



# LODI CITY COUNCIL

Carnegie Forum  
305 West Pine Street, Lodi

## AGENDA – REGULAR MEETING

Date: May 19, 2010

Time: Closed Session 6:00 p.m.  
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:

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

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

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

**C-1 Call to Order / Roll Call**

**C-2 Announcement of Closed Session**

- a) Conference with Dean Gualco, Human Resources Manager (Labor Negotiator), Regarding Unrepresented Executive Management, Lodi City Mid-Management Association, Unrepresented Confidential Employees, AFSCME General Services and Maintenance & Operators, Police Mid-Managers, Lodi Police Officers Association, Lodi Police Dispatchers Association, International Brotherhood of Electrical Workers, Fire Mid-Managers, and Lodi Professional Firefighters Pursuant to Government Code §54957.6
- b) Pursuant to Government Code §54956.9(c); Conference with Legal Counsel; Anticipated Initiation of Litigation Challenging North Stockton I-5 Widening Environmental Impact Report; Parties are the City of Lodi and the California Department of Transportation; One Case

**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. Pledge of Allegiance**
- C. Presentations**

C-1 Quarterly Update by the Greater Lodi Area Youth Commission (COM)

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

D-1 Receive Register of Claims in the Amount of \$4,639,585.30 (FIN)

D-2 Approve Minutes (CLK)

- a) April 27, 2010 (Shirtsleeve Session)
- b) May 4, 2010 (Shirtsleeve Session)
- c) May 5, 2010 (Special Meeting)
- d) May 11, 2010 (Shirtsleeve Session)

D-3 Accept Quarterly Report of Purchases Between \$5,000 and \$20,000 (CM)

- Res. D-4 Approve Request for Proposals and Authorize Advertisement for Municipal Service Center Compressed Natural Gas Fueling Station Maintenance Contract and Upgrade of Compressor Control Panel; and Adopt Resolution Approving Purchase of Compressor Parts from GreenField, of Richardson, Texas, and Appropriating Funds (\$22,000) (PW)
- Res. D-5 Adopt Resolution Approving the Purchase of 60,000 Feet of Underground Cable to Pacific Utilities Supply, of Pleasant Hill, CA (\$116,251.67) (EUD)
- Res. D-6 Adopt Resolution Approving the Purchase of Caterpillar Multi-Terrain Loader with Attachments from Holt of California, of Stockton (\$67,628.14), and Appropriating Funds (\$75,000) (PW)
- Res. D-7 Adopt Resolution Awarding Contract for 2010 Storm Drain Improvements Project to Mozingo Construction, Inc., of Oakdale (\$222,900), and Appropriating Funds (\$268,000) (PW)
- Res. D-8 Adopt Resolution Awarding Contract for 2010 Street Improvements Project to Granite Construction Company, of Stockton (\$886,885), and Appropriating Funds (\$1,064,262) (PW)
- Res. D-9 Adopt Resolution Authorizing the City Manager to Execute Purchase Order with Eaton Pumps Sales and Service, of Woodland, for Repairs to City Water Well No. 7 (\$36,640) (PW)
- Res. D-10 Adopt Resolution Authorizing the Interim City Manager as a Signer on City of Lodi Farmers & Merchants Bank Accounts and Authorize Interim City Manager Bartlam, Deputy City Manager Ayers, and Management Analyst Evans to Execute the Corporate Authorization Resolution and Electronic Transfer Corporate Resolution (CM)
- D-11 Authorize the City Attorney to Issue "Comfort Letter" to Pine Street Partners LLC in Connection with the Purchase of Property at 212 West Pine Street and 211 West Oak Street (CA)
- Res. D-12 Adopt Resolution Approving Program Guidelines for the First Time Home Buyer Loan Program (CD)
- D-13 Set Public Hearing for June 2, 2010, to Consider the Appeal of Noe Juarez Luna Regarding the Decision of the Planning Commission to Deny a Use Permit for a Pool Hall/Nightclub at 651 North Cherokee Lane, Suite E (CD)
- D-14 Set Public Hearing for July 21, 2010, to Consider Adopting Resolution Setting Usage-Based and Flat Water and Wastewater Rates for Residential, Commercial, and Industrial Customers and Meter Installation Charges (PW)

**E. Comments by the Public on Non-Agenda Items**

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

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

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

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

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

**H. Public Hearings**

- Ord. H-1 Public Hearing to Introduce an Ordinance Amending Lodi Municipal Code Chapter 13.20, (Introduce) "Electrical Service," by Adding a New Section 13.20.320 Titled, "Schedule NST – New Sales Tax Economic Development Rate" (EUD)

**I. Communications – None**

**J. Regular Calendar**

- J-1 Continue to Receive and Review the Draft Fiscal Year 2010/11 Financial Plan and Budget (CM)
- Res. J-2 Adopt Resolution in Support of Measure C Allowing North San Joaquin Water Conservation District to Impose and Collect Groundwater Charge (PW)
- Res. J-3 Adopt Resolution to Grant Designated Period for Two Years Additional Service Credit (CM)
- Res. J-4 Adopt Resolution of Intention Approving an Amendment to the Contract Between the Board of  
Ord. Administration of the Public Employees' Retirement System (PERS) and the City of Lodi and  
(Introduce) Introduce Ordinance Amending the Contract Between PERS and the City of Lodi with Regard to  
Providing Section 20903 (Two Years Additional Service Credit) for Local Police Members (CM)
- J-5 Authorize Interim City Manager to Engage Jones Hall for Bond Counsel Services Related to  
Surface Water Treatment Plant (CA)

**K. Ordinances – None**

**L. Adjournment**

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

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Randi Johl  
City Clerk



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Quarterly Update by the Greater Lodi Area Youth Commission  
**MEETING DATE:** May 19, 2010  
**PREPARED BY:** Brad Vander Hamm, LYC Liaison

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**RECOMMENDED ACTION:** Receive quarterly update from Greater Lodi Area Youth Commission (LYC).

**BACKGROUND INFORMATION:** The LYC desires to stay more connected to the City Council and the community by having current commissioners provide a quarterly report on the activities of the Commission and also recognize the following students that have been honored as Teen of the Month: March 2010, Kristina Rostomily; and April 2010, Samantha Hills

**FISCAL IMPACT:** None

**FUNDING AVAILABLE:** None

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James M. Rodems  
Community Center Director

Prepared by: Brad Vander Hamm, Liaison  
Greater Lodi Area Youth Commission

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APPROVED: \_\_\_\_\_  
Konradt Bartlam, Interim City Manager



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# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Receive Register of Claims through April 29, 2010 in the Total Amount of \$4,639,585.30

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Financial Services Manager

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**RECOMMENDED ACTION:** Receive the attached Register of Claims for \$4,639,585.30.

**BACKGROUND INFORMATION:** Attached is the Register of Claims in the amount of \$4,639,585.30 through 04/29/10. Also attached is Payroll in the amount of \$1,251,349.25.

**FISCAL IMPACT:** n/a

**FUNDING AVAILABLE:** As per attached report.

\_\_\_\_\_  
Ruby R. Paiste, Financial Services Manager

RRP/rp

Attachments

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**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

Accounts Payable  
Council Report

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Date - 05/03/10

As of Thursday	Fund	Name	Amount
04/29/10	00100	General Fund	913,372.93
	00123	Info Systems Replacement Fund	3,747.30
	00160	Electric Utility Fund	3,181,990.35
	00161	Utility Outlay Reserve Fund	4,566.05
	00164	Public Benefits Fund	55,781.61
	00167	Energy Efficiency & CBGP-ARRA	13,426.94
	00170	Waste Water Utility Fund	34,384.53
	00172	Waste Water Capital Reserve	35,005.75
	00173	IMF Wastewater Facilities	585.77
	00180	Water Utility Fund	8,584.17
	00181	Water Utility-Capital Outlay	75,924.41
	00210	Library Fund	4,249.10
	00260	Internal Service/Equip Maint	38,940.73
	00270	Employee Benefits	43,148.74
	00300	General Liabilities	1,504.40
	00310	Worker's Comp Insurance	28,147.74
	00321	Gas Tax	24,230.69
	00325	Measure K Funds	7,271.50
	00339	Prop.1B-Local Streets & Roads	592.00
	00340	Comm Dev Special Rev Fund	6,336.62
	00345	Community Center	10,996.81
	00346	Recreation Fund	3,639.36
	00459	H U D	9,604.25
	00502	L&L Dist Z1-Almond Estates	49.36
	00503	L&L Dist Z2-Century Meadows I	31.39
	00506	L&L Dist Z5-Legacy I,II,Kirst	81.23
	00507	L&L Dist Z6-The Villas	68.27
	00509	L&L Dist Z8-Vintage Oaks	26.41
	00510	SJ MultiSpecies Habitat Conser	
	01211	Capital Outlay/General Fund	231.09
	01212	Parks & Rec Capital	93,134.10
	01217	IMF Parks & Rec Facilities	320.46
	01218	IMF General Facilities-Adm	13,437.50
	01250	Dial-a-Ride/Transportation	10,301.21
	01410	Expendable Trust	13,149.76
Sum			4,636,862.53
	00184	Water PCE-TCE-Settlements	84.00
	00190	Central Plume	2,638.77
Sum			2,722.77
Total Sum			4,639,585.30

Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	04/18/10	00100	General Fund	740,580.87
		00160	Electric Utility Fund	157,256.01
		00164	Public Benefits Fund	5,354.43
		00170	Waste Water Utility Fund	97,952.36
		00180	Water Utility Fund	1,141.40
		00210	Library Fund	29,248.85
		00235	LPD-Public Safety Prog AB 1913	2,847.25
		00260	Internal Service/Equip Maint	21,965.14
		00321	Gas Tax	42,645.41
		00340	Comm Dev Special Rev Fund	21,928.50
		00345	Community Center	24,993.08
		00346	Recreation Fund	52,216.82
		01250	Dial-a-Ride/Transportation	6,972.69
Pay Period Total:				
			Sum	1,205,102.81
Retiree	05/31/10	00100	General Fund	46,246.44
Pay Period Total:				
			Sum	46,246.44



**CITY OF LODI  
COUNCIL COMMUNICATION**

**AGENDA TITLE:** Approve Minutes  
a) April 27, 2010 (Shirtsleeve Session)  
b) May 4, 2010 (Shirtsleeve Session)  
c) May 5, 2010 (Special Meeting)  
d) May 11, 2010 (Shirtsleeve Session)

**MEETING DATE:** May 19, 2010

**PREPARED BY:** City Clerk

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**RECOMMENDED ACTION:** Approve the following minutes as prepared:  
a) April 27, 2010 (Shirtsleeve Session)  
b) May 4, 2010 (Shirtsleeve Session)  
c) May 5, 2010 (Special Meeting)  
d) May 11, 2010 (Shirtsleeve Session)

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

**FISCAL IMPACT:** None.

**FUNDING AVAILABLE:** None required.

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

Attachments

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**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

**LODI CITY COUNCIL  
SHIRTSLEEVE SESSION  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, APRIL 27, 2010**

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, April 27, 2010, commencing at 7:02 a.m.

Present: Council Member Johnson, Council Member Mounce, and Mayor Pro Tempore Hitchcock

Absent: Council Member Hansen, and Mayor Katzakian

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

B. Topic(s)

B-1 Review of On-Street Parking Regulations for Recreational Vehicles (PD)

City Manager King briefly introduced the subject matter of the on-street parking regulations for recreational vehicles.

Management Analyst Jeanie Biskup provided a PowerPoint presentation regarding the on-street parking regulations for recreational vehicles. Specific topics of discussion included the history of the relevant Municipal Code and Vehicle Code sections, complaint process, Partners response, responses to complaints, special circumstances, efforts to work with citizens, types of recreational vehicles towed, overall findings of violations and enforcement over the past year, homes on wheels, parking permit options, time limits for parking, and staff recommendations regarding ongoing enforcement.

In response to Council Member Mounce, Ms. Biskup stated there are no specific guidelines regarding narrower streets and proximity to schools as the Vehicle Code just references "street" and not the specific size of the street. Ms. Biskup stated that, regardless if staff receives a complaint, they will try to work with the owner and find solutions for alternative parking.

In response to Council Member Mounce, City Attorney Schwabauer stated the City would have to sign entrances to neighborhoods and the City for specific regulation enforcement such as school proximity and narrow streets.

In response to Council Member Johnson, Ms. Biskup stated most situations are resolved through the initial marking process and for the game players staff can continue to issue citations daily for \$37.

In response to Council Member Johnson, Ms. Biskup stated the current penalties, including the \$37 fee, are based on court citation fees and appear to be sufficient.

In response to Mayor Pro Tempore Hitchcock, Ms. Biskup stated staff has issued about 25 citations, the process includes tagging for 72 hours and then towing, 89 tows were recovered vehicles, some vehicles are never bailed out, 8 of the 89 were recreational vehicles, and the citation process only comes in when the gaming, such as moving the vehicle around the block, starts.

In response to Mayor Pro Tempore Hitchcock, Ms. Biskup stated the initial tag is bright orange and starts the 72 hours. She stated if the vehicle has not moved in the 72-hour period it is towed.

In response to Mayor Pro Tempore Hitchcock, Ms. Biskup felt the recreational vehicle monitoring and enforcement has stepped up.

In response to Mayor Pro Tempore Hitchcock, Ms. Biskup stated staff can tow and cite simultaneously if the Council so desires.

In response to Council Member Johnson, Ms. Biskup stated Community Improvement is involved because sometimes the vehicles end up in the front yard and there may be encroachment issues.

In response to Council Member Johnson, Ms. Biskup stated volunteers are addressing concerns on public property while Community Improvement is addressing concerns on private property due to the differing code sections.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 7:37 a.m.

ATTEST:

Randi Johl  
City Clerk

**LODI CITY COUNCIL  
SHIRTSLEEVE SESSION  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, MAY 4, 2010**

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, May 4, 2010, commencing at 7:00 a.m.

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

Absent: Council Member Mounce

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

B. Topic(s)

B-1 Third Quarter Fiscal Year 2009/10 Water, Wastewater, and Electric Utility Department Financial Reports (CM)

City Manager King provided a brief introduction to the subject matter of the Third Quarter Fiscal Year 2009/10 Water, Wastewater, and Electric Utility Department financial reports.

Deputy Public Works Director Charlie Swimley and Public Works Director Wally Sandelin provided a PowerPoint presentation regarding the water/wastewater utility. Specific topics of discussion included wastewater operating results, wastewater cash flow summary for operations, wastewater cash balances, water operating results, water cash flow summary for operations, water cash balances, water/wastewater utility accomplishments, meter program update, meter program phasing, and the meter program expansion.

In response to Mayor Pro Tempore Hitchcock, Mr. Swimley stated the supplies are considerably less because the department budgeted for anticipated needs, not all contracts for services have been expensed, and there is an overall effort to be careful with expenditures.

In response to Council Member Hansen, Mr. Sandelin stated the Lodi Avenue construction is scheduled to start in two weeks and notices are being mailed now.

In response to Council Member Johnson, Mr. Sandelin confirmed that staff will be inspecting all residential and commercial sites for water meters.

In response to Mayor Pro Tempore Hitchcock, Mr. Sandelin stated public outreach on the water meter program is happening through presentations to service clubs and community groups, quarterly newsletters, and telephone inquiries.

Council Member Johnson and Mayor Pro Tempore Hitchcock requested a copy of the map provided in the PowerPoint presentation.

In response to Council Member Hansen, Mr. Sandelin stated for apartment complexes, one meter will be installed, the bill will go to the property owner, and the property owner will charge the tenants proportionately and most likely adjust the rent accordingly. In response to Council Member Hansen, City Attorney Schwabauer stated there is a limit on what a property owner can charge tenants for electric service, but he is not sure about water service. Mr. Schwabauer stated he will research the legal limit for water service and provide that information to Council.

In response to Council Member Johnson, Mr. Sandelin and Mr. Swimley stated there are approximately 1,500 commercial meters in town and they will all be inventoried to determine which parcels do not have meters currently.

In response to Council Member Hansen, Mr. Swimley stated staff is speculating that about one half of the businesses do not have water meters.

In response to Mayor Pro Tempore Hitchcock, Mr. Swimley stated the larger businesses are metered and it is the smaller retail businesses that may not have the meters.

In response to Mayor Katzakian, Mr. Sandelin stated condominiums that are already submetered with the appropriate equipment will have their own meters while others will receive one that is proportionately disbursed through the homeowners' associations.

In response to Council Member Johnson, Mr. Swimley stated the City is meeting regulatory goals with respect to discharges due to investments in the wastewater treatment plant and good teamwork and leadership at the plant. He stated when there is a discharge it is generally mechanical due to the complexity of the equipment and cholorform related.

In response to Council Member Hansen, Mr. Sandelin stated water infrastructure, specifically the replacement of mains smaller than six inches in backyards, will be complete in 2015.

In response to Council Member Hansen, Mr. Sandelin confirmed that the infrastructure replacement in the City of Lodi is somewhat unique.

Interim Electric Utility Director Ken Weisel provided a PowerPoint presentation regarding the fiscal year 2009/10 quarterly update for the Electric Utility Department. Specific topics of discussion included an overview, quarterly financial results, non-power operating expenditures, non-power expenditures, power supply, power sales, sales comparison, billing statistics, Energy Cost Adjustment (ECA) revenue, Northern California Power Agency (NCPA) general operating reserve (GOR), open position, Lodi Energy Center (LEC) statistics, ownership, cost summary, cost/kWh summary, participants, approval schedule, actions for May 5 Council meeting, California Environmental Quality Act (CEQA) compliance, power sales agreement, project management and operations agreement, September Memorandum of Understanding, and conclusion.

In response to Council Member Hansen, Mr. Weisel stated the reimbursement payment for LEC is anticipated to come in during the last week of the current fiscal year.

In response to Council Member Hansen, Mr. Weisel stated it is expected that the new meter reading system will be in place by 2011. Mr. Weisel reviewed the transmitter process and specifically discussed the repeaters transmitting by radio to collectors at a main data reading location.

In response to Council Member Hansen, Mr. Weisel stated the new technology is tried and tested and reliable.

In response to Council Member Johnson, Mr. Weisel stated the primary difference with the PG&E technology is that PG&E is installing two-way meters that are reading accurately and their older meters were misreading.

In response to Council Member Johnson, Mr. Weisel stated staff is receiving a few scattered questions in cases where old meters were not reading accurately.

In response to Council Member Hansen, Mr. Sandelin stated a water meter is also on a fixed network and the utility replaces the battery.

In response to Mayor Pro Tempore Hitchcock, Mr. Weisel stated the meters can be picked up by a fixed network or some other system and in the City's case the step up to the network system from the current system was rather small.

In response to Mayor Pro Tempore Hitchcock, Mr. Weisel stated it is anticipated that the City will have 9 collectors and 18 repeaters throughout town.

In response to Council Member Hansen, Mr. Weisel stated most of the collectors and repeaters will be located in street lights and similar to PG&E, which uses the technology for gas in the City.

In response to Council Member Johnson, Mr. Weisel stated the slight increase in the GOR is tied in to NCPA and the California Independent System Operator.

In response to Council Member Johnson, Mr. Weisel stated the increase will not happen with regularity and is in place to address a one-time situation.

In response to Council Member Hansen, Mr. Weisel stated the increase for the ECA is one cent for the May bill and two cents for the June bill, as these two months are historically the lowest months.

In response to Mayor Pro Tempore Hitchcock, Mr. King stated the cost of the litigation for NCPA is covered by the GOR.

In response to Mayor Katzakian, Mr. Weisel stated the LEC power compared to other power supplies is more efficient and cost effective.

In response to Council Member Johnson, Mr. Weisel stated if the construction schedule was slipping then the City would go to the market to make open purchases and currently it will be doing so for the April and May months, which were left open.

In response to Mayor Pro Tempore Hitchcock, Mr. Weisel stated close to half of the project is non-members and the largest portion is the State Department of Water Resources (DWR).

In response to Mayor Pro Tempore Hitchcock, Mr. Weisel and Mr. Schwabauer stated NCPA has a majority vote on the project, there is a right of first refusal for participants, and NCPA could sell to a non-member regardless after the right of first refusal is exercised.

In response to Council Member Johnson, Mr. Weisel stated Modesto is doing its own financing because it is financing another project simultaneously and has a better credit rating than NCPA.

In response to Council Member Hansen, Mr. Weisel stated the base load is 30 mega watts.

In response to Council Member Johnson, Mr. Weisel stated a smaller member could drop out right now at the approval level as the project is locked after the Power Sales Agreement is signed. He stated if a member does drop out, there may be another member that is willing to take on more or all members can incorporate their portions proportionately.

In response to Mayor Pro Tempore Hitchcock, Mr. Weisel stated DWR and Modesto have reached their limits and most other participants are NCPA members. He stated May 5, 2010, is the last day to enter into the Power Sales Agreement.

In response to Council Member Hansen, Mr. Weisel stated the ceremonial groundbreaking date is June 16, 2010.

In response to Council Member Hansen, Mr. Weisel stated NCPA will buy gas purchases up to 30 days in advance and if the City desires for NCPA to do more than that it will be necessary to enter into a separate agreement, which is likely. He stated the alternative is to participate with the Department of General Services.

In response to Mayor Katzakian, Mr. Weisel stated historically prices range from \$3 to \$10, stabilize in the \$6 to \$8 range, higher cost of gas means a higher cost of power, and the financial term for such a project is usually 30 years.

In response to Mayor Katzakian, Mr. Weisel stated the 7.2 cents does not include transmission and the advantage of the Lodi location is being worked on right now with NCPA. Mr. King stated there may be an assumption that if the City has its own line there will be no additional cost for transmission.

In response to Council Member Johnson, Mr. Weisel stated it is not clear right now whether running the line will get rid of all transmission costs to the City.

In response to Mr. King, Community Development Director Rad Bartlam stated the draft Environmental Impact Report will likely be available in 30 days.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 8:31 a.m.

ATTEST:

Randi Johl  
City Clerk

**LODI CITY COUNCIL  
SPECIAL CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, MAY 5, 2010**

A. Roll call

The Special City Council meeting of May 5, 2010, was called to order by Mayor Katzakian at 7:00 p.m.

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

Absent: None

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

B. Regular Calendar

B-1 Nominate Lodi Youth Commission for League of California Cities' Ruth Vreeland Award for Engaging Youth in City Government (CM)

City Manager King briefly introduced the subject matter and Management Analyst Jeff Hood provided a brief overview of the proposed nomination of the Youth Commission for the League of California Cities' Ruth Vreeland Award.

Council Member Mounce made a motion, second by Council Member Johnson, to nominate the Lodi Youth Commission for the League of California Cities' Ruth Vreeland Award for engaging youth in city government.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: None

B-2 Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Opposition to Assembly Bill 155 (Mendoza) Local Government: Bankruptcy Proceedings (CM)

City Manager King provided an overview of the proposed letter of opposition to AB 155. A brief discussion ensued amongst City Council regarding the tone of the proposed letter and the need to express the severity of the situation.

Council Member Mounce made a motion, second by Mayor Pro Tempore Hitchcock, to authorize the Mayor, on behalf of the City Council, to send a letter of opposition to Assembly Bill 155 (Mendoza) Local Government: Bankruptcy Proceedings.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Council Member Mounce, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: None

Absent: None

B-3 Adopt Resolution Ratifying Employment Agreement Entered into Between City Manager

Blair King and Electric Utility Director Elizabeth "Liz" A. Kirkley (CM)

City Manager King provided a brief overview of the terms of the proposed employment agreement with Electric Utility Director Elizabeth Kirkley.

Council Member Mounce stated she will not be voting in favor of the proposed agreement based on her fundamental opposition to the severance clause.

Council Member Johnson made a motion, second by Council Member Hansen, to adopt Resolution No. 2010-59 ratifying employment agreement entered into between City Manager Blair King and Electric Utility Director Elizabeth "Liz" A. Kirkley.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hansen, Council Member Johnson, Mayor Pro Tempore Hitchcock, and Mayor Katzakian

Noes: Council Member Mounce

Absent: None

C. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 11:02 p.m.

ATTEST:

Randi Johl  
City Clerk

**LODI CITY COUNCIL  
SHIRTSLEEVE SESSION  
CARNEGIE FORUM, 305 WEST PINE STREET  
TUESDAY, MAY 11, 2010**

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, May 11, 2010, commencing at 7:00 a.m.

Present: Council Member Hansen, Council Member Johnson, and Council Member Mounce

Absent: Mayor Pro Tempore Hitchcock, and Mayor Katzakian

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

B. Topic(s)

B-1 First Time Home Buyer Loan Program Update (CD)

Interim City Manager Rad Bartlam briefly introduced the subject matter of the First Time Home Buyer Loan Program.

Neighborhood Services Manager Joseph Wood provided a PowerPoint presentation regarding the First Time Home Buyer Loan Program. Specific topics of discussion included previous history of the program, separation from San Joaquin County, award of \$800,000 for the program, revised program guidelines, differences from previous program, loan deferral and administration, and the next steps.

In response to Council Member Johnson, Mr. Wood stated the modest housing requirement language was revised and implemented by the City.

In response to Council Member Mounce, Mr. Wood stated the County has a fixed number through the Department of Housing and Urban Development for the maximum loan amount.

In response to Council Member Hansen, Mr. Wood stated payments are deferred for five-year periods up to a maximum of 30 years and interest continues to accrue during that time.

In response to Council Member Mounce, Mr. Wood stated for full deferrals there would be a balloon payment at the end of 30 years with interest.

In response to Council Member Hansen, Mr. Wood stated this program is just for down payment assistance for first-time home buyers.

In response to Myrna Wetzel, Mr. Wood stated there is no connection between this program and the home buyer tax credit.

In response to Council Member Hansen, Mr. Wood stated there are standard guidelines and training requirements for administration of the program.

In response to Council Member Hansen, Mr. Wood stated each applicant is eligible for a maximum of \$40,000 on a first-come first-serve basis. He stated the applicant will be provided less than \$40,000 if they need less for the down payment in an effort to provide as much assistance to as many people as possible.

In response to Council Member Johnson, Mr. Wood stated he is not sure how many of the 29

applicants will go through the entire program and receive the entire \$40,000. Mr. Bartlam stated applicants must also show income eligibility and will only receive up to 20% of the purchase price for down payment assistance. Mr. Bartlam stated it is likely that the program will track traditional financing.

In response to Myrna Wetzel, Mr. Wood stated there is no deadline as staff will continue to receive inquiries and add applicants to a list based on first come first serve.

In response to Council Member Hansen, Mr. Wood stated the program is revolving so that as funds are recaptured or paid back they are put back into the program when properties are resold or refinanced.

In response to Council Member Hansen, Mr. Wood stated many of the 72 gap loans have been paid off and he will forward the specific numbers to Council as requested.

In response to Council Member Hansen, Mr. Wood stated that part of the \$2.2 million figure is repaid funds.

In response to Council Member Hansen, Mr. Wood stated the Neighborhood Stabilization Program (NSP) funds came to the City through the County in 2008 and the City received approximately \$500,000. Mr. Wood stated three properties were acquired, two were resold, and the lot split property is currently in plan check.

In response to Council Member Hansen, Mr. Wood stated the City will have an opportunity to apply for NSP funds if provided in the future.

In response to Council Member Mounce, Mr. Wood stated NSP No. 1 was through the County, NSP No. 2 was separate, and the County was not successful with NSP No. 2. Mr. Wood stated if there is a NSP No. 3 opportunity, Lodi will receive notice and be included.

In response to Council Member Mounce, Mr. Wood stated this is a Citywide program and is not based on targeted areas.

In response to Council Member Johnson, Mr. Wood stated the current program does not include short sales and foreclosures may be more aligned with NSP funds. Mr. Wood stated the GAP loan properties are not foreclosures and the City does not have as large an inventory of foreclosed or short sale properties as do surrounding communities.

In response to Council Member Mounce, Mr. Wood stated since his arrival he is aware of approximately four properties that have been lost to foreclosures.

C. Comments by Public on Non-Agenda Items - None

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 7:30 a.m.

ATTEST:

Randi Johl  
City Clerk



**CITY OF LODI  
COUNCIL COMMUNICATION**

**AGENDA TITLE:** Quarterly Report of Purchases Between \$5,000 and \$20,000

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Sherry Moroz, Purchasing Technician

**RECOMMENDED ACTION:** Quarterly Report of Purchases Between \$5,000 and \$20,000 Information only.

**BACKGROUND INFORMATION:** During the 1st calendar quarter of 2010, the following purchases were awarded. Background information for each purchase is attached as Exhibits A through CC.

Exh	Date	Contractor	Project	Award Amt.
A	1/5/10	Mark Thomas & Company	Kettleman Gap Project	\$18,000.00
B	1/7/10	Econolite Control Products	Traffic Cabinet Spare	\$8,841.38
C	1/11/10	Angus-Hamer Inc.	Antivirus Protection	\$5,752.00
D	1/11/10	Hajoca Corp.	W/WW Div. Deep Well & Needle Valve	\$9,771.42
E	1/12/10	Holt of California	Well #4R Back-up Generator Repairs	\$19,395.00
F	1/13/10	National Meter & Automation	Residential Water Meter Purchase	\$11,946.19
G	1/26/10	Smalley's Wholesale	On-Duty Ammunition	\$9,586.31
H	1/14/10	Keystone Ridge Designs	East Lodi Avenue Street Furnishings	\$18,508.18
I	1/21/10	R. W. Beck	Model Maint. & Engineering Analyst Training with Windmill Solutions	\$10,900.00
J	2/4/10	Websoft Developers, Inc.	Asset Management Software Integration Support	\$7,560.00
K	2/4/10	Econolite Control Products	Traffic Cabinet Spare	\$15,109.73
L	2/11/10	Casey Printing	Community Activity Guide Spring/Summer 2010	\$7,898.44
M	2/10/10	Pape Machinery	Vacuum Truck Auxiliary Engine Replacement	\$17,835.00
N	2/10/10	Holt of California	Well 4R Back-UP Generator Repairs	\$10,604.82
O	2/19/10	National Meter & Automation	ITRON Handheld Device Upgrade	\$9,787.50
P	2/23/10	Adamson Police Products	On-Duty Ammunition	\$7,177.50
Q	3/2/10	Brown & Caldwell	DeBenedetti G-Basin Storm Pump Sta.	\$10,000.00
R	3/3/10	Austin International	AMR Project	\$6,546.25
S	3/4/10	Safeco Electric Supply	Security Camera at Substations	\$5,711.55
T	3/5/10	All Air Heating & Air Conditioning	Electric Utility HVAC Replacement	\$5,559.35
U	3/22/10	HD Supply Portland	Electric Inventory	\$10,603.13
V	3/16/10	Impact Office Products	20# Bond White Paper, 8.5X11	\$5,044.26
W	3/18/10	Ditch Witch Equipment Co.	Hydraulic Boom Extension	\$8,232.75
X	3/19/10	Keystone Ridge Designs	Ease Lodi Avenue Street Furnishings	\$5,676.48
Y	3/25/10	ICR Refrigeration Inc.	City Hall Chiller Compressor Replacement	\$8,500.00
Z	3/25/10	One Source Distributors	Electric Inventory	\$8,320.67

APPROVED: \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

AA	3/29/10	AEP NA	Equip 2 Police Units w/Emergency Vehicle Equipment	\$17,059.06
BB	3/30/10	Platt Electric	Zupo Field	\$6,173.65
CC	3/31/10	Tri-American, Inc.	Hot Applied Crack Fill Material	\$5,024.25

**FISCAL IMPACT:** Varies by project. All purchases were budgeted in the 2009-2010 Financial Plan.

**FUNDING:** Funding as indicated on Exhibits.

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Kirk Evans, Management Analyst

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**EXHIBIT A**

**RECOMMENDATION FOR CONTRACT AWARD**

---

**PROJECT NAME:** Kettleman Gap Project  
**DEPARTMENT:** Public Works Department  
**CONTRACTOR** Mark Thomas & Co.  
**AWARD AMOUNT:** \$18,000.00  
**DATE OF RECOMMENDATION:** 1-5-10

---

**BIDS OR PROPOSALS RECEIVED:**  
Mark Thomas & Co. \$18,000.00

**“NO BID” or NO RESPONSE RECEIVED:**

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

The Kettleman Lane Gap Closure project was completed in 2006 and consisted of improving Kettleman Lane (State Highway 12) from Lower Sacramento Road to Ham Lane, and from Stockton Street to Cherokee Lane. The improvements include widening the westbound direction of Kettleman Lane from Lakeshore Drive to Tienda Drive. In order to widen this portion of Kettleman Lane, the City worked with Mark Thomas & Co. to obtain dedications from adjacent property owners.

Staff is now having Mark Thomas & Co. provide right-of way maps, legal descriptions and monumentation so that these dedications can now be transferred from the City to Caltrans

**FUNDING:**

Prepared by: Rebecca Arieda-Yadav

Title: Management Analyst

Reviewed by: 

**EXHIBIT B**

**RECOMMENDATION FOR CONTRACT AWARD**

---

**PROJECT NAME:** Traffic cabinet Spare  
**DEPARTMENT:** PUBLIC WORKS, STREETS & DRAINAGE  
**CONTRACTOR** ECONOLITE CONTROL PRODUCTS  
**AWARD AMOUNT:** \$8,841.38  
**DATE OF RECOMMENDATION:** February 4, 2010

---

**BIDS OR PROPOSALS RECEIVED:**  
Econolite Control Products Inc. \$8,841.38

**“NO BID” or NO RESPONSE RECEIVED:**  
Sole supplier

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

This is a sole supplier for the City of Lodi traffic signal cabinets. This sole supplier was approved by council action on April 15, 1998. It is policy to have at least one cabinet in inventory in case of vehicle accident or catastrophic signal failures.

**FUNDING:** Capitol Traffic Signal Maintenance 325051.7706

Prepared by: Curtis Juran   
Title: Streets & Drainage Superintendent  
Reviewed by: 

**EXHIBIT C**

**RECOMMENDATION FOR CONTRACT AWARD**

---

**PROJECT NAME:** Antivirus protection  
**DEPARTMENT:** Internal Services/ISD  
**CONTRACTOR** Angus-Hamer  
**AWARD AMOUNT:** \$5,752.00  
**DATE OF RECOMMENDATION:** 1/11/10

---

**BIDS OR PROPOSALS RECEIVED:**  
Angus-Hamer \$5,752.00

**"NO BID" or NO RESPONSE RECEIVED:**

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

Angus-Hamer is an authorized Symantec dealer through whom the City purchases the annual antivirus license

**FUNDING:** 123001.7359

Prepared by: Steve Mann

Title: IS Manager

Reviewed by: 

**EXHIBIT D**

**REQUEST FOR CONTRACT AWARD**

---

**PROJECT NAME:** Water/Wastewater Division Deep Well Valve and Needle Valve Purchase (Well #18 and Well #27)

**DEPARTMENT:** Public Works – Water Services Division

**CONTRACTOR** Hajoca Corp - Buttes/Center State Pipe & Supply

**AWARD AMOUNT:** \$9,771.42

**DATE OF REQUEST:** January 11, 2010

---

**BIDS OR PROPOSALS RECEIVED:**

Buttes/Center State Pipe & Supply: for purchase of (2) 6" Angle Deepwell pump valves, 3-3/8" Needle valves	\$9,771.42
Ferguson Waterworks: Same as above	\$10,094.31
Pace Supply: Same as above	\$10,061.51

**"NO BID" or NO RESPONSE RECEIVED:**

N/A

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

The Water Services Division needs to purchase two (2) deep well pump valves. These valves control how fast the water from the well enters the water system. A heat tape warming system shorted out at Well #18 during a recent freeze, causing the valve to crack. This existing well is out of operation until the valve is replaced. The second angle deep well pump valve (or Cla-val) is for the upcoming construction of Well #27 at Century Blvd and Heavenly Way in DeBenedetti Park.

**FUNDING:** 180453.7719 Valve for Well #18  
182463.1831.2000 Valve for Well #27  
180453.7719 Strainer/Needle Valve Assy.

Prepared by: Charles E. Swimley, Jr.

Title: Water Services Manager

Reviewed by: 

Purchase Order No. 19120

# RECOMMENDATION FOR CONTRACT AWARD

---

**PROJECT NAME:** Well #4R Back-up Generator Repairs  
**DEPARTMENT:** Public Works, Water Services Division  
**CONTRACTOR:** Holt of California  
**AWARD AMOUNT:** \$19,395.00  
**DATE OF RECOMMENDATION:** January 12, 2010

---

**BIDS OR PROPOSALS RECEIVED:**  
Holt of California \$19,395.00

**"NO BID" or NO RESPONSE RECEIVED:**  
N/A

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

Well #4R recently experienced a back-up generator engine failure rendering the generator inoperable. The 1996 Caterpillar Model 3400 12 cylinder diesel engine was found to have water in the oil. This well provides the primary source of potable water to the City's 1MG storage tank located on Thurman Street and has this backup generator power in the event of power failures. It is recommended this engine be repaired as soon as possible. Holt of California is the local authorized repair dealer for Caterpillar.

**FUNDING:** 180453.7333

Prepared by: Dennis J. Callahan

Title: Fleet & Facilities Manager

Reviewed by: 

Purchase Order No. 19128

# REQUEST FOR CONTRACT AWARD

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PROJECT NAME: Residential Water Meter Purchase  
DEPARTMENT: Public Works  
CONTRACTOR: National Meter and Automation, Inc.  
AWARD AMOUNT: \$11,946.19  
DATE OF RECOMMENDATION: January 15, 2010

---

**BIDS OR PROPOSALS RECEIVED:**

National Meter and Automation, Inc. \$11,946.19

“NO BID” or NO RESPONSE RECEIVED:  
N/A

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

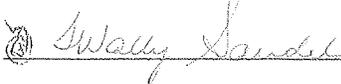
Public Works staff has identified approximately 75 additional water meters that need to be installed that were not captured by the three previous phases of the water meter projects on homes constructed after 1992. These meter installations are scheduled to start comparative billing in the next month or two in accordance with the State mandate.

