompasses either different dates or different violations.

Section 1.10.390 Determination of civil penalties.

A. In determining the date when civil penalties started to accrue, a Director may consider the date when the Department first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence.
B. The assessment of civil penalties shall end when all action required by the Notice and Order has been completed.

C. In determining the amount of the civil penalty to be assessed on a daily rate, the Director may consider some or all of the following factors:

1. The duration of the violation.
2. The frequency or recurrence of the violation.
3. The seriousness of the violation.
4. The history of the violation.
5. The Responsible Person's conduct after issuance of the Notice and Order.
6. The good faith effort by the Responsible Person to comply.
7. The economic impact of the penalty on the Responsible Person.
8. The impact of the violation upon the community.
9. Any other factors that justice may require.

Section 1.10.400 Recovery of civil penalties

The Director may collect all civil penalties and related administrative costs by the use of all appropriate legal means, including, but not limited to, the recordation of a Code Enforcement Lien pursuant to the procedures set forth in this Chapter. If unable to collect the obligation, the Director may refer the obligation to the City Attorney to file a court action to recover these penalties and costs.

Section 1.10.410 Cancellation of code enforcement lien.

Once payment in full is received for the outstanding civil penalties and costs or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the Director shall, within ten (10) days from the date payment is made or decision is final, record a Notice of Satisfaction with the San Joaquin County Recorder's Office. The Notice of Satisfaction shall include the same information as provided for in the original Code Enforcement Lien. Such Notice of Satisfaction shall cancel the Code Enforcement Lien.

Section 1.10.420 Administrative costs.

The Director or Hearing Officer is authorized to assess any reasonable administrative costs. Administrative costs may include scheduling and processing of the hearing and all subsequent actions.

Section 1.10.430 Failure to comply with notice and order.

The Director shall request the City Attorney to appoint a Hearing Officer and the Director shall establish a date, time, and place for the civil penalties hearing in accordance with this Chapter when the Responsible Person fails to comply with the terms of the Notice and Order. Failure to comply includes failure to pay the assessed civil penalties, failure to commence and complete corrections by the established deadlines, or failure to refrain from continuing violations of this Code, adopted Uniform Codes, or applicable state codes.

Section 1.10.440 Civil penalties hearing.

A. The procedures for the civil penalties hearing are the same as the hearing procedures set forth in this Chapter.

B. The Hearing Officer shall only consider evidence that is relevant to the following issues: (1) whether the Responsible Person has caused or maintained a violation of this Code or applicable state code that existed on the dates specified in the Notice and Order; and (2) whether the amount of civil penalties assessed by the Director pursuant to the procedures and criteria outlined in this Chapter was reasonable.

Article VI – Administrative Hearings

Section 1.10.450 Administrative hearing procedures.

These sections establish the procedures for the use of Administrative Hearing Officers and the procedures governing administrative hearings.

A. Qualifications of Administrative Hearing Officer. The City Attorney shall promulgate rules and procedures as are necessary to establish a list of qualified persons who are capable of acting on behalf of the City as Hearing Officers.

B. Appointment of Administrative Hearing Officer. Hearing Officers presiding at administrative hearings shall be appointed by the City Attorney and compensated by the City. The City Attorney shall develop policies and procedures relating to the appointment and compensation of Hearing Officers.

C. Disqualification of Hearing Officer. Any person designated to serve as a Hearing Officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified in a court of law. Rules and procedures for the disqualification of a Hearing Officer shall be promulgated by the City Attorney.

D. Powers of Hearing Officer.

1. The Hearing Officer may continue a hearing based on good cause shown by one of the parties to the hearing or if the Hearing Officer independently determines that due process has not been adequately afforded.

2. The Hearing Officer, upon receipt of a written request which is submitted no later than five (5) days before the hearing, shall subpoena witnesses, documents, and other evidence where the attendance of the witness or the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees shall be borne by the party requesting the subpoena. The City Attorney shall develop policies and procedures relating to the issuance of subpoenas in administrative hearings, including the form of the subpoena and related costs.