National Meter and Automation, Inc. has provided meters for previous projects awarded through the competitive bid process. To maintain consistency and expedite delivery, staff recommends purchasing the meters from National Meter and Automation, Inc.

FUNDING: 181456.1831.2100

Prepared by: Kevin Gaither

Title: Water Services Technician

Reviewed by:  Wally Sandel

Purchase Order No. ~~18875~~  
19144



**RECOMMENDATION FOR CONTRACT AWARD**

---

**PROJECT NAME:** Emergency Purchase of On-Duty Ammunition  
**DEPARTMENT:** Police  
**CONTRACTOR** Smalley's Wholesale Inc.  
**AWARD AMOUNT:** \$9,586.31  
**DATE OF RECOMMENDATION:** 01/26/10

---

**BIDS OR PROPOSALS RECEIVED:**  
Smalley's Wholesale, Inc. \$9,586.31

**“NO BID” or NO RESPONSE RECEIVED:**  
Emergency Purchase of Ammunition

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

Smalley's is one of two suppliers of ammunition used by the police department. The primary reason we purchase from Smalleys is because they are a local company (Manteca) that provides free delivery saving hundreds of dollars on shipping and handling fees. The department was running extremely low on duty ammunition and training ammunition and after contacting both of our regular suppliers, Smalleys was the only supplier offering free deliver that had the ammunition in stock. A system for tracking ammunition monthly has been implemented to avoid any future emergency purchases of ammo.

**FUNDING:** 101031.7306

Prepared by: Jeanie Biskup

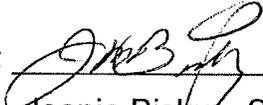


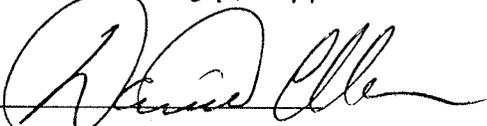
## CITY OF LODI - Memorandum

**DATE:** January 26, 2010  
**TO:** David Main, Chief of Police  
**FROM:** Jeanie Biskup  
**SUBJECT:** Exception to Bidding Procedure (City Code Section 3.20.070)

Approval is requested for the attached requisition/purchase order over \$500.00 (which is not subject to formal bid or contract procedure) because:

- The supplier is a "Sole Supplier"
- This is an emergency and there is insufficient time to go to bid
- Other:

Requested by:   
Jeanie Biskup, Support Services Manager

Approved by:   
David Main, Chief of Police

# RECOMMENDATION FOR CONTRACT AWARD

---

**PROJECT NAME:** East Lodi Avenue Street Furnishings  
**DEPARTMENT:** PUBLIC WORKS, STREETS & DRAINAGE  
**CONTRACTOR** Keystone Ridge Designs  
**AWARD AMOUNT:** \$18,508.18  
**DATE OF RECOMMENDATION:** January 14, 2010

---

**BIDS OR PROPOSALS RECEIVED:**  
Keystone Ridge Designs (sole supplier) \$18,508.18

**“NO BID” or NO RESPONSE RECEIVED:**

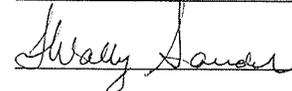
**BACKGROUND INFORMATION & BASIS FOR AWARD:**

These items are part of the East Lodi Avenue street improvements design but are not part of the contract. The funding for this purchase will come from the Streets & Drainage Fund, which will be reimbursed by the Workforce Housing Reward (WFH) Grant from the State Department of Housing and Community Development (HCD).

**FUNDING:** Streets & Drainage Fund: 3215031 to be reimbursed by the Workforce Housing Reward (WFH) Grant from the State Department of Housing and Community Development (HCD).

Prepared by: Curtis Juran 

Title: Assistant Streets & Drainage Manager

Reviewed by: Wally Sanders 

Purchase Order No. 19146

**EXHIBIT I**

**RECOMMENDATION FOR CONTRACT AWARD**

---

**PROJECT NAME:** Model Maintenance and Engineering Analysis Training with Windmil Solutions

**DEPARTMENT:** Electric Utility

**CONTRACTOR** R. W. Beck Inc.

**AWARD AMOUNT:** \$10,900.00

**DATE OF RECOMMENDATION:** 01- 05-10

---

**BIDS OR PROPOSALS RECEIVED:**  
Sole Provider

**“NO BID” or NO RESPONSE RECEIVED:**

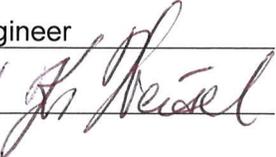
**BACKGROUND INFORMATION & BASIS FOR AWARD:**

The software, Milsoft Solutions is already purchased with three physical password keys ( one is already received and the two are on their way). The Power System Model is constructed by R.W. Beck and the training will be given by them. Once EUD members are trained with the software, they will maintain the model and perform the engineering analysis including the protection coordination, fault calculations, load flow/voltage drop, and equipment placement (particularly capacitor banks)

**FUNDING:** 160612.7369

Prepared by: Weldat Haile

Title: Senior Power Engineer

Reviewed by:  

# REQUEST FOR CONTRACT AWARD

---

**PROJECT NAME:** Asset Management Software Integration Support  
**DEPARTMENT:** Public Works  
**CONTRACTOR** Websoft Developers, Inc.  
**AWARD AMOUNT:** \$7,560.00  
**DATE OF RECOMMENDATION:** February 4, 2010

---

**BIDS OR PROPOSALS RECEIVED:**

Websoft Developers, Inc. \$7,560

**"NO BID" or NO RESPONSE RECEIVED:**  
N/A

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

Public Works staff has completed Phase 1 of the implementation of new Computerized Maintenance Management Software (CMMS) in order to comply with the Sewer System Management Plan (SSMP). Some integration and implementation of GIS functionality and abilities is required for phase 2 of the CMMS.

Websoft Developers, Inc. has performed previous integration and implementation services for Public Works CAD/GIS projects and is already familiar with our systems. In an effort to maintain consistency with previous work and to expedite implementation in the most cost effective manner, staff is recommending contracting this work with Websoft Developers Inc.

**FUNDING:** 180570.7323 \$7,560

Prepared by: Kevin Gaither

Title: Water Services Technician

Reviewed by: Chapman

Purchase Order No. 19162

## RECOMMENDATION FOR CONTRACT AWARD

---

PROJECT NAME: Traffic cabinet Spare  
DEPARTMENT: PUBLIC WORKS, STREETS & DRAINAGE  
CONTRACTOR: ECONOLITE CONTROL PRODUCTS  
AWARD AMOUNT: \$15,109.73  
DATE OF RECOMMENDATION: February 4, 2010

---

BIDS OR PROPOSALS RECEIVED:  
Econolite Control Products Inc. \$15,109.73

“NO BID” or NO RESPONSE RECEIVED:  
Sole supplier

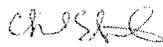
### BACKGROUND INFORMATION & BASIS FOR AWARD:

This is a sole supplier for the City of Lodi traffic signal cabinets. This sole supplier was approved by council action on April 15, 1998. It is policy to have at least one cabinet in inventory in case of vehicle accident or catastrophic signal failures.

FUNDING: Streets & Drainage Vehicle Replacement Fund 325051.7706

Prepared by: Curtis Juran

Title: Streets & Drainage Superintendent

Reviewed by: 

## RECOMMENDATION FOR CONTRACT AWARD

---

**PROJECT NAME:** The City of Lodi-Community Activity Guide/Spring/Summer 2010  
**DEPARTMENT:** Division of Arts & Culture/Community Center & Parks & Rec Department  
**CONTRACTOR** Casey Printing  
**AWARD AMOUNT:** \$7,898.44  
**DATE OF RECOMMENDATION:** January 28, 2010

---

**BIDS OR PROPOSALS RECEIVED:**

Casey Printing	\$7,898.44	Complete job including tax
Commerce Printing	\$7,870.00	Tax not included
Folgers Graphics	\$7,425.00	Tax not included

**"NO BID" or NO RESPONSE RECEIVED:**

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

XXXXXX offers a complete production and a high quality product at the lowest competitive price.

**FUNDING:**345026.7301  
 346011.7301

Prepared by: Diane C. Amaral

Title: Program Coordinator

Reviewed by: 

Purchase Order No. 19216

# RECOMMENDATION FOR CONTRACT AWARD

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PROJECT NAME: Vacuum Truck Auxiliary Engine Replacement  
DEPARTMENT: Public Works  
CONTRACTOR: Pape Machinery  
AWARD AMOUNT: \$17,835.00  
DATE OF RECOMMENDATION: February 1, 2010

---

**BIDS OR PROPOSALS RECEIVED:**

Pape Machinery	Tier III 4.5L 4 cyl	\$17,835.00
Cummins West	Tier III 4.5L 4 cyl	\$21,284.04
Pape Machinery	Tier III 6.8L 6 cyl	\$23,442.00
MME	Tier III 6 cyl	\$25,171.52

“NO BID” or NO RESPONSE RECEIVED:

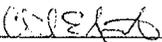
**BACKGROUND INFORMATION & BASIS FOR AWARD:**

Public Works Vacuum Truck 04-039's auxiliary engine is a Tier 0 diesel, which as of January 1, 2010 is not allowed to operate in California (per California Air Resources Board Portable Rule). The costs reflected above include only the purchase price for a replacement engine that is compliant with the new CARB rule. Fleet Services staff will install this new engine to extend the life of this truck by 2 years. After 2 years, this engine will be removed and installed on Truck 04-038 to replace that unit's Tier 1 engine and extend its useful life. Truck 04-039's main function currently is storm line maintenance, it is also the only backup truck for the sewer maintenance performed by Truck 04-038.

FUNDING: 1711201

Prepared by: Randy Laney

Title: Fleet Services Supervisor

Reviewed by: 

# RECOMMENDATION FOR CONTRACT AWARD

---

PROJECT NAME: Well 4R Back-Up Generator Repairs  
 DEPARTMENT: Public Works  
 CONTRACTOR Holt of California  
 AWARD AMOUNT: \$10,604.82  
 DATE OF RECOMMENDATION: February 10, 2010

---

BIDS OR PROPOSALS RECEIVED:  
 Holt of California \$10,604.82

“NO BID” or NO RESPONSE RECEIVED:  
 N/A

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

This purchase order is required to fund additional repairs found necessary as part of the original work to repair the 1996 Caterpillar Model 3400 12 cylinder diesel engine. The additional work includes a replacement radiator and rod and main bearing replacements. This cost was not anticipated in the original estimate or purchase order (P.O. 19128-000 OP)

FUNDING:  
 180453.7719

Prepared by: Charlie Swimley

Title: Deputy Public Works Director -  
 Utilities

Reviewed by: 

# RECOMMENDATION FOR CONTRACT AWARD

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**PROJECT NAME:** ITRON Handheld Device Upgrade  
**DEPARTMENT:** Electric Utility  
**CONTRACTOR** National Meter & Automation, Inc.  
**AWARD AMOUNT:** \$9,787.50  
**DATE OF RECOMMENDATION:** February 16, 2010

---

**BIDS OR PROPOSALS RECEIVED:**  
National Meter & Automation, Inc. \$9,787.50

**"NO BID" or NO RESPONSE RECEIVED:**

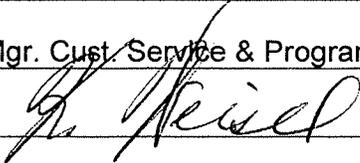
**BACKGROUND INFORMATION & BASIS FOR AWARD:**

The Electric Utility Department annually has its ITRON meter reading handheld devices serviced, maintained and upgraded to accommodate technology changes. This request represents the annual service upgrade for the utility's meter reading handheld devices.

**FUNDING:** 160621

Prepared by: Rob Lechner \_\_\_\_\_

Title: Mgr. Cust. Service & Programs \_\_\_\_\_

Reviewed by:  \_\_\_\_\_

## RECOMMENDATION FOR CONTRACT AWARD

---

**PROJECT NAME:** On-Duty Ammunition  
**DEPARTMENT:** Police  
**CONTRACTOR** Adamson Police Products  
**AWARD AMOUNT:** \$7,177.50  
**DATE OF RECOMMENDATION:** 02/23/10

---

**BIDS OR PROPOSALS RECEIVED:**  
Adamson Police Products \$7,177.50

**“NO BID” or NO RESPONSE RECEIVED:**  
No Bid

### BACKGROUND INFORMATION & BASIS FOR AWARD:

Adamson Police Products has been the main supplier of ammunition for five years offering the lowest price for the quality of 40 caliber ammunition used while officers are on duty. There is an overall shortage of ammunition in California and companies offering SW 180 grain duty ammunition in bulk and most require that the purchaser have the items shipped. Adamson offer continues to offer the lowest price and will permit staff to pick up the ammunition in Hayward without additional cost of fees saving hundreds of dollars for the City.

**FUNDING:** 101031.7306

Prepared by: Jeanie Biskup

Title: Management Analyst



## CITY OF LODI - *Memorandum*

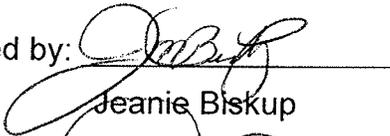
DATE: February 23, 2010  
TO: Chief David Main  
FROM: Jeanie Biskup  
SUBJECT: Exception to Bidding Procedure (City Code Section 3.20.070)

---

Approval is requested for the attached requisition/purchase order over \$500.00 (which is not subject to formal bid or contract procedure) because:

- The supplier is a "Sole Supplier"
- This is an emergency and there is insufficient time to go to bid
- Other: Supplier of on-duty ammunition for 5 years and continues to offer lowest prices.

Requested by: \_\_\_\_\_

  
Jeanie Biskup

Approved by: \_\_\_\_\_

  
David Main, Chief of Police

**EXHIBIT Q**

**RECOMMENDATION FOR CONTRACT AWARD**

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**PROJECT NAME:** DeBenedetti (G Basin) Storm Pump Station  
**DEPARTMENT:** Public Works Engineering  
**CONTRACTOR** Brown and Caldwell Environmental Engineers and Consultants  
**AWARD AMOUNT:** 10,000  
**DATE OF RECOMMENDATION:** 12/23/09

---

**BIDS OR PROPOSALS RECEIVED:**

One proposal was received from Brown and Caldwell. A second proposal was requested from West Yost and Associates but none was submitted.

**"NO BID" or NO RESPONSE RECEIVED:**

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

The professional services provided were for the development of a design services request for proposal for the design of the new storm drain pump station located at DeBenedetti (G Basin) Park. Design proposals in response to the RFP are expected this month.

**FUNDING:** Stom Drain Impact Mitigation Fees (173)

Prepared by: Wally Sandelin

Title: Public Works Director

Reviewed by: *Wally Sandelin*

**EXHIBIT R**

**RECOMMENDATION FOR CONTRACT AWARD**

---

**PROJECT NAME:** AMR Project  
**DEPARTMENT:** Electric Utility  
**CONTRACTOR** Austin International  
**AWARD AMOUNT:** \$6,546.25  
**DATE OF RECOMMENDATION:** 3-2-10

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**BIDS OR PROPOSALS RECEIVED:**

Austin International - \$17 per meter	\$6,546.25
General Pacific - 42.87 per meter	\$12,861.00

**"NO BID" or NO RESPONSE RECEIVED:**

Texas Metering

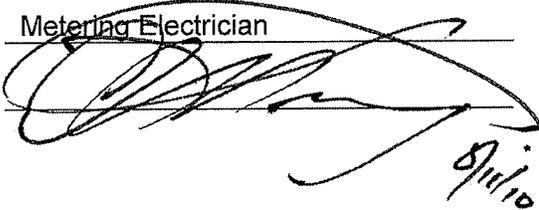
**BACKGROUND INFORMATION & BASIS FOR AWARD:**

Retrofit fom 2s meters with Ert radios; test refurbish and return to EUD

**FUNDING:** Metering

Prepared by: Ken Berg \_\_\_\_\_

Title: Metering Electrician \_\_\_\_\_

Reviewed by:  \_\_\_\_\_

Purchase Order No. 19277

**RECOMMENDATION FOR CONTRACT AWARD**

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PROJECT NAME: Security Camera at substations

DEPARTMENT: ELECTRIC UTILITY

CONTRACTOR: Safeco electric supply

AWARD AMOUNT: \$5,711.55

DATE OF RECOMMENDATION: 02-03-2010

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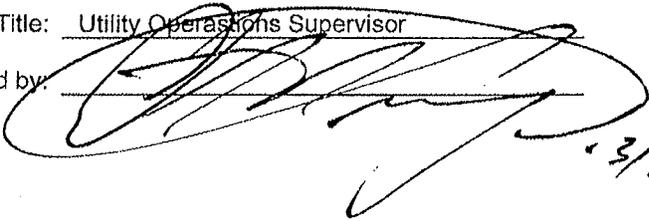
**BIDS OR PROPOSALS RECEIVED:**

Safeco Electric Supply--San Francisco ,California	\$5,711.55
Video Specialist -San Diego, California	\$6,005.61
Cal-Centron - Stockton, California	\$6,056.68

"NO BID" or NO RESPONSE RECEIVED:

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

This equipment is to complete the instalation of the security cameras and accessories at the Killelea and Industrial substations. Recommend Safeco Electric supply because the lowest cost for same equipment.

**FUNDING:**Prepared by: Abel Palacio -Title: Utility Operations SupervisorReviewed by: 

---

Purchase Order No. 192853/4/10

# RECOMMENDATION FOR CONTRACT AWARD

---

**PROJECT NAME:** Electric Utility HVAC Replacement  
**DEPARTMENT:** Public Works  
**CONTRACTOR** All Air Heating & Air Conditioning  
**AWARD AMOUNT:** \$5,559.35  
**DATE OF RECOMMENDATION:** 3/5/10

---

**BIDS OR PROPOSALS RECEIVED:**

All Air Heating and Air Conditioning	\$5,559.35
ICR Refrideration Co.	\$5,700.00
Henderson Bros.	\$6,981.00

**"NO BID" or NO RESPONSE RECEIVED:**  
N/A

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

Replace the old worn out 4 ton American Standard Combination Hvac unit at the MSC EUD Annex with a new 4 ton 14 S.E.E.R Rheem Combination unit. Lowest Bid is the basis for award.

**FUNDING:** 1211017.1825.2250 @ 75% and 164605.8098 @ 25%

Prepared by: John Munoz

Title: Facilities Supervisor

Reviewed by: *Stacy Sanchez*

**RECOMMENDATION FOR CONTRACT AWARD**

---

PROJECT NAME: Electric Inventory  
DEPARTMENT: EUD  
CONTRACTOR HD Supply Portland  
AWARD AMOUNT: \$10,603.13  
DATE OF RECOMMENDATION: March 22, 2010

---

BIDS OR PROPOSALS RECEIVED:  
HD Supply Portland \$10,603.13

“NO BID” or NO RESPONSE RECEIVED:  
Trayer Engineering

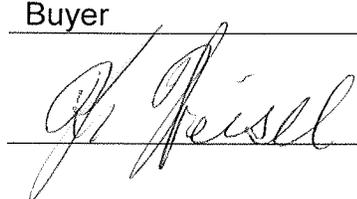
**BACKGROUND INFORMATION & BASIS FOR AWARD:**

These fuses are for the Trayer Switch that the City of Lodi purchases. These fuses are for replacement of fuses that may blow because of a fault current. HD Supply Portland is the only vendor for Cooper fuses.

FUNDING: 160.1496

Prepared by: Randy Lipelt

Title: Buyer

Reviewed by: 

# RECOMMENDATION FOR CONTRACT AWARD

---

PROJECT NAME: 20# Bond White Paper, 8.5x11  
DEPARTMENT: Stores Inventory  
CONTRACTOR Impact Office Products  
AWARD AMOUNT: \$5,044.26  
DATE OF RECOMMENDATION: March 16, 2010

---

**BIDS OR PROPOSALS RECEIVED:**

Impact Office Products	\$5,044.26
The Office City	\$5,174.76
Xerox	\$5,367.90

“NO BID” or NO RESPONSE RECEIVED:

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

This is a routine inventory order to be stored in a controlled climate environment in the Purchasing Division. *This is the final purchase for inventory purposes.*

FUNDING: 100.1447

Prepared by: Sherry R. Moroz *SRM*

Title: Purchasing Technician

Reviewed by: *[Signature]*

## RECOMMENDATION FOR CONTRACT AWARD

---

PROJECT NAME: Hydraulic Boom Extension  
DEPARTMENT: Electric Utility  
CONTRACTOR: Ditch Witch Equipment Co.  
AWARD AMOUNT: \$8,232.75  
DATE OF RECOMMENDATION: March 18, 2010

---

BIDS OR PROPOSALS RECEIVED:  
Ditch Witch Equipment Co. \$8,232.75

"NO BID" or NO RESPONSE RECEIVED:

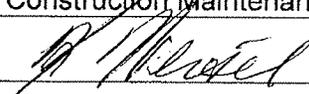
### BACKGROUND INFORMATION & BASIS FOR AWARD:

Our vacuum excavation unit is manufactured by Ditch Witch which makes it compatible only with the new hydraulic boom extension.

### FUNDING:

Prepared by: Barry Fisher

Title: Construction Maintenance Supervisor

Reviewed by: 

## RECOMMENDATION FOR CONTRACT AWARD

---

**PROJECT NAME:** East Lodi Avenue Street Furnishings  
**DEPARTMENT:** PUBLIC WORKS, STREETS & DRAINAGE  
**CONTRACTOR** Keystone Ridge Designs  
**AWARD AMOUNT:** \$5676.48  
**DATE OF RECOMMENDATION:** March 19, 2010

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**BIDS OR PROPOSALS RECEIVED:**  
Keystone Ridge Designs (sole supplier) \$5,676.48

**“NO BID” or NO RESPONSE RECEIVED:**

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

These items are part of the East Lodi Avenue street improvements design but are not part of the construction contract. The funding for this purchase will come from the Streets & Drainage Fund, which will be reimbursed by the Workforce Housing Reward (WFH) Grant from the State Department of Housing and Community Development (HCD).

**FUNDING:** Streets & Drainage Fund: 3215031 to be reimbursed by the Workforce Housing Reward (WFH) Grant from the State Department of Housing and Community Development (HCD).

Prepared by: Curtis Juran

Title: Assistant Streets & Drainage Manager

Reviewed by: 

Purchase Order No. 19146

# RECOMMENDATION FOR CONTRACT AWARD

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**PROJECT NAME:** City Hall Chiller Compressor replacement  
**DEPARTMENT:** Public Works  
**CONTRACTOR** ICR Refrigeration Inc.  
**AWARD AMOUNT:** \$8,500.00  
**DATE OF RECOMMENDATION:** 3/25/10

---

**BIDS OR PROPOSALS RECEIVED:**

ICR Refrigeration Inc.	\$8,500.00
Indoor Environmental Services (IES)	\$8,547.00
American Chiller Service Inc.	\$8,887.00

**"NO BID" or NO RESPONSE RECEIVED:**  
N/A

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

ICR will replace defective compressor # 5, 2 electrical contactors, 2 filter driers, recover refrigerant, drain oil and add new oil to the new Carlyle compressor. ICR will also evacuate, pressurize and leak check new compressor at start up.

Lowest Bid is the basis for award.

**FUNDING:** 103511.7331

Prepared by: John Munoz

Title: Facilities Services Supervisor

Reviewed by: *DJ Wally Jankel*

*clm*

**RECOMMENDATION FOR CONTRACT AWARD**

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**PROJECT NAME:** Electric Inventory  
**DEPARTMENT:** Electric  
**CONTRACTOR** One Source Distributors  
**AWARD AMOUNT:** \$8,320.67  
**DATE OF RECOMMENDATION:** March 25, 2010

---

**BIDS OR PROPOSALS RECEIVED:**

One Source Distributors	\$8,320.67
GEXPRO	\$8,508.60
WESCO	\$34,020.26
AZCO	\$8,504.25
HD Supply Benicia	\$8,713.59

**“NO BID” or NO RESPONSE RECEIVED:**

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

These light poles and fixtures will be used for replacement of damaged poles and fixtures already in use. We stock a minimum of three poles, fixtures, and globes in the warehouse. The lead time on these products is 14-16 weeks. One Source Distributors is the low responsible bidder.

**FUNDING:** 160.1496

Prepared by: Randy Lipelt

Title: Buyer

Reviewed  
by: \_\_\_\_\_

Purchase Order No.: 19379



3/26/10

## RECOMMENDATION FOR CONTRACT AWARD

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PROJECT NAME: Equip Two Police Units with Emergency Vehicle Equipment  
DEPARTMENT: Police  
CONTRACTOR: Emergency Vehicle Solutions  
AWARD AMOUNT: \$17,059.06  
DATE OF RECOMMENDATION: 05/03/10

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BIDS OR PROPOSALS RECEIVED:  
Emergency Vehicle Solutions 17,059.06

“NO BID” or NO RESPONSE RECEIVED:

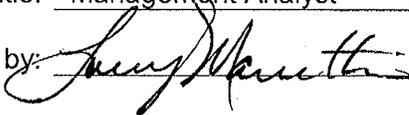
### BACKGROUND INFORMATION & BASIS FOR AWARD:

Emergency Vehicle Solutions in Menlo Park California has equipped Lodi police units for the past several years. The equipment installation and specific installation guidelines set by the department can only be done by a company that specializes in the equipping police units. For the past 6 years EVS has been our sole provider standardizing the installation of equipment for the ease of use for Police Officers, as well as making it easier for City mechanics to work on the vehicles. After years of working with several different companies on the, we have found Emergency Vehicle Solutions a convenient location that meets the needs of the department and provides quality installation and service.

FUNDING: 1201021.7851 subledger 567E and 568 E

Prepared by: Jeanie Biskup

Title: Management Analyst

Reviewed by: 

# RECOMMENDATION FOR CONTRACT AWARD

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PROJECT NAME: Zupo Field (Baseball Lighting).  
DEPARTMENT: EUD  
CONTRACTOR: Platt Electric  
AWARD AMOUNT: \$6,173.65  
DATE OF RECOMMENDATION: 03-30-2010

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**BIDS OR PROPOSALS RECEIVED:**

Platt Electric	\$6,173.65
CED Electric	\$16,358.16

**"NO BID" or NO RESPONSE RECEIVED:**

**BACKGROUND INFORMATION & BASIS FOR AWARD:**

Control panels for the overhead park lighting.

Propose award go to Platt Electric because they were low bid.

**FUNDING:**

Prepared by: David Shulz

Title: Distribution Planner

Reviewed by: 

## RECOMMENDATION FOR CONTRACT AWARD

---

PROJECT NAME: HOT APPLIED CRACK FILL MATERIAL  
DEPARTMENT: PUBLIC WORKS, STREETS & DRAINAGE  
CONTRACTOR TRI-AMERICAN, INC  
AWARD AMOUNT: \$5,024.25  
DATE OF RECOMMENDATION: MARCH 31, 2010

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BIDS OR PROPOSALS RECEIVED:  
TRI-AMERICAN, INC (SOLE SUPPLIER) \$5,024.25

“NO BID” or NO RESPONSE RECEIVED:

### BACKGROUND INFORMATION & BASIS FOR AWARD:

The City of Lodi Streets & Drainage uses this product in daily maintenance for the hot applied asphalt sealer machine for street crack sealing operations. This material brand is not changed due to product compatibility issues.

FUNDING: Streets & Drainage Operating

Prepared by: Curtis Juran 

Title: Streets & Drainage Superintendent

Reviewed by: 



# CITY OF LODI COUNCIL COMMUNICATION

TM

**AGENDA TITLE:** Approve Requests for Proposals and Authorize Advertisement for Municipal Service Center Compressed Natural Gas (CNG) Fueling Station Maintenance Contract and Upgrade of Compressor Control Panel; and Adopt Resolution Approving Purchase of Compressor Parts from GreenField, of Richardson, Texas, and Appropriating Funds (\$22,000)

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Public Works Director

---

**RECOMMENDED ACTION:** Approve Requests for Proposals and authorize advertisement for Municipal Service Center Compressed Natural Gas (CNG) fueling station maintenance contract and upgrade of compressor control panel; and adopt a resolution approving purchase of compressor parts from GreenField, of Richardson, Texas, and appropriating funds in the amount of \$22,000.

**BACKGROUND INFORMATION:** This project, located at the Municipal Service Center (MSC) Compressed Natural Gas (CNG) fueling station, consists of issuing a Request for Proposal (RFP) for a two-year maintenance contract, including the labor to rebuild one of the two existing compressors; issuing a RFP to upgrade one of the existing compressor control panels (either rebuild or replace); and approving the purchase of compressor parts from the original equipment manufacturer, GreenField, as the sole supplier.

The existing MSC CNG fueling station was constructed in two phases, the first in 2002/03 and the second in 2006/07. The initial construction included a 125-horsepower electric motor; reciprocating compressor, which now has over 7,000 hours of accumulated run time; and control panel. The original control panel, also installed in 2002, has failed and is not repairable. The existing compressor is leaking oil and the service contractor advises that it should be rebuilt. In addition, a new or rebuilt control panel is needed, which will eliminate compressor down-time and call-outs as it will automatically allow switching to the second compressor as a backup, as opposed to the manual switching operation required with the existing control panel.

Separating the work into two RFP's and adding the maintenance contract component will allow the City to obtain proposals from firms specializing in the different types of work. Purchasing the parts for the compressor rebuild directly from the original equipment manufacturer will save the City time and money. Lodi Municipal Code Section 3.20.070 authorizes dispensing with bids for purchase of supplies, services or equipment when in the best interest of the City. Staff recommends that Council approve the sole source purchase of the compressor rebuild parts from GreenField, the original equipment manufacturer.

The award of a two-year maintenance contract with the compressor overhaul will offer the greatest value to the City because it allows the contractor the option to amortize the labor for the compressor overhaul

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**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

Approve Requests for Proposals and Authorize Advertisement for Municipal Service Center Compressed Natural Gas (CNG) Fueling Station Maintenance Contract and Upgrade of Compressor Control Panel; and Adopt Resolution Approving Purchase of Compressor Parts from GreenField, of Richardson, Texas, and Appropriating Funds (\$22,000)

May 19, 2010

Page 2

over the two-year contract period. The RFP to upgrade the compressor control panel will provide the option to rebuild it on-site or provide a new unit produced at the factory.

The estimated cost for the compressor rebuild parts is \$22,000; this Council action includes appropriating these funds. The estimated cost for the maintenance contract is \$22,000 per year, which is budgeted in the proposed Fleet Services operating budget for 2010/11. The estimated cost to rebuild or replace the compressor control panel is \$25,000, plus \$20,000 for electrical/installation work, permits and contingencies. These funds will be appropriated upon award of the contract.

The Requests for Proposals are on file in the Public Works Department. The planned RFP opening date is June 15, 2010. The approximate project completion date will be at the end of September 2010.

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

**FUNDING AVAILABLE:** Requested Appropriation: \$22,000  
Federal Transit Administration Grant CA-90-Y736 (FFY 2009) (80%): \$17,600  
Transportation Development Act (20%) funds (125079): \$4,400

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Jordan Ayers  
Deputy City Manager/Internal Services Director

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F. Wally Sandelin  
Public Works Director

Prepared by Dennis J. Callahan, Fleet and Facilities Manager

FWS/DJC/pmf

cc: City Attorney  
Purchasing Officer  
Transportation Manager/Senior Traffic Engineer  
Fleet Supervisor  
Tom Mitchell Engineers and Associates

RESOLUTION NO. 2010-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING  
PURCHASE OF COMPRESSOR PARTS FOR MUNICIPAL  
SERVICE CENTER COMPRESSED NATURAL GAS (CNG)  
FUELING STATION AND FURTHER APPROPRIATING FUNDS

=====

WHEREAS, the reciprocating compressor located at the Municipal Service Center (MSC) Compressed Natural Gas (CNG) fueling station has an accumulated run time of over 7,000 hours and is now leaking oil; the service contractor recommends having it rebuilt; and

WHEREAS, staff recommends separating the work into two Requests for Proposals and purchasing the compressor parts directly from the manufacturer to save the City time and money; and

WHEREAS, GreenField, of Richardson, Texas, is the original manufacturer and sole supplier; and

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the purchase of compressor parts for the Municipal Service Center Compressed Natural Gas (CNG) fueling station from GreenField, of Richardson, Texas, as a sole supplier, in the amount of \$22,000; and

BE IT FURTHER RESOLVED that funds in the amount of \$22,000 be appropriated from Federal Transit Administration Grant CA-90-Y736 (FFY 2009) and Transportation Development Act funds for this purchase.

Dated: May 19, 2010

=====

I hereby certify that Resolution No. 2010-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 19, 2010, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Approving the Purchase of 60,000 Feet of Underground Cable to Pacific Utilities Supply of Pleasant Hill, CA (\$116,251.67) (EUD)

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Interim Electric Utility Director

**RECOMMENDED ACTION:** Adopt a resolution approving the purchase of 60,000 feet of underground cable to Pacific Utilities Supply of Pleasant Hill, CA (\$116,251.67).

**BACKGROUND INFORMATION:** On February 17, 2010, the City Council approved specifications and authorized the advertisement for bids to procure 60,000 feet of #1/0 AWG, 15 kilovolt, ethylene-propylene rubber insulated with concentric neutral, underground cable.

The Electric Utility Department advertised bid documents on March 24, 2010. Four medium voltage cable manufacturers and suppliers requested bid documents. On April 14, 2010, staff received bid proposals with the following results:

Prysmian Cables and Systems USA, Lexington, SC	\$ 134,545.50
HD Supply (Western States Electric), Portland, OR	\$ 141,984.00
The Okonite Company, San Ramon, CA	\$ 119,997.75
Pacific Utilities Supply, Pleasant Hill, CA	<b>\$ 116,251.67</b>

Staff reviewed the proposals and Pacific Utilities Supply of Pleasant Hill provided the lowest bid and complied with the bid documents.

The cable will be used in planned electric distribution system extensions, upgrades, and replacements. Staff recommends the City Council approve the purchase of 60,000 feet of #1/0 AWG, 15kV, EPR-insulated with concentric neutral, underground cable from Pacific Utilities Supply.

**FISCAL IMPACT:** Approximately half of the cost will be recovered from Reynolds Ranch Development Project and the remainder will be for existing system upgrades and replacements.

**FUNDING:** Included in FY 2009-10 Budget Account No. 160651.7713.

\_\_\_\_\_  
Jordan Ayers  
Deputy City Manager

\_\_\_\_\_  
Kenneth A. Weisel  
Interim Electric Utility Director

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

KAW/DB/1st

**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

RESOLUTION NO 2010-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING THE PURCHASE OF 60,000 FEET OF #1/0  
AWG, 15KV, ETHYLENE PROPYLENE RUBBER  
INSULATED UNDERGROUND CONDUCTOR

=====

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on April 14, 2010 at 11:00 a.m., for the purchase of 60,000 feet of #1/0 AWG, 15kV, ethylene propylene rubber insulated underground cable, described in the specifications therefor, approved by the City Council on February 17, 2010; and

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

Pacific Utilities Supply, Pleasant Hill, CA	\$116,251.67
The Okonite Company, San Ramon, CA	\$119,994.75
Prysmian Cables and System USA LLC, Lexington, SC	\$134,545.50
HD Supply (Western States Electric), Portland, OR	\$141,984.00

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the purchase of 60,000 feet of #1/0 15kV ethylene propylene rubber insulated underground conductor from Pacific Utilities Supply, of Pleasant Hill, CA, in the total amount of \$116,251.67.

Dated: May 19, 2010

=====

I hereby certify that Resolution No. 2010- \_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 19, 2010, by the following vote:

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

RANDI JOHL  
City Clerk



# CITY OF LODI COUNCIL COMMUNICATION

TM

**AGENDA TITLE:** Adopt Resolution Approving Purchase of Caterpillar Multi-Terrain Loader with Attachments from Holt of California, of Stockton (\$67,628.14) and Appropriating Funds (\$75,000)

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Public Works Director

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**RECOMMENDED ACTION:** Adopt resolution approving the purchase of a Caterpillar Multi-Terrain Loader with attachments from Holt of California, of Stockton, in the amount of \$67,628.14 and appropriating funds in the amount of \$75,000.

**BACKGROUND INFORMATION:** The current Bob Cat Skid Steer Loader, Unit No. 04-117, was purchased used in 1986 and currently has 958 hours of service logged. This unit has been a primary piece of equipment used for sidewalk work.

This unit is past the life expectancy for this type of equipment and has become obsolete. The unit has a diesel engine that will cause it to be placed out of service by 2012 as it will not meet California Air Resources Board (CARB) compliance for off-road diesel engines. Total repair costs for Unit No. 04-117 are \$10,052, with an additional \$1,719 being spent on preventative maintenance.

The Streets and Drainage Division recommends replacing Unit No. 04-117 with a Caterpillar Multi-Terrain Loader, which will be used in a primary role in sidewalk maintenance. Pavement breaking is a high-effort job that results in repetitive stress injuries, which the new pavement breaker attachment will help mitigate. This new unit will enable the Streets and Drainage Division to perform more work with less physical demands on the maintenance crews. Other attachments included in the purchase are a grapple bucket, landscape tiller and stump grinder. The purchase of a Caterpillar Multi-Terrain Loader would be accomplished under the California Multiple Award Schedule (CMAS). The actual cost of the tractor is \$67,628.14 including tax, plus an additional 2 percent required to be paid to the State for use of the CMAS contract price.

The requested appropriation of \$75,000 includes payment of 2 percent of the purchase price to the State for use of the CMAS contract price and allows for the purchase of amenities necessary to put the unit into service, such as auxiliary or strobe lights, decals, licensing, and radios.

Per Lodi Municipal Code Section 3.20.045, State and Local Agency Contracts, the bidding process may be waived when it is advantageous for the City, with appropriate approval by City Manager and City Council, to use contracts that have been awarded by other California public agencies, provided that their award was in compliance with their formally-adopted bidding or negotiation procedures. Staff recommends purchase of the Caterpillar Loader using CMAS Contract Number 4-09-23-0027A.

---

**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

Adopt Resolution Approving Purchase of Caterpillar Multi-Terrain Loader with Attachments from Holt of California, of Stockton (\$67,628.14) and Appropriating Funds (\$75,000)

May 19, 2010

Page 2

**FISCAL IMPACT:** Replacement of Unit No. 04-117 will save in repair costs, meet CARB requirements in 2012, and create a safer and more efficient working environment for the maintenance crews.

**FUNDING AVAILABLE:** Requested Appropriation: \$75,000  
Street Vehicle Replacement Fund (Measure K) (3251201)

---

Jordan Ayers  
Deputy City Manager/Internal Services Director

---

F. Wally Sandelin  
Public Works Director

Prepared by Curtis Juran, Streets and Drainage Superintendent

FWS/CS/CJ/dsg

cc: Curtis Juran, Streets and Drainage Superintendent  
Dennis Callahan, Fleet and Facilities Manager  
Ray Fye, Tree Operations Supervisor

RESOLUTION NO. 2010-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING  
PURCHASE OF CATERPILLAR MULTI-TERRAIN LOADER WITH  
ATTACHMENTS AND FURTHER APPROPRIATING FUNDS

WHEREAS, the current Bob Cat Skid Steer Loader, Unit No. 04-117, was purchased used in 1986 and currently has 958 hours of service logged; and

WHEREAS, this unit is past the life expectancy for this type of equipment and has become obsolete. The unit has a diesel engine that will cause it to be placed out of service by 2012 as it will not meet California Air Resources Board (CARB) compliance for off-road diesel engines; and

WHEREAS, the purchase of a Caterpillar Multi-Terrain Loader would be accomplished under California Multiple Award Schedule (CMAS) Contract No. 4-09-23-0027A. The actual cost of the tractor is \$67,628.14 including tax, plus an additional 2% required to be paid to the State for use of the CMAS contract price; and

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

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the purchase of a Caterpillar Multi-Terrain Loader with attachments from Holt of California, of Stockton, California, utilizing California Multiple Award Schedule (CMAS) Contract No. 4-09-23-0027A, in the amount of \$67,628.14, including tax, plus an additional 2% to be paid to the State for use of the CMAS contract price; and

BE IT FURTHER RESOLVED that funds in the amount of \$75,000 be appropriated from the Street Vehicle Replacement Fund (Measure K) for this purchase.

Dated: May 19, 2010

I hereby certify that Resolution No. 2010-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 19, 2010, by the following vote:

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

RANDI JOHL  
City Clerk



# CITY OF LODI COUNCIL COMMUNICATION

TM

**AGENDA TITLE:** Adopt Resolution Awarding Contract for 2010 Storm Drain Improvements Project to Mozingo Construction, Inc., of Oakdale (\$222,900) and Appropriating Funds (\$268,000)

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Adopt a resolution awarding the contract for the 2010 Storm Drain Improvements Project to Mozingo Construction, Inc., of Oakdale, in the amount of \$222,900 and appropriating funds in the amount of \$268,000.

**BACKGROUND INFORMATION:** This project consists of installing 2,570 linear feet of storm drain piping, four storm drain manholes, and other incidental and related work, in Charleston Way, Normandy Lane, Hutchins Street, and Elm Street (Exhibit A).

The areas served by the proposed storm drain improvements have experienced frequent flooding problems during rain storms due to undersized storm drain pipes (Elm Street) and the lack of storm drain pipes (Charleston Way, Normandy Lane, and Hutchins Street). The proposed project will improve storm drainage conveyance capacity in these areas and will reduce the frequency of flooding in the area.

The storm drain improvements are expected to be completed in summer 2010. Following completion of the Elm Street storm drain improvements, Elm Street from Hutchins Street to Church Street is scheduled to receive an asphalt overlay as soon as funding is available.

The requested appropriation amount includes the cost of construction, engineering, construction inspection, and project contingencies.

Plans and specifications for this project were approved on March 3, 2010. The City received the following 18 bids for this project on March 31, 2010.

<b>Bidder</b>	<b>Location</b>	<b>Bid</b>
Engineer's Estimate		\$ 261,025.00
Mozingo Construction, Inc.	Oakdale	\$ 222,900.00
G & L Brock Construction	Stockton	\$ 238,546.00
D.A. Wood Construction	Empire	\$ 249,900.00
Clyde Wheeler Pipeline	Oakdale	\$ 254,896.50
Teichert Construction	Stockton	\$ 270,939.00
Jonas & Associates	Martinez	\$ 276,179.00
Flowline Contractors	Sacramento	\$ 286,719.00

APPROVED: \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

Adopt Resolution Awarding Contract for 2010 Storm Drain Improvements Project to  
 Mozingo Construction, Inc., of Oakdale (\$222,900) and Appropriating Funds (\$268,000)  
 May 19, 2010  
 Page 2

Bidder	Location	Bid
Knife River Construction	Stockton	\$ 288,328.00
Martin General Engineering J & M, Inc.	Rancho Cordova Livermore	\$ 292,739.00 \$ 306,595.00
Star-Ray Pipeline	El Dorado Hills	\$ 308,677.00
Carl Crutchfield Construction	Stockton	\$ 329,722.00
Preston Pipeline	Milpitas	\$ 349,856.00
Asta Construction	Rio Vista	\$ 373,013.00
Platinum Pipeline	Dublin	\$ 376,232.00
Ford Construction	Lodi	\$ 387,168.00
Emard Engineering	Loomis	\$ 396,598.74
Tidelands Construction	Brentwood	\$ 490,674.00

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

**FUNDING AVAILABLE:** Requested Appropriation:  
 Wastewater Funds (171) \$268,000

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Jordan Ayers  
 Deputy City Manager/Internal Services Director

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F. Wally Sandelin  
 Public Works Director

Prepared by Lyman Chang, Senior Civil Engineer

FWS/LC/pmf

Attachment

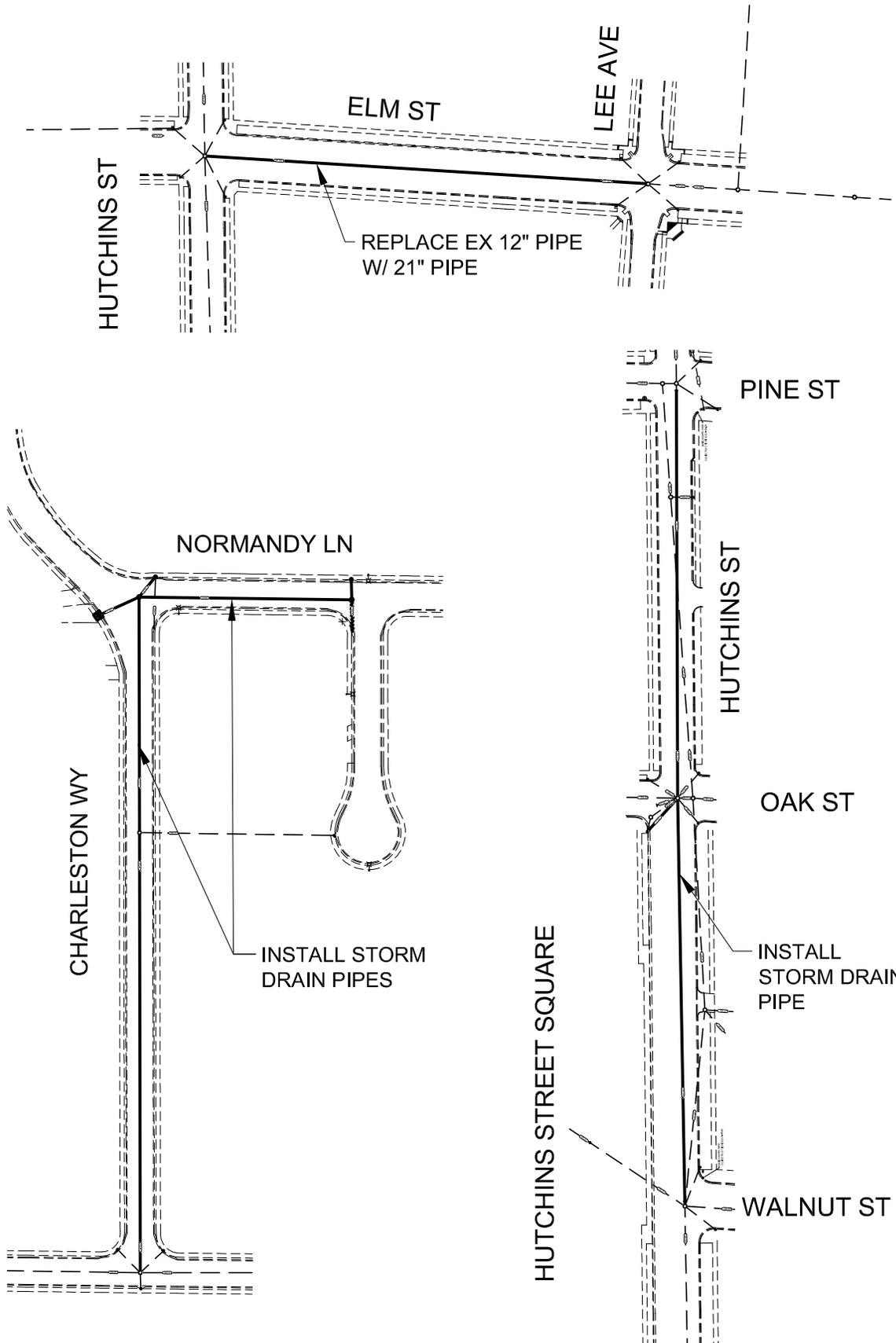
cc: City Attorney  
 Purchasing Officer  
 Deputy Public Works Director Swimley  
 Senior Civil Engineer Chang  
 Management Analyst



# CITY OF LODI

PUBLIC WORKS DEPARTMENT

## 2010 Storm Drain Improvements Exhibit A



CITY OF LODI, CALIFORNIA

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

WITNESSETH:

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

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

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

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

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

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

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

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

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

Perform the work necessary to trench and install 2,570 LF of storm drain pipes, 4 storm drain manholes, and other incidental and related work, all as shown on the plans and specifications for "2010 Storm Drain Improvements".

CONTRACT ITEMS

ITEM NO.	DESCRIPTION	UNIT	EST'D. QTY	UNIT PRICE	TOTAL PRICE
1.	Traffic Control	LS	1	\$ 15,000.00	\$15,000.00
2.	Excavation Safety	LS	1	\$ 2,500.00	\$ 2,500.00
3.	Abandon Catch Basin	EA	5	\$ 200.00	\$ 1,000.00
4.	Abandon Storm Drain Pipe	LS	1	\$ 5,500.00	\$ 5,500.00
5.	Abandon Storm Drain Manhole	EA	5	\$ 250.00	\$ 1,250.00
6.	Install 12-Inch Storm Drain Pipe	LF	686	\$ 50.00	\$34,300.00
7.	Install 15-Inch Storm Drain Pipe	LF	547	\$ 50.00	\$27,350.00
8.	Install 21-Inch Storm Drain Pipe	LF	466	\$ 70.00	\$32,620.00
9.	Install 30-Inch Storm Drain Pipe	LF	876	\$ 90.00	\$78,840.00
10.	Install Side Inlet Catch Basin	EA	4	\$ 1,400.00	\$ 5,600.00
11.	Replace Concrete Flatwork	SF	65	\$ 40.00	\$ 2,600.00

ITEM NO.	DESCRIPTION	UNIT	EST'D. QTY	UNIT PRICE	TOTAL PRICE
12.	Rebuild Manhole Bench	EA	2	\$ 1,500.00	\$ 3,000.00
13.	Install 48-Inch Manhole	EA	4	\$ 3,335.00	\$13,340.00
TOTAL					\$222,900.00

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

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

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

ARTICLE VIII - The Contractor agrees to commence work pursuant to this contract within 15 calendar days after the City Manager has executed the contract and to diligently prosecute to completion within 28 WORKING DAYS.

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

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

CONTRACTOR:

CITY OF LODI

\_\_\_\_\_

By: \_\_\_\_\_

Blair King  
City Manager

By: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_

Title

\_\_\_\_\_

City Clerk

(CORPORATE SEAL)

Approved As To Form

\_\_\_\_\_

D. Stephen Schwabauer  
City Attorney



A RESOLUTION OF THE LODI CITY COUNCIL AWARDING  
CONTRACT FOR 2010 STORM DRAIN IMPROVEMENTS PROJECT  
AND FURTHER APPROPRIATING FUNDS

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on March 31, 2010, at 11:00 a.m. for the 2010 Storm Drain Improvements Project described in the plans and specifications therefore approved by the City Council on March 3, 2010; and

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

<b>Bidder</b>	<b>Bid</b>
Mozingo Construction, Inc.	\$ 222,900.00
G & L Brock Construction	\$ 238,546.00
D.A. Wood Construction	\$ 249,900.00
Clyde Wheeler Pipeline	\$ 254,896.50
Teichert Construction	\$ 270,939.00
Jonas & Associates	\$ 276,179.00
Flowline Contractors	\$ 286,719.00
Knife River Construction	\$ 288,328.00
Martin General Engineering	\$ 292,739.00
J & M, Inc.	\$ 306,595.00
Star-Ray Pipeline	\$ 308,677.00
Carl Crutchfield Construction	\$ 329,722.00
Preston Pipeline	\$ 349,856.00
Asta Construction	\$ 373,013.00
Platinum Pipeline	\$ 376,232.00
Ford Construction	\$ 387,168.00
Emard Engineering	\$ 396,598.74
Tidelands Construction	\$ 490,674.00

WHEREAS, staff recommends awarding the contract for the 2010 Storm Drain Improvements Project to the low bidder, Mozingo Construction, Inc., of Oakdale, California.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does award the contract for the 2010 Storm Drain Improvements Project to the low bidder, Mozingo Construction, Inc., of Oakdale, California, in the amount of \$222,900; and

BE IT FURTHER RESOLVED that funds in the amount of \$268,000 be appropriated from the Wastewater Fund for this project.

Dated: May 19, 2010

I hereby certify that Resolution No. 2010-\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 19, 2010, by the following vote:

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

RANDI JOHL  
City Clerk



# CITY OF LODI COUNCIL COMMUNICATION

TM

**AGENDA TITLE:** Adopt Resolution Awarding Contract for 2010 Street Improvements Project to Granite Construction Company, of Stockton (\$886,885) and Appropriating Funds (\$1,064,262)

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Adopt a resolution awarding the contract for the 2010 Street Improvements project to Granite Construction Company, of Stockton, in the amount of \$886,885 and appropriating funds in the amount of \$1,064,262.

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

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

Plans and specifications for this project were approved on April 7, 2010. The City received the following nine bids for this project on May 4, 2010.

Bidder	Location	Bid
Engineer's Estimate		\$ 1,024,958.00
Granite Construction	Stockton	\$ 886,885.00
G & L Brock Construction	Stockton	\$ 928,141.58
Teichert Construction	Stockton	\$ 944,340.00
George Reed, Inc.	Modesto	\$ 1,012,518.95
Knife River Construction	Stockton	\$ 1,042,630.95
Bay Cities Paving & Grading	Concord	\$ 1,048,300.61
Top Grade Construction	Livermore	\$ 1,050,765.70
A.M. Stephens Construction	Lodi	\$ 1,189,374.00
*Vintage Paving Company	Winters	\$ 1,031,567.02

\* Vintage Paving Company did not submit Receipt of Addendum No. 1.

APPROVED: \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

Adopt Resolution Awarding Contract for 2010 Street Improvements Project to Granite Construction Company, of Stockton (\$886,885) and Appropriating Funds (\$1,064,262)  
May 19, 2010  
Page 2

**FISCAL IMPACT:** There will be decrease in street maintenance costs for the newly improved street sections.

**FUNDING AVAILABLE:** Requested Appropriation:  
Proposition 1B Fund: \$1,064,262

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Jordan Ayers  
Deputy City Manager/Internal Service Director

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F. Wally Sandelin  
Public Works Director

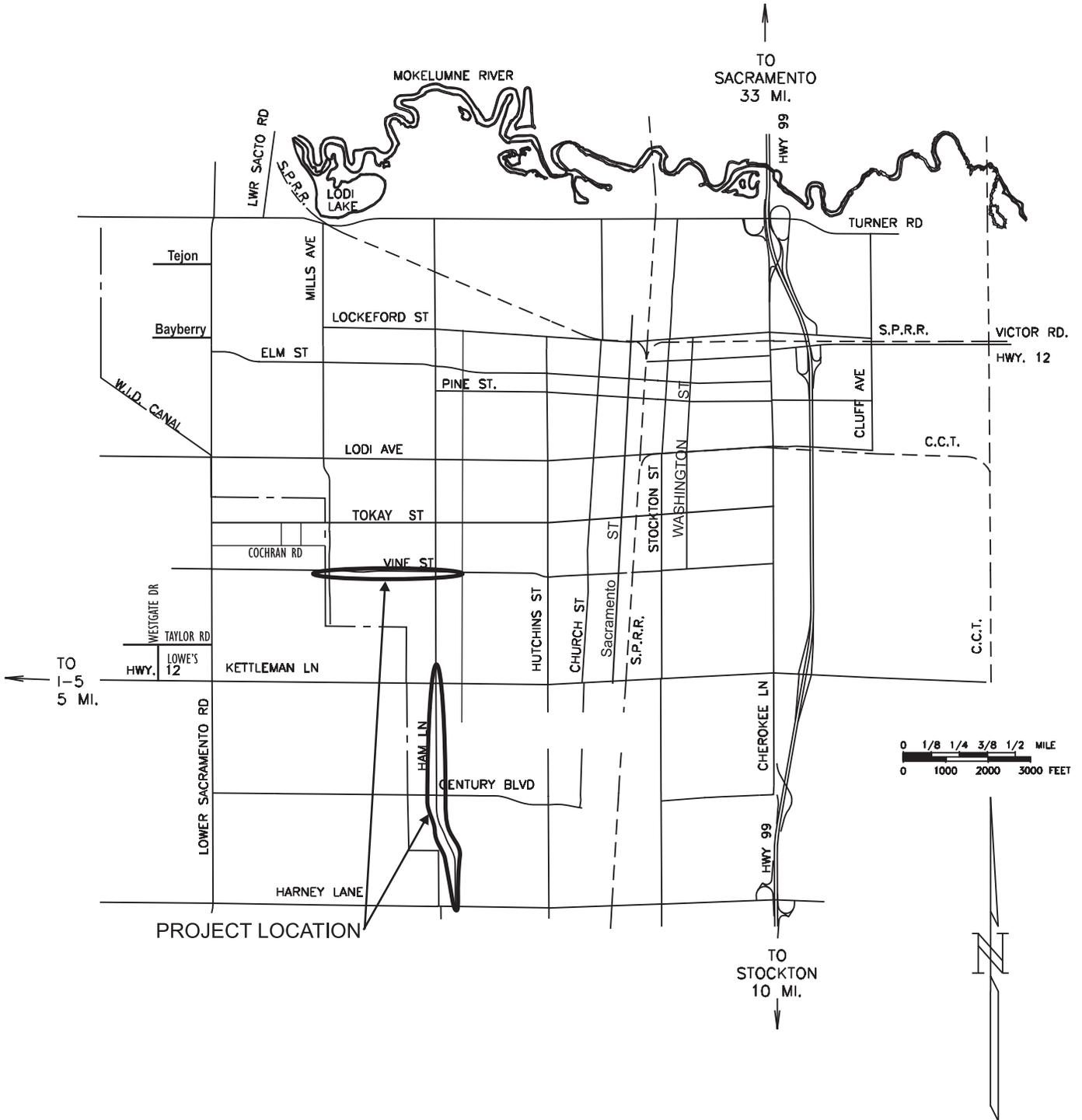
Prepared by Lyman Chang, Senior Civil Engineer  
FWS/LC/pmf  
Attachment  
cc: City Attorney  
Purchasing Officer  
Senior Civil Engineer Chang  
Deputy Public Works Director Swimley  
Management Analyst Areida-Yadav



**CITY OF LODI**  
PUBLICWORKSDEPARTMENT

**EXHIBIT A**

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



**2010 STREET IMPROVEMENTS PROJECT  
Ham Lane, Harney Lane to Kettleman Lane  
Vine Street, Mills Avenue to Fairmont Avenue**

**CONTRACT**

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CITY OF LODI, CALIFORNIA

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

WITNESSETH:

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

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

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

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

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

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

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

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

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

Perform the work necessary to install 7,100 tons of asphalt concrete overlay with pavement fabric, perform 9,100 square feet of pavement dig-out, reconstruct 69,740 square feet of asphalt concrete pavement, and other incidental and related work, all as shown on the plans and specifications for "2010 Street Improvements Project".

CONTRACT ITEMS

ITEM NO.	DESCRIPTION	UNIT	EST'D. QTY	UNIT PRICE	TOTAL PRICE
1.	Traffic Control	LS	1	\$ 35,000.00	\$ 35,000.00
2.	Construction Notification	LS	1	\$ 3,500.00	\$ 3,500.00
3.	Water Pollution Control	LS	1	\$ 2,759.00	\$ 2,759.00
4.	Remove Existing Concrete	SF	3,668	\$ 3.00	\$ 11,004.00
5.	Clearing and Grubbing	LS	1	\$ 5,000.00	\$ 5,000.00
6.	Roadway Excavation	CY	2,582	\$ 5.00	\$ 12,910.00
7.	Lime-Treated Subgrade	SY	4,639	\$ 3.00	\$ 13,917.00
8.	Compact Original Ground	SF	69,740	\$ 0.15	\$ 10,461.00
9.	Concrete Subgrade Compaction	SF	4,049	\$ 1.00	\$ 4,049.00
10.	Pavement Crack Seal	LB	2,200	\$ 2.72	\$ 5,984.00
11.	Pavement Reinforcing Fabric	SY	28,000	\$ 1.50	\$ 42,000.00
12.	Asphalt Concrete	Ton	9,367	\$ 60.00	\$ 562,020.00

ITEM NO.	DESCRIPTION	UNIT	EST'D. QTY	UNIT PRICE	TOTAL PRICE
13.	Pavement Repair	SF	9,100	\$ 2.65	\$ 24,115.00
14.	Pavement Grinding (6-Foot Taper)	LF	13,948	\$ 1.00	\$ 13,948.00
15.	Pavement Grinding 12-Foot Taper)	LF	620	\$ 5.00	\$ 3,100.00
16.	Adjust Storm Drain Manhole to Grade	EA	22	\$ 375.00	\$ 8,250.00
17.	Adjust Wastewater Manhole to Grade	EA	21	\$ 375.00	\$ 7,875.00
18.	Concrete Sidewalk/ Handicap Ramp	SF	2,845	\$ 10.00	\$ 28,450.00
19.	Concrete Curb and Gutter	LF	602	\$ 19.00	\$ 11,438.00
20.	Adjust Survey Monument Frame and Cover to Grade	EA	19	\$ 250.00	\$ 4,750.00
21.	Adjust Water Valve Frame and Cover to Grade	EA	69	\$ 250.00	\$ 17,250.00
22.	Furnish Water Valve Frame and Cover	EA	69	\$ 45.00	\$ 3,105.00
23.	Street Sign Post	EA	10	\$ 300.00	\$ 3,000.00
24.	Traffic Striping	LS	1	\$ 28,000.00	\$ 28,000.00
25.	Traffic Detecting Loop System	LS	1	\$ 25,000.00	\$ 25,000.00
TOTAL					\$ 886,885.00

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

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

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

ARTICLE VIII - The Contractor agrees to commence work pursuant to this contract within 15 calendar days after the City Manager has executed the contract and to diligently prosecute to completion within 30 WORKING DAYS.

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

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

CONTRACTOR:

CITY OF LODI

\_\_\_\_\_

By: \_\_\_\_\_

Konradt Bartlam  
Interim City Manager

By: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_

Title

\_\_\_\_\_

City Clerk

(CORPORATE SEAL)

Approved As To Form

\_\_\_\_\_

D. Stephen Schwabauer  
City Attorney

RESOLUTION NO. 2010-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL AWARDING  
CONTRACT FOR 2010 STREET IMPROVEMENTS PROJECT  
AND FURTHER APPROPRIATING FUNDS

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on May 4, 2010, at 11:00 a.m. for the 2010 Street Improvements Project, described in the plans and specifications therefore approved by the City Council on April 7, 2010; and

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

<b>Bidder</b>	<b>Bid</b>
Granite Construction	\$ 886,885.00
G & L Brock Construction	\$ 928,141.58
Teichert Construction	\$ 944,340.00
George Reed, Inc.	\$ 1,012,518.95
Knife River Construction	\$ 1,042,630.95
Bay Cities Paving & Grading	\$ 1,048,300.61
Top Grade Construction	\$ 1,050,765.70
A.M. Stephens Construction	\$ 1,189,374.00
*Vintage Paving Company	\$ 1,031,567.02

\* Vintage Paving Company did not submit Receipt of Addendum No. 1 and is considered non-responsive.

WHEREAS, staff recommends awarding the contract for the 2010 Street Improvements Project to the low bidder, Granite Construction Company, of Stockton, California.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby award the contract for the 2010 Street Improvements Project to the low bidder, Granite Construction Company, of Stockton, California, in the amount of \$886,885; and

BE IT FURTHER RESOLVED that funds in the amount of \$1,064,262 be appropriated from Proposition 1B Funds for this project.

Dated: May 19, 2010

I hereby certify that Resolution No. 2010-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 19, 2010, by the following vote:

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

RANDI JOHL  
City Clerk



# CITY OF LODI COUNCIL COMMUNICATION

TM

**AGENDA TITLE:** Adopt Resolution Authorizing City Manager to Execute Purchase Order with Eaton Pumps Sales and Service, of Woodland, for Repairs to City Water Well No. 7 (\$36,640)

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** Adopt a resolution authorizing the City Manager to execute a purchase order with Eaton Pumps Sales and Service, of Woodland, for the repairs to City Water Well No. 7, in the amount of \$36,640.

**BACKGROUND INFORMATION:** City Water Well No. 7, located at 2101 West Turner Road, failed in October 2009. It was originally determined the pump motor had failed due to storm damage, and the pump motor was repaired. While attempting to start the new motor, staff found the pump shaft was frozen, rendering the well inoperable. Well No. 7 was constructed in 1978 and produces around 1,160 gpm of very high-quality water. Generally, well production ranges from 800 to 2,070 gpm per well. In February 2010, proposals were requested from Eaton Pumps Sales and Service (Eaton Pumps) and Layne Christensen Company to remove the pump assembly, inspect the condition of the well, and evaluate the damage to the pump assembly. The lowest cost proposal for this work was submitted by Eaton Pumps in the amount of \$4,795.

Eaton Pumps completed their evaluation of the pump assembly and well and reported that the line shaft bearings in the pump assembly require replacement, the slots in the casing are obstructed by significant biological growth and there is approximately 37 feet of fine silt in the bottom of the well that requires removal.

Well assembly repairs are required and include replacing the existing line shaft bearings, removing the fine silt and biological growth, steam-cleaning the casing pipe, checking the line shaft for straightness, and reconditioning the well. Reconditioning is a process that uses chlorine and air lift swabbing to clean the casing slots and to remove accumulated silt and biological growth from the casing and gravel pack from the affected areas.

Considering the importance of Well No. 7 to the City's water supply, staff recommends executing a purchase order with Eaton Pumps for the above-described repairs to City Water Well No. 7, in the amount of \$36,640.

**FISCAL IMPACT:** There will be no change in operations costs.

**FUNDING AVAILABLE:** Water Fund (180453) – \$36,640

\_\_\_\_\_  
Jordan Ayers  
Deputy City Manager/Internal Services Director

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

Prepared by Charlie Swimley, Deputy Public Works Director – Utilities  
cc: Lance Roberts, Water/Wastewater Superintendent

**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

RESOLUTION NO. 2010-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
AUTHORIZING PURCHASE ORDER FOR  
REPAIRS TO CITY WATER WELL NO. 7

=====

WHEREAS, the pump shaft of City Water Well No. 7, located at 2102 West Turner Road, is frozen, rendering the well inoperable; and

WHEREAS, in February 2010, proposals were requested to remove the pump assembly, inspect the condition of the well, and evaluate the damage to the pump assembly, and the lowest cost proposal was received from Eaton Pumps Sales and Service; and

WHEREAS, Eaton Pumps' evaluation determined that the line shaft bearings in the pump assembly require replacement, the slots in the casing are obstructed by significant biological growth, and approximately 37 feet of fine silt in the bottom of the well requires removal; and

WHEREAS, considering the importance of Water Well No. 7 to the City's water supply system, staff recommends executing a purchase order with Eaton Pumps Sales and Service, of Woodland, California, for the repairs.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a purchase order in the amount of \$36,640 with Eaton Pumps Sales and Service, of Woodland, California, for repairs to City Water Well No. 7.

Dated: May 19, 2010

=====

I hereby certify that Resolution No. 2010-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 19, 2010, by the following vote:

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

RANDI JOHL  
City Clerk



**CITY OF LODI  
COUNCIL COMMUNICATION**

**AGENDA TITLE:** Adopt Resolution Authorizing the Interim City Manager as a Signer on City of Lodi Farmers & Merchants Bank Accounts and authorize Interim City Manager Bartlam, Deputy City Manager Ayers, and Management Analyst Evans to execute the Corporate Authorization Resolution and Electronic Transfer Corporate Resolution

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Kirk J. Evans, Management Analyst

---

**RECOMMENDED ACTION:** Adopt resolution authorizing the Interim City Manager as a signer on City of Lodi Farmers and Merchants (F&M) bank accounts; and authorize Interim City Manager Bartlam, Deputy City Manager Ayers, and Management Analyst Evans to execute the attached Exhibit A (Corporate Authorization Resolution) and Exhibit B (Electronic Transfer Corporate Resolution).

**BACKGROUND INFORMATION:** Konradt Bartlam was recently appointed Interim City Manager for the City of Lodi. The Deputy City Manager and Management Analyst are already authorized signers. These individuals will coordinate internet banking, wire transfers, automated clearing house entries and will serve as signers on City of Lodi bank accounts with F&M. The attached exhibits provided by F&M state in part that "the signature of an Agent on this resolution is conclusive evidence of their authority to act on behalf of the Corporation". F&M requires City Council authorization and the signatures of Mr. Bartlam, Mr. Ayers and Mr. Evans on these exhibits in order to conduct City banking business.

**FISCAL IMPACT:** Not applicable

**FUNDING AVAILABLE:** Not applicable

---

Jordan Ayers, Deputy City Manager

Attachments

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**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

RESOLUTION NO. 2010 -\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
AUTHORIZING THE INTERIM CITY MANAGER AS  
A SIGNER ON CITY OF LODI FARMERS &  
MERCHANTS BANK ACCOUNTS

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the Interim City Manager, Konradt Bartlam, to act as a signer on City of Lodi bank accounts with Farmers and Merchants Bank; and

BE IT FURTHER RESOLVED that the City Council further authorizes Interim City Manager, Konradt Bartlam; Deputy City Manager, Jordan Ayers; and Management Analyst, Kirk Evans to execute Exhibit A (Corporate Authorization Resolution) and Exhibit B (Electronic Transfer Corporate Resolution) attached hereto on behalf of the City of Lodi.

Dated: May 19, 2010

=====

I hereby certify that Resolution No. 2010-\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 19, 2010, by the following vote:

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

RANDI JOHL  
City Clerk

**CORPORATE AUTHORIZATION RESOLUTION**

FARMERS & MERCHANTS BANK OF CENTRAL CA  
 PO BOX 3000  
 LODI, CA 95241-1902

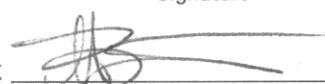
By: CITY OF LODI  
 P O BOX 3006  
 LODI CA 95241

Referred to in this document as "Financial Institution"

Referred to in this document as "Corporation"

I, RANDI JOHL, certify that I am Secretary (clerk) of the above named corporation organized under the laws of CALIFORNIA, Federal Employer I.D. Number 94-6000361, engaged in business under the trade name of CITY OF LODI, and that the resolutions on this document are a correct copy of the resolutions adopted at a meeting of the Board of Directors of the Corporation duly and properly called and held on 05/19/10 (date). These resolutions appear in the minutes of this meeting and have not been rescinded or modified.

**AGENTS** Any Agent listed below, subject to any written limitations, is authorized to exercise the powers granted as indicated below:

Name and Title or Position	Signature	Facsimile Signature (if used)
A. <u>KONRADT BARTLAM</u>	X 	X _____
B. <u>JORDAN AYERS</u>	X 	X _____
C. <u>KIRK J EVANS</u>	X 	X _____
D. _____	X _____	X _____
E. _____	X _____	X _____
F. _____	X _____	X _____

**POWERS GRANTED** (Attach one or more Agents to each power by placing the letter corresponding to their name in the area before each power. Following each power indicate the number of Agent signatures required to exercise the power.)

Indicate A, B, C, D, E, and/or F	Description of Power	Indicate number of signatures required
<u>NA</u>	(1) Exercise all of the powers listed in this resolution.	_____
<u>ABCDEF</u>	(2) Open any deposit or share account(s) in the name of the Corporation.	1
<u>ABCDEF</u>	(3) Endorse checks and orders for the payment of money or otherwise withdraw or transfer funds on deposit with this Financial Institution.	1
<u>NA</u>	(4) Borrow money on behalf and in the name of the Corporation, sign, execute and deliver promissory notes or other evidences of indebtedness.	_____
<u>NA</u>	(5) Endorse, assign, transfer, mortgage or pledge bills receivable, warehouse receipts, bills of lading, stocks, bonds, real estate or other property now owned or hereafter owned or acquired by the Corporation as security for sums borrowed, and to discount the same, unconditionally guarantee payment of all bills received, negotiated or discounted and to waive demand, presentment, protest, notice of protest and notice of non-payment.	_____
<u>ABCDEF</u>	(6) Enter into a written lease for the purpose of renting, maintaining, accessing and terminating a Safe Deposit Box in this Financial Institution.	1
<u>NA</u>	(7) Other _____	_____

**LIMITATIONS ON POWERS** The following are the Corporation's express limitations on the powers granted under this resolution.

**EFFECT ON PREVIOUS RESOLUTIONS** This resolution supersedes resolution dated NA. If not completed, all resolutions remain in effect.

**CERTIFICATION OF AUTHORITY**

I further certify that the Board of Directors of the Corporation has, and at the time of adoption of this resolution had, full power and lawful authority to adopt the resolutions on page 2 and to confer the powers granted above to the persons named who have full power and lawful authority to exercise the same. (Apply seal below where appropriate.)

If checked, the Corporation is a non-profit corporation. In Witness Whereof, I have subscribed my name to this document and affixed the seal of the Corporation on \_\_\_\_\_ (date).

Attest by One Other Officer \_\_\_\_\_

Secretary \_\_\_\_\_

RESOLUTIONS

The Corporation named on this resolution resolves that,

- (1) The Financial Institution is designated as a depository for the funds of the Corporation and to provide other financial accommodations indicated in this resolution.
- (2) This resolution shall continue to have effect until express written notice of its rescission or modification has been received and recorded by the Financial Institution. Any and all prior resolutions adopted by the Board of Directors of the Corporation and certified to the Financial Institution as governing the operation of this corporation's account(s), are in full force and effect, until the Financial Institution receives and acknowledges an express written notice of its revocation, modification or replacement. Any revocation, modification or replacement of a resolution must be accompanied by documentation, satisfactory to the Financial Institution, establishing the authority for the changes.
- (3) The signature of an Agent on this resolution is conclusive evidence of their authority to act on behalf of the Corporation. Any Agent, so long as they act in a representative capacity as an Agent of the Corporation, is authorized to make any and all other contracts, agreements, stipulations and orders which they may deem advisable for the effective exercise of the powers indicated on page one, from time to time with the Financial Institution, subject to any restrictions on this resolution or otherwise agreed to in writing.
- (4) All transactions, if any, with respect to any deposits, withdrawals, rediscounts and borrowings by or on behalf of the Corporation with the Financial Institution prior to the adoption of this resolution are hereby ratified, approved and confirmed.
- (5) The Corporation agrees to the terms and conditions of any account agreement, properly opened by any Agent of the Corporation. The Corporation authorizes the Financial Institution, at any time, to charge the Corporation for all checks, drafts, or other orders, for the payment of money, that are drawn on the Financial Institution, so long as they contain the required number of signatures for this purpose.
- (6) The Corporation acknowledges and agrees that the Financial Institution may furnish at its discretion automated access devices to Agents of the Corporation to facilitate those powers authorized by this resolution or other resolutions in effect at the time of issuance. The term "automated access device" includes, but is not limited to, credit cards, automated teller machines (ATM), and debit cards.
- (7) The Corporation acknowledges and agrees that the Financial Institution may rely on alternative signature and verification codes issued to or obtained from the Agent named on this resolution. The term "alternative signature and verification codes" includes, but is not limited to, facsimile signatures on file with the Financial Institution, personal identification numbers (PIN), and digital signatures. If a facsimile signature specimen has been provided on this resolution, (or that are filed separately by the Corporation with the Financial Institution from time to time) the Financial Institution is authorized to treat the facsimile signature as the signature of the Agent(s) regardless of by whom or by what means the facsimile signature may have been affixed so long as it resembles the facsimile signature specimen on file. The Corporation authorizes each Agent to have custody of the Corporation's private key used to create a digital signature and to request issuance of a certificate listing the corresponding public key. The Financial Institution shall have no responsibility or liability for unauthorized use of alternative signature and verification codes unless otherwise agreed in writing.