3. The Hearing Officer has continuing jurisdiction over the subject matter of an administrative hearing for the purposes of granting a continuance, ensuring compliance with an Administrative Order, modifying an administrative order, or where extraordinary circumstances exist granting a new hearing.

4. The Hearing Officer has the authority to require the Responsible Person to post a code enforcement performance bond to ensure compliance with an Administrative Order.

E. Failure to Obey Subpoena. It is unlawful for any person to refuse to obey a subpoena issued by a Hearing Officer.

Section 1.10.460 Procedures for requesting an appeals hearing.

A. A person served with one of the following documents, order or notices may file an appeal within ten (10) calendar days from the service of the notice:

1. Any civil penalty notice and order issued;
2. An administrative citation issued pursuant to this Chapter;
3. An application for a waiver of fees.

B. The appeal shall be made in writing stating the grounds for the appeal and filed with the Director on or before the tenth day after service.

Section 1.10.470 Procedures for notification of administrative hearing.

A. Where an administrative remedy or proceeding provides for an appeal procedure, the Director shall request the City Attorney to appoint a Hearing Officer and to schedule a day, time, and a place for the hearing.

B. Written notice of the time and place of the hearing shall be served at least ten (10) calendar days prior to the date of the hearing to the Responsible Person.

C. The format and contents of the hearing notice shall be in accordance with rules and policies promulgated by the City Attorney.

D. The notice of hearing shall be served by any of the methods of service listed in this Chapter.

Section 1.10.480 Procedures at administrative hearing.

A. Administrative hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply. The procedure and format of the administrative hearing shall follow the procedures promulgated by the City Attorney.

B. The City bears the burden of proof at an administrative hearing to establish the existence of a violation of this Code, adopted Uniform Codes, or applicable state codes.

C. The standard of proof to be used by the Hearing Officer in deciding the issues at an administrative hearing is by a preponderance of the evidence.

D. Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his case.

Section 1.10.490 Failure to attend administrative hearing.

Any Responsible Person who requests a hearing or whose actions are the subject of an administrative hearing and who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that the hearing was properly noticed.

Section 1.10.500 Administrative order.

A. The decision of the Hearing Officer shall be entitled "Administrative Order" and shall be issued in accordance with this Chapter and the rules and procedures promulgated by the City Attorney.

B. Once all evidence and testimony are completed, the Hearing Officer shall issue an Administrative Order, which affirms, modifies, or rejects the Director's action. In the case of a notice and order of civil penalty, the Administrative Order may affirm, modify, or reject the daily rate or duration of the civil penalties depending upon the review of the evidence and may increase or decrease the total amount of civil penalties and costs assessed.

C. The Hearing Officer may issue an Administrative Order that requires the Responsible Person to cease from violating this Code, adopted Uniform Codes, or applicable state codes and to make necessary corrections within a specific time frame.

D. As part of the Administrative Order, the Hearing Officer may establish specific deadlines for the payment of penalties and costs and condition the total or partial assessment of civil penalties on the Responsible Person's ability to complete compliance by specified deadlines.

E. The Hearing Officer may issue an Administrative Order, which imposes additional civil penalties that will continue to be assessed until the Responsible Person complies with the Hearing Officer's decision and corrects the violation.

F. The Hearing Officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the Administrative Order.

G. The Administrative Order shall become final on the date of service of the Order.

H. The Administrative Order shall be served on all parties by any one of the methods listed in this Chapter.

Section 1.10.510 Judicial review.

Once an Administrative Order becomes final as provided in this Chapter, the time in which judicial review of the order must be sought shall be governed by California Code of Civil Procedure Section 1094.6 or as may be amended hereafter.

Section 1.10.520 Failure to comply with the administrative order misdemeanor.

A. After the Hearing Officer issues an Administrative Order, the Director shall monitor the violations and determine compliance.
B. Upon the failure of the Responsible Person to comply with the terms and deadlines set forth in the Administrative Order, the Director may use all appropriate legal means to recover the civil penalties, administrative costs, and obtain compliance with the Administrative Order, including seeking an injunction.