Pennsylvania. The designation of an Agent does not create a power of attorney; therefore, Agents are not subject to the provisions of 20 Pa.C.S.A. Section 5601 et seq. (Chapter 56; Decedents, Estates and Fiduciaries Code) unless the agency was created by a separate power of attorney. Any provision that assigns Financial Institution rights to act on behalf of any person or entity is not subject to the provisions of 20 Pa.C.S.A. Section 5601 et seq. (Chapter 56; Decedents, Estates and Fiduciaries Code).

FOR FINANCIAL INSTITUTION USE ONLY

Acknowledged and received on \_\_\_\_\_ (date) by \_\_\_\_\_ (initials)  This resolution is superseded by resolution dated \_\_\_\_\_

Comments:



Sacramento · Elk Grove · Galt · Lodi · Linden · Stockton · Modesto · Turlock · Hilmar

**ELECTRONIC TRANSFER CORPORATE RESOLUTION**

I, Randi Johl, City Clerk,  
(Name) (Title)  
of City of Lodi, a corporation organized under the laws of the  
(Name of Corporation)  
State of California, hereby certify that the following is a full and true copy of a  
resolution adopted at a meeting of the Board of Directors of said Company, duly held on the 19th  
(Day)  
day of May, 2010.  
(Month/Year)

Electronic Transfer Resolution

“RESOLVED, that Konradt Bartlam, Jordan Ayers, is hereby authorized to make,  
Kirk EVANS  
(Name)  
execute and approve on behalf of this Company, any and all electronic transfer contracts and to  
execute and approve on behalf of this Company, other instruments, a part of or incident to such  
contracts; effective until otherwise ordered by the Board of Directors.”

AND I DO FURTHER CERTIFY that the above resolution has not been in any way altered, amended  
or repealed, and is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand.

City of Lodi this 19 day of May 2010.  
(Name of Corporation) (Day) (Month/Year)

(Signature)

City Clerk  
(Title)



**CITY OF LODI  
COUNCIL COMMUNICATION**

TM

**AGENDA TITLE:** Authorize City Attorney to Issue “Comfort Letter” to Pine Street Partners LLC in Connection with the Purchase of Property at 212 West Pine Street and 211 West Oak Street (CA)

**MEETING DATE:** May 19, 2010 City Council Meeting

**PREPARED BY:** City Attorney’s Office

---

**RECOMMENDED ACTION:** Authorize City Attorney to Issue “Comfort Letter” to Pine Street Partners LLC in Connection with the Purchase of Property at 212 West Pine Street and 211 West Oak Street.

**BACKGROUND INFORMATION:** The former Finance Building potentially overlies two PCE/TCE contamination plumes, the Central Plume and the Northern Plume. Although the site was connected with the contamination, the City has entered settlement agreements with all known responsible parties.

Beckman Capital Corp., owners of the site are in negotiations to sell the property to Pine Street Partners LLC. The Buyers are concerned about the potential for the City to pursue recovery against them upon their purchase. This concern could be allayed through the issuance of a “Comfort Letter” which would with certain qualifications indicate the City’s determination not to pursue the Buyers or their successors. Based upon my understanding that the Council does not desire to expand the litigation and the settlement with the owners of the site, I recommend the Council authorize me to issue a comfort letter in the form attached hereto.

**FISCAL IMPACT:** N/A

**FUNDING AVAILABLE:** N/A

Approved:

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Stephen Schwabauer  
City Attorney

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APPROVED: \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

CITY HALL  
221 WEST PINE STREET  
P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 333-6701  
(209) 333-6807 FAX

**CITY OF LODI**  
**CITY ATTORNEY'S OFFICE**



D. STEPHEN SCHWABAUER  
City Attorney

JANICE D. MAGDICH  
Deputy City Attorney

May 20, 2010

Pine Street Partners LLC  
c/o Betty Seibly  
Petersen & Company  
17 E. Lodi Avenue, Suite 20  
Lodi, California 95240

Re: 212 West Pine Street and 211 West Oak Street, Lodi, CA

Dear Sir/Madame:

Beckman Capital Corp ("Beckman") owns property located at 212 W. Pine Street and 211 West Oak Street in Lodi, situated within the Lodi Central Plume Area ("CPA"). The CPA is a groundwater plume containing Tetrachloroethene (PCE). Beckman and its predecessors in interest are alleged to have contributed to the contamination in the CPA. However, the City of Lodi has entered into settlements with all of the parties who are known to have contributed contamination to the CPA, and has undertaken the obligation to clean up the contaminated soil and groundwater in the CPA.

This letter will confirm that the City Council authorized me at its meeting on May 19, 2010 to affirm that the City of Lodi will not pursue environmental claims against Beckman or its successors in interest under CERCLA, or under any other environmental liability theory (such as nuisance) for the contamination in the CPA. This statement of intent does not apply to liabilities that could arise if Beckman or its successors or assigns actually contribute at some future date to the contamination.

If you have any questions or concerns regarding this matter, please contact me.

Sincerely,

D. STEPHEN SCHWABAUER  
City Attorney

DSS/pn

cc: City Council  
City Clerk



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Approving Program Guidelines for the First Time Home Buyer Loan Program

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Community Development Department

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**RECOMMENDED ACTION:** Adopt a Resolution approving Program Guidelines for the First Time Home Buyer Loan Program.

**BACKGROUND INFORMATION:** The City of Lodi has been awarded \$800,000 in HOME Program funds from the State Department of Housing and Community Development (HCD) to establish a First Time Home Buyer (FTHB) Loan Program.

The Program Guidelines that were approved by the City Council when the application was submitted have been revised to meet the "Best Practices" template that was recently provided by HCD. There were some very minor changes made in the process, lowering the maximum loan amount from \$60,000 to "\$40,000, or 20 percent of the purchase price, whichever is less", and adding language addressing HCD's Modest Housing Requirement, which states that, "Housing must be modest so it may not exceed three bedrooms and two bathrooms unless there are documented extenuating circumstances."

Of the total award, \$20,000 is designated for Program Administration, covering the cost of the overall management, monitoring, evaluation, planning and promotion of the FTHB Program. Additionally, costs related to the individual loan application review (e.g. credit check, underwriting, etc.) are reimbursed directly from the loan fund.

Pending City Council approval of the HCD-approved Program Guidelines (Exhibit A), application packets will be distributed to the 29 individuals who are currently on the waiting list for this program. We expect to start processing applications as early as June 1.

**FISCAL IMPACT:** Program administration and project delivery costs incurred by the City are eligible expenses reimbursed through the grant program.

**FUNDING AVAILABLE:** HOME Program Funding through State Housing and Community Development

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Konradt Bartlam  
Community Development Director

KB/jw  
Attachments

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APPROVED: \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

## **Exhibit A**

### **First Time Home Buyer Down-Payment Assistance Program Guidelines**

# City of Lodi

## Homebuyer Program Guidelines

For:

CalHome Program  
HOME Investment Partnerships Program

Serving the City of Lodi

CalHome Approved N/A  
CDBG Approved N/A  
HOME Approved (April 26, 2010)

# **HOMEBUYER PROGRAM GUIDELINES**

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## **HOMEBUYER PROGRAM GUIDELINES**

### **1.0. GENERAL**

The above-named entity, hereinafter referred to as the “Sponsor,” has entered into a contractual relationship with the California Department of Housing and Community Development (“HCD”) to administer one or more HCD-funded homebuyer programs. The homebuyer program described herein (the “Program”) is designed to provide assistance to eligible homebuyers in purchasing homes, also referred to herein as “housing units”, located within the Program’s eligible area, as described in Section 3.1.A. The Program provides this assistance in the form of deferred payment “silent” second priority loans as “Gap” financing toward the purchase price and closing costs of affordable housing units that will be occupied by the homebuyers as their primary residence. The Program will be administered by the City of Lodi (the “Program Operator”).

### **1.1. PROGRAM OUTREACH AND MARKETING**

All outreach efforts will be done in accordance with state and federal fair lending regulations to assure nondiscriminatory treatment, outreach and access to the Program. No person shall, on the grounds of age, ancestry, color, creed, physical or mental disability or handicap, marital or familial status, medical condition, national origin, race, religion, gender or sexual orientation be excluded, denied benefits or subjected to discrimination under the Program. The Sponsor will ensure that all persons, including those qualified individuals with handicaps, have access to the Program.

- A. The Fair Housing Lender logo will be placed on all outreach materials. Fair housing marketing actions will be based upon a characteristic analysis comparison (census data may be used) of the Program’s eligible area compared to the ethnicity of the population served by the Program (includes, separately, all applications given out and those receiving assistance) and an explanation of any underserved segments of the population. This information is used to show that protected classes (age, gender, ethnicity, race, and disability) are not being excluded from the Program. Flyers or other outreach materials, in English and any other language that is the primary language of a significant portion of the area residents, will be widely distributed in the Program-eligible area and will be provided to any local social service agencies. The Program may sponsor homebuyer classes to help educate homebuyers about the home buying process and future responsibilities. Persons who have participated in local homebuyer seminars will be notified about the Program.
- B. The Program Operator will work with local real estate agents and primary lenders to explain the Program requirements for eligible housing units and homebuyers, and to review Program processes. Local real estate agents and primary lenders will also be encouraged to have their customers participate in the Program.
- C. Section 504 of the Rehabilitation Act of 1973 prohibits the exclusion of an otherwise qualified individual, solely by reason of disability, from participation under any program receiving Federal funds. The Program Sponsor will take

appropriate steps to ensure effective communication with disabled housing applicants, residents and members of the public.

## **1.2. APPLICATION PROCESS AND SELECTION**

- A. The Sponsor maintains a waiting list of applicants. Each applicant is asked to complete an application form, which asks for sufficient information concerning income, employment, and credit history to establish preliminary eligibility for Program participation. Completed applications are processed on a first-come-first-served basis. Applications are deemed complete only if all information is completed, the application is signed and dated, and a primary lender's pre-qualification letter is attached to the application. Incomplete applications are returned to the applicant and will not be date/time stamped until complete.
- B. Once the applicant's name comes to the top of the waiting list, their Program eligibility is confirmed and they are invited to a briefing regarding participation in the Program. At the briefing the application is reviewed and the potential homebuyer is given a "Preliminary Eligibility Letter" for the Program along with the following forms: Program Brochure, Attachment (G) Instructions to Home Buyer, List of Participating Lenders, Attachment (E) Sellers Lead-Based Paint Disclosure and the EPA Booklet (Protect Your Family from Lead in Your Home) and (F) Notice to Seller.
- C. Each applicant must participate in individual Homebuyer Counseling provided by any HUD-certified homebuyer counseling agency and receive a certificate of completion.
- D. The potential homebuyer is given 60 days in order to find a qualified home and begin securing a primary loan for the housing unit. If during the 60-day time frame, the potential homebuyer is unable to purchase a home, an extension of up to 30 days may be given. However, if it appears the potential homebuyer cannot participate in the Program, the reservation of funds expires and the next person on the waiting list is given an opportunity to participate in the Program.

## **1.3. THE HOME PURCHASE PROCESS**

- A. The following is a simplified example of how a primary lender would analyze a homebuyer's finances to determine how much the homebuyer could afford to borrow from the primary lender towards homeownership.

**DEBT SERVICE  
FOR A FAMILY OF FOUR EARNING \$3,388 PER MONTH**

<b>HOUSING PAYMENTS</b>		<b>TOTAL OVERALL PAYMENTS</b>
Principal & Interest Payment	\$ 865	\$1,180 Housing
Insurance	82	+200 <u>Other Debt Service</u>
Taxes	<u>233</u>	\$1,380 Total Debt Service
Total Housing Expense (PITI is 35% of \$3,388)	\$1,180	(Overall debt service per month is 41% of \$3,388)

**OTHER HOUSEHOLD DEBT SERVICE**

Car Payment	\$ 150
Credit Card Payment	<u>50</u>
Total Other Debt	\$ 200

A \$865 per month loan payment equates to borrowing \$143,000 at 5.88% for a 30 year term.

**SUBSIDY CALCULATION  
FOR A FAMILY OF FOUR EARNING \$3,388 PER MONTH**

Purchase Price of Property	\$ 280,000
Less Primary loan amount	<b>143,000</b>
Less down payment of 1%	<u>2,800</u>
 Equals <b>“GAP”</b>	 <b>\$ 134,200</b>
 Plus estimated allowable settlement charges	 <u>8,400</u>
 Equals <b>Total Subsidy</b>	 <b>\$ 142,600</b>

B. The housing unit selection process will be conducted by the homebuyers. Prior to making an offer to purchase an eligible housing unit (see Section 3.0), homebuyer shall provide seller with a disclosure containing the following provisions:

- 1) Homebuyer has no power of eminent domain and, therefore, will not acquire the property if negotiations fail to result in an amicable agreement; and
- 2) Homebuyer's offer is an estimate of the fair market value of the housing unit, to be finally determined by a state licensed appraiser;
- 3) The housing unit will be subject to inspection. The housing unit must comply with local codes at the time of construction and local health and safety standards.
- 4) All housing units built prior to January 1, 1978 will require a lead paint disclosure to be signed by both the homebuyer and Seller (Attachment E);
- 5) Since the purchase would be voluntary, the seller would not be eligible for

- relocation payments or other relocation assistance;
- 6) The seller understands that the housing unit must be either: currently owner-occupied, newly constructed, or vacant for three months prior to submission of the purchase offer.
  - 7) If the seller is not provided with a statement of the above six provisions prior to the purchase offer, the seller may withdraw from the agreement after this information is provided.
- C. Applicant submits executed standard form purchase and sale agreement and primary lender prequalification letter to Program Operator. The purchase and sale agreement will be contingent on the household and housing unit meeting Program eligibility requirements and receiving Program loan approval. Program Operator verifies applicant eligibility, housing unit and loan eligibility and amount of assistance to be provided consistent with these guidelines.
- D. Program Operator, where Program Operator is not the Sponsor, submits recommendation to the Sponsor for approval or denial, including the reasons for the recommendation. Sponsor determines Applicant's approval or denial, and instructs Program Operator to notify Applicant. Program Operator provides written notification to Applicant of approval or denial with reason and, if denied, a copy of the Program's appeal procedures.
- E. When Primary Lender requirements are met, Program funds are deposited into escrow, with required closing instructions and loan documents.
- F. At the time of escrow closing, the Sponsor shall be named as an additional loss payee on fire, flood (if required), and extended coverage insurance for the length of the loan and in an amount sufficient to cover all encumbrances or full replacement cost of the housing unit. A policy of Title Insurance naming the Sponsor as insured is also required.

#### **1.4. HOMEBUYER COSTS**

- A. Eligible households must document that they have the funds necessary for down payment and closing costs as required by the Primary Lender and the Sponsor. The Program's down payment requirement (below) is in place even if the Primary Lender has a lower down payment requirement. If the Primary Lender has a higher down payment requirement, there is no additional down payment requirement required by the Program.
- B. Homebuyer must contribute a minimum down payment of two percent (2%) of the purchase price, but may contribute more if desired.
- C. Sponsor will not provide more than twenty percent (20%) of the acquisition price (purchase price plus closing costs not paid by seller), or \$40,000, whichever is less. The subsidy will write down the cost of the primary lender's loan so that the payments of PITI are within 26 to 32% of the gross household income. The Program Operator will determine the level of subsidy and affordability during underwriting of the Program's loan to make sure that it conforms to the

requirements of the HCD funding Program.

### **1.5. HOMEBUYER EDUCATION**

Buying a home can be one of the most confusing and complicated transactions anyone can make. Providing the future homebuyer with informative homebuyer education training, can bring success to the Sponsor, Program Operator, the Program and most importantly, the homebuyer. It has been documented that first-time homebuyers that have had homebuyer education have the ability to handle problems that occur with homeownership. All Program participants are required to attend a Sponsor-approved homebuyer education class. The homebuyer education class will cover such topics as the following: preparing for homeownership; available financing; credit analysis; loan closing; homeownership responsibilities; home maintenance; impact of refinancing and loan servicing. Methods of homebuyer counseling and education may include, but are not limited to: one-on-one counseling between homebuyer, counselor and family/individual and/or group workshops and informational sessions. Tools of instruction may include fliers, brochures, power point presentations, worksheets, etc.

### **1.6. CONFLICT OF INTEREST REQUIREMENTS**

When the Sponsor's program contains Federal funds, the applicable Conflict of Interest requirements of 24 CFR Section 570.611 shall be followed for CDBG assistance, and Section 92.356 of the HOME Final Rule shall be followed for HOME assistance.

### **1.7. NON-DISCRIMINATION REQUIREMENTS**

The Program will be implemented in ways consistent with the Sponsor's commitment to non-discrimination. No person shall be excluded from participation in, denied the benefit of, or be subject to discrimination under any program or activity funded in whole or in part with State funds on the basis of his or her religion or religious affiliation, age, race, color, creed, gender, sexual orientation, marital status, familial status (children), physical or mental disability, national origin, or ancestry, or other arbitrary cause.

## **2.0 APPLICANT QUALIFICATIONS**

### **2.1. CURRENT INCOME LIMITS FOR THE AREA, BY HOUSEHOLD SIZE**

All applicants must certify that they meet the household income eligibility requirements for the applicable HCD program(s) and have their household income documented. The income limits in place at the time of loan approval will apply when determining applicant income eligibility. All applicants must have incomes at or below 80% of the County's area median income (AMI), adjusted for household size, as published by HCD. (Attachment C).

**Household:** Means one or more persons who will occupy a housing unit. Unborn children do not count in family size determination.

**Annual Income:** Generally, the gross amount of income of all adult household members that is anticipated to be received during the coming 12-month period.

### **2.2. INCOME QUALIFICATION CRITERIA**

Projected annual gross income of the applicant household will be used to determine whether they are above or below the published HCD income limits. Income qualification criteria, as shown in the most recent HCD program-specific guidance, will be followed to independently determine and certify the household's annual gross income. The Program Operator should compare this annual gross income to the income the Primary Lender used when qualifying the household. The Primary Lender is usually underwriting to FHA or conventional guidelines and may not calculate the household income or assets in the same way as required by the Program. Income will be verified by reviewing and documenting tax returns, copies of wage receipts, subsidy checks, bank statements and third party verification of employment forms sent to employers. All documentation shall be dated within six months prior to loan closing and kept in the applicant file and held in strict confidence.

A. HOUSEHOLD INCOME DEFINITION:

Household income is the annual gross income of all adult household members that is projected to be received during the coming 12-month period, and will be used to determine program eligibility. Refer to Income Inclusions and Exclusions for further guidance to the types of incomes to be included or excluded when calculating gross annual income. For those types of income counted, gross amounts (before any deductions have been taken) are used; and the types of income that are not considered would be income of minors or live-in aides. Certain other household members living apart from the household also require special consideration. The household's projected ability to pay must be used, rather than past earnings, when calculating income.

The link to Annual Income Inclusions and Exclusions is:

<http://www.hud.gov/offices/cpd/affordablehousing/library/modelguides/1780.pdf>.

**Attachment A: 24 CFR Part 5 Annual Income Inclusions and Exclusions**

B. ASSETS:

There is no asset limitation for participation in the Program. Income from assets is, however, recognized as part of annual income under the Part 5 definition. An asset is a cash or non-cash item that can be converted to cash. The value of necessary items such as furniture and automobiles are not included. (*Note: it is the income earned – e.g. interest on a savings account – not the asset value, which is counted in annual income.*)

An asset's cash value is the market value less reasonable expenses required to convert the asset to cash, including: Penalties or fees for converting financial holdings and costs for selling real property. The cash value (rather than the market value) of an item is counted as an asset.

The Link to Asset Inclusions and Exclusions is:

<http://www.hud.gov/offices/cpd/affordablehousing/library/modelguides/1780.pdf>.

**Attachment B: Part 5 Annual Income Net Family Asset Inclusions and Exclusions**

### **2.3. DEFINITION OF AN ELIGIBLE HOMEBUYER**

For CDBG, an eligible homebuyer means an individual or individuals or an individual and his or her spouse who meets the income eligibility requirements and is/are not currently on title to real property. Persons may be on title of a manufactured home unit, who are planning to sell the unit as part of buying a home located on real property. Documentation of homebuyer status will be required for all homebuyers. CDBG-funded programs may assist eligible homebuyers who are not “first-time” homebuyers.

HOME and CalHome-funded Programs are required to use the following definition of an eligible homebuyer, which is a “first-time homebuyer” from 8201(1) Title 25 California Code of Regulations:

“First-time homebuyer” means an individual or individuals or an individual and his or her spouse who have not owned a home during the three-year period before the purchase of a home with subsidy assistance, except that the following individual or individuals may not be excluded from consideration as a first-time homebuyer under this definition:

1. a displaced homemaker who, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse. A displaced homemaker is an adult who has not, within the preceding two years, worked on a full-time basis as a member of the labor force for a consecutive twelve-month period and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment and worked primarily without remuneration to care for his or her home and family;
2. a single parent who, while married, owned a home with his or her spouse or resided in a home owned by the spouse. A single parent is an individual who is unmarried or legally separated from a spouse and has one or more minor children for whom the individual has custody or joint custody or is pregnant; or
3. an individual or individuals who owns or owned, as a principal residence during the three-year period before the purchase of a home with assistance, a dwelling unit whose structure is:
  - a. not permanently affixed to a permanent foundation in accordance with local or state regulations; or
  - b. not in compliance with state, local, or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

### **3.0. HOUSING UNIT ELIGIBILITY**

#### **3.1. LOCATION AND CHARACTERISTICS**

- A. Housing units to be purchased must be located within the eligible area. The eligible area is described as follows: “Within the City of Lodi limits.”
- B. Housing unit types eligible for the homebuyer Program are new or previously owned single-family residences, condominiums, or manufactured housing on a single-family lot and placed on a permanent foundation system. HOME does not

allow manufactured homes unless on a permanent foundation system.

- C. All housing units must be in compliance with State and local codes and ordinances.
- D. Housing units located within a 100-year flood zone will be required to provide proof of flood insurance with an endorsement naming the City of Lodi as loss payee in order to close escrow.
- E. Housing must be “modest”, so it may not exceed three bedrooms and two bathrooms unless there are documented extenuating circumstances (e.g. it would create an overcrowding situation, there is not a reasonable inventory of homes of this size, etc.) and the Loan Committee approves the exception request.

### **3.2. CONDITIONS**

- A. Construction Inspection and Determining Need for Repairs.

Once the participating homebuyer has executed a purchase agreement for a housing unit, and prior to a commitment of Program funds, the following steps must be taken for the housing unit to be eligible for purchase under the Program:

- 1) When the Sponsor’s Program utilizes Federal funds and if the housing unit was constructed prior to 1978 then the lead-based paint requirements of Section 3.2.C will apply.
- 2) The Program Operator, a certified housing inspector, or a Sponsor representative will walk through the housing unit, determine if it is structurally sound, and identify any code related and health and safety deficiencies that need to be corrected. A list of code related repair items will be given to the homebuyers and their Realtor to be negotiated with the seller.
- 3) Upon completion of all work required by the Program Operator, Sponsor, appraiser, pest inspector and/or certified housing inspector, a final inspection will be conducted prior to close of escrow. The inspector will sign off on all required construction work assuring that each housing unit receiving Program assistance is in compliance with local codes and health and safety requirements at the time of purchase and prior to occupancy.

- B. Per Section 8208 of the State HOME regulations, no additional HOME assistance, including rehabilitation funds, may be provided during the period starting one year following the filing of the Project Completion Report through the end of the affordability period.

- C. Lead-Based Paint Hazards: All housing units built prior to 1978 for which HOME or CDBG funding is anticipated are subject to the requirements of this section 3.2.C. Such homes must undergo a visual assessment by a person who has taken HUD’s online Visual Assessment course. Deteriorated paint must be stabilized using work safe methods. Clearance must be obtained after paint stabilization by a DHS certified LBP Risk Assessor/Inspector. HOME and CDBG general administrative

and activity delivery funds may be used to pay for lead-based paint visual assessments, and if lead mitigation and clearance costs are incurred, these programs may incorporate the costs into the calculation of Program assistance.

The following requirements must be met:

- 1) **Notification:** a) Prior to homebuyer's obligation to purchase a pre-1978 home, the Buyer will be given the most recent copy of and asked to read the EPA pamphlet "*Protect Your Family From Lead in Your Home*" (EPA 747-K-94-001). A signed receipt of the pamphlet will be kept in the Sponsor's homebuyer file; b) A notice to residents is required following a risk assessment/inspection using form DHS 8552, which is provided by the DHS-certified Risk Assessor/Inspector; c) a notice to residents is required following lead-based paint mitigation work using Visual Assessment and Lead-based Paint Notice of Presumption and Hazard Reduction form, LBP – 1 (Attachment H).
  - 2) **Disclosure:** Prior to the homebuyer's obligation to purchase a pre-1978 housing unit, the HUD disclosure (Attachment E), "Seller's Lead-based Paint Disclosure" notice must be provided by the seller to the homebuyer.
  - 3) **Inspections:** The Inspector shall conduct a "Visual Assessment" of all the dwelling unit's painted surfaces in order to identify deteriorated paint. All deteriorated paint will be stabilized in accordance with CFR 35.1330 (a) and (b); and a Clearance shall be made in accordance with CFR 35.1340.
  - 4) **Mitigation:** If stabilization is required, the contractor performing the mitigation work must use appropriately trained workers. Prior to the contractor starting mitigation work the Program Operator shall obtain copies of the contractor's and workers' appropriate proof of LBP training, as applicable to the job in order to assure that only qualified contractors and workers are allowed to perform the mitigation.
- D. The Program Operator will: 1) confirm that the housing unit is within the eligible area, 2) will review each proposed housing unit to ensure that it meets all eligibility criteria before funding, and 3) ensure a completed Lead Compliance Document Checklist is placed in each purchaser's file (see Attachment I).

### **3.3 ANTI-DISPLACEMENT POLICY AND RELOCATION ASSISTANCE**

Eligible homes will be those that are currently owner-occupied or have been vacant for three months prior to the acceptance of a contract to purchase. A unit is ineligible if its purchase would result in the displacement of a tenant. It is not anticipated that the implementation of the Program will result in the displacement of any persons, households, or families. However, if tenant-occupied homes are included in the Program and relocation becomes necessary, the activity will be carried out in compliance with Sponsor's relocation plan which describes how those permanently displaced will be relocated and paid benefits in accordance with the following Federal laws.

A. **Uniform Relocation Assistance (URA) and Real Property Acquisition Policies Act of 1970**

The federal URA and Real Property Acquisition Policies, as amended by the URA Amendments of 1987, contains requirements for carrying out real property acquisition or the displacement of a person, regardless of income status, for a project or program for which HUD financial assistance (including CDBG and HOME) is provided. Requirements governing real property acquisition are described in Chapter VIII. The implementing regulations, 49 CFR Part 24, require developers and owners to take certain steps in regard to tenants of housing to be acquired, rehabbed or demolished, including tenants who will not be relocated even temporarily.

B. **Section 104(d) of the Housing and Community Development Act of 1974**

Section 104(d) requires each contractor (CHDO or State Recipient), as a condition of receiving assistance under HOME or CDBG, to certify that it is following a residential anti-displacement plan and relocation assistance plan. Section 104(d) also requires relocation benefits to be provided to low-income persons who are physically displaced or economically displaced as the result of a HOME or CDBG assisted project, and requires the replacement of low-income housing, which is demolished or converted. The implementing regulations for Section 104(d) can be found in 24 CFR Part 570(a).

**3.4. PROPER NOTIFICATION AND DISCLOSURES**

- A. Upon selection of a housing unit, a qualified seller and homebuyer will be given the necessary disclosures for the Program. The homebuyer must have read and signed all Program disclosure forms. Any and all property disclosures must be reviewed and signed by the homebuyer and seller.
- B. All owners who wish to sell their housing units must receive an acquisition notice (Attachment F) prior to submission of the homebuyer's original offer. This notice will be included in the contract and must be signed by all owners on title. The disclosure must contain the items listed in 1.3.B. (required for federally-funded programs).

**4.0. PURCHASE PRICE LIMITS**

The purchase price limits for this Program shall not exceed the Maximum HOME Program Purchase Price/After-Rehab Value Limit for Sponsor's County as updated by HCD or HUD.

*Note: For HOME- and CalHome-funded Programs the home purchase price of owner-occupied and homebuyer properties must be limited as follows: For CalHome-funded Programs, the purchase price can not exceed 100% of the area median purchase price as established by comparable sales or information provided by the California Real Estate Association; for HOME-funded Programs the value (with or without rehabilitation) can not exceed 95 percent of the area median purchase price as established by HCD and HUD.*

**Attachment C: MAXIMUM PURCHASE PRICE/AFTER-REHAB VALUE LIMITS**

\*Sponsor will update these limits annually as HCD provides new information.

**5.0. THE PRIMARY LOAN**

Prior to obtaining a loan from the Sponsor, a homebuyer must provide evidence of financing for the maximum amount the Primary Lender is willing to loan (the “primary loan”).

**A. QUALIFYING RATIOS**

The front-end ratio shall be between 26% and 32% and is the percentage of a borrower’s gross monthly income (before deductions) that would cover the cost of PITI (loan principal and interest payment + property taxes + property insurance).

The back-end ratio shall be between 30% and 38% and is the percentage of a borrower’s gross monthly income that would cover the cost of PITI plus any other monthly debt payments like car or personal loans and credit card debt, as well as child support and alimony payments.

In order to meet the overall goals of the program and in light of the differing needs and financial capacities of borrowers, exceptions may be made to housing and debt ratio limits. Factors that compensate for less stringent housing and debt ratios may also be considered to the degree they offset additional lending risk. In no case can the debt ratio exceed 40%.

**B. INTEREST RATE**

The loan must be fully amortized and have a fixed interest rate that does not exceed the current market rate, as established by an index identified in the most recent NOFA. No temporary interest rate buy-downs are permitted.

**C. LOAN TYPE AND TERM**

The primary loan shall be fully amortized and have a term “all due and payable” in no fewer than 30 years. There shall not be a balloon payment due before the maturity date of the Program loan.

**D. IMPOUND ACCOUNT**

All households will be required to have impound accounts for the payment of taxes and insurance to ensure they remain current.

**6.0. THE PROGRAM LOAN**

**A. MAXIMUM AMOUNT OF PROGRAM ASSISTANCE**

The amount of Program assistance to a homebuyer toward purchase of a home shall not exceed the maximum HOME subsidy limit for Sponsor’s County per bedroom as designated by Section 221(d)(3) and shall never exceed more than 20% of the total

indebtedness or \$40,000, whichever is less. **See Attachment C.** Any approved “grant” amount for lead-based paint evaluation and reduction activities or for relocation assistance shall be included in this amount.

## **B. NON-RECURRING CLOSING COSTS**

Non-recurring costs such as credit report, escrow, closing and recording fees, and title report and title insurance, title updates and/or related costs may be included in the Program loan.

## **C. AFFORDABILITY PARAMETERS FOR HOMEBUYERS**

The actual amount of a buyer’s Program subsidy shall be computed according to the housing ratio parameters specified in Section 5.0.A.. Each borrower shall receive only the subsidy needed to allow them to become homeowners (“the Gap”) while keeping their housing costs affordable. The Program Operator will use the “front-end ratio” of housing-expense-to-income to determine if the amount of the proposed primary loan is acceptable and, ultimately, the Program subsidy amount required, bridging the gap between the acquisition cost (purchase price plus closing costs) less down payment, and the amount of the primary loan.

## **D. RATE AND TERMS FOR PROGRAM LOAN**

All Program assistance to individual households shall be made in the form of deferred payment (interest and principal) loan (DPL).

The Program loan’s term shall be for 30 years.

The Program loan’s interest rate shall be 2%.

All Program loan payments shall be deferred because the borrowers will have their repayment ability fully utilized under the primary loan. Loan principal shall not be forgiven, and the loan period cannot be extended.

## **E. COMBINED LOAN-TO-VALUE RATIO**

The loan-to-value ratio for a Program loan, when combined with all other indebtedness to be secured by the property, shall not exceed 100 percent of the sales price plus a maximum of up to 5 percent of the sales price to cover actual closing costs.

### **7.0. PROGRAM LOAN REPAYMENT**

#### **7.1. PAYMENTS ARE VOLUNTARY**

Borrowers may begin making voluntary payments at any time.

#### **7.2. RECEIVING LOAN PAYMENTS**

A. Program loan payments will be made to:

City of Lodi  
221 West Pine Street  
PO Box 3006  
Lodi, CA 95241

- B. The Sponsor will be the receiver of loan payments or recaptured funds and will maintain a financial record-keeping system to record payments and file statements on payment status. Payments shall be deposited and accounted for in the Sponsor's Program Income Account, as required by HCD programs. The Program lender will accept loan payments from borrowers prepaying deferred loans, and from borrowers making payments in full upon sale or transfer of the property. All loan payments are payable to the Sponsor. The Sponsor may at its discretion, enter into an agreement with a third party to collect and distribute payments and/or complete all loan servicing aspects of the Program.

### **7.3. DUE UPON SALE OR TRANSFER**

In the event that an owner sells, transfers title, or discontinues residence in the purchased property for any reason, the principal balance of the DPL is due and payable, except:

- A. The owner shall be assured a fair return on investment including the owner's investment and any capital improvement. If the Net proceeds are insufficient for the Sponsor to recapture the balance of Program Loan owed, the Sponsor shall share the Net proceeds with the owner in proportion to each party's investment in the property. The Net proceeds are the sales price less repayment of the primary loan, and closing costs.
- B. If the owner of the property dies, and the heir to the property meets income requirements, the First-Time Homebuyer definition, and intends to occupy the home as a principal residence, the heir may be permitted, upon approval of the Sponsor, to assume the loan at the rate and terms the heir qualifies for under the current participation guidelines. If the property owner dies and the heir does not meet eligibility requirements, the loan is due and payable.
- C. If an owner wants to convert the property to a rental unit, or any commercial or non-residential use, the loan is due and payable.
- D. The loan will be in default if the borrower fails to maintain required fire or flood insurance or fails to pay property taxes. See Attachment D on loan defaults for further information on property restrictions.

### **7.4. LOAN SERVICING POLICIES AND PROCEDURES**

See Attachment D for local loan servicing policies and procedures. While the attached policy outlines a system that can accommodate a crisis that restricts borrower repayment ability, it should in no way be misunderstood: The loan must be repaid. All legal means to ensure the repayment of a delinquent loan as outlined in the Loan Servicing Policies and Procedures will be pursued.

## **7.5. LOAN MONITORING PROCEDURES**

Sponsor will monitor Borrowers and their housing units to ensure adherence to Program requirements including, but not limited to, the following:

- A. Owner-occupancy
- B. Property tax payment
- C. Hazard insurance coverage
- D. Good standing on Primary loans
- E. General upkeep of housing units

## **8.0. PROGRAM LOAN PROCESSING AND APPROVAL**

### **A. Loan Processing**

All homebuyers or their representatives will be sent out an eligibility packet with all the necessary forms, disclosures, information, and application. They should submit a complete application packet with all the Sponsor's Program loan documents executed as well as all the information from the Primary Lender. The Primary Lender should submit: 1) accepted property sales contract with proper seller notification; 2) mortgage application with good faith estimates and first mortgage disclosures; 3) full mortgage credit report and rent verification; 4) current third party income verifications and verifications of assets; 5) homeownership education certificate, if applicable; and 6) signed underwriting transmittal summary and final signed loan application, both from primary lender. Staff will work with local lenders to ensure qualified participants receive only the benefit from the Sponsor's Program needed to purchase the housing unit and that leveraged funds will be used when possible.

### **B. Creditworthiness**

Qualifying ratios are only a rough guideline in determining a potential borrower's creditworthiness. Many factors such as excellent or poor credit history, amount of down payment, and size of loan will influence the decision to approve or disapprove a particular loan. The borrower's credit history will be reviewed by the Sponsor and documentation of such maintained in the loan file. The Sponsor may elect to obtain a credit report or rely on a current copy obtained by the primary lender.

### **C. Documents from Primary Lender**

After initial review of the qualified homebuyer's application packet, the Program Operator will request any additional documents needed. Documents may be faxed, but originals shall be received through the mail before Program funds are committed to escrow. Based on receipt and review of the final documents, the Program Operator will do an income certification (using most recent HCD program's guidance on income calculation and determination), and homebuyer certification (review of credit report and income taxes). Documentation of affordability will then be verified and subsidy requirement determined.

## D. Disclosure of Program and Loan Information to Homebuyers

The Program's application and disclosure forms will contain a summary of the loan qualifications of the borrower with and without Program assistance. Housing ratios with and without Program assistance are also outlined in these guidelines. Information on the Program's application will be documented with third party verifications in the file. For example, the sales contract will provide the final purchase price and outline how much of the closing costs are to be paid by the seller, etc. The appraisal, termite and title report will provide information to substantiate the information in the sales contract and guide the construction inspection. The Program loan application will provide current debt and housing information and will be documented by the credit report and income/asset verifications. The Primary Lender's approval letter and estimated closing cost statement should reflect all the information in the loan package and show any contingencies of loan funding. Reviewing the Primary Lender's loan underwriting documentation will provide basic information about the qualification of the applicant and substantiate the affordability provided by the Program loan. By reviewing and crosschecking all the Primary Lender information, the final Program loan amount approved will fall within the affordability parameters of the Program.

### **8.1. COMPLETION OF UNDERWRITING AND APPROVAL OF PROGRAM LOAN**

Once the loan approval package has been completed the Program Operator will submit it to the Sponsor for approval. Sponsor will review the request and may approve it with or without conditions. Upon approval, a final closing date for escrow is set and Program funds are accessed for the homebuyer.

### **8.2. PRIMARY AND PROGRAM LOAN DOCUMENT SIGNING**

The homebuyer(s) sign promissory notes, loan agreements, deeds of trust, and statutory lending notices (Truth In Lending (TIL), etc.); the Deeds of Trust are recorded with the County Clerk/Recorder at the same time, and the request(s) for copy of Notice of Default are also recorded with the County Clerk/Recorder.

### **8.3. ESCROW PROCEDURES**

The escrow/title company shall review the escrow instruction provided by the Program lender and shall issue a California Land Title Association (CLTA) and the American Land Title Association (ALTA) after closing. The CLTA policy is issued to the homebuyer and protects them against failure of title based on public records and against such unrecorded risks as forgery of a deed. The ALTA is issued to each lender providing additional coverage for the physical aspects of the property as well as the homebuyer's title failure. These aspects include anything which can be determined by only physical inspection, such as correct survey lines; encroachments; mechanics liens; mining claims and water rights. The Program lender instructs the escrow/title company in the escrow instructions as to what may show on the policy; the amount of insurance on the policy (all liens should be covered) and the loss payee (each lender should be listed as a loss payee and receive an original ALTA).

## **9.0. SUBORDINATE FINANCING**

With today's high costs, in order for a low-income household to obtain a home, several funding sources might be required. Subordinate loans may be used to cover mortgage subsidy costs that exceed the Program maximum loan amount. All subordinate liens must have the payments deferred and the term must be for at least as long as the term of the Program loan.

## **10.0. EXCEPTIONS AND SPECIAL CIRCUMSTANCES**

The Sponsor may make amendments to these Participation Guidelines. Any changes shall be made in accordance with regulations and approved by the Sponsor's Loan Committee and/or governing body. Changes shall then be sent to HCD for approval.

### **10.1. DEFINITION OF EXCEPTION**

Any case to which a standard policy or procedure, as stated in the guidelines, does not apply or an applicant treated differently from others of the same class would be an exception.

### **10.2. PROCEDURES FOR EXCEPTIONAL CIRCUMSTANCES**

- A. The Sponsor or its agent may initiate consideration of an exception and prepare a report. This report shall contain a narrative, including the Sponsor's recommended course of action and any written or verbal information supplied by the applicant.
- B. The Sponsor shall make a determination of the exception based on the recommendation of the Program Operator. The request can be presented to the Sponsor's loan committee and/or governing body for a decision.

## **11.0. DISPUTE RESOLUTION AND APPEALS PROCEDURE**

Any applicant denied assistance from the Program has the right to appeal. Complaints concerning the Program should be made to the Program Operator first. If unresolved in this manner, the complaint or appeal must be made in writing and filed with the Sponsor. The Sponsor will then schedule a meeting with the Loan Review Committee. Their written response will be made within thirty (30) working days. If the applicant is not satisfied with the Committee's decision, a request for an appeal may be filed with the Sponsor's governing body. Final appeal must be filed in writing with HCD within one year after denial.

## ATTACHMENT A

### 24 CFR Part 5 ANNUAL INCOME INCLUSIONS AND EXCLUSIONS

#### Part 5 Inclusions

This table presents the Part 5 income inclusions as stated in the HUD Technical Guide for Determining Income and Allowances for HOME Program (Third Edition; January 2005).

General Category	(Last Modified: January 2005)
1. Income from wages, salaries, tips, etc.	The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
2. Business Income	The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.
3. Interest & Dividend Income	Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in number 2 (above). Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
4. Retirement & Insurance Income	The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment (except for certain exclusions, listed in Income Exclusions, number 14).
5. Unemployment & Disability Income	Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (except for certain exclusions, listed in Income Exclusions, number 3).
6. Welfare Assistance	Welfare Assistance. Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income: <ul style="list-style-type: none"> <li>• Qualify as assistance under the TANF program definition at 45 CFR 260.31; and</li> <li>• Are otherwise excluded from the calculation of annual income per 24 CFR 5.609(c).</li> </ul> If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of: <ul style="list-style-type: none"> <li>• the amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; <b>plus:</b></li> <li>• the maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family welfare assistance is reduced from the standard of need by applying a percentage, the amount calculated under 24 CFR 5.609 shall be the amount resulting from one application of the percentage.</li> </ul>
7. Alimony, Child Support, & Gift Income	Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.
8. Armed Forces Income	All regular pay, special pay, and allowances of a member of the Armed Forces (except as provided in number 8 of Income Exclusions).

#### Part 5 exclusions

This table presents the Part 5 income exclusions as stated in the HUD Technical Guide for Determining Income and Allowances for HOME Program (Third Edition; January 2005).

General Category	(Last Modified: January 2005)
1. Income of Children	Income from employment of children (including foster children) under the age of 18 years.
2. Foster Care Payments	Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).
3. Inheritance and Insurance Income	Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses (except for certain exclusions, listed in Income Inclusions, number 5).
4. Medical Expense Reimbursements	Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
5. Income of Live-in	Income of a live-in aide (as defined in 24 CFR 5.403).

Aides	
6. Income from a Disabled Member	Certain increase in income of a disabled member of qualified families residing in HOME-assisted housing or receiving HOME tenant-based rental assistance (24 CFR 5.671 (a)).
7. Student Financial Aid	The full amount of student financial assistance paid directly to the student or to the educational institution.
8. "Hostile Fire" Pay	The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
9. Self-Sufficiency Program Income	<ul style="list-style-type: none"> <li>a. Amounts received under training programs funded by HUD.</li> <li>b. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).</li> <li>c. Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program.</li> <li>d. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time.</li> <li>e. Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment-training program.</li> </ul>
10. Gifts	Temporary, nonrecurring, or sporadic income (including gifts).
11. Reparation Payments	Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
12. Income from Full-time Students	Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household or spouse).
13. Adoption Assistance Payments	Adoption assistance payments in excess of \$480 per adopted child.
14. Social Security & SSI Income	Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.
15. Property Tax Refunds	Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
16. Home Care Assistance	Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep this developmentally disabled family member at home.
17. Other Federal Exclusions	<p>Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions set forth in 24 CFR 5.609(c) apply. A notice will be published in the Federal Register and distributed to housing owners identifying the benefits that qualify for this exclusion. Updates will be published and distributed when necessary. The following is a list of income sources that qualify for that exclusion:</p> <ul style="list-style-type: none"> <li>▶ The value of the allotment provided to an eligible household under the Food Stamp Act of 1977;</li> <li>▶ Payments to volunteers under the Domestic Volunteer Service Act of 1973 (employment through AmeriCorps, VISTA, Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions);</li> <li>▶ Payments received under the Alaskan Native Claims Settlement Act;</li> <li>▶ Income derived from the disposition of funds to the Grand River Band of Ottawa Indians;</li> <li>▶ Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes;</li> <li>▶ Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program.</li> <li>▶ Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);</li> <li>▶ The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court and the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands;</li> <li>▶ Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs;</li> <li>▶ Payments received from programs funded under Title V of the Older Americans Act of 1985 (Green Thumb, Senior Aides, Older American Community Service Employment Program);</li> <li>▶ Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other</li> </ul>

fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

- ▶ Earned income tax credit refund payments received on or after January 1, 1991, including advanced earned income credit payments;
- ▶ The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990;
- ▶ Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, veterans employment programs, state job training programs and career intern programs, AmeriCorps).
- ▶ Payments by the Indians Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation;
- ▶ Allowances, earnings, and payments to AmeriCorps participants under the National and Community Services Act of 1990;
- ▶ Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran;
- ▶ Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act; and
- ▶ Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998.

## **ATTACHMENT B**

### **PART 5 ANNUAL INCOME NET FAMILY ASSET INCLUSIONS AND EXCLUSIONS**

This table presents the Part 5 asset inclusions and exclusions as stated in the HUD Technical Guide for Determining Income and Allowances for HOME Program (Third Edition; January 2005).

Statements from 24 CFR Part 5 – Last Modified: January 2005

#### **Inclusions**

1. Cash held in savings accounts, checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average 6-month balance. Assets held in foreign countries are considered assets.
2. Cash value of revocable trusts available to the applicant.
3. Equity in rental property or other capital investments. Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and all reasonable costs (e.g., broker fees) that would be incurred in selling the asset. Under HOME, equity in the family's primary residence is not considered in the calculation of assets for owner-occupied rehabilitation projects.
4. Cash value of stocks, bonds, Treasury bills, certificates of deposit and money market accounts.
5. Individual retirement, 401(K), and Keogh accounts (even though withdrawal would result in a penalty).
6. Retirement and pension funds.
7. Cash value of life insurance policies available to the individual before death (e.g., surrender value of a whole life or universal life policy).
8. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.
9. Lump sum or one-time receipts, such as inheritances, capital gains, lottery winnings, victim's restitution, insurance settlements and other amounts not intended as periodic payments.
10. Mortgages or deeds of trust held by an applicant.

#### **Exclusions**

1. Necessary personal property, except as noted in number 8 of Inclusions, such as clothing, furniture, cars and vehicles specially equipped for persons with disabilities.
2. Interest in Indian trust lands.
3. Assets not effectively owned by the applicant. That is, when assets are held in an individual's name, but the assets and any income they earn accrue to the benefit of someone else who is not a member of the household and that other person is responsible for income taxes incurred on income generated by the asset.
4. Equity in cooperatives in which the family lives.
5. Assets not accessible to and that provide no income for the applicant.
6. Term life insurance policies (i.e., where there is no cash value).
7. Assets that are part of an active business. "Business" does not include rental of properties that are held as an investment and not a main occupation.

**ATTACHMENT C**

**MAXIMUM PURCHASE PRICE/AFTER-REHAB VALUE LIMIT FOR SAN JOAQUIN COUNTY**

**(HOME Value Limits as of 4/3/2009)**

<b>COUNTY NAME</b>	<b>One-Family</b>	<b>Two-Family</b>	<b>Three-Family</b>	<b>Four-Family</b>
SAN JOAQUIN	\$362,790	\$417,300	\$507,000	\$585,000

**HOME SUBSIDY LIMITS PER UNIT – SECTION 221(d)(3) FOR SAN JOAQUIN COUNTY**

**(Limit is effective 04/15/09)**

<b>COUNTY NAME</b>	<b>O-BDR</b>	<b>1-BDR</b>	<b>2-BDR</b>	<b>3-BDR</b>	<b>4-BDR</b>
SAN JOAQUIN	\$134,269	\$153,916	\$187,162	\$242,125	\$265,780

**2009 MEDIAN FAMILY INCOME FOR SAN JOAQUIN COUNTY\***

<i>Number of Persons in Household</i>								
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>
<b>80% of AMI</b>	\$35,650	\$40,700	\$45,800	\$50,900	\$54,950	\$59,050	\$63,100	\$67,200

\*Sponsor will insert the limits for the county in which the Program is located, and will update the income limits annually as HCD provides new information. The link to the official, HCD-maintained, income limits is:

<http://www.hcd.ca.gov/hpd/hrc/rep/state/incNote.html>

## ATTACHMENT D

### LOAN SERVICING POLICIES AND PROCEDURES FOR CITY OF LODI

The City of Lodi, hereafter called “Lender,” has adopted these policies and procedures in order to preserve its financial interest in properties, whose “Borrowers” have been assisted with public funds. The Lender will to the greatest extent possible follow these policies and procedures, but each loan will be evaluated and handled on a case-by-case basis. The Lender has formulated this document to comply with state and federal regulations regarding the use of these public funds and any property restrictions, which are associated with them.

The policies and procedures are broken down into the following areas: 1) making required monthly payments or voluntary payments on a loan’s principal and interest; 2) required payment of property taxes and insurance; 3) required Request for Notice of Default on all second mortgages; 4) loans with annual occupancy restrictions and certifications 5) required noticing and limitations on any changes in title or use of property; 6) required noticing and process for requesting a subordination during a refinance; 7) processing of foreclosure in case of default on the loan.

#### 1. Loan Repayments:

The Lender will collect monthly payments from those borrowers who are obligated to do so under Notes which are amortized promissory notes (or Lender will use a designated loan collection company to collect payments). Late fees will be charged for payments received after the assigned monthly due date.

For Notes which are deferred payment loans, the Lender must accept voluntary payments on the loan. Loan payments will be credited to principal. The borrower may repay the loan balance at any time with no penalty.

#### 2. Payment of Property Taxes and Insurance:

As part of keeping the loan from going into default, borrower must maintain property insurance coverage naming the Lender as loss payee in first position or additional insured if the loan is a junior lien. If borrower fails to maintain the necessary insurance, the Lender may take out force placed insurance to cover the property while the Borrower puts a new insurance policy in place. All costs for installing the necessary insurance will be added to the loan balance at time of installation of Borrower’s new insurance.

When a property is located in a 100-year flood plain, the Borrower will be required to carry the necessary flood insurance. A certificate of insurance for flood and for standard property insurance with an endorsement naming the City of Lodi as additional insured will be required at close of escrow. The lender will verify the insurance on an annual basis.

Property taxes must be kept current during the term of the loan. If the Borrower fails to maintain payment of property taxes then the lender may pay the taxes current and add the balance of the tax payment plus any penalties to the balance of the loan. Wherever possible, the Lender encourages Borrower to have impound accounts set up with their first mortgagee wherein they pay their taxes and insurance as part of their monthly mortgage payment.

### 3. Required Request for Notice of Default:

When the Borrower's loan is in second position behind an existing first mortgage, it is the Lender's policy to prepare and record a "Request for Notice of Default" for each senior lien in front of Lender's loan. This document requires any senior lien holder listed in the notice to notify the lender of initiation of a foreclosure action. The Lender will then have time to contact the Borrower and assist them in bringing the first loan current, if possible. The Lender can also monitor the foreclosure process and go through the necessary analysis to determine if the loan can be made whole or preserved. When the Lender is in a third position and receives notification of foreclosure from only one senior lien holder, it is in their best interest to contact any other senior lien holders regarding the status of their loans.

### 4. Annual Occupancy Restrictions and Certifications:

On owner-occupant loans the Lender will require that Borrowers submit utility bills and/or other documentation annually to prove occupancy during the term of the loan. Some loans may have income and housing cost evaluations, which require a household to document that they are not able to make amortized loan payments, typically every five years. These loan terms are incorporated in the original note and deed of trust.

### 5. Required Noticing and Restrictions on Any Changes of Title or Occupancy:

In all cases where there is a change in title or occupancy or use, the Borrower must notify the Lender in writing of any change. Lender and borrower will work together to ensure the property is kept in compliance with the original Program terms and conditions such that it remains available as an affordable home for low-income families. These types of changes are typical when Borrowers do estate planning (adding a relative to title) or if a Borrower dies and property is transferred to heirs or when the property is sold or transferred as part of a business transaction. In some cases the Borrower may move and turn the property into a rental unit without notifying the Lender. Changes in title or occupancy must be in keeping with the objective of benefit to low-income households (below 80 percent of AMI).

Change from owner-occupant to owner-occupant occurs at a sale. When a new owner-occupant is not low-income, the loan is not assumable and the loan balance is immediately due and payable. If the new owner-occupant qualifies as low-income, the purchaser may either pay the loan in full or assume all loan repayment obligations of the original owner-occupant, subject to the approval of the Lender's Loan Committee (depends on the HCD program).

If a transfer of the property occurs through inheritance, the heir (as owner-occupant) may be provided the opportunity to assume the loan at an interest rate based on household size and household income, provided the heir is income eligible. If the heir intends to occupy the property and is not low-income, the balance of the loan is due and payable. If the heir intends to act as an owner-investor, the balance of the loan may be converted to an owner/investor interest rate and loan term and a rent limitation agreement is signed and recorded on title. All such changes are subject to the review and approval of the Lender's Loan Committee.

Change from owner-occupant to owner-investor occurs when an owner-occupant decides to move out and rent the assisted property, or if the property is sold to an investor. If the owner converts any assisted unit from owner-occupied to rental, the loan is due in full.

Conversion to use other than residential use is not allowable where the full use of the property is changed from residential to commercial or other. In some cases, Borrowers may request that the Lender allow for a partial conversion where some of the residence is used for a business but the household still resides in the property. Partial conversions can be allowed if it is reviewed and approved by any and all agencies required by local statute. If the use of the property is converted to a fully non-residential use, the loan balance is due and payable.

#### 6. Requests for Subordinations:

When a Borrower wishes to refinance the property, they must request a subordination request to the Lender. The Lender will subordinate their loan only when there is no “cash out” as part of the refinance. No cash out means that there are no additional charges on the transaction above loan and escrow closing fees. There can be no third party debt payoffs or additional encumbrance on the property above traditional refinance transaction costs. Furthermore, the refinance should lower the housing cost of the household with a lower interest rate, and the total indebtedness on the property should not exceed the current market value.

Also, provisions of Section 5.2 and 5.3 of these guidelines still apply, which state that the loan must:

- a) be fully amortized and have a fixed interest rate that does not exceed the current market rate, as established by an index identified in the most recent NOFA;
- b) not have a temporary interest rate buy-down;
- c) have a term “all due and payable” in no fewer than 30 years; and;
- d) not have a balloon payment due before the maturity date of the Program loan.

Upon receiving the proper documentation from the refinance lender, the request will be considered by the loan committee for review and approval. Upon approval, the escrow company will provide the proper subordination document for execution and recordation by the Lender.

#### 7. Process for Loan Foreclosure:

Upon any condition of loan default: 1) non payment; 2) lack of insurance or property tax payment; 3) change in title or use without approval; 4) default on senior loans, the Lender will send out a letter to the Borrower notifying them of the default situation. If the default situation continues then the Lender may start a formal process of foreclosure.

When a senior lien holder starts a foreclosure process and the Lender is notified via a Request for Notice of Default, the Lender, who is the junior lien holder, may cancel the foreclosure proceedings by "reinstating" the senior lien holder. The reinstatement amount or payoff amount must be obtained by contacting the senior lien holder. This amount will include all delinquent payments, late charges and fees to date. Lender must confer with Borrower to determine if, upon paying the senior lien holder current, the Borrower can provide future payments. If this is the case then the Lender may cure the foreclosure and add the costs to the balance of the loan with a Notice of Additional Advance on the existing note.

If the Lender determines, based on information on the reinstatement amount and status of borrower, that bringing the loan current will not preserve the loan, then staff must determine if it is cost effective to protect their position by paying off the senior lien holder in total and restructure the debt such that the unit is made affordable to the Borrower. If the Lender does not have sufficient funds to pay the senior lien holder in full, then they may choose to cure the senior lien holder and foreclose on the property themselves. As long as there is sufficient value in the property, the Lender can afford to pay for the foreclosure process and pay off the senior lien holder and retain some or all of their investment.

If the Lender decides to reinstate, the senior lien holder will accept the amount to reinstate the loan up until five (5) days prior to the set "foreclosure sale date." This "foreclosure sale date" usually occurs about four (4) to six (6) months from the date of recording of the "Notice of Default." If the Lender fails to reinstate the senior lien holder before five (5) days prior to the foreclosure sale date, the senior lien holder would then require a full pay off of the balance, plus costs, to cancel foreclosure. If the Lender determines the reinstatement and maintenance of the property not to be cost effective and allows the senior lien holder to complete foreclosure, the Lender's lien may be eliminated due to insufficient sales proceeds.

### Lender as Senior Lien holder

When the Lender is first position as a senior lien holder, active collection efforts will begin on any loan that is 31 or more days in arrears. Attempts will be made to assist the homeowner in bringing and keeping the loan current. These attempts will be conveyed in an increasingly urgent manner until loan payments have reached 90 days in arrears, at which time the Lender may consider foreclosure. Lender's staff will consider the following factors before initiating foreclosure:

- 1) Can the loan be cured and can the rates and terms be adjusted to allow for affordable payments such that foreclosure is not necessary?
- 2) Can the Borrower refinance with a private lender and pay off the Lender?
- 3) Can the Borrower sell the property and pay off the Lender?
- 4) Does the balance warrant foreclosure? (If the balance is under \$5,000, the expense to foreclose may not be worth pursuing.)
- 5) Will the sales price of home "as is" cover the principal balance owing, necessary advances, (maintain fire insurance, maintain or bring current delinquent property taxes, monthly yard maintenance, periodic inspections of property to prevent vandalism, etc.) foreclosure, and marketing costs?

If the balance is substantial and all of the above factors have been considered, the Lender may opt to initiate foreclosure. The Borrower must receive, by certified mail, a thirty-day notification of foreclosure initiation. This notification must include the exact amount of funds to be remitted to the Lender to prevent foreclosure (such as, funds to bring a delinquent BMIR current or pay off a DPL).

At the end of thirty days, the Lender should contact a reputable foreclosure service or local title company to prepare and record foreclosure documents and make all necessary notifications to the

owner and junior lien holders. The service will advise the Lender of all required documentation to initiate foreclosure (Note and Deed of Trust usually) and funds required from the owner to cancel foreclosure proceedings. The service will keep the Lender informed of the progress of the foreclosure proceedings.

When the process is completed, and the property has "reverted to the beneficiary" at the foreclosure sale, the Lender could sell the home themselves under a homebuyer program or use it for an affordable rental property managed by a local housing authority or use it for transitional housing facility or other eligible use. The Lender could contract with a local real estate broker to list and sell the home and use those funds for program income eligible uses.

**ATTACHMENT E**  
**SELLERS LEAD-BASED PAINT DISCLOSURE**  
**Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards**  
**Lead Warning Statement**

Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women. The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.

**Seller's Disclosure**

- (a) Presence of lead-based paint and/or lead-based paint hazards (check (i) or (ii) below):
- (i) \_\_\_ Known lead-based paint and/or lead-based paint hazards are present in the housing (explain).
- (ii) \_\_\_ Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing.
- (b) Records and reports available to the seller (check (i) or (ii) below):
- (i) \_\_\_ Seller has provided the purchaser with all available records and reports pertaining to Lead-based paint and/or lead-based paint hazards in the housing (list documents below).
- (ii) \_\_\_ Seller has no reports or records pertaining to lead-based paint and/or lead-based paint hazards in the housing.

**Purchaser's Acknowledgment (initial)**

- (c) \_\_\_ Purchaser has received copies of all information listed above.
- (d) \_\_\_ Purchaser has received the pamphlet Protect Your Family from Lead in Your Home.
- (e) \_\_\_ Purchaser has (check (i) or (ii) below):
- (i) \_\_\_ received a 10-day opportunity (or mutually agreed upon period) to conduct a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards; or
- (ii) \_\_\_ waived the opportunity to conduct a risk assessment or inspection for the presence of Lead-based paint and/or lead-based paint hazards (NOT PERMISSIBLE FOR HOME AND CDBG).

**Agent's Acknowledgment (initial)**

- (f) \_\_\_ Agent has informed the seller of the seller's obligations under 42 U.S.C. 4852d and is aware of his/her responsibility to ensure compliance.

**Certification of Accuracy**

The following parties have reviewed the information above and certify, to the best of their knowledge, that the information they have provided is true and accurate.

Seller	Date	Seller	Date
Purchaser	Date	Purchaser	Date
Agent	Date	Agent	Date

**ATTACHMENT F**

**Disclosure to Seller with Voluntary, Arm's Length Purchase Offer**

**DECLARATION**

This is to inform you that \_\_\_\_\_ would like to purchase the property, located at \_\_\_\_\_, if a satisfactory agreement can be reached. We are prepared to pay \$\_\_\_\_\_ for a clear title to the property under conditions described in the attached proposed contract of sale.

Because Federal funds may be used in the purchase, however, we are required to disclose to you the following information:

1. The sale is voluntary. If you do not wish to sell, the buyer, \_\_\_\_\_, thru the agency, \_\_\_\_\_ will not acquire your property. The buyer does not have the power of eminent domain to acquire your property by condemnation (i.e. eminent domain) and the agency/Sponsor \_\_\_\_\_ will not use the power of eminent domain to acquire the property.
2. The estimated fair market value of the property is \$\_\_\_\_\_ and was estimated by \_\_\_\_\_, to be finally determined by a professional appraiser prior to close of escrow.

Since the purchase would be a voluntary, arms length, transaction you would not be eligible for relocation payments or other relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), or any other law or regulation. Also, as indicated in the contract of sale, this offer is made on the condition that no tenant will be permitted to occupy the property before the sale is completed.

Again, please understand that if you do not wish to sell your property, we will take no further action to acquire it. If you are willing to sell the property under the conditions described in the attached contract of sale, please sign the contract and return it to us at: \_\_\_\_\_ . If you have any questions about this matter, please contact \_\_\_\_\_ at \_\_\_\_\_.

Sincerely,

\_\_\_\_\_  
Title

\_\_\_\_\_  
*Buyer*

\_\_\_\_\_  
Date

\_\_\_\_\_  
*Buyer*

\_\_\_\_\_  
Date

**Disclosure to Seller with Voluntary, Arm's Length Purchase Offer (Page 2)**

**Acknowledgement**

As the Seller I/we understand that the \_\_\_\_\_ will inspect the property for health and safety deficiencies. I/we also understand that public funds may be involved in this transaction and, as such, if the property was built before 1978, a lead-based paint disclosure must be signed by both the buyer and seller, and that a Visual Assessment will be conducted to determine the presence of deteriorated paint.

As the Seller, I/we understand that under the City of Lodi's program, the property must be currently owner-occupied, vacant for three months at the time of submission of purchase offer, new (never occupied), or renter purchasing the unit. I/we hereby certify that the property is:

Vacant at least 3 months;  Owner-occupied;  New; or  Being Purchased by Occupant

*I/we hereby certify that I have read and understand this "Declaration" and  a copy of said Notice was given to me prior to the offer to purchase. If received after presentation of the purchase offer, I/We choose  to withdraw or  not to withdraw, from the Purchase Agreement.*

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Date

\_\_\_\_\_  
Seller

\_\_\_\_\_  
Date

**ATTACHMENT G**  
**CITY OF LODI**

**INSTRUCTIONS TO HOME BUYER**

- A. Participant works with lender of choice to obtain the primary lender's pre-qualification letter.
- B. Participant works with real estate agent to select home. Program disclosures are reviewed with agent for presentation to seller. Preference will be given to vacant or owner-occupied homes rather than tenant-occupied homes.
- C. Participant selects home and enters into a purchase contract (contingent upon receiving Program loan approval). Lender provides the Program Operator with a copy of:
  - real estate sales contract
  - residential loan application
  - credit report
  - verified income documentation
  - disclosure statement
  - proof of personal funds for participation in program
  - breakdown of closing costs
  - structural pest control clearance
  - appraisal with photos
  - escrow instructions
  - preliminary title report
- D. Program Operator reviews paper work to determine program eligibility and financing affordability for participant etc.
- E. Program Operator staff meets with qualified applicant to provide information relative to the program requirements, the lending process, and home ownership responsibilities.
- F. Program Operator has home inspected (if necessary) to meet HQS or code compliance (dependent upon the program). Notice of any deficiencies or needed corrections are given to participant's real estate agent, with recommended course of action.
- G. Program Operator requests loan approval from Sponsor's Loan Review Committee. Following loan approval, Program Operator prepares Deed of Trust, Promissory Note, Notice of Default, Grant Agreement, Owner-Occupant Agreement with City of Lodi, requests checks and deposits same into escrow.
- H. Escrow company furnishes Program Operator with proof of documents to be recorded, and any escrow close out information. After receipt of recorded loan documents, HUD I, Insurance Loss Payee Certification and Final Title Insurance Policy (Program Operator) closes out the loan file.

**ATTACHMENT H  
LEAD-BASED PAINT  
VISUAL ASSESSMENT, NOTICE OF PRESUMPTION, AND HAZARD REDUCTION FORM**

<b>Section 1: Background Information</b>			
Property Address:			No LBP found or LBP exempt <input type="checkbox"/>
Select one:	Visual Assessment <input type="checkbox"/>	Presumption <input type="checkbox"/>	Hazard Reduction <input type="checkbox"/>

<b>Section 2: Visual Assessment.</b> Fill out Sections 1, 2, and 6. If paint stabilization is performed, also fill out Sections 4 and 5 after the work is completed.	
Visual Assessment Date:	Report Date:
Check if no deteriorated paint found <input type="checkbox"/>	
Attachment A: Summary where deteriorated paint was found.	

<b>Section 3: Notice of Presumption.</b> Fill out Sections 1, 3, 5, and 6. Provide to occupant w/in 15 days of presumption.	
Date of Presumption Notice:	
Lead-based paint is presumed to be present <input type="checkbox"/> and/or Lead-based paint <i>hazards</i> are presumed to be present <input type="checkbox"/>	
Attachment B: Summary of Presumption:	

<b>Section 4: Notice of Lead-Based Paint Hazard Reduction Activity.</b> Fill out Sections 1, 4, 5, and 6. Provide to occupant w/in 15 days of after work completed.	
Date of Hazard Reduction Notice:	
Initial Hazard Reduction Notice? Yes <input type="checkbox"/> No <input type="checkbox"/>	Start & Completion Dates:
If "No", dates of previous Hazard Reduction Activity Notices:	
Attachment C: Activity locations and types.	
Attachment D: Location of building components with <u>lead-based paint remaining</u> in the rooms, spaces or areas where activities were conducted.	
Attachment E: Attach clearance report(s), using DHS form 8552 (and 8551 for abatement activities)	

<b>Section 5: Resident Receipt of Notice for Presumption or Lead-Based Paint Hazard Reduction Activity</b>		
Printed Name:	Signature:	Date:

<b>Section 6: Contact Information</b>		Organization:
Contact Name:		Contact Signature:
Date:	Address:	Phone:

## ATTACHMENT I

### Homebuyer Program Lead Compliance Document Checklist

The following documents should be in each Homebuyer unit file to document compliance with the lead requirements:

<b>Document Name</b>	<b>Purpose</b>	✓
Lead Safe Housing Rule Screening Sheet	Documents exemptions	
Physical inspection form (HQS or equivalent)	Documents visual assessment results	
Seller Certification	Seller certifies that paint was stabilized by qualified workers and that safe work practices were followed during paint stabilization	
Clearance Report and Clearance Review Worksheet	Documents that unit passed clearance	
Disclosure Form	Documents that buyer received disclosure and pamphlet.	
Lead Hazard Reduction Notice	Documents that buyer received required lead hazard reduction notification.	

This was taken from the HUD Website at:

<http://www.hud.gov/offices/cpd/affordablehousing/training/leadsafe/usefulforms/index.cfm#crosscutting>

RESOLUTION NO. 2010-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
APPROVING PROGRAM GUIDELINES FOR A FIRST  
TIME HOME BUYER PROGRAM

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WHEREAS, the City of Lodi has historically funded a First Time Home Buyer Program with HOME funds received annually from the U.S. Department of Housing and Urban Development (HUD) as a participating jurisdiction in the San Joaquin Urban County; and

WHEREAS, now as an Entitlement Community the HOME fund allocation from HUD is now forwarded to the State of California Housing and Community Development Department (HCD); and

WHEREAS, the City of Lodi has received an award of \$800,000 from HCD for a First Time Home Buyer Program, and staff recommends approval of the Program Guidelines.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the Program Guidelines, as attached hereto as Exhibit A, which establish a First Time Home Buyer Program pursuant to the requirements of HCD; and

BE IT FURTHER RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute loan documents with approved applicants to the First Time Home Buyer Program and to make minor changes to the Program Guidelines for the sake of consistency, clarity, and to comply with HCD requirements.

Dated: May 19, 2010

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I hereby certify that Resolution No. 2010-\_\_\_\_\_ was passed and adopted by the Lodi City Council in a regular meeting held May 19, 2010, by the following vote:

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

RANDI JOHL  
City Clerk



TM

# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Set Public Hearing for June 2, 2010 to Consider the Appeal of Noe Juarez Luna Regarding the Decision of the Planning Commission to Deny a Use Permit for a Pool Hall/Nightclub at 651 North Cherokee Lane, Suite E

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Community Development Director

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**RECOMMENDED ACTION:** Set public hearing for June 2, 2010 to consider the appeal of Noe Juarez Luna regarding the decision of the Planning Commission to deny a Use Permit for a pool hall/nightclub at 651 North Cherokee Lane, Suite E.

**BACKGROUND INFORMATION:** Pursuant to Lodi Municipal Code Section 17.72.110, Mr. Noe Juarez Luna filed an appeal regarding the decision of the Planning Commission of April 14, 2010 to deny a Use Permit for a pool hall/nightclub. The appeal was filed in a timely manner and the appropriate fee was paid. The City Council may now set the matter for a public hearing to consider the appeal. It is recommended that the matter may be heard at the regularly scheduled meeting of June 2, 2010.

**FISCAL IMPACT:** Not Applicable

**FUNDING AVAILABLE:** Not Applicable

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Konradt Bartlam  
Community Development Director

IB/kjc

**Attachments:**

1. Planning Commission Resolution PC 10-06
2. Staff Report from the February 10, 2010, Planning Commission meeting
3. Draft minutes for the February 10, 2010, Planning Commission meeting
4. Appeal letter

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**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

**RESOLUTION NO. P.C. 10-09**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI DENYING  
THE REQUEST OF THE NOE JUAREZ LUNA FOR USE PERMIT TO ALLOW ON-SALE BEER,  
WINE AND DISTILLED SPIRITS ALCOHOLIC BEVERAGE CONTROL LICENSE AND LIVE  
ENTERTAINMENT PERMIT AT 651 NORTH CHEROKEE LANE.**

**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 Government Code and Lodi Municipal Code Chapter 17.84, Amendments; and

**WHEREAS**, an application was filed by Noe Juarez Luna 1127 South Mills., Lodi, CA 95242; and

**WHEREAS**, the project site is located at 651 North Cherokee Lane, Suite E., Lodi, CA 95240; and

**WHEREAS**, the project site is owned by Kay Tayler Investment II LLC., 5466 Ridgeview Circle., Stockton, CA 95219-7190; and

**WHEREAS**, the property has a General Plan designation of GC, General Commercial and is zoned C-2, General Commercial; and

**WHEREAS**, the requested Use Permit to allow live entertainment in conjunction with the operation of a restaurant with a Type 48 On-sale General License and sale of alcohol is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

**WHEREAS**, Census Tract 45 in which the project site is located currently has over-concentrated of licenses allowing the sale of beer, wine and distilled spirits for consumption where sold; and

**WHEREAS**, because Census Tract 45 has an over concentration of off-sale wine, beer and distilled spirits licenses, the Planning Commission must make a finding of necessity and/or public convenience in order to permit the issuance of an additional off-sale Alcohol Beverage Control license in this tract; and

**WHEREAS**, the State Department of Alcoholic Beverage Control has training available that clearly communicates State law concerning the sale of alcoholic beverages.

**WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred; and

**NOW, THEREFORE, BE IT FOUND** that the Planning Commission of the City of Lodi incorporates the staff report and attachments, project file, testimony presented at the time of the hearing, and written comments, on this matter, and make the following findings:

1. The project was found to be Categorical Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant environmental impacts are anticipated and no mitigation measures have been required.
2. Although the proposed Use Permit request is consistent with the City's General Plan and Zoning Ordinance, it will not facilitate orderly distribution of Alcoholic Beverage Control licenses within the City, in that there is a high concentration of existing Alcoholic Beverage Control on census tract 45 and there are similar bar type establishments in the immediate vicinity of the project area, and therefore, a new use offering the same services is not appropriate as it would further over-concentrate the subject census tract.
3. The proposed use is not consistent with the objectives of the Zoning Ordinance and the purposes of the district in which the use is located. Although a pool hall/billiard hall bar/nightclub is a permitted use in the General Commercial (C-2) zone, City of Lodi Municipal Code Section 17.73.020 (E) of the Zoning Ordinance requires a minimum of three hundred feet of buffer zone between residential and these types of establishments. This requirements is in effect to ensure any proposed project, including existing projects, must be compatible with surrounding land uses, including the protection of the quiet enjoyment of existing residential development, and reducing the level of adverse impacts on existing homeowners associations, or private property. City staff and the Lodi Police Department

have received complaints regarding the noise impacts of emanating from a bar similar to the proposed project located within proximity of the project site, outdoor loitering, and incompatible hours of operation that negatively impact the privacy and enjoyment of the residential neighborhood west of the applicant's tenant space. As proposed, the project will be detrimental to the health, morals, comfort and welfare of persons residing or working in the neighborhood of the proposed use, and to property or improvements in the neighborhood, and will be contrary to the general public welfare, and in violation of Lodi Municipal Code Section 17.72.080 of the Zoning Ordinance.