C. Failure to comply with an Administrative Order constitutes a misdemeanor.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner, which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. This ordinance or a summary thereof as may be permitted by law shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall take effect 30 days from and after its passage and approval.

Approved this 19th day of April, 2006

_____
SUSAN HITCHCOCK
Mayor

Attest:

SUSAN J. BLACKSTON
City Clerk

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State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1777 was introduced at a regular meeting of the City Council of the City of Lodi held April 5, 2006, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES; COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1777 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON
City Clerk

Approved as to Form:

_____
D. STEPHEN SCHWABAUER
City Attorney

By_____
Janice D. Magdich
Deputy City Attorney

AGENDA ITEM M-03

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Ordinance No. 1778 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code by Repealing Chapter 2.34, 'Administrative Procedures for Administrative Proceedings,' in Its Entirety; Repealing and Reenacting Section 3.01.460, Business Tax Certification – 'Enforcement'; Repealing and Reenacting Section 10.56.020 (J), (K), and (L)-(1), Removal of Vehicles – 'Removal from Private Property'; Amending Building Code Section 15.04.060, 'Violation-Misdemeanor,' by Adding Section (C); Repealing and Reenacting Chapter 15.24, 'Housing Code,' Sections 15.24.30 – 15.24.70 and Sections 15.24.090 – 15.24.100; Repealing and Reenacting Sections 15.28.030, 15.28.070, 15.28.080, 15.28.090, 15.28.100, 15.28.120, and 15.28.140 Relating to the Abatement of Dangerous Buildings Code; Repealing Sections 15.30.040 – 15.30.220 and Reenacting Sections 15.30.040 – 15.30.060 Relating to Property Maintenance and the Designation of Certain Kinds of Nuisances; and Amending Chapter 15.31, 'Weed and Refuse Abatement,' by Adding Sections 15.31.150 – 15.31.170"

MEETING DATE: April 19, 2006

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1778.

BACKGROUND INFORMATION: Ordinance No. 1778 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code by Repealing Chapter 2.34, 'Administrative Procedures for Administrative Proceedings,' in Its Entirety; Repealing and Reenacting Section 3.01.460, Business Tax Certification – 'Enforcement'; Repealing and Reenacting Section 10.56.020 (J), (K), and (L)-(1), Removal of Vehicles – 'Removal from Private Property'; Amending Building Code Section 15.04.060, 'Violation-Misdemeanor,' by Adding Section (C); Repealing and Reenacting Chapter 15.24, 'Housing Code,' Sections 15.24.30 – 15.24.70 and Sections 15.24.090 – 15.24.100; Repealing and Reenacting Sections 15.28.030, 15.28.070, 15.28.080, 15.28.090, 15.28.100, 15.28.120, and 15.28.140 Relating to the Abatement of Dangerous Buildings Code; Repealing Sections 15.30.040 – 15.30.220 and Reenacting Sections 15.30.040 – 15.30.060 Relating to Property Maintenance and the Designation of Certain Kinds of Nuisances; and Amending Chapter 15.31, 'Weed and Refuse Abatement,' by Adding Sections 15.31.150 – 15.31.170" was introduced at the regular City Council meeting of April 5, 2006.

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

APPROVED: _____
Blair King, City Manager

council/councom/Ordinance3.doc

Ordinances take effect 30 days after their final passage. ***Cal. Gov't Code § 36937***.

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Susan J. Blackston
City Clerk

SJB/JMP

Attachment

ORDINANCE NO. 1778

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI AMENDING LODI MUNICIPAL CODE BY REPEALING CHAPTER 2.34, "ADMINISTRATIVE PROCEDURES FOR ADMINISTRATIVE PROCEEDINGS," IN ITS ENTIRETY; REPEALING AND REENACTING SECTION 3.01.460, BUSINESS TAX CERTIFICATION – "ENFORCEMENT"; REPEALING AND REENACTING SECTION 10.56.020 (J), (K), AND (L)-(1), REMOVAL OF VEHICLES – "REMOVAL FROM PRIVATE PROPERTY"; AMENDING BUILDING CODE SECTION 15.04.060, "VIOLATION-MISDEMEANOR," BY ADDING SECTION (C); REPEALING AND REENACTING CHAPTER 15.24, "HOUSING CODE," SECTIONS 15.24.30 – 15.24.70 AND SECTIONS 15.24.090 – 15.24.100; REPEALING AND REENACTING SECTIONS 15.28.030, 15.28.070, 15.28.080, 15.28.090, 15.28.100, 15.28.120, AND 15.28.140 RELATING TO THE ABATEMENT OF DANGEROUS BUILDINGS CODE; REPEALING SECTIONS 15.30.040 – 15.30.220 AND REENACTING SECTIONS 15.30.040 – 15.30.060 RELATING TO PROPERTY MAINTENANCE AND THE DESIGNATION OF CERTAIN KINDS OF NUISANCES; AND AMENDING CHAPTER 15.31, "WEED AND REFUSE ABATEMENT," BY ADDING SECTIONS 15.31.150 – 15.31.170

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

Section 1. Lodi Municipal Code Chapter 2.34, "Administrative Procedures for Administrative Proceedings," is hereby repealed in its entirety.

Section 2. Lodi Municipal Code Section 3.01.460, "Enforcement," is hereby repealed and reenacted to read as follows:

A. Duties of the Finance Director. It shall be the duty of the finance director to enforce each and all of the provisions of this chapter. For purposes of such enforcement, the finance director and finance technicians (or equivalent position as it may be renamed from time to time) are "officers" who may issue citations to violators of this chapter pursuant to Chapter 1.10 of this code.

B. Inspections. The finance director, in the exercise of the duties imposed by the provisions of this section, and acting through deputies of duly authorized assistants, shall have the right to enter and examine all places of business free of charge during normal business hours to ascertain whether the provisions of this chapter are being complied with.

C. Penalty for Violation. Any person who shall violate any of the provisions of this chapter shall be subject to enforcement and penalty provisions set forth in Chapter 1.10 of this code.

Section 3. Lodi Municipal Code Section 10.56.020 (J), (K), and (L)-(1), "Removal from Private Property," is hereby repealed and reenacted to read as follows:

J. Public Hearing. Upon request by the owner of the vehicle or owner of the land, received by the community development director within ten days after the mailing of the notices of intention to abate and remove, a public hearing shall be held in accordance with the provisions of Chapter 1.10 of this code on the question of abatement and removal of the vehicle or parts thereof as an abandoned, wrecked, dismantled, or inoperative vehicle, and the assessment of the administrative costs and the cost of removal of the vehicle or parts thereof against the property on which it is located.

If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his/her land within such ten-day period, said statement shall be construed as a request for a hearing, which does not require the owner's presence. Notice of the hearing shall be mailed, by registered mail, at least ten days before the hearing, to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for hearing is not received within said ten days after mailing of the notice of intention to abate and remove, the city shall have the authority to abate and remove the vehicle or parts thereof as a public nuisance without holding a public hearing.

K. Public Hearing by Administrative Hearing Officer

1. All hearings under this chapter shall be held before the Administrative Hearing Officer in accordance with Section 1.10 of this Code, who shall hear all facts and testimony he/she deems pertinent. Such facts and testimony may include testimony on the condition of the vehicle or parts thereof and the circumstances concerning its location on the private property or public property. The Administrative Hearing Officer shall not be limited by the technical rules of evidence. The owner of the land may appear in person at the hearing or present a sworn written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with reasons for such denial.

2. The Administrative Hearing Officer may impose such conditions and take such other action he/she deems appropriate under the circumstances to carry out the purpose of this chapter. The Administrative Hearing Officer may delay the time for removal of the vehicle or parts thereof if, in his/her opinion, the circumstances justify it. At the conclusion of the public hearing, the Administrative Hearing Officer may find that a vehicle or parts thereof has been abandoned, wrecked, dismantled, or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided and determine the administrative costs and the cost of removal to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle or parts thereof and the correct identification number and license number of the vehicle, if available at the site.

3. If it is determined at the hearing that the vehicle was placed on the land without the consent of the owner of the land and that the owner has not subsequently acquiesced in its presence, the Administrative Hearing Officer shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such owner of the land.