4. The proposed project is not compatible with the surrounding area, which is comprised of residential neighborhoods to the west, and the tenants of the commercial center. The residents located west of the applicant's tenant space are negatively affected by excessively disruptive noise occurring in a similar establishment located within the project vicinity (El Rancho Sports Bar) and loitering associated with the El Rancho Sports Bar. The proposed project would intensify these impacts.
5. The proposed use will be detrimental to the public health and safety, or welfare. The proposed live entertainment would be more than just an ancillary use, attracting more patrons to the bar and on-site loitering and noise impacts at late hours, and likely requiring more public safety service to try to maintain the required compatibility between the proposed project and the residential neighborhood to the west.
6. The proposed use will not comply with each of the applicable provisions of the Zoning Ordinance. The Lodi Municipal Code requires compatibility with existing and proposed surrounding land uses. The proposed nightclub use with live entertainment is not compatible with the adjacent residential neighborhood to the west, in that the proposed hours of live entertainment will negatively impact the privacy and quiet enjoyment of nearby residents.
7. The proposed use is not consistent with the goals, objectives, and policies of the General Plan. Policy 7 of the General Plan Noise Element defines residences are noise-sensitive land uses. The City's General Plan Policy 8 mandates the City deny projects classified as normally unacceptable projects and incompatible with adjacent land uses. A similar use next door, without live entertainment services, has proven to be incompatible with the adjacent residential neighborhood to the west regarding excessively loud noise, on-site loitering, and hours of operation. The proposed use of the tenant space as a nightclub will negatively intensify these impacts to the surrounding neighboring.
8. The sale of alcoholic beverages for on- and off-premise consumption as part of a hotel is a permitted use in the General Commercial (C-2) zoning district. The sale and consumption of alcohol can sometimes result in customer behavior problems that can require police intervention.

**NOW, THEREFORE, BE IT DETERMINED, AND RESOLVED**, that the Lodi Planning Commission hereby denies Use Permit Application No. 10-U-01.

Dated: April 14, 2010

I hereby certify that Resolution No. 10-09 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on April 14, 2010, by the following vote:

AYES:	Commissioners:	Hennecke, Kirsten, Kiser, Mattheis, and Chair Cummins
NOES:	Commissioners:	None
ABSENT:	Commissioners:	Heinitz and Olson

**ATTEST:** \_\_\_\_\_  
**Secretary, Planning Commission**

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** April 14, 2010  
**APPLICATION NO:** Use Permit: 10-U-01  
**REQUEST:** Request for Planning Commission approval of a Use Permit to allow a Type 48 On-Sale General ABC license at 651 North Cherokee Lane, suite E. (Applicant: Noe Juarez Luna. File Number: 10-U-01.)  
**LOCATION:** 651 North Cherokee Lane, Suite E., Lodi, CA. (APN: 041-274-51)  
**PROPERTY OWNER:** Kay Tayler Investment II LLC., 5466 Ridgeview Circle., Stockton, CA 95219-7190  
**APPLICANT:** Noe Juarez Luna., 1127 South Mills., Lodi, CA 95242.

**RECOMMENDATION**

Staff recommends the Planning Commission deny without prejudice the requested Use Permit based on findings in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** GC, General Commercial  
**Zoning Designation:** C-2, General Commercial  
**Property Size:** 2.56 Acres. The tenant space measures approximately 3,600 sq. ft.

The adjacent zoning and land use are as follows:

**North:** C-2, General Commercial. The existing uses north of the project site are a mixture of retail commercial, offices and service businesses.  
**South:** C-2, General Commercial. There are a variety of commercial uses to the south, types of businesses found on Cherokee Lane.  
**East:** State Highway 99 and a 24 recreational facility.  
**West:** R-2, Single Family Residences. The area immediately west of the project site consists of single family residences. There is only approximately 75 ft of buffer zone between the commercial district (the project site) and the residences to the west.

Project Description

The owners of La Luna restaurant, currently located at 910 South Cherokee Lane, would like to move the restaurant to a neighborhood commercial center located at 651 North Cherokee Lane, Suite E and reopen the business as a billiard/pool hall featuring live music and dancing. The change in the nature of the business from a bone fide restaurant to the proposed use necessitates change in ABC license type. The restaurant currently owns a Type-47 On-Sale General (Restaurant) Alcoholic Beverage Control license. The applicant's proposed use requires a Type 48 On-Sale General-Public Premise – (bar, nightclub) license. Type 48 ABC license is typically issued to nightclubs. Both ABC licenses permit the sale of beer, wine and distilled spirits. The proposed hours of operation of the establishment will be from noon to 1:30 a.m. Monday-Saturday and from noon to 10:30 p.m. on Sundays.

In addition, the proposed establishment will have music, dancing and guest performers. Commercial amusements activities are required to obtain a Use Permit per Chapter 17.73 of the Municipal Code. Bars/dance clubs and places where primary receipt sales are from sale of alcohol and dancing have been interpreted to fall into this category. As proposed, music and dancing would occur on Thursday, Friday and Saturday evenings commencing at 9:00 pm until closing time.

Staff contacted the State Department of Alcoholic Beverage Control to verify the hours of operation and types of uses being proposed. According to ABC staff, the planned operation stated in their application is a tavern and live entertainment. Since the State Department of Alcoholic Beverage Control typically issue a Type 48 Alcoholic Beverage Control license to bars and nightclubs that offer commercial entertainment, staff has treated the applicant's project as a bar/nightclub.

## **SUMMARY**

The applicant, Mr. Noe Juarez Luna, is requesting a Use Permit approval to allow a Type 48 On-Sale General Public Premises (Bar, Night Club) license in conjunction with billiard hall/pool hall and live entertainment/dancing in the C-2, General Commercial zoning district. The applicant currently holds Type 47 On-Sale General Eating Place (Restaurant) license, which authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises. The proposed project site currently has an over-concentration of Alcoholic Beverage Control licenses. Findings of public necessity and/or convenience are required in order to approve additional license within the project census tract. The live entertainment portion of the request would consist of a band, single performers, a disc jockey (DJ), karaoke, and an associated dancing area. The applicant was previously granted a Use Permit by the Planning Commission to conduct live entertainment on Friday and Saturday nights at their current location.

## **BACKGROUND**

The applicant, Mr. Noe Juarez Luna, owns and operates La Luna Restaurant located at 910 South Cherokee Lane. The restaurant obtained Type 47 On-Sale General license some 24 years ago, prior to implementation of the City's Use Permit requirements. In the summer of 2008, the applicant requested a Use Permit to allow live entertainment at the restaurant on limited basis. At their regular hearing of August 27, 2008, the Planning Commission approved the Use Permit request to allow live entertainment.

Staff met with the applicant on at least three occasions (February 4 and 24, 2010 and March 16, 2010) to clarify issues relating to the proposed project. The applicant also met with the Police Department on February 24, 2010. The majority of issues were resolved during the February 24, 2010, meeting regarding the project description and the City's requirements for establishments that wish to offer live entertainment as the main service. It was made clear to the applicant during the February 24, 2010 meeting that the change in the nature of the business requires changing his Type 47 ABC license to Type 48 (bar/night club) ABC license and, as such, the project site isn't suitable for a bar/nightclub offering live entertainment. During the meeting of March 16, 2010, the applicant provided hours of operation and the types of entertainment likely to be featured. Staff again made it clear that the Police Department has expressed concerns relating to noise and City staff also pointed out the proposed use violates the Live Entertainment Ordinance due to proximity of the residences to the project site (LMC 17.73). The applicant was made aware the project site is not acceptable for a bar/tavern or a pool/billiard hall with live entertainment. It was made clear to the applicant staff intended to recommend denial of the application.

The project site is zoned commercial and contains a variety of businesses, including eating establishments and offices. A church formerly occupied one of the tenant spaces but has since vacated the premise. The project suite was previously used by Blue Shield as a satellite office and is currently is vacant. The zoning designation allows the proposed used subject to a Use Permit review and approval by the Planning Commission.

## **ANALYSIS**

Site Layout: The subject site is within a neighborhood commercial center located at 651 North Cherokee Lane, Suite E. The shopping center consists of two buildings situated along the south and west perimeter. The shopping center is bounded by Pioneer Drive on the north, by Cherokee Lane on the east, by commercial parcels on the south and by single-family residences on west. Standard parking stalls and a drive isle separate the residences from the commercial buildings. The project tenant space is located at the west end of the southern building, the closest point to the single family residences (see Attachment C). The building stands less than 75 feet away from the adjoining residential properties. No modifications to the site are proposed with this application. The neighborhood commercial center currently contains eating establishments, a church and several vacant suites. There is no active live entertainment permit within the neighborhood commercial center.

Floor Plan: The existing floor plan consists of bathrooms, a kitchen (break room) and open tenant space. It was previously used as a satellite office by Blue Shield. The proposed floor plan consists of a stage, dance floor, removable chairs, a bar, storage rooms, office and billiard/pool tables. Primary features of the proposed floor plan is a bar, audio/stage area and dance floor.

Parking/Circulation: The site contains two parking lots. The main parking lot contains 117 spaces. There is a smaller parking lot located west of the buildings (adjacent to the single family residences) and it contains 30 spaces. The main parking lot is accessible from Pioneer Drive and Cherokee Lane and the secondary parking spaces are accessible from Pioneer Drive. Parking requirements for neighborhood commercial centers are based on a flat rate for all uses in the center, and not by describing each use in the center individually, unless the center has a high concentration of uses with similar peak hours of operation.

Commercial Entertainment: The establishment, called La Luna, will be a full bar with entertainment on Thursday, Friday, and Saturday nights from 9:45 p.m. until 1:30 a.m. For entertainment there will be a "DJ", open microphone night, comedians, single musicians and singers, juke box, amplified music, live entertainment, karaoke, patron dancing, and pool/billiard tables. The proposed uses appear to indicate that the intent of the business is to function primarily as a bar/nightclub. In accordance with the requirements of the State Department of Alcoholic Beverage Control, the applicant will not allow patrons under 21 years of age in the establishment.

### Project Review and Comments:

The applicant's project was referred to the Police, Fire and Building Departments for review and recommendation. The key issues related to approval of a billiard/pool halls, bars, taverns, and nightclubs involve the appropriateness of the location and whether or not such establishments can operate without detriment to nearby residential uses and general welfare of the surrounding area. As stated above, the site is located within a C-2 (General Commercial) zoning district and abuts residences to the west (see attachment B). The subject property has historically operated as an office but has been vacant for some time. Bars are a permitted use in the C-2 zoning district. However, there are no bars or other establishments within this neighborhood commercial center that provide live entertainment services due to site incompatibility. The nearest residences are located less than 75 ft from the project site.

The City's Police Department has reviewed this request as well as activities related to similar uses in the immediate vicinity. The Police Department currently receives numerous noise and public disturbance complaints from neighboring residents as a result of activity occurring at the El Rancho Sports Lounge, located at 621 North Cherokee Lane (see attachment E). In addition to the noise produced by the music, neighboring residents have also complained of noise caused by patrons.

The Police Department believes that noise and/or public disturbance complaints would increase with approval of the proposed project.

Although bars, billiard/pool halls and live entertainment establishments are conditionally permitted in a C-2 zoned property, Lodi Police Department believes, and staffs concurs, that the proposed project would result in an intensification of existing problems and continue to negatively impact the adjoining residential properties. Entertainment establishments that are not properly operated can create an environment with the potential for excessive noise generation and disorderly conduct by patrons, particularly at closing times, with resultant adverse public safety impacts on the surrounding businesses and residential communities. This has occurred with other similar establishment near the project site in the past. The City has experienced a number of serious problems related to patron conduct and lack of effective management at various bars with live entertainment venues throughout the City. Other problems experienced include public drunkenness, vandalism of cars and businesses, public urination and other illegal and disruptive activities. The applicants have indicated there will be no separate private security company hired for purposes of policing the project as they anticipate overseeing security arrangements themselves. Staff feels this would be inadequate and could contribute to unruly behavior by their patrons and could create additional problems for the Police Department. The Police Department have had to spend an inordinate amount of time responding to calls from the El Rancho Sports Bar to prevent and control major disturbances, which has affected other areas of the City by depleting the availability of police resources.

Staff recommends the Planning Commission deny the Use Permit request as the existing and proposed conditions do not mitigate all the concerns of incompatibility between the residential and commercial uses. As shown in the site plan, the project site is within less than 75 ft of adjoining single family residential properties whereas the LMC Sec. 17.73.020(E) requires a minimum of three hundred feet buffer zone between residential properties and nightclubs. Staff believes the project site is too close to residences, creating an incompatible mix of land uses. Staff anticipates noise from the proposed billiard hall/pool hall, tavern, nightclub to adversely impact nearby residences. According to Section 17.72.070 of the Zoning Ordinance, Use Permit may be approved if the Planning Commission can make the following finding:

In granting any use permit, the Planning Commission shall find that the establishment, maintenance or conducting of the use will not, under the circumstances of the particular case, be detrimental to the health, morals, comfort or welfare of persons residing or working in the neighborhood of the proposed use, or to property or improvements in the neighborhood, or will not be contrary to the general public welfare (LMC 17.72.080).

In staff's opinion, the finding necessary to approve the Use Permit request cannot be made as proposed. In the past, the City has approved commercial entertainment establishments that offer live performances by musicians, comedians and other similar acts. Staff finds that the Downtown is a favorable location for clubs and entertainment venues. Locations like Downtown have fewer residents that could be adversely impacted by late night activities; those that chose to live downtown are typically cognizant of the fact that these types of uses congregate around the downtown core; there is adequate parking in parking lots and on the street, particularly late at night; a late night business in the downtown is less likely to impact surrounding businesses since most are closed at night; and a restaurant/nightclub/bar can compliment the other restaurants and bars in the downtown, creating a dining and entertainment center for Lodi. Staff has suggested to the applicant to consider another location for the project, but the applicant has indicated the project site is the area of their interest.

Section 17.72.040 of the Lodi Municipal Code requires a Use Permit for new Off-Sale and On-Sale alcohol licenses as well as changes in license type. The City established the Use Permit requirement to gain local control over whether or not a license is appropriate for a particular location. The State

Department of Alcoholic Beverage Control primarily controls issuance based on concentration of licenses within a particular Census Tract. Census Tract 45 covers the area south of the Mokelumne River, north of Lodi Avenue, east of the Union Pacific Rail Road (U.P.R.R), and west of Guild Avenue. According to ABC, Census Tract 45 contains 14 existing ABC licenses with 7 on-sale licenses allowed based on the ABC criteria. The commercial complex where the proposed project is located currently has 1 Type-41 ABC licenses (Pizza World and Taqueria Casa Mexicana both hold on-sale beer and wine licenses). Because this census tract is over-concentrated, the Planning Commission must make a finding of public necessity or convenience in order to approve an additional ABC license. Staff feels there is no justification to make a finding of public necessity or convenience due to possible alcohol related problems this establishment could create to the area in general and nearby residences in particular. This particular census tract has abundance of On and Off sale general ABC licenses. Denial of this transfer request would not unnecessarily create inconvenience to the public.

The Fire Department notes the assembly type uses, such as banquet halls, night clubs, taverns and bars, require installation of hood above all cooking appliances, automatic sprinkler system throughout the tenant space, and installation of fire alarm system that meets the California Fire Code. The Fire Department also notes that maximum room occupancy would need to be recalculated due to change in use from office to an assembly and a fire control room must be provided. The applicant was informed of the City's requirements at the meeting of March 16, 2010.

Staff is recommending denial for the proposed project because findings necessary to approve the proposed project cannot be made. Although staff recognizes the need for a thriving business to expand, the proposed project is incompatible with the abutting residential neighborhood. As the Police Department noted, there is a history of incompatibility between an existing bar near the project site and the adjoining residences. Staff believes that the proposed project would have a negative impact to the site and the surrounding residential neighborhood. The neighborhood commercial center currently contains two eating establishments, a church and offices. Approval of the proposed use would lead to increased calls for services to the Police Department, create problems for the tenants of the neighborhood shopping center, and cause problems to the surrounding residences. In order to grant a Use Permit, the Planning Commission is given an opportunity to require conditions, and/or to approve or deny such proposals. In approving a Use Permit, the Planning Commission must make a finding that the proposed project will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood and that such proposed project will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City. Staff is of the opinion such findings cannot be made in this case. As a result of the Police Department's concerns, coupled with the land use incompatibility, staff is requesting that the Planning Commission deny the proposed project in its entirety. The applicant has been advised on numerous occasions the project site is incompatible with the proposed project and staff recommends denial of the project as submitted.

### **ENVIRONMENTAL ASSESSMENTS**

The project was found to be Categorically Exempt according to the California Environmental Quality Act, Article 19 §15321, Class 21 (a) (2). The project is classified as an "Enforcement action by regulatory agencies" because it is the "adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." 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 March 31, 2010. 54 public hearing notices were sent to all property owners of record within a 300-foot radius of the project site as required by

California State Law §65091 (a) 3. Public notice also was mailed to interested parties who had expressed their interest of the project. No protest letter has been received.

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

- Approve with additional/different conditions
- Deny the SPARC request
- Continue the request

Respectfully Submitted,

Concur,

Immanuel Bereket  
Assistant Planner

Konradt Bartlam  
Community Development Director

**ATTACHMENTS**

- A. Vicinity Map
- B. Aerial Photo
- C. Site Plan
- D. Floor Plan
- E. Police Department Comment
- F. Resolution

**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, APRIL 14, 2010**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of April 14, 2010, was called to order by Chair Cummins at 7:00 p.m.

Present: Planning Commissioners – Hennecke, Kirsten, Kiser, Mattheis, and Chair Cummins

Absent: Planning Commissioners – Heinitz and Olson

Also Present: Community Development Director Konradt Bartlam, Assistant Planner Immanuel Bereket, Deputy City Attorney Janice Magdich, and Administrative Secretary Kari Chadwick

2. MINUTES

“March 24, 2010”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Kiser second, approved the Minutes of March 24, 2010 as written. (Commissioner Mattheis abstained due to his absence from the subject meeting)

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 Cummins called for the public hearing to consider the request for a variance to increase the size of a second dwelling unit from 400 square feet to 672 square feet at 1320 South Washington Street.

Assistant Planner Bereket gave a brief PowerPoint presentation based on the staff report. Mr. Bereket pointed out the email received by Mr. and Mrs. Daniels expressing their concerns. Staff is recommending approval of this application

Commissioner Kirsten asked if the applicant did the work. Mr. Bereket stated that he did not.

Hearing Opened to the Public

- Hazoor Shah, applicant, came forward to answer questions.
- Commissioner Kirsten asked if the unpermitted work was disclosed at the time of the purchase. Mr. Shah stated that he was told that the work may have been done without permits.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Kiser second, approved the request of the Planning Commission for a variance to increase the size of a second

dwelling unit from 400 square feet to 672 square feet located at 1321 South Washington Street subject to the conditions in the attached resolution. The motion carried by the following vote:

Ayes: Commissioners – Hennecke, Kirsten, Kiser, Mattheis, and Chair Cummins  
Noes: Commissioners – None  
Absent: Commissioners – Heinitz and Olson

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Cummins called for the public hearing to consider the request for a Use Permit to allow a Type 48 On-Sale General ABC license at 651 North Cherokee Lane, Suite E.

Assistant Planner Bereket gave a brief PowerPoint presentation based on the staff report. Mr. Bereket stated that the findings should be taken from the resolution on the Blue Sheet. Staff is recommending denial of this application.

Vice Chair Hennecke asked if the applicant is asking for a 300 foot waiver. Mr. Bereket stated that the applicant is asking for the Planning Commission to ignore that condition.

Hearing Opened to the Public

- Noe Juarez Luna, applicant, came forward to ask for a chance to prove that he can operate this business at this location without disturbing the residential neighbors.
- Chair Cummins asked how far away the current location is from this location. Mr. Luna stated that it is next door to this project. Mr. Bereket pointed out the location on the map.
- Commissioner Kirsten stated that he can appreciate Mr. Luna's situation and the desire he has to stay in business, but if the Planning Commission approves a project like this it could set a precedence that may end up reflecting badly on them. The Commission has to consider the surrounding residences and the opinion of staff. The 300 foot buffer is there for a reason. Mr. Luna stated that he is not going to use the back parking lot for customer parking. This should help avoid noise being next to the residences. Mr. Bartlam stated that one of the concerns staff had was that back parking lot and the fact that it can not be seen easily by police patrol. Kirsten asked if Mr. Luna talked with the Police Department before applying. Mr. Luna stated that he did and the officer he spoke to stated that the Police Department does not reject projects they only make recommendations.
- Commissioner Kiser stated that he understands what Mr. Luna is going through, but he still has to consider the surrounding area. He would like to see the project in a different location. Mr. Luna stated that he has spoken with the residents that border the project site and they do not have a problem with the project. The problem with the El Rancho is that the space is too small and people filter outside and leave the doors open.
- Hennecke asked staff to update the Commission on what type of license the El Rancho has. Mr. Bartlam stated that the El Rancho has the same type of license that Mr. Luna is asking for. Hennecke asked how far the residential area is from the El Rancho. Mr. Bartlam stated that the building is 200 to 250 feet from the residential zone. The 300 foot mark was established because of past experiences and staff is confident that it is a fair distance.
- Chair Cummins asked if Mr. Luna currently holds a beer and wine license with the restaurant. Mr. Luna stated that he does hold a beer and wine license, but the

restaurant didn't do well. Commissioner Kiser stated that the license was good at a different location. Mr. Bartlam stated that the difference between the two locations is the current location is a restaurant and the proposed is not. There will be a completely different atmosphere from an establishment that serves food with alcohol and what is essentially going to be a nightclub/bar.

- Gloria Juarez, Sonora Avenue resident which is directly behind the project location, came forward to object to the project. She stated that she did not speak with Mr. Luna. This project is too close to her home.

Public Portion of Hearing Closed

- Commissioner Kirsten stated that he would like to see Mr. Luna try opening this business in another location.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Kiser second, denied the request of the Planning Commission for a Use Permit to allow a Type 48 On-Sale General ABC license at 651 North Cherokee Lane, Suite E subject to the conditions in the attached resolution. The motion carried by the following vote:

Ayes: Commissioners – Hennecke, Kirsten, Kiser, Mattheis, and Chair Cummins  
 Noes: Commissioners – None  
 Absent: Commissioners – Heinitz and Olson

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam referenced the memo in the packet and stated that staff is available for questions. He also stated that the City Council adopted the General Plan last week unanimously. The Housing Element should be made available to the Commission in the near future. Mr. Bartlam also announced that he has taken on the Interim City Manager's position, but will continue his duties with the Community Development Department.

7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE

Director Bartlam stated that staff has provided a letter that was received recently from the Farm Bureau. It is the only correspondence received since the Planning Commission's recommendation. Staff is working on the new zoning map and the new zoning code will be brought to the Commission for final say.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

Commissioner Kirsten updated the Commission on the Crane Sculpture situation.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Director Bartlam asked if the Commission would please close the meeting in memory of Commissioner Olson's Mother who passed away this week.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:45 p.m.

ATTEST:

Konrad Bartlam  
Planning Commission Secretary

RECEIVED

2010 APR 19 PM 2:32

CITY CLERK  
CITY OF LODI

April 16, 2010

To: Planning Commission

From: Noe Juarez Luna

Re: Appellation Notice

I disagreed with the decisions of the Planning Commission and am taking action with my right to appeal. Code Section 17.72.110.

I, Noe Juarez Luna, am writing this letter in accordance to the Planning Commission Action that was rejected, I believe that my request should be carefully reviewed and re considered. I hope to see my papers reviewed and hope to see some progress towards my request. I wanted to note that in the year of 2008 I also filed for this same request at a different location, the city and the council gave me the opportunity to start working and approval this for six months and after those six months they gave me my permanent license. I hope to see that you give me the same opportunity to prove to the city of Lodi and Council that I am capable of handling my business properly. Thank you for your time and consideration any questions please contact me (209) 608-7344.

With this appeal letter are attached my license permit and some other recommendations.

Sincerely,

Noe Juarez Luna



<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p><b>AGENDA</b> <b>LODI</b> <b>PLANNING COMMISSION</b></p>	<p>REGULAR SESSION WEDNESDAY, APRIL 14, 2010 @ 7:00 PM</p>
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For information regarding this agenda please contact:  
**Kari Chadwick @ (209) 333-6711**  
**Community Development Secretary**

***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 Community Development Department, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the Community Development Department as soon as possible and at least 24 hours prior to the meeting date.*

1. ROLL CALL
2. MINUTES – “March 24, 2010”
3. PUBLIC HEARINGS
  - a. Request for Planning Commission approval of a variance to increase the size of a second dwelling unit from 400 square feet to 672 square feet. (Applicant: Hazoor Shah; File #: 10-A-01).
  - b. Request for Planning Commission approval of a Use Permit to allow a Type 48 On-Sale General ABC license at 651 North Cherokee Lane, Suite E. (Applicant: Noe Juarez Luna. File Number: 10-U-01)

**NOTE:** The above items are quasi-judicial hearings and require disclosure of ex parte communications as set forth in Resolution No. 2006-31

4. PLANNING MATTERS/FOLLOW-UP ITEMS
5. ANNOUNCEMENTS AND CORRESPONDENCE
6. ACTIONS OF THE CITY COUNCIL
  - a. Council Summary Memo
7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE
8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE
9. ART IN PUBLIC PLACES
10. COMMENTS BY THE PUBLIC
11. COMMENTS BY THE PLANNING COMMISSIONERS & STAFF
12. 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.

CITY COUNCIL

LARRY D. HANSEN, Mayor

PHIL KATZAKIAN,

Mayor Pro Tempore

SUSAN HITCHCOCK

BOB JOHNSON

JOANNE MOUNCE

# CITY OF LODI

Community Development Department

CITY HALL, 221 WEST PINE STREET

P.O. BOX 3006

LODI, CALIFORNIA 95241-1910

(209) 333-6714 – Building

(209) 333-6711 – Planning & Community Improv

(209) 333-6842 - Fax

[www.lodi.gov](http://www.lodi.gov)

BLAIR KING, City Manager

RANDI JOHL, City Clerk

D. STEPHEN SCHWABAUER  
City Attorney

January 21, 2009

Noe Juarez Luna  
1127 South Mills Avenue  
Lodi, CA 95242

Subject: La Luna live entertainment permit – 910 S. Cherokee Lane

Mr. Luna:

The La Luna Restaurant was granted a Live Entertainment Use Permit on August 27, 2008 that allows live music and dancing on a limited basis in conjunction with the operation of a sit-down restaurant. The Use Permit was granted with a number of conditions that were intended to make the operation more compatible with the surrounding neighborhood. This letter is to notify you that City has received complaints regarding the live entertainment activities of your business. The Police Department has received several complaints regarding noise, exceeding the customer capacity of the building and the presence of juveniles during live entertainment hours.

I am including a copy of the some of the relevant conditions of approval for your live entertainment permit that we think you may be in violation. They include the following:

1. No one under the age of twenty-one (21) years of age shall be allowed in the premise after the hours of 9:30 pm during Live Entertainment nights on Friday and Saturday.
2. Noise emanating from the property shall be within the limitations prescribed by the City's Noise Ordinance and shall not create a nuisance to surrounding residential neighborhoods and/or commercial establishments. Exterior doors of the restaurant shall remain closed with the exception of ingress and egress during periods of live entertainment and dancing.
3. Live entertainment shall be limited to Friday and Saturday evenings between the hours of 9:30 pm and midnight, and shall be limited to the interior of the building as delineated by the floor plan submitted to the Planning Commission.
4. Within 6-months of the date of the start of live entertainment a noticed Public Hearing shall be held to review the status of the operation and any concerns or problems.

You should take note of these conditions and make sure that you are complying with all of them. In particular you should make sure that there are not any minors (persons under 21-years of age) in the establishment after 9:30 pm when live entertainment is taking place. You must also keep noise at a level that does not exceed the City Noise Ordinance. Generally, this means that noise should not be so loud as to bother people

on surrounding properties, particularly any nearby residences. This may require turning down any music or singing so it can not be heard outside of the building. Finally, you must make sure that you do not exceed the capacity of the restaurant as determined by the Lodi Fire Marshal. The number of people allowed in the building should be posted somewhere in the building.

You should resolve all of these problems before the time of your next public hearing to review your permit. If the Planning commission feels that you are not complying with the conditions of your Use Permit, they can modify or revoke your Live Entertainment Permit. We hope we can have your cooperation in this matter.

Sincerely,



David Morimoto  
Senior Planner

CC: Sgt. Martinez, Lodi Police Dept.  
Immanuel Bereket, Planner

# CITY OF LODI

## CITY COUNCIL

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



COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION  
CITY HALL, 221 WEST PINE STREET  
P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 333-6711 / FAX (209) 333-6842  
www.lodi.gov

BLAIR KING, City Manager  
RANDI JOHL, City Clerk  
D. STEPHEN SCHWABAUER,  
City Attorney  
RANDY HATCH,  
Community Development  
Director

September 11, 2008

Noe Juarez Luna  
1127 South Mills Avenue  
Lodi, CA 95242

SUBJECT: use permit application: 08-U-09  
La Luna live entertainment Conditional Use Permit  
910 South Cherokee Lane, Lodi.

Dear Mr. Luna:

At its meeting of Wednesday, August 27, 2008, the Lodi City Planning Commission approved your request for a Use Permit to allow Live Entertainment and Dancing at the La Luna Restaurant located at 910 South Cherokee Lane, Lodi.

The Planning Commission's approval is based on the findings and conditions set forth by Resolution No. PC 08-22 (enclosed). Please note that condition 5 requires review of your Use Permit 6-months after your first live entertainment and dancing event. The review is a "noticed" public hearing, which is subject to payment of application fees. You must notify the Community Development Department when your first live entertainment and dancing event will be held. Furthermore, condition 6 requires that at least two security people shall be present during live entertainment hours.

Should you have any question, please feel free to contact this office at the address or phone number listed above.

Sincerely,

A handwritten signature in black ink, appearing to read "Immanuel Bereket".

Immanuel Bereket  
Assistant Planner



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Set Public Hearing for July 21, 2010 to Consider Adopting Resolution Setting Usage-Based and Flat Water and Wastewater Rates for Residential, Commercial and Industrial Customers and Meter Installation Charges

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Public Works Director

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**RECOMMENDED ACTION:** Set public hearing for July 21, 2010 to consider adopting a resolution setting usage-based and flat water and wastewater rates for residential, commercial and industrial customers and meter installation charges.

**BACKGROUND INFORMATION:** The City Council has made numerous water and wastewater rate decisions over the past year, as summarized below. The recommended action at the July 21, 2010 City Council meeting will be to implement and/or modify these previous actions.

May 20, 2009 City Council waived Consumer Price Index (CPI) adjustment of water rates based upon a lack of new information supporting neither an increase nor a decrease.

July 15, 2009 City Council approved wastewater rate increases of 25 percent effective July 16, 2009; 20 percent effective July 1, 2010; 10 percent effective July 1, 2011; and 5 percent effective July 1, 2012. Also, the City Council approved an Engineering News Record – 20 Cities Average (ENR) based indexing of wastewater rates beginning with FY 2012/13. A Proposition 218 procedure was conducted that validated these actions.

January 6, 2010 City Council received advisory usage-based water and wastewater residential rates for the purpose of research and customer billing comparisons, as the City transitions to a metered water system to comply with State law.

March 17, 2010 City Council approved property owner charges for five classes of meter installation types ranging from \$300 to \$1,200 and two optional payment plans, one-time or seven-year low-interest installments.

Staff recommends the following actions be taken following the Public Hearing on July 21, 2010.

### Water Rates

1. Change the date for implementing the annual rate adjustment to January 1 for each of the five years (maximum timeframe allowed by Proposition 218) following January 1, 2011. This change is recommended so that rate changes occur at the lowest usage time of the year.

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APPROVED: \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

Set Public Hearing for July 21, 2010 to Consider Adopting Resolution Setting Usage-Based and Flat Water and Wastewater Rates for Residential, Commercial and Industrial Customers and Meter Installation Charges

May 19, 2010

Page 2

2. Change the water rate adjustment index from the CPI to the ENR, effective January 1, 2012, because this index better reflects the combined inflationary effects of personnel, materials and energy costs on the total operations of the utility as was done for the Wastewater Rates on July 15, 2010. The CPI adjustment for the period December 2007 through December 2008 was waived by City Council on May 20, 2009. The CPI-based projected adjustment for the period December 2008 through December 2010 is 5.98 percent. The ENR-based projected adjustment for the period December 2008 through December 2010 is 2.10 percent.
3. Adopt usage-based and flat water rates for residential customers as presented in Exhibit A to become effective January 1, 2011. These are the same residential rates received at the January 6, 2010 City Council meeting but with a 2.00 percent inflationary increase added to the flat rates, base rates and each tier. An additional two years deferral of rate adjustment is not recommended but smaller annual adjustments are recommended to avoid larger catch-up adjustments in the future, as was the case with the Wastewater Rates.
4. Change the multi-family and nonresidential usage-based rate structure for meter sizes 1 inch and smaller to establish parity with the residential customers, as presented in Exhibit A. For these multi-family and nonresidential customers, the monthly base rate would decrease by \$3.39 to \$5.42 per month for meter sizes 5/8-inch through 1-inch. There is a single usage tier for multi-family and nonresidential customers and it is recommended to increase by \$0.081 per hundred cubic feet (748 gallons) from \$0.789 to \$0.86 per hundred cubic feet.
5. Eliminate the "Infrastructure" and "PCE/TCE" line item on the water utility bills, as was done for the wastewater utility bills on July 15, 2009.
6. Adopt the meter installation charge schedule presented in Exhibit B. The field work to identify the specific installation class for every parcel has begun. The property owners will be advised of their installation class by spring 2011 at which time lump sum payments will be accepted through June 30, 2011. The seven-year installment billings will be sent to property owners beginning July 2011.

As previously presented to the City Council, analysis of the water rates has been focused upon setting usage-based residential rates in support of the Water Meter Program. Analysis of the commercial/industrial rate structure confirms these rates are too low but no corrective action is recommended at this time. Further analysis is required.

### Wastewater Rates

1. Adopt usage-based and flat monthly wastewater rates for residential and nonresidential customers as presented in Exhibit C effective immediately. For customers paying a usage-based water bill, the wastewater monthly rate will be determined based upon their average monthly water usage from the previous December, January, and February. Wastewater monthly rates will be recalculated each year and put into effect beginning with July billings each subsequent year.

Proposition 218 requires that notifications be sent to the property owners and utility customers 45 days prior to the public hearing. These notices will be sent once the public hearing date has been set. Opposition to the rate changes is limited to the following actions:

1. For the water rates, establishing the ENR index as the basis of future annual rate adjustments, implementing the 2.00 percent increase, adopting the usage-based rate structure and adopting the meter installation charge schedule.
2. For the wastewater rates, adopting the usage-based rate structure.

Revenue Neutrality: Both the water and wastewater usage-based rates are calculated to generate the same revenue as the flat rates from the prior year, but they include updated projections of revenues and expenditures for the next one to five years. The rates recommended to become effective immediately for wastewater and on January 1, 2011 for water reflect this.

Water Utility Model: City Council approved a professional services agreement with The Reed Group on August 6, 2008, for the preparation of a water utility financial model. Although new to Lodi, this is a common tool used to track revenues and expenditures for a utility. The model has been used to forecast the performance of the utility through FY 2019/20 while incorporating substantial capital investments including the water meter program, infrastructure replacement program, property owner meter payments, and PCE/TCE remediation costs. The recommended rates presented in Exhibit A were developed using this tool.

Wastewater Utility Model: The Reed Group has recently completed development of a new Wastewater Utility Financial Model. The new model is essentially the same as before but assumptions have been renewed and revenue and expense information has been updated based upon actual. The recommended rates presented in Exhibit C were developed using this tool.

Water and Wastewater Capacity Charge: The capacity charge (development impact fee) for Water and Wastewater are not part of the rate structure for the utility. These charges will be updated along with the Lodi Development Impact Fee Program that is expected to be completed within 18 months. Final costs for the White Slough expansion, future White Slough expansion costs, and the Water Treatment Plant costs will be incorporated into the capacity charges.

**FISCAL IMPACT:** Increased revenues to the water and wastewater utility required to keep up with cost of service increases and new mandated costs.

**FUNDING AVAILABLE:** Not applicable.

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F. Wally Sandelin  
Public Works Director

FWS/pmf  
Attachments

cc: Steve Mann, Information Systems Manager  
Charlie Swimley, Deputy Public Works Director – Utilities

**Exhibit  
City of Lodi -- Water Utility  
Current and Proposed Water Rates**

	<b>Current (1)</b>	<b>Jan. 2011</b>
<b>Flat Rates (\$/month)</b>		
<b>Percent Increase</b>		2
<b>Single Family Residential Unit (\$/month)</b>		
1 Bedroom	\$ 27.98	\$ 28.54
2 Bedroom	\$ 33.61	\$ 34.28
3 Bedroom	\$ 40.28	\$ 41.09
4 Bedroom	\$ 48.40	\$ 49.37
5 Bedroom	\$ 58.06	\$ 59.22
6 Bedroom	\$ 69.67	\$ 71.06
7 Bedroom	\$ 83.58	\$ 85.25
<b>Multi-Family Residential Unit (\$/month)</b>		
1 Bedroom	\$ 24.02	\$ 24.50
2 Bedroom	\$ 28.81	\$ 29.39
3 Bedroom	\$ 34.57	\$ 35.26
<b>Metered Water Rates</b>		
<b>Service Charge (\$/month)</b>		
<i>Single Family Residential (2)</i>		
Up to 3/4" Meter	\$ 22.25	\$ 22.70
1" Meter	\$ 36.15	\$ 36.85
1 1/2" Meter	\$ 70.60	\$ 72.00
2" Meter	\$ 112.10	\$ 114.35
<i>Multi-Family and Non-Residential (3)</i>		
5/8" Meter	\$ 25.64	\$ 22.70
3/4" Meter	\$ 28.17	\$ 22.70
1" Meter	\$ 42.27	\$ 36.85
1 1/2" Meter	\$ 56.35	\$ 57.50
2" Meter	\$ 70.45	\$ 71.85
3" Meter	\$ 98.63	\$ 100.60
4" Meter	\$ 126.80	\$ 129.35
6" Meter	\$ 183.16	\$ 186.80
8" Meter	\$ 239.48	\$ 244.30
10" Meter	\$ 295.83	\$ 301.75
<b>Water Usage Rates (\$/CCF)</b>		
<i>Single Family Residential (2)</i>		
Tier 1 - 0 to 10 CCF/month	\$ 0.86	\$ 0.88
Tier 2 - 11 to 50 CCF/month	\$ 1.29	\$ 1.32
Tier 3 - Over 50 CCF/month	\$ 1.71	\$ 1.74
<i>Multi-Family and Non-Residential (3)</i>		
All Water Usage	\$ 0.789	\$ 0.88

**Notes:**

- (1) Revised July 1, 2008.
- (2) Current residential metered rates are revenue neutral and were approved for comparative billing purposes only.
- (3) Proposed multi-family and non-residential rates improve equity with single family water rates.