4. If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his/her land but does not appear, or if an interested party makes a written presentation to the Administrative Hearing Officer but does not appear, the owner or interested party shall be notified in writing of the decision.

L. Judicial Review.

1. Any interested party may appeal the decision of the Administrative Hearing Officer in accordance with the provisions of Chapter 1.10 of this Code.

Section 4. Lodi Municipal Code Section 15.04.060, "Violation-Misdemeanor," is hereby amended by adding Section (C) and shall read as follows:

C. Any person who shall violate any of the provisions of this chapter shall be subject to enforcement and penalty provisions set forth in Chapter 1.10 of this code.

Section 5. Lodi Municipal Code Chapter 15.24, "Housing Code," Sections 15.24.30 – 15.24.70 and Sections 15.24.90 – 15.24.100 are hereby repealed and reenacted to read as follows:

Section 15.24.030, “Section 401 amended – Definitions”

Section 401, Definitions, of the Uniform Housing Code, 1997 Edition, adopted by Section 15.24.010, is amended as follows:

A. Add to subparagraph “Board of Appeals” to read as follows:

Whenever in this Code reference is made to the “Board of Appeals,” “Appeals Board,” or “Housing Advisory Board,” it shall mean the Administrative Hearing Officer.

B. Add subparagraph “Building Officials” to read as follows:

Whenever in this Code reference is made to the “Building Official,” it shall mean the legally designated Chief Building Inspector or Community Improvement Manager of the City of Lodi or his authorized representative.

C. Change subparagraph “Health Officers” to read:

Whenever in this Code reference is made to the “City Health Officer” or “Health Officer,” it shall mean the legally designated Director of the San Joaquin County Environmental Health Division or his authorized representative.

D. Add subparagraph “Fire Marshal” to read as follows:

Whenever in this Code reference is made to the “City Fire Marshal” or “Fire Marshal,” it shall mean the Fire Marshal of the City of Lodi or his authorized representative.

Section 15.24.040, “Sections 1201.1, 1201.2, and 1201.3 amended – Appeal to Administrative Hearing Officer”

Sections 1201.1, 1201.2, and 1201.3 of the Uniform Housing Code, 1994 Edition, adopted by Section 15.24.010, are amended to read as follows:

Section 1201. Appeal to Administrative Hearing Officer

Any person aggrieved by any order of the Building Official hereunder to repair, vacate and repair, or demolish any building or structure, or portion thereof, may appeal such order to the Administrative Hearing Officer. The appeal, which shall be in writing and which shall state the substance of the order appealed from, shall be submitted to the Administrative Hearing Officer within ten (10) days from the date of personal service or mailing of the order which is being appealed. The Administrative Hearing Officer shall set the matter for hearing. Notice of the date, hour, and place of hearing shall be posted and served at least ten (10) days before the date set for the hearing in the manner and upon the persons specified in Sections 1101.3, 1101.4, and 1101.5. The notice shall order all interested parties who desire to be heard to appeal and show cause, if any they have, why the building or structure, or portion thereof, involved in the proceedings should not be repaired, vacated and repaired, or demolished.

Section 15.24.050, “Section 1205 added – Administrative Hearing Officer hearing”

Section 1205 of the Uniform Housing Code, 1994 Edition, adopted by Section 15.24.010, is added to read as follows:

Hearing before Administrative Hearing Officer. At the time stated in the notice, the Administrative Hearing Officer shall hold a hearing and hear and consider any evidence offered by the Building Official, owner, occupant or person in charge and in control, mortgagee, or beneficiary under any deed of trust, lessee, or any other persons having any estate or interest in said building or structure, pertaining to the matters set forth in the Notice to Repair, Vacate and Repair or Demolish. Upon the conclusion of the hearing, the Administrative Hearing Officer shall render its decision.

Section 15.24.060, “Section 1206 added – Order of the Administrative Hearing Officer”

Section 1206 of the Uniform Housing Code, 1997 Edition, adopted by Section 15.24.010, is added to read as follows:

Order of the Administrative Hearing Officer. If, from a full and fair consideration of the evidence and testimony received at the hearing, the Administrative Hearing Officer shall determine that the building or structure, or any portion thereof, is unsafe and a public nuisance, then it shall overrule the appeal and issue an order certified by the City Clerk:

1. That the building or structure must be repaired, vacated and repaired, or demolished;

2. That the occupant, lessee, or other person in possession must vacate said building or structure, or that he may remain in possession while repairs are being made;

3. That any mortgagee, beneficiary under a deed of trust, or any other persons having an interest or estate in the said building or structures may, at his own risk, repair, vacate and repair, or demolish it.

The order shall (i) set forth the information required in Section 1101.2; (ii) contain a statement of the particulars that render the building or structure unsafe and a public nuisance; and (iii) contain a statement of the things required to be done. The order shall specify (i) the time within which the work required must be commenced, which shall be not less than ten days after the issuance of the order, and (ii) a reasonable time within which the work shall be completed.

Section 15.24.070, “Section 1207 added – Serving and Posting of Order of Administrative Hearing Officer”

Section 1207 of the Uniform Housing Code, 1997 Edition, adopted by Section 15.24.010, is added to read as follows:

Serving and Posting of Order of Administrative Hearing Officer. Copies of the order of the Administrative Hearing Officer shall be posted on the building or structure involved and served in the manner and upon the persons specified in Section 1101.3, 1101.4, and 1101.5.

Section 15.24.090, “Sections 1501.1 and 1501.2 amended – Sale, Repair, or Demolition”

Sections 1501.1 and 1501.2 of the Uniform Housing Code, 1997 Edition, adopted by Section 15.24.010, are amended to read as follows:

Section 1501. Sale, Repair or Demolition. Whenever an order to repair, vacate and repair, or demolish any building or structure, or any portion thereof, has not been complied with within the time set by the Building Official, or by the Administrative Hearing Officer, whether under appeal or not, the Administrative Hearing Officer shall have the power, in addition to any other remedy herein provided, to:

1. Cause the material of any such building or structure to be sold in any manner that the Administrative Hearing Officer may determine upon; provided, however, that any such sale shall be upon condition that the building or structure be forthwith demolished, the wreckage and debris thereof removed and the lot cleaned. The Administrative Hearing Officer may sell any such building singly or otherwise. Any surplus from the sale of any such building or structure, or group of buildings and structures, over and above the cost of demolition and of cleaning the site shall be retained to be distributed to the parties or persons lawfully entitled thereto.

2. Cause the building or structure to be repaired or demolished. The cost thereof shall be assessed against the property upon which the particular building or structure is located or the Repair and Demolition Fund. The repair of any building or structure, or sale of the materials thereof, shall be by a contract awarded following advertisement for bids, to the lowest and best bidder in the case of repair or demolition work and to the highest and best bidder in the case of the sale of material.

   Arrangements, as prescribed by the Administrative Hearing Officer in this section, preparing for the repair, demolition, or sale of materials, of or from any structure discussed in this Code shall be the responsibility of the Building Official. However, no such arrangements nor other work to that end shall be initiated prior to specific instructions from the Administrative Hearing Officer indicating such action.

15.24.100, "Violations – Penalty"

A. No person, whether as owner, lessee, sublessee or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to, or in violation of, any of the provisions of this housing code.

B. Any person, firm or corporation violating any provision of this code shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine and/or imprisonment set forth by the governing laws of the jurisdiction. Each separate day or any portion thereof, during which any violation of this code occurs or continues, shall be deemed to constitute a separate offense.

C. Any person who shall violate any of the provisions of this chapter shall be subject to enforcement and penalty provisions set forth in Chapter 1.10 of this code.

Section 6. Lodi Municipal Code Chapter 15.28, "Dangerous Building Code," Sections 15.28.030, 15.28.070, 15.28.080, 15.28.090, 15.28.100, 15.28.120, and 15.28.140 are hereby repealed and reenacted to read as follows:

Section 15.28.030, "Section 303 added – Board of Appeals"

Section 303, Board of Appeals, is added to the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, adopted by Section 15.28.010, as follows:

Whenever in this Code reference is made to the "Board of Appeals," it shall mean the Administrative Hearing Officer of the City of Lodi.