**WATER METER INSTALLATION CHARGES**

Class	Description	Charge	Monthly Payment	Total of Payments
1	Meter and ERT	\$300	\$3.76	\$315.84
2	Nonstandard Meter Box	\$450	\$5.65	\$474.60
3	Rich Box in Front Yard	\$1,100	\$13.80	\$1,159.20
4	Rich Box in Rear Yard	\$1,200	\$15.06	\$1,265.04
5	New Meter Service on New Main	\$1,200	\$15.06	\$1,265.04

**Exhibit  
City of Lodi -- Wastewater Utility  
Current and Proposed Wastewater Rates**

	Current (1)	July 2010
<b>Residential</b>		
<b>Percent Increase</b>		12
<b>Flat Rates (\$/month)</b>		
1 Bedroom	\$ 20.81	\$ 23.31
2 Bedroom	\$ 27.74	\$ 31.07
3 Bedroom	\$ 34.68	\$ 38.84
4 Bedroom	\$ 41.61	\$ 46.60
5 Bedroom	\$ 48.55	\$ 54.38
6 Bedroom	\$ 55.48	\$ 62.14
7 Bedroom	\$ 62.42	\$ 69.91
<b>Usage-Based Rates (2)</b>		
Service Charge (\$/month)	\$ 18.95	\$ 21.22
Usage Charge (\$/CCF) (3)	\$ 2.15	\$ 2.41
<b>Non-Residential (\$/month)</b>		
Moderate Strength (per SSU)	\$ 27.74	\$ 31.07
High Strength		
Flow (per MG, annual basis)	\$ 2,808.88	\$ 3,145.95
BOD (per 1,000 lbs, annual basis)	\$ 463.54	\$ 519.16
SS (per 1,000 lbs, annual basis)	\$ 289.83	\$ 324.61
Grease Interceptor & Septic Holding Tank		
Waste within City Limits (per 1,000 gal.)	\$ 245.44	\$ 274.89
Septic (only) Holding Tank Waste		
Outside City Limits (per 1,000 gal.)	\$ 521.03	\$ 583.55
Disposal to Storm Drain System (per MG)	\$ 257.80	\$ 288.74
Disposal to Industrial System (4)		
Flow (per MG, annual basis)	\$ 2,218.78	\$ 2,485.03
BOD (per 1,000 lbs, annual basis)	\$ 20.34	\$ 22.78
Winery Wastewater (per 1,000 gal.)	\$ 248.53	\$ 278.35

**Notes:**

- (1) Revised July 16, 2009.
- (2) Current revenue neutral rates were approved for comparative billing purposes only.
- (3) Winter water usage determined as average monthly usage from December through February.
- (4) 2007 Industrial System rates are shown. Rates are calculated annually per LMC Sec. 13.12.210.

**City of Lodi -- Wastewater Utility  
Current and Proposed Water Usage-Based Residential Wastewater Rates**

	<b>Current (1)</b>	<b>July 2010</b>
<b>Monthly Fixed Service Charge</b>	\$ 18.95	\$ 21.22
<b>Wastewater Flow Charge</b>	\$ 2.15	\$ 2.41
Based on Winter Water Usage (2)		
<b>Monthly Wastewater Bills (for various usages)</b>		
Winter Water Use (CCF)		
0	\$ 18.95	\$ 21.22
1	\$ 21.10	\$ 23.63
2	\$ 23.25	\$ 26.04
3	\$ 25.40	\$ 28.45
4	\$ 27.55	\$ 30.86
5	\$ 29.70	\$ 33.27
6	\$ 31.85	\$ 35.68
7	\$ 34.00	\$ 38.09
8	\$ 36.15	\$ 40.50
9	\$ 38.30	\$ 42.91
10	\$ 40.45	\$ 45.32
11	\$ 42.60	\$ 47.73
12	\$ 44.75	\$ 50.14
13	\$ 46.90	\$ 52.55
14	\$ 49.05	\$ 54.96
15	\$ 51.20	\$ 57.37
16	\$ 53.35	\$ 59.78
17	\$ 55.50	\$ 62.19
18	\$ 57.65	\$ 64.60
19	\$ 59.80	\$ 67.01
20	\$ 61.95	\$ 69.42

**Notes:**

- (1) Estimated to be revenue neutral relative to the wastewater rates implemented in July 2009.
- (2) Winter water usage determined as average monthly usage from December through February.

**Special Notes:**

- Sample is only about 5% of residential accounts
- Sample is skewed to larger homes (more bedrooms)
- To compensate, calculation is based on minimum winter usage rather than average winter usage

**Comments by the public on non-agenda items**

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

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

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

**Comments by the City Council Members on non-agenda items**



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Conduct a Public Hearing to Introduce an Ordinance Amending Chapter 13.20 "Electrical Service" by Adding a New Section 13.20.320 Titled Schedule NST - New Sales Tax Economic Development Rate (EUD)

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Interim Electric Utility Director

---

**RECOMMENDED ACTION:** Conduct a Public Hearing to introduce an ordinance amending Chapter 13.20 "Electrical Service" by adding a new Section 13.20.320 titled Schedule NST - new sales tax economic development rate.

**BACKGROUND INFORMATION:** The Electric Utility Department proposes a new electric utility rate: the New Sales Tax (NST) Economic Development Rate. The proposed NST rate was presented to the Council on April 7, 2010.

The proposed NST has three primary objectives:

- 1) enhance sales tax revenue to Lodi's General Fund;
- 2) reduce the vacancy rate of commercial properties in Lodi, thus reducing the potential for property neglect, vandalism and/or blight; and,
- 3) strengthen Lodi's commitment to business growth and economic development during this temporary national economic downturn.

The NST would be available to commercial customers who generate \$100,000 in sales tax or more per year, and occupy a property that has been vacant for a minimum of 90 days. The discount would be 10 percent through Fiscal Year 2010/11 and 5 percent through FY 2011/12. When the incentive expires, economic conditions could be assessed as to whether renewal is warranted.

The ordinance to be introduced is attached.

**FISCAL IMPACT:** Unknown. Dependent upon the number of participants, and how many of those would not occupy the vacant property without the discount.

**FUNDING:** Not applicable.

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Kenneth A. Weisel  
Interim Electric Utility Director

KAWlst

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APPROVED: \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE LODI CITY COUNCIL  
AMENDING CHAPTER 13.20, "ELECTRICAL SERVICE,"  
BY ADDING A NEW SECTION 13.20.320 - SCHEDULE  
NST—NEW SALES TAX RATE

=====

BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Section 13.20 is hereby amended by adding a new Section 13.20.320 "Schedule NST—New Sales Tax Rate" to read as follows:

13.20.320 Schedule NST—New Sales Tax Rate

A. Applicability. This rate discount is available to qualified commercial customers on the G1, G2, G3, G4, or G5 rate for the purpose of attracting new businesses generating substantial sales tax revenue into vacant properties.

B. Commercial Businesses.

1. Qualifying Customers. A qualifying customer is one who:

- a) Takes permitted occupancy after June 30, 2010, of property within the City of Lodi ("Lodi") and receives electric service from the City of Lodi. The property must be unoccupied for at least ninety (90) days prior to the subject occupancy ("subject property"); and
- b) At the subject property, makes retail sales that generate New Sales Tax of \$100,000 per year or more, as determined by the City of Lodi; and
- c) Files a complete application requesting a new sales tax rate (NST).

2. New Sales Tax.

- a) "New Sales Tax" as used in paragraph B(1)(b) above refers to the portion of the sales tax paid to the City of Lodi generated by sales at the subject property ("Lodi NST");
- b) A business that relocates within the City of Lodi must generate an additional \$100,000 of Lodi NST over their prior twelve (12) months sales tax to qualify for this rate.

C. Discount. The discount shall equal ten percent of the electric portion of the Lodi utility bill associated with the load of the qualified customer at the subject property for bills for periods ending with meter readings in the year ending June 30, 2011, and five percent for the electric portion of the Lodi utility bill associated with the load of the qualified customer at the subject property for periods ending with meter readings in the year ending June 30, 2012. The discount shall not apply to the solar surcharge, CEC fee, state energy tax, or any other assessment or charge levied on electric bills after the effective date of this rate

schedule unless specifically provided otherwise. These discounts shall expire for bill periods ending with meter readings after June 30, 2012.

D. Verification. Customer must provide information satisfactory to Lodi regarding the planned size of the new load and sales tax generation. If, in the opinion of Lodi, a customer is deemed qualified on the basis of sales tax projections, but is later found not to be qualified, on the basis of actual sales tax generation, then any discount will be rebilled and due back to Lodi. If, in the opinion of Lodi, a customer is deemed not to be qualified on the basis of sales tax projections, but is later found to be qualified, on the basis of actual sales tax generation, then any discount due for the applicable retroactive period will be credited to the customer's account.

E. Tourism and/or Wine Industry Businesses.

1. Customers who meet the qualifications for both the NST rate and the Tourism and/or Wine Industry Business discount under the EDR rate will be given the larger of the two discounts, but not both, for the period in which they meet the qualifications for both.

F. Sunset. This NST rate shall expire at the end of June 2012. It shall not apply to any bill based on the customer's meter readings taken after June 30, 2012.

G. Lodi shall be responsible for establishing administrative rules and processes for administering this rate schedule. Customers shall provide information on a timely basis to enable EUD to verify eligibility and to administer the terms of this rate schedule.

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. 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 4. All ordinances, resolutions, and other actions and parts thereof in conflict herewith are repealed insofar as such conflict may exist.

SECTION 5. This ordinance shall be published pursuant to law and shall become effective 30 days from the date of passage and adoption.

SECTION 6. This amended Schedule referenced above shall be effective on applicable electric utility billings prepared by the City of Lodi on or after July 2, 2010, or the first date allowable under State law.

Approved this \_\_\_\_ day of \_\_\_\_, 2010

\_\_\_\_\_  
PHIL KATZAKIAN  
Mayor

ATTEST:

RANDI JOHL  
City Clerk

State of California  
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_ was introduced at a regular meeting of the City Council of the City of Lodi held May 19, 2010, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 2010, 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 on the date of its passage and the same has been published pursuant to law.

RANDI JOHL  
City Clerk

Approved to Form:

D. STEPHEN SCHWABAUER  
City Attorney



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

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

**ADVERTISING INSTRUCTIONS**

**SUBJECT:** PUBLIC HEARING TO CONSIDER INTRODUCING ORDINANCE AMENDING LODI MUNICIPAL CODE CHAPTER 13.20, "ELECTRICAL SERVICE," BY ADDING NEW SECTION 13.20.320 TITLED, "SCHEDULE NST – NEW SALES TAX ECONOMIC DEVELOPMENT RATE"

**PUBLISH DATE:** SATURDAY, APRIL 24, 2010

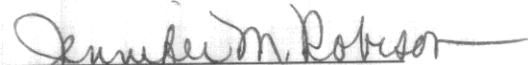
**LEGAL AD**

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

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

**DATED:** THURSDAY, APRIL 22, 2010

**ORDERED BY:** RANDI JOHL  
CITY CLERK

  
JENNIFER M. ROBISON, CMC  
ASSISTANT CITY CLERK

\_\_\_\_\_  
MARIA BECERRA  
ADMINISTRATIVE CLERK

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

LNS Faxed to the Sentinel at 369-1084 at \_\_\_\_\_ (time) on \_\_\_\_\_ (date) \_\_\_\_\_ (pages)  
Phoned to confirm receipt of all pages at \_\_\_\_\_ (time) JMP MB CF (initials)



## DECLARATION OF POSTING

### **PUBLIC HEARING TO CONSIDER INTRODUCING ORDINANCE AMENDING LODI MUNICIPAL CODE CHAPTER 13.20, "ELECTRICAL SERVICE," BY ADDING NEW SECTION 13.20.320 TITLED, "SCHEDULE NST – NEW SALES TAX ECONOMIC DEVELOPMENT RATE"**

On Friday, April 23, 2010, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider introducing ordinance amending Lodi Municipal Code Chapter 13.20, "Electrical Service," by adding new Section 13.20.320 titled, "Schedule NST – New Sales Tax Economic Development Rate" (attached and marked as Exhibit A) was posted at the following locations:

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

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

Executed on April 23, 2010, at Lodi, California.

ORDERED BY:

**RANDI JOHL  
CITY CLERK**

  
JENNIFER M. ROBISON, CMC  
ASSISTANT CITY CLERK

\_\_\_\_\_  
MARIA BECERRA  
ADMINISTRATIVE CLERK



# CITY OF LODI

Carnegie Forum  
305 West Pine Street, Lodi

## NOTICE OF PUBLIC HEARING

Date: May 19, 2010

Time: 7:00 p.m.

For information regarding this notice please contact:

**Randi Johl**

**City Clerk**

**Telephone: (209) 333-6702**

**EXHIBIT A**

### NOTICE OF PUBLIC HEARING

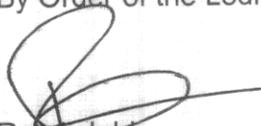
**NOTICE IS HEREBY GIVEN** that on **Wednesday, May 19, 2010**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following matter:

- a) **Introduce ordinance amending Lodi Municipal Code Chapter 13.20, "Electrical Service," by adding new Section 13.20.320 titled, "Schedule NST – New Sales Tax Economic Development Rate."**

Information regarding this item may be obtained in the Electric Utility Department, 1331 South Ham Lane, Lodi, (209) 333-6762. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2<sup>nd</sup> Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

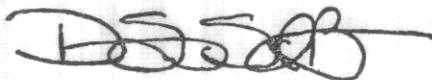
If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

  
Randi Johl  
City Clerk

**Dated:** April 21, 2010

Approved as to form:



D. Stephen Schwabauer  
City Attorney

J-1



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Continue to Receive and Review the Draft Fiscal Year 2010/11 Financial Plan and Budget

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Deputy City Manager

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**RECOMMENDED ACTION:** Continue to receive and review the Draft Fiscal Year 2010/11 Financial Plan and Budget.

**BACKGROUND INFORMATION:** With this communication, the Draft Fiscal Year (FY) 2010/11 Financial Plan and Budget is hereby provided to the City Council.

The General Fund budget for the FY 2010/11 is balanced without the use of reserves. The beginning unreserved fund balance in the General Fund is \$3.8 million. Significant one-time revenues have been used to partially cover operating expenses and to address a portion of the City deferred maintenance needs.

Employee contributions from all bargaining groups are a key component to having a balanced budget. The City is grateful to the bargaining groups for their understanding and cooperation.

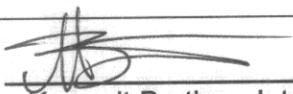
The budget document continues with a presentation that provides for summary data at the City-wide and departmental levels.

**FISCAL IMPACT:** The draft 2010/11 budget provides an expenditure plan for all funds. The all Funds budget is \$179,333,640, an increase of \$9.1 million, or about 5.4 percent over the previous year. The General Fund Budget is \$41,321,750, which includes one-time funding of approximately \$1.2 million. Absent the one-time funding, the General Fund reflects a growth of \$266,000 over the prior year.

  
Jordan Ayers, Deputy City Manager

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APPROVED:

  
Konradt Bartlam, Interim, City Manager



# CITY OF LODI COUNCIL COMMUNICATION

TM

**AGENDA TITLE:** Adopt Resolution in Support of Measure C Allowing North San Joaquin Water Conservation District to Impose and Collect Groundwater Charge

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Public Works Director

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**RECOMMENDED ACTION:** Adopt a resolution in support of Measure C allowing North San Joaquin Water Conservation District to impose and collect a groundwater charge.

**BACKGROUND INFORMATION:** The City received the attached letter from the "Yes on C" Committee seeking support from the City Council regarding Measure C, which is on the June 8, 2010 ballot. The Measure would allow the North San Joaquin Water Conservation District (District) to once again go through the process to establish a groundwater charge in support of projects and programs to help sustain the groundwater basin. The attached letter (Exhibit A) and fact sheet (Exhibit B) provide additional background information.

In 2007, the District adopted a groundwater charge that was subsequently overturned by Measure V in 2008. The City's portion of the groundwater charge was approximately \$200,000 per year. The District is now required to submit the matter of a groundwater charge to the voters. Measure C will repeal Section 2 of Measure V and, thereby, reinstate the District's right to adopt a charge in the future.

City Council representatives and staff have worked with the District directly, through the Groundwater Banking Authority and other entities, for many years and recognize the limited financial resources available to the District. Their District's only firm source of revenue is a share of property tax, roughly \$240,000 per year.

The overdraft condition of the groundwater basin is well-established and computer model projections indicate continued lowering of groundwater levels particularly east and southeast of Lodi. Given that Lodi's pumping is part of this overdraft, and lowered groundwater levels will adversely affect Lodi, staff supports the District's efforts to maintain its limited water right and the need to put its full allocation to beneficial use. When the City's surface water treatment plant is operational and using our contracted Woodbridge Irrigation District water, the City could consider using the District surface water should a need exist and if terms were favorable.

**FISCAL IMPACT:** If Measure C passes, a new groundwater charge would need to be budgeted in the Water Utility. The previous charge was \$200,000 and the new charge may be the same.

**FUNDING AVAILABLE:** Not applicable.

---

F. Wally Sandelin  
Public Works Director

FWS/pmf  
Attachments

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**APPROVED:** \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

**Yes on C**  
**Get Facts, not Fiction**

[www.voteYesC.com](http://www.voteYesC.com)

May 4, 2010

Lodi City Council  
221 W. Pine Street  
Lodi, CA 95241-1910

Subject: Measure C support

Passage of Measure C, on the June 8, 2010 ballot is vital to local efforts to help stabilize and restore our overdrafted groundwater basin. Local cities, including Lodi, have made great efforts in reducing their reliance on groundwater and local water districts have also joined in this effort. However, continuation of these efforts requires adequate funding to build infrastructure and operate systems to capture surface water when it is available. The North San Joaquin Water Conservation District, which covers the northeastern part of San Joaquin County, including much of the City of Lodi, was severely hampered by passage of Measure V in 2008 which required a general election on future groundwater charges. Measure C would allow the District to collect a groundwater charge in accordance with the State Constitution and the Water Code.

Key to this debate is who should pay for efforts to restore the groundwater basin. The Yes on C committee believes that those who pump groundwater should participate in this cost. And that is most efficiently done through a charge based on the amount of groundwater being pumped as estimated by land use – not on a property tax or on some other general tax that would have to be approved by those with only indirect cost or benefit.

In 2007 when the District adopted the groundwater charge which ultimately led to Measure V, the Lodi City Council considered this matter. Since the City of Lodi is a major groundwater pumper within the District, the groundwater charge was to be imposed on the City. The Council voted to support the charge.

Now, in 2010, the Yes on C committee, which is a grassroots effort on the part of local agriculturalists and residents concerned about the sustainability of our water supply for future generations, is asking **the City to again affirm its support of the District's efforts to restore a groundwater charge and help do its part in restoring the basin.** The attached fact sheet provides additional information.

Respectfully,

Yes on C Committee

---

Yes on C  
PO Box 1599  
Lodi, CA 95241

Committee Members:

Brad Lange  
Tom Hoffman  
Charlie Starr

Aaron Lange  
Joe Petersen

Craig Ledbetter  
Richard Prima

# YES ON MEASURE C

## Keep Local Control & Save Our Groundwater

### What is Measure C?

Measure C does not impose a groundwater charge; it repeals Section 2 of Measure V to re-instate the North San Joaquin Water Conservations District's right to adopt a charge in the future. If Measure C is passed, the district will have the opportunity to choose the method of a new charge, following the California Constitution and the Water Code. Measure C goes to vote on June 8, 2010.

Formal description: Shall Section 2 of the Initiative adopted by Measure V be repealed to allow NSJWCD to impose and collect a groundwater charge as described in Water Code section 75500 et seq. beginning in the fiscal year following the adoption of this measure, and in future years? In adopting a groundwater charge, NSJWCD will comply with all applicable CA State Laws.

### Why Support Measure C

#### Keep control of our groundwater local

- *Allow the District and local water users (City of Lodi, rural well owners, etc) the right to choose how to solve our groundwater overdraft instead of the State or some regional agency.*
- *Without action, the district risks losing local control to the State Water Resources Control Board and/or another district. This will certainly come at a higher cost and with less local input.*

#### Rebuild, repair and extend wet-year water distribution system

- *Efficiently deliver surface water for irrigation and groundwater recharge*

#### Retain our surface water allocation on the Mokelumne River: 20,000 acre feet!

- *The District must show State Water Resources Control Board the ability and capacity to use our allocation—or they will reduce our water allocation in the future.*
- *How much water? 20,000 acre feet is **MORE WATER** than the **ENTIRE CITY OF LODI USES** in a **WHOLE YEAR!** ([http://www.lodi.gov/public\\_works/pdf/Water\\_Quality\\_Report2009.pdf](http://www.lodi.gov/public_works/pdf/Water_Quality_Report2009.pdf))*

#### Alleviate and help replenish the declining groundwater levels

- *The more surface water used for irrigation, the less is pumped out of the ground*
- *Use surplus surface water for groundwater recharge*
- *Groundwater levels have been rapidly declining for decades. While annual amounts vary, long term declines are as much as **1.5 feet per year** within the District. ( [http://www.gbawater.org/studies\\_projects/project\\_details.html](http://www.gbawater.org/studies_projects/project_details.html) )*

#### Preserve our groundwater supply for area communities: City of Lodi, Lockeford, & rural areas

- *Put our available and allocated water to its best beneficial use now & preserve groundwater for future generations!*

### The Past

In 2007, the NSJWCD Board of Directors did not first provide ample background information to the public on why the charge was needed before they adopted the groundwater charge. Although the board followed proper procedure to adopt this charge, more transparency of the process and educational information should have been provided.

Measure V passed in November 2008. It currently prohibits NSJWCD from imposing and collecting future groundwater charges until the District submits the matter to the voters. Significant time, energy, and money have been spent surrounding Measure V and to still retain local control of our water allocations. These resources could have been used to improve our District's water distribution system and recharge projects to help preserve our precious groundwater resources.

### The Future

The NSJWCD has a plan for improving the infrastructure and ultimately our groundwater basin once Measure C has passed and if a revenue stream is re-established through a groundwater charge. Priority projects include:

- Repair north and south water distribution systems to serve more surface water customers
- Repair dam in Bear Creek and fill with wet year water
- Build new pumping stations on north and south side near Camanche
- Divert wet year water to Bear, Gill and Coyote creeks for delivery to service surface water customers & recharge

This information provided by Yes On C

[www.voteYES.com](http://www.voteYES.com)

# **YES ON MEASURE C**

## **Keep Local Control & Save Our Groundwater**

### **Next Steps**

- Engage the new NSJWCD Board (3 new members since the passage of Measure V) and hold the Board accountable for what they plan to do with funds collected from future groundwater charges and how they plan to improve the condition of our groundwater basin.
- Resist efforts that simply impede good planning, rational decisions, and positive actions.
- Remember that we are investing in the water that sustains all of us! We can leverage that investment by working together. **VOTE YES ON MEASURE C!**

### **Frequently Asked Questions**

#### **Q: What other local water districts have groundwater charges?**

**A:** Many water districts have groundwater charges. Some examples as of April 2010:

- Woodbridge Irrigation District collects a ground water assessment of \$2/acre per year in the Lodi area, regardless of your water use; and a \$5/acre annual “stand-by” fee for property accessible by WID water infrastructure.
- Stockton East Water District 2010 water year rates are \$4.58/acre foot for agricultural groundwater use, and \$37.50 per year for rural domestic unit (rural home with no agricultural irrigation needs)
- **NSJWCD most recent charges were CHEAPER:** \$4.28 per acre foot for agriculture groundwater use, \$21.40/yr for a house on one acre, and \$11.70/yr for a house and a well on a small lot. Non-irrigated pasture land is charged nothing!

#### **Q: Does the NSJWCD give away surface irrigation water for free? Give or sell water to Stockton?**

**A:** Absolutely NOT! All recipients pay for using NSJWCD irrigation water. It has not sold water to the City of Stockton and has formally voted not to do so. (Source: NSJWCD Meeting Minutes 1/11/2010)

#### **Q: If Measure C passes, does that mean I will have a water meter on my house and/or my well pump?**

**A:** A 2004 State Law requires all cities in California to meter water use. (AB 2572 and Water Code §526). Residents of the City of Lodi have **already** received notice that Lodi will be launching a water meter program ([www.lodi.gov/meters](http://www.lodi.gov/meters)). This is state law and has nothing to do with NSJWCD. Outside of city limits, water meters are not required. The current system of charging per acre foot for crop type and a domestic unit flat charge is an appropriate method. Some water districts (for example, Stockton East Water District) allow a well owner to install a meter to prove the use is lower than what the district based its charges. It is far more likely that the State will one day require meter installation if local water Districts cannot show due diligence in improving the overdraft of our groundwater basin.

#### **Q: What has the NSJWCD accomplished in the past 60 years?**

**A:** Many accomplishments! To name a few, it has constructed two pumping stations and over 11 miles of distribution system, served area farmers with thousands of acre feet of surface water so they didn't pump from the ground, fought for larger, permanent water rights, installed fish screens on north and south pumping systems, & has successfully implemented the Hammer and Cal-Fed groundwater recharge projects, with another one on the books. Note that the NSJWCD applied for & acquired \$500,000 of funding from a Cal-Fed grant to establish the Cal-Fed recharge project, not from local groundwater pump charges!

#### **Q: How severe is the groundwater basin overdraft?**

**A:** It is very severe. It is estimated that we are annually pumping 150,000 acre feet of water in excess of what can be replenished naturally. (Source: Eastern San Joaquin Basin Integrated Water Mgt Plan EIR) We must do our part in preserving and replenishing our groundwater basin by responsibly using as much available surface water as we can.

#### **Q: What happens if Measure C does NOT pass?**

**A:** If Measure C does not pass, the District's hands will be tied. Only basic operations and minimal repairs would be made with current funding. Projects will not move forward, farmers will not receive more surface water, falling groundwater levels will not be alleviated, and the District would not be able to show the State due diligence in using its current 20,000 acre-foot allocation. The District would likely lose local control & lose the opportunity to use our water allocation within the district.

**WE MUST DO OUR PART TO PRESERVE OUR GROUNDWATER FOR OUR FARMERS, CITIES AND RURAL COMMUNITIES  
PLEASE VOTE YES ON MEASURE C!**

This information provided by Yes On C

[www.voteyesc.com](http://www.voteyesc.com)

RESOLUTION NO. 2010-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL IN SUPPORT  
OF MEASURE C ALLOWING NORTH SAN JOAQUIN WATER  
CONSERVATION DISTRICT TO IMPOSE AND COLLECT  
GROUNDWATER CHARGE

=====

WHEREAS, the City received a letter from the "Yes on C" Committee seeking support from the City Council regarding Measure C, which is on the June 8, 2010 ballot. The Measure would allow the North San Joaquin Water Conservation District (District) to once again go through the process to establish a groundwater charge in support of projects and programs to help sustain the groundwater basin; and

WHEREAS, in 2007, the District adopted a groundwater charge that was subsequently overturned by Measure V in 2008, and the District is now required to submit the matter of a groundwater charge to the voters. Measure C would repeal Section 2 of Measure V and, thereby, reinstate the District's right to adopt a charge in the future; and

WHEREAS, City Council representatives and staff have worked with the District directly, through the Groundwater Banking Authority and other entities, for many years and recognize the limited financial resources available to the District; and

WHEREAS, the overdraft condition of the groundwater basin is well-established and computer model projections indicate continued lowering of groundwater levels particularly east and southeast of Lodi. Given that Lodi's pumping is part of this overdraft and lowered groundwater levels will adversely affect Lodi, staff supports the District's efforts to maintain its limited water right and the need to put their full allocation to beneficial use.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby support Measure C allowing North San Joaquin Water Conservation District to impose and collect a groundwater charge.

Dated: May 19, 2010

=====

I hereby certify that Resolution No. 2010-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 19, 2010, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL  
City Clerk

2010-\_\_\_\_\_



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution to Grant Designated Period for Two Years Additional Service Credit.

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Human Resources Manager

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**RECOMMENDED ACTION:** Adopt resolution to grant designated period for two years additional service credit.

**BACKGROUND INFORMATION:** The CalPERS Two Year Additional Service Credit program, as established under California Government Code Section 20903, allows the City (as part of a budget reduction process) to offer a retirement incentive of two years service credit to eligible employees. The current PERS contract allows the City, with Council approval, to offer the program to Miscellaneous and Fire (sworn) employees.

The City of Lodi desires to designate a period in which eligible employees qualify for Two Years Additional Service Credit, based on the amendment to the PERS contract.

The designated period for Two Years Additional Service Credit would begin May 20, 2010 and go through August 18, 2010 for eligible Miscellaneous and Fire (sworn) members in the following classifications: Fire Captain and Park Maintenance Worker II.

This resolution grants final approval and completes the process.

**FISCAL IMPACT:** The cost of this benefit will be amortized over 20 years and included in the City's CalPERS employer contribution rate beginning in FY 2012/2013. Although the net savings depends on the number of employees who accept the benefit, the anticipated job vacancies are expected to save the City approximately \$130,000 annually.

**FUNDING AVAILABLE:** Funding available from the departments operating budget.

---

Dean Gualco,  
Human Resources Manager

---

APPROVED: \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

RESOLUTION NO. 2010-\_\_\_\_\_

A RESOLUTION OF THE LODI CITY COUNCIL  
TO GRANT ANOTHER PERIOD FOR TWO  
YEARS ADDITIONAL SERVICE CREDIT

=====

WHEREAS, the City Council of the City of Lodi is a contracting Public Agency of the Public Employees' Retirement System; and

WHEREAS, the City of Lodi desires to provide another designated period for Two Years Additional Service Credit, Section 20903, based on the contract amendment included in said contract which provided for Section 20903, Two Years Additional Service Credit, for eligible members;

NOW, THEREFORE, BE IT RESOLVED that said City Council does seek to add another designated period, and does hereby authorize this Resolution, indicating a desire to add a designated period from May 20, 2010 through August 18, 2010 for eligible members in the following classifications:

<b>Classification</b>	<b>Department</b>
Fire Captain	Fire
Park Maintenance Worker II	Parks and Recreation

Date: May 19, 2010

=====

I hereby certify that Resolution No. 2010-\_\_\_\_\_ was passed and adopted by the Lodi City Council in a regular meeting held May 19, 2010, by the following vote:

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

RANDI JOHL  
City Clerk

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

Employer Services Division  
Contract Maintenance Unit  
PO Box 942709  
Sacramento, CA 94229-2709

**CERTIFICATION OF GOVERNING BODY'S ACTION**

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the City Council of the City of Lodi on May 19, 2010.

---

Clerk/Secretary

---

Title

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

Actuarial and Employer Services Branch

Public Agency Contract Services

PO Box 942709

Sacramento, CA 94229-2709

(888) CalPERS (225-7377)

**CERTIFICATION OF COMPLIANCE WITH  
GOVERNMENT CODE SECTION 7507**

I hereby certify that in accordance with Section 7507 of the Government Code the future annual costs as determined by the System Actuary for the increase in retirement benefit(s) have been made public at a public meeting of the City Council of the City of Lodi on May 6, 2010 which is at least two weeks prior to the adoption of the Resolution.

\_\_\_\_\_  
Clerk/Secretary

City Clerk  
\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



# CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution of Intention Approving an Amendment to the Contract Between the Board of Administration of the Public Employees' Retirement System (PERS) and the City of Lodi and Introduce Ordinance Amending the Contract Between PERS and the City of Lodi With Regard to Providing Section 20903 (Two Years Additional Service Credit) for Local Police Members

**MEETING DATE:** May 19, 2010

**PREPARED BY:** Human Resources Manager

---

**RECOMMENDED ACTION:** Adopt Resolution of Intention approving an amendment to the contract between the Board of Administration of the Public Employees' Retirement System (PERS) and the City of Lodi and introduce Ordinance amending the contract between PERS and the City of Lodi with regard to providing Section 20903 (Two Years Additional Service Credit) for local police members.

**BACKGROUND INFORMATION:** The CalPERS Two Year Additional Service Credit program, as established under California Government Code Section 20903, allows the City (as part of a budget reduction process) to offer a retirement incentive of two years service credit to eligible employees. The current PERS contract allows the City, with Council approval, to offer the program to Miscellaneous and Fire (sworn) employees. The City of Lodi would like to amend its contract with PERS to make local Police members eligible for the Two Years Additional Service Credit program.

The first step in the process toward amending the contract between PERS and the City is to adopt the Resolution of Intention and introduce the Ordinance amending the contract. The second reading will be on June 16, 2010 which will be the final adoption of the Ordinance and the amendment to the contract.

**FISCAL IMPACT:** Not applicable.

**FUNDING AVAILABLE:** Not applicable.

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Dean Gualco,  
Human Resources Manager

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APPROVED: \_\_\_\_\_  
Konradt Bartlam, Interim City Manager

Resolution No. 2010-\_\_\_\_\_

**RESOLUTION OF INTENTION  
TO APPROVE AN AMENDMENT TO CONTRACT  
BETWEEN THE  
BOARD OF ADMINISTRATION  
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM  
AND THE  
CITY COUNCIL  
CITY OF LODI**

WHEREAS, the Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said Law; and

WHEREAS, one of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, the following is a statement of the proposed change:

To provide Section 20903 (Two Years Additional Service Credit) for local police members.

NOW, THEREFORE, BE IT RESOLVED that the governing body of the above agency does hereby give notice of intention to approve an amendment to the contract between said public agency and the Board of Administration of the Public Employees' Retirement System, a copy of said amendment being attached hereto, as an "Exhibit" and by this reference made a part hereof.

By: \_\_\_\_\_  
Presiding Officer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date adopted and approved



## EXHIBIT

California  
Public Employees' Retirement System

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# AMENDMENT TO CONTRACT

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
City Council  
City of Lodi

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The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective June 1, 1966, and witnessed April 27, 1966, and as amended effective July 6, 1966, May 1, 1970, July 1, 1973, July 1, 1977, April 1, 1991, July 7, 1993, June 30, 1996, November 15, 1998, June 12, 2000 and May 17, 2003 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 14 are hereby stricken from said contract as executed effective May 17, 2003, and hereby replaced by the following paragraphs numbered 1 through 15 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 50 for local safety members.

PLEASE DO NOT SIGN HERE

2. Public Agency shall participate in the Public Employees' Retirement System from and after June 1, 1966 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
  
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
  - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
  - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
  - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
  - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
  - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.

PLEASE DO NOT SIGN "EMPLOYER'S COPY"

- (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.
  - (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
- a. Local Fire Fighters (herein referred to as local safety members);
  - b. Local Police Officers (herein referred to as local safety members);
  - c. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
- a. **PERSONS COMPENSATED ON AN HOURLY BASIS WHO ARE HIRED JUNE 1, 1966 OR THEREAFTER.**
6. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
7. Benefits paid to pensioners and annuitants under the local system on the effective date of the contract were recalculated, as authorized by Section 20481 of the Government Code, to conform with benefits applicable to persons retiring after the effective date of the contract except that no benefit which would have been payable under the continuation of the local system shall be reduced.

PLEASE DO NOT SIGN "E" PART C

8. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service prior to June 30, 1977, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 21536 (Local System Service Credit Included in Basic Death Benefit).
  - b. Section 21222.1 (Special 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
  - c. Sections 21624 and 21626 (Post-Retirement Survivor Allowance) for local miscellaneous members only.
  - d. Section 21573 (Third Level of 1959 Survivor Benefits).
  - e. Section 21427 (Improved Nonindustrial Disability Allowance) for local miscellaneous members only.
  - f. Section 20042 (One-Year Final Compensation) for local safety members only.
  - g. Section 20903 (Two Years Additional Service Credit).
  - h. Section 20434 ("Local Fire Fighter" shall include any officer or employee of a fire department employed to perform firefighting, fire prevention, fire training, hazardous materials, emergency medical services, or fire or arson investigation services as described in Government Code Section 20434).
  - i. Section 20965 (Credit for Unused Sick Leave).

- j. Section 20938 (Limit Prior Service to Members Employed on Contract Date) for elected officials employed on November 15, 1998.
  - k. Section 21024 (Military Service Credit as Public Service).
11. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on July 1, 1977. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
  12. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
  13. Public Agency shall also contribute to said Retirement System as follows:
    - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members and local safety members.
    - b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
    - c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
  14. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

15. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL  
CITY OF LODI

BY \_\_\_\_\_  
LORI MCGARTLAND, CHIEF  
EMPLOYER SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
Witness Date

Attest:

\_\_\_\_\_  
Clerk

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

Actuarial and Employer Services Branch

Public Agency Contract Services

P.O. Box 942709

Sacramento, CA 94229-2709

(888) CalPERS (225-7377)

**CERTIFICATION OF GOVERNING BODY'S ACTION**

I hereby certify that the foregoing is a true and correct copy of a Resolution adopted by the

\_\_\_\_\_ of the  
(governing body)

\_\_\_\_\_ of the  
(public agency)

on \_\_\_\_\_  
(date)

\_\_\_\_\_  
Clerk/Secretary

\_\_\_\_\_  
Title

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

Actuarial and Employer Services Branch

Public Agency Contract Services

P.O. Box 942709

Sacramento, CA 94229-2709

(888) CalPERS (225-7377)

**CERTIFICATION OF COMPLIANCE WITH  
GOVERNMENT CODE SECTION 20903**

In accordance with Government Code Section 20903 and the contract between the Public Employees' Retirement System, the City Council of the City of Lodi hereby certifies that:

1. Because of an impending curtailment of, or change in the manner of performing service, the best interests of the agency will be served by granting such additional service credit.
2. The added cost to the retirement fund for all eligible employees who retire during the designated window period will be included in the contracting agency's employer contribution rate for the fiscal year that begins two years after the end of the designated period.
3. It has elected to become subject to Section 20903 because of impending mandatory transfers, demotions, and layoffs that constitute at least 1 percent of the job classification, department or organizational unit, as designated by the governing body, resulting from the curtailment of, or change in the manner of performing, its services.
4. Its intention at the time Section 20903 becomes operative is to keep all vacancies created by retirements under this section or at least one vacancy in any position in any department or other organizational unit permanently unfilled thereby resulting in an overall reduction in the work force of such department or organizational unit.

THEREFORE, the City Council of the City of Lodi hereby elects to provide the benefits of Government Code Section 20903 to all eligible members who retire within the designated period, \_\_\_\_\_ through \_\_\_\_\_.

CITY COUNCIL  
OF THE  
CITY OF LODI

By: \_\_\_\_\_  
Presiding Officer

Attest:

\_\_\_\_\_  
Clerk/Secretary

\_\_\_\_\_  
Date

**CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM**

Actuarial and Employer Services Branch

Public Agency Contract Services

P.O. Box 942709

Sacramento, CA 94229-2709

(888) CalPERS (225-7377)

**CERTIFICATION OF COMPLIANCE WITH  
GOVERNMENT CODE SECTION 7507**

I hereby certify that in accordance with Section 7507 of the Government Code the future annual costs as determined by the System Actuary for the increase in retirement benefit(s) have been made public at a public meeting of the

\_\_\_\_\_ of the  
(governing body)

\_\_\_\_\_  
(public agency)

on \_\_\_\_\_ which is at least two weeks prior to the adoption of the  
(date)

Resolution / Ordinance.

\_\_\_\_\_  
Clerk/Secretary

\_\_\_\_\_  
Title

Date \_\_\_\_\_

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE LODI CITY COUNCIL AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF LODI AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

=====

THE CITY COUNCIL OF THE CITY OF LODI DOES ORDAIN AS FOLLOWS:

SECTION 1. That an amendment of the contract between the City Council of the City of Lodi and the Board of Administration, California Public Employees' Retirement System is hereby authorized, a copy of said amendment being attached hereto, marked Exhibit, and by such reference made a part hereof as though therein set out in full.

SECTION 2. The Mayor of the City of Lodi is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

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 take effect thirty (30) days from and after its passage and approval.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2010

\_\_\_\_\_  
PHIL KATZAKIAN  
Mayor

ATTEST:

\_\_\_\_\_  
RANDI JOHL  
City Clerk

State of California  
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_ was introduced at a regular meeting of the City Council of the City of Lodi held May 19, 2010, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 2010, 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 on the date of its passage and the same has been published pursuant to law.

---

RANDI JOHL  
City Clerk

Approved to Form:

D. STEPHEN SCHWABAUER  
City Attorney



**EXHIBIT**

California  
Public Employees' Retirement System

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**AMENDMENT TO CONTRACT**

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
City Council  
City of Lodi

---

The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective June 1, 1966, and witnessed April 27, 1966, and as amended effective July 6, 1966, May 1, 1970, July 1, 1973, July 1, 1977, April 1, 1991, July 7, 1993, June 30, 1996, November 15, 1998, June 12, 2000 and May 17, 2003 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 14 are hereby stricken from said contract as executed effective May 17, 2003, and hereby replaced by the following paragraphs numbered 1 through 15 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members and age 50 for local safety members.

PLEASE DO NOT SIGN HERE

2. Public Agency shall participate in the Public Employees' Retirement System from and after June 1, 1966 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
  
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
  - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
  - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
  - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
  - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
  - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.

PLEASE DO NOT SIGN "EMPLOYER'S COPY"

- (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.
  - (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
- a. Local Fire Fighters (herein referred to as local safety members);
  - b. Local Police Officers (herein referred to as local safety members);
  - c. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
- a. **PERSONS COMPENSATED ON AN HOURLY BASIS WHO ARE HIRED JUNE 1, 1966 OR THEREAFTER.**
6. Assets heretofore accumulated with respect to members in the local retirement system have been transferred to the Public Employees' Retirement System and applied against the liability for prior service incurred thereunder. That portion of the assets so transferred which represent the accumulated contributions (plus interest thereof) required of the employees under said local system has been credited to the individual membership account of each such employee under the Public Employees' Retirement System.
7. Benefits paid to pensioners and annuitants under the local system on the effective date of the contract were recalculated, as authorized by Section 20481 of the Government Code, to conform with benefits applicable to persons retiring after the effective date of the contract except that no benefit which would have been payable under the continuation of the local system shall be reduced.

PLEASE DO NOT SIGN "E" PART C

8. The percentage of final compensation to be provided for each year of credited prior and current service for local miscellaneous members shall be determined in accordance with Section 21354 of said Retirement Law, subject to the reduction provided therein for service prior to June 30, 1977, termination of Social Security, for members whose service has been included in Federal Social Security (2% at age 55 Full and Modified).
9. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
10. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Section 21536 (Local System Service Credit Included in Basic Death Benefit).
  - b. Section 21222.1 (Special 5% Increase - 1970). Legislation repealed said Section effective January 1, 1980.
  - c. Sections 21624 and 21626 (Post-Retirement Survivor Allowance) for local miscellaneous members only.
  - d. Section 21573 (Third Level of 1959 Survivor Benefits).
  - e. Section 21427 (Improved Nonindustrial Disability Allowance) for local miscellaneous members only.
  - f. Section 20042 (One-Year Final Compensation) for local safety members only.
  - g. Section 20903 (Two Years Additional Service Credit).
  - h. Section 20434 ("Local Fire Fighter" shall include any officer or employee of a fire department employed to perform firefighting, fire prevention, fire training, hazardous materials, emergency medical services, or fire or arson investigation services as described in Government Code Section 20434).
  - i. Section 20965 (Credit for Unused Sick Leave).

- j. Section 20938 (Limit Prior Service to Members Employed on Contract Date) for elected officials employed on November 15, 1998.
  - k. Section 21024 (Military Service Credit as Public Service).
11. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on July 1, 1977. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
  12. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
  13. Public Agency shall also contribute to said Retirement System as follows:
    - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local miscellaneous members and local safety members.
    - b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
    - c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
  14. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.

15. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL  
CITY OF LODI

BY \_\_\_\_\_  
LORI MCGARTLAND, CHIEF  
EMPLOYER SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
Witness Date

Attest:

\_\_\_\_\_  
Clerk



**CITY OF LODI  
COUNCIL COMMUNICATION**

TM

**AGENDA TITLE:** Authorize the Interim City Manager to Engage Jones Hall for Bond Counsel Services Related to Surface Water Treatment Plant.

**MEETING DATE:** May 19, 2010

**PREPARED BY:** City Attorney's Office

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**RECOMMENDED ACTION:** Authorize the Interim City Manager to engage Jones Hall for Bond Counsel Services related to financing the Surface Water Treatment Plant.

**BACKGROUND INFORMATION:** In January 2010, the City Council authorized the City Manager to engage Stone & Youngberg and Lamont Financial Services for the new surface water treatment plant. At that time staff indicated they would return for approval of Bond Counsel services after issuing a Request for Proposals. Although Orrick Herrington & Sutcliffe has traditionally performed these services, City Manager King felt it was prudent to issue an RFP to ensure the City was paying market rates for these services. Four firms responded to the RFP and responses were as follows:

1)	Jones Hall	\$47,500.00
2)	Ronald E. Lee	\$60,000.00
3)	Straddling Yocca	\$66,500.00
4)	Orrick	\$90,000.00

Jones Hall is a highly regarded public finance firm and it has significant experience with the City's current finance team. Chris Lynch, who will lead the Jones Hall team, served as underwriter's counsel for the City's 2007 Wastewater Financing and impressed staff with his knowledge and responsiveness. Accordingly, staff recommends that Council authorize the Interim City Manager to execute a Bond Counsel contract with Jones Hall.

**FISCAL IMPACT:** Council adopted a resolution at its January 6, 2010 meeting authorizing the City to reimburse itself for any costs incurred. Jones Hall's fee is not to exceed \$47,500 and will be paid from bond proceeds.

**FUNDING:** Potential bond proceeds.

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Stephen Schwabauer  
City Attorney

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APPROVED:

Konradt Bartlam, Interim City Manager



**Proposal To Provide  
Bond Counsel Services  
to the  
City of Lodi**

**March 24, 2010**

**JONES HALL, A PROFESSIONAL LAW CORPORATION  
650 California Street, 18th Floor  
San Francisco, CA 94108**

1. **Introduction**

Jones Hall is a law firm that is devoted exclusively to public finance and is one of the most active law firms in the State, with an expertise in Build America Bonds and enterprise financings.

2. **Name and Location of Assigned Attorneys.**

We will provide partner-level representation on this financing. Chris Lynch would be the lead attorney, Bill Madison would provide backup (if necessary) and Dave Walton would provide federal tax law advice. Each of these attorneys is in Jones Hall's San Francisco office. Chris acted as underwriter's counsel on the City's 2007 wastewater financing. Bill Madison acted as an expert witness on behalf of the City through the City's litigation counsel, Folger Levin & Kahn, in connection with the City's litigation with its former groundwater contamination counsel.

Biographies of the assigned attorneys are available at [www.joneshall.com](http://www.joneshall.com).

3. **Relevant Experience.**

*General.* During calendar years 2007 through 2009, based on data prepared by Thomson Reuters, Jones Hall participated as bond counsel on approximately 419 municipal financings in California (totaling approximately \$9.5 billion in principal amount).

*Water/wastewater Financings.* During calendar years 2007 through 2009, Jones Hall acted as bond counsel on more than 55 enterprise fund-backed financings (totaling more than \$2.2 billion in principal amount). During calendar years 2007 through 2009, Jones Hall acted as disclosure counsel on more than 30 enterprise fund-backed financings (totaling more than \$1 billion in principal amount).

*Chris Lynch Relevant Experience.* Since January 1, 2007, Chris Lynch has acted as the lead attorney on water/wastewater enterprise financings for more than 30 local agencies. A list of the public agencies is available upon request. In 2009, Chris was the lead attorney on six Build America Bond financings, and a handful of other transactions in which the documents provided for Build America Bonds but traditional tax-exempt bonds were issued instead.

*Bill Madison Relevant Experience.* Bill Madison has acted as bond counsel on more than 40 water/wastewater enterprise financings since 2001.

4. **No Conflicting Arrangements or Representations.**

We are not aware of any arrangement or representation, formal or informal, that we have with any party that may interfere with our ability to provide independent and unbiased advice and recommendations to the City with respect to the proposed water financing.



5. **References.**

The following individuals are references for the team we are proposing to provide bond counsel services to the City.

**Agency Name:** City of West Hollywood

**Contact Name:** Anil Gandhi, Director of Finance and Technology

**Phone Number:** 323-848-6330

**Email Address:** agandhy@weho.org

**Description of Transactions:** Chris has acted as bond counsel and disclosure counsel to the City of West Hollywood, its redevelopment agency and its joint powers authority with respect to general fund (including Build America Bonds), redevelopment and Mello-Roos financings.

**Agency Name:** Moulton Niguel Water District

**Contact Name:** David Cain (Finance Director); Bob Gumerman (General Manager)

**Phone Number:** (949) 831-2500

**Email Address:** [dcain@mnwd.com](mailto:dcain@mnwd.com); [bgumerman@mnwd.com](mailto:bgumerman@mnwd.com)

**Description of Transactions:** Bill Madison and Chris Lynch acted as bond counsel and disclosure counsel on an enterprise (BABs) financing in connection with the District's water, recycled water and sewer enterprise.

6. **Fee Quote.**

We propose a flat fee of \$45,000 for our services as bond counsel, and reimbursement for actual out-of-pocket expenses (shipping, delivery and courier services; official transcript duplication) of no more than \$2,500 (excluding publication costs and out-of-state travel). We do not charge for in-state travel expenses.

7. **Miscellaneous.**

We note that the resolution attached to the request for proposals does not identify the maximum principal amount of the proposed indebtedness, which is a requirement of the IRS regulations (see §1.150-2(e)(2)). If the minutes of the City Council proceedings do not clearly identify the maximum principal amount, then, depending upon the timing of the proposed financing and the related capital expenditures, the City may want to adopt a revised resolution.

8. **Conclusion.**

Thank you for the opportunity to submit a proposal to provide bond counsel services. We hope to have the opportunity to represent the City. If you have any questions or require any additional information, please call Chris Lynch at (415) 391-5780.

**JONES HALL  
A Professional Law Corporation**

RONALD E. LEE  
ATTORNEY AT LAW

---

March 19 2010

*Via Email*

Blair King, City Manager  
Jordan Ayers, Deputy City Manager/Internal Services Director  
City of Lodi  
221 West Pine Street  
Lodi, California 95240

Re: Bond Counsel Proposal for Issuance of Approximately \$40,000,000 Lodi Public Improvement Corporation – Water System Certificates of Participation

Dear Mr. King and Mr. Ayers:

This is in response to your request for proposals for bond counsel services, dated March 1, 2010 (the "RFP"). Ronald E. Lee and the Law Office of Perry Israel are pleased to submit this joint proposal to serve as bond counsel for the transaction mentioned in the RFP. Ron would act as state law bond counsel and Perry would act as tax counsel.

**Brief description of recent experience with water revenue bonds.** Ron and Perry acted jointly as bond counsel to the Carmichael Water District on its \$28,550,000 2010 Water Revenue Certificates of Participation financing that closed on March 17, 2010. The 2010 Certificates of Participation refunded the District's 1999 certificates of participation, which Ron and Perry completed for the District when at Orrick.

Perry and Ron also worked with Carmichael Water District on a \$2,000,000 subordinate debt financing for new capital improvements that closed on November 6, 2009. This transaction was a private placement that closed on November 6, 2009.

While at Orrick, and since establishing their own practices, Perry and Ron worked on billions of dollars of water revenue bonds and certificates of participation, including financings for Carmichael Water District, Arcade Water District, California Department of Water Resources, City of Folsom, Sacramento County Water Agency and El Dorado Irrigation District, among others.

**Staffing--Ronald E. Lee.** For nearly fourteen years, Ron has focused his practice exclusively in public finance, acting as bond counsel, disclosure counsel and underwriter's counsel. After working for two large California law firms, Ron established a solo public finance practice in March 2006 in Davis, California, where he continues to serve issuers and other municipal bond market participants as bond counsel, disclosure counsel or underwriter's counsel. Ron has broad experience in governmental enterprise revenue bonds and certificates of participation.

**Staffing--Perry Israel.** Perry has more than 30 years experience as a tax lawyer, with more than 25 of those focused exclusively on the tax aspects of municipal financing. After 20 years as a partner at Orrick, Perry established a solo practice in Sacramento, California, in February 2007.

Blair King  
Jordan Ayers  
March 19, 2010  
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His clientele consists of municipal issuers, conduit borrower, and various bond counsel firms around the country. He works directly with issuers and conduit borrowers to help them structure bond issues that will accomplish their goals and meet the federal tax requirements relating to municipal bonds. Perry has provided tax advice and opinions, analysis, and documentation on literally hundreds of bond issues, including scores of governmental enterprise revenue obligations.

**Conflicts of Interest.** Neither Perry nor Ron have any arrangements or representations, formal or informal, with any party, that could conflict with or give the appearance of a conflict with our obligation to provide independent and unbiased advice and recommendations in the proposed transaction.

**References.** The following issuers may be contacted as references for Perry and Ron:

Steve Nugent  
General Manager  
Carmichael Water District  
7837 Fair Oaks Blvd.  
Carmichael, CA 95608  
steve@carmichaelwd.org  
(916) 483-2452

David J. Stevens  
Deputy City Attorney  
San Francisco International Airport  
International Terminal, Building 100, Fifth Floor  
San Francisco, CA 94128  
david.stevens@sfgov.org  
(650) 821-3064

**Proposed Compensation.** Perry and Ron would propose to act as tax counsel and bond counsel on this transaction for a fee of \$60,000. This proposal is based upon the assumption that the proceeds are used as described in the RFP and closes in a timely fashion without a substantial change in the legal structure. It includes attendance at meetings in Lodi with the financing team and normal drafting and reviewing of transaction documents. In addition, we would expect to be reimbursed for the costs of the transcripts, which generally runs about \$1,200 for a transaction of this nature. All other expenses are included at no additional charge.

If you have any questions about this proposal or if I can be of assistance to you in any way, please do not hesitate to contact me.

Very truly yours,



Ronald E. Lee

STRADLING YOCCA CARLSON & RAUTH

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

980 9TH STREET, SUITE 1480

SACRAMENTO, CA 95814

TELEPHONE (916) 449-2350

FACSIMILE (916) 441-2034

ORANGE COUNTY  
(949) 725-4000

SAN DIEGO  
(858) 926-3000

SAN FRANCISCO  
(415) 283-2240

SANTA BARBARA  
(805) 730-6800

SACRAMENTO  
(916) 449-2350

KEVIN CIVALE

DIRECT DIAL: (916) 449-2360  
KCIVALE@SYCR.COM

March 25, 2010

Blair King  
City Manager  
City of Lodi  
City Hall, 221 West Pine Street  
Lodi, CA 95240

VIA EMAIL

RE: Proposal to Provide Bond Counsel Services

Dear Mr. King:

We are pleased to submit this proposal to provide Bond Counsel Services to the City of Lodi (the "City"). We served as counsel to the underwriters in connection with the City's successful issuance of its \$60,685,000 Electric System Revenue Certificates of Participation 2008 Series A, and would be most interested in representing the City itself in the Water System financing.

Stradling Yocca Carlson & Rauth is a recognized leader in public finance in California. Thirty two members of the Firm practice in the areas of public finance and general public law. In 2009 we were ranked second as bond counsel in the State in terms of dollar value of transactions, as well as second as disclosure counsel. In total, the firm served as bond counsel, disclosure counsel or underwriter's counsel on more California transactions than any other firm.

The Firm's experience in the financing of water projects is very extensive. During the period from January 1, 2007 to present, the Firm acted as bond counsel on 38 financings totaling more than \$1.7 billion. For many of these transactions, the Firm also acted as disclosure counsel. During that same period, the Firm acted as underwriter's counsel or disclosure counsel (exclusive of engagements where the Firm also acted as bond counsel) on 15 financings for water and/or wastewater projects totaling approximately \$3.1 billion.

In addition, although not exclusively in water system financings, the Firm has served as Bond Counsel on more than fifteen "Build America Bond" transactions.

If the Firm is selected by the City to serve as Bond Counsel, Kevin Civale of our Sacramento office would be the attorney primarily responsible. Mr. Civale has more than 25 years experience in public finance, and has worked on some of the largest and most complex transactions ever undertaken. During his career, Mr. Civale has represented a large number of municipalities and other public sector clients in a variety of financings, including general obligation bonds; certificates of participation; water, wastewater, solid waste, airport and electric utility financings; cash flow financings; industrial

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development financings; and public/private partnerships. Mr. Civale has also represented a large number of investment banks. He has worked extensively with both Lamont Financial and Stone & Youngberg.

Carol Lew would provide tax advice. She is the past President of the National Association of Bond Lawyers and a past Chair of the Tax Exempt Financing Committee of the Taxation Section of the American Bar Association. She has over 20 years of experience in providing legal advice to state and local government entities as bond counsel on a wide variety of different types of financings including those for cash flow needs, basic public infrastructure, redevelopment, housing, water, transportation, power, and those for nonprofit owned or utilized facilities. In that capacity, Ms. Lew has extensive expertise regarding arbitrage rebate, including the rules regarding the integration of swaps.

We do not believe that the Firm has any arrangement or representation, formal or informal, with any party that would interfere with the Firm's ability to provide independent and unbiased advise and recommendations to the City with respect to this proposed transaction.

We are pleased to provide the following references from clients for which Mr. Civale has very recently served as Bond Counsel:

Nancy Saracino Vice President & General Counsel California ISO 151 Blue Ravine Rd. Folsom, CA 95630 (916) 351-2334	Gloria Dominguez Kern County Deputy County Administrative Officer 1115 Truxtun Avenue, 5th Floor Bakersfield, CA 93301 (661) 868-3170
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We propose a fee of \$65,000, contingent on closing of the transaction. In addition to the fee, we would expect to be reimbursed for out-of-pocket expenses in an amount not to exceed \$1,500.

Thank you for your consideration. Please do not hesitate to contact me if you have any comments or questions.

Sincerely,



Kevin M. Civale



ORRICK, HERRINGTON & SUTCLIFFE LLP  
777 SOUTH FIGUEROA STREET  
SUITE 3200  
LOS ANGELES, CALIFORNIA 90017-5855  
tel +1-213-629-2020  
fax +1-213-612-2499  
WWW.ORRICK.COM

March 24, 2010

Eugene J. Carron  
(213) 612-2425  
ecarron@orrick.com

Mr. Blair King  
City Manager  
City of Lodi  
221 West Pine Street  
Lodi, California 95240

Mr. Jordan Ayers  
Deputy City Manager/Internal Services Director  
City of Lodi  
221 West Pine Street  
Lodi, California 95240

Re: **RFP for Bond Counsel Services**

Dear Messrs. King and Ayers:

Thank you for the opportunity to submit our proposal to serve as bond counsel in the proposed City of Lodi Water System Revenue Certificates of Participation (the "Certificates"). We appreciate the past opportunities Orrick has had to serve the City of Lodi (the "City") as special (bond) counsel in connection with its Waste Water Revenue Certificates of Participation and Electric System Revenue Certificates of Participation Revenue Certificates of Participation and look forward to continuing our relationship with the City.

Orrick has served as bond counsel in approximately 80 water revenue bond transactions in the last five years with an aggregate principal amount of bonds issued in excess of \$7.66 billion. These include issues by the California Department of Water Resources, the San Diego County Water Authority, the Alameda County Water District, the Modesto Irrigation District, the Imperial Irrigation District, the Honolulu Water Supply Board and the Sacramento County Water Financing Authority. The proposed leaders of the Orrick team for the Certificates transaction, Eugene Carron and Larry Sobel, have served as bond counsel for all water financings by the Irvine Ranch Water District since 1986 and for all water financings by the Department of Water and Power of the City of Los Angeles since 1992.

We propose that the Orrick bond counsel team be lead by Eugene Carron with Larry Sobel being responsible for all tax and tax-related Build America Bond issues. These attorneys are both located in Los Angeles and would be supported by associates and paralegals in the Los Angeles office as needed. The biographies of all Los Angeles Orrick lawyers can be found on Orrick's website Orrick.com.

Orrick represents virtually every underwriter and financial advisor working with municipal bonds. Because of the unique role of bond counsel in municipal financings in rendering its approving opinion with respect to validity and tax status of municipal securities, we do not consider the role of bond counsel as that of an advocate for any particular position. With this in mind, and the fact that there may be a number of methods of accomplishing an end, we are not aware of any arrangements or representations, formal or



Messrs. King and Ayers  
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informal, that Orrick has with any party that may interfere with our ability to provide independent and unbiased advice and recommendations to the City with respect to the options available in structuring the Certificates transaction.

We offer the following persons as references:

Mr. Mario Ignacio, Assistant Chief Financial Officer and Treasurer, Department of Water and Power of the City of Los Angeles, 111 North Hope Street, Los Angeles, California, 90012, Telephone 212-367-0690, email [mario.ignacio@ladwp.com](mailto:mario.ignacio@ladwp.com).

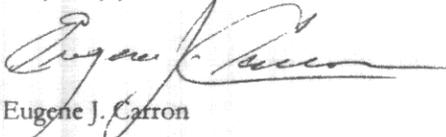
Ms. Debby Cherney, Director of Finance, Irvine Ranch Water District, 15600 Sand Canyon Avenue, Irvine, California, 92618, Telephone 949-453-5350, email [cherney@irwd.com](mailto:cherney@irwd.com).

We propose a fee in the amount of \$85,000 plus \$5,000 for expenses for a total fixed amount of \$90,000, payment of which will be contingent on Certificates being delivered. Such fixed amount is premised on the Certificates being issued in no more than two series no later October 31, 2010, all Certificates being issued on the same day under a single Trust Agreement, each series of the Certificates being without credit enhancement and either fixed rate tax-exempt securities or fixed rate Build America Bonds, there being no more than two meetings in the City, document comments being provided by conference call or email, and there being no unusual issues in the financing not described in the request for proposals. If any of the premises should not be realized, we proposes that any additional work required would be compensated at the standard rates for the timekeeper performing such work.

In reviewing the request for proposals, we noted that the attached reimbursement resolution does not meet IRS standards in that no maximum amount of proposed bonds is specified. While we are anxious to be the City's bond counsel, even if we are not selected we urge you to consult with bond counsel on the reimbursement resolution.

Thank you again for the opportunity to submit this proposal. We understand that all California cities are facing difficult times and have crafted our fee proposal to reflect this. We value our relationship with the City and would hope that we can work together with the City and its financing team to plan and implement an efficient and cost effective financing for the City.

Very truly yours,



Eugene J. Carron

cc: [sweil@lamontfin.com](mailto:sweil@lamontfin.com)  
[alexpop@lamontfin.com](mailto:alexpop@lamontfin.com)

## AGREEMENT FOR LEGAL SERVICES

### BETWEEN THE CITY OF LODI AND JONES HALL, A PROFESSIONAL LAW CORPORATION, FOR BOND COUNSEL SERVICES IN CONNECTION WITH A WATER REVENUE FINANCING

This AGREEMENT FOR LEGAL SERVICES is entered into this \_\_\_ day of \_\_\_\_, 2010, between the CITY OF LODI (the "Client") and JONES HALL, A PROFESSIONAL LAW CORPORATION, San Francisco, California ("Attorneys").

#### BACKGROUND:

1. The Client is proceeding to construct various improvements to its water enterprise consisting generally of a new water treatment plant and related distribution connections (the "Project").
2. The Client has proposed to cause execution and delivery of water revenue certificates of participation or issuance of water revenue bonds (collectively, the "Securities") to finance the Project.
3. In order to cause execution, delivery and sale of the Securities, the Client requires the services of nationally-recognized bond counsel.

#### AGREEMENT:

In consideration of the foregoing and the mutual covenants contained in this Agreement, the Client and Attorneys agree as follows:

Section 1. Attorney-Client Relationship. Upon execution of this Agreement, the Client will be Attorneys' client and an attorney-client relationship will exist between Client and Attorneys. Attorneys assume that all other parties will retain such counsel, as they deem necessary and appropriate to represent their interests in this transaction. Attorneys further assume that all other parties understand that in this transaction Attorneys represent only the Client, Attorneys are not counsel to any other party, and Attorneys are not acting as an intermediary among the parties. Attorneys' services as bond counsel are limited to those contracted for in this Agreement; the Client's execution of this Agreement will constitute an acknowledgment of those limitations. Attorneys' representation of the Client will not affect, however, our responsibility to render an objective Bond Opinion.

Section 2. Scope of Engagement. Attorneys shall perform all of the following services as bond counsel in connection with the delivery and sale of the Securities for the purpose of providing financing for the Project:

- a. Consultation and cooperation with Client and Client staff to assist in the formulation of a coordinated financial and legal delivery of the Securities.
- b. Preparation of all legal proceedings for the authorization, execution and delivery of the Securities by the Client; including (a) preparation of a resolution of the governing board of the Client and a resolution of the governing board of the Lodi Public Improvement Corporation (the

“Corporation”) authorizing the execution, delivery and sale of the Securities and approving related documents and actions, (b) preparation of all financing documents, including installment sale agreement and trust agreement, (c) preparation of all documents required for the closing of the issue, (d) supervising the closing, and (e) preparation of all other proceedings incidental to or in connection with the execution, delivery and sale of the Securities.

- c. Advising the Client, from the time Attorneys are hired as Bond Counsel until the Securities are delivered, as to compliance with federal tax law as required to ensure that interest on the Securities is exempt from federal income taxation or that the Securities otherwise comply with applicable federal tax law (if the Securities are issued as Build America Bonds).
- d. Upon completion of proceedings to Attorneys’ satisfaction, providing a legal opinion (the “Bond Opinion”) approving the validity and enforceability of the proceedings for the authorization, execution and delivery of the Securities, and (a) stating that, if the Securities are issued as tax-exempt obligations, the interest on the Securities is excluded from gross income for purposes of federal income taxes, (b) stating that the interest on the Securities is exempt from California personal income taxation and, (c) if the Securities are issued as Build America Bonds, providing the appropriate federal tax law opinion. The Bond Opinion will be addressed to the Client, and may also be addressed to the underwriter of the Securities and other participants in the financing.
- e. Review those sections of the official statement or other form of offering or disclosure document to be disseminated in connection with the sale of the Securities involving summary descriptions of the Securities, the legal proceedings leading to the authorization and sale of the Securities, the legal documents under which the Securities will be issued, and federal tax law and securities law provisions applicable to the Securities, as to completeness and accuracy.
- f. Assist the Client in presenting information to bond rating organizations and providers of credit enhancement relating to legal issues affecting the delivery of the Securities.
- g. Draft the continuing disclosure undertaking of the Client.
- h. Such other and further services as are normally performed by bond counsel in connection with similar financings.

Attorneys’ Bond Opinion will be delivered by Attorneys on the date the Securities are exchanged for their purchase price (the “Closing”).

The Bond Opinion will be based on facts and law existing as of its date, will cover certain matters not directly addressed by such authorities, and will represent Attorneys’ judgment as to the proper treatment of the interest with respect to the Securities for federal income tax purposes. Attorneys’ opinion is not binding on the Internal Revenue Service (“IRS”) or the courts. Attorneys cannot and will not give any opinion or assurance about the effect of future changes in the Internal Revenue Code of 1986 (the “Code”), the applicable regulations, the

interpretation thereof or the enforcement thereof by the IRS. Client acknowledges that future legislation, if enacted into law, or clarification of the Code may cause interest with respect to the Securities to be subject, directly or indirectly, to federal income taxation, or otherwise prevent owners of the Securities from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such future legislation or clarification of the Code may also affect the market price for, or marketability of, the Securities. Attorneys will express no opinion regarding any pending or proposed federal tax legislation.

In rendering the Bond Opinion, Attorneys will rely upon the certified proceedings and other certifications of public officials and other persons furnished to Attorneys without undertaking to verify the same by independent investigation, and Attorneys will assume continuing compliance by the Client with applicable laws relating to the Securities.

Section 3. Excluded Services. Our duties in this engagement are limited to those expressly set forth above in Section 2, except as expressly set forth in a written amendment to this Agreement. Among other things, our duties do not include, unless otherwise agreed in writing:

- a. Except as described in paragraph 2(e) above, assisting in the preparation or review of an official statement or any other disclosure document with respect to the Securities, or performing an independent investigation to determine the accuracy, completeness or sufficiency of any such document or rendering advice that the official statement or other disclosure document does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading.
- b. Preparing requests for tax rulings from the Internal Revenue Service, or “no-action” letters from the Securities and Exchange Commission.
- c. Preparing blue sky or investment surveys with respect to the Securities.
- d. Except as described in paragraph 2(b) above, drafting state constitutional or legislative amendments.
- e. Pursuing test cases or other litigation, such as contested validation proceedings, except as set forth above.
- f. Making an investigation or expressing any view as to the creditworthiness of the Client or the Securities.
- g. Except as described in paragraph 2(g) above, assisting in the preparation of, or opining on, a continuing disclosure undertaking pertaining to the Securities or, after Closing, providing advice concerning any actions necessary to assure compliance with any continuing disclosure undertaking.
- h. Representing the Client in Internal Revenue Service examinations, audits or inquiries, or Securities and Exchange Commission investigations.
- i. After Closing, unless specifically requested to do so by Client, and agreed

to by Attorneys, providing continuing advice to the Client or any other party concerning any actions that need to be taken regarding the Securities; e.g., actions necessary to assure that interest paid on the Securities will continue to be excludable from gross income for federal income tax purposes or the Securities continue to be eligible for treatment as Build America Bonds (e.g., our engagement does not include rebate calculations for the Securities).

- j. Reviewing or opining on the business terms of, validity, or federal tax consequences of any investment agreement that the Client may choose as an investment vehicle for the proceeds of the Securities, unless the Client and Attorneys agree on the terms of such review and compensation for such review.
- k. Reviewing or opining on the business terms of, validity, or federal tax consequences of any derivative financial products, such as an interest rate swap agreement, that the Client may choose to enter into in connection with the execution and delivery of the Securities, unless the Client and Attorneys agree on the terms of such review and compensation for such review.
- l. Addressing any other matter not specifically set forth above that is not required to render our Bond Opinion.

Section 4. Conflicts; Prospective Consent. Attorneys represent many political subdivisions, investment banking firms and financial advisory firms. It is possible that during the time that Attorneys are representing the Client, one or more of Attorneys' present or future clients will have transactions with the Client. It is also possible that Attorneys may be asked to represent, in an unrelated matter, one or more of the entities involved in the delivery of the Securities. Attorneys do not believe such representation, if it occurs, will adversely affect Attorneys' ability to represent you as provided in this Agreement, either because such matters will be sufficiently different from the delivery of the Securities so as to make such representations not adverse to our representation of you, or because the potential for such adversity is remote or minor and outweighed by the consideration that it is unlikely that advice given to the other client will be relevant to any aspect of the delivery of the Securities. Execution of this Agreement will signify the Client's consent to Attorneys' representation of others consistent with the circumstances described in this paragraph.

Section 5. Compensation. For the bond counsel services of Attorneys specified in Section 2, the Client will pay Attorneys a fee equal to \$45,000.

In addition, the Client shall pay to Attorneys all direct out-of-pocket expenses for travel outside the State of California (if any), messenger and delivery service, photocopying, closing costs, legal publication expenses and other costs and expenses incurred by Attorneys in connection with their services hereunder; provided that the reimbursement shall not exceed \$2,500 (excluding publication costs and out-of-state travel costs).

*Payment of said fees and expenses is entirely contingent upon the successful financing of the Project and is due upon completion of the financing for the Project.*

Section 6. Responsibilities of the Client.

(a) General. The Client will cooperate with Attorneys and furnish Attorneys with certified copies of all proceedings taken by the Client, or otherwise deemed necessary by Attorneys to render an opinion upon the validity of the proceedings. During the course of this engagement, Attorneys will rely on Client to provide Attorneys with complete and timely information on all developments pertaining to any aspect of the Securities and their security. Attorneys are not responsible for costs and expenses incurred incidental to the actual execution and delivery of the Securities, including the cost of preparing certified copies of proceedings required by Attorneys in connection with the delivery of the Securities, and printing and publication costs.

(b) Federal Tax Law-Related Responsibilities. The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Securities. As a condition of Attorneys issuing their opinion, you will be required to make certain representations and covenants to comply with certain restrictions designed to insure that interest on the Securities will not be included in federal gross income. Inaccuracy of these representations or failure to comply with these covenants may result in interest on the Securities being included in gross income for federal income tax purposes, possibly from the date of original delivery of the Securities. Attorneys' opinion will assume the accuracy of these representations and compliance with these covenants. Attorneys will not undertake to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of delivery of the Securities may adversely affect the value of, or the tax status of interest on, the Securities. In this regard, Client agrees to familiarize itself with the relevant requirements and restrictions necessary for the Securities to qualify for exemption from federal income taxation and to exercise due diligence both before and after delivery of the Securities in complying with these requirements.

Section 7. Independent Contractor. Attorneys will act as an independent contractor in performing the services required under this Agreement, and under no circumstances shall Attorneys be considered an agent, partner, or employee of the Client.

Section 8. Assignment. Attorneys may not assign their rights or delegate their obligations under this Agreement, in whole or in part, except with the prior written consent of the Client.

Section 9. Termination of Agreement.

(a) Termination by Client. This Agreement may be terminated at any time by the Client with or without cause upon written notice to Attorneys.

(b) Termination by Attorneys. This Agreement may be terminated by Attorneys upon 15 days' written notice to Client if Client fails to follow written legal advice given by Attorneys.

(c) Termination Upon Issuance of Certificates. This Agreement shall terminate upon the delivery of the Securities.

(d) Consequences of Termination. In the event of termination, all finished and unfinished documents shall at the option of the Client become its property and shall be delivered to the Client by Attorneys.

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

**CITY OF LODI**

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City Attorney

**JONES HALL, A PROFESSIONAL LAW CORPORATION**

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Christopher K. Lynch, Vice President