Section 15.28.070, "Section 501.1, 501.2, and 501.3 added – Appeal to Administrative Hearing Officer"

Section 501.1, 501.2, and 501.3 of the Uniform Code for the Abatement of Dangerous Buildings, 1994 Edition, adopted by Section 15.28.010, is added to read as follows:
Section 501 Appeal to Administrative Hearing Officer.

Any person aggrieved by any order of the Building Official hereunder to repair, vacate and repair, or demolish any building or structure, or portion thereof, may appeal such order to the Administrative Hearing Officer. The appeal which shall be in writing and which shall state the substance of the order appealed from, shall be submitted to the Administrative Hearing Officer within ten (10) days from the date of personal service or mailing of the order which is being appealed. The Administrative Hearing Officer shall set the matter for hearing. Notice of the date, hour, and place of the hearing shall be posted and served at least ten (10) days before the date set for the hearing in the manner and upon the person specified in Section 401.3, 401.4, and 401.5. The notice shall order all interested parties who desire to be heard to appear and show cause, if any they have, why the building or structure, or portion thereof, involved in the proceedings should not be repaired, vacated and repaired, or demolished.

Section 15.28.080, “Section 505 amended – Hearing Before Administrative Hearing Officer”

Section 505 of the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, adopted by Section 15.28.010, is amended to read as follows:

Hearing Before Administrative Hearing Officer. At the time stated in the notice, the Administrative Hearing Officer shall hold a hearing and hear and consider any evidence offered by the Building Official, owner, occupant or person in charge and control, mortgagee, or beneficiary under any deed of trust, lessee, or any other person having any estate or interest in said building or structure, pertaining to the matters set forth in the Notice to Repair, Vacate and Repair, or Demolish. Upon the conclusion of the hearing, the Administrative Hearing Officer shall render its decision.

Section 15.28.090, “Section 506 amended – Order of Administrative Hearing Officer”

Section 506 of the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, adopted by Section 15.28.010, is amended to read as follows:

Order of Administrative Hearing Officer. If, from a full and fair consideration of the evidence and testimony received at the hearing, the Administrative Hearing Officer shall determine that the building or structure, or any portion thereof, is unsafe and a public nuisance, then it shall overrule the appeal and issue an order certified by the City Clerk;

1. That the building or structure must be repaired, vacated and repaired, or demolished;

2. That the occupant, lessee, or other person in possession must vacate said building or structure, or that he may remain in possession while repairs are being made;

3. That any mortgagee, beneficiary under a deed of trust, or any other person having an interest or estate in said building or structure may, at his own risk, repair, vacate and repair, or demolish it.

The order shall (i) set forth the information required in Section 401.2 Item 1; (ii) contain a statement of the particulars that render the building or structure unsafe and a public nuisance; and (iii) contain a statement of the things required to be done. The order shall specify (i) the time within which the work required must be commenced, which shall be not less than ten days after the issuance of the order, and (ii) a reasonable time within which the work shall be completed.

Section 15.28.100, “Section 507 amended – Serving and Posting of Order of Administrative Hearing Officer”

Section 507 of the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, adopted by Section 15.28.010, is amended to read as follows:

Serving and Posting of Order of Administrative Hearing Officer. Copies of the order of the Administrative Hearing Officer shall be posted on the building or structure involved and served in the manner and upon the persons specified in Section 401.3, 401.4, and 401.5.

Section 15.28.120, “Section 80.1 amended – Sale, Repair, or Demolition”

Section 801.1 of the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, adopted by Section 15.28.010, is amended to read as follows:

Section 801.1. Sale, Repair, or Demolition. Whenever an order to repair, vacate and repair, or demolish any building or structure, or any portion thereof, has not been complied with within the time set by the Building Official, or by the Administrative Hearing Officer, whether under appeal or not, the Administrative Hearing Officer shall have the power, in addition to any other remedy herein provided, to:

1. Cause the material of any such building or structure to be sold in any manner that the Administrative Hearing Officer may determine upon; provided, however, that any such sale shall be upon condition that the building or structure be forthwith demolished, the wreckage and debris thereof removed and the lot cleaned. The Administrative Hearing Officer may sell any such building singly or otherwise. Any surplus from the sale of any such building or structure, or group of buildings and structures, over and above the cost of demolition and of cleaning the site shall be retained to be distributed to the parties or persons lawfully entitled thereto.

2. Cause the building or structure to be repaired or demolished. The cost thereof shall be assessed against the property upon which the particular building or structure is located or the Repair and Demolition Fund. The repair or demolition of any building or structure, or sale of the materials thereof, shall be by a contract awarded following advertisement for bids, to the lowest and best bidder in the case of repair or demolition work and to the highest and best bidder in the case of the sale of material.

   Arrangements, as prescribed by the Administrative Hearing Officer in this Section, preparing for the repair, demolition, or sale of materials, of or from any structure discussed in this Code shall be the responsibility of the Building Official. However, no such arrangements or other work to that end shall be initiated prior to specific instructions from the Administrative Hearing Officer indicating such action.

Section 15.28.140, "Violation – Penalty"

A. No person, whether as owner, lessee, sublessee or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy, or maintain any building or premises, or cause or permit the same to be done, contrary to or in violation of any of the provisions of this chapter.

B. Any person, firm, or corporation violating any provision of this code shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine and/or imprisonment set forth by the governing laws of the jurisdiction. Each separate day or any portion thereof, during which any violation of this code occurs or continues, shall be deemed to constitute a separate offense.

C. Any person who shall violate any of the provisions of this chapter shall be subject to enforcement and penalty provisions set forth in Chapter 1.10 of this code.

Section 7. Lodi Municipal Code Chapter 15.30, "Property Maintenance and Designation of Certain Kinds of Nuisances," Sections 15.30.040 – 15.30.220 are hereby repealed and Sections 15.30.040 – 15.30.060 are reenacted as follows:

Section 15.30.040, "Declaration of Public Nuisance"

Any property found to be maintained in violation of the foregoing section is declared to be a public nuisance and shall be subject to the administrative procedures set forth in Chapter 1.10. The procedures for abatement set forth therein shall not be exclusive, and shall not, in any manner limit or restrict the city from enforcing other city ordinances or abating public nuisances in any other manner.

Section 15.30.050, "Alternative Actions Available"

Nothing in this chapter shall be deemed to prevent the city council from ordering the commencement of a civil proceeding to abate the nuisance pursuant to applicable law or restricting the city from pursuing any other remedy available under applicable law.

Section 15.30.060, “Violation – Penalty”

Any person who shall violate any of the provisions of this chapter shall be subject to enforcement and penalty provisions set forth in Chapter 1.10 of this code.

Section 8. Lodi Municipal Code Chapter 15.31, “Weed and Refuse Abatement,” is hereby amended by adding Sections 15.31.150 – 15.31.170 and shall read as follows:

Section 15.31.150, “Declaration of Public Nuisance”

Any property found to be maintained in violation of the foregoing section is declared to be a public nuisance and shall be subject to the administrative procedures set forth in Chapter 1.10. The procedures for abatement set forth therein shall not be exclusive, and shall not, in any manner limit or restrict the city from enforcing other city ordinances or abating public nuisances in any other manner.

Section 15.31.160, “Alternative Actions Available”

Nothing in this chapter shall be deemed to prevent the city council from ordering the commencement of a civil proceeding to abate the nuisance pursuant to applicable law or restricting the city from pursuing any other remedy available under applicable law.

Section 15.31.170, “Violation – Penalty”

Any person who shall violate any of the provisions of this chapter shall be subject to enforcement and penalty provisions set forth in Chapter 1.10 of this code.

Section 9 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 10. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 11. This ordinance shall be published one time in the “Lodi News Sentinel,” a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this19th day of April, 2006.

Attest:

SUSAN J. BLACKSTON
City Clerk

SUSAN HITCHCOCK
Mayor

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1778 was introduced at a regular meeting of the City Council of the City of Lodi held April 5, 2006, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held April 19, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1778 was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney