LODI CITY COUNCIL

Carnegie Forum
305 West Pine Street, Lodi

TM

AGENDA – REGULAR MEETING

Date: **September 19, 2012**
Time: **Closed Session 6:30 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/Calls may be offered by any of the various religious and non-religious organizations within and around the City of Lodi. These are voluntary offerings of private citizens, to and for the benefit of the Council. The views or beliefs expressed by the Speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the beliefs or views of any speaker.

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) Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Gregory Guy Tarvin Against City of Lodi Based on Personal Injury

b) Actual Litigation: Government Code §54956.9; One Application; *Mark Verbitsky v. City of Lodi*; WCAB Case No. ADJ17785253 – 03/25/11

C-3 Adjourn to Closed Session

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

C-4 Return to Open Session / Disclosure of Action

A. Call to Order / Roll Call

B. Presentations

B-1 Presentation of Certificate of Appreciation to Roman Mangrich for His Efforts in Helping Keep the Sidewalks of Lodi Clean

B-2 Firefighter Muscular Dystrophy Association Fill the Boot Fundraiser Proclamation (FD)

B-3 Introduction of New Salvation Army Captains Martin and Tory Ross

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

C-1 Receive Register of Claims in the Amount of $12,309,433.41 (FIN)

C-2 Approve Minutes (CLK)
a) August 14, 21, and 28 and September 4 and 11, 2012 (Shirtsleeve Sessions)
b) August 15 and September 5, 2012 (Regular Meetings)
c) August 21, 2012 (Special Meeting)

C-3 Accept Improvements Under Contract for 2011 GrapeLine Bus Stop Improvements Project (PW)

C-4 Authorize the City Manager to Execute Amendment Extending Term of the Northeastern San Joaquin County Groundwater Banking Authority Joint Powers Agreement (PW)

Res. C-5 Adopt Resolution Authorizing the City Manager to Execute Professional Services Agreement and Extensions with WGR Southwest, Inc., of Lodi, for Storm Drainage Permit Compliance Services ($39,855) (PW)

Res. C-6 Adopt Resolution Authorizing the City Manager to Execute Agreement with Lodi Unified School District for Purchase of Compressed Natural Gas at Municipal Service Center Fueling Station (PW)

Res. C-7 Adopt Resolution Authorizing the City Manager to Extend the Term of the Contract with Mike Keller Consulting, LLC for Transmission and Distribution Services and Appropriating Funds ($35,500) (EUD)

Res. C-8 Adopt Resolution Authorizing the City Manager to Execute Agreement and Approve Proposed Expenditure Program for Lodi's Share of the 2012 Edward Byrne Memorial Justice Assistance Grant ($19,483) (PD)

C-9 Authorize the City Manager to Amend the Rental Agreement Between the City of Lodi and P & K Fitness for Use of 125 North Stockton Street (CM)

Res. C-10 Adopt Resolution Approving Art in Public Places Funding for Traffic Control Box Art Project and Appropriating Funds ($500) (PRCS)

Res. C-11 Adopt Resolution to Grant Designated Period for Two Years Additional Service Credit (CM)

C-12 Receive Report Regarding League of California Cities Communications Pertaining to Various Requests for Signature and Veto of Legislation (CLK)

C-13 Set Public Hearing for October 3, 2012, to Consider Adopting a Resolution Approving the Planning Commission's Recommendation for 2012 Growth Management Allocations to Permit and Construct 12 Residential Units at 2110 Tienda Drive (CD)

C-14 Set Public Hearing for October 3, 2012, to Consider Introducing Ordinance Terminating Reynolds Ranch Development Agreement with San Joaquin Valley Land Company, LLC (CM)

D. Comments by the Public on Non-Agenda Items

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

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.

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

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

G. Public Hearings

Res. G-1 Public Hearing to Consider Adopting Resolution Approving the 2011/12 Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report; an Amendment of the 2012/13 Action Plan to Accommodate the Reallocation of Unused CDBG Funds; and Appropriating Funds ($360,967.66) (CD)

Ord. (Introduce) G-2 Public Hearing to Consider and Approve the Recommendation of the Planning Commission to Rezone Property Located at 515 South Lower Sacramento Road from R-1, C-S, and R-C-P to Planned Development (PD)-35 (CD)
NOTE: This item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31

Res. G-3 Public Hearing to Consider Adoption of Resolution Levying Annual (2013) Assessment for Downtown Lodi Business Improvement Area No. 1 and Confirming the Downtown Lodi Business Partnership 2012 Annual Report as Approved by Council on August 15, 2012 (CM)

H. Communications

H-1 Monthly Protocol Account Report (CLK)

I. Regular Calendar

Ord. (Introduce) I-1 Introduce Ordinance Amending Lodi Municipal Code Title 5 – Permits and Regulations – Chapter 5.12 – Cardrooms – by Repealing and Reenacting Section 5.12.140, "Rules and Regulations," and Further Repealing and Reenacting Section 5.12.170, "Gross Revenue Permit Fees" (CA)

J. Ordinances

Ord. (Adopt) J-1 Adopt Ordinance No. 1861 Entitled, "An Ordinance of the City Council of the City of Lodi Rescinding Development Agreement Pertaining to the Development of 257.76 Acres Located on the West Side of Lower Sacramento Road Between Highway 12-Kettleman Lane and Harney Lane (Southwest Gateway) (Development Agreement GM-05-001)" (CLK)

Ord. (Adopt) J-2 Adopt Ordinance No. 1862 Entitled, "An Ordinance of the City Council of the City of Lodi Rescinding Development Agreement Pertaining to the Development of 151 Acres Located on the West Side of Lower Sacramento Road Between the Woodbridge Irrigation District Canal and Vine Street (Westside Project) (Development Agreement GM-05-002)" (CLK)

K. Adjournment

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

_____
Randi Johl
City Clerk

AGENDA ITEM B-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Presentation of Certificate of Appreciation to Roman Mangrich for His Efforts in Helping Keep the Sidewalks of Lodi Clean

MEETING DATE: September 19, 2012

PREPARED BY: City Clerk

RECOMMENDED ACTION: Mayor Mounce present Certificate of Appreciation to Roman Mangrich for his efforts in helping keep the sidewalks of Lodi clean.

BACKGROUND INFORMATION: The City received a letter from Angela Mangrich praising her son, Roman, for his efforts in cleaning the sidewalks around the area of Lodi High School of litter, trash, and debris. Six-year-old Roman, who shows great pride for his community, has faithfully picked up garbage around the school since he was three years old, and Mayor Mounce will recognize this young man for his actions.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None.

Randi Johl
City Clerk

RJ/JMR

APPROVED: _____
Konradt Bartlam, City Manager

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RECEIVED
2012 AUG -8 AM 10: 33
CITY CLERK
CITY OF LODI

City Council,

I am a proud mother, and I wanted to share how your Lodi High School is Improving my son.

The neighborhoods surrounding the Lodi High School are very welcoming to new students every year. We accept the heavy traffic twice a day, and allow the overflow parking to crowd the streets. We do this because we are proud to be part of the Lodi pride that echoes from the school campus. But one issue has me bothered... and my son is taking action!!!

Every July Lodi High has freshman orientation and a Rally before school starts. And every year banners, trash, papers, and other garbage gather on the East sidewalk of Pacific Ave. It is normally not touched for weeks.

Meanwhile my sons and I take frequent walks around the neighborhood. This small span of filth and litter is the worst part of our walk.

My son was 3 when he decided that he didn't want to just leave the trash on the ground. (We had brought him up to know better than that) After the first week of school was over he decided to clean up our earth, starting with Pacific Ave. He has been very faithful at doing so. He now picks up the trash during every school break in July, October, November, December, and March.

We now walk to Reese school every day for Kindergarten (my son is now almost 6), and he continually asks why the school doesn't pick up the litter that's left by the students. I have yet to give him a good answer, so I remind him that some people are just too lazy to find a Garbage can.

I know what my son is doing is the right and noble thing, and I feel he should be recognized. You might feel I am being too proud of his small actions. But I think every mother should! How else are we going to make this world better, if we don't over applaud our kids to go above and beyond for other people?

My son Roman is an outstanding person and he is anxious to be a part of Lodi High someday. Please, commend him for his actions.

A Proud Mothers' Best Regards,

Angela Mangrich

Angela Mangrich

AGENDA ITEM B-02

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Firefighter Muscular Dystrophy Association "Fill the Boot" Fundraiser Proclamation

MEETING DATE: September 19, 2012

PREPARED BY: Fire Chief

RECOMMENDED ACTION: Mayor Mounce to present a proclamation setting October 6, 2012, as the date for the Firefighter Muscular Dystrophy Association "Fill the Boot" fundraiser in the City of Lodi.

BACKGROUND INFORMATION: The Mayor has been requested to present a proclamation setting October 6, 2012, as the date for the Firefighter Muscular Dystrophy Association "Fill the Boot" fundraiser in the City of Lodi. Captain Michael Gold will be at the meeting to accept the proclamation.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

Larry Rooney, Fire Chief

LR/lh

APPROVED: _____
Konradt Bartlam, City Manager

AGENDA ITEM B-03

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Introduction of New Salvation Army Captains Martin and Tory Ross

MEETING DATE: September 19, 2012

PREPARED BY: City Clerk

RECOMMENDED ACTION: None required.

BACKGROUND INFORMATION: Lodi District Chamber of Commerce President/CEO, Pat Patrick, will introduce Council and the citizens to the new Lodi Salvation Army Captains, Martin and Tory Ross, who will be serving Lodi and the surrounding community.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None.

Randi Johl
City Clerk

APPROVED: _____
Konradt Bartlam, City Manager

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AGENDA ITEM C-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Receive Register of Claims through August 30, 2012 in the Total Amount of $12,309,433.41

MEETING DATE: September 19, 2012

PREPARED BY: Financial Services Manager

RECOMMENDED ACTION: Receive the attached Register of Claims for $12,309,433.41.

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of $12,309,433.41 through 8/30/12. Also attached is Payroll in the amount of $2,435,679.44.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: As per attached report.

_____
Ruby R. Paiste, Financial Services Manager

RRP/rp

Attachments

APPROVED: _____
Konradt Bartlam, City Manager

As of Thursday	Fund	Name	Amount
08/16/12	00100	General Fund	1,836,502.47
	00160	Electric Utility Fund	2,862,499.58
	00164	Public Benefits Fund	62,659.06
	00166	Solar Surcharge Fund	78,161.31
	00170	Waste Water Utility Fund	53,688.50
	00171	Waste Wtr Util-Capital Outlay	111,330.68
	00180	Water Utility Fund	16,175.53
	00181	Water Utility-Capital Outlay	211,516.79
	00210	Library Fund	3,880.32
	00234	Local Law Enforce Block Grant	182.10
	00235	LPD-Public Safety Prog AB 1913	61.22
	00260	Internal Service/Equip Maint	56,587.56
	00270	Employee Benefits	449,250.11
	00300	General Liabilities	9,027.39
	00301	Other Insurance	145,915.00
	00310	Worker's Comp Insurance	366,873.71
	00320	Street Fund	460.60
	00321	Gas Tax-2105,2106,2107	16,849.81
	00325	Measure K Funds	156,960.04
	00330	RTIF County/COG	746.77
	00338	IMF-Regional Transportation	5,077.54
	00340	Comm Dev Special Rev Fund	916.46
	00347	Parks, Rec & Cultural Services	39,374.96
	00444	HUD-Federal Sustainable Comm	3,602.80
	00459	H U D	115,517.79
	00502	L&L Dist Z1-Almond Estates	395.10
	00503	L&L Dist Z2-Century Meadows I	249.45
	00506	L&L Dist Z5-Legacy I,II,Kirst	665.35
	00507	L&L Dist Z6-The Villas	561.32
	00509	L&L Dist Z8-Vintage Oaks	207.91
	01211	Capital Outlay/General Fund	208,131.37
	01212	Parks & Rec Capital	5,415.00
	01241	LTF-Pedestrian/Bike	10,391.04
	01250	Dial-a-Ride/Transportation	42,811.45
	01251	Transit Capital	1,897,746.54
	01252	Transit-Prop. 1B	944,285.00
	01410	Expendable Trust	99,548.33
Sum			9,814,225.96
	00184	Water PCE-TCE-Settlements	336.00
	00190	Central Plume	5,044.35
Sum			5,380.35
Total Sum			9,819,606.31

As of Thursday	Fund	Name	Amount
08/30/12	00100	General Fund	376,839.50
	00123	Info Systems Replacement Fund	1,213.23
	00160	Electric Utility Fund	84,150.24
	00161	Utility Outlay Reserve Fund	97,036.74
	00164	Public Benefits Fund	2,954.00
	00170	Waste Water Utility Fund	25,102.79
	00171	Waste Wtr Util-Capital Outlay	307,251.92
	00172	Waste Water Capital Reserve	92,655.83
	00180	Water Utility Fund	18,737.22
	00181	Water Utility-Capital Outlay	1,263,199.67
	00210	Library Fund	8,132.65
	00230	Asset Seizure Fund	50.00
	00260	Internal Service/Equip Maint	45,281.18
	00270	Employee Benefits	22,625.59
	00300	General Liabilities	1,111.90
	00310	Worker's Comp Insurance	9,708.33
	00321	Gas Tax-2105,2106,2107	14,533.04
	00325	Measure K Funds	8,460.23
	00329	TDA - Streets	8,885.00
	00340	Comm Dev Special Rev Fund	2,112.84
	00347	Parks, Rec & Cultural Services	38,270.38
	00459	H U D	5,787.52
	00502	L&L Dist Z1-Almond Estates	352.80
	00503	L&L Dist Z2-Century Meadows I	309.49
	00505	L&L Dist Z4-Almond North	67.14
	00506	L&L Dist Z5-Legacy I,II,Kirst	506.79
	00507	L&L Dist Z6-The Villas	437.48
	00509	L&L Dist Z8-Vintage Oaks	201.42
	00515	L&L Dist Z13	30.97
	00517	L&L Dist Z15-Guild Ave Indust.	29.90
	01212	Parks & Rec Capital	4,945.90
	01241	LTF-Pedestrian/Bike	898.40
	01250	Dial-a-Ride/Transportation	4,805.77
	01251	Transit Capital	1,691.94
	01410	Expendable Trust	34,085.21
Sum			2,482,463.01
	00185	PCE/TCE Rate Abatement Fund	1,518.00
	00190	Central Plume	4,760.14
	00192	Busy Bee Plume	1,085.95
Sum			7,364.09
Total Sum			2,489,827.10

Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	08/05/12	00100	General Fund	694,302.93
		00160	Electric Utility Fund	129,083.47
		00161	Utility Outlay Reserve Fund	10,004.92
		00164	Public Benefits Fund	3,783.78
		00170	Waste Water Utility Fund	102,594.09
		00180	Water Utility Fund	4,144.43
		00210	Library Fund	28,430.42
		00235	LPD-Public Safety Prog AB 1913	1,330.47
		00260	Internal Service/Equip Maint	16,874.81
		00321	Gas Tax-2105,2106,2107	29,354.92
		00340	Comm Dev Special Rev Fund	20,360.50
		00345	Community Center	74.06
		00347	Parks, Rec & Cultural Services	123,667.61
		01250	Dial-a-Ride/Transportation	7,393.36
Pay Period Total:				
Sum				1,171,399.77

Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	08/19/12	00100	General Fund	699,571.38
		00160	Electric Utility Fund	135,573.68
		00161	Utility Outlay Reserve Fund	10,004.90
		00164	Public Benefits Fund	3,783.78
		00170	Waste Water Utility Fund	99,703.18
		00180	Water Utility Fund	10,125.12
		00210	Library Fund	28,763.89
		00235	LPD-Public Safety Prog AB 1913	830.88
		00260	Internal Service/Equip Maint	15,230.20
		00321	Gas Tax-2105,2106,2107	28,864.05
		00340	Comm Dev Special Rev Fund	23,157.37
		00345	Community Center	59.24
		00347	Parks, Rec & Cultural Services	127,567.10
		01250	Dial-a-Ride/Transportation	7,393.36
Pay Period Total:				
Sum				1,190,628.13
Retiree	09/30/12	00100	General Fund	73,651.54
Pay Period Total:				
Sum				73,651.54

AGENDA ITEM C-02

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Approve Minutes
a) August 14, 2012 (Shirtsleeve Session)
b) August 15, 2012 (Regular Meeting)
c) August 21, 2012 (Shirtsleeve Session)
d) August 21, 2012 (Special Meeting)
e) August 28, 2012 (Shirtsleeve Session)
f) September 4, 2012 (Shirtsleeve Session)
g) September 5, 2012 (Regular Meeting)
h) September 11, 2012 (Shirtsleeve Session)

MEETING DATE: September 19, 2012

PREPARED BY: City Clerk

RECOMMENDED ACTION: Approve the following minutes as prepared:
a) August 14, 2012 (Shirtsleeve Session)
b) August 15, 2012 (Regular Meeting)
c) August 21, 2012 (Shirtsleeve Session)
d) August 21, 2012 (Special Meeting)
e) August 28, 2012 (Shirtsleeve Session)
f) September 4, 2012 (Shirtsleeve Session)
g) September 5, 2012 (Regular Meeting)
h) September 11, 2012 (Shirtsleeve Session)

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

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

_____
Randi Johl
City Clerk

Attachments

APPROVED: _____
Konradt Bartlam, City Manager

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LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, AUGUST 14, 2012

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, August 14, 2012, commencing at 7:00 a.m.

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

B. Topic(s)

B-1 Review of Fleet Maintenance Operations (PW)

City Manager Konradt Bartlam briefly introduced the subject matter of the review of fleet maintenance operations.

Deputy Public Works Director Charlie Swimley and Fleet Services Supervisor Randy Laney provided a PowerPoint presentation regarding the review of fleet maintenance operations. Specific topics of discussion included inventory, in-house services, outsourced services, fleet division organization, budget, cost allocations, charge rates, comparisons with other communities and dealerships, and take home vehicles.

In response to Mayor Pro Tempore Nakanishi, Mr. Swimley stated regulated vehicles are those that are overseen by the Department of Transportation (DOT) with mandated inspections.

In response to Council Member Hansen, Mr. Swimley stated there are three backhoes specifically assigned to three different departments, the backhoe in Public Works is used almost daily, and when one goes down departments will borrow from one another.

In response to Council Member Hansen, Mr. Swimley confirmed the mechanic still inquires about in and out of town operation when a vehicle is checked out for use in the Police Department.

In response to Mayor Pro Tempore Nakanishi, Mr. Laney confirmed that the California Highway Patrol oversees DOT regulations and performs inspections on the required vehicles typically lasting three hours each.

In response to Council Member Hansen, Mr. Laney stated the refueling of the underground fuel tanks at the Municipal Service Center (MSC) and the above ground tanks at White Slough is done through a bid process utilizing five local suppliers. Mr. Laney stated through the bidding process the City pays approximately fifty to sixty cents less per gallon because the City does not pay for certain local taxes. He stated quotes are received from vendors routinely and on average 10,000 gallons are used per month.

In response to Mayor Pro Tempore Nakanishi, Mr. Swimley stated the underground fuel tanks at MSC operate similar to a regular fuel service station with two unleaded pumps and one diesel pump. Mr. Swimley confirmed that the White Slough vehicles utilize the above ground fuel tank located at White Slough.

In response to Mayor Mounce, Mr. Laney confirmed that all Department of Motor Vehicle titles for all vehicles in the City are maintained collectively by the division.

In response to Council Member Hansen, Mr. Swimley confirmed it is cheaper to smog a vehicle as outsourced work because there is a significant cost associated with the purchase and maintenance of the required smog equipment.

In response to Council Member Hansen, Mr. Swimley stated County Environmental Health regulates underground storage tank testing. He also confirmed there are six mechanics working a single 6:15 a.m. to 4:00 p.m. shift.

In response to Council Member Johnson, Mr. Bartlam and Mr. Swimley stated the motor vehicle fleet is in its second use cycle having already completed its primary use and is the oldest segment of fleet.

In response to Mayor Pro Tempore Nakanishi, Mr. Laney stated the motor pool vehicles in their second cycle are all over 100,000 miles.

In response to Council Member Hansen, Mr. Swimley stated 17 vehicles are over 120,000, two vehicles are over 200,000, and the service and maintenance on vehicles is determined by the age, use, and mileage of a particular vehicle.

In response to Council Member Hansen, Mr. Swimley and Mr. Laney provided an overview of the various components that make up the line item budget as displayed in the chart including personnel, repairs to vehicles, utilities, fuel and lube, and other supplies and materials.

In response to Mayor Mounce, Mr. Swimley stated outside labor may include vehicle body repair and training on vehicles.

In response to Council Member Hansen, Mr. Laney stated the charge rate includes fully loaded cost of the employee and the cost of the utilities. Mr. Laney stated a service worker is a less experienced entry-level type of mechanic.

In response to Mayor Pro Tempore Nakanishi, Mr. Swimley and Mr. Bartlam stated the comparisons are generally based on population and size of city and every entity has its own requirements and constraints.

In response to Council Member Johnson, Mr. Laney stated the City charges actual time instead of book time, which is charged by the private repair shops. Mr. Laney confirmed that work is sent out to Big Valley Ford for warranty, specialization, and workload purposes.

A brief discussion ensued amongst Council Member Hansen, Council Member Johnson, Mr. Bartlam, Mr. Swimley, and Mr. Laney regarding the ability to handle work in-house in light of staff and budget reductions and the need for an additional mechanic if it is more cost effective than outsourcing the workload.

In response to Mayor Pro Tempore Nakanishi, Mr. Laney stated he is not aware of any city that outsources the entire fleet component, although Fresno did attempt to do that several years ago and brought the service back in-house a short time thereafter. Mr. Bartlam stated outsourcing fleet services is generally considered by smaller sized cities.

In response to Mayor Mounce, Mr. Swimley reviewed the number of take home vehicles in the City and in each department, stating they are primarily assigned to those who are required to respond after hours or have a 24-hour operation such as the Police Department. Mr. Bartlam

stated the number of take home vehicles have been reduced greatly and he will distribute to Council a copy of the related policy.

In response to Ed Miller, Mr. Swimley and Mr. Laney stated the current software utilized by the division automatically generates certain notices, including maintenance schedules, after which work orders and financial information is manually prepared.

In response to Council Member Hansen, Mr. Swimley and Mr. Laney stated the current software has been in place since 2006 and is limiting in that it does not tie into the City's financial system and they are in the process of reviewing options to upgrade the software in conjunction with the City's overall replacement of its financial system.

In response to Myrna Wetzel, Mr. Laney stated the DOT inspections are sometimes random and in some cases he receives notice a short time prior to the inspection. Mr. Bartlam provided a brief overview of the vehicle replacement fund as it ties into the General Fund and other funds.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 8:15 a.m.

ATTEST:

Randi Johl
City Clerk

LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, AUGUST 15, 2012

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

C-2 Announcement of Closed Session - N/A

C-3 Adjourn to Closed Session - N/A

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

A. Call to Order / Roll Call

The Regular City Council meeting of August 15, 2012, was called to order by Mayor Mounce at 7:00 p.m.

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

B. Presentations

B-1 Presentation of Firefighter of the Year 2011 Plaque to Fire Captain Chris Allen (FD)

Division Chief Aimee New presented the Firefighter of the Year 2011 plaque to Fire Captain Chris Allen.

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

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

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

C-1 Receive Register of Claims in the Amount of $3,253,714.74 (FIN)

Claims were approved in the amount of $3,253,714.74.

C-2 Approve Minutes (CLK)

The minutes of July 31, 2012 (Shirtsleeve Session), August 1, 2012 (Regular Meeting), and August 7, 2012 (Shirtsleeve Session) were approved as written.

C-3 Accept the Quarterly Investment Report as Required by Government Code Section 53646 and the City of Lodi Investment Policy (CM)

This item was pulled for further discussion by Mayor Pro Tempore Nakanishi.

In response to Mayor Pro Tempore Nakanishi, City Manager Bartlam stated the City has an investment policy that outlines the City's investments and the subject status report sets forth where the investments are and how they are doing.

Mayor Pro Tempore Nakanishi made a motion, second by Council Member Katzakian, to accept the quarterly investment report as required by Government Code Section 53646 and the City of Lodi Investment Policy.

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

C-4 Accept Quarterly Report of Purchases Between $10,000 and $20,000 (CM)

Accepted the quarterly report of purchases between $10,000 and $20,000.

C-5 Approve Plans and Specifications and Authorize Advertisement for Bids for Ham Lane and Harney Lane Traffic Signal and Lighting Project (PW)

This item was pulled for further discussion by Mayor Mounce.

In response to Mayor Mounce, Public Works Director Wally Sandelin stated the signal is proposed to be operational by spring 2013.

Mayor Mounce made a motion, second by Council Member Hansen, to approve the plans and specifications and authorize advertisement for bids for Ham Lane and Harney Lane Traffic Signal and Lighting Project.

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

C-6 Approve Plans and Specifications and Authorize Advertisement for Bids for the Lodi Transit Station and Parking Structure Security and Safety System Project (PW)

Approved the plans and specifications and authorized advertisement for bids for the Lodi Transit Station and Parking Structure Security and Safety System Project.

C-7 Adopt Resolution Approving the Purchase of a Padmount Transformer from Howard Industries, of Laurel, Mississippi ($22,762.19) (EUD)

Adopted Resolution No. 2012-127 approving the purchase of a padmount transformer from Howard Industries, of Laurel, Mississippi, in the amount of $22,762.19.

C-8 Adopt Resolution Authorizing the City Manager to Execute Annual Purchase Order with D.

C. Frost Associates, Inc., of Walnut Creek, for Materials and Services Needed to Maintain Ultra Violet Disinfection System at White Slough Water Pollution Control Facility ($261,540.90) (PW)

Adopted Resolution No. 2012-128 authorizing the City Manager to execute annual purchase order with D. C. Frost Associates, Inc., of Walnut Creek, for materials and services needed to maintain ultra violet disinfection system at White Slough Water Pollution Control Facility in the amount of $261,540.90.

C-9 Adopt Resolution Authorizing the City Manager to Execute Contracts and Contract Extensions for Surface Water Treatment and Well Facilities Chemical Supply with Sierra Chemical Company, of Sparks, Nevada ($78,844), and Univar USA, Inc., of Kent, Washington ($66,000) (PW)

Adopted Resolution No. 2012-129 authorizing the City Manager to execute contracts and contract extensions for surface water treatment and well facilities chemical supply with Sierra Chemical Company, of Sparks, Nevada, in the amount of $78,844, and Univar USA, Inc., of Kent, Washington, in the amount of $66,000.

C-10 Adopt Resolution Authorizing the City Manager to Execute Contract for 2012 Church Street Mistletoe Trimming and Tree Removal with Berndt Tree Service, of Lodi ($42,500) (PW)

This item was pulled for further discussion by Mayor Mounce.

In response to Mayor Mounce, Public Works Director Wally Sandelin stated certain trees have been marked for mistletoe removal and the remediation will be completed after the leaves fall near Thanksgiving. Mr. Sandelin stated the trees that are slated for removal will be removed in their entirety prior to that.

In response to Council Member Hansen, Mr. Sandelin stated the trees that are to be removed were slated for removal based on a tree survey regardless of the mistletoe due to their age and the type of tree they are. He stated new trees will be planted to replace the removed trees.

In response to Council Member Johnson, Mr. Sandelin clarified that in some cases mistletoe is being treated but the tree is not being removed and the Modesto Ash trees are being removed because they have run their course.

Mayor Mounce made a motion, second by Council Member Hansen, to adopt Resolution No. 2012-137 authorizing the City Manager to execute contract for 2012 Church Street Mistletoe Trimming and Tree Removal with Berndt Tree Service, of Lodi, in the amount of 42,500.

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

C-11 Adopt Resolution Authorizing the City Manager to Execute Professional Services Agreement with WMB Architects, of Stockton, for Design Services for Public Safety Building First Floor Renovation Project ($60,820) (PW)

This item was pulled for further discussion by Council Member Hansen.

In response to Council Member Hansen, Public Works Director Wally Sandelin confirmed the intent of staff to relocate Parks and Recreation and Fire Administration into the first floor of the old public safety building, stating construction may occur in the second half of 2013. City Manager Bartlam stated that, while there is $500,000 budgeted for the project, the Americans with Disabilities Act accessibility issues are unknown, the design and cost estimate is for the first floor only, and the overall goal is to have all permitting functions for the City on one campus to create a one-stop shop for the end user.

Council Member Hansen made a motion, second by Mayor Mounce, to adopt Resolution No. 2012-138 authorizing the City Manager to execute professional services agreement with WMB Architects, of Stockton, for design services for Public Safety Building First Floor Renovation Project in the amount of $60,820.

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

C-12 Adopt Resolution Authorizing the City Manager to Execute Contract for City Hall Parking Lot Reconstruction Project with A. M. Stephens Construction Company, Inc., of Lodi ($238,877.65), and Appropriating Funds ($100,000) (PW)

Adopted Resolution No. 2012-130 authorizing the City Manager to execute contract for City Hall Parking Lot Reconstruction Project with A. M. Stephens Construction Company, Inc., of Lodi, in the amount of $238,877.65, and appropriating funds in the amount of $100,000.

C-13 Adopt Resolution Authorizing the City Manager to Execute Contract and Contract Extensions for Procurement of Biosolids Dewatering Polymer at White Slough Water Pollution Control Facility with SNF/Polydyne, Inc., of Riceboro, Georgia ($58,121) (PW)

Adopted Resolution No. 2012-131 authorizing the City Manager to execute contract and contract extensions for procurement of biosolids dewatering polymer at White Slough Water Pollution Control Facility with SNF/Polydyne, Inc., of Riceboro, Georgia, in the amount of $58,121.

C-14 Adopt Resolution Authorizing the City Manager to Execute Contract for Well 6R Granular Activated Carbon Treatment System with Vinciguerra Construction, of Jackson ($596,810) (PW)

Adopted Resolution No. 2012-132 authorizing the City Manager to execute contract for Well 6R granular activated carbon treatment system with Vinciguerra Construction, of Jackson, in the amount of $596,810.

C-15 Adopt Resolution Authorizing the City Manager to Execute Professional Services Agreement for Fixed Network Radio Backhaul Design Studies with RuggedCom, of Concord, Ontario ($38,300), and Appropriating Funds ($80,000) (PW)

Adopted Resolution No. 2012-133 authorizing the City Manager to execute professional services agreement for fixed network radio backhaul design studies with RuggedCom, of Concord, Ontario, in the amount of $38,300, and appropriating funds in the amount of $80,000.

C-16 Adopt Resolution Authorizing the City Manager to Execute a Professional Services

Agreement for the Purchase and Installation of a New Voicemail System with AdvanTel Networks, of Sacramento ($46,767), and Appropriating Funds ($36,450) (CM)

Adopted Resolution No. 2012-134 authorizing the City Manager to execute a professional services agreement for the purchase and installation of a new voicemail system with AdvanTel Networks, of Sacramento, in the amount of $46,767, and appropriating funds in the amount of $36,450.

C-17 Adopt Resolution Approving Human Resources Manager and Designees Authorization to Access Summary Criminal History Information for Employment Purposes at the State and Federal Level (CM)

Adopted Resolution No. 2012-135 approving Human Resources Manager and designees authorization to access summary criminal history information for employment purposes at the state and federal level.

C-18 Notice of Cost to Grant Two Years Additional Service Credit Under Government Code Section 20903 (CM)

Accept Notice of Cost to grant two years additional service credit under Government Code Section 20903.

C-19 Adopt Resolution Approving Police Department Budget Adjustment ($192,122) for Fiscal Year 2012/13 (PD)

This item was pulled for further discussion by Council Member Johnson.

In response to Council Member Johnson, City Manager Bartlam confirmed that the Police groups were told that there would be a reallocation through a budget adjustment once the negotiations were concluded since the original budget was adopted prior to the negotiations being finalized. Mr. Bartlam stated the savings are being put back into the operations of the department and funding for a police officer exits due to the stair stepping savings.

In response to Council Member Johnson, Police Chief Mark Helms stated the department is trying to reestablish part-time positions that were lost due to a grant loss, interns have attended the police academy and are familiar with the operations of a police department, it is a value to have interns serve in the lobby to keep patrol officers on the street, and police officers are seldom in the building during the day to sign off on tickets.

In response to Council Member Hansen, Chief Helms stated the interns will also be able to assist with report-related services, for which there is a high demand.

Mayor Mounce made a motion, second by Council Member Hansen, to adopt Resolution No. 2012-139 approving Police Department budget adjustment in the amount of $192,122 for Fiscal Year 2012/13.

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

C-20 Adopt Resolution Revising and Establishing Fees for Police, Fire, and Parks, Recreation,

and Cultural Services Departments (PRCS)

Adopted Resolution No. 2012-136 revising and establishing fees for Police, Fire, and Parks, Recreation, and Cultural Services Departments.

C-21 Accept the Notice of Draft Amendments to Conflict of Interest Code for the 2012 Calendar Year Per Government Code Section 87306.5 (CA)

Accepted the Notice of Draft Amendments to Conflict of Interest Code for the 2012 calendar year per Government Code Section 87306.5.

C-22 Adopt Resolution Pledging Continued Adherence to the Brown Act Despite the State's Decision to Suspend its Requirements for Fiscal Reasons (CLK)

This item was pulled for further discussion by Mayor Mounce.

Mayor Mounce thanked the City Clerk for bringing the item forward and assured the public that the City will continue to adhere to the Brown Act requirements regardless of the State's suspension of the same.

Mayor Mounce made a motion, second by Council Member Katzakian, to adopt Resolution No. 2012-140 pledging continued adherence to the Brown Act despite the State's decision to suspend its requirements for fiscal reasons.

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

C-23 Set Public Hearing for September 19, 2012, to Consider and Approve the Recommendation of the Planning Commission to Rezone Property Located at 515 South Lower Sacramento Road from R-1, C-S, and R-C-P to Planned Development (PD)-35 (CD)

Set public hearing for September 19, 2012, to consider and approve the recommendation of the Planning Commission to rezone property located at 515 South Lower Sacramento Road from R-1, C-S, and R-C-P to Planned Development (PD)-35.

C-24 Set Public Hearing for September 19, 2012, to Consider and Approve the 2011/12 Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report and an Amendment of the 2012/13 Action Plan to Accommodate the Reallocation of Unused CDBG Funds (CD)

Set public hearing for September 19, 2012, to consider and approve the 2011/12 Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report and an amendment of the 2012/13 Action Plan to accommodate the reallocation of unused CDBG funds.

D. Comments by the Public on Non-Agenda Items
THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES. 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.

None.

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

Mayor Pro Tempore Nakanishi reported on various city bankruptcies throughout the State and urged the City Council and staff to be cautious when using consultants.

Council Member Johnson reported on his attendance at an event for military families at Lodi Lake and requested a special meeting on August 21, 2012, to authorize the Mayor to send a letter of opposition to AB 2451.

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

City Manager Bartlam wished Council Member Johnson a belated Happy Birthday.

G. Public Hearings

G-1 Public Hearing to Consider the Following Actions: a) Adopt Resolution Certifying the Negative Declaration as Adequate Environmental Documentation for the Master Plans for the Water, Wastewater, Storm Drainage, and Bicycle; and b) Adopt Resolution Approving Master Plans for Water, Wastewater, Storm Drainage, and Bicycle; Approving Impact Mitigation Fee Program Report and Schedule of Fees; and Approving Impact Mitigation Fee Program Schedule of Reduced Fees (PW)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Mounce called for the public hearing to consider the following actions: a) Adopt resolution certifying the Negative Declaration as adequate environmental documentation for the Master Plans for the Water, Wastewater, Storm Drainage, and Bicycle; and b) Adopt resolution approving Master Plans for Water, Wastewater, Storm Drainage, and Bicycle; approving Impact Mitigation Fee Program Report and schedule of fees; and approving Impact Mitigation Fee Program schedule of reduced fees.

Public Works Director Wally Sandelin provided a brief PowerPoint presentation regarding the Impact Mitigation Fee Program. Specific topics of discussion included history of the program, changes to the program, storm drainage, incentive zones, recommended fee program, residential low density, commercial office, fee comparison, and recommended actions.

In response to Mayor Mounce, City Manager Bartlam confirmed that the Art in Public Places Board was contacted and it is supportive of moving forward with the proposed action.

In response to Mayor Pro Tempore Nakanishi, Mr. Sandelin stated that, if the use remains the same now as it will be in the future, then he does not anticipate any additional charges for water service.

In response to Council Member Johnson, Mr. Sandelin stated in the example of the Sunset Theatre a reuse proposal for it will not necessarily increase capacity because it will receive full credit for what is already there and only have to pay additional charges for increased capacity.

In response to Council Member Hansen, Mr. Sandelin stated vacant land in incentive zones

would pay fees because they are starting from the ground up but they will not be required to pay for transportation, police, or similar fees.

In response to Mayor Mounce, Mr. Bartlam and Mr. Sandelin confirmed that $5,940 is a catalyst to start development, the bulk of fees collected are in non-residential, and the developer is paying some costs directly rather than receiving reimbursement as is the case with parks.

In response to Council Member Hansen, Mr. Bartlam confirmed Century Park does have an assessment for its long-term maintenance. Mr. Sandelin stated community facility fees paid by the service users in a particular neighborhood fund parks and other similar activities.

In response to Council Member Hansen, Mr. Bartlam stated the City would be very competitive in its fees in comparison with other cities in the County as set forth in the chart.

In response to Mayor Pro Tempore Nakanishi, Mr. Bartlam confirmed every city has a different set of policies and standards, toward which they apply various fees.

In response to Mayor Mounce, Mr. Bartlam stated because the City has fixed rate debt it knows exactly what its debt will be during the term of the proposed fee program. Mr. Bartlam stated that improvements are primarily built and there are not a lot of new facilities on the horizon during the term of the proposed fee program.

In response to Council Member Hansen, Mr. Sandelin confirmed that the reduced fees will automatically sunset in December 2019 and a new fee schedule will be introduced in January 2020.

In response to Mayor Mounce, Mr. Bartlam confirmed that a future City Council can change the program if it so desired as an existing City Council cannot bind the hands of a future City Council.

In response to Council Member Katzakian, Mr. Bartlam confirmed that the fee program can also be extended if so desired.

Mayor Mounce opened the public hearing to receive public comment.

John Beckman, representing the Building Industry Association, spoke in support of the proposed recommendation to adopt the impact fee program as outlined with the reduced fees.

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

Council Member Hansen made a motion, second by Council Member Katzakian, to adopt Resolution No. 2012-141 certifying the Negative Declaration as adequate environmental documentation for the Master Plans for the Water, Wastewater, Storm Drainage, and Bicycle; and b) to adopt Resolution No. 2012-142 approving Master Plans for Water, Wastewater, Storm Drainage, and Bicycle; approving Impact Mitigation Fee Program Report and schedule of fees; and approving Impact Mitigation Fee Program schedule of reduced fees.

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

G-2 Public Hearing to Introduce Ordinances Regarding Termination of Southwest Gateway and Westside Project Development Agreements with Frontier Community Builders, Inc. (CM)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Mounce called for the public hearing to consider introduction of ordinances regarding termination of Southwest Gateway and Westside Project Development Agreements with Frontier Community Builders, Inc.

Council Member Hansen recused himself due to a conflict of interest based on real property interest and left the Chamber during consideration of this item.

City Manager Bartlam provided a brief overview of the proposed ordinances to terminate the subject development agreements as set forth in the staff report regarding the same.

In response to Mayor Mounce, Mr. Bartlam confirmed that the obligations in the existing development agreements to purchase fire-related apparatus would cease to exist with the proposed action.

Mayor Mounce opened the public hearing to receive public comment.

The following individuals spoke in support of the recommended action to terminate the Southwest Gateway and Westside Project Development Agreements: Mike Hakim; Tom Doucette, President of FCB Homes; and George Gibson, Senior Vice-President of FCB Homes.

In response to Mayor Mounce, Mr. Doucette stated his company will continue to drive rehabilitation on the east side of town on the open market. Mr. Doucette stated he will end up paying a higher amount under the impact fee program for fire fees than he would have with the development agreement.

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

Mayor Pro Tempore Nakanishi made a motion, second by Council Member Katzakian, to introduce Ordinance No. 1861 terminating the Southwest Gateway Development Agreement and introduce Ordinance No. 1862 terminating the Westside Project Development Agreement both with Frontier Community Builders, Inc.

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

H. Communications

H-1 Post for One Vacancy on the Lodi Improvement Committee (CLK)

Mayor Mounce made a motion, second by Council Member Katzakian, to direct the City Clerk to post for the following vacancy:

Lodi Improvement Committee
Lisa Nixon, term to expire March 1, 2015

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

H-2 Monthly Protocol Account Report (CLK)

Mayor Mounce made a motion, second by Council Member Katzakian, to approve the cumulative Monthly Protocol Account Report through June 30, 2012.

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

I. Regular Calendar

I-1 Approve Downtown Lodi Business Partnership 2012 Annual Report, Adopt Resolution of Intention to Levy Annual Assessment, and Set Public Hearing for September 19, 2012, to Consider Proposed Assessment (CM)

Jaime Watts, Executive Director for the Downtown Lodi Business Partnership (DLBP), provided an overview of the 2012 Annual Report, as attached to the staff report, outlining the activities and budget for the DLBP for the current and upcoming year.

In response to Mayor Mounce, Deputy City Manager Jordan Ayers confirmed that all businesses had paid the assessment with the exception of two who are in the process of payment now.

In response to Council Member Hansen, Ms. Watts stated the projected revenue in the Farmers Market line item listed at $40,000 does not reflect a new sponsorship that was recently received to offset the expense of the Beer Garden. Ms. Watts confirmed she will forward a revised budget reflecting the updated line item to the City Council prior to the next meeting.

In response to Council Member Johnson, Ms. Watts stated the Beer Garden was previously handled by DLBP directly and next year it will be catered and not processed by DLBP thereby eliminating the liability costs associated with it for the DLBP.

In response to Mayor Pro Tempore Nakanishi, Mr. Ayers stated there are approximately 250 members in the assessment, the City and DLBP apply their best efforts to full collection, those not complying are required to appear in court, and the City contributes approximately $24,000 annually to DLBP.

In response to Council Member Johnson, City Attorney Schwabauer stated non-payments are prosecuted in criminal court as violations of the Lodi Municipal Code and those operations in the court system remain unchanged.

Council Member Hansen made a motion, second by Mayor Mounce, to approve the Downtown Lodi Business Partnership 2012 Annual Report, adopt Resolution No. 2012-143 of Intention to levy annual assessment, and set public hearing for September 19, 2012, to consider the proposed assessment with the caveat that the revised budget with the corrected line item

pertaining to the Farmer's Market is forwarded to the City Council.

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

J. Ordinances - None

K. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 9:10 p.m.

ATTEST:

Randi Johl
City Clerk

LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, AUGUST 21, 2012

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, August 21, 2012, commencing at 7:05 a.m.

Present: Council Member Hansen, Council Member Johnson, Council Member Katzakian, and Mayor Mounce
Absent: Mayor Pro Tempore Nakanishi
Also Present: City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

B. Topic(s)

B-1 Receive Utility Financial Reports for the Fourth Quarter of Fiscal Year 2011/12 Ending June 30, 2012 (CM)

City Manager Bartlam provided a brief introduction to the subject matter of the fourth quarter utility financial reports.

Deputy Public Works Director Larry Parlin provided a PowerPoint presentation regarding the water and wastewater quarterly update. Specific topics of discussion included water and wastewater cash flow summary, operating results, cash balances, bad debt write off, and operational and regulatory accomplishments.

In response to Council Member Hansen, Mr. Parlin stated the current cash on hand amount is 302 days and the policy requires 90 days cash on hand. City Manager Bartlam stated there will be an action coming before the City Council in the future to eliminate the 2003 wastewater debt with the excess of these funds.

In response to Mayor Mounce, Mr. Bartlam stated an excess of cash on hand does not indicate an overcharge as it was intended to be built up and delay future rate increases.

In response to Council Member Katzakian, Mr. Bartlam stated staff is monitoring the usage of the new water meters and to date as anticipated there is only a redistribution and no change in revenue for water usage.

In response to Council Member Hansen, Mr. Parlin stated the flow capacity remains sufficient due to less building and construction and the type of growth that has occurred.

In response to Council Member Johnson, Mr. Parlin stated the ultra violet process is expensive and the employees have captured savings by extending the life of the bulbs, enhancing the cleaning process, and eliminating the costs of treating wastewater that goes to farmland.

Council Member Hansen and Mayor Mounce suggested publicly thanking the employees at a future City Council meeting.

In response to Myrna Wetzel, Mr. Parlin explained the difference between the water that is distributed to farmland from wastewater versus the Lodi Energy Center.

Electric Utility Director Elizabeth Kirkley provided a PowerPoint presentation regarding the electric

utility quarterly update. Specific topics of discussion included cash flow summary, operating results, cash balances, power supply costs, power sales, energy cost adjustment revenue, billing statistics, bad debt write off, general operating reserve (GOR), open position, and quarterly accomplishments.

In response to Mayor Mounce, Ms. Kirkley stated the other revenue line item includes work performed for others including new businesses such as Home Depot.

In response to Council Member Johnson, Customer Services Manager Rob Lechner stated interest in public benefit fund programs has remained steady with respect to residential and commercial interest and it really depends on the desire to expend money up front to receive a refund later.

Council Member Hansen suggested a future Shirtsleeve Session to discuss the status of AB 32 requirements and the City's portfolio options regarding the same.

In response to Council Member Katzakian, Mr. Bartlam stated the GOR reserve is sufficient and can be kept at either Northern California Power Agency or internally because the interest amount is relatively the same.

In response to Mayor Mounce, Electric Operations Superintendent Kevin Riedinger stated the grid work is being performed east of Ham Lane, down by Harney Lane and over to Hutchins Street.

In response to Council Member Johnson, Mr. Riedinger stated staff has addressed the copper theft concerns by placing the copper in rigid conduit and encasing it in a hard seal.

In response to Myrna Wetzel, Ms. Kirkley stated the meter reading program for residential is fully implemented.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

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

ATTEST:

Randi Johl
City Clerk

LODI CITY COUNCIL
SPECIAL CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, AUGUST 21, 2012

A. Call to Order / Roll Call

The Special City Council meeting of August 21, 2012, was called to order by Mayor Mounce at 7:00 a.m.

Present: Council Member Hansen, Council Member Johnson, Council Member Katzakian, and Mayor Mounce
Absent: Mayor Pro Tempore Nakanishi
Also Present: City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

B. Regular Calendar

B-1 Authorize the Mayor, on Behalf of the City Council, to Send a Letter of Opposition to Assembly Bill 2451 (Perez) (CLK)

Mayor Mounce made a motion, second by Council Member Hansen, to authorize the Mayor, on behalf of the City Council, to send a letter of opposition to Assembly Bill 2451 (Perez).

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

C. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 7:05 a.m.

ATTEST:

Randi Johl
City Clerk

LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, AUGUST 28, 2012

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, August 28, 2012, commencing at 7:00 a.m.

Present: Council Member Hansen, Council Member Johnson, Council Member Katzakian, and Mayor Pro Tempore Nakanishi
Absent: Mayor Mounce
Also Present: City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

B. Topic(s)

B-1 Receive Information on the City of Lodi Geographical Information System (PW)

City Manager Bartlam provided a brief introduction to the subject matter of the Geographical Information System (GIS).

Deputy Public Works Director Charlie Swimley provided a PowerPoint presentation regarding the GIS project. Specific topics of discussion included an overview of what is GIS, GIS requirements, various uses of GIS, Lodi's GIS and viewers, committee workings, future projects, and next steps. Steve Gay, representing Interwest Consulting Group, also provided a visual demonstration of the GIS viewer.

In response to Council Member Johnson, Mr. Swimley stated the publicly accessible version of GIS will vary slightly from the staff version.

In response to Mayor Pro Tempore Nakanishi, Mr. Bartlam confirmed that many cities utilize GIS for a variety of purposes, there is a filter to protect owner information although it is public record with a few exceptions, and the public can use the system for real estate information including location, size, and zoning. Mr. Gay stated Interwest has also worked with larger municipalities such as Sacramento County and Elk Grove and data is updated on a regular basis. Mr. Bartlam confirmed that the cost of the system is approximately $150,000 over three years and the maintenance is included in staff time.

In response to Council Member Katzakian, Mr. Gay stated there will be a GIS access link on the City's website through "View City Maps."

In response to Council Member Johnson, Mr. Bartlam stated the City Council policy traditionally has been to not broadcast property owner information although it is public information, with very few exceptions for judges and police officers, and the policy could be reconsidered if desired.

In response to Council Member Hansen, Mr. Bartlam provided an overview of the possible uses of GIS for various departments and confirmed that the on line complaint process does go to a central location and is then disseminated to the relevant department.

In response to Mayor Pro Tempore Nakanishi, Mr. Swimley stated he does not know how many hits GIS receives internally and externally or who the hits are from as there is no tracking mechanism for that information. Mr. Bartlam stated the iWork program can be used for anonymous complaints as well and homeland security concerns are addressed with all City

facilities through restricted access to the facilities where necessary.

In response to Council Member Hansen, Mr. Swimley stated the filtered information on the public version may include property owner information and grades and elevations with utilities. Mr. Swimley and Mr. Gay confirmed that the aerial photographs done by the City are approximately ten years old but the aerial photographs from a variety of other sources including Google are updated routinely and provide the same information.

In response to Council Member Johnson, Mr. Bartlam stated there is a turn-around computer station at the counter in the City Hall lobby but there is no stand-alone kiosk. Mr. Bartlam stated the GIS system has the ability to create an on line permitting process in the future, which will be more efficient for both the public and staff.

In response to Myrna Wetzel, Mr. Bartlam confirmed that the GIS system does not have an ability to identify a property as rental or owner-occupied at the current time.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 7:55 a.m.

ATTEST:

Randi Johl
City Clerk

LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, SEPTEMBER 4, 2012

The September 4, 2012, Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was canceled.

ATTEST:

Randi Johl
City Clerk

LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, SEPTEMBER 5, 2012

The September 5, 2012, Regular Meeting of the Lodi City Council was canceled.

ATTEST:

Randi Johl
City Clerk

LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, SEPTEMBER 11, 2012

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, September 11, 2012, commencing at 7:00 a.m.

Present: Council Member Hansen, Council Member Johnson, Mayor Pro Tempore Nakanishi, and Mayor Mounce
Absent: Council Member Katzakian
Also Present: City Manager Bartlam, City Attorney Schwabauer, and City Clerk Johl

B. Topic(s)

B-1 Overview and Prioritization of the Community Improvement Unit (PD)

Police Chief Mark Helms provided a PowerPoint presentation regarding the Community Improvement program. Specific topics of discussion included background, community improvement team, complaints, scope of complaints, types of complaints processed, 2011 case history, 2012 cases for six months, challenges, what is involved in a case, case photos, community improvement accomplishments, community improvement goals, code enforcement, and current case priorities.

In response to Mayor Mounce, Chief Helms stated currently the Community Improvement program is understaffed with one officer and one clerical support person and he is looking forward to bringing on one more officer, adjusting the operations of the program, and bringing back a proper recommendation for staffing in the future.

In response to Council Member Johnson, Chief Helms stated the CalGRIP funds were received through the State and will fund a part-time position to deal directly with gang-related properties. Chief Helms stated the grant will expire in December 2013.

In response to Council Member Johnson and Mayor Mounce, Chief Helms stated staff can review the options associated with vacant property ordinances through which fees can be assessed on banks for property maintenance purposes. Chief Helms stated he will provide the numbers associated with calls for vacant properties in the City as requested.

In response to Mayor Pro Tempore Nakanishi, Chief Helms stated the Community Improvement budget falls under the Police Department budget and the $6,000 budgeted for boarding up vacant homes is insufficient.

In response to Council Member Hansen, Chief Helms stated abandoned vehicles on private property visible from the street can still be towed under existing authority.

In response to Council Member Johnson, Chief Helms stated it is challenging to operate the program with only one officer and one clerical person and they rely heavily on prioritization of cases and assistance from the Police Partners.

In response to Council Member Johnson, Chief Helms stated staff will forward the numbers associated with property liens on vacant properties as requested.

A brief discussion ensued between Mayor Mounce, Chief Helms, and Community Improvement Officer Nancy Baker regarding the Community Improvement brochure, its contents, and proactive dissemination of the brochure to the community in an effort to prevent violations before they happen.

In response to Council Member Johnson, Ms. Baker stated the administrative citation process includes the following fines: $100 for a first violation, $250 with $100 administrative fine, and a $350 with a $500 cap fine. Ms. Baker stated there is also a lien process although the fines are generally sufficient.

In response to Council Member Hansen, Ms. Baker stated if the fines are not paid the violations are sent through the collections and lien process. She stated garage sales run as a business are handled on a complaint basis. Council Member Hansen suggested reviewing a code enforcement sweep similar to other Police Department sweeps in targeted neighborhoods.

In response to Mayor Pro Tempore Nakanishi, Mr. Bartlam stated the program dates back to 1996 and the current process is similar to the previous process prior to 2008 although the program did move from Community Development to the Police Department for management and function alignment purposes.

Mayor Mounce suggested looking into a Code Action Team program whereby a team of City and County relevant agencies educate neighborhoods on compliance and available resources.

Myrna Wetzel spoke in regard to her concerns about addressing garbage-related nuisances as a priority to control disease in the community.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 8:10 a.m.

ATTEST:

Randi Johl
City Clerk

AGENDA ITEM **C-03**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Accept Improvements Under Contract for 2011 GrapeLine Bus Stop Improvements Project

MEETING DATE: September 19, 2012

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Accept improvements under contract for 2011 GrapeLine bus stop improvements project.

BACKGROUND INFORMATION: The contract was awarded to A.M. Stephens Construction Company, Inc., of Lodi, in the amount of $53,059 on December 21, 2011. The contract has been completed in substantial conformance with the specifications approved by City Council on October 19, 2011.

This project consisted of constructing improvements at five bus stop locations on the GrapeLine's fixed-route bus system. Bus shelters with benches and amenities were installed at all five locations, and new concrete was placed at four locations to accommodate the shelter. The final cost of the project was $53,958. The difference between the contract price and the final price is due to a difference in the projected lineal feet of concrete retaining wall and the actual amount needed to complete the project.

Following acceptance by the City Council, as required by law, the City Engineer will file a Notice of Completion with the County Recorder's office. The notice serves to inform vendors and subcontractors that the project is complete and to initiate the 30-day period to file a stop notice requiring the City to withhold payments from the prime contractor in the event of a payment dispute.

FISCAL IMPACT: There will be a slight increase in the long-term maintenance costs associated with these improvements, which will be included in future Transit Operations budgets.

FUNDING AVAILABLE: This project was funded by Federal Transit Administration (CA-90-Y565 grant) and Transportation Development Act funds.

_____
F. Wally Sandelin
Public Works Director

Prepared by Gary Wiman, Construction Project Manager
FWS/GW/pmf
cc: Transportation Manager/Senior Traffic Engineer

APPROVED: _____
Konradt Bartlam, City Manager

AGENDA ITEM C-04

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Authorize City Manager to Execute Amendment Extending Term of the Northeastern San Joaquin County Groundwater Banking Authority Joint Powers Agreement

MEETING DATE: September 19, 2012

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Authorize City Manager to execute amendment extending term of the Northeastern San Joaquin County Groundwater Banking Authority Joint Powers Agreement.

BACKGROUND INFORMATION: The City has participated in the Northeastern San Joaquin County Groundwater Banking Authority (GBA) since its inception in 2001. This joint powers authority was formed as a successor to the East San Joaquin Parties Water Authority to further plan and set in motion projects to enhance our groundwater basin.

In 2006, the GBA Board recommended an amendment to the agreement to extend the sunset date to June 30, 2008; in 2008, it was extended to June 30, 2009; in 2009, it was extended to June 30, 2011; and in 2011, it was extended to June 30, 2012. At this time, the GBA Board recommends an amendment to extend the sunset date to June 30, 2013. The other terms of the agreement remain the same, including the City's annual "dues" of $20,000. Staff is in support of this recommendation. Copies of the amendments and the current agreement are attached.

FISCAL IMPACT: The City's annual contribution to the Authority has been $20,000 per year over recent years, as well as staff time participating in various meetings. The City receives various benefits from participation in the Authority; including information sharing, participation in studies partially funded by grants, future grant fund potential and general support for area water supplies.

FUNDING AVAILABLE: Water Fund (180451)

_____
Jordan Ayers
Deputy City Manager/Internal Services Director

_____
F. Wally Sandelin
Public Works Director

FWS/pmf
Attachments
cc: Deputy Public Works Director – Utilities

APPROVED: _____
Konradt Bartlam, City Manager

AGREEMENT TO EXTEND THE TERM OF THE NORTHEASTERN SAN JOAQUIN COUNTY GROUNDWATER BANKING AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT (GBA Agreement A-12-01)

This Amendment ("Amendment") is made pursuant to section 8.01 of the Northeastern San Joaquin County Groundwater Banking Authority Joint Exercise of Power Agreement as of by and between the San Joaquin County Flood Control and Water Conservation District ("County District"); the City of Stockton ("Stockton"); the City of Lodi ("Lodi"); Stockton East Water District ("SEWD"); Central San Joaquin Water Conservation District ("Central"); Woodbridge Irrigation District ("Woodbridge"); North San Joaquin Water Conservation District ("NSJWCD"); Central Delta Water Agency ("Central Delta"); South Delta Water Agency ("South Delta"); and California Water Service Company ("Cal Water")

NOW, THEREFORE, in consideration of the mutual obligations in this Amendment, the parties agree as follows:

1. ARTICLE VII, section 7.01 Term, of the original agreement is modified in its entirety as follows:

Section 7.01. Term. The Members hereby agree to extend the Joint Powers Agreement, establishing the Northeastern San Joaquin County Groundwater Banking Authority, which terminates on June 30, 2012, until June 30, 2013.

2. All provisions of the original agreement, except as modified by this Amendment, shall remain in full force and effect and are reaffirmed. In the event of any conflict, inconsistency, or incongruity between any provisions of this Amendment and any provision of the original agreement, the provision of this Amendment shall govern and control.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment and Extension Agreement to be executed on the day and year set opposite the name of the parties.

ATTEST: Clerk of the Board of Supervisors of the San Joaquin County Flood Control and Water Conservation District

By _____(SEAL)
Deputy Clerk

SAN JOAQUIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By: _____
STEVE BESTOLARIDES, Chairman
Board of Supervisors
"COUNTY DISTRICT"

ATTEST:

_____
CLERK

CITY OF STOCKTON, a municipal corporation of the State of California

By: _____

Title: _____

"STOCKTON"

ATTEST:

_____
CLERK

CITY OF LODI, a municipal corporation of the State of California

By: _____

Title Konradt Bartlam
City Manager

"LODI"

APPROVED AS TO FORM:

_____
D. Stephen Schwabauer
City Attorney

ATTEST:

_____
CLERK

STOCKTON EAST WATER DISTRICT

By: _____

Title: _____

"SEWD"

ATTEST:

CENTRAL SAN JOAQUIN WATER CONSERVATION DISTRICT

_____
CLERK

By : _____

Title: _____

"CENTRAL"

ATTEST:

WOODBRIDGE IRRIGATION DISTRICT

_____
CLERK

By: _____

Title: _____

"WOODBRIDGE"

ATTEST:

NORTH SAN JOAQUIN WATER CONSERVATION DISTRICT

_____
CLERK

By: _____

Title: _____

"NSJWCD"

ATTEST:

CENTRAL DELTA WATER AGENCY

_____
CLERK

By: _____

Title: _____

"CENTRAL DELTA"

ATTEST:

SOUTH DELTA WATER AGENCY

_____
CLERK

By: _____

Title: _____

"SOUTH DELTA"

ATTEST:

CALIFORNIA WATER SERVICE COMPANY

_____
CLERK

By: _____

Title: _____

"CAL WATER"

APPROVED AS TO FORM:

By _____
Lawrence P. Meyers
Deputy County Counsel

A-12-10
1/10/12

AGREEMENT TO EXTEND THE TERM OF THE NORTHEASTERN SAN JOAQUIN COUNTY GROUNDWATER BANKING AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT (GBA AGREEMENT A-11-01)

This Amendment ("Amendment") is made pursuant to section 8.01 of the Northeastern San Joaquin County Groundwater Banking Authority Joint Exercise of Power Agreement as of by and between the San Joaquin County Flood Control and Water Conservation District ("County District"); the City of Stockton ("Stockton"); the City of Lodi ("Lodi"); Stockton East Water District ("SEWD"); Central San Joaquin Water Conservation District ("Central"); Woodbridge Irrigation District ("Woodbridge"); North San Joaquin Water Conservation District ("NSJWCD"); Central Delta Water Agency ("Central Delta"); South Delta Water Agency ("South Delta"); and California Water Service Company ("Cal Water")

NOW, THEREFORE, in consideration of the mutual obligations in this Amendment, the parties agree as follows:

1. ARTICLE VII, section 7.01 Term, of the original agreement is modified in its entirety as follows:

   > Section 7.01. Term. The Members hereby agree to extend the Joint Powers Agreement, establishing the Northeastern San Joaquin County Groundwater Banking Authority, which terminates on June 30, 2011, to June 30, 2012.

2. All provisions of the original agreement, except as modified by this Amendment, shall remain in full force and effect and are reaffirmed. In the event of any conflict, inconsistency, or incongruity between any provisions of this Amendment and any provision of the original agreement, the provision of this Amendment shall govern and control.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment and Extension Agreement to be executed on the day and year set opposite the name of the parties.

ATTEST: Clerk of the Board of Supervisors of the San Joaquin County Flood Control and Water Conservation District

By _____ (SEAL)
Deputy Clerk

SAN JOAQUIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By _____
STEVE J. BESTOLARIDES, CHAIRMAN
Board of Supervisors
"COUNTY DISTRICT"

ATTEST:

_____
CLERK

CITY OF STOCKTON, a municipal corporation of the State of California

By: _____

Title: _____

"STOCKTON"

ATTEST:

_____
CLERK

Approved as to form _____
City Attorney

CITY OF LODI, a municipal corporation of the State of California

By: _____

Title City Manager

"LODI"

ATTEST:

_____
CLERK

STOCKTON EAST WATER DISTRICT

By: _____

Title: _____

"SEWD"

A-09-741
(10/27/09)

AGREEMENT TO EXTEND THE TERM OF THE NORTHEASTERN SAN JOAQUIN COUNTY GROUNDWATER BANKING AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT (GBA Agreement A-09-01)

This Amendment ("Amendment") is made pursuant to section 8.01 of the Northeastern San Joaquin County Groundwater Banking Authority Joint Exercise of Power Agreement as of by and between the San Joaquin County Flood Control and Water Conservation District ("County District"); the City of Stockton ("Stockton"); the City of Lodi ("Lodi"); Stockton East Water District ("SEWD"); Central San Joaquin Water Conservation District ("Central"); Woodbridge Irrigation District ("Woodbridge"); North San Joaquin Water Conservation District ("NSJWCD"); Central Delta Water Agency ("Central Delta"); South Delta Water Agency ("South Delta"); and California Water Service Company ("Cal Water")

NOW, THEREFORE, in consideration of the mutual obligations in this Amendment, the parties agree as follows:

1. ARTICLE VII, section 7.01 Term, of the original agreement is modified in its entirety as follows:

Section 7.01. Term. The Members hereby agree to extend the Joint Powers Agreement, establishing the Northeastern San Joaquin County Groundwater Banking Authority, which terminates on June 30, 2009, until June 30, 2011.

2. All provisions of the original agreement, except as modified by this Amendment, shall remain in full force and effect and are reaffirmed. In the event of any conflict, inconsistency, or incongruity between any provisions of this Amendment and any provision of the original agreement, the provision of this Amendment shall govern and control.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment and Extension Agreement to be executed on the day and year set opposite the name of the parties.

ATTEST: Clerk of the Board of Supervisors of the San Joaquin County Flood Control and Water Conservation District

By Caroline Garcia (SEAL)
Deputy Clerk

SAN JOAQUIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By Leroy Ornellas
Leroy Ornellas, Chairman
Board of Supervisors
"COUNTY DISTRICT"

ATTEST:

_____
CLERK

CITY OF STOCKTON, a municipal corporation of the State of California

By: _____

Title: _____

"STOCKTON"

ATTEST:

_____
CLERK

CITY OF LODI, a municipal corporation of the State of California

By: Jordan Ayers, Deputy City Manager
for Title City Manager, Blair King

"LODI"

APPROVED AS TO FORM:

For: D. Stephen Schwabauer, City Attorney

ATTEST:

_____
CLERK

STOCKTON EAST WATER DISTRICT

By: _____

Title: _____

"SEWD"

EXTENSION OF THE NORTHEASTERN SAN JOAQUIN COUNTY GROUNDWATER BANKING AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT
(GBA Agreement A-08-01)

ARTICLE VII
TERM; WITHDRAWAL; TERMINATION

Section 7.01. Term. The Members hereby agree to extend the Joint Powers Agreement, establishing the Northeastern San Joaquin County Groundwater Banking Authority, which terminates on June 30, 2008 until June 30, 2009. All other terms and conditions shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment and Extension Agreement to be executed on the day and year set opposite the name of the parties.

ATTEST: Clerk of the Board of Supervisors of the San Joaquin County Flood Control and Water Conservation District

By _____ (SEAL)
Deputy Clerk

SAN JOAQUIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By _____
KEN VOGEL, Chairman
Board of Supervisors
"COUNTY DISTRICT"

ATTEST:

_____
CLERK

APPROVED AS TO FORM AND CONTENT
By _____
Assistant County Attorney

CITY OF STOCKTON, a municipal corporation of the State of California

By: _____
J. Gordon Palmer, Jr.
Title: City Manager

"STOCKTON"

ATTEST:

_____
CLERK

CITY OF LODI, a municipal corporation of the State of California

By: _____

Title _____

"LODI"

EXTENSION OF THE NORTHEASTERN SAN JOAQUIN COUNTY GROUNDWATER BANKING AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT
(GBA Agreement A-08-01)

ARTICLE VII
TERM; WITHDRAWAL; TERMINATION

Section 7.01. Term. The Members hereby agree to extend the Joint Powers Agreement, establishing the Northeastern San Joaquin County Groundwater Banking Authority, which terminates on June 30, 2008 until June 30, 2009. All other terms and conditions shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment and Extension Agreement to be executed on the day and year set opposite the name of the parties.

ATTEST: Clerk of the Board of Supervisors of the San Joaquin County Flood Control and Water Conservation District

By _____(SEAL)
Deputy Clerk

SAN JOAQUIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By _____
KEN VOGEL, Chairman
Board of Supervisors
"COUNTY DISTRICT"

ATTEST:

_____
CLERK

CITY OF STOCKTON, a municipal corporation of the State of California

By: _____

Title: _____

"STOCKTON"

ATTEST:

CLERK RANDI JOHL

CITY OF LODI, a municipal corporation of the State of California

By: BLAIR KING

Title City Manager

"LODI"

APPROVED AS TO FORM:

D. STEPHEN SCHWABAUER
City Attorney

A-06-700
(8/29/06)

EXTENSION OF THE NORTHEASTERN SAN JOAQUIN COUNTY GROUNDWATER BANKING AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT
(GBA Agreement A-06-02)

ARTICLE VIII
TERM; WITHDRAWAL;TERMINATION

Section 7.01. Term. The Members hereby agree to extend the Joint Powers Agreement, establishing the Northeastern San Joaquin County Groundwater Banking Authority, which terminates on June 30, 2006, until June 30, 2008. All other terms and conditions shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment and Extension Agreement to be executed on the day and year set opposite the name of the parties.

ATTEST: Clerk of the Board of Supervisors of the San Joaquin County Flood Control and Water Conservation District

By Caroline Gurco
Deputy Clerk

(SEAL)

SAN JOAQUIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By Dario L. Marenco
DARIO MARENCO, Chairman
Board of Supervisors
"COUNTY DISTRICT"

ATTEST:

_____
CLERK

CITY OF STOCKTON, a municipal corporation of the State of California

By: _____

Title: _____

"STOCKTON"

ATTEST:

_____
CLERK

CITY OF LODI, a municipal corporation of the State of California

By: _____

Title _____

"LODI"

A-06-2

EXTENSION OF THE NORTHEASTERN SAN JOAQUIN COUNTY GROUNDWATER BANKING AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT

ARTICLE VIII
TERM: WITHDRAWAL:TERMINATION

Section 7.01. Term. The Members hereby agree to extend the Joint Powers Agreement, establishing the Northeastern San Joaquin County Groundwater Banking Authority, which terminates on June 30, 2006, until June 30, 2008. All other terms and conditions shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment and Extension Agreement to be executed on the day and year set opposite the name of the parties.

ATTEST: Clerk of the Board of Supervisors of the San Joaquin County Flood Control and Water Conservation District

By _____(SEAL)
Deputy Clerk

SAN JOAQUIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By _____
DARIO MARENCO, Chairman
Board of Supervisors
"COUNTY DISTRICT"

ATTEST:

_____
CLERK

CITY OF STOCKTON, a municipal corporation of the State of California

By: _____

Title: _____

"STOCKTON"

ATTEST:

Jennifer M. Perea
CLERK

CITY OF LODI, a municipal corporation of the State of California

By: Blair King

Title City Manager

"LODI"

APPROVED AS TO FORM:

D. Stephen Schwabauer
City Attorney

A-02-21

AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT NORTHEASTERN SAN JOAQUIN COUNTY GROUNDWATER BANKING AUTHORITY

THIS AGREEMENT is made by and among the San Joaquin County Flood Control and Water Conservation District ("County District"), the City of Stockton ("Stockton"), the City of Lodi ("Lodi"), Stockton-East Water District ("SEWD"), Central San Joaquin Water Conservation District ("Central"), Woodbridge Irrigation District ("Woodbridge"), North San Joaquin Water Conservation District ("NSJWCD"), Central Delta Water Agency ("Central Delta") and South Delta Water Agency ("South Delta") collectively called the "Members". The Members hereby agree as follows:

ARTICLE I
GENERAL PROVISIONS

Section 1.01. Creation of Authority. Pursuant to Government Code Section 6500 et seq. there is hereby created a public entity to be known as the "Northeastern San Joaquin County Groundwater Banking Authority" which shall be a public entity separate and apart from the Members, and shall administer this Agreement.

Section 1.02. Purpose. The purpose of this Agreement is to provide a consensus-based forum of public water interests concerning Northeastern San Joaquin County that will work cooperatively with unanimity toward achieving the goal as defined in Section 1.03 and speak on behalf of the Members with one voice.

Section 1.03. Goal. The long-term goal of the Authority is to facilitate the development of locally supported groundwater banking projects that improve water supply reliability in Northeastern San Joaquin County and to provide benefits to project participants and San Joaquin County as a whole. The Authority's short-term goals are as follows:

(a) To participate in the design and implementation of the Freeport Regional Diversion Project so as to provide benefits to project participants and San Joaquin County.

(b) To create an entity with the power to finance and construct specific projects.

(c) To apply for grant funding to support the activities of the Authority.

ARTICLE II
POWERS

Section 2.01. Powers. The Authority is hereby authorized, in its own name, to do all acts necessary for the exercise of the foregoing powers including, but not limited to the making and entering into contracts.

Section 2.02. Restrictions on Exercise of Powers. The powers of the Authority shall be exercised in the manner provided in Government Code Section 6509 and to the restrictions upon the manner of exercising such powers that are imposed upon the County District in the exercise of similar powers.

ARTICLE III
GOVERNING BODY

Section 3.01. Governing Board. The Authority shall be administered by a Board of Directors ("Board"), one appointed by each of the Member entities with a designation of two alternative Directors to serve as a replacement for the appointed Director as needed, to serve at the pleasure of their appointive governing body. The Board shall be called the "Northeastern San Joaquin County Groundwater Banking Authority Board". All voting power of the Authority shall reside in the Board.

Section 3.02. Meetings of the Board. The Board shall provide for calling and conducting its regular meetings and special meetings, in accordance with Government Code Section 54950 et seq.

Section 3.03. Minutes. The Secretary shall cause to be kept summary minutes of the meetings of the Board and shall, as soon as possible after each meeting, cause of copy of the summary minutes to be forwarded to each Director and to each of the Members.

Section 3.04. Voting. Each Director shall have one vote.

Section 3.05. Quorum; Required Votes; Approval. A quorum of the Board for the convening of any meeting shall consist of a majority of all Directors, or designated alternative Director. An affirmative vote of at least a majority of all Directors, or designated alterative Director shall be required for any action of the Board. Five votes shall be required to pass any action of the Board

Section 3.06. Bylaws. The Board may adopt, from time to time, such bylaws and regulations for the conduct of its meetings as are necessary for the purposes hereof.

ARTICLE IV
OFFICERS AND EMPLOYEES

Section 4.01. Chair, Vice-Chair, and Secretary. The Board member from the County District shall be the Chair and in the Board member's absence the alternate member from County District shall act as Chair. The Board shall elect a Vice-chair from among the Directors. The

Vice-chair shall serve at the pleasure of the board, shall perform the duties normal to said office, and

A. The chair shall sign all contracts authorized by the Board and shall represent the Board as directed by the Board and perform such other duties as may be imposed by said Board;

B. The vice-chair shall act, sign contracts and perform all of the chair's duties in the absence of the chair; and

C. The San Joaquin County Director of Public Works shall be the Secretary and provide staff to the Authority. The Secretary shall countersign all contracts signed by the chair or vice-chair on behalf of the Authority, perform such other duties as may be imposed by the Board.

Section 4.02. Treasurer and Auditor.

A. The County Treasurer shall be the depositary, shall have custody of all the money of the Authority from whatever source, and shall have the duties and obligations of the Treasurer as set forth in Government Code Sections 6505 and 6505.5. The County Treasurer shall be responsible for receiving quarterly reports from the Secretary and verifying the balance of this report with respect to the balance as maintained by the records of the County Auditor.

B. The County Auditor shall have the duties and obligations of the Auditor set forth in Government Code Sections 6505 and 6505.5. The County Auditor shall assure strict accountability of all receipts and disbursements of the Authority and shall make arrangements with a certified public accountant or firm of certified public accountants for the annual audit of accounts and records of the Authority.

Section 4.03. Officers in Charge of Records; Funds; and Accounts. Pursuant to Government Code Section 6505.1, the County Treasurer shall have charge of, handle and have access to all accounts, funds and money of the Authority and all records of the Authority relating thereto; and the Secretary shall have charge of, handle and have access to all other records of the Authority.

Section 4.04. Employees and Consultants. The Board may make recommendations to the County District for the employment of employees or consultants to provide services to the Authority to accomplish the purposes of the Authority. The County District may employ employees and consultants and may execute contracts, supervise and direct, and provide payment for such employees and consultants.

ARTIVLE V
ACCOUNTS AND REPORTS: FUNDS

Section 5.01. Accounts and Reports. The County Auditor shall establish and maintain such funds and accounts as may be required by good accounting practice. The books and records of the Authority shall be open to inspection at all reasonable times by the public and representatives of the Members. The Auditor, within 120 days after the close of each Fiscal Year, shall give a complete written report of all financial activities for such Fiscal Year to the Members.

Section 5.02. Funds. The County Treasurer shall receive, have the custody of and disburse Authority funds on warrants drawn by the County Auditor as nearly as possible in accordance with generally accepted accounting practices, shall make the disbursements required by this Agreement, or to carry out any of the provisions or purposes of this Agreement.

Section 5.03. Annual Budget. The County District shall adopt a budget for the Authority. The Authority Board may make recommendations to the County District concerning the budget. The County District shall provide funds as set forth in the adopted budget which shall be limited to planning activities when using Zone 2 funds. Other members shall make contributions which shall be included in the budget adopted by the County District.

Section 5.04. Intention for Reimbursement for Expenditures From Bond Proceeds. It is the intention of the Members that the advancement of monies by any Members for the expenses of the operational needs of the Authority may be reimbursed from the proceeds of bonds, if issued, for the water development projects undertaken by the Authority or by its successor organization, by vote of the Board.

ARTICLE VI
ASSOCIATE MEMBERSHIP

Section 6.01. California Water Service Company and the Farm Bureau. CalWater and the Farm Bureau may be associate members of the Authority with one position each on the Board of Directors of the Authority. The associate members shall be entitled to participate in the meetings and discussions of the Board but the associate members shall not have the power to vote on any action to be taken by the Authority or to become an officer or Director of the Authority.

ARTICLE VII
CONTEMPLATED PROJECT

It is contemplated that some or all of the Members will enter into subsequent agreements for the construction, operation, and maintenance of a project. Participation in this agreement is not a firm commitment by any individual Member to enter into a groundwater banking project.

ARTICLE VIII
TERM; WITHDRAWAL; TERMINATION

Section 7.01. Term. This Agreement shall become effective as of the date hereto and shall continue in full force and effect until June 30, 2003.

Section 7.02. Withdrawal of Member. A Member may terminate its Membership in the Authority at any time upon giving written notice of the withdrawal to the Authority.

Section 7.03. Disposition of Assets. Upon termination of this Agreement, all remaining net assets of the Authority, both real and personal, shall be transferred to the County District.

ARTICLE IX
MISCELLANEOUS PROVISIONS

Section 8.01. Amendments. This Agreement may be amended by unanimous consent of the Member agencies at any time, or from time to time.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year set opposite the name of the parties.

SAN JOAQUIN COUNTY FLOOD CONTROL AND WATER CONSERVATION DISTRICT

By _____
Chairman
Board of Supervisors

"COUNTY DISTRICT"

ATTEST: LOIS M. SAHYOUN
Clerk of the Board of Supervisors
of the San Joaquin County Flood
Control and Water Conservation District

By _____
Deputy Clerk

(SEAL)

ATTEST:

_____
CLERK

CITY OF STOCKTON, a municipal corporation of the State of California

By: _____

Title: _____

"STOCKTON"

APPROVED AS TO FORM

CITY ATTORNEY

BY _____
Deputy City Attorney

June 27, 2001

ATTEST:

SUSAN J. BLACKSTON, CITY CLERK

CITY OF LODI, a municipal corporation
of the State of California

By: _____
ALAN S. NAKANISHI
Title: MAYOR

"LODI"

ATTEST:

_____
CLERK

STOCKTON-EAST WATER DISTRICT

By: _____

Title: _____

"SEWD"

ATTEST:

_____
CLERK

CENTRAL SAN JOAQUIN WATER
CONSERVATION DISTRICT

By : _____

Title: _____

"CENTRAL"

ATTEST:

_____
CLERK

WOODBRIDGE IRRIGATION DISTRICT

By: _____

Title: _____

"WOODBRIDGE"

A-04-1

AMENDMENT AND EXTENSION TO THE NORTHEASTERN SAN JOAQUIN COUNTY GROUNDWATER BANKING AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT

Article III
GOVERNING BODY

Section 3.01. Governing Board.

(a) The governing body of the Authority shall be a Board of Directors ("Board") which shall consist of 10 voting Directors who shall be appointed as follows:

(1) A representative of the governing body of each Member as appointed by the Member entities.

(2) A representative of the following private water purveyors or investor owned utilities, as appointed by the City of Stockton:

California Water Service Company

(b) Prior to the appointment to the Board of the Directors described in subsection (a)(2) above, those represented entities shall submit a recommendation for appointment to the appointing authority. The appointing authority shall give consideration to such recommendations, but shall retain the absolute discretion to appoint any person satisfying the criteria for appointment.

(c) The Members shall appoint one or more persons with the required qualifications to serve as alternate Directors of the Board in the same manner as the Director is appointed by the Members. Any such alternates shall be empowered to cast votes in the absence of the regular Directors or, in the event of a conflict of interest preventing the regular Director from voting, to vote because of such a conflict of interest.

Article VI
ASSOCIATE MEMBERSHIP

Section 6.01. The San Joaquin County Farm Bureau may be an associate member of the Authority with a representative serving as an associate member on the Board of the Authority. Associate members shall be entitled to participate in the meetings and discussions of the Board but associate members shall not have the power to vote on any action to be taken by the Authority or to become an officer or Director of the Authority.

ARTICLE VIII
TERM; WITHDRAWAL;TERMINATION

Section 7.01. Term. The Members hereby agree to extend the Joint Powers Agreement, establishing the Northeastern San Joaquin County Groundwater Banking Authority, which terminates on June 30, 2004, until June 30, 2006.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment and Extension Agreement to be executed on the day and year set opposite the name of the parties.

ATTEST: LOIS M. SAHYOUN
Clerk of the Board of Supervisors
of the San Joaquin County Flood
Control and Water Conservation District

By _____(SEAL)
Deputy Clerk

SAN JOAQUIN COUNTY FLOOD
CONTROL AND WATER CONSERVATION
DISTRICT

By _____
LEROY ORNELLAS, Chairman
Board of Supervisors

"COUNTY DISTRICT"

ATTEST:

_____
CLERK

CITY OF STOCKTON, a municipal
corporation of the State of California

By: _____

Title: _____

"STOCKTON"

ATTEST:

_____
CLERK

CITY OF LODI, a municipal corporation
of the State of California

By: _____

Title _____

"LODI"

AGENDA ITEM **C-05**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Authorizing City Manager to Execute Professional Services Agreement and Extensions with WGR Southwest, Inc., of Lodi, for Storm Drainage Permit Compliance Services ($39,855)

MEETING DATE: September 19, 2012

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt resolution authorizing City Manager to execute professional services agreement and extensions with WGR Southwest, Inc., of Lodi, for storm drainage permit compliance, in the amount of $39,855.

BACKGROUND INFORMATION: The State Water Resource Control Board issued to the City of Lodi Permit WDID No. 5B39NP00028 that governs the discharge of storm water runoff. A condition of that permit requires regular wet season inspections of construction site best management practices be performed for all regulated construction sites as well as annual reporting of the storm drain activities. The wet season is defined as October 1 through April 15. On May 16, 2007, City Council approved a professional services agreement with WGR Southwest, Inc., of Lodi to perform these services. This contract has been extended over the past several years; however, the required scope has grown significantly due to expanded regulatory requirements.

The State adopted the Construction General Permit on September 2, 2009, which requires construction sites be inspected, monitored, and annual reports for each site completed throughout the Storm Water Pollution Prevention Plan (SWPPP) permit duration. Construction site SWPPP plan review services have been included in the scope of services. Development Standards Plan site compliance review services have also been included as an option if needed by the City.

The two-year professional services agreement, which includes an option for two two-year extensions, has a projected cost of $39,855 per year if all the services are utilized.

FISCAL IMPACT: A portion of the inspection costs will be offset by revenues from the Storm Drainage Permit Compliance Inspection Fees. Non-compliance with the reporting requirements could subject the City to fines.

FUNDING AVAILABLE: Storm Drain Maintenance (170405) $39,855 per year

_____
Jordan Ayers
Deputy City Manager/Internal Services Director

_____
F. Wally Sandelin
Public Works Director

Prepared by Kathryn E. Garcia, Compliance Engineer
FWS/KMG/pmf
cc: Deputy Public Works Director – Utilities
Compliance Engineer

APPROVED: _____
Konradt Bartlam, City Manager

AGREEMENT FOR PROFESSIONAL SERVICES

ARTICLE 1
PARTIES AND PURPOSE

Section 1.1 Parties

THIS AGREEMENT is entered into on October _____, 2012, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and WGR SOUTHWEST, INC. (hereinafter "CONTRACTOR").

Section 1.2 Purpose

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

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

ARTICLE 2
SCOPE OF SERVICES

Section 2.1 Scope of Services

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

Section 2.2 Time For Commencement and Completion of Work

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

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

CONTRACTOR shall not be responsible for delays caused by the failure of CITY staff to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project shall not be

counted against CONTRACTOR's contract performance period. Also, any delays due to weather, vandalism, acts of God, etc., shall not be counted. CONTRACTOR shall remain in contact with reviewing agencies and make all efforts to review and return all comments.

Section 2.3 Meetings

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

Section 2.4 Staffing

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

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

Section 2.5 Subcontracts

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

Section 2.6 Term

The term of this Agreement commences on October 6, 2012 and terminates upon the completion of the Scope of Services or on October 5, 2014, whichever occurs first.

Section 2.7 Option to Extend Term of Agreement

At its option, City may extend the terms of this Agreement for an additional two (2) two (2)-year extensions; provided, City gives Contractor no less than thirty (30) days written notice of its intent prior to expiration of the existing term. In the event City exercises any option under this paragraph, all other terms and conditions of this Agreement continue and remain in full force and effect.

The total duration of this Agreement, including the exercise of any option under this paragraph, shall not exceed six (6) years.

ARTICLE 3
COMPENSATION

Section 3.1 Compensation

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

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

Section 3.2 Method of Payment

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

Section 3.3 Costs

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

Section 3.4 Auditing

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

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

ARTICLE 4
MISCELLANEOUS PROVISIONS

Section 4.1 Nondiscrimination

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

Section 4.2 ADA Compliance

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

Section 4.3 Indemnification and Responsibility for Damage

CONTRACTOR to the fullest extent permitted by law, shall indemnify and hold harmless CITY, its elected and appointed officials, directors, officers, employees and volunteers from and against any claims, damages, losses, and expenses (including reasonable attorney's fees), arising out of performance of the services to be performed under this Agreement, provided that any such claim, damage, loss, or expense is caused by the negligent acts, errors or omissions of CONTRACTOR, any subcontractor employed directly by CONTRACTOR, anyone directly or indirectly employed by any of

them, or anyone for whose acts they may be liable, except those injuries or damages arising out of the active negligence of the City of Lodi or its officers or agents.

Section 4.4 No Personal Liability

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

Section 4.5 Responsibility of CITY

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

Section 4.6 Insurance Requirements for CONTRACTOR

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

Section 4.7 Successors and Assigns

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

Section 4.8 Notices

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

To CITY: City of Lodi
221 West Pine Street
P.O. Box 3006
Lodi, CA 95241-1910
Attn: Kathryn E. Garcia, Compliance Engineer

To CONTRACTOR: WGR Southwest, Inc.
11780 N. Highway 99
Lodi, CA 95240
Attn: John Teravskis

Section 4.9 Cooperation of CITY

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

Section 4.10 CONTRACTOR is Not an Employee of CITY

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

Section 4.11 Termination

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

Section 4.12 Confidentiality

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

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

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

Section 4.14 City Business License Requirement

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

Section 4.15 Captions

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

Section 4.16 Integration and Modification

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

Section 4.17 Contract Terms Prevail

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

Section 4.18 Severability

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

Section 4.19 Ownership of Documents

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

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

Section 4.20 Authority

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

Section 4.21 Federal Transit Funding Conditions

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

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

CITY OF LODI, a municipal corporation

ATTEST:

RANDI JOHL
City Clerk

KONRADT BARTLAM, City Manager

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

By: _____

WGR SOUTHWEST, INC

By: _____
Name: JOHN TERAVSKIS
Title: COMPLIANCE SPECIALIST

Attachments:
Exhibit A – Scope of Services
Exhibit B – Fee Proposal
Exhibit C – Insurance Requirements

Funding Source:170405
(Business Unit & Account No.)

Doc ID:WP\Projects\PSAs\WGR_Stormwater Services

CA:rev.01.2012

Exhibit A

WGR
Not Your Typical Consultant

August 24, 2012

Ms. Kathryn Garcia
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

RE: Proposed Scope of Work – MS4 Program Support for the 2012-2013 Storm Water Season

Dear Ms. Garcia,

WGR Southwest, Inc. (WGR) is pleased to provide the City of Lodi with this proposal and scope of work to assist the City of Lodi with its MS4 Permit compliance program for the 2012-2013 storm water season. The following is the scope of work that we are proposing.

A. The Storm Water Construction Element:

- **Construction Inspections (Monthly Inspections)** – These inspections will be performed at all active construction sites having submitted a NOI for General Permit coverage within the City of Lodi on a monthly basis. The initial inspection will consist of a precursory review of the SWPPP. All site visits will include an inspection of the construction site and its BMPs, completion of a compliance checklist, review of the inspection findings with the site construction supervisor, if available, and preparation of an internal report and other supporting documentation for your Department. The construction inspections will be conducted from October through April as required by the City's SWMP.
- **Construction Inspections (Follow-up Visits)** – Follow-up inspections will be performed where significant compliance deficiencies were identified during the monthly visit that require follow up sooner than the next monthly inspection. We will complete another compliance checklist, review the inspection findings with the site supervisor, if available, and prepare an internal report and other supporting documentation for your Department.
- **Construction Annual Reports (Annual)** – WGR will complete the Annual Report for City-owned projects that had more than three continuous months of construction during the storm water year where the City of Lodi was designated as the LRP. WGR will complete the Annual Report on the SMARTS System and compile and review all Inspection Reports, Monitoring Data, Training Records, and Weather supporting documentation associated with the annual report.

- **QSP Services for CIP Projects** – WGR will provide a State Certified QSP to assist the City of Lodi for compliance inspections at their active CIP projects. These inspections will include Rain Event Action Plans (REAPs), weekly, pre-storm, during storm, post-qualifying storm event, contained storm water release, and quarterly non-storm water inspections.
- **Review of submitted SWPPPs** – WGR will review SWPPP plans submitted through the plan check process. The SWPPPs will be reviewed for compliance to City ordinances and with the State's Construction General Permit.

B. The Storm Water Design Standards Element:

- **Development Standards Plan (DSP), Site Compliance Reviews & Annual Compliance Reviews** – As an option and additional service to the City's storm water program, WGR proposes to perform DSP site compliance checks, of each active construction site for which the DSP was applicable. The compliance check will include an initial review of the DSP conditions identified in the plan check process. Each active site will be checked monthly for DSP compliance to make sure the storm water treatment control measures are being installed to the plan check specifications. The monthly visit will be incorporated into the monthly construction site inspection.
- **DSP Annual Inspections** – WGR can also perform the annual DSP inspections required in the MS4 permit. The purpose of the inspections is to confirm that the post-construction BMPs are being maintained as specified in the maintenance agreement submitted to the City by the developer.
- **Review of Submitted DSP Plans** – WGR can assist the plan checkers by reviewing plans submitted by developers for compliance with the City's Storm Water Development Standards Plan.

C. Other MS4 Permit Support:

- **MS4 Annual Report Preparation** – WGR will prepare the City's annual storm water report as required by the Phase II MS4 NPDES Permit. The annual report is due on September 15 of each year. WGR will compile the information needed for preparing this report, obtain input from the various departments that are responsible for the compliance activities; perform an effectiveness evaluation of the BMPs and control measures identified in the SWMP; and prepare a draft of the annual report. The draft will be presented to you and others who you designate at the City for their review and comment by August 31. Once comments are received, we will finalize the report and submit it to you for signature and distribution.

Proposed Costs:
WGR proposes to perform the above scope of work items on a unit cost basis:

Monthly Construction Inspections (First Time Inspection)	$175/location
Monthly Construction Inspections (Subsequent Months)	$135/inspection
Follow-up Construction Inspections (As required)	$135/inspection
Construction Annual Report Compilation / Submission	$1,100/per site
Notice of Termination (NOT)	$350/per site
Monthly DSP site compliance visit (incorporated into monthly construction inspection)	$45/inspection
Annual DSP maintenance inspection	$225/inspection
MS4 Annual Report	$2,950/annually
QSP Services – All Inspections	$145 per inspection
Rain Event Action Plan (REAPs) Inspections – Risk Level 2 Sites Only	$325 per REAP
Sampling and Monitoring – Risk Level 2 Sites Only	$225 per sampling event
SWPPP Review for Compliance with City & State Requirements	$450/review
Project-specific DSP Review for Compliance with City & State Requirements	$450/review

We thank you for this opportunity to serve you and we look forward to working with the City of Lodi, on this project. If I can answer any questions concerning our proposal, please do not hesitate to call me or to schedule another meeting to discuss the proposed scope of work.

Respectfully,
WGR Southwest, Inc.

John M. Teravskis

John M. Teravskis
Compliance Specialist

WGR Southwest, Inc.
Estimated Annual Costs for City of Lodi MS4 Permit Support

Exhibit B

Construction Program Element:									
MS4 Inspection and SWPPP Review Program:									
Monthly MS4 Construction Inspections (First Time Inspections)	10	Sites	@	$175	Per inspection				$1,750
Monthly MS4 Construction Inspections (Subsequent Months)	7	Monthly Inspections	for	10	Sites	@	$135	Per inspection	$9,450
Follow-up MS4 Construction Inspections (as required)	8	Follow-up Inspections	@	$135	Per re-inspection				$1,080
SWPPP Review as a part of the Plan Check Process	10	projects	@	$450	Per inspection				$4,500
City-Owned Projects CGP Compliance:									
QSP Inspections	30	Field inspections	@	$145	Per inspection	for	1	project	$4,350
QSP Sampling and Monitoring	12	Sample events	@	$225	Per inspection	for	1	project	$2,700
Rain Event Action Plan Inspections (Risk Level 2 Sites only)	15	REAP Preparations	@	$325	Per inspection	for	1	project	$4,875
Construction Annual Report Compilation/Submission	1	Annual Report	@	$1,100	Per Report	for	1	project	$1,100
Notice of Termination (NOT)	1	NOT Preparation	@	$350	Per NOT	for	1	project	$350
DSP Program Element:									
DSP Site Compliance Visit (incorporated into monthly construction inspections	10	Inspections	@	$45	Per inspection				$450
DSP (Post construction, annual inspection for BMP maintenance and upkeep)	8	Inspections	@	$225	Per inspection				$1,800
Review of Project-Specific DSP Plans	10	projects	@	$450	Per inspection				$4,500
Other MS4 Permit Support:									
MS4 Annual Report Preparation	1	Report	@	$2,950	Lum Sum				$2,950
					Total Estimated Cost:				**$39,855**

Exhibit C

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

1. COMPREHENSIVE GENERAL LIABILITY
   $3,000,000 Ea. Occurrence

   $3,000,000 Aggregate

2. COMPREHENSIVE AUTOMOBILE LIABILITY
   $1,000,000 Bodily Injury - Ea. Person
   $1,000,000 Bodily Injury - Ea. Occurrence
   $1,000,000 Property Damage - Ea. Occurrence

3. PROFESSIONAL LIABILITY
   $3,000,000 Ea. Occurrence

4. POLLUTION LIABILITY
   $3,000,000 Ea. Occurrence

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

NOTE: (1) The street address of the **CITY OF LODI** must be shown along with (a) and (b) above: 221 West Pine Street, Lodi, California, 95241-1910; (2) The insurance certificate must state, on its face or as an endorsement, a description of the project that it is insuring.

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

(a) Additional Named Insured Endorsement
Such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed Boards, Commissions, Officers, Agents, Employees, and Volunteers as additional named insureds.

(This endorsement shall be on a form furnished to the City and shall be included with Contractor's policies.)

(b) Primary Insurance Endorsement
Such insurance as is afforded by the endorsement for the Additional Insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the insurance afforded by this endorsement.

(c) Completed Operations Endorsement
For three years after completion of project, a certificate of insurance with a Completed Operations Endorsement, CG 20 37 07 04 will be provided to the City of Lodi.

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

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

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

NOTE: No contract agreement will be signed nor will **any** work begin on a project until the proper insurance certificate is received by the City.

RESOLUTION NO. 2012-____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING
CITY MANAGER TO EXECUTE PROFESSIONAL SERVICES
AGREEMENT AND TO NEGOTIATE AND EXECUTE
AGREEMENT EXTENSIONS FOR STORM DRAINAGE
PERMIT COMPLIANCE SERVICES

==========

WHEREAS, the State Water Resource Control Board issued to the City of Lodi Permit WDID No. 5B39NP00028 that governs the discharge of storm water runoff, and a condition of that permit requires regular wet season inspections of construction site best management practices be performed for all regulated construction sites, as well as annual reporting of the storm drain activities; and

WHEREAS, on May 16, 2007, City Council approved a Professional Services Agreement with WGR Southwest, Inc., of Lodi, to perform these storm drainage permit compliance services; and

WHEREAS, the agreement with WGR Southwest, Inc., has been extended over the past several years; however, the required scope has grown significantly due to the expanded regulatory requirements; and

WHEREAS, staff recommends executing a two-year Professional Services Agreement, including an option for two two-year extensions, with WGR Southwest, Inc., of Lodi, California.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a two-year Professional Services Agreement in the amount of $39,855 per year with WGR Southwest, Inc., of Lodi, California, for storm drainage permit compliance services; and

BE IT FURTHER RESOLVED that the City Council does hereby authorize the City Manager to negotiate and execute up to two two-year extensions to the agreement.

Dated: September 19, 2012

==========

I hereby certify that Resolution No. 2012-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 19, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

AGENDA ITEM **C-06**

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Authorizing City Manager to Execute Agreement with Lodi Unified School District for Purchase of Compressed Natural Gas at Municipal Service Center Fueling Station

MEETING DATE: September 19, 2012

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt resolution authorizing City Manager to execute agreement with Lodi Unified School District for purchase of compressed natural gas at Municipal Service Center fueling station.

BACKGROUND INFORMATION: Recently, Lodi Unified School District (LUSD) contacted City staff requesting to fill six new compressed natural gas (CNG) buses at the City's CNG fueling facility. They are currently constructing a new CNG fueling facility at their site that is to be completed in a year. The agreement includes extensions to accommodate LUSD's CNG facility construction schedule.

The City will charge LUSD the current cost per therm charged by PG&E to Lodi, plus maintenance and operation costs, administrative fees, and a CNG Station depreciation/replacement charge. The current charge is $1.451 per equivalent gallon but fluctuates with the direct charge from PG&E.

FISCAL IMPACT: Revenue received from the CNG fuel sale will be credited to the Transit fund.

FUNDING AVAILABLE: Not applicable.

F. Wally Sandelin
Public Works Director

Prepared by Paula Fernandez, Transportation Manager/Senior Traffic Engineer

FWS/PJF/pmf

cc: Fleet Supervisor
Financial Services Manager
Carlos Garcia, LUSD

APPROVED: _____
Konradt Bartlam, City Manager

AGREEMENT TO USE CNG FUELING STATION

This Agreement is made and entered into _____, 2012 ("Effective Date"), by and between the City of Lodi, a municipal corporation ("Lodi"), and the Lodi Unified School District, a local school district ("LUSD").

WHEREAS, Lodi is the owner of a CNG Fueling Station located at its Municipal Service Center, 1331 South Ham Lane, Lodi, San Joaquin County, California ("CNG Facility"); and

WHEREAS, LUSD desires to temporarily use the CNG Facility for the purpose of fueling certain buses in its district fleet while it constructs a CNG facility; and

WHEREAS, Lodi has consented to the use of the CNG Facility on the terms and conditions detailed below.

NOW, THEREFORE, the parties agree as follows:

1. Lodi will permit LUSD to use the CNG Facilities, for the sole purpose of fueling buses in its district fleet. LUSD will be charged per gallon of compressed natural gas and billed monthly for charges incurred, as follows: the current cost per therm (at the rate charged by PG&E to Lodi) X 1.278 (conversion factor) plus $0.52 per gallon for maintenance and operation costs, administration fees[1], and plus $0.12 per gallon for CNG Station depreciation/replacement charge[2].

Payment by LUSD is due and payable upon receipt of Lodi's invoice and delinquent if not paid in full within 30 days of receipt.

2. The term of this Agreement shall be from October 1, 2012, through December 31, 2013 ("Term"). Lodi through its City Manager and LUSD may mutually agree to extensions of this Agreement to accommodate LUSD's CNG facility construction schedule.

3. Employees of LUSD using the CNG Facilities are required to receive training by Lodi in the proper use of the CNG Facilities prior to use.

4. In the event that the CNG Facility is damaged by employees or agents of LUSD during the Term of this Agreement, LUSD agrees to reimburse the City for all costs incurred by the City that are necessary to return the CNG Facility to its condition prior to the damage.

---

[1] Cost per therm X 1.278+ $0.54 maintenance & operation + $0.10 administration = price per gallon of CNG fuel.

[2] CNG Station Depreciation/Replacement Charge = + $0.12 per gallon of CNG fuel.

5. LUSD acknowledges that no more than two (2) buses are permitted at any one time at the CNG Facility and that buses waiting for fueling will be staged at an area designated by Lodi's Fleet Supervisor or his designee. LUSD also acknowledges and agrees that Lodi buses and fleet vehicles have priority to fuel at the CNG Facility, and may move ahead of LUSD buses when fueling, if necessary, to meet Lodi's fueling requirements. Should LUSD's fueling at the CNG Facility deplete the storage and/or availability of fuel for Lodi buses and fleet vehicles, the number of LUSD buses permitted to fuel may be limited. Lodi's Fleet Supervisor or his designee retain the sole discretion to limit the number of LUSD buses permitted to fuel at the CNG Facility during the Term of this Agreement.

6. This Agreement may be terminated by either party at any time upon 10-days written notice to the other. Notice shall be given as provided in paragraph 11 below.

7. LUSD agrees to indemnify, defend and hold Lodi harmless from and against any and all claims, losses, damages, expenses, judgments and costs, including attorneys' fees and court costs, resulting from LUSD's use of the CNG Facility during the Term of this Agreement.

8. Upon execution of this Agreement, LUSD shall provide Lodi with documentation confirming that contract employees of LUSD are to be considered solely as employees of LUSD while said contract employees are using the CNG Facility or are on the grounds of Lodi's Municipal Service Center, and further that such contract employees are not covered under any existing contract that the City of Lodi may have with LUSD's current transportation contractor or any future transportation contractor that may be under contract with LUSD.

9. LUSD shall, at its own expense, maintain in full force and effect during the term of this Agreement a policy of at least $5,000,000 comprehensive public liability and auto liability insurance against any liability resulting from LUSD's use of the CNG Facility under this Agreement. Lodi shall be named as an additional insured and all policies shall be written on a primary basis. LUSD shall be able to furnish a certificate of such insurance or evidence of coverage provided under any self-insurance program maintained by LUSD immediately following execution of this Agreement.

10. LUSD may not assign its rights under this Agreement to any other party.

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

To Lodi: City of Lodi
Wally Sandelin, Public Works Director
221 West Pine Street
P.O. Box 3006
Lodi, CA 95241-1910

To LUSD: LUSD
Carlos Garcia, Director of Transportation
1305 E Vine Street
Lodi, CA 95240

12. This Agreement contains the entire agreement between the parties relating to the rights granted and obligations assumed under it. Any amendments or modifications to this Agreement will not be effective unless contained in a writing signed by both parties.

13. This Agreement shall be interpreted and construed under the laws of the State of California. The forum for any dispute arising out of this Agreement shall be the San Joaquin County Superior Court.

IN WITNESS WHEREOF, this Agreement has been entered into as of the effective date as written above.

CITY OF LODI
a municipal corporation

By:_____
KONRADT BARTLAM
City Manager

ATTEST:

By _____
RANDI JOHL
City Clerk

APPROVED AS TO FORM:

By: _____
D. STEPHEN SCHWABAUER
City Attorney

LODI UNIFIED SCHOOL DISTRICT
a local school district

By: _____

ATTEST:

_____

APPROVED AS TO FORM:

By: _____

RESOLUTION NO. 2012-____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING CITY MANAGER TO EXECUTE
AGREEMENT AND EXTENSIONS WITH LODI UNIFIED
SCHOOL DISTRICT FOR PURCHASE OF
COMPRESSED NATURAL GAS AT MUNICIPAL
SERVICE CENTER FUELING STATION

==========

WHEREAS, Lodi Unified School District (LUSD) has requested to fill six new compressed natural gas (CNG) buses at the City's CNG fueling facility while they are constructing a new CNG fueling facility at their site; and

WHEREAS, the LUSD facility should be completed in a year, however, the agreement includes extensions to accommodate LUSD's CNG facility construction schedule; and

WHEREAS, the City will charge LUSD the current cost per therm charged by PG&E to Lodi, plus maintenance and operation costs, administrative fees, and a CNG Station depreciation/replacement charge.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute an agreement and extensions with Lodi Unified School District for purchase of compressed natural gas at the Municipal Service Center fueling station.

Dated: September 19, 2012

==========

I hereby certify that Resolution No. 2012-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 19, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

AGENDA ITEM C-07

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Authorizing the City Manager to Extend the Term of the Contract with Mike Keller Consulting, LLC for Transmission and Distribution Services and Appropriating Funds ($35,500)

MEETING DATE: September 19, 2012

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to extend the term of the contract with Mike Keller Consulting, LLC for transmission and distribution services and appropriating funds in the amount of $35,500.

BACKGROUND INFORMATION: On August 3, 2011 the City Council adopted a resolution authorizing the City Manager to enter into a Professional Services Agreement with Mike Keller Consulting, LLC for Transmission and Distribution Services. The contract was extended to August 31, 2012, as authorized by the City Council on February 15, 2012. Since various agencies are involved there have been challenges in scheduling meetings to complete the scope of work, therefore additional time is still required to complete this work.

Staff anticipated this work to be completed in Fiscal Year 2011/12, therefore this project was not included in the Fiscal Year 2012/13 Budget. Staff is now requesting a modification to the term of the contract until the completion of the scope of work along with a budget appropriation. All other terms and conditions of the agreement will remain the same.

FISCAL IMPACT: This project is the investigation of the cost and benefit of transmission interconnection alternatives which may result in the mitigation of significant transmission access charges.

FUNDING: Requested Appropriation:
Electric Utility Outlay Reserve Fund (161687): $35,500

An appropriation adjustment form is attached for the Electric Utility Outlay Reserve Fund No. 161687.

_____
Jordan Ayers
Deputy City Manager/Internal Services Director

_____
Elizabeth A. Kirkley
Electric Utility Director

EAK/lst

APPROVED: _____
Konradt Bartlam, City Manager

CONTRACT AMENDMENT AGREEMENT

MIKE KELLER CONSULTING, LLC

THIS CONTRACT AMENDMENT made and effective this 19th day of September, 2012, by and between the CITY OF LODI, a municipal corporation, hereinafter called "CITY", and MIKE KELLER CONSULTING, LLC, hereinafter called "Contractor."

WITNESSETH:

1. CONTRACT: Contractor and City, entered into a contract for Mike Keller Consulting, LLC, on October 5, 2011. On February 15, 2012 the contract term was extended to August 31, 2012. Contractor and City now desire to extend the term of the contract but not the total compensation.

2. TERM AND TERMS: The term of the Amended Contract shall be for the period required to complete the scope of work as outlined in Exhibit A of the Professional Services Agreement which commenced on February 29, 2012. All other terms and conditions will remain as set forth in the Contract for Mike Keller Consulting, LLC, attached hereto as Exhibit A and made a part hereof as though fully set forth herein.

3. This Amendment shall not increase the compensation called for in paragraph 3.1.

CITY OF LODI, a municipal corporation

_____

KONRADT BARTLAM
City Manager

Attest:

_____

RANDI JOHL
City Clerk

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

By:_____

CONTRACTOR

_____

MIKE KELLER CONSULTING, LLC

By: _____

Title: _____

5887

EXHIBIT A

AGREEMENT FOR PROFESSIONAL SERVICES

ARTICLE 1
PARTIES AND PURPOSE

Section 1.1 Parties

THIS AGREEMENT is entered into on ~~September 1,~~ October 5, 2011, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and Mike Keller Consulting, LLC (hereinafter "CONTRACTOR").

Section 1.2 Purpose

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

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

ARTICLE 2
SCOPE OF SERVICES

Section 2.1 Scope of Services

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

Section 2.2 Time For Commencement and Completion of Work

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

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

CONTRACTOR shall not be responsible for delays caused by the failure of CITY staff to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project shall not be

counted against CONTRACTOR's contract performance period. Also, any delays due to weather, vandalism, acts of God, etc., shall not be counted. CONTRACTOR shall remain in contact with reviewing agencies and make all efforts to review and return all comments.

Section 2.3 Meetings

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

Section 2.4 Staffing

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

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

Section 2.5 Subcontracts

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

Section 2.6 Term

The term of this Agreement commences on ~~September 1~~ October 5, 2011 and terminates upon the completion of the Scope of Services or on February 28, 2012, whichever occurs first.

ARTICLE 3
COMPENSATION

Section 3.1 Compensation

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

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

Section 3.2 Method of Payment

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

Section 3.3 Costs

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

Section 3.4 Auditing

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

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

ARTICLE 4
MISCELLANEOUS PROVISIONS

Section 4.1 Nondiscrimination

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

Section 4.2 ADA Compliance

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

Section 4.3 Indemnification and Responsibility for Damage

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

Section 4.4 No Personal Liability

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

Section 4.5 Responsibility of CITY

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

Section 4.6 Insurance Requirements for CONTRACTOR

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

Section 4.7 Successors and Assigns

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

Section 4.8 Notices

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

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

To CONTRACTOR: Mike Keller Consulting, LLC
1460 Regalo Court
San Jose, CA 95128

Section 4.9 Cooperation of CITY

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

Section 4.10 CONTRACTOR is Not an Employee of CITY

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

Section 4.11 Termination

CITY may terminate this Agreement, with or without cause, by giving CONTRACTOR at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase.

Upon termination, CONTRACTOR shall be entitled to payment as set forth in the attached Exhibit B to the extent that the work has been performed. Upon termination, CONTRACTOR shall immediately suspend all work on the Project and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONTRACTOR with third parties in reliance upon this Agreement.

Section 4.12 Confidentiality

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

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

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

Section 4.14 City Business License Requirement

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

Section 4.15 Captions

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

Section 4.16 Integration and Modification

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

Section 4.17 Contract Terms Prevail

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

Section 4.18 Severability

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

Section 4.19 Ownership of Documents

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

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

Section 4.20 Authority

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

Section 4.21 Federal Transit Funding Conditions

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

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

CITY OF LODI, a municipal corporation

ATTEST:

RANDI JOHL
City Clerk

KONRADT BARTLAM, City Manager

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

By:

CONTRACTOR: Mike Keller, LLC

By: Mike Keller
Name: MIKE KELLER
Title: President

Attachments:
Exhibit A – Scope of Services
Exhibit B – Fee Proposal
Exhibit C – Insurance Requirements

Doc ID:

CA:rev.01.2011

EXHIBIT A & B

MIKE KELLER CONSULTING LLC
1460 REGALO COURT • SAN JOSE, CA 95128 • 408.559.6885

PROPOSAL 2011-03

Dated: July 18, 2011

To:

CITY OF LODI, CALIFORNIA

For

CONSULTING SERVICES

Supporting

City of Lodi's Electric Department

In the

Project Development Efforts

for

TRANSMISSION COST CONTAINMENT & DISTRIBUTION CAPACITY PLANNING

MIKE KELLER CONSULTING LLC
1460 REGALO COURT • SAN JOSE, CA 95128 • 408.559.6885

PROPOSAL 2011-03

OVERVIEW:

The Electric Department ("Department") of the City of Lodi, CA ("City") has conceptualized alternative transmission projects that would increase the interconnection capacity between their electric distribution system and the adjacent transmission system. These transmission interconnection modifications have the potential to also reduce transmission costs paid to the California Independent System Operator ("CAISO"). This project is currently referred to as the Transmission Cost Containment Project.

The Department has also developed a low cost strategy for modifying and reinforcing its distribution system to meet native load growth for the near future, say 5 to 10 years. This approach to serving new load would postpone construction of substation banks and fully utilize its distribution assets. The annual work plans and construction efforts supporting this strategy are referred to as the Distribution Capacity Program.

This proposal is for Mike Keller Consulting, LLC ("Consultant") to provide support services to the Department in:

- the investigation of the cost and benefits of transmission interconnection alternatives, and the presentation of those findings to the Department for decision making purposes.
- The development of the Distribution Capacity Strategy for the next 10 years and a Distribution Capacity Work Plan for the next two fiscal years.

OBJECTIVES:

The objective of work under this proposal is for Consultant to:

1. Move the Transmission Cost Containment Project through the feasibility phase to the point where the Department has sufficient information to make informed choices whether or not to proceed with the project and which alternative to pursue.
2. Develop a Distribution Capacity Work Plan for FY 2011-12 and 2012-13 that will guide the budgeting, detailed design, construction, and energization of the distribution facilities necessary to serve new load added in those same time-frames.

DELIVERABLES:

<u>Objective #1 – Transmission Cost Containment Feasibility Report(s)</u>

Consultant will prepare a report containing available information and expert opinion for use by the Department in selection of an alternative to pursue and an approach to advancing the project through the next phase of development.

<u>Objective #2 – Distribution Capacity Work Plan for Summer 2012</u>

Based on peak load reading from the summer of 2011 and forecast loads for the summer of 2012, Consultant will prepare a report containing the steps the Department needs to make to modify and reinforce it's distribution system to meet those forecast loads.

Objective #3 – Distribution Capacity Work Plan for Summer 2013:

Based on peak load reading from the summer of 2011 and forecast loads for the summer of 2013, Consultant will prepare a report containing the steps the Department needs to make to modify and reinforce it's distribution system to meet those forecast loads.

APPROACH:

City and Consultant will enter into a Professional Services Agreement for the performance of the work by the Consultant to meet the above objectives. Because scope and details of these objectives are not under the control of the Consultant, this is a time and materials proposal for 6 months of work. For the purpose of establishing a schedule and budget for the contract work the following budget has been developed. The budget is based on working 20 hours per week for 20 weeks during the six month term of the contract. The budget assumes that the Consultant will work on site in Lodi. All expenses will be reimbursed based on Consultants Fee Schedule for Calendar year 2011 even if some portion of the contract term extends in to calendar year 2012.

WORK BUDGET:

DESCRIPTION	BUDGET
Hourly Billed Work	$62,000
Travel Expenses (travel time & mileage)	$10,150
Lodging & Expenses	$6,000
Pass Through Expenses	$1,250
TOTAL BUDGET	**$79,400**

FEE & PAYMENT TERMS

Consultant's "maximum not to exceed fee" for the consulting services is $79,400.

MKC will invoice the City monthly, on a time and material basis, for actual work performed according to the attached Fee Schedule – Calendar Year 2011.

MKC will notify the City when invoiced amounts reach 80% of the Total Budget shown above.

CONCLUSION:

Consultant believes this proposal will provide a timely and cost efficient means of completing the stated objectives of the City of Lodi's Electric Department.

Filename: Proposal 201103 R2 Lodi Support.doc

MIKE KELLER CONSULTING LLC
1460 REGALO COURT • SAN JOSE, CA 95128 • 408.559.6885

FEE SCHEDULE – CALENDAR YEARS 2010 & 2011

HOURLY BILLING RATES:

- Principle Consultant ---------- $155.00/hour

EXPENSES:

- Auto Mileage ---------- $0.51/mile

  For vehicle travel outside Santa Clara County; no mileage charges will be incurred for trips inside Santa Clara County.

- Air Travel ---------- At Cost
- Meals and Incidental Expenses (in San Joaquin County, elsewhere at cost) ---------- $56/day
- Lodging (in San Joaquin County, elsewhere at cost) ---------- $80/day
- Sub-consulting and Sub-contracting ---------- At Cost plus 10%
- Other Reimbursable Expenses ---------- At Cost

NOTES:

For vehicle travel outside Santa Clara County one half the employees' hourly rate will be charged from home portal to destination portal using Google Maps travel time estimates.

Invoices will be sent at the beginning of the calendar month for service provided and expenses incurred the previous calendar month. Payment is expected within 30 days unless otherwise provided for in the contract.

References:

www.gsa.gov/mileage

www.gsa.gov/perdiem

Exhibit C

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

1. COMPREHENSIVE GENERAL LIABILITY

   $1,000,000 Ea. Occurrence

   $2,000,000 Aggregate

2. COMPREHENSIVE AUTOMOBILE LIABILITY

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

   $1,000,000 Property Damage - Ea. Occurrence

3. PROFESSIONAL ERRORS AND OMISSIONS
   Not less than $1,000,000 per Claim. Certificate of insurance only required.

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

NOTE: (1) The street address of the **CITY OF LODI** must be shown along with (a) and (b) above: 221 West Pine Street, Lodi, California, 95241-1910; (2) The insurance certificate must state, on its face or as an endorsement, a description of the project that it is insuring.

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

(a) Additional Named Insured Endorsement
Such insurance as is afforded by this policy shall also apply to the City of Lodi, its elected and appointed Boards, Commissions, Officers, Agents, Employees, and Volunteers as additional named insureds.

(This endorsement shall be on a form furnished to the City and shall be included with Contractor's policies.)

(b) Primary Insurance Endorsement
Such insurance as is afforded by the endorsement for the Additional Insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the insurance afforded by this endorsement.

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

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

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

NOTE: No contract agreement will be signed nor will **any** work begin on a project until the proper insurance certificate is received by the City.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 08/15/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Phone: (707) 469-6776 Fax: (707) 469-8072
ECLIPSE MARKETING & INSURANCE SERVICES
P O BOX 6480
VACAVILLE CA 95696

CONTACT NAME: Eclipse Marketing & Insurance Services
PHONE (A/C, No, Ext): (707) 469-6776 FAX (A/C, No): (707) 469-8072
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Hartford Fire Ins. Co.	
INSURER B : Gemini Ins. Co.	
INSURER C :	
INSURER D:	
INSURER E :	
INSURER F :	

INSURED
MIKE KELLER CONSULTING, LLC
1460 REGALO COURT
SAN JOSE CA 95128

APPROVED
Risk Management
AUG 29 2012
By:

COVERAGES CERTIFICATE NUMBER: 36541 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	GENERAL LIABILITY	X		84SBATY8075	08/03/12	08/03/13	EACH OCCURRENCE	$	2,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurence)	$	1,000,000
	CLAIMS-MADE X OCCUR						MED. EXP (Any one person)	$	10,000
	X Hired/Non Owned Auto Liability						PERSONAL & ADV INJURY	$	2,000,000
							GENERAL AGGREGATE	$	4,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$	4,000,000
								$	
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$	
	ANY AUTO						BODILY INJURY (Per person)	$	
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$	
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (per accident)	$	
								$	
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	$	
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$	
	DED RETENTION $							$	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						WC STATU-TORY LIMITS / OTH ER	$	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A					E.L. EACH ACCIDENT	$	
							E.L. DISEASE-EA EMPLOYEE	$	
							E.L. DISEASE-POLICY LIMIT	$	
B	Professional Liability			VCPL061609	08/12/12	08/12/13	General Agg $1,000,000		
							Each Claim $1,000,000		

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

City of Lodi, its elected and appointed Boards, Commissions, Officers, Agents, Employees and Volunteers are named as additional insureds per policy wording in attached form SS 00 08 04 05. Such insurance as is afforded by the endorsement for the Additional Insured's shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the coinsurance afforded by this endorsement.

CERTIFICATE HOLDER

City of Lodi
221 W. Pine St.
Lodi CA 95241

Attention:

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Larry St John

ACORD 25 (2010/05)

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POLICY NUMBER: 84SBATY8075

COMMERCIAL GENERAL LIABILITY
CG 20 10 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Any person or organization with whom the Named Insured enters into a written contract that requires them to be named as an Additional Insured and the contract is executed prior to the start of the project.	Where specified by written contract.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. **Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

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ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 08/16/2012

PRODUCER
MATKOVICH INSURANCE SERVICES
715-C CAPITOLA AVENUE
CAPITOLA, CA 95010
831.475.8300

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED
MIKE KELLER CONSULTING LLC
1450 REGALO COURT
SAN JOSE, CA 95126

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: FARMERS INSURANCE EXCHANGE	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
		GENERAL LIABILITY				EACH OCCURRENCE	$
		COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurence)	$
		CLAIMS MADE / OCCUR				MED EXP (Any one person)	$
						PERSONAL & ADV INJURY	$
						GENERAL AGGREGATE	$
		GEN'L AGGREGATE LIMIT APPLIES PER: POLICY / PRO-JECT / LOC				PRODUCTS - COMP/OP AGG	$
A	✓	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident)	$
		✓ ANY AUTO					
		ALL OWNED AUTOS				BODILY INJURY (Per person)	$ 500,000
		SCHEDULED AUTOS	194570509	03/21/2012	03/21/2013		
		HIRED AUTOS				BODILY INJURY (Per accident)	$ 1,000,000
		NON-OWNED AUTOS					
						PROPERTY DAMAGE (Per accident)	$ 100,000
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	$
		ANY AUTO				OTHER THAN AUTO ONLY: EA ACC	$
						AGG	$
		EXCESS/UMBRELLA LIABILITY				EACH OCCURRENCE	$
		OCCUR / CLAIMS MADE				AGGREGATE	$
							$
		DEDUCTIBLE					$
		RETENTION $					$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATU-TORY LIMITS / OTH-ER	
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E.L. EACH ACCIDENT	$
		If yes, describe under SPECIAL PROVISIONS below				E.L. DISEASE - EA EMPLOYEE	$
						E.L. DISEASE - POLICY LIMIT	$
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

CERTIFICATE HOLDER

CITY OF LODI
221 W. PINE ST
LODI, CA 95241

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE Bill Matkovich

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1. AA# _____
2. JV# _____

CITY OF LODI
APPROPRIATION ADJUSTMENT REQUEST

TO:	Internal Services Dept. - Budget Division		
3. FROM:	Elizabeth Kirkley	5. DATE:	09-19-2012
4. DEPARTMENT/DIVISION:	Electric Utility		

6. REQUEST ADJUSTMENT OF APPROPRIATION AS LISTED BELOW

	FUND #	BUS. UNIT #	ACCOUNT #	ACCOUNT TITLE	AMOUNT
A. SOURCE OF FINANCING	161			Fund Balance	$35,500
B. USE OF FINANCING	161	161687	1825.2200	Transmission Line-WS Project	$35,500

7. REQUEST IS MADE TO FUND THE FOLLOWING PROJECT NOT INCLUDED IN THE CURRENT BUDGET

Please provide a description of the project, the total cost of the project, as well as justification for the requested adjustment. If you need more space, use an additional sheet and attach to this form.

This project is the investigation of the cost and benefit of transmission interconnection alternatives which may result in the mitigation of significant transmission access charges. The contract commenced in FY 2011-12 and will be completed in FY 2012-13. The total contract amount is $79,400; approximately $35,500 is remaining.

If Council has authorized the appropriation adjustment, complete the following:

Meeting Date: 09-19-2012 Res No: _____ Attach copy of resolution to this form.

Department Head Signature: _____

8. APPROVAL SIGNATURES

Deputy City Manager/Internal Services Manager Date

Submit completed form to the Budget Division with any required documentation.
Final approval will be provided in electronic copy format.

RESOLUTION NO. 2012-____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXTEND THE TERM OF THE CONTRACT WITH MIKE KELLER CONSULTING, LLC FOR TRANSMISSION AND DISTRIBUTION SERVICES AND APPROPRIATING FUNDS

==========

WHEREAS, On August 3, 2011 the City Council adopted a resolution authorizing the City Manager to enter into a Professional Services Agreement with Mike Keller Consulting, LLC for Transmission and Distribution; and

WHEREAS, the contract was extended to August 31, 2012, as authorized by the City Council on February 15, 2012; and

WHEREAS, since various agencies are involved there have been challenges in scheduling meetings to complete the scope of work, therefore additional time is still required to complete this work; and

WHEREAS, staff anticipated this work to be completed in Fiscal Year 2011-12, therefore this project was not included in the Fiscal Year 2012-13 Budget; and

WHEREAS, staff is now requesting a modification to the term of the contract until the completion of the scope of work along with a budget appropriation; and

WHEREAS, all other terms and conditions of the agreement will remain the same.

WHEREAS, this project is the investigation of the cost and benefit of transmission interconnection alternatives which may result in the mitigation of significant transmission access charges.

WHEREAS, the appropriation is in the amount of $35,500 for the Electric Utility Outlay Reserve Fund Number 161687.

NOW, THEREFORE BE IT RESOLVED that the City Council hereby authorizes the City Manager to extend the term of the contract with Mike Keller Consulting, LLC for transmission and distribution services.

BE IT FURTHER RESOLVED, that the City Council approves the appropriation of $35,500 from the Electric Utility Outlay Reserve Fund for this amendment.

Dated: September 19, 2012

==========

I hereby certify that Resolution No. 2012-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 19, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

AGENDA ITEM_C-08

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Authorizing City Manager to Execute Agreement and Approve Proposed Expenditure Program for Lodi's Share of the 2012 Edward Byrne Memorial Justice Assistance Grant ($19,483)

MEETING DATE: September 19, 2012

PREPARED BY: Chief of Police

RECOMMENDED ACTION: Adopt resolution authorizing city manager to execute agreement and approve proposed expenditure program for Lodi's share of the 2012 Edward Byrne Memorial Justice Assistance Grant ($19,483).

BACKGROUND INFORMATION: The Edward Byrne Memorial Justice Assistance Grant (JAG) Program provides funding for states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system. The 2012 JAG replaces the Byrne Formula and Local Law Enforcement Block Grant (LLEBG) programs with a single funding mechanism that simplifies the administration process for grantees.

JAG funds are allocated based on a community's population and crime statistics, in combination with a minimum allocation to ensure that each state and territory receives an appropriate share. The grant application and requirements were met prior to the July 14, 2011 deadline. The grant process requires the City Council to authorize the acceptance of funds and approve the proposed expenditures for the City of Lodi.

It is proposed that the funding be used to support technology and equipment:

• Mobile computers and technology upgrades	$10,000
• Safety equipment	$ 5,000
• Department information systems licensing	$ 4,483
	$19,483

FISCAL IMPACT: Acceptance of these grant funds assists the department in meeting its technology and safety equipment needs without using General Fund revenues.

FUNDING AVAILABLE: Appropriations and estimated revenues for this grant funding have been included in the 2012/13 adopted budget.

_____
Jordan Ayers
Deputy City Manager/Internal Services Director

_____
Mark Helms, Chief of Police

MAH/JB/pjt

APPROVED: _____
Konradt Bartlam, City Manager

Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

Grant

1. RECIPIENT NAME AND ADDRESS (Including Zip Code)
City of Lodi
221 West Pine Street
Lodi, CA 95241-1910

4. AWARD NUMBER: 2012-DJ-BX-0876

5. PROJECT PERIOD: FROM 10/01/2011 TO 09/30/2013
BUDGET PERIOD: FROM 10/01/2011 TO 09/30/2013

6. AWARD DATE 07/16/2012

7. ACTION
Initial

1A. GRANTEE IRS/VENDOR NO.
946000361

8. SUPPLEMENT NUMBER
00

9. PREVIOUS AWARD AMOUNT $ 0

3. PROJECT TITLE
FY 2012 Justice Assistance Grant Program

10. AMOUNT OF THIS AWARD $ 19,483

11. TOTAL AWARD $ 19,483

12. SPECIAL CONDITIONS
THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).

13. STATUTORY AUTHORITY FOR GRANT
This project is supported under FY12(BJA - JAG) 42 USC 3750, et seq.

15. METHOD OF PAYMENT
GPRS

AGENCY APPROVAL

16. TYPED NAME AND TITLE OF APPROVING OFFICIAL
Denise O'Donnell
Director

17. SIGNATURE OF APPROVING OFFICIAL
Denise O'Donnell

GRANTEE ACCEPTANCE

18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL
Konradt Bartlam
City Manager

19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL

19A. DATE
8-21-12

AGENCY USE ONLY

20. ACCOUNTING CLASSIFICATION CODES

FISCAL YEAR	FUND CODE	BUD. ACT.	OFC.	DIV. REG.	SUB.	POMS	AMOUNT
X	B	DJ	80	00	00		19483

21. LDJUGT0795

OJP FORM 4000/2 (REV. 5-87) PREVIOUS EDITIONS ARE OBSOLETE.

OJP FORM 4000/2 (REV. 4-88)

PROJECT NUMBER 2012-DJ-BX-0876 AWARD DATE 07/16/2012

SPECIAL CONDITIONS

1. The recipient agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.

2. The recipient acknowledges that failure to submit an acceptable Equal Employment Opportunity Plan (if recipient is required to submit one pursuant to 28 C.F.R. Section 42.302), that is approved by the Office for Civil Rights, is a violation of its Certified Assurances and may result in suspension or termination of funding, until such time as the recipient is in compliance.

3. The recipient agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, and further understands and agrees that funds may be withheld, or other related requirements may be imposed, if outstanding audit issues (if any) from OMB Circular A-133 audits (and any other audits of OJP grant funds) are not satisfactorily and promptly addressed, as further described in the current edition of the OJP Financial Guide.

4. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of OJP.

5. The recipient must promptly refer to the DOJ OIG any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person has either 1) submitted a false claim for grant funds under the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds. This condition also applies to any subrecipients. Potential fraud, waste, abuse, or misconduct should be reported to the OIG by -

   mail:

   Office of the Inspector General
   U.S. Department of Justice
   Investigations Division
   950 Pennsylvania Avenue, N.W.
   Room 4706
   Washington, DC 20530

   e-mail: oig.hotline@usdoj.gov

   hotline: (contact information in English and Spanish): (800) 869-4499

   or hotline fax: (202) 616-9881

   Additional information is available from the DOJ OIG website at www.usdoj.gov/oig.

6. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express prior written approval of OJP.

7. The recipient agrees to comply with any additional requirements that may be imposed during the grant performance period if the agency determines that the recipient is a high-risk grantee. Cf. 28 C.F.R. parts 66, 70.

SPECIAL CONDITIONS

8. The recipient agrees to comply with applicable requirements regarding Central Contractor Registration (CCR) and applicable restrictions on subawards to first-tier subrecipients that do not acquire and provide a Data Universal Numbering System (DUNS) number. The details of recipient obligations are posted on the Office of Justice Programs web site at http://www.ojp.gov/funding/ccr.htm (Award condition: Central Contractor Registration and Universal Identifier Requirements), and are incorporated by reference here. This special condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

9. Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), the Department encourages recipients and sub recipients to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this grant, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

10. The recipient agrees to comply with all applicable laws, regulations, policies, and guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences, meetings, trainings, and other events, including the provision of food and/or beverages at such events, and costs of attendance at such events. Information on pertinent laws, regulations, policies, and guidance is available at www.ojp.gov/funding/confcost.htm.

11. The recipient agrees that all income generated as a direct result of this award shall be deemed program income. All program income earned must be accounted for and used for the purposes of funds provided under this award, including such use being consistent with the conditions of the award, the effective edition of the OJP Financial Guide and, as applicable, either (1) 28 C.F.R. Part 66 or (2) 28 C.F.R Part 70 and 2 C.F.R. Part 215 (OMB Circular A-110). Further, the use of program income must be reported on the quarterly Federal Financial Report, SF 425.

SPECIAL CONDITIONS

12. The grantee agrees to assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these grant funds, either directly by the grantee or by a subgrantee. Accordingly, the grantee agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the grant, the grantee agrees to contact BJA.

    The grantee understands that this special condition applies to its following new activities whether or not they are being specifically funded with these grant funds. That is, as long as the activity is being conducted by the grantee, a subgrantee, or any third party and the activity needs to be undertaken in order to use these grant funds, this special condition must first be met. The activities covered by this special condition are:
    a. New construction;
    b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
    c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
    d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
    e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

    The grantee understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The grantee further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at http://www.ojp.usdoj.gov/BJA/resource/nepa.html, for programs relating to methamphetamine laboratory operations.

    Application of This Special Condition to Grantee's Existing Programs or Activities: For any of the grantee's or its subgrantees' existing programs or activities that will be funded by these grant funds, the grantee, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

13. To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the grantee can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

14. In order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community, OJP requires the grantee to comply with DOJ's Global Justice Information Sharing Initiative (DOJ's Global) guidelines and recommendations for this particular grant. Grantee shall conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: http://www.it.ojp.gov/gsp_grantcondition. Grantee shall document planned approaches to information sharing and describe compliance to the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

SPECIAL CONDITIONS

15. The recipient is required to establish a trust fund account. (The trust fund may or may not be an interest-bearing account.) The fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate and expend the grant funds in the trust fund (including any interest earned) during the period of the grant. Grant funds (including any interest earned) not expended by the end of the grant period must be returned to the Bureau of Justice Assistance no later than 90 days after the end of the grant period, along with the final submission of the Federal Financial Report (SF-425).

16. JAG funds may be used to purchase bulletproof vests for an agency, but may not be used as the 50% match for purposes of the Bulletproof Vest Partnership (BVP) program.

17. The recipient agrees to submit a signed certification that that all law enforcement agencies receiving vests purchased with JAG funds have a written "mandatory wear" policy in effect. Fiscal agents and state agencies must keep signed certifications on file for any subrecipients planning to utilize JAG funds for bulletproof vest purchases. This policy must be in place for at least all uniformed officers before any FY 2012 JAG funding can be used by the agency for bulletproof vests. There are no requirements regarding the nature of the policy other than it being a mandatory wear policy for all uniformed officers while on duty.

18. Bulletproof vests purchased with JAG funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the vests have been tested and found to comply with applicable National Institute of Justice ballistic or stab standards. In addition, bulletproof vests purchased with JAG funds must be American-made. The latest NIJ standard information can be found here: http://www.nij.gov/topics/technology/body-armor/safety-initiative.htm.

19. The recipient agrees that any information technology system funded or supported by OJP funds will comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). Recipient may not satisfy such a fine with federal funds.

20. The recipient agrees to ensure that the State Information Technology Point of Contact receives written notification regarding any information technology project funded by this grant during the obligation and expenditure period. This is to facilitate communication among local and state governmental entities regarding various information technology projects being conducted with these grant funds. In addition, the recipient agrees to maintain an administrative file documenting the meeting of this requirement. For a list of State Information Technology Points of Contact, go to http://www.it.ojp.gov/default.aspx?area=policyAndPractice&page=1046.

21. The grantee agrees to comply with the applicable requirements of 28 C.F.R. Part 38, the Department of Justice regulation governing "Equal Treatment for Faith Based Organizations" (the "Equal Treatment Regulation"). The Equal Treatment Regulation provides in part that Department of Justice grant awards of direct funding may not be used to fund any inherently religious activities, such as worship, religious instruction, or proselytization. Recipients of direct grants may still engage in inherently religious activities, but such activities must be separate in time or place from the Department of Justice funded program, and participation in such activities by individuals receiving services from the grantee or a sub-grantee must be voluntary. The Equal Treatment Regulation also makes clear that organizations participating in programs directly funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. Notwithstanding any other special condition of this award, faith-based organizations may, in some circumstances, consider religion as a basis for employment. See http://www.ojp.gov/about/ocr/equal_fbo.htm.

22. The recipient acknowledges that all programs funded through subawards, whether at the state or local levels, must conform to the grant program requirements as stated in BJA program guidance.

SPECIAL CONDITIONS

23. Grantee agrees to comply with the requirements of 28 C.F.R. Part 46 and all Office of Justice Programs policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

24. Grantee agrees to comply with all confidentiality requirements of 42 U.S.C. section 3789g and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. Grantee further agrees, as a condition of grant approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, section 22.23.

25. The recipient agrees that funds received under this award will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.

26. Award recipients must submit quarterly a Federal Financial Report (SF-425) and annual performance reports through GMS (https://grants.ojp.usdoj.gov). Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA), P.L. 103-62, applicants who receive funding under this solicitation must provide data that measure the results of their work. Therefore, quarterly performance metrics reports must be submitted through BJA's Performance Measurement Tool (PMT) website (www.bjaperformancetools.org). For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage. Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

27. The recipient agrees to monitor subawards under this JAG award in accordance with all applicable statutes, regulations, OMB circulars, and guidelines, including the OJP Financial Guide, and to include the applicable conditions of this award in any subaward. The recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of JAG funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

28. Award recipients must verify Point of Contact(POC), Financial Point of Contact (FPOC), and Authorized Representative contact information in GMS, including telephone number and e-mail address. If any information is incorrect or has changed, a Grant Adjustment Notice (GAN) must be submitted via the Grants Management System (GMS) to document changes.

29. The grantee agrees that within 120 days of award acceptance, each member of a law enforcement task force funded with these funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, will complete required online (internet-based) task force training. The training is provided free of charge online through BJA's Center for Task Force Integrity and Leadership (www.ctfli.org). All current and new task force members are required to complete this training once during the life of the award, or once every four years if multiple awards include this requirement. This training addresses task force effectiveness as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. Additional information is available regarding this required training and access methods via BJA's web site and the Center for Task Force Integrity and Leadership (www.ctfli.org).

30. Recipient understands that the initial period of availability of funds for this award is two years. Recipient further understands that any requests for additional time for performance of this award, up to two additional years, will be granted automatically, pursuant to 42 U.S.C. § 3751(f) and in accordance with current fiscal year solicitation. Requests for additional time beyond a four year grant period will be subject to the discretion of the Director of the Bureau of Justice Assistance.

PROJECT NUMBER 2012-DJ-BX-0876 AWARD DATE 07/16/2012

SPECIAL CONDITIONS

31. Recipient may not expend or drawdown funds until the Bureau of Justice Assistance, Office of Justice Programs has received documentation demonstrating that the state or local governing body review and/or community notification requirements have been met and has issued a Grant Adjustment Notice (GAN) releasing this special condition.

Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Office of Justice Programs

Washington, D.C. 20531

July 16, 2012

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

Dear Mr. Bartlam:

On behalf of Attorney General Eric Holder, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 12 Edward Byrne Memorial Justice Assistance Grant (JAG) Program Local Solicitation in the amount of $19,483 for City of Lodi.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Zephyr R. Fraser, Program Manager at (202) 616-0416; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at ask.ocfo@usdoj.gov.

Congratulations, and we look forward to working with you.

Sincerely,

Denise O'Donnell
Director

Enclosures

Department of Justice
Office of Justice Programs
Office for Civil Rights

Washington, D.C. 20531

July 16, 2012

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

Dear Mr. Bartlam:

Congratulations on your recent award. In establishing financial assistance programs, Congress linked the receipt of Federal funding to compliance with Federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice is responsible for ensuring that recipients of financial aid from OJP, its component offices and bureaus, the Office on Violence Against Women (OVW), and the Office of Community Oriented Policing Services (COPS) comply with applicable Federal civil rights statutes and regulations. We at OCR are available to help you and your organization meet the civil rights requirements that come with Justice Department funding.

Ensuring Access to Federally Assisted Programs

As you know, Federal laws prohibit recipients of financial assistance from discriminating on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in respect to employment practices but also in the delivery of services or benefits. Federal law also prohibits funded programs or activities from discriminating on the basis of age in the delivery of services or benefits.

Providing Services to Limited English Proficiency (LEP) Individuals

In accordance with Department of Justice Guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of Federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website at http://www.lep.gov.

Ensuring Equal Treatment for Faith-Based Organizations

The Department of Justice has published a regulation specifically pertaining to the funding of faith-based organizations. In general, the regulation, Participation in Justice Department Programs by Religious Organizations; Providing for Equal Treatment of all Justice Department Program Participants, and known as the Equal Treatment Regulation 28 C.F.R. part 38, requires State Administering Agencies to treat these organizations the same as any other applicant or recipient. The regulation prohibits State Administering Agencies from making award or grant administration decisions on the basis of an organization's religious character or affiliation, religious name, or the religious composition of its board of directors.

The regulation also prohibits faith-based organizations from using financial assistance from the Department of Justice to fund inherently religious activities. While faith-based organizations can engage in non-funded inherently religious activities, they must be held separately from the Department of Justice funded program, and customers or beneficiaries cannot be compelled to participate in them. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by the Department of Justice are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. For more information on the regulation, please see OCR's website at http://www.ojp.usdoj.gov/ocr/etfbo.htm.

State Administering Agencies and faith-based organizations should also note that the Safe Streets Act, as amended; the Victims of Crime Act, as amended; and the Juvenile Justice and Delinquency Prevention Act, as amended, contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the Justice Department has concluded that the Religious Freedom Restoration Act (RFRA) is reasonably construed, on a case-by-case basis, to require that its funding agencies permit faith-based organizations applying for funding under the applicable program statutes both to receive DOJ funds and to continue considering religion when hiring staff, even if the statute that authorizes the funding program generally forbids considering of religion in employment decisions by grantees.

Questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment may be directed to this Office.

Enforcing Civil Rights Laws

All recipients of Federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to the prohibitions against unlawful discrimination. Accordingly, OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal employment opportunity standards.

Complying with the Safe Streets Act or Program Requirements

In addition to these general prohibitions, an organization which is a recipient of financial assistance subject to the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, 42 U.S.C. § 3789d(c), or other Federal grant program requirements, must meet two additional requirements:(1) complying with Federal regulations pertaining to the development of an Equal Employment Opportunity Plan (EEOP), 28 C.F.R. § 42.301-.308, and (2) submitting to OCR Findings of Discrimination (see 28 C.F.R. §§ 42.205(5) or 31.202(5)).

1) Meeting the EEOP Requirement

In accordance with Federal regulations, Assurance No. 6 in the Standard Assurances, COPS Assurance No. 8.B, or certain Federal grant program requirements, your organization must comply with the following EEOP reporting requirements:

If your organization has received an award for $500,000 or more and has 50 or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare an EEOP and submit it to OCR for review **within 60 days from the date of this letter**. For assistance in developing an EEOP, please consult OCR's website at http://www.ojp.usdoj.gov/ocr/eeop.htm. You may also request technical assistance from an EEOP specialist at OCR by dialing (202) 616-3208.

If your organization received an award between $25,000 and $500,000 and has 50 or more employees, your organization still has to prepare an EEOP, but it does not have to submit the EEOP to OCR for review. Instead, your organization has to maintain the EEOP on file and make it available for review on request. In addition, your organization has to complete Section B of the Certification Form and return it to OCR. The Certification Form can be found at http://www.ojp.usdoj.gov/ocr/eeop.htm.

If your organization received an award for less than $25,000; or if your organization has less than 50 employees, regardless of the amount of the award; or if your organization is a medical institution, educational institution, nonprofit organization or Indian tribe, then your organization is exempt from the EEOP requirement. However, your organization must complete Section A of the Certification Form and return it to OCR. The Certification Form can be found at http://www.ojp.usdoj.gov/ocr/eeop.htm.

2) Submitting Findings of Discrimination

In the event a Federal or State court or Federal or State administrative agency makes an adverse finding of discrimination against your organization after a due process hearing, on the ground of race, color, religion, national origin, or sex, your organization must submit a copy of the finding to OCR for review.

Ensuring the Compliance of Subrecipients

If your organization makes subawards to other agencies, you are responsible for assuring that subrecipients also comply with all of the applicable Federal civil rights laws, including the requirements pertaining to developing and submitting an EEOP, reporting Findings of Discrimination, and providing language services to LEP persons. State agencies that make subawards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of subrecipients.

If we can assist you in any way in fulfilling your civil rights responsibilities as a recipient of Federal funding, please call OCR at (202) 307-0690 or visit our website at http://www.ojp.usdoj.gov/ocr/.

Sincerely,

Michael L. Alston

Michael L. Alston
Director

cc: Grant Manager
Financial Analyst

Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

Memorandum To: Official Grant File

From: Orbin Terry, NEPA Coordinator

Subject: Incorporates NEPA Compliance in Further Developmental Stages for City of Lodi

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

The specified activities requiring environmental analysis are:
a. New construction;
b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see http://www.ojp.usdoj.gov/BJA/resource/nepa.html.
Please be sure to carefully review the grant conditions on your award document, as it may contain more specific information about environmental compliance.

Department of Justice
Office of Justice Programs
Bureau of Justice Assistance

GRANT MANAGER'S MEMORANDUM, PT. I: PROJECT SUMMARY

Grant

PROJECT NUMBER
2012-DJ-BX-0876

This project is supported under FY12(BJA - JAG) 42 USC 3750, et seq.

1. STAFF CONTACT (Name & telephone number)

Zephyr R. Fraser
(202) 616-0416

2. PROJECT DIRECTOR (Name, address & telephone number)

Jeanie Biskup
Support Services Manager
215 W Elm Street
Lodi, CA 95241-1910
(209) 333-6722

3a. TITLE OF THE PROGRAM

BJA FY 12 Edward Byrne Memorial Justice Assistance Grant (JAG) Program

3b. POMS CODE (SEE INSTRUCTIONS ON REVERSE)

4. TITLE OF PROJECT

FY 2012 Justice Assistance Grant Program

5. NAME & ADDRESS OF GRANTEE

City of Lodi
221 West Pine Street
Lodi, CA 95241-1910

6. NAME & ADRESS OF SUBGRANTEE

7. PROGRAM PERIOD

FROM: 10/01/2011 TO: 09/30/2013

8. BUDGET PERIOD

FROM: 10/01/2011 TO: 09/30/2013

9. AMOUNT OF AWARD

$ 19,483

10. DATE OF AWARD

07/16/2012

11. SECOND YEAR'S BUDGET

12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD

14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and units of local government, including tribes, to support a broad range of activities to prevent and control crime based on their own state and local needs and conditions. Grant funds can be used for state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice, including for any one or more of the following purpose areas: 1) law enforcement programs; 2) prosecution and court programs; 3) prevention and education programs; 4) corrections and community corrections programs; 5) drug treatment and enforcement programs; 6) planning, evaluation, and technology improvement programs; and 7) crime victim and witness programs (other than compensation).

The grantee will use the JAG award to replace broken and outdated computer equipment in police vehicles, the communication center, and staff work areas. Funds will also be utilized to pay for software upgrades and technology improvements throughout the police department. The project goal is to increase essential law

RESOLUTION NO. 2012-____

A RESOLUTION OF THE LODI CITY COUNCIL ACCEPTING LODI'S SHARE OF THE 2012 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT AND AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENT AND ALL NECESSARY FORMS WITH THE DEPARTMENT OF JUSTICE; AND FURTHER APPROVING EXPENDITURE PROGRAM FOR THE GRANT FUNDS

==========

WHEREAS, the Lodi Police Department submitted a proposal for the 2012 Edward Byrne Memorial Assistance Grant through the Bureau of Justice Assistance for support technology program activities; and

WHEREAS, the activities include replacement of computer hardware, Mobile Data Computers and equipment replacement and upgrades, licensing expenses and the monthly wireless connectivity fees for mobile computers for police vehicles; and

WHEREAS, the Lodi Police Department was awarded the grant by the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance in the amount of $19,483.00.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby accept the grant funds in the amount of $19,483 from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance to support technology program activities as outlined above; and

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to execute the Agreement and any necessary forms with the Department of Justice for the acceptance of this grant; and

BE IT FURTHER RESOLVED that the City Council hereby approves the expenditure of the grant funds as follows:

• Mobile computers and technology upgrades	$10,000
• Safety equipment	$ 5,000
• Department information systems licensing	$ 4,483
	$19,483

Dated: September 19, 2012

==========

I hereby certify that Resolution No. 2012-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 19, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

AGENDA ITEM C-09

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Authorize the City Manager to Amend the Rental Agreement Between the City of Lodi and P & K Fitness, for Use of 125 N. Stockton Street

MEETING DATE: September 19, 2012

PREPARED BY: City Manager

RECOMMENDED ACTION: Authorize the City Manager to amend the rental agreement between the City of Lodi and P & K Fitness for use of 125 N. Stockton Street.

BACKGROUND INFORMATION: The City of Lodi has owned the above-referenced property since 2000. The City previously rented the space to Jazzercise which terminated occupancy in 2009.

P&K Fitness (Crossfit) has rented the space for the past year. Crossfit is an alternative fitness concept which uses basic equipment and exercise strategies with personalized training.

The original term of the agreement was for three years with two two-year options. P&K made tenant improvements to the building including restroom and shower facilities. The lease rate was reduced for two years in order to off-set the cost of the improvements made to the building.

The tenants are now seeking an additional one year reduction in rent. The business is seeing slow, but steady growth. They have been a positive addition to the area and with vacancies around the site, staff is of the opinion that the request is warranted.

FISCAL IMPACT: Lease revenue for the Parks, Recreation and Cultural Services Department.

FUNDING AVAILABLE: Not applicable.

Konradt Bartlam
City Manager

Attachment: Rental Agreement
cc: City Attorney

APPROVED: _____
Konradt Bartlam, City Manager

FIRST AMENDED RENTAL AGREEMENT
111 N Stockton Street, Suite B
Lodi, California

THIS FIRST AMENDED RENTAL AGREEMENT, made and entered into this____ day of ~~March, 2010~~September 2012 by and between the CITY OF LODI, a municipal corporation, (hereinafter "Owner"), and P & K Fitness of Lodi, a California Limited Liability Company hereinafter ("Tenant"). The Parties entered into a rental agreement beginning March 17, 2011. This First Amendment is entered to extend the reduced rate rental period an additional twelve months.

W I T N E S S E T H :

1. PROPERTY: That for and in consideration of the rents to be paid, and the covenants to be faithfully kept and performed by Tenant, Tenant does hereby rent from Owner, the premises located at 111 N. Stockton Street, Suite B, Lodi, California and all improvements thereto (the "Property") for the operation of P & K Fitness of Lodi.

2. TERM: The term of this Agreement begins on March 17, 2011 ("Commencement Date") and shall continue until March 17, 2014. Tenant shall have two options to renew this agreement for consecutive two year terms on the terms set forth in this agreement and at the rates set forth in paragraph 3 of this agreement. Both options must be exercised in writing by tenant at least 90 days before the expiration of the then current term.

3. RENT: In consideration of this Agreement, Tenant agrees to pay to Owner as rent for the Property the sum amounts set forth below, due and payable by the 1st day of each month, commencing on March 17, 2010. A late charge of $60 may be assessed for any payment more than 10 days past due. Rental payments shall be directed to the City of Lodi, Attn: Parks & Recreation Department, 125 N. Stockton Street, Lodi, California, 95240, for processing and shall be paid without prior notice or demand to Tenant. Tenant acknowledges that the rent is prorated in acknowledgement of tenant supplied tenant improvements to the property set forth in Paragraph 29. Lease payments shall be waived until the completion of the tenant improvements called for in this Agreement. Lease payments shall be prorated for any partial month after the issuance of the final building permit.

   Months 0-~~24~~36: $1825.00/month
   ~~Months 24-36: $3650.00/month~~
   Months 36-60: $4015.00/month (First Option Period)
   Months 60-84: $4380.00/month (Second Option Period)

   The month number shall be measured from the initial lease date of March 17, 2011, not the date of this First Amended Rental Agreement.

4. USE/USE PROHIBITED: The property shall be used solely for the purpose of carrying on the business of P & K Fitness of Lodi. Tenant shall not use any portion of the Property for purposes other than those specified herein, and no use shall be made or permitted to be made upon the Property, nor acts done, which will increase the existing rate of insurance upon the Property, or cause cancellation of insurance policies covering the Property. Tenant shall not engage in any activities excluded from coverage under its insurance

policy on the Property. Tenant shall not conduct or permit any sale by auction on the Property.

5. ORDINANCES AND STATUES: It is further understood and agreed by Tenant that Tenant must comply with all present and future laws, ordinances, rules, and regulations promulgated by any governmental authority of competent jurisdiction regulating the type of business to be conducted ton the Property during the term of this Agreement and any extension thereof. Tenant shall use and occupy the Property in a quite, lawful, and orderly manner. The commencement of pendency of any state or federal court abatement proceeding affecting the use of the Property shall, at the option of the Owner, be deemed a breach hereof.

6. SIGNS: Owner reserves the exclusive right to the roof, side and rear walls of the Property. Tenant shall not construct any projecting sign or awning without prior written consent of Owner which consent shall not be unreasonably withheld. It is agreed that Tenant will post "Hours of Operation" signs on the doors of the Property. All signs and locations of signs must be approved by the City of Lodi Parks & Recreation Director. All costs associated with the purchase and installation of signs shall be the responsibility of Tenant.

7. ABANDONMENT OF PROPERTY: Tenant shall not vacate or abandon the Property at any time during the term hereof, and if Tenant shall abandon or vacate the Property, or be dispossessed by process of law, or otherwise, any personal property belonging to Tenant left upon the Property shall be deemed to be abandoned, at the option of Owner.

8. TRADE FIXTURES: Any and all improvements made to the Property during the term hereof shall belong to the Owner, except trade fixtures of the Tenant. Tenant may, upon termination hereof, remove all trade fixtures, but shall repair or pay Owner for all repairs caused by damage to the Property occasioned by the removal of such trade fixtures.

9. DESTRUCTION OF THE PROPERTY: In the event of a partial destruction of the Property during the term hereof, from any cause, Owner shall forthwith repair the same, provided that such repairs can be made within sixty (60) days under existing governmental laws and regulations, but such partial destruction shall not terminate this Agreement, except that Tenant shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs shall interfere with the business of Tenant on the Property. If such repairs cannot be made within sixty (60) days, Owner, at his option, may make the same within a reasonable time, this Agreement continuing in effect with the rent proportionately abated as aforesaid, and in the event that Owner shall not elect to make such repairs which cannot be made within sixty (60) days, this Agreement may be terminated at the option of either party.

   In the event that the building in which the Property may be situated is destroyed to an extent of not less than one-third of the replacement costs thereof, Owner may elect to terminate this Agreement whether the Property be injured or not. A total destruction of the building in which the Property may be situated shall terminate this Rental Agreement.

   In the event of any dispute between Owner and Tenant with respect to the provisions hereof, the matter shall be settled by arbitration in such a manner as the parties may agree upon, or if they cannot agree, in accordance with the rules of the American Arbitration Association.

10. INSOLVENCY: In the event a receiver is appointed to take over the business of Tenant, or in the event Tenant makes a general assignment for the benefit of creditors, or Tenant takes or suffers any action under any insolvency or bankruptcy act, the same shall constitute breach of this Agreement by Tenant.

11. REMEDIES OF OWNER ON DEFAULT: In the event of any breach of this Agreement by Tenant, Owner may, at its option, terminate this Agreement and recover from Tenant: (a) the worth at the time of award of the unpaid rent which was earned at the time of termination; (b) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of the award exceeds the amount of such rental loss that the Tenant proves could have been reasonably avoided; (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; and (d) any other amount necessary to compensate Owner for all detriment proximately caused by Tenant's failure to perform its obligations under this Agreement or which in the ordinary course of things would be likely to result therefrom.

    Owner may, in the alternative, continue this Agreement in effect, as long as Owner does not terminate Tenant's right to possession, and Owner may enforce all his rights and remedies under this Agreement, including the right to recover the rent as it becomes due under this Agreement. If such breach continues, Owner may, at any time thereafter, elect to terminate this Agreement.

    Nothing contained herein shall be deemed to limit any other rights or remedies which Owner may have.

12. RELATIONSHIP OF PARTIES: It is understood and agreed that the relationship between the parties is that of landlord and tenant and not as a party or agent of Owner. Tenant, shall carry Worker's Compensation Insurance and observe all laws and regulations applicable to employers in the State of California.

13. BUILDING MAINTENANCE: Building Maintenance (Janitorial Services) shall be the responsibility of Tenant.

14. ASSIGNMENT AND SUBLETTING: Tenant shall not assign this Agreement or sublet any portion of the Property without prior written consent of the Owner, which shall not be unreasonably withheld. Any such assignment or subletting without consent shall be void and, at the option of the Owner, may terminate this Agreement.

15. ENTRY AND INSPECTION: Tenant shall permit Owner or Owner's agents to enter upon the Property at reasonable times and upon reasonable notice, for the purpose of inspecting the same.

16. MAINTENANCE, REPAIRS, ALTERATIONS OR ADDITIONS: Tenant acknowledges that the Property is in good order and repair, unless otherwise indicated herein. Tenant shall, at his own expense and at all times, maintain the Property in good and safe condition, including plate glass, and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. Tenant shall be responsible for all repairs required, excepting the roof, exterior walls, structural foundations, and' common areas which shall be maintained by Owner. No repairs, alterations or additions to the

Property shall be made without prior written consent of Owner. Prior to the commencement of any substantial repair, improvement, or alteration, Tenant shall give Owner at least two (2) days written notice in order that Owner may post appropriate notices to avoid any liability for liens. Tenant shall not commit any waste upon the Property, or any nuisance or act which may disturb the quiet enjoyment of any tenant of Owner. Any concerns shall be submitted in writing to the Parks & Recreation Director, City of Lodi, P. O. Box 3006, Lodi, CA 95241.

17. SURRENDER OF PREMISES: Tenant shall, at the termination of the Agreement hereby created, or upon the earlier termination hereof for any reason, or upon the extension of the term herein set forth, quit and surrender the Property in good order, condition, and repair, reasonable wear and tear and acts of God or fire excepted.

18. FEES: Tenant shall pay all license fees, or other fees or taxes, including possessory interest taxes, levied by any governmental agency which may be imposed upon the business of Tenant or its subtenant conducted upon the Property.

    If any of the above charges are assessed against the Property, and because of said assessment, the Owner pays the same, the Owner will have the right to, regardless of the validity of any such levy, demand that Tenant repay to Owner all taxes and other assessments so levied against Owner.

19. UTILITIES: Owner agrees that it shall be responsible for the payment of all utilities, including water, wastewater, gas, and electricity. However, Tenant shall reimburse Owner’s gas and electricity costs that exceed $200.00 per month within 30 days of receiving an invoice from the City of Lodi. During the term of this Agreement, and any extension thereof, it is understood and agreed by the parties hereto that Tenant shall be responsible for the installation, maintenance and cost of any telephone lines that are required to operate its business, and solid waste removal, at no cost to Owner.

20. MECHANIC'S LIEN: Tenant agrees to keep the Property free from all liens and claims of mechanics, laborers, material suppliers, and others for work done, and material furnished, and Tenant shall not create, or suffer to be created, any lien or encumbrance on the Property.

21. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE: Tenant, at its expense, shall maintain plate glass and public liability insurance including bodily injury and property damage insuring Tenant and Owner with minimum coverage of $3,000,000 each occurrence. More particularly described as follows:

    Tenant agrees to indemnify, defend and save harmless Owner from and against all claims of whatever nature arising from any act, omission, or negligence of Tenant or Tenant's contractors, licensees, agents, servants, or employees, or arising from any accident, injury, or damage whatsoever caused any person, or to the Property of any person, occurring during the term thereof, in or about the Property where such accident, damage, or injury, including death, results, or is claimed to have resulted, from any act or omission on the part of Tenant or Tenant's agents or employees. This indemnity and hold harmless agreement shall include indemnity against all costs and expenses, including attorney's fees incurred in or in connection with any such claim or proceeding brought thereon and the defense thereof.

Tenant agrees to maintain in full force during the term hereof a policy of public liability insurance under which Tenant is named as insured, and containing an additional named insured endorsement naming Owner as an additional insured, and under which the insurer agrees to indemnify and hold Tenant and Owner harmless from and against all costs, expenses, and liability arising out of, or based upon, any and all property damage, or damages for personal injuries, including death, sustained in accidents occurring in or about the Property, where such accident, damage, or injury, including death, results, or is claimed to have resulted, from any act or omission on the part of Tenant, or Tenant's agents or employees. The minimum limits of such insurance shall be $1,000,000.00 (One Million Dollars). In addition to the additional named insured endorsement on Owner's policy of insurance, said insurance policy shall be endorsed to include the following language:

> "Insurance as is afforded by the endorsement for additional insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the coinsurance afforded by this endorsement."

To the maximum extent permitted by insurance policies which may be owned by Owner or Tenant, Owner and Tenant, for the benefit of each other, waive any and all rights of subrogation which might otherwise exist.

A duplicate or certificate of said public liability and property damage insurance policy containing the above-stated required endorsements shall be delivered to Owner within ten (10) days after the issuance and each renewal of said policy. This paragraph, and all other provisions of this Agreement, shall apply and be construed as applying to any subtenant of Tenant.

22. BANKRUPTCY, RECEIVERSHIP, AND INSOLVENCY: If Tenant should make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or be adjudicated bankrupt or insolvent, or permit a receiver to be appointed to take possession of a substantial portion of its assets or of the premises, and such bankruptcy, insolvency, or receivership proceeding shall not be dismissed within ninety (90) days, then Owner may, without notice or demand, terminate this Agreement and forthwith reenter and repossess the Property, and remove all persons therefrom, and under no circumstances shall this Agreement be assignable or transferable by operation of law.

23. ATTORNEY'S FEES: In case suit should be brought for recovery of the Property, or for any sum due hereunder, or because of any act which may arise out of the possession of the Property, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including a reasonable attorney's fee, the amount of which shall be determined by the court in such suit and added to and become a part of the judgment therein.

24. WAIVER: Failure of Owner to insist upon performance of any of the terms or conditions of this Agreement in any one or more instances shall in no event be construed as a waiver or a relinquishment of its right to future performance thereof, and Tenant's obligations to such future performance shall continue in full force and effect. The receipt by Owner of rent, with the knowledge of the breach of this Agreement or condition hereof, shall not be determined to be a waiver of any such breach.

25. NOTICES: Any notice which either party may or is required to give, shall be given by mailing the same, postage prepaid, to Tenant at the premises, or Owner at the address shown below, or at such other places as may be designated by the parties from time to time as provided herein.

OWNER:	**TENANT:**
Parks & Recreation Director City of Lodi P. O. Box 3006 Lodi, California 95241	P & K Fitness of Lodi LLC 5252 Bear Creek Road Lodi, California 95240

26. HOLDING OVER: If applicable under this Agreement, any holding over after the expiration of this Agreement, with the consent of Owner, shall be construed as a month-to-month tenancy at a rental of 110% of the most recent rental rate per month, otherwise in accordance with the terms hereof, as applicable.

27. TIME: Time is of the essence of this Rental Agreement.

28. HEIR, ASSIGNS, SUCCESSORS: This Rental Agreement is binding upon and inures to the benefit of the heirs, assigns and successors in interest to the parties.

29. TENTANT IMPROVEMENTS:

    a. Tenant Improvements. Tenant Improvements for Building shall be provided for and funded by The Tenant. Construction of Tenant Improvements shall commence upon issuance of a building permit by CITY. Title to all tenant improvements listed in this paragraph shall immediately vest in Owner. Tenant Improvements shall be constructed in similar form and content to The Plan attached to this Lease as and shall include, but not be limited to, the following components:

        i. Addition of a second bathroom and renovation of existing bathroom to meet current building code requirements, including but not limited to ADA compliance.

        ii. Tenant shall install interior improvements to bring the facility up to all current ADA accessibility standards.

    b. Construction Timeline. The parties anticipate that Tenant Improvements will be completed within three (3) months of the execution of this Lease, but in no event shall such improvements be completed later than April 30, 2011. Failure to complete construction of Tenant Improvements as set forth above shall be deemed a material breach of this Lease.

    c. Title to Improvements: Immediately upon completion of the Improvements Title thereto shall vest in City. All improvements shall be left in place upon the termination of this Agreement.

30. OWNER'S LIABILITY: The term "Owner" as used in this paragraph, shall mean only the owner of the real property. In the event of any transfer of such title or interest, the Owner

named herein (or the grantor in case of any subsequent transfers) shall be relieved of all liability related to Owner's obligations to be performed after such transfer. Provided, however, that any funds in the hands of Owner or Grantor at the time of such transfer shall be delivered to Grantee. Owner's aforesaid obligations shall be binding upon Owner's successors and assigns only during their respective periods of ownership.

31. ACCEPTANCE OF THE PROPERTY: Tenant has examined the Property knows the conditions thereof, and accepts possession thereof in its present condition.

32. CONTRACT: This written agreement constitutes the entire agreement between the Tenant and Owner, and no representation or agreement, whether oral or written, unless expressed herein, shall be binding on either Tenant or Owner.

IN WITNESS WHEREOF, Owner and Tenant have executed this Agreement on the date and year first above written.

"OWNER"

CITY OF LODI, a municipal corporation

_____
Konradt Bartlam
City Manager

ATTEST:

_____
Randi Johl
City Clerk

Dated:_____

APPROVED AS TO FORM:

_____
D. Stephen Schwabauer
City Attorney

"TENANT"

P & K Fitness of Lodi LLC

By_____

AGENDA ITEM C-09

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Authorize the City Manager to Amend the Rental Agreement Between the City of Lodi and P & K Fitness, for Use of 125 N. Stockton Street

MEETING DATE: September 19, 2012

PREPARED BY: City Manager

RECOMMENDED ACTION: Authorize the City Manager to amend the rental agreement between the City of Lodi and P & K Fitness for use of 125 N. Stockton Street.

BACKGROUND INFORMATION: The City of Lodi has owned the above-referenced property since 2000. The City previously rented the space to Jazzercise which terminated occupancy in 2009.

P&K Fitness (Crossfit) has rented the space for the past year. Crossfit is an alternative fitness concept which uses basic equipment and exercise strategies with personalized training.

The original term of the agreement was for three years with two two-year options. P&K made tenant improvements to the building including restroom and shower facilities. The lease rate was reduced for two years in order to off-set the cost of the improvements made to the building.

The tenants are now seeking an additional one year reduction in rent. The business is seeing slow, but steady growth. They have been a positive addition to the area and with vacancies around the site, staff is of the opinion that the request is warranted.

FISCAL IMPACT: Lease revenue for the Parks, Recreation and Cultural Services Department.

FUNDING AVAILABLE: Not applicable.

Konradt Bartlam
City Manager

Attachment: Rental Agreement
cc: City Attorney

APPROVED: _____
Konradt Bartlam, City Manager

FIRST AMENDED RENTAL AGREEMENT
111 N Stockton Street, Suite B
Lodi, California

THIS FIRST AMENDED RENTAL AGREEMENT, made and entered into this____ day of ~~March, 2010~~September 2012 by and between the CITY OF LODI, a municipal corporation, (hereinafter "Owner"), and P & K Fitness of Lodi, a California Limited Liability Company hereinafter ("Tenant"). The Parties entered into a rental agreement beginning March 17, 2011. This First Amendment is entered to extend the reduced rate rental period an additional twelve months.

W I T N E S S E T H :

1. PROPERTY: That for and in consideration of the rents to be paid, and the covenants to be faithfully kept and performed by Tenant, Tenant does hereby rent from Owner, the premises located at 111 N. Stockton Street, Suite B, Lodi, California and all improvements thereto (the "Property") for the operation of P & K Fitness of Lodi.

2. TERM: The term of this Agreement begins on March 17, 2011 ("Commencement Date") and shall continue until March 17, 2014. Tenant shall have two options to renew this agreement for consecutive two year terms on the terms set forth in this agreement and at the rates set forth in paragraph 3 of this agreement. Both options must be exercised in writing by tenant at least 90 days before the expiration of the then current term.

3. RENT: In consideration of this Agreement, Tenant agrees to pay to Owner as rent for the Property the sum amounts set forth below, due and payable by the 1st day of each month, commencing on March 17, 2010. A late charge of $60 may be assessed for any payment more than 10 days past due. Rental payments shall be directed to the City of Lodi, Attn: Parks & Recreation Department, 125 N. Stockton Street, Lodi, California, 95240, for processing and shall be paid without prior notice or demand to Tenant. Tenant acknowledges that the rent is prorated in acknowledgement of tenant supplied tenant improvements to the property set forth in Paragraph 29. Lease payments shall be waived until the completion of the tenant improvements called for in this Agreement. Lease payments shall be prorated for any partial month after the issuance of the final building permit.

   Months 0-~~24~~36: $1825.00/month
   ~~Months 24-36: $3650.00/month~~
   Months 36-60: $4015.00/month (First Option Period)
   Months 60-84: $4380.00/month (Second Option Period)

   The month number shall be measured from the initial lease date of March 17, 2011, not the date of this First Amended Rental Agreement.

4. USE/USE PROHIBITED: The property shall be used solely for the purpose of carrying on the business of P & K Fitness of Lodi. Tenant shall not use any portion of the Property for purposes other than those specified herein, and no use shall be made or permitted to be made upon the Property, nor acts done, which will increase the existing rate of insurance upon the Property, or cause cancellation of insurance policies covering the Property. Tenant shall not engage in any activities excluded from coverage under its insurance

policy on the Property. Tenant shall not conduct or permit any sale by auction on the Property.

5. ORDINANCES AND STATUES: It is further understood and agreed by Tenant that Tenant must comply with all present and future laws, ordinances, rules, and regulations promulgated by any governmental authority of competent jurisdiction regulating the type of business to be conducted ton the Property during the term of this Agreement and any extension thereof. Tenant shall use and occupy the Property in a quite, lawful, and orderly manner. The commencement of pendency of any state or federal court abatement proceeding affecting the use of the Property shall, at the option of the Owner, be deemed a breach hereof.

6. SIGNS: Owner reserves the exclusive right to the roof, side and rear walls of the Property. Tenant shall not construct any projecting sign or awning without prior written consent of Owner which consent shall not be unreasonably withheld. It is agreed that Tenant will post "Hours of Operation" signs on the doors of the Property. All signs and locations of signs must be approved by the City of Lodi Parks & Recreation Director. All costs associated with the purchase and installation of signs shall be the responsibility of Tenant.

7. ABANDONMENT OF PROPERTY: Tenant shall not vacate or abandon the Property at any time during the term hereof, and if Tenant shall abandon or vacate the Property, or be dispossessed by process of law, or otherwise, any personal property belonging to Tenant left upon the Property shall be deemed to be abandoned, at the option of Owner.

8. TRADE FIXTURES: Any and all improvements made to the Property during the term hereof shall belong to the Owner, except trade fixtures of the Tenant. Tenant may, upon termination hereof, remove all trade fixtures, but shall repair or pay Owner for all repairs caused by damage to the Property occasioned by the removal of such trade fixtures.

9. DESTRUCTION OF THE PROPERTY: In the event of a partial destruction of the Property during the term hereof, from any cause, Owner shall forthwith repair the same, provided that such repairs can be made within sixty (60) days under existing governmental laws and regulations, but such partial destruction shall not terminate this Agreement, except that Tenant shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs shall interfere with the business of Tenant on the Property. If such repairs cannot be made within sixty (60) days, Owner, at his option, may make the same within a reasonable time, this Agreement continuing in effect with the rent proportionately abated as aforesaid, and in the event that Owner shall not elect to make such repairs which cannot be made within sixty (60) days, this Agreement may be terminated at the option of either party.

   In the event that the building in which the Property may be situated is destroyed to an extent of not less than one-third of the replacement costs thereof, Owner may elect to terminate this Agreement whether the Property be injured or not. A total destruction of the building in which the Property may be situated shall terminate this Rental Agreement.

   In the event of any dispute between Owner and Tenant with respect to the provisions hereof, the matter shall be settled by arbitration in such a manner as the parties may agree upon, or if they cannot agree, in accordance with the rules of the American Arbitration Association.

10. INSOLVENCY: In the event a receiver is appointed to take over the business of Tenant, or in the event Tenant makes a general assignment for the benefit of creditors, or Tenant takes or suffers any action under any insolvency or bankruptcy act, the same shall constitute breach of this Agreement by Tenant.

11. REMEDIES OF OWNER ON DEFAULT: In the event of any breach of this Agreement by Tenant, Owner may, at its option, terminate this Agreement and recover from Tenant: (a) the worth at the time of award of the unpaid rent which was earned at the time of termination; (b) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of the award exceeds the amount of such rental loss that the Tenant proves could have been reasonably avoided; (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that Tenant proves could be reasonably avoided; and (d) any other amount necessary to compensate Owner for all detriment proximately caused by Tenant's failure to perform its obligations under this Agreement or which in the ordinary course of things would be likely to result therefrom.

    Owner may, in the alternative, continue this Agreement in effect, as long as Owner does not terminate Tenant's right to possession, and Owner may enforce all his rights and remedies under this Agreement, including the right to recover the rent as it becomes due under this Agreement. If such breach continues, Owner may, at any time thereafter, elect to terminate this Agreement.

    Nothing contained herein shall be deemed to limit any other rights or remedies which Owner may have.

12. RELATIONSHIP OF PARTIES: It is understood and agreed that the relationship between the parties is that of landlord and tenant and not as a party or agent of Owner. Tenant, shall carry Worker's Compensation Insurance and observe all laws and regulations applicable to employers in the State of California.

13. BUILDING MAINTENANCE: Building Maintenance (Janitorial Services) shall be the responsibility of Tenant.

14. ASSIGNMENT AND SUBLETTING: Tenant shall not assign this Agreement or sublet any portion of the Property without prior written consent of the Owner, which shall not be unreasonably withheld. Any such assignment or subletting without consent shall be void and, at the option of the Owner, may terminate this Agreement.

15. ENTRY AND INSPECTION: Tenant shall permit Owner or Owner's agents to enter upon the Property at reasonable times and upon reasonable notice, for the purpose of inspecting the same.

16. MAINTENANCE, REPAIRS, ALTERATIONS OR ADDITIONS: Tenant acknowledges that the Property is in good order and repair, unless otherwise indicated herein. Tenant shall, at his own expense and at all times, maintain the Property in good and safe condition, including plate glass, and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. Tenant shall be responsible for all repairs required, excepting the roof, exterior walls, structural foundations, and' common areas which shall be maintained by Owner. No repairs, alterations or additions to the

Property shall be made without prior written consent of Owner. Prior to the commencement of any substantial repair, improvement, or alteration, Tenant shall give Owner at least two (2) days written notice in order that Owner may post appropriate notices to avoid any liability for liens. Tenant shall not commit any waste upon the Property, or any nuisance or act which may disturb the quiet enjoyment of any tenant of Owner. Any concerns shall be submitted in writing to the Parks & Recreation Director, City of Lodi, P. O. Box 3006, Lodi, CA 95241.

17. SURRENDER OF PREMISES: Tenant shall, at the termination of the Agreement hereby created, or upon the earlier termination hereof for any reason, or upon the extension of the term herein set forth, quit and surrender the Property in good order, condition, and repair, reasonable wear and tear and acts of God or fire excepted.

18. FEES: Tenant shall pay all license fees, or other fees or taxes, including possessory interest taxes, levied by any governmental agency which may be imposed upon the business of Tenant or its subtenant conducted upon the Property.

    If any of the above charges are assessed against the Property, and because of said assessment, the Owner pays the same, the Owner will have the right to, regardless of the validity of any such levy, demand that Tenant repay to Owner all taxes and other assessments so levied against Owner.

19. UTILITIES: Owner agrees that it shall be responsible for the payment of all utilities, including water, wastewater, gas, and electricity. However, Tenant shall reimburse Owner’s gas and electricity costs that exceed $200.00 per month within 30 days of receiving an invoice from the City of Lodi. During the term of this Agreement, and any extension thereof, it is understood and agreed by the parties hereto that Tenant shall be responsible for the installation, maintenance and cost of any telephone lines that are required to operate its business, and solid waste removal, at no cost to Owner.

20. MECHANIC'S LIEN: Tenant agrees to keep the Property free from all liens and claims of mechanics, laborers, material suppliers, and others for work done, and material furnished, and Tenant shall not create, or suffer to be created, any lien or encumbrance on the Property.

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    Tenant agrees to indemnify, defend and save harmless Owner from and against all claims of whatever nature arising from any act, omission, or negligence of Tenant or Tenant's contractors, licensees, agents, servants, or employees, or arising from any accident, injury, or damage whatsoever caused any person, or to the Property of any person, occurring during the term thereof, in or about the Property where such accident, damage, or injury, including death, results, or is claimed to have resulted, from any act or omission on the part of Tenant or Tenant's agents or employees. This indemnity and hold harmless agreement shall include indemnity against all costs and expenses, including attorney's fees incurred in or in connection with any such claim or proceeding brought thereon and the defense thereof.

Tenant agrees to maintain in full force during the term hereof a policy of public liability insurance under which Tenant is named as insured, and containing an additional named insured endorsement naming Owner as an additional insured, and under which the insurer agrees to indemnify and hold Tenant and Owner harmless from and against all costs, expenses, and liability arising out of, or based upon, any and all property damage, or damages for personal injuries, including death, sustained in accidents occurring in or about the Property, where such accident, damage, or injury, including death, results, or is claimed to have resulted, from any act or omission on the part of Tenant, or Tenant's agents or employees. The minimum limits of such insurance shall be $1,000,000.00 (One Million Dollars). In addition to the additional named insured endorsement on Owner's policy of insurance, said insurance policy shall be endorsed to include the following language:

> "Insurance as is afforded by the endorsement for additional insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the coinsurance afforded by this endorsement."

To the maximum extent permitted by insurance policies which may be owned by Owner or Tenant, Owner and Tenant, for the benefit of each other, waive any and all rights of subrogation which might otherwise exist.

A duplicate or certificate of said public liability and property damage insurance policy containing the above-stated required endorsements shall be delivered to Owner within ten (10) days after the issuance and each renewal of said policy. This paragraph, and all other provisions of this Agreement, shall apply and be construed as applying to any subtenant of Tenant.

22. BANKRUPTCY, RECEIVERSHIP, AND INSOLVENCY: If Tenant should make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or be adjudicated bankrupt or insolvent, or permit a receiver to be appointed to take possession of a substantial portion of its assets or of the premises, and such bankruptcy, insolvency, or receivership proceeding shall not be dismissed within ninety (90) days, then Owner may, without notice or demand, terminate this Agreement and forthwith reenter and repossess the Property, and remove all persons therefrom, and under no circumstances shall this Agreement be assignable or transferable by operation of law.

23. ATTORNEY'S FEES: In case suit should be brought for recovery of the Property, or for any sum due hereunder, or because of any act which may arise out of the possession of the Property, by either party, the prevailing party shall be entitled to all costs incurred in connection with such action, including a reasonable attorney's fee, the amount of which shall be determined by the court in such suit and added to and become a part of the judgment therein.

24. WAIVER: Failure of Owner to insist upon performance of any of the terms or conditions of this Agreement in any one or more instances shall in no event be construed as a waiver or a relinquishment of its right to future performance thereof, and Tenant's obligations to such future performance shall continue in full force and effect. The receipt by Owner of rent, with the knowledge of the breach of this Agreement or condition hereof, shall not be determined to be a waiver of any such breach.

25. NOTICES: Any notice which either party may or is required to give, shall be given by mailing the same, postage prepaid, to Tenant at the premises, or Owner at the address shown below, or at such other places as may be designated by the parties from time to time as provided herein.

OWNER:	**TENANT:**
Parks & Recreation Director City of Lodi P. O. Box 3006 Lodi, California 95241	P & K Fitness of Lodi LLC 5252 Bear Creek Road Lodi, California 95240

26. HOLDING OVER: If applicable under this Agreement, any holding over after the expiration of this Agreement, with the consent of Owner, shall be construed as a month-to-month tenancy at a rental of 110% of the most recent rental rate per month, otherwise in accordance with the terms hereof, as applicable.

27. TIME: Time is of the essence of this Rental Agreement.

28. HEIR, ASSIGNS, SUCCESSORS: This Rental Agreement is binding upon and inures to the benefit of the heirs, assigns and successors in interest to the parties.

29. TENTANT IMPROVEMENTS:

    a. Tenant Improvements. Tenant Improvements for Building shall be provided for and funded by The Tenant. Construction of Tenant Improvements shall commence upon issuance of a building permit by CITY. Title to all tenant improvements listed in this paragraph shall immediately vest in Owner. Tenant Improvements shall be constructed in similar form and content to The Plan attached to this Lease as and shall include, but not be limited to, the following components:

        i. Addition of a second bathroom and renovation of existing bathroom to meet current building code requirements, including but not limited to ADA compliance.

        ii. Tenant shall install interior improvements to bring the facility up to all current ADA accessibility standards.

    b. Construction Timeline. The parties anticipate that Tenant Improvements will be completed within three (3) months of the execution of this Lease, but in no event shall such improvements be completed later than April 30, 2011. Failure to complete construction of Tenant Improvements as set forth above shall be deemed a material breach of this Lease.

    c. Title to Improvements: Immediately upon completion of the Improvements Title thereto shall vest in City. All improvements shall be left in place upon the termination of this Agreement.

30. OWNER'S LIABILITY: The term "Owner" as used in this paragraph, shall mean only the owner of the real property. In the event of any transfer of such title or interest, the Owner

named herein (or the grantor in case of any subsequent transfers) shall be relieved of all liability related to Owner's obligations to be performed after such transfer. Provided, however, that any funds in the hands of Owner or Grantor at the time of such transfer shall be delivered to Grantee. Owner's aforesaid obligations shall be binding upon Owner's successors and assigns only during their respective periods of ownership.

31. ACCEPTANCE OF THE PROPERTY: Tenant has examined the Property knows the conditions thereof, and accepts possession thereof in its present condition.

32. CONTRACT: This written agreement constitutes the entire agreement between the Tenant and Owner, and no representation or agreement, whether oral or written, unless expressed herein, shall be binding on either Tenant or Owner.

IN WITNESS WHEREOF, Owner and Tenant have executed this Agreement on the date and year first above written.

"OWNER"

CITY OF LODI, a municipal corporation

_____
Konradt Bartlam
City Manager

ATTEST:

_____
Randi Johl
City Clerk

Dated:_____

APPROVED AS TO FORM:

_____
D. Stephen Schwabauer
City Attorney

"TENANT"

P & K Fitness of Lodi LLC

By_____

AGENDA ITEM C-10

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving Art in Public Places Funding for Traffic Control Box Art Project and Appropriating Funds ($500)

MEETING DATE: September 19, 2012

PREPARED BY: Parks, Recreation and Cultural Services Interim Director

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RECOMMENDED ACTION: Adopt resolution approving Art in Public Places funding for traffic control box art project and appropriating funds in the amount of $500.

BACKGROUND INFORMATION: The Art Advisory Board seeks ways to bring art to the public through the Art in Public Places Fund, which is funded by the development impact mitigation fee program.

Utility boxes are used for public artwork in some other California cities, such as Santa Cruz and San Jose. In March, the Board discussed opportunities to decorate Lodi's utility boxes in a similar fashion. Transportation Manager Paula Fernandez attended the group's May meeting and endorsed the idea of using traffic control boxes as canvases for public art. The Board voted at that meeting to approve using AiPP funds for that purpose.

Examples of painted utility boxes are attached.

Five sites have been selected for the first phase of the art project. They are the traffic control boxes at the corners of:

- Mills and Turner roads
- Lower Sacramento Road and Lodi Avenue
- Pine Street and Cherokee Lane
- Hale Road and Cherokee Lane
- Costco corner at Harney Lane and Reynolds Ranch Parkway

Electric Utility boxes containing switches or padmount transformers are not suitable for this project because they require a special non-conductive paint for safety purposes.

A call to artists will take place following City Council approval. Submitted designs will be reviewed and selected by the Art Advisory Board. Each design group will be given up to $100 for painting supplies.

FISCAL IMPACT: Not to exceed $500.

FUNDING AVAILABLE: $168,000 as of June 30, 2012 in acct. 01214.

_____
Jordan Ayers, Deputy City Manager

APPROVED: _____
Konradt Bartlam, City Manager

JEFF HOOD
Parks, Recreation and Cultural Services Interim Director

JH/dkb

Attachments

Four Season's Trout
Beth Bramhall
Orange/Front/Main
Paint (Autumn 2009)

Missoula is Magical
Jill Logan
Broadway & Higgins
Paint (Autumn 2009)

Lunch on the Grass
Courtney Blazon
Broadway & Ryman
Vinyl (Autumn 2009)

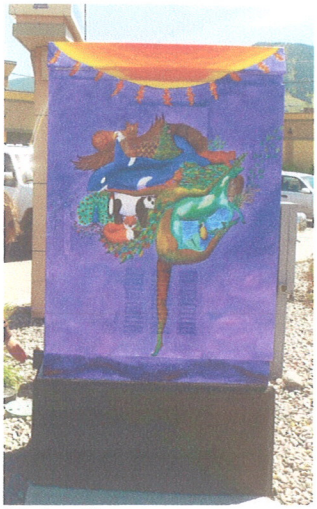
The Old Train Station
Richard Scott Morgan
Higgins & 4th
Paint (Autumn 2009)

Popcorn
Paula Goldberg
Broadway &Mullan
Paint (Autumn 2009)

Bronc Rider's Dance
William Burwick
Brooks & South/Russell
Vinyl (Autumn 2009)

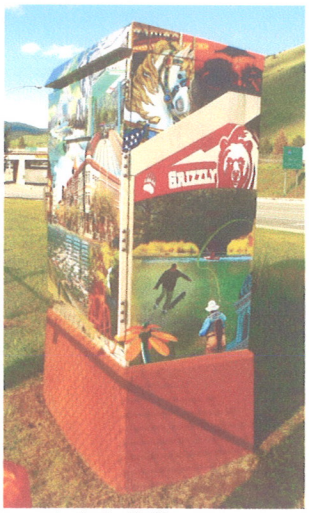
A Fine & Pleasant Day
Bev Glueckert
Orange & Spruce
Paint (Spring 2010)

Missoula Waterways
Laurie Lane
Broadway & Scott
Vinyl (Spring 2010)



Mother Nature
Jill Logan
Brooks/Oxford/Sussex
Paint (Spring 2010)

Alternative Transportation
Josh Quick
Broadway & Toole
Vinyl (Spring 2010)



Artist's Collage
Nelson Kenter
Broadway & Van Buren
Vinyl (Spring 2010)

Parfleche
Molly Murphy
Broadway & Madison
Paint (Spring 2010)

Bright Morning
Stoney Sasser
Reserve & 3rd
Paint (Spring 2010)

Our Community-Missoula
Josh Quick
Higgins & 5th
Vinyl (Spring 2010)

Skateboarding
Athena Lonsdale
Orange & 3rd
Vinyl (Spring 2010)

Missoula – The Garden City
Christy Greene
Brooks & Reserve
Vinyl (Fall 2010)

Busy Bodies
M. Scott Miller
Brooks & Southgate Mall
Paint (Fall 2010)

A Perspective on Trees
Kip Herring
Stephens & Mount
Paint (Fall 2010)

Osprey Surfing the River
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Rebecca Weed
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Biking to Missoula

Greg Siple
Higgins & Spruce
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Digital Organics: An Exploration of Earth's Wildlife
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Fancy Elk
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Long May the Wilderness Be Be Wild
Kip Sikora
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Iris in the Spring
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Untitled
Max Mahn
39th / Stephens / High Park
Vinyl (Spring 2011)

A Quilted Heritage
Missoula Electric Quilters
South & Johnson
Vinyl (Spring 2011)

Missoula Quilted
Missoula Electric Quilters
Higgins & 6th
Vinyl (Spring 2011)

1. AA# _____
2. JV# _____

CITY OF LODI
APPROPRIATION ADJUSTMENT REQUEST

TO:	Internal Services Dept. - Budget Division		
3. FROM:	**PRCS Interim Director**	5. DATE:	**9/6/12**
4. DEPARTMENT/DIVISION:	**Parks, Recreation & Cultural Services**		

6. REQUEST ADJUSTMENT OF APPROPRIATION AS LISTED BELOW

	FUND #	BUS. UNIT #	ACCOUNT #	ACCOUNT TITLE	AMOUNT
A. SOURCE OF FINANCING	**1214**		**3205**	**Fund Balance**	**$ 500.00**
B. USE OF FINANCING	**1214**	**1214016**	**1836.2300**	**Traffic Control Box Art Project**	**$ 500.00**

7. REQUEST IS MADE TO FUND THE FOLLOWING PROJECT NOT INCLUDED IN THE CURRENT BUDGET

Please provide a description of the project, the total cost of the project, as well as justification for the requested adjustment. If you need more space, use an additional sheet and attach to this form.

At the recommendation of the Art Advisory Board, Art in Public Places funds will be used to paint five traffic control boxes at various locations in the City as recommended by the Transportation Manager. The budget is $100 for paint/supplies per box. The Art Advisory Board will issue a call to artists following City Council appropriation.

If Council has authorized the appropriation adjustment, complete the following:

Meeting Date: _____ Res No: _____ Attach copy of resolution to this form.

Department Head Signature: _____

8. APPROVAL SIGNATURES

Deputy City Manager/Internal Services Manager Date

Submit completed form to the Budget Division with any required documentation.
Final approval will be provided in electronic copy format.

RESOLUTION NO. 2012-____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING ART IN PUBLIC PLACES FUNDING FOR
TRAFFIC CONTROL BOX ART PROJECT ($500) AS
RECOMMENDED BY THE ART ADVISORY BOARD

==========

WHEREAS**,** public displays of art enhance a community and improve the quality of life for its residents; and

WHEREAS, the Art in Public Places Fund is funded through development impact fees and not General Fund dollars; and

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council that $500 is hereby appropriated from the Art in Public Places Fund to fund the traffic control box art project.

Dated: September 19, 2012
==========

I hereby certify that Resolution No. 2012-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 19, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

AGENDA ITEM C-10

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving Art in Public Places Funding for Traffic Control Box Art Project and Appropriating Funds ($500)

MEETING DATE: September 19, 2012

PREPARED BY: Parks, Recreation and Cultural Services Interim Director

---

RECOMMENDED ACTION: Adopt resolution approving Art in Public Places funding for traffic control box art project and appropriating funds in the amount of $500.

BACKGROUND INFORMATION: The Art Advisory Board seeks ways to bring art to the public through the Art in Public Places Fund, which is funded by the development impact mitigation fee program.

Utility boxes are used for public artwork in some other California cities, such as Santa Cruz and San Jose. In March, the Board discussed opportunities to decorate Lodi's utility boxes in a similar fashion. Transportation Manager Paula Fernandez attended the group's May meeting and endorsed the idea of using traffic control boxes as canvases for public art. The Board voted at that meeting to approve using AiPP funds for that purpose.

Examples of painted utility boxes are attached.

Five sites have been selected for the first phase of the art project. They are the traffic control boxes at the corners of:

- Mills and Turner roads
- Lower Sacramento Road and Lodi Avenue
- Pine Street and Cherokee Lane
- Hale Road and Cherokee Lane
- Costco corner at Harney Lane and Reynolds Ranch Parkway

Electric Utility boxes containing switches or padmount transformers are not suitable for this project because they require a special non-conductive paint for safety purposes.

A call to artists will take place following City Council approval. Submitted designs will be reviewed and selected by the Art Advisory Board. Each design group will be given up to $100 for painting supplies.

FISCAL IMPACT: Not to exceed $500.

FUNDING AVAILABLE: $168,000 as of June 30, 2012 in acct. 01214.

_____
Jordan Ayers, Deputy City Manager

APPROVED: _____
Konradt Bartlam, City Manager

JEFF HOOD
Parks, Recreation and Cultural Services Interim Director

JH/dkb

Attachments

Four Season's Trout
Beth Bramhall
Orange/Front/Main
Paint (Autumn 2009)

Missoula is Magical
Jill Logan
Broadway & Higgins
Paint (Autumn 2009)

Lunch on the Grass
Courtney Blazon
Broadway & Ryman
Vinyl (Autumn 2009)

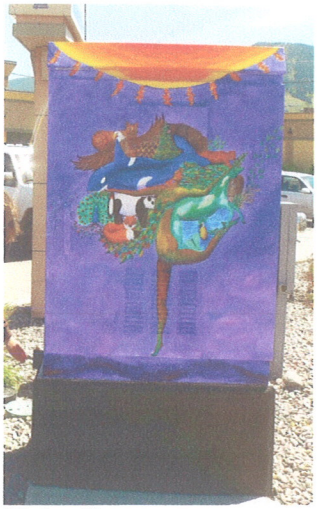
The Old Train Station
Richard Scott Morgan
Higgins & 4th
Paint (Autumn 2009)

Popcorn
Paula Goldberg
Broadway &Mullan
Paint (Autumn 2009)

Bronc Rider's Dance
William Burwick
Brooks & South/Russell
Vinyl (Autumn 2009)

A Fine & Pleasant Day
Bev Glueckert
Orange & Spruce
Paint (Spring 2010)

Missoula Waterways
Laurie Lane
Broadway & Scott
Vinyl (Spring 2010)



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Josh Quick
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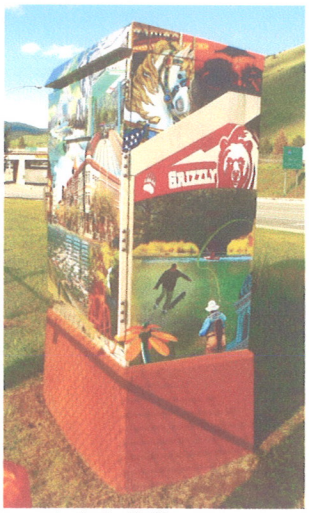

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Broadway & Van Buren
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Bright Morning
Stoney Sasser
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Rebecca Weed
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Missoula Quilted
Missoula Electric Quilters
Higgins & 6th
Vinyl (Spring 2011)

1. AA# _____
2. JV# _____

CITY OF LODI
APPROPRIATION ADJUSTMENT REQUEST

TO:	Internal Services Dept. - Budget Division		
3. FROM:	**PRCS Interim Director**	5. DATE:	**9/6/12**
4. DEPARTMENT/DIVISION:	**Parks, Recreation & Cultural Services**		

6. REQUEST ADJUSTMENT OF APPROPRIATION AS LISTED BELOW

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If Council has authorized the appropriation adjustment, complete the following:

Meeting Date: _____ Res No: _____ Attach copy of resolution to this form.

Department Head Signature: _____

8. APPROVAL SIGNATURES

Deputy City Manager/Internal Services Manager Date

Submit completed form to the Budget Division with any required documentation.
Final approval will be provided in electronic copy format.

RESOLUTION NO. 2012-____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING ART IN PUBLIC PLACES FUNDING FOR
TRAFFIC CONTROL BOX ART PROJECT ($500) AS
RECOMMENDED BY THE ART ADVISORY BOARD

==========

WHEREAS**,** public displays of art enhance a community and improve the quality of life for its residents; and

WHEREAS, the Art in Public Places Fund is funded through development impact fees and not General Fund dollars; and

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council that $500 is hereby appropriated from the Art in Public Places Fund to fund the traffic control box art project.

Dated: September 19, 2012
==========

I hereby certify that Resolution No. 2012-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 19, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

AGENDA ITEM C-11

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution to Grant Designated Period for Two Years Additional Service Credit

MEETING DATE: September 19, 2012

PREPARED BY: Human Resources Manager

RECOMMENDED ACTION: Adopt resolution to grant designated period for two years additional service credit.

BACKGROUND INFORMATION: The anticipated need to further reduce City spending in FY 2012/13 has necessitated the City explore additional options to reduce staffing. 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 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 September 20, 2012 and go through March 17, 2013 for eligible Miscellaneous members.

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 2013/2014. 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 $400,000 annually in salary and benefits.

FUNDING AVAILABLE: Not applicable.

_____
Dean Gualco,
Human Resources Manager

_____
Jordan Ayers, Deputy City Manager/
Internal Services Director

APPROVED: _____
Konradt Bartlam, City Manager

RESOLUTION NO. 2012-____

A RESOLUTION OF THE LODI CITY COUNCIL
GRANTING DESIGNATED 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 September 19, 2012 through March 17, 2013 for eligible members in the following classifications:

Classification	**Department**
Administrative Secretary	Fire
Electrical Technician	Electric Utility
Library Services Manager	Library
Parks Maintenance Worker III	Park, Recreation & Cultural Services

Date: September 19, 2012

==========

I hereby certify that Resolution No. 2012-____ was passed and adopted by the Lodi City Council in a regular meeting held September 19, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

AGENDA ITEM C-12

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Receive Report Regarding League of California Cities Communications Pertaining to Various Requests for Signature and Veto of Legislation

MEETING DATE: September 19, 2012

PREPARED BY: City Clerk

RECOMMENDED ACTION: Receive report regarding League of California Cities (League) communications pertaining to various requests for signature and veto of legislation.

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BACKGROUND INFORMATION: The City received a request for communications from the League pertaining to various pieces of legislation submitted to the Governor for signature and veto. The requests for signature and veto, signed by the Mayor, were sent out immediately as the legislation was being considered by the Governor upon receipt of the request. A brief description of each piece of legislation is provided in the attached email.

The letters were sent out as requested on September 12, 2012 and this report is provided for informational purposes only.

FISCAL IMPACT: None.

FUNDING AVAILABLE: Not applicable.

Randi Johl
City Clerk

APPROVED: _____
Konradt Bartlam, City Manager

Randi Johl

From: Randi Johl
Sent: Wednesday, September 12, 2012 09:23 AM
To: Randi Johl
Subject: FW: URGENT: CALL TO ACTION: SIGNATURE AND VETO REQUESTS

Importance: High

Attachments: AB 2366 Request for Signature Sample Letter.docx; AB 2451 Veto Request Sample Letter.doc; SB 214 Request for Signature Sample Letter.docx; SB 965 Request for Signature Sample Letter.doc; AB 1098 Request for Signature Sample Letter.docx; AB 2298 Veto Request Sample Letter.docx; Signature and Veto Requests Action Alert.docx; AB 2031 Veto Request Sample Letter.docx

AB 2366 Request for Signature ... | AB 2451 Veto Request Sample Le.. | SB 214 Request for Signature S... | SB 965 Request for Signature S... | AB 1098 Request for Signature ... | AB 2298 Veto Request Sample Le.. | Signature and Veto Requests Ac... | AB 2031 Veto Request Sample Le..

Subject: URGENT: CALL TO ACTION: SIGNATURE AND VETO REQUESTS
Importance: High

Below please find a message from the League regarding bills that our legislative staff are requesting that cities send sign and vetoes letters to the Governor.

League staff has prepared sample letters for your city to sign and FAX to the Governor.

Please notify me when you fax the letters.

Thank you,

Stephen Qualls
Central Valley Regional Public Affairs Manager
League of California Cities

209-614-0118
Fax 209-883-0653
squalls@cacities.org<mailto:squalls@cacities.org>

To expand and protect local control for cities through education and advocacy in order to enhance the quality of life for all Californians.

<http://www.cacities.org/AC>

PLEASE DO NOT distribute political campaign advocacy information from public (city hall) computers, on city time, or using public resources, even if it's from your personal email account. If in doubt, check with your city attorney.

DisclaimerPlease Note: Please take the following precautions if this email is about a CITIPAC event. Though it is not illegal for you to receive this notice via a city e-mail address, you should not respond to it or forward it using public resources. You may however forward this message to your non-public e-mail account for distribution on non-public time. If you have questions about the event or need additional information, please contact Mike Egan at (916) 658-8271 or egan@cacities.org

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From: Samantha Caygill
Sent: Tuesday, September 11, 2012 2:08 PM
To: #Regional Reps
Cc: Bismarck Obando; #Legislative Representatives; Eva Spiegel; Emily Cole; Adrienne Sprenger
Subject: CALL TO ACTION: SIGNATURE AND VETO REQUESTS

ACTION ALERT!!

SIGNATURE AND VETO REQUESTS

The legislature wrapped up its 2011/12 session on Friday, August 31 and sent a number of bills to Governor Brown. The League of California Cities has identified the priority bills, and asks that cities not delay in sending signature and veto request letters. Please find brief descriptions below and sample letters for each attached.

A full list of sign and veto requests can be found here<http://www.cacities.org/Top/News/News-Articles/2012/September/Bills-on-the-Governor's-Desk>; however, the below list reflects those bills that would benefit from a higher volume of letters.

ACTION
Send faxed signature and veto request letters to Governor Jerry Brown as soon as possible (sample letters included): 916-558-3177.

SIGNATURE REQUESTS

SB 214 (Wolk) Infrastructure Financing Districts: Voter Approval: Repeal. This bill would remove the existing vote thresholds, authorizes rehabilitation and maintenance, and makes numerous other changes focused on making the tool more flexible. The author amended the bill to incorporate many amendments proposed by the League designed to make the bill more workable.

SB 965 (Wright) State and Local Government. This bill would clarify that there is no prohibition on ex parte communications between members of the State Water Resources Control Board or the California Regional Water Quality Control Boards and the regulated community in connection with specific permit proceedings, including those involving the issuance or modification of general stormwater permits. The legislation will help cities communicate with water boards as permits are in development.

AB 2366 (Eng) Vehicles: Equipment Violations: Parking Control Officers. This bill would update the state Vehicle Code related to "fix it" tickets making the basis for a penalty fine dependent on the type of violation instead of the type of issuing officer. AB 2366 would increase the penalty fine associated with a "fix it" ticket from $10 to $25 dollars when issued by a parking enforcement officer.

AB 1098 (Carter) Vehicle License Fees: Allocation. This bill would restore critical vehicle license fee (VLF) revenue to cities that have recently incorporated or annexed inhabited lands. AB 1098 does not restore all VLF funds swept under SB 89 (2011), but will restore funds for newly incorporated cities and cities with annexed inhabited lands. Cities considering annexation of inhabited areas should also support this legislation.

VETO REQUESTS

AB 2451 (Pérez) Workers' Compensation: Firefighters. This bill would dramatically increase workers' compensation costs for local governments by doubling the four-and-a-half year statute of limitations for specified death benefit claims for firefighters and peace officers.

AB 2298 (Solorio) Insurance: Public Safety Employees: Accidents. This bill would exempt certain public safety officers from a requirement to report accidents that occur in a personal vehicle to a personal insurance provider and instead report those accidents to the employer. This bill unnecessarily shifts the liability for automobile accidents from the employee to the employer.

AB 2031 (Fuentes) Probation: Community Corrections Program. This bill would expand membership on the local Community Corrections Partnerships and state Board of State and Community Corrections to include duplicative county sheriff and probation and social services representatives, further diluting the voice of cities.

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

CITY OF LODI

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

KONRADT BARTLAM,
City Manager
RANDI JOHL, City Clerk
D. STEPHEN SCHWABAUER
City Attorney

September 12, 2012

The Honorable Edmund G. Brown, Jr.
Governor, State of California
State Capitol Building, First Floor
Sacramento California 95814
Via Facsimile: 916-558-3177

SUBJECT: AB 2031 (Fuentes). Probation. Community Corrections Partnerships.
REQUEST FOR VETO

Dear Governor Brown:

The City of Lodi respectfully requests that you veto Assembly Bill 2031 (Fuentes) that would change the membership of the Community Corrections Partnership (CCP) and its executive committee as well as the Board of State and Community Corrections (BSCC). It is too early in the process to make changes to these important local and state bodies that will guide the 2011 Public Safety Realignment. In addition, it will further skew the membership against city representatives, which currently have one seat through an appointed police chief on each local CCP and the state BSCC.

AB 2031 would add additional positions to the existing CCPs and Board membership to include various rank-and-file members of county probation and sheriffs' departments as well as social service providers. The composition of these oversight bodies may need to be adjusted in the future. However, if the membership is opened up for new or different members, all interest groups should be included and not only the narrow focus of one interest.

The success of the 2011 Public Safety Realignment relies on strong partnerships between state and local agencies. Unfortunately, this measure would make hasty changes to the recently formed oversight bodies. For these reasons, we oppose AB 2031 and respectfully request a veto on this premature effort. Thank you for your consideration.

Sincerely,

JoAnne Mounce

JoAnne Mounce
Mayor

C: June Clark, Office of the Governor (916-558-3177)
Dan Carrigg, Legislative Director, League of California Cities (916-658-8240)

CITY COUNCIL
JOANNE MOUNCE, Mayor
ALAN NAKANISHI,
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City Attorney

September 12, 2012

The Honorable Edmund G. Brown, Jr.
Governor, State of California
State Capitol Building, First Floor
Sacramento California 95814
Via Facsimile: 916-558-3177

SUBJECT: Request for Signature of AB 1098 (Carter) VLF Allocation

Dear Governor Brown:

The City Lodi respectfully requests your signature on AB 1098.

This measure would rectify a critical problem affecting several of the state's recently incorporated cities and cities that annexed inhabited areas based on existing state policies.

In brief, this measure would allocate approximately $18 million to several incorporated cities and cities with inhabited annexations. These communities were severely impacted by the loss of these revenues when SB 89 of 2011 passed without due process or transparency. Absent AB 1098, some of these cities will likely face disincorporation.

These funds are available because the new $12 fee imposed by SB 89 is expected to generate approximately $355 million, leaving more than enough revenue to accomplish the goals of this measure without having a negative impact on Department of Motor Vehicles administration.

To avoid additional harm to newly incorporated communities and cities with annexations, and in recognition of how this measure supports established state policies, the City of Lodi respectfully requests your Signature on AB 1098.

Sincerely,

JoAnne Mounce

JoAnne Mounce
Mayor

C: Dan Carrigg, Legislative Representative, League of California Cities (916-658-8240)
Camille Wagner, Deputy Legislative Secretary, Office of Governor (916-558-3177)

CITY COUNCIL
JOANNE MOUNCE, Mayor
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KONRADT BARTLAM,
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D. STEPHEN SCHWABAUER
City Attorney

September 12, 2012

The Honorable Edmund G. Brown, Jr.
Governor, State of California
State Capitol Building, First Floor
Sacramento California 95814
Via Facsimile: 916-558-3177

SUBJECT: SENATE BILL 965 SIGNATURE REQUEST

Dear Governor Brown:

The City of Lodi requests your signature on SB 965 which will clarify there is no prohibition on *ex parte* communications between members of the State Water Resources Control Board or the California regional water quality boards (State Water Boards) and the regulated community in connection with specified permit proceedings, including those involving the issuance or modification of general storm water permits.

The clarification provided by this legislation is essential to remove a formidable obstacle that prevents the effective exchange of information between the Board and our organization. The challenges presented by the current format are detrimental to the effort to protect the waters of the State and the fiscal health of municipalities, water agencies and businesses throughout the State.

We have found the challenges created by the prohibition on *ex parte* communication rules to be counterproductive to our efforts of working with the Board in the development of effective and efficient solutions for meeting the increasing demands of the Clean Water Act and the stormwater permits.

For these reasons and to further the goal of creating a process that is efficient and produces effective outcomes, the City of Lodi supports SB 965.

Sincerely,

JoAnne Mounce

JoAnne Mounce
Mayor

C: Kyra Ross, Legislative Representative, League of California Cities (916-658-8240)
Senator Rod Wright (916-445-3712)

CITY COUNCIL
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City Manager
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September 12, 2012

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State Capitol Building, First Floor
Sacramento California 95814
Via Facsimile: 916-558-3177

SUBJECT: AB 2451 (Pérez, John A.): Workers' Compensation: Firefighters and Peace Officers – REQUEST FOR VETO

Dear Governor Brown,

The City of Lodi respectfully requests that you veto AB 2451 by Assembly Speaker John A. Pérez. AB 2451 would extend the statute of limitations from 240 weeks to 480 weeks for a presumptive death benefit claim for cancer, tuberculosis, or MRSA to be filed on behalf of a firefighter or peace officer.

Under current law, death benefit claims for workers' compensation are to be commenced within one year of: the date of death when death occurs within one year from the date of injury; the date of the last furnishing of workers' compensation benefits when death occurs more than one year from the date of injury; or, the date of death when death occurs more than one year after the date of injury and workers' compensation benefits have been furnished. Current law additionally requires that no claims may commence unless the death has occurred within 240 weeks of the date of injury, with few exceptions.

While the August 20, 2012 amendments significantly narrow the bill's scope, it still doubles the statute of limitations for specific presumptive injuries. This increased benefit will impose additional costs on public employers at a time when we can least afford it and when we are struggling to provide the most basic services.

Additionally, we believe that AB 2451 erodes the original intent of the Workers' Compensation Act and subsequent reforms to the system enacted in 2004, designed to provide fair and timely benefits to injured employees at a reasonable cost to employers.

For these reasons, the City of Lodi requests that you veto AB 2451.

Sincerely,

JoAnne Mounce

JoAnne Mounce
Mayor

C: Speaker Pérez (916-319-2146)
Natasha Karl, Legislative Representative, League of California Cities (916-658-8240)

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

CITY OF LODI

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

KONRADT BARTLAM,
City Manager
RANDI JOHL, City Clerk
D. STEPHEN SCHWABAUER
City Attorney

September 12, 2012

The Honorable Edmund G. Brown, Jr.
Governor, State of California
State Capitol Building, First Floor
Sacramento California 95814
Via Facsimile: 916-558-3177

SUBJECT: AB 2366 (Eng) Equipment Violations: Parking Control Officers
REQUEST FOR SIGNATURE

Dear Governor Brown:

The City of Lodi respectfully requests your signature on Assembly Bill 2366 (Eng), which makes an important change to the state Vehicle Code related to "fix it" tickets.

AB 2366 would increase the penalty associated with a "fix it" ticket from $10 to $25 dollars per citation when issued by a parking enforcement officer, an authority they currently have as part of their duties. The current $10 penalty was set over 18 years ago and has not been adjusted since. In comparison, when a peace officer issues a "fix it" ticket, it already carries the $25 dollar fine.

Local jurisdictions have reported that this is one of many citations where the associated fine does not cover the actual cost of issuing that citation. These types of tickets help to ensure vehicle owners correct vehicle registration and obvious safety problems, such as a broken taillight. Police officers issue "fix it" tickets to bring vehicles up to standards that are important for the safety of drivers and other motorists. If the penalty remains at $10, cities will have a disincentive to issue the "fix it" tickets and vehicles operating in potentially hazardous condition could remain unchecked.

We believe that a penalty fine should be based on the violation, not the title of the issuing officer. Therefore, the City of Lodi supports AB 2366 and respectfully requests that you sign this measure.

Sincerely,

JoAnne Mounce

JoAnne Mounce
Mayor

C: The Honorable Mike Eng (916-319-2149)
Brian Putler, Deputy Legislative Secretary, Office of Governor (916-558-3177)
Dan Carrigg, Legislative Director, League of California Cities (916-658-8240)

CITY COUNCIL
JOANNE MOUNCE, Mayor
ALAN NAKANISHI,
Mayor Pro Tempore
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September 12, 2012

The Honorable Edmund G. Brown, Jr.
Governor, State of California
State Capitol Building, First Floor
Sacramento California 95814
Via Facsimile: 916-558-3177

SUBJECT: AB 2298 (SOLORIO) INSURANCE: PUBLIC SAFETY EMPLOYEES: ACCIDENTS. REQUEST FOR VETO

Dear Governor Brown:

The City of Lodi respectfully requests that you veto Assembly Bill (AB) 2298 by Assembly Member Solorio, which proposes to exempt certain public safety officers from a requirement to report accidents that occur in a personal vehicle to a personal insurance provider and instead report those accidents to the employer. The amended language is nearly identical to AB 1551 (Torres) which was opposed by the League.

AB 2298 shifts liability for accidents involving personal vehicles from individuals to public employers (cities, counties, and the state). If enacted, employers of public safety personnel will face increased liability for employees who drive their personal vehicles for work purposes which will increase employers' insurance costs and already covered by mileage reimbursement rates.

When employees use their personal vehicles for work purposes they are typically reimbursed at the Internal Revenue Service (IRS) established mileage rates or, in some cases, mileage rates that are negotiated with their employer. According to IRS guidelines, the standard mileage rate for business is based on an annual study of the "fixed and variable costs" of operating an automobile, which includes depreciation or lease payments, insurance, registration and license fees and personal property taxes.

Local jurisdictions have adopted policies and memoranda of understanding to address liability for accidents involving personal vehicles. These policies best reflect local priorities and circumstances. Some municipal employers have specifically negotiated this issue in their contracts with employees, others have adopted employment policies that state if a personal vehicle is used then personal insurance is primary with the employer's coverage as the excess provider. AB 2298's one-size-fits-all solution is unnecessary. If represented employees believe there is a problem, the local bargaining table is the appropriate place to address it.

Moreover, what is perhaps most troubling is the complete shift of indemnification and financial responsibility to the employer regardless of a driver's fault. The bill does not provide any exception to liability when the driver may have been driver negligently. It is terribly unreasonable to require public agencies to bear all responsibility in such cases.

For these reasons, the City of Lodi opposes AB 2298 and requests that you veto this bill.

Sincerely,

JoAnne Mounce

JoAnne Mounce
Mayor

C: Assembly Member Solorio (916-319-2069)
Natasha Karl, Legislative Representative, League of California Cities (916-658-8240)

AGENDA ITEM_C-13

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Set a Public Hearing for October 3, 2012, to Consider Adopting a Resolution Approving the Planning Commission's Recommendation for 2012 Growth Management Allocations to Permit and Construct 12 Residential Units at 2110 Tienda Drive

MEETING DATE: September 19, 2012

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Set a Public Hearing for October 3, 2012, to Consider Adopting a Resolution Approving the Planning Commission's Recommendation for 2012 Growth Management Allocations to Permit and Construct 12 Residential Units at 2110 Tienda Drive.

BACKGROUND INFORMATION: As part of the City's Growth Management program, the Planning Commission reviews the requests that have been submitted to the City. Following a public hearing, the Commission makes a recommendation for City Council consideration.

Staff received only one application requesting 2012 Growth Management Allocations. The application was submitted by Mr. John Giannoni for 12 medium density residential units on .81-acre parcel located at 2110 Tienda Drive. On August 8, 2012, the Planning Commission held a public hearing regarding the 2012 Residential Growth Management Development Plan review and Allocations.

The Commission received a staff report; heard the staff presentation; asked questions of staff as well as the applicant, and the general public; heard public testimony in support and in opposition to the application; closed the public hearing, and voted 4-2, with one Commissioner absent, to recommend the City Council approve the applicant's request for 12 medium density growth management allocation units (12-GM-01). If approved, the applicant must submit a development plan for review and approval by the Planning Commission.

FISCAL IMPACT: Not applicable

FUNDING AVAILABLE: Not applicable

_____
Konradt Bartlam
Community Development Director

KB/IB

J:\Community Development\Council Communications\2012\9-19 Set PH Giannoni GM Allocations.doc

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APPROVED: _____
Konradt Bartlam, City Manager

AGENDA ITEM C-14

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Set Public Hearing for October 3, 2012, to Consider Introducing Ordinance Terminating Reynolds Ranch Development Agreement with San Joaquin Valley Land Company, LLC

MEETING DATE: September 19, 2012

PREPARED BY: City Manager

RECOMMENDED ACTION: Set public hearing for October 3, 2012, to consider introducing ordinance terminating Reynolds Ranch Development Agreement with San Joaquin Valley Land Company, LLC.

BACKGROUND INFORMATION: In September of 2006, the City entered into the attached Development Agreement with San Joaquin Land Company, LLC for the Reynolds Ranch project located at the southwest quadrant of Harney Lane and State Route 99. Since that time the activities that have taken place include the annexation of the site, construction of the Blue Shield center and the first phase of the initial commercial development including Costco and Home Depot.

San Joaquin Land is requesting that the Agreement now be terminated. The circumstances which have taken place that have led to this point are similar to those outlined by FCB Homes in their recent request to terminate the two agreements they were a party to. Clearly, the real estate market collapse is the primary cause. While the commercial development has been surprisingly successful in getting underway, the majority of the Development Agreement benefit was aimed at the residential portion of the project. Staff agrees with the folks at San Joaquin Land that the residential focus will be years away from coming to fruition and cannot be built as originally contemplated under the terms and conditions of the Agreement.

FISCAL IMPACT: None.

Konradt Bartlam
City Manager

Attachment

APPROVED: _____
Konradt Bartlam, City Manager

OFFICIAL BUSINESS
Document entitled to free recording
Government Code Section 6103

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

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

Attn: City Clerk

DOC # 2006-268372
12/26/2006 10:16A Fee:NC
Page 1 of 63
Recorded in Official Records
County of San Joaquin
GARY W. FREEMAN
Assessor-Recorder-County Clerk
Paid by SHOWN ON DOCUMENT

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF LODI

AND SAN JOAQUIN VALLEY LAND COMPANY, LLC

OFFICIAL BUSINESS
Document entitled to free recording
Government Code Section 6103

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

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

Attn: City Clerk

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

DEVELOPMENT AGREEMENT

BY AND BETWEEN

THE CITY OF LODI

AND SAN JOAQUIN VALLEY LAND COMPANY, LLC

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DEVELOPMENT AGREEMENT
REYNOLDS RANCH

This Development Agreement is entered into as of this 6th day of September, 2006, by and between the CITY OF LODI, a municipal corporation ("City"), and, SAN JOAQUIN VALLEY LAND COMPANY, LLC ("Landowner"). City and Landowner are hereinafter collectively referred to as the "Parties" and singularly as "Party."

RECITALS

1. **Authorization**. To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the Legislature of the State of California adopted Government Code Section 65864, et seq. (the "Development Agreement Statute"), which authorizes the City and any person having a legal or equitable interest in the real property to enter into a development agreement, establishing certain development rights in the Property which is the subject of the development project application.

2. **Property**. Landowner holds a legal or equitable interest in certain real property located in the City of Lodi, County of San Joaquin, more particularly described in Exhibit A-1 and Exhibit A-2 attached hereto (the "Property"). Landowner represents that all persons holding legal or equitable interests in the Property shall be bound by this Agreement.

3. **Project**. Landowner has obtained various approvals from the City (described in more detail in Recital 6 below) for a mixed use project known as Reynolds Ranch (the "Project") to be located on the Property.

4. **Public Hearing**. On August 9, 2006, the Planning Commission of the City of Lodi, serving as the City's planning agency for purposes of development agreement review pursuant to Government Code Section 65867, considered this Agreement.

5. **Environmental Review**. On August 30, 2006, the City Council certified as adequate and complete, the Reynolds Ranch Project Environmental Impact Report ("EIR") for the Project. Mitigation measures were required in the EIR and are incorporated into the Project and into the terms and conditions of this Agreement, as reflected by the findings adopted by the City Council concurrently with this Agreement.

6. **Project Approvals**. The following land use approvals (together the "Project Approvals") have been granted for the Property, which entitlements are the subject of this Agreement:

6.1. The EIR. The Mitigation Measures in the EIR are incorporated into the Project and into the terms and conditions of this Agreement (City Resolution No. 2006-162);

6.2. A General Plan Amendment (the "General Plan"), (attached hereto as Exhibit B) approved by the City on August 30, 2006 (City Resolution No. 2006-163);

6.3. The Zoning of the Property (attached hereto as Exhibit B-1) approved by the City on September 6, 2006 (City Ordinance No. 1784);

6.4. Reserved;

6.5. Reserved;

6.6. The Development Plan and Infrastructure Plan for the Project (attached hereto as Exhibit D), approved by the City on August 30, 2006 by City Resolution No. 2006-164;

6.7. The Growth Management Allocations, as required by Chapter 15.34 of the Lodi Municipal Code, as set forth in Exhibit E, approved by the City on September 6, 2006 by City Ordinance No. 1785;

6.8. This Development Agreement, as adopted on September 6, 2006 by City Ordinance No. 1785 (the "Adopting Ordinance"); and,

6.9. The Annexation Approvals granted by San Joaquin County Local Agency Formation Commission as shown in Exhibit F attached hereto.

7. **Need for Services and Facilities**. Development of the Property will result in a need for municipal services and facilities, some of which will be provided by the City to such development subject to the performance of Landowner's obligations hereunder. With respect to water, pursuant to Government Code Section 65867.5, any tentative map approved for the Property will comply with the provisions of Government Code 66473.7.

8. **Contribution to Costs of Facilities and Services**. Landowner agrees to contribute to the costs of such public facilities and services as required herein to mitigate impacts on the community of the development of the Property, and City agrees to provide such public facilities and services as required herein to assure that Landowner may proceed with and complete development of the Property in accordance with the terms of this Agreement. City and Landowner recognize and agree that, but for Landowner's contributions set forth herein including contributions to mitigate the impacts arising as a result of development entitlements granted pursuant to this Agreement, City would not and could not approve the development of the Property as provided by this Agreement and that, but for City's covenant to provide certain facilities and services for development of the Property, Landowner would not and could not commit to provide the mitigation as provided by this Agreement. City's vesting of the right to develop the Property as provided herein is in reliance upon and in consideration of Landowner's agreement to make contributions toward the cost of public improvements as herein provided to mitigate the impacts of development of the Property as development occurs.

9. **Development Agreement Resolution Compliance.**. City and Landowner have taken all actions mandated by, and fulfilled all requirements set forth in, the Development

Agreement Resolution of the City of Lodi, as set forth in the City Council Resolution No. 2005-237 for the consideration and approval of the pre-annexation and development agreement.

10. Consistency with General and Specific Plan. Having duly examined and considered this Agreement and having held properly noticed public hearings hereon, the City found that this Agreement satisfies the Government Code §65867.5 requirement of general plan consistency.

11. Creation of Career-Oriented Employment Opportunities. Landowner's proposed mixed use development will assist the City in maintaining an appropriate balance between jobs and housing by providing, in part, an office development that will house a regional office for Blue Shield which will provide career-oriented employment including benefits for 1600 employees. These employment positions are in addition to the employment opportunities that will be provided as part of the operation of 350,000 square feet of retail space within the project.

NOW, THEREFORE, in consideration of the mutual promises, conditions and covenants hereinafter set forth, the Parties agree as follows:

AGREEMENT

1. Incorporation of Recitals. The Preamble, the Recitals and all defined terms set forth in both are hereby incorporated into this Agreement as if set forth herein in full.

2. Description of Property. The property, which is the subject of this Development Agreement, is described in Exhibit A-1 and depicted in Exhibit A-2 attached hereto ("Property").

3. Interest of Landowner. The Landowner has a legal or equitable interest in the Property. Landowner represents that all persons holding legal or equitable interests in the Property shall be bound by the Agreement. The Parties acknowledge that Landowner does not have a legal or equitable interest in nine parcels (APN Nos. 058-110-05, 058-130-02, 058-130-03, 058-130-05, 058-130-17, 058-130-19, 058-130-10, 058-139-14 and 058-130-18 "Added Parcels") that total 22.99 acres and are included within the area that is being prezoned and to which the General Plan and Zoning designations will apply. The Parties agree that upon Landowner's obtaining legal or equitable interest in the Added Parcels Section 2, Description of Property, may be amended pursuant to Section 11.3 (Insubstantial Amendment) to include the Added Parcels. The Parties agree that upon approval of said amendment by the Landowner and the City, the Added Parcels shall be subject to all provisions of this Agreement as though the Added Property was included within the Agreement at the date of the Effective Date. Subject to approval as to form of the amendment document by the City Attorney, the City Manager is hereby authorized to execute this amendment on behalf of the City,

4. Relationship of City and Landowner. It is understood that this Agreement is a contract that has been negotiated and voluntarily entered into by City and Landowner and that Landowner is not an agent of City. The City and Landowner hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein

or in any document executed in connection herewith shall be construed as making the City and Landowner joint venturers or partners.

5. Effective Date and Term.

5.1. Effective Date. The effective date of this Agreement ("Effective Date") is October 6, 2006, which is the effective date of City Ordinance No. 1785 adopting this Agreement.

5.2. Term. Upon execution, the term of this Agreement shall commence on the Effective Date and extend for a period of fifteen (15) years, unless said term is terminated, modified or extended by circumstances set forth in this Agreement. Following the expiration of the term, this Agreement shall be deemed terminated and of no further force and effect. Said termination of the Agreement shall not affect any right or duty created by City approvals for the Property adopted prior to, concurrently with, or subsequent to the approval of this Agreement nor the obligations of Sections 20, 24 or 25 of this Agreement. In the event that litigation is filed by a third party (defined to exclude City and Landowners or any assignees of Landowner) which seeks to invalidate this Agreement or the Project Approvals, the expiration date of this Agreement shall be extended for a period equal to the length of time from the time the summons and complaint and/or petition are served on the defendant(s) until the judgment entered by the court is final and not subject to appeal; provided, however, that the total amount of time for which the expiration date shall be extended as a result of such litigation shall not exceed four years.

5.3. Automatic Termination Upon Completion and Sale of Residential Lot. This Agreement shall automatically be terminated, without any further action by either party or need to record any additional document, with respect to any single-family residential lot within a parcel designated by the Project Approvals for residential use, upon completion of construction and issuance by the City of a final occupancy permit for a dwelling unit upon such residential lot and conveyance of such improved residential lot by Landowner to a bona-fide good-faith purchaser thereof. In connection with its issuance of a final inspection for such improved lot, City shall confirm that all improvements, which are required to serve the lot, as determined by City, have been accepted by City. Termination of this Agreement for any such residential lot as provided for in this Section shall not in any way be construed to terminate or modify any assessment district or Mello-Roos Community Facilities District lien affecting such lot at the time of termination.

6. Use of Property.

6.1. Vested Right to Develop. Landowner shall have the vested right to develop the Project in accordance with the terms and conditions of this Agreement, the Project Approvals, the City's existing policies, standards and ordinances (except as expressly modified by this Section 6.1 and Section 8.3) and any amendments to any of them as shall, from time to time, be approved pursuant to this Agreement. Landowner's vested right to develop the Property shall be subject to subsequent approvals; provided however, except as provided in Section 6.3, that any conditions, terms, restrictions and requirements for such subsequent

approvals shall not prevent development of the Property for the uses, or reduce the density and intensity of development, or limit the rate or timing of development set forth in this Agreement, so long as Landowner is not in default under this Agreement. Notwithstanding the vested rights granted herein, Landowner agrees that the following obligations, which are presently being developed, shall apply to development of the Property:

6.1.1 Payment of a development fee for a proportionate share of the cost of the Highway 99 overpass at Harney Lane.

6.1.2 Payment of Agricultural Land Mitigation fee, as identified in Mitigation Measure 3.7.2, pursuant to the ordinance and/or resolution to be adopted by the City of Lodi. The Parties agree that Landowner may satisfy this obligation through compliance with the obligation set forth in Section 2B of the Settlement Agreement assuming the obligation in Section 2B remains in force and effect.

6.1.3 Payment of Electric Capital Improvement Mitigation fee (see Section 6.4.10) pursuant to the ordinance and/or resolution to be adopted by the City of Lodi. The fee for the first 150 Planned Residential Low Density residential units shall be the fee in effect as of the Effective Date of this Agreement. All other residential units, commercial and office development shall pay the fee in effect at the time the fee is collected.

6.1.4 Payment of development fee for proporionate share of the costs of the of designing and constructing a water treatment system and/or percolation system for treatment of water acquired from Woodbridge Irrigation District (see Section 6.4.7) pursuant to the ordinance an/or resolution to be adopted by the City of Lodi.

With regards to the fees identified in Sections 6.1.1, 6.1.2, 6.1.3, and 6.1.4 and these fees only, Landowner hereby consents to their imposition as conditions of approval on any discretionary or ministerial land use entitlement subsequently granted by the City including but not limited to issuance of building permits. City agrees that the fees payable by the Landowner pursuant to Sections 6.1.1, 6.1.2, 6.1.3 and 6.1.4 shall be adopted in conformance with applicable law, and shall apply uniformly to all new development on properties within the City that are zoned consistent with the Project Approvals, or apply uniformly to all new development on properties that are similarly situated, whether by geographic location or other distinguishing circumstances. Except for the fees identified in this Agreement including but not limited to the Project Approvals, Sections 6.1.1, 6.1.2, 6.1.3, 6.1.4 and 8.3, no other subsequently enacted development or capital fee shall be imposed as a condition of approval on any discretionary or ministerial decision. The Parties acknowledge and agree that the fees applicable to the development pursuant to the Project Approvals and this Agreement may be increased during the term of this Agreement provided that the increased fees are adopted in conformance with applicable law, apply uniformly to all new development on properties within the City that are zoned consistent with the Project Approvals, or apply uniformly to all new development on properties that are similarly situated, whether by geographic location or other distinguishing circumstances.

6.2. Permitted Uses. The permitted uses of the Property, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation or dedication of land for public purposes, location and maintenance of on-site and off-site improvements, location of public utilities and other terms and conditions of development applicable to the Property, shall be those set forth in this Agreement, the Project Approvals and any amendments to this Agreement or the Project Approvals. City acknowledges that the Project Approvals provide for the land uses and approximate acreages for the Property as set forth in Exhibit B-1 and Exhibit B-2.

Landowner acknowledges that the Project Approvals anticipate a mixed-use project that includes office, retail, commercial, residential, public/quasi-public, open space, and park uses as proposed by the Landowner. Landowner and City agree that the mix of land uses proposed, including specifically the office development for Blue Shield and the retail development, are necessary to provide an appropriate mix of land uses to promote economic development, a jobs-housing balance and public welfare for the residents of the project and the City and that the public benefits required of the Landowner in this Agreement are established at their identified level based upon the existence of that balance. With regards to the property designated in the Project Approvals for office and commercial development, Landowner agrees that during the term of this Agreement Landowner will not request and/or pursue a general plan amendment or zone change to authorize any other type of land use on the office and commercial properties without first obtaining the consent of the City which the City may, in its sole and absolute discretion, withhold. The obligation set forth in this paragraph shall terminate as to the office property upon the occupancy of the proposed office development by Blue Shield.

6.3. Moratorium, Quotas, Restrictions or Other Growth Limitations. Landowner and City intend that, except as otherwise expressly provided in this Agreement, this Agreement shall vest the Project Approvals against subsequent City resolutions, ordinances and initiatives approved by the City Council or the electorate that directly or indirectly limit the rate, timing, or sequencing of development, or prevent or conflict with the permitted uses, density and intensity of uses or the right to receive public services as set forth in the Project Approvals; provided however, Landowner shall be subject to rules, regulations or policies adopted as a result of changes in federal or state law (as provided in Section 7.3) which are or have been adopted on a uniformly applied, City-wide or area-wide basis, in which case City shall treat Landowner in a uniform, equitable and proportionate manner with all properties, public and private, which are impacted by the changes in federal or state law.

6.3.1 Allocations Under City Growth Management Program

a. Allocations Required Prior to Map Approval

Consistent with the City's Growth Management Program, which shall apply to the Project, except as otherwise provided herein, no tentative map for any portion of the Property shall be issued until such time as Landowner has obtained allocations for each residential unit within the area covered by such map, consistent with the Growth Management Ordinance (Ordinance 1521), codified as Section 15.34 of the City of Lodi Municipal Code.

b. Schedule of Allocation of Residential Units

The following schedule of residential unit allocations shall apply to the Project.

(i) Initial Allocation:

As of the Effective Date of this Agreement, the following number of residential units shall be initially allocated to the Project from the City's reserve of unused allocations ("Initial Allocation"):

150 low density units (Planned Residential Low Density)
200 high density units.

Except for the requirement set forth in Section 6.3.1(a) above the Initial Allocation shall be exempt from the provisions of the Growth Management Ordinance and Resolutions 91-170 and 91-171 (timing and point system requirements).

(ii) Subsequent Annual Allocations:

As of the Effective Date of this Agreement, Landowner shall be entitled to apply for future annual allocations in three-year increments, and on a rolling basis. Provided that Landowner otherwise complies with the City's Growth Management Program, Landowner shall be entitled to annual allocations ("Annual Allocations") under the Program for seventy-three (73) Planned Residential low density residential units, each year, for eight (8) years after the Effective Date or for the term of this Agreement including any extension thereto granted pursuant to Section 5.2. The total number of Planned Residential low density allocations granted hereunder shall be limited to the number of Planned Residential low density units approved in the Project Approvals. The use of such allocations shall be restricted to the year for which such allocations were made, consistent with the Growth Management Ordinance.

Landowner is not required to apply for such allocations on an annual basis. Landowner may instead comply with all development plan and related requirements under the Growth Management Ordinance and Resolutions 91-170 and 91-171 every third year, at which time Landowner may apply for allocations for the next three-year period. After the expiration of the year for which an Annual Allocation was issued to Landowner, Landowner may submit a request and be issued by the City another Annual Allocation, such that Landowner may maintain, on a rolling basis, a number of allocations equal to three Annual Allocations. Except for allowing the Landowner this flexibility in terms of the number of years for which Landowner may apply, all requests for Annual Allocations must otherwise comply with the Growth Management Ordinance and Resolutions 91-170 and 91-171.

The requirement that Landowner apply for Annual Allocations does not alter the vested rights of the Project, specifically as to the General Plan and zoning designation of the Project.

(c) Growth Management Ordinance in full force and effect:

Except where otherwise specifically stated herein, nothing in this section 6.3.1 is intended to modify in any way the City's Growth Management Program, including its exemptions under Section 15.34.040 (e.g., for commercial and industrial projects, and senior citizen housing).

Section 6.3.2 Future Growth Control Ordinances/Policies, Etc.

(a) One of the specific purposes of this Agreement is to assure Developer that, during the term of this Agreement no growth-management ordinance, measure, policy, regulation or development moratorium of City adopted by the City Council or by vote of the electorate after the Effective Date of this Agreement will apply to the Property in such a manner so as to the reduce the density of development , modify the permissible uses, or modify the phasing of the development as set forth in the Project Approvals.

(b) Therefore, the parties hereto agree that, except as otherwise expressly provided in the Project Approvals, Sections 6.1, 6.3.1 or 6.4 or other provision of this Agreement which expressly authorize City to make such pertinent changes, no ordinance, policy, rule, regulation, decision or any other City action, or any initiative or referendum voted on by the public, which would be applicable to the Project and which would affect in any way the rate of development, construction and build out of the Project, or limit the Project's ability to receive any other City service shall be applicable to any portion of the Project during the term of this Agreement, whether such action is by ordinance, enactment, resolution, approval, policy, rule, regulation, decision or other action of City or by public initiative or referendum.

(c) City, through the exercise of either its police power or its taking power, whether by direct City action or initiative or referendum, shall not establish, enact or impose any additional conditions, dedications, fees or other exactions, policies, standards, laws or regulations, which directly relate to the development of the Project except as provided in Sections 6.1, 6.3.1, or 6.4 herein or other provision of this Agreement which expressly allows City to make such changes. Nothing herein prohibits the Project from being subject to a (i) City-wide bond issue, (ii) City-Wide special or general tax, or (iii) special assessment for the construction or maintenance of a City-wide facility as may be voted on by the electorate or otherwise enacted; provided that such tax, assessment or measure is City-wide in nature, does not discriminate against the land within the Project and does not distinguish between developed and undeveloped parcels.

(d) This Agreement shall not be construed to limit the authority of City to charge processing fees for land use approvals, public facilities fees and building permits as they relate to plumbing, mechanical, electric or fire code permits, or other similar permits and entitlements which are in force and effect on a city-wide basis at the time those permits are applied for, except to the extent any such processing regulations would be inconsistent with this Agreement.

(e) Notwithstanding subdivision (b), the City may condition or deny a permit, approval, extension, or entitlement if it determines any of the following:

(1) A failure to do so would place the residents of the Project or the immediate community, or both, in a condition dangerous to their health or safety, or both.

(2) The condition or denial is required in order to comply with state or federal law (see Section 7.3). .

6.4. Additional Conditions.

6.4.1. Timing of Dedications and Improvements of Parks Landowner agrees to dedicate park land and complete construction of all the park improvements as described and set forth in the Project Approvals at its sole cost and expense. Landowner shall be entitled to a credit against any applicable Quimby Act fees or land dedication requirments for the value of any improvements constructed or equipment installed with the parks on the Property. The phasing of such improvements shall be in compliance with the Phasing Schedule attached hereto as Exhibit H.

6.4.2. Rehabilitation of Fifty Existing Residential Units

Landowner agrees that within eight years of the Effective Date of this Agreement, Landowner shall either rehabilitate or pay the costs up to a total of $1,250,000 of rehabilitating fifty single-family or multi-family residential units within the area bounded by the Union Pacific railroad tracks, Cherokee Lane, Kettleman Lane and Lockford Street. To satisfy this obligation, Landowner may pay to rehabilitate residential units owned by others or may purchase, rehabilitate and sell or rent said residential units. The City shall have the right to approve the residential units selected for rehabilitation; said approval shall not be unreasonably withheld by the City.

The improvements required herein to facilitate rehabilitation of residential units may include landscaping, painting, roof repair, replacement of broken windows, sidewalk repairs, non-structural architectural improvements, and demolition and reconstruction of residential units. All work performed pursuant to this section shall be done pursuant to properly issued building permits as required by City of Lodi ordinances. As part of the annual review required pursuant to Section 13, Landowner shall report on work completed during the prior year towards meeting the obligations set forth in this paragraph.

In the event that Landowner has not satisfied this obligation within eight years from the Effective Date, Landowners shall pay the City twenty-five thousand dollars ($25,000) per residential unit for each of the fifty (50) units that have not been rehabilitated as set forth above. The funds paid shall be placed in a dedicated city fund to be used for housing rehabilitation grants or loans within the area specified hereinabove.

6.4.3. Payment of Downtown Impact Fee

Prior to issuance of building permits for any commercial development with the Project, Landowner shall pay a Downtown Impact Fee of sixty cents (0.60) per gross square foot of General Retail Commercial development or four dollars and fifty cents ($4.50) per square foot of "Big Box Retail Use" as defined in the Final EIR for the Reynolds Ranch Project to the City for use by the City as rehabilitation grant or loan funding for businesses within "Downtown" area of Lodi, defined as the area described in the June 1997 Downtown Development Standards and Guidelines plus the Pine Street Corridor extending to Washington Street. The funds provided pursuant to this section may only be used by the City for grants or loans to business owners within the "downtown" area for capital improvements to their properties. The grants or loans provided through this funding shall be made available for disbursement beginning January 1, 2010. City shall administer the grant or loan program and shall be solely responsible for disbursement of funds to recipients.

As an alternative method to satisfy the obligation set forth in this section, Landowner may provide capital improvements (including, but not limited to enhancements to the building architecture) to a commercial building or commercial buildings owned or rented by Landowner within the Downtown area. In the event that Landowner completes capital improvements to a commercial building or commercial buildings it owns or rents within the Downtown area prior to January 1, 2010, Landowner shall be entitled to a refund of the funds it has paid pursuant to this section up to the lesser of the value capital improvements constructed or the funds paid to date. Landowner shall not be entitled to a credit for architectural, engineering, permit fees or other soft costs related to the capital improvements. To the extent that Landowner desires to satisfy the obligation of this section through capital improvements to property owned or rented by Landowner, the value of the improvements shall be a minimum of $210,000 assuming all retail development in the Project is General Retail Commercial. This minimum amount shall be increased commensurate with the increased price per square foot payable for the gross square feet for "Big Box Retail Use" for each gross square foot of retail space used as "Big Box Retail Use" commercial.

6.4.4 Payment of Utility Exit Fees The Lodi Electric Utility is a city-owned and operated utility that provides electrical utility services for residential, commercial and industrial customers in Lodi. As the proposed project sites would be annexed to the City of Lodi, the Lodi Electric Utility would provide electrical utility services to the project sites. To the extent that Landowner is assessed "exit fees," also known as "Cost Responsibility Surcharges," by Pacific Gas & Electric for its departing load, Landowner shall pay said fees when they are due. Landowner may, at its option and at its own cost, request a Cost Responsibility Surcharge Exemption from the California Energy Commission for any qualified departing load pursuant to Title 20, California Code of Regulations, Section 1395, et. Seq. Forms for the exemption are available on-line at http://www.energy.ca.gov/exit_fees/documents/2004-02-18_PGE_EXEMP_APPL.PDF City makes no representation that Landowner is eligible for exemptions pursuant to these regulations.

6.4.5 Maintenance of Specified Public Improvements Landowner agrees to provide or pay for all park, median strip, and other landscaping

maintenance and repairs for two years for lands dedicated by the Landowner to the City and accepted by the City. In the event that Landowner chooses to pay the City for the costs of maintenance and repair, the City shall provide an estimate of the annual costs and the Landowner shall pay the full amount within thirty calendar days after the City by U.S. Mail or email, transmits the estimate to the Landowner. If the amount paid to the City exceeds the actual amount incurred by the City plus reasonable staff costs to administer the contract, the City shall, within a reasonable period of time, refund the difference to the Landowner.

6.4.6 Fire Station Land Dedication and Payment of Construction and Equipment Costs

6.4.6.1 Fire Station Design and Construction

Not later than December 31, 2008, Landowner shall dedicate, free and clear of encumbrances, one acre of land located at (Parcel No. to be determined when map is completed) for a fire station. Landowner shall contribute two million U.S. dollars ($2,000,000) to the City for design and construction of the fire station and the necessary fixtures and furnishings at the fire station. The amount payable hereunder shall be paid based upon the following schedule of payments:

Payment Due Date	Payment Amount
1. One year after issuance of the first building permit issued pursuant to the Project Approvals or December 31, 2008 whichever is earlier	$500,000
2. One year after the first payment due date or December 31, 2009 whichever is earlier	$750,000
3. Two years after the first payment due date or December 31, 2010 whichever is earlier	$750,000

Landowner acknowledges that City will enter into a contract to construct the Fire Station and will incur the full costs of the construction upon execution of the construction contract. As consideration for City's agreement to authorize payment of the design and construction costs in installment payments, Landowner agrees to provide a letter of credit payable to the City, in a form reasonably acceptable to the City Attorney, in an amount sufficient to cover the installment payments due after the first payment is made. City agrees that Landowner may substitute a letter of credit, in a form reasonably acceptable to the City Attorney, for a lesser amount upon payment of each installment payment by the Landowner. Upon delivery of such replacement letter of credit and its approval as to form by the City Attorney, the City will release and convey to Landowner the prior letter of credit.

6.4.6.2 Fire Equipment

Not later than December 31, 2010, Landowner shall pay the City five hundred thousand U.S. dollars ($500,000) as a contribution towards the purchase of fire station apparatus.

6.4.7 Water Treatment and/or Percolation Costs Landowner shall pay a fee based on the proportionate share of the costs of designing and constructing a water treatment system and/or percolation system for treatment of water acquired by the City from the Woodbridge Irrigation District. Landowner shall pay the fee as required under the fee program to be development by the City, but in no event later than when water service connection for each residential, office and commercial unit is provided.

6.4.8 Public Art on Property Prior to issuance of a certificate of occupancy for the 151st residential unit on the Property, Landowner shall obtain City approval for and install public art on the retail portion of the Project. The value of the public art installed shall be equal to $60,000 inclusive of design and installation costs, which together shall not exceed $10,000. The public art shall be installed in a place within the Project that is visible from the public right-of-way or from an area or areas that provides public access. Landowner shall provide maintenance of the public art. Landowner shall be eligible to apply for City matching grant for the public art up to a maximum amount of $40,000. The parties agree that any matching grant provided by the City shall be in addition to the $60,000 contribution provided by Landowner pursuant to the section and shall be subject to any and all conditions normally imposed as part of the issuance of a grant by the City.

6.4.9 Animal Shelter Not later than one year after issuance of the first building permit for a residential unit, Landowner shall pay to the City fifty thousand U.S. dollars ($50,000) as a contribution towards either (1) the design and construction costs of a new or reconstructed animal shelter or (2) the costs of programs operated at the animal shelter.

6.4.10 Utility Line Extension City is preparing a policy pursuant to which property developed will pay the actual costs of capital improvements necessary to extend utility services to a development. Landowner acknowledges that such an extension is necessary to implement the Project Approvals on the Property. Landowner agrees to pay the City, pursuant to the policy to be adopted by the City, the costs of the capital improvements necessary to extend utility services to the Property. The fee for the first 150 Planned Residential Low Density residential units shall be the fee in effect as of the Effective Date of this Agreement. All other residential units, commercial and office development shall pay the fee in effect at the time the fee is collected.

6.4.11 Implementation of Obligations Arising from Settlement Agreement among San Joaquin Valley Land Company, LLC, Citizens for Open Government and the City of Lodi Pursuant to a separate agreement ("Settlement Agreement") between the City of Lodi, Landowner and Citizens for Open Government (collectively "Settlement Agreement Parties"), attached hereto as Exhibit I and incorporated herein by reference, the Settlement Agreement Parties agree, effectively immediately, to the rights, requirements, and obligations of sections 3.A, 3.B, and 3.D of the Settlement Agreement, as indicated in Exhibit I.

Pursuant to Settlement Agreement, the Settlement Agreement Parties further agree that all remaining provisions of the Settlement Agreement shall be effective only so long as (i) no litigation is filed to challenge either the certification of the EIR and/or the Project Approvals

granted by the City of Lodi, and (ii) no referendum petition is certified for election that would require Ordinance No. 1785, approving this Development Agreement, to be affirmed by the voters. Should said litigation be filed or said referendum petition be certified for election, all remaining provisions of the Settlement Agreement, except those enumerated in the above paragraph, shall no longer be effective or enforceable against the Settlement Parties.

6.5 Annexation

The ability to proceed with development of the Property pursuant to the Project Approvals shall be contingent upon the annexation of the Property into the City. Pending such annexation, Landowner may, at its own risk, process tentative parcel maps and tentative subdivision maps and improvement or construction plans and City may conditionally approve such tentative maps and/or improvement plans in accordance with the Entitlements, provided City shall not approve any final parcel map or final subdivision map for recordation nor approve the issuance of any grading permit for grading any portion of the Property or building permit for any structure within the Property prior to the annexation of the Property to the City.

City shall use its best efforts and due diligence to initiate such annexation process, obtain the necessary approvals and consummate the annexation of the Property into the City, including entering into any annexation agreement that may be required in relation thereto, subject to the City's review and approval of the terms thereof. Landowner shall be responsible for the costs reasonably and directly incurred by the City to initiate, process and consummate such annexation, the payment of which shall be due in advance, based on the City's estimate of such cost, and thereafter as and when the City provides an invoice(s) for additional costs incurred by City therefore in excess of such estimate.

7. Applicable Rules, Regulations, Fees and Official Policies.

7.1. Rules Regarding Permitted Uses Except as provided in this Agreement, the City's ordinances, resolutions, rules, regulations and official policies governing the permitted uses of the Property, the density and intensity of use, the rate timing and sequencing of development, the maximum height and size of proposed buildings, and provisions for reservation and dedication of land shall be those in force on the Effective Date of this Agreement. Except as provided in Section 8.2, this Agreement does not vest Landowner's rights to pay development impact fees, exactions and dedications, processing fees, inspection fees, plan checking fees or charges.

7.2. Rules Regarding Design and Construction. Unless otherwise expressly provided in this Agreement, all other ordinances, resolutions, rules, regulations and official policies governing design, improvement and construction standards and specifications applicable to the Project and to public improvements to be constructed by the Landowner shall be those in force and effect at the time the applicable permit approval is granted.

7.3. Changes in State or Federal Law. This Agreement shall not preclude the application to development of the Property of changes in City laws, regulations, plans or

policies, the terms of which are specifically mandated and required by changes in State or Federal laws or regulations.

7.4. **Uniform Codes Applicable**. Unless otherwise expressly provided in this Agreement, the Project shall be constructed in accordance with the provisions of the Uniform Building, Mechanical, Plumbing, Electrical and Fire Codes, City standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the time of approval of the appropriate building, grading, encroachment or other construction permits for the Project. If no permits are required for infrastructure improvements, such improvements will be constructed in accordance with the provisions of the Uniform Building, Mechanical, Plumbing, Electrical and Fire Codes, City standard construction specifications, and Title 24 of the California Code of Regulations, relating to Building Standards, in effect at the start of construction of such infrastructure.

8. **Existing Fees, Newly Enacted Fees, Dedications, Assessments and Taxes**.

8.1. **Processing Fees and Charges**. Landowner shall pay those processing, inspection, and plan check fees and charges required by City under then current regulations for processing applications and requests for permits, approvals and other actions, and monitoring compliance with any permits issued or approvals granted or the performance of any conditions with respect thereto or any performance required of Landowner hereunder.

8.2. **Existing Fees, Exactions and Dedications** Landowner shall be obligated to provide all dedications and exactions and pay all fees as required for the types of development authorized by the Project Approvals as of the Effective Date of this Agreement. With regards any fees applicable to residential development, the Parties agree that the fees shall be payable at the earliest time authorized pursuant to the Government Code Section 66007 as it exists as of the Effective Date of this Agreement. The specific categories of fees payable are listed below. The dedication and exaction obligations and fee amounts payable shall be those obligations and fee amounts applicable as of the date that the Landowner's application for the applicable vesting tentative map is deemed complete. For any development for which the Landowner has not submitted a vesting tentative map, the dedication and exaction obligations and fee amounts payable shall be those obligations and fee amounts applicable as of the date the final discretionary approval for that development is granted by the City.

Standard City Development Impact Fees Payable by the Landowner includes:

1. Development Impact Fees (Lodi Municipal Code Chapter 15.64)
2. San Joaquin County Regional Transportation Impact Fee (Lodi Municipal Code Chapter 15.65
3. County Facilities Fee (Lodi Municipal Code Chapter 15.66)
4. San Joaquin County Multi-Species Habitat Conservation and Open Space Development Fee (Lodi Municipal Code Chapter 15.68)

8.3. **New Development Impact Fees, Exactions and Dedications**. Landowner agrees to the pay the development fees identified in Section 6.1, including

specifically subsections 6.1.1 through 6.1.4, of this Agreement. In addition, Landowner agrees to pay any newly adopted sewer, water or electrical fees adopted in conformance with applicable law, and applied uniformly to new development on all properties within the City that are zoned consistent with the Project Approvals, or applied uniformly to all new development on properties that are similarly situated, whether by geographic location or other distinguishing circumstances. With regards any fees applicable to residential development, the Parties agree that the fees shall be payable at the earliest time authorized pursuant to the Government Code Section 66007 as it exists as of the Effective Date of this Agreement.

Except as expressly provided herein, Landowner shall not be obligated to pay or provide any development impact fees, connection or mitigation fees, or exactions adopted by City after the Effective Date of this Agreement. Notwithstanding this limitation, Landowner may at its sole discretion elect to pay or provide any fee or exaction adopted after the Effective Date of this Agreement.

8.4. **Fee Reductions** To the extent that any fees payable pursuant to the requirements of Sections 8.1 are reduced after the operative date for determining the fee has occurred, the Landowner shall pay the reduced fee amount.

9. Community Facilities District. Formation of a Community Facilities District for Public Improvements and Services.

9.1. Inclusion in a Community Facilities District. Landowner agrees to cooperate in the formation of a Community Facilities District pursuant to Government Code Section 53311 et seq. to be formed by the City. The boundaries of the area of Community Facilities District shall be contiguous with the boundaries of the Property excluding the portion of land zoned for commercial or office development. Landowner agrees not to protest said district formation and agrees to vote in favor of levying a special tax on the Property in an amount not to exceed $600 per year per residential dwelling unit as adjusted herein. The special tax shall be initiated for all residential dwelling units for which a building permit is issued, and shall commence to be levied beginning the subsequent fiscal year after the building permit is issued. Landowner acknowledges that the 2007-2008 special tax rate for the units in the Project will be $600 per dwelling unit and that the special tax shall increase each year by 2% in perpetuity. A vote by Landowner against the levying of the special tax or a vote to repeal or amend the special tax shall constitute an event of default under this Agreement.

9.2. Use of Community Facilities District Revenues Landowner and City agree that the improvements and services that may be provided with the special tax levied pursuant to Section 9.1 may be used for the following improvements and services:

a. Police protection and criminal justice services;
b. Fire protection, suppression, paramedic and ambulance services;
c. Recreation and library program services;
d. Operation and maintenance of museums and cultural facilities;

e. Maintenance of park, parkways and open space areas dedicated to the City;
f. Flood and storm protection services;
g. Improvement, rehabilitation or maintenance of any real or personal property that has been contaminated by hazardous substances;
h. Purchase, construction, expansion, improvement, or rehabilitation or any real or tangible property with useful life of more than five years; and,
i. Design, engineering, acquisition or construction of public facilities with a useful life of more that five years including:
    1. Local park, recreation, parkway and open-space facilities,
    2. Libraries,
    3. Childcare facilities,
    4. Water transmission and distribution facilities, natural gas, telephone, energy and cable television lines, and
    5. Government facilities.

Landowner and City agree that Property does not presently receive any of these services from the City and that all of these services are new services.

9.3. Community Facilities District for Residential Property - Financing. In addition to the funding provided as part of the Community Facilities District identified in Section 9.1, City acknowledges that Landowner may desire to finance the acquisition or construction of a portion of the improvements described in Section 8.2 through the Community Facilities District. The costs associated with the items identified in Section 8.2 shall be in addition to the annual cost imposed to comply with Section 9.1. The following provisions shall apply to any to the extent that the Landowner desires to fund any of the improvements set forth in Section 8.2 through the Community Facilities District:

9.3.1 **Issuance of Bonds**. City and Landowner agree that, with the consent of Landowner, and to the extent permitted by law, City and Landowner shall use their best efforts to cause bonds to be issued in amounts sufficient to achieve the purposes of this Section.

9.3.2 **Payment Prior to Issuance of Bonds**. Nothing in this Agreement shall be construed to preclude the payment by an owner of any of the parcels to be included within the CFD of a cash amount equivalent to its proportionate share of costs for the improvements identified in Section 8.2, or any portion thereof, prior to the issuance of bonds.

9.3.3 **Private Financing**. Nothing in this Agreement shall be construed to limit Landowner's option to install the improvements through the use of private financing.

9.3.4 **Acquisition and Payment**. City agrees that it shall use its best efforts to allow and facilitate monthly acquisition of completed improvements or completed portions thereof, and monthly payment of appropriate amounts for such improvements to the person or entity constructing improvements or portions thereof, provided City shall only be obligated to use CFD bond or tax proceeds for such acquisitions.

10. Processing of Subsequent Development Applications and Building Permits Subject to Landowner's compliance with the City's application requirements including, specifically, submission of required information and payment of appropriate fees, and assuming Landowner is not in default under the terms and conditions of this Agreement, the City shall process Landowner's subsequent development applications and building permit requests in an expeditious manner. In addition, City agrees that upon payment of any required City fees or costs, City will designate or retain, as necessary, appropriate personnel and consultants to process Landowner's development applications and building permit requests City approvals in an expeditious manner.

11. Reserved

12. Amendment or Cancellation.

12.1. Modification Because of Conflict with State or Federal Laws. In the event that State or Federal laws or regulations enacted after the Effective Date of this Agreement prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City, the parties shall meet and confer in good faith in a reasonable attempt to modify this Agreement to comply with such federal or State law or regulation. Any such amendment or suspension of the Agreement shall be approved by the City Council in accordance with the Municipal Code and this Agreement.

12.2. Amendment by Mutual Consent. This Agreement may be amended in writing from time to time by mutual consent of the parties hereto and in accordance with the procedures of State law and the Municipal Code.

12.3. Insubstantial Amendments. Notwithstanding the provisions of the preceding Section 12.2, any amendments to this Agreement which do not relate to (a) the term of the Agreement as provided in Section 5.2; (b) the permitted uses of the Property as provided in Sections 6.2 and 7.1; (c) provisions for reservation or dedication of land; (d) the location and maintenance of on-site and off-site improvements; (e) the density or intensity of use of the Project; (f) the maximum height or size of proposed buildings or (g) monetary contributions by Landowner as provided in this Agreement shall not, except to the extent otherwise required by law, require notice or public hearing before either the Planning Commission or the City Council before the parties may execute an amendment hereto.

12.4. Amendment of Project Approvals. Any amendment of Project Approvals relating to: (a) the permitted use of the Property; (b) provision for reservation or dedication of land; (c) the density or intensity of use of the Project; (d) the maximum height or size of proposed buildings; (e) monetary contributions by the Landowner; (f) the location and maintenance of on-site and off-site improvements; or (g) any other issue or subject not identified as an "insubstantial amendment" in Section 12.3 of this Agreement, shall require an amendment of this Agreement. Such amendment shall be limited to those provisions of this Agreement, which are implicated by the amendment of the Project Approval. Any other amendment of the Project Approval(s) shall not require amendment of this Agreement unless the amendment of the Project Approval(s) relates specifically to some provision of this Agreement.

12.5. Cancellation by Mutual Consent. Except as otherwise permitted herein, this Agreement may be canceled in whole or in part only by the mutual consent of the parties or their successors in interest, in accordance with the provisions of the Municipal Code. Any fees paid pursuant to this Agreement prior to the date of cancellation shall be retained by City.

13. Term of Project Approvals. Pursuant to California Government Code Section 66452.6(a), the term of any parcel map or tentative subdivision map shall automatically be extended for the term of this Agreement.

14. Annual Review.

14.1. Review Date. The annual review date for this Agreement shall occur either within the same month each year as the month in which the Agreement is executed or the month immediately thereafter.

14.2. Initiation of Review. The City's Planning Director shall initiate the annual review by giving to Landowner written notice that the City intends to undertake such review. Within thirty (30) days of City's notice, Landowner shall provide evidence to the Planning Director to demonstrate good faith compliance with the Development Agreement. The burden of proof, by substantial evidence of compliance, is upon the Landowner. The City's failure to timely initiate the annual review is not deemed to be a waiver of the right to do so at a later date; accordingly, Landowner is not deemed to be in compliance with the Agreement by virtue of such failure to timely initiate review.

14.3. Staff Reports. City shall deposit in the mail to Landowner a copy of all staff reports, and related Exhibits, concerning contract performance at least three (3) days prior to any annual review.

14.4. Costs. Costs reasonably incurred by the City in connection with the annual review shall be paid by Landowner in accordance with the City's schedule of fees and billing rates in effect at the time of review.

14.5. Non-compliance with Agreement; Hearing. If the Planning Director determines, on the basis of substantial evidence, that Landowner has not complied in good faith

with the terms and conditions of the Agreement during the period under review, the City Council, upon receipt of any report or recommendation from the Planning Commission, may initiate proceedings to modify or terminate the Agreement, at which time an administrative hearing shall be conducted, in accordance with the procedures of State law. As part of that final determination, the City Council may impose conditions that it considers necessary and appropriate to protect the interest of the City.

14.6. **Appeal of Determination**. The decision of the City Council as to Landowner's compliance shall be final, and any Court action or proceeding to attack, review, set aside, void or annul any decision of the determination by the Council shall be commenced within thirty (30) days of the final decision by the City Council.

15. **Default**. Subject to any applicable extension of time, failure by any party to substantially perform any term or provision of this Agreement required to be performed by such party shall constitute a material event of default ("Event of Default"). For purposes of this Agreement, a party claiming another party is in default shall be referred to as the "Complaining Party," and the party alleged to be in default shall be referred to as the "Party in Default." A Complaining Party shall not exercise any of its remedies as the result of such Event of Default unless such Complaining Party first gives notice to the Party in Default as provided in Section 15.1.1, and the Party in Default fails to cure such Event of Default within the applicable cure period.

15.1. **Procedure Regarding Defaults**.

15.1.1. **Notice**. The Complaining Party shall give written notice of default to the Party in Default, specifying the default complained of by the Complaining Party. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

15.1.2. **Cure**. The Party in Default shall diligently endeavor to cure, correct or remedy the matter complained of, provided such cure, correction or remedy shall be completed within the applicable time period set forth herein after receipt of written notice (or such additional time as may be deemed by the Complaining Party to be reasonably necessary to correct the matter).

15.1.3. **Failure to Assert**. Any failures or delays by a Complaining Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by a Complaining Party in asserting any of its rights and remedies shall not deprive the Complaining Party of its right to institute and maintain any actions or proceedings, which it may deem necessary to protect, assert, or enforce any such rights or remedies.

15.1.4. **Notice of Default**. If an Event of Default occurs prior to exercising any remedies, the Complaining Party shall give the Party in Default written notice of such default. If the default is reasonably capable of being cured within thirty (30) days, the Party in Default shall have such period to effect a cure prior to exercise of remedies by the

Complaining Party. If the nature of the alleged default is such that it cannot, practicably be cured within such thirty (30) day period, the cure shall be deemed to have occurred within such thirty (30) day period if: (a) the cure shall be commenced at the earliest practicable date following receipt of the notice; (b) the cure is diligently prosecuted to completion at all times thereafter; (c) at the earliest practicable date (in no event later than thirty (30) days after the curing party's receipt of the notice), the curing party provides written notice to the other party that the cure cannot practicably be completed within such thirty (30) day period; and (d) the cure is completed at the earliest practicable date. In no event shall Complaining Party be precluded from exercising remedies if a default is not cured within ninety (90) days after the first notice of default is given.

15.1.5. **Legal Proceedings**. Subject to the foregoing, if the Party in Default fails to cure a default in accordance with the foregoing, the Complaining Party, at its option, may institute legal proceedings pursuant to this Agreement or, in the event of a material default, terminate this Agreement. Upon the occurrence of an Event of Default, the parties may pursue all other remedies at law or in equity, which are not otherwise provided for or prohibited by this Agreement, or in the City's regulations if any governing development agreements, expressly including the remedy of specific performance of this Agreement.

15.1.6. **Effect of Termination**. If this Agreement is terminated following any Event of Default of Landowner or for any other reason, such termination shall not affect the validity of any building or improvement within the Property which is completed as of the date of termination, provided that such building or improvement has been constructed pursuant to a building permit issued by the City. Furthermore, no termination of this Agreement shall prevent Landowner from completing and occupying any building or other improvement authorized pursuant to a valid building permit previously issued by the City that is under construction at the time of termination, provided that any such building or improvement is completed in accordance with said building permit in effect at the time of such termination.

16. **Estoppel Certificate**. Either Party may, at any time, and from time to time, request written notice from the other Party requesting such Party to certify in writing that, (a) this Agreement is in full force and effect and a binding obligation of the Parties; (b) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments; and (c) to the knowledge of the certifying Party the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults. A Party receiving a request hereunder shall execute and return such certificate within thirty (30) days following the receipt thereof, or such longer period as may reasonably be agreed to by the Parties. City Manager of City shall be authorized to execute any certificate requested by Landowner. Should the party receiving the request not execute and return such certificate within the applicable period, this shall not be deemed to be a default.

17. **Mortgagee Protection; Certain Rights of Cure**.

17.1. **Mortgagee Protection**. This Agreement shall be superior and senior to any lien placed upon the Property, or any portion thereof after the date of recording this

Agreement, including the lien for any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all the terms and conditions contained in this Agreement shall be binding upon and effective against any person or entity, including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

17.2. Mortgagee Not Obligated. Notwithstanding the provisions of Section 17.1 above, no Mortgagee shall have any obligation or duty under this Agreement, before or after foreclosure or a deed in lieu of foreclosure, to construct or complete the construction of improvements, or to guarantee such construction of improvements, or to guarantee such construction or completion, or to pay, perform or provide any fee, dedication, improvements or other exaction or imposition; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements thereon, authorized by the Project Approvals or by this Agreement, unless Mortgagee agrees to and does construct or complete the construction of improvements, or guarantees such construction of improvements, or pays, performs or provides any fee, dedication, improvements or other exaction or imposition as required by the Project Approvals.

17.3. Notice of Default to Mortgagee and Extension of Right to Cure. If City receives notice from a Mortgagee requesting a copy of any notice of default given Landowner hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Landowner, any notice given to Landowner with respect to any claim by City that Landowner has committed an Event of Default. Each Mortgagee shall have the right during the same period available to Landowner to cure or remedy, or to commence to cure or remedy, the Event of Default claimed set forth in the City's notice. City, through its City Manager, may extend the cure period provided in Section 15.1.2 for not more than an additional sixty (60) days upon request of Landowner or a Mortgagee.

18. Severability. Except as set forth herein, if any term, covenant or condition of this Agreement or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to persons, entities or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law; provided, however, if any provision of this Agreement is determined to be invalid or unenforceable and the effect thereof is to deprive a Party hereto of an essential benefit of its bargain hereunder, then such Party so deprived shall have the option to terminate this entire Agreement from and after such determination.

19. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

20. Attorneys' Fees and Costs in Legal Actions By Parties to the Agreement. Should any legal action be brought by either party for breach of this Agreement or to enforce

any provisions herein, the prevailing party to such action shall be entitled to reasonable attorneys' fees, court costs, and such other costs as may be fixed by the Court.

21. Attorneys' Fees and Costs in Legal Actions By Third Parties to the Agreement and Continued Permit Processing. If any person or entity not a party to this Agreement initiates an action at law or in equity to challenge the validity of any provision of this Agreement or the Project Approvals, the parties shall cooperate and appear in defending such action. Landowner shall bear its own costs of defense as a real party in interest in any such action, and Landowner shall reimburse City on an equal basis for all reasonable court costs and attorneys' fees expended by City in defense of any such action or other proceeding. The City agrees that in the event an action at law or in equity to challenge the validity of the Project Approvals is filed by a third party other than by a state or federal agency, the City will continue to process and approve permit applications that are consistent with and comply with the Project Approvals unless a court enjoins further processing of permit applications and issuance of permits.

22. Transfers and Assignments. From and after recordation of this Agreement against the Property, Landowner shall have the full right to assign this Agreement as to the Property, or any portion thereof, in connection with any sale, transfer or conveyance thereof, and upon the express written assignment by Landowner and assumption by the assignee of such assignment in the form attached hereto as Exhibit G, and the conveyance of Landowner's interest in the Property related thereto, Landowner shall be released from any further liability or obligation hereunder related to the portion of the Property so conveyed and the assignee shall be deemed to be the "Landowner," with all rights and obligations related thereto, with respect to such conveyed property. Prior to recordation of this Agreement, any proposed assignment of this Agreement by Landowner shall be subject to the prior written consent of the City Manager on behalf of the City and the form of such assignment shall be subject to the approval of the City Attorney, neither of which shall be unreasonably withheld.

23. Agreement Runs with the Land. Except as otherwise provided for in Section 15 of this Agreement, all of the provisions, rights, terms, covenants, and obligations contained in this Agreement shall be binding upon the parties and their respective heirs, successors and assignees, representatives, lessees, and all other persons acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitude and shall constitute covenants running with the land pursuant to applicable laws, including, but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the Property hereunder, or with respect to any owned property; (a) is for the benefit of such properties and is a burden upon such properties; (b) runs with such properties; and (c) is binding upon each party and each successive owner during its ownership of such properties or any portion thereof, and shall be a benefit to and a burden upon each party and its property hereunder and each other person succeeding to an interest in such properties.

24. Bankruptcy. The obligations of this Agreement shall not be dischargeable in bankruptcy.

25. Indemnification. Landowner agrees to indemnify, defend and hold harmless City, and its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives from any and all claims, costs (including legal fees and costs) and liability for (1) any personal injury or property damage which may arise directly or indirectly as a result of any actions or inactions by the Landowner, or any actions or inactions of Landowner's contractors, subcontractors, agents, or employees in connection with the construction, improvement, operation, or maintenance of the Property and the Project, provided that Landowner shall have no indemnification obligation with respect to the gross negligence or willful misconduct of City, its contractors, subcontractors, agents or employees or with respect to the maintenance, use or condition of any improvement after the time it has been dedicated to and accepted by the City or another public entity (except as provided in an improvement agreement or maintenance bond) and (2) any additional mitigation required, including but not limited to payment of any mitigation fees that may be imposed, as a result of a lawsuit filed by a third party challenging or seeking to invalidate the Project Approvals.

26. Insurance.

26.1. Public Liability and Property Damage Insurance. At all times that Landowner is constructing any improvements that will become public improvements, Landowner shall maintain in effect a policy of comprehensive general liability insurance with a per-occurrence combined single limit of not less than two million ($2,000,000) dollars and a deductible of not more than fifty thousand ($50,000) dollars per claim. The policy so maintained by Landowner shall name the City as an additional insured and shall include either a severability of interest clause or cross-liability endorsement.

26.2. Workers' Compensation Insurance. At all times that Landowner is constructing any improvements that will become public improvements, Landowner shall maintain Workers' Compensation insurance for all persons employed by Landowner for work at the Project site. Landowner shall require each contractor and subcontractor similarly to provide Workers' Compensation insurance for its respective employees. Landowner agrees to indemnify the City for any damage resulting from Landowner's failure to maintain any such insurance.

26.3. Evidence of Insurance. Prior to commencement of construction of any improvements which will become public improvements, Landowner shall furnish City satisfactory evidence of the insurance required in Sections 26.1 and 26.2 and evidence that the carrier is required to give the City at least fifteen (15) days prior written notice of the cancellation or reduction in coverage of a policy. The insurance shall extend to the City, its elective and appointive boards, commissions, officers, agents, employees and representatives and to Landowner performing work on the Project.

27. Excuse for Nonperformance. Landowner and City shall be excused from performing any obligation or undertaking provided in this Agreement, except any obligation to pay any sum of money under the applicable provisions hereof, in the event and so long as the performance of any such obligation is prevented or delayed, retarded or hindered by act of God, fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, riot, mob

violence, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, condemnation, requisition, laws, orders of governmental, civil, military or naval authority, or any other cause, whether similar or dissimilar to the foregoing, not within the control of the Party claiming the extension of time to perform. The Party claiming such extension shall send written notice of the claimed extension to the other Party within thirty (30) days from the commencement of the cause entitling the Party to the extension.

28. Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Landowner and, the City and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

29. Notices. All notices required by this Agreement, the enabling legislation, or the procedure adopted pursuant to Government Code Section 65865, shall be in writing and delivered in person or sent by certified mail, postage prepaid.

Notice required to be given to the City shall be addressed as follows:

CITY OF LODI
City Manager
P.O. Box 3006
Lodi, CA 95241-1910

Notice required to be given to the Landowner shall be addressed as follows:

SAN JOAQUIN VALLEY LAND COMPANY, LLC
1420 S. Mills Avenue, Suite K
Lodi, CA 95242

Either party may change the address stated herein by giving notice in writing to the other party, and thereafter notices shall be addressed and transmitted to the new address.

30. Form of Agreement; Recordation; Exhibits. Except when this Agreement is automatically terminated due to the expiration of the Term of the Agreement or the provisions of Section 5.3 (Automatic Termination Upon Completion and Sale of Residential Lot), the City shall cause this Agreement, any amendment hereto and any other termination of any parts or provisions hereof, to be recorded, at Landowner's expense, with the county Recorder within ten (10) days of the effective date thereof. Any amendment or termination of this Agreement to be recorded that affects less than all of the Property shall describe the portion thereof that is the subject of such amendment or termination. This Agreement is executed in three duplicate originals, each of which is deemed to be an original. This Agreement consists of 28 pages and 12 Exhibits, which constitute the entire understanding and agreement of the parties.

31. Further Assurances. The Parties agree to execute such additional instruments and to undertake such actions as may be necessary to effectuate the intent of this Agreement.

32. **City Cooperation**. The City agrees to cooperate with Landowner in securing all permits which may be required by City. In the event State or Federal laws or regulations enacted after the Effective Date, or action of any governmental jurisdiction, prevent delay or preclude compliance with one or more provisions of this Agreement, or require changes in plans, maps or permits approved by City, the parties agree that the provisions of this Agreement shall be modified, extended, or suspended as may be necessary to comply with such State and Federal laws or regulations or the regulations of other governmental jurisdictions. Each party agrees to extend to the other its prompt and reasonable cooperation in so modifying this Agrement or approved plans.

IN WITNESS WHEREOF, the City of Lodi, a municipal corporation, has authorized the execution of this Agreement in duplicate by its Mayor and attested to by its City Clerk under the authority of Ordinance No. 1785, adopted by the City Council of the City of Lodi on the 6th day of September, 2006, and Landowner has caused this Agreement to be executed.

"CITY"

CITY OF LODI,
a municipal corporation

By: _____
Name: Blair King
Its: City Manager

ATTEST:

_____
Randi Johl, City Clerk

APPROVED AS TO FORM:

_____
D. Stephen Schwabauer
City Attorney

"LANDOWNER"

SAN JOAQUIN VALLEY LAND COMPANY, LLC

By: _____
Name: Dale N. Gillespie
Its: Managing Member

EXHIBIT LIST

Exhibit A-1:	Legal Description of the Property
Exhibit A-2:	Diagram of the Property
Exhibit B:	General Plan Land Use Map
Exhibit B-1:	Zoning Map for Project Site
Exhibit C-1:	Reserved
Exhibit C-2:	Reserved
Exhibit D:	Development Plan and Infrastructure Map for the Property
Exhibit E:	Growth Management Allocations
Exhibit F:	Annexation Approvals
Exhibit G:	Form of Assignment
Exhibit H:	Schedule of Improvements
Exhibit I:	Settlement Agreement among San Joaquin Valley Land Company, LLC, Citizens for Open Government and the City of Lodi

EXHIBIT A-1

LEGAL DESCRIPTION OF THE PROPERTY

The land referred to herein is situated in the State of California, County of San Joaquin, City of Lodi, and is described as follows:

EXHIBIT "A"

July 5, 2006

DESCRIPTION OF THE PROPOSED
REYNOLDS RANCH ANNEXATION TO THE CITY OF LODI
San Joaquin County, California

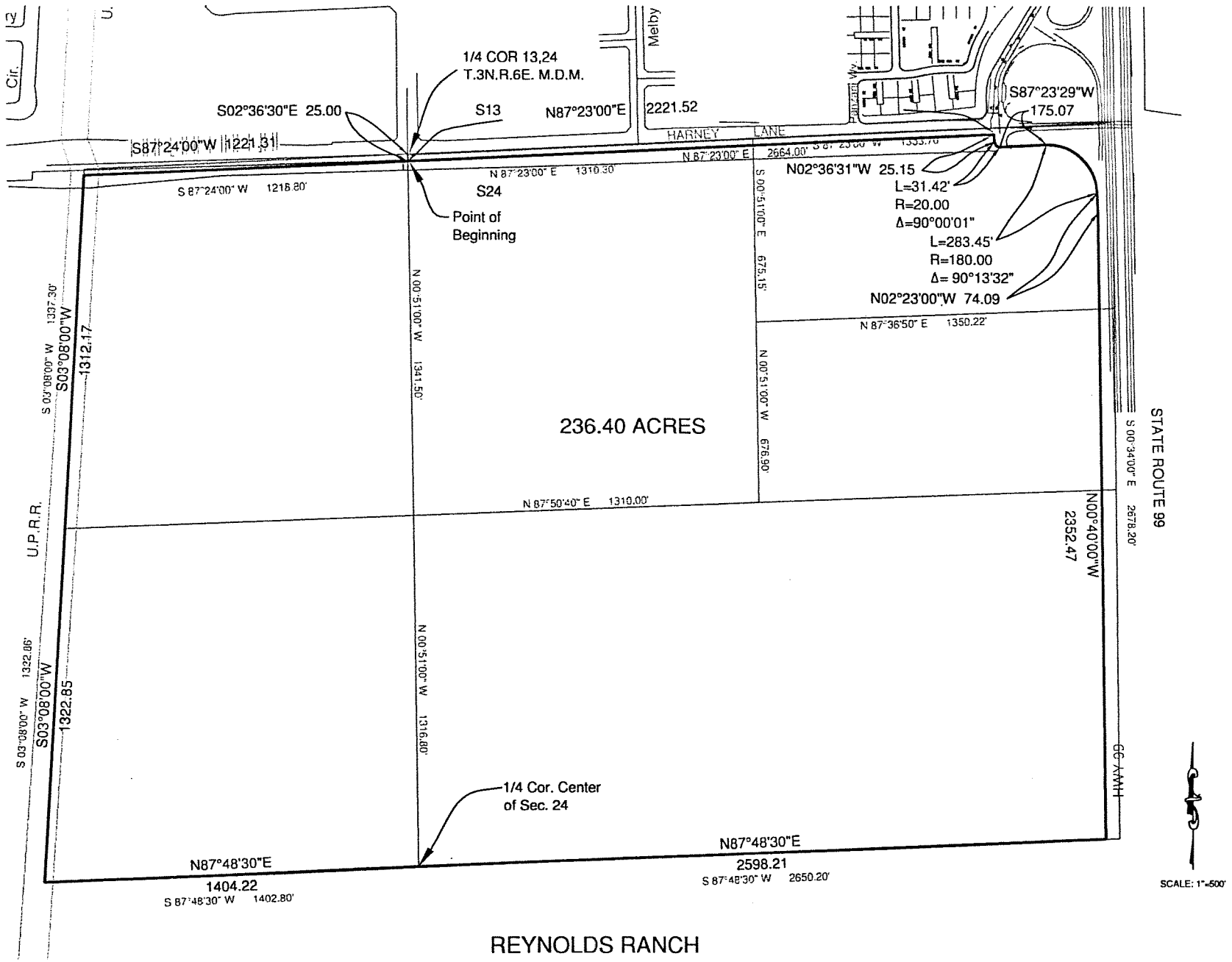
THAT PORTION OF SECTION 24, TOWNSHIP 3 NORTH, RANGE 6 EAST, MOUNT DIABLO BASE AND MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE ONE-QUARTER SECTION CORNER BETWEEN SECTIONS 13 AND 24 TOWNSHIP 3 NORTH, RANGE 6 EAST, MOUNT DIABLO BASE AND MERIDIAN; THENCE S2°36'30"E, 25.00 FEET; THENCE PARALLEL TO THE NORTHERN BOUNDARY OF SECTION 24, S87°24'00"W, 1221.31 FEET MORE OR LESS TO THE EASTERN BOUNDARY OF THE UNION PACIFIC RAILROAD RIGHT OF WAY; THENCE ALONG THE EASTERN BOUNDARY OF THE UNION PACIFIC RAILROAD RIGHT OF WAY, S3°08'00W, 2635.02 FEET MORE OR LESS TO THE EAST-WEST ONE-QUARTER SECTION LINE OF SECTION 24; THENCE ALONG THE EAST-WEST ONE-QUARTER SECTION LINE OF SECTION 24, N87°48'30"E, 4002.43 FEET MORE OR LESS TO THE WEST RIGHT OF WAY BOUNDARY OF STATE ROUTE 99 AS CREATED BY HIGHWAY COMMISSION RESOLUTION OF RELINQUISHMENT NUMBER B854 AS PASSED BY THE CALIFORNIA HIGHWAY COMMISSION ON NOVEMBER 16, 1966; THENCE ALONG THE WEST RIGHT OF WAY BOUNDARY OF STATE ROUTE 99 THE FOLLOWING COURSES: N0°40'00"W, 2352.47 FEET; THENCE N2°23'00"W, 74.09 FEET; THENCE ALONG A CURVE TO THE LEFT WITH A RADIUS OF 180.00 FEET, THROUGH A CENTRAL ANGLE OF 90°13'32", A DISTANCE OF 283.45 FEET; THENCE S87°23'29"W, 175.07 FEET; THENCE ALONG A CURVE TO THE RIGHT, WITH A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 90°00'00", A DISTANCE OF 31.42 FEET; THENCE N2°36'31"W, 25.15 FEET MORE OR LESS TO A POINT 25.00 FEET SOUTH OF THE NORTH BOUNDARY OF SECTION 24 AS MEASURED AT A RIGHT ANGLE TO THE NORTH BOUNDARY OF SECTION 24; THENCE, LEAVING THE WEST BOUNDARY OF STATE ROUTE 99, ALONG A LINE PARALLEL TO THE NORTHERN BOUNDARY OF SECTION 24, S87°23'00"W, 2221.52 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 236.40 ACRES MORE OR LESS

EXHIBIT A-2

DIAGRAM OF THE PROPERTY



REYNOLDS RANCH
ANNEXATION

EXHIBIT B

GENERAL PLAN LAND USE MAP

854085-1
Version 6 8/23/2006

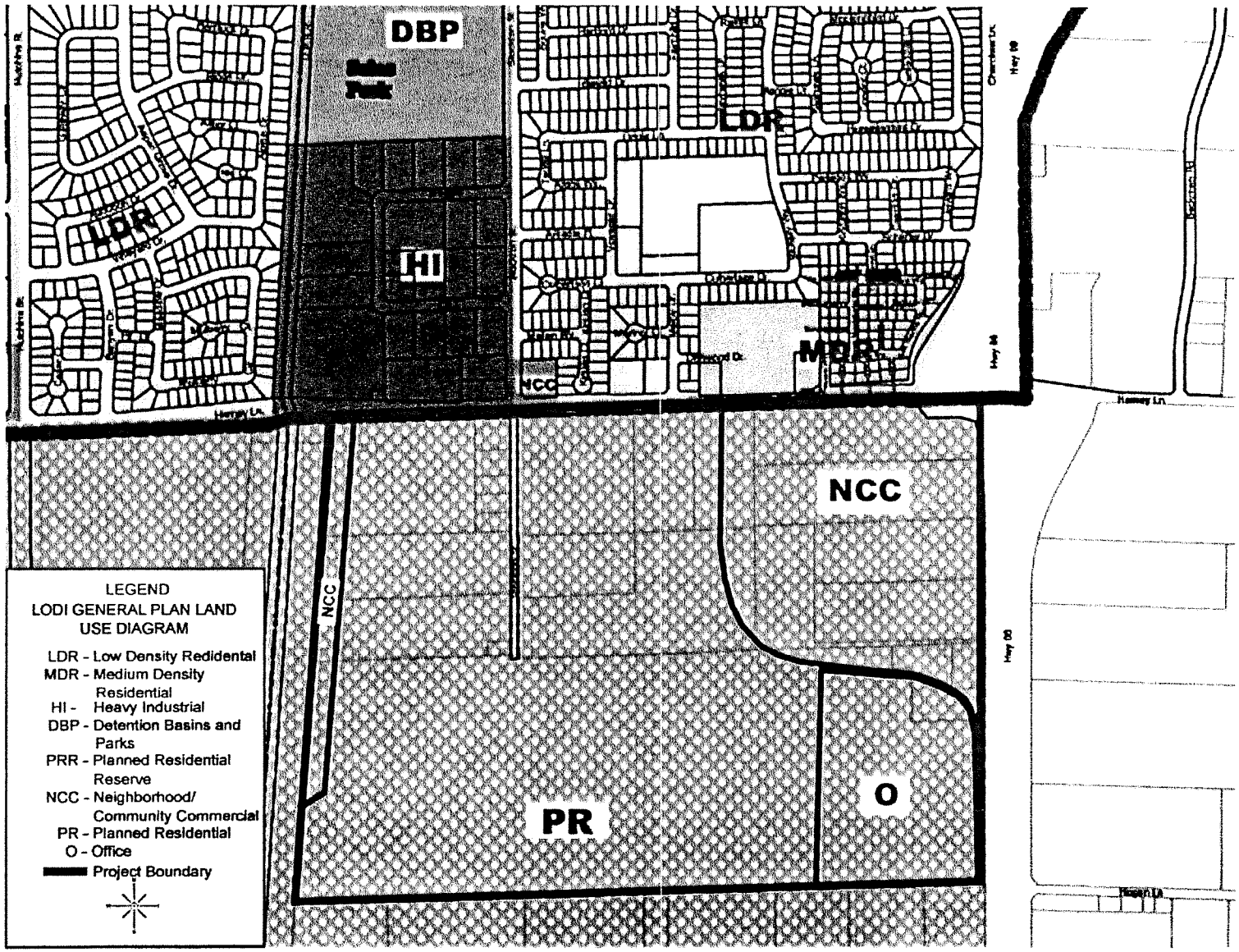


FIGURE 3.7.7: CITY OF LODI GENERAL PLAN LAND USE DESIGNATIONS

EXHIBIT A-2

ZONING MAP FOR PROJECT SITE

FIGURE 2.4.1: LAND USE PLAN

LAND USE

REYNOLDS RANCH

CITY OF LODI, CALIFORNIA

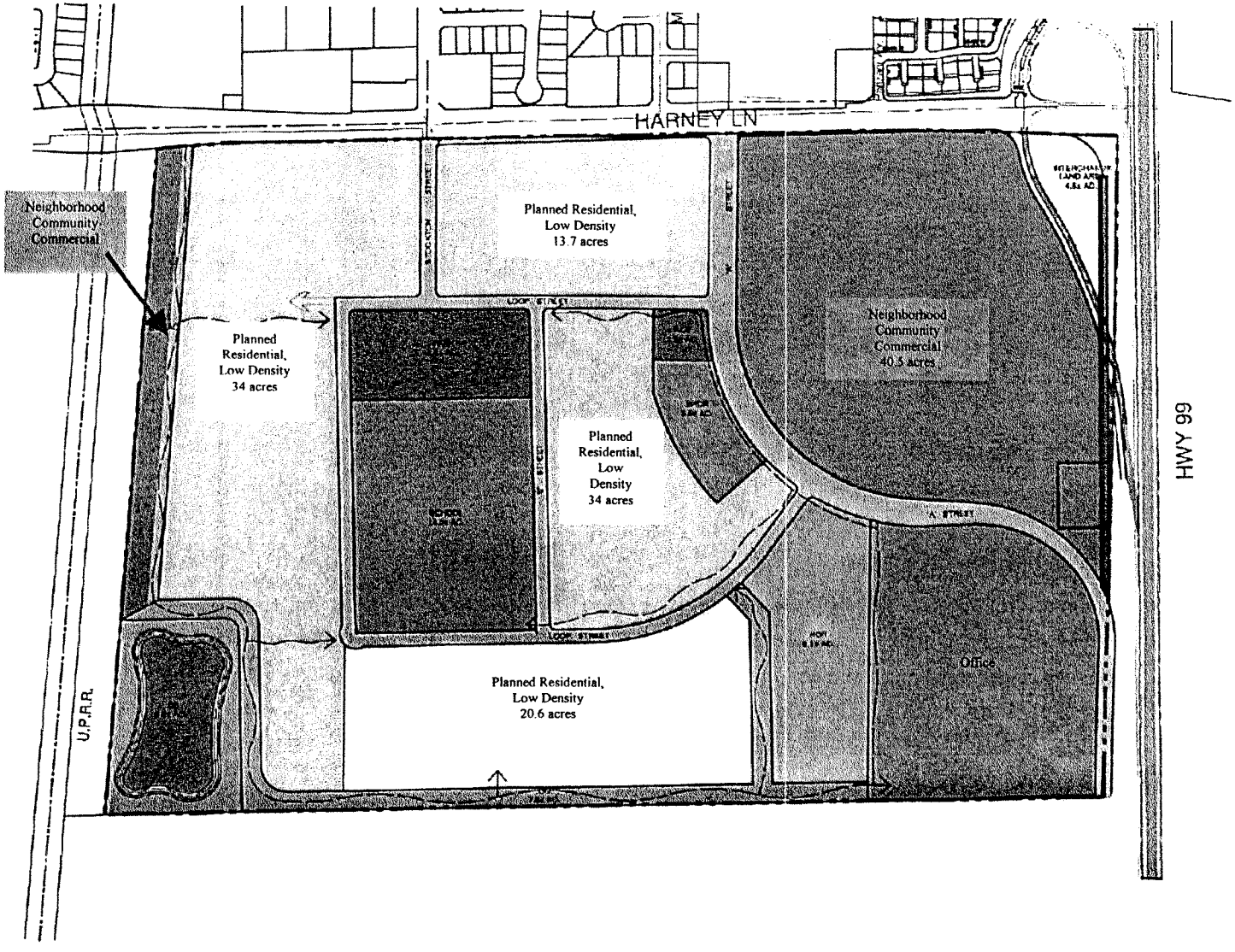


EXHIBIT C-1

Reserved

EXHIBIT C-2

Reserved

EXHIBIT D

DEVELOPMENT PLAN AND INFRASTRACTURE MAP FOR THE PROPERTY

FIGURE 3.11.1: PROPOSED WATER PLAN FOR REYNOLDS RANCH

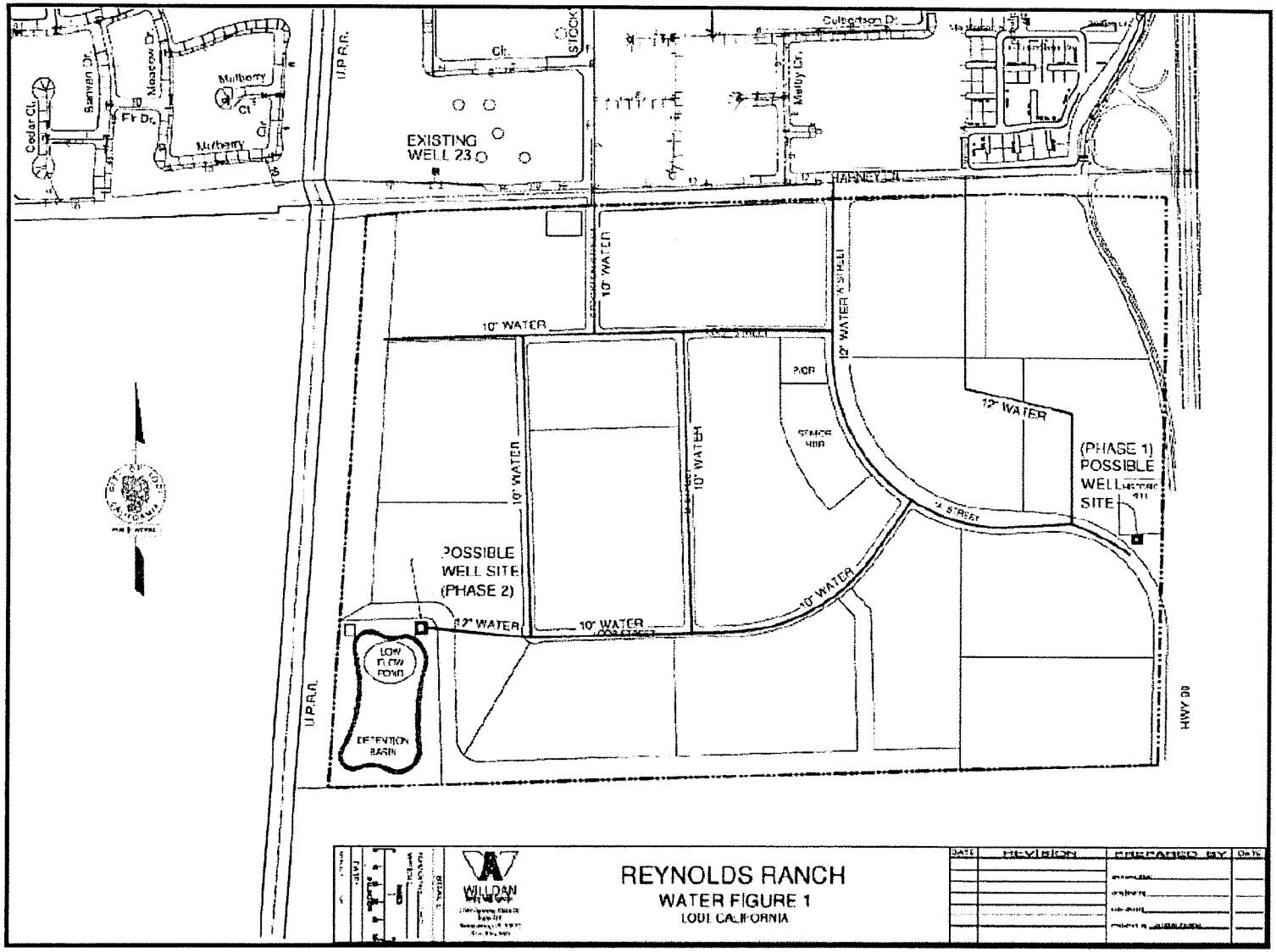


FIGURE 3.11.2: PROPOSED SEWER PLAN FOR REYNOLDS RANCH

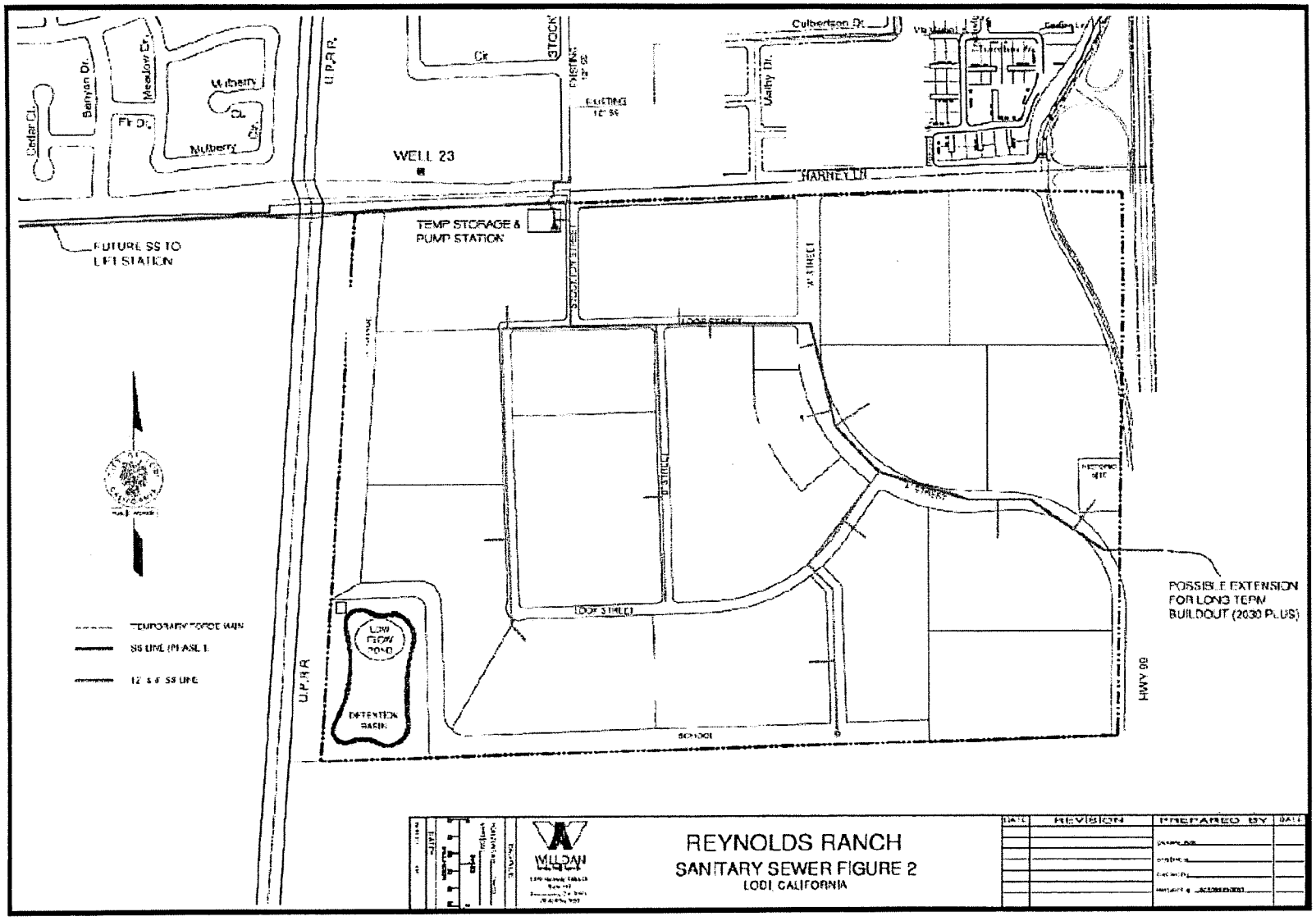


EXHIBIT E

GROWTH MANAGEMENT ALLOCATION TABLE

Applicable Date	Allocation
Effective Date of Development Agreement	150 low density allocation for Planned Residential Low Density 200 high density units
Within the Calendar Year One Year after Effective Date	73 low density allocations for Planned Residential Low Density
Within the Calendar Year Two Years after Effective Date	73 low density allocations for Planned Residential Low Density
Within the Calendar Year Three Years after Effective Date	73 low density allocations for Planned Residential Low Density
Within the Calendar Year Four Years after Effective Date	73 low density allocations for Planned Residential Low Density
Within the Calendar Year Five Years after Effective Date	73 low density allocations for Planned Residential Low Density
Within the Calendar Year Six Years after Effective Date	73 low density allocations for Planned Residential Low Density
Within the Calendar Year Seven Years after Effective Date	73 low density allocations for Planned Residential Low Density
Within the Calendar Year Eight Years after Effective Date	73 low density allocations for Planned Residential Low Density
Remaining Term of the Agreement including Extensions	Any remaining Planned Residential Low Density allocations up to the maximum number authorized by the Project Approvals.

EXHIBIT F

ANNEXATION APPROVALS

DOC # 2006-257516
12/08/2006 03:21P Fee:NC
Page 1 of 6
Recorded in Official Records
County of San Joaquin
GARY W. FREEMAN
Assessor-Recorder-County Clerk
Paid by SHOWN ON DOCUMENT

CERTIFICATE OF COMPLETION

San Joaquin LAFCo
1860 E. Hazelton Avenue
Stockton, CA 95205

Short Form Designation:

THE REYNOLDS RANCH REORGANIZATION (LAFC 05-06)
Annexation of 235 acres to the City of Lodi with concurrent detachments from the Woodbridge Fire Protection District and the San Joaquin County Resource Conservation District.

1. Filed pursuant to action by the City of Lodi.

2. The name of each district or city involved in this change of organization or reorganization and the kind or type of change of organization ordered for each such city or districts are as follows:

CITY OR DISTRICT	TYPE OF CHANGE OF ORGANIZATION
City of Lodi	Annexation
Woodbridge Fire Protection District	Detachment
San Joaquin County Resource Conservation District	Detachment

3. The city or districts are located in the following county (ies): San Joaquin.

4. Boundary description for said formation or change has been attached as Exhibit A.

5. Terms and conditions, if any, are provided in said resolution, attached.

6. I hereby certify that the action taken by adoption of the above cited resolution complies with the boundaries and conditions specified by the Local Agency Formation Commission of San Joaquin County in Resolution No. 1158.

BRUCE C. BARACCO, EXECUTIVE OFFICER
Local Agency Formation Commission of
San Joaquin County

Completion Date: December 8, 2006

CERTCOMP

RESOLUTION NO. 1158

BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION APPROVING THE REYNOLDS RANCH REORGANIZATION TO ANNEX 235 ACRES TO THE CITY OF LODI WITH CONCURRENT DETACHMENTS FROM THE WOODBRIDGE FIRE PROTECTION DISTRICT AND THE SAN JOAQUIN COUNTY RESOURCE CONSERVATON DISTRICT (LAFC 05-06)

WHEREAS, the above entitled proposal was initiated by filing by the City of Lodi and on August 31, 2006, the Executive Officer certified the application filed for processing in accordance with the Local Government Reorganization Act; and

WHEREAS, the Commission held a public hearing on the proposed reorganization on September 22, 2006, in the Board of Supervisors Chambers, County Courthouse, pursuant to notice of hearing which was posted, published and mailed in accordance with State law; and

WHEREAS, at said hearing the Commission heard and received evidence, both oral and written regarding the proposal, and all persons present were given an opportunity to be heard.

NOW THEREFORE, the San Joaquin Local Agency Formation Commission DOES HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

Section 1. The above named reorganization is approved subject to the terms and conditions contained herein.

Section 2. Certify that the Commission has reviewed and considered the City's Environmental Impact Report.

Section 3. Approve the proposal as submitted to annex 235 acres to the City of Lodi with concurrent detachments from the Woodbridge Fire Protection District and the San Joaquin County Resource Conservation District, with the boundary description as approved by the County Surveyor.

Section 4. Adopt Environmental Findings as presented in Exhibit K, attached.

Section 5. Find that the proposal is inhabited with 23 registered voters and does not have 100% owner-consent.

Section 6. Direct LAFCo Staff to conduct a protest hearing pursuant to Sections 57002 and 57025 of the Government Code and report the results to the Commission for final action.

PASSED AND ADOPTED this 22nd day of September 2006 by the following roll call vote:

AYES: Commissioners Gary L. Haskin, Gerard Machado, Victor Mow, Jack Snyder and Jack Sieglock

NOES: None

JACK SIEGLOCK, CHAIR
Local Agency Formation Commission of
San Joaquin County

Note: At a regular meeting on December 8, 2006 the Commission determined that the Protest Hearing held on October 25, 2006 did not warrent sufficient protests to affect the approval.

THE FOREGOING IS A CORRECT COPY OF
THE ORIGINAL ON FILE IN THIS OFFICE
BRUCE C. BARACCO
EXECUTIVE OFFICER
By: Linda Lund
COMMISSION CLERK
Date: 12-08-06

EXHIBIT A

August 14, 2006

DESCRIPTION OF
PROPOSED
REYNOLDS RANCH ANNEXATION TO THE CITY OF LODI
San Joaquin County, California

A portion of Section 24, Township 3 North, Range 6 East, Mount Diablo Base and Meridian, more particularly described as follows:

Beginning at the intersection of the east-west quarter section line through said Section 24 with the east line of the Union Pacific Railroad's (formerly Southern Pacific Railroad) 100-foot wide right-of-way; (1) thence along said east right-of-way line, North 03°08' East, 2,635.02 feet to the Lodi City limit line; thence along said City Limit line the following two (2) courses (being courses 2 and 3): (2) North 87°24' East, 1,221.31 feet and (3) North 87°23' East, 2,275 feet, more or less, to the northerly projection of the easterly right-of-way line of North 99 Frontage Road on the westerly side of State Highway Route No. 99; (4) thence leaving said City Limit line along said northerly projection, South 02°37' East, 5.00 feet to said North 99 Frontage Road's easterly right-of-way line; (5) thence along said easterly right-of-way line in a general southerly direction, 2,885 feet, more or less, to said east-west quarter section line; (6) thence along said quarter section line, South 87°48'30" West, 4,000 feet, more or less, to the point of beginning.

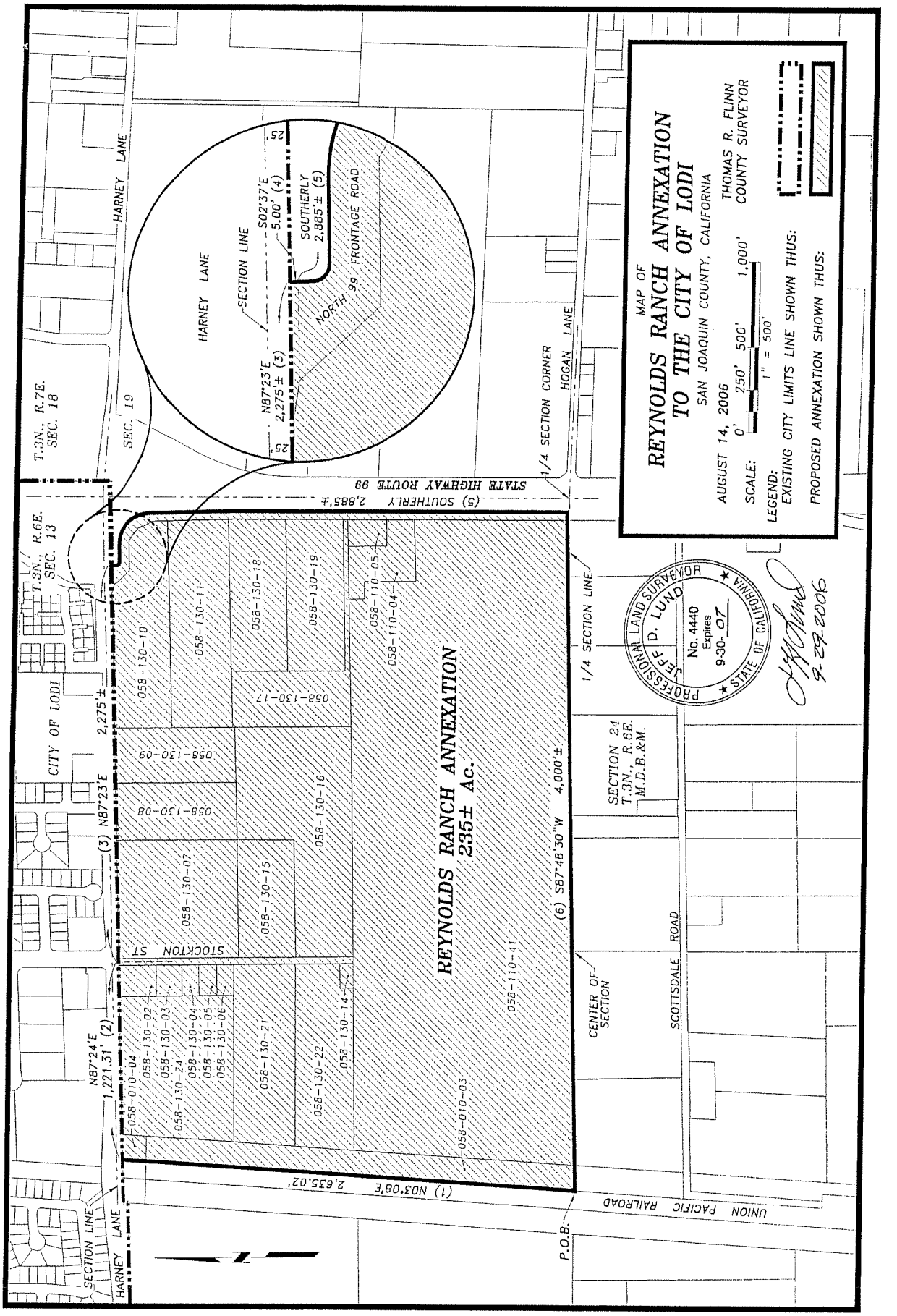
Containing 235 acres, more or less.

APPROVED AS TO DESCRIPTION:
County Surveyor

By: Jeff Lund
Assistant County Surveyor
9-29-2006

SV-6H052-R1

PROFESSIONAL LAND SURVEYOR
JEFF D. LUND
No. 4440
Expires
9-30-07
STATE OF CALIFORNIA


MAP OF
REYNOLDS RANCH ANNEXATION
TO THE CITY OF LODI
SAN JOAQUIN COUNTY, CALIFORNIA
AUGUST 14, 2006
SCALE: 0' 250' 500' 1,000'
1" = 500'
LEGEND:
EXISTING CITY LIMITS LINE SHOWN THUS:
PROPOSED ANNEXATION SHOWN THUS:
THOMAS R. FLINN
COUNTY SURVEYOR
REYNOLDS RANCH ANNEXATION
235± Ac.
HARNEY LANE
SECTION LINE
S02°37'E
5.00' (4)
SOUTHERLY
2,885'± (5)
NORTH 99 FRONTAGE ROAD
N87°23'E
2,275'± (3)
25'
T.3N., R.7E.
SEC. 18
SEC. 19
1/4 SECTION CORNER
HOGAN LANE
STATE HIGHWAY ROUTE 99
(5) SOUTHERLY 2,885'±
T.3N., R.6E.
SEC. 13
CITY OF LODI
2,275'±
N87°23'E
(3)
1/4 SECTION LINE
PROFESSIONAL LAND SURVEYOR
JEFF D. LUND
No. 4440
Expires
9-30-07
STATE OF CALIFORNIA
9-29-2006
SECTION 24
T.3N., R.6E.
M.D.B.&M.
4,000'±
(6) S87°48'30"W
STOCKTON ST
CENTER OF SECTION
SCOTTSDALE ROAD
N87°24'E
1,221.31' (2)
(1) N03°08'E 2,635.02'
UNION PACIFIC RAILROAD
P.O.B.
SECTION LINE
HARNEY LANE
058-010-04
058-130-02
058-130-03
058-130-24
058-130-04
058-130-05
058-130-06
058-130-21
058-130-22
058-130-14
058-130-07
058-130-15
058-130-16
058-130-08
058-130-09
058-130-10
058-130-11
058-130-17
058-130-18
058-130-19
058-110-05
058-110-04
058-110-41
058-010-03

LAFCo Findings of Significance

1. **Purpose**
   The findings set forth below are made and adopted by the Local Agency Formation Commission of San Joaquin County (LAFCo) as its environmental findings under Section 15091 of the California Environmental Quality Act (CEQA) Guidelines relating to this project.

2. **Project**
   This project under LAFCo review is the annexation of 236.4 acres of land to the City of Lodi, with concurrent detachments from the Woodbridge Rural Fire District and the San Joaquin County Resource Conservation District.

3. **Environmental Record Being Considered by LAFCo**
   As a Responsible Agency, LAFCo has based its findings on the following environmental document prepared by the City of Lodi, as the Lead Agency:

   Reynolds Ranch Project Environmental Impact Report (SCH No. 2006012113)

4. **LAFCo Considerations**
   The proposed Reynolds Ranch Reorganization has been considered by LAFCo within the context of the above referenced environmental document. As provided in Public Resources Code Section 21166 and CEQA Guidelines Section 15162, where a previous EIR has been adopted for a project, a new EIR is required only under certain circumstances. LAFCo considers that the proposed reorganization has been adequately addressed in the project EIR, and that those mitigation measures directly associated with the reorganization are appropriate.

CEQA FINDINGS

A. Agricultural Resources

1. Conversion of Prime Farmland
   Changes related to the conversion of Prime Farmland are set forth on pages 3.7-27 and 5.0-1 of the Final EIR. The irreversible loss of agricultural land to non-agricultural uses is a significant irreversible environmental change.

* * * *

EXHIBIT G

FORM OF ASSIGNMENT

OFFICIAL BUSINESS
Document entitled to free recording
Government Code Section 6103

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910
Attn: City Clerk

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

ASSIGNMENT AND ASSUMPTION AGREEMENT RELATIVE TO

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter, the "Agreement") is entered into this _____ day of _____, 200_ ____, by and between San Joaquin Valley Land Company, LLC, (hereinafter "Developer"), and _____, a _____ _____ (hereinafter "Assignee").

RECITALS

1. On September 6, 2006, the City of Lodi and Developer entered into that certain agreement entitled "Development Agreement By and Between The City of Lodi and Relative to the Development known as Reynolds Ranch (hereinafter the "Development Agreement"). Pursuant to the Development Agreement, Developer agreed to develop certain property more particularly described in the Development Agreement (hereinafter, the "Subject Property"), subject to certain conditions and obligations as set forth in the Development Agreement. The Development Agreement was recorded against the Subject Property in the Official Records of San Joaquin County on _____, 2006, as Instrument No. ___-_____.

2. Developer intends to convey a portion of the Subject Property to Assignee, commonly referred to as Parcel _____, and more particularly identified and described in Exhibit A-1 and Exhibit A-2, attached hereto and incorporated herein by this reference (hereinafter the "Assigned Parcel").

3. Developer desires to assign and Assignee desires to assume all of Developer's right, title, interest, burdens and obligations under the Development Agreement with respect to and as related to the Assigned Parcel.

ASSIGNMENT AND ASSUMPTION

NOW, THEREFORE, Developer and Assignee hereby agree as follows:

1. Developer hereby assigns, effective as of Developer's conveyance of the Assigned Parcel to Assignee, all of the rights, title, interest, burdens and obligations of Developer under the Development Agreement with respect to the Assigned Parcel. Developer retains all the rights, title, interest, burdens and obligations under the Development Agreement with respect to all other property within the Subject Property owned by Developer.

2. Assignee hereby assumes all of the rights, title, interest, burdens and obligations of Developer under the Development Agreement with respect to the Assigned Parcel, and agrees to observe and fully perform all of the duties and obligations of Developer under the Development Agreement with respect to the Assigned Parcel. The parties intend hereby that, upon the execution of this Agreement and conveyance of the Assigned Parcel to Assignee, Assignee shall become substituted for Developer as the "Developer" under the Development Agreement with respect to the Assigned Parcel.

3. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

4. The Notice Address described in Section 29 of the Development Agreement for the Developer with respect to the Assigned Parcel shall be:

SAN JOAQUIN VALLEY LAND COMPANY, LLC
1420 S. Mills Avenue, Suite K
Lodi, CA 95242

IN WITNESS HEREOF, the parties hereto have executed this Agreement as of the day and year first above written. This Agreement may be signed in identical counterparts.

DEVELOPER:	ASSIGNEE:
SAN JOAQUIN VALLEY LAND COMPANY, LLC	_____, a _____
By: _____	By: _____
Name: Dale N. Gillespie	Print Name: _____
Title: Managing Member	Title: _____

854085-1
Version 6 8/23/2006

EXHIBIT H

SCHEDULE OF IMPROVEMENTS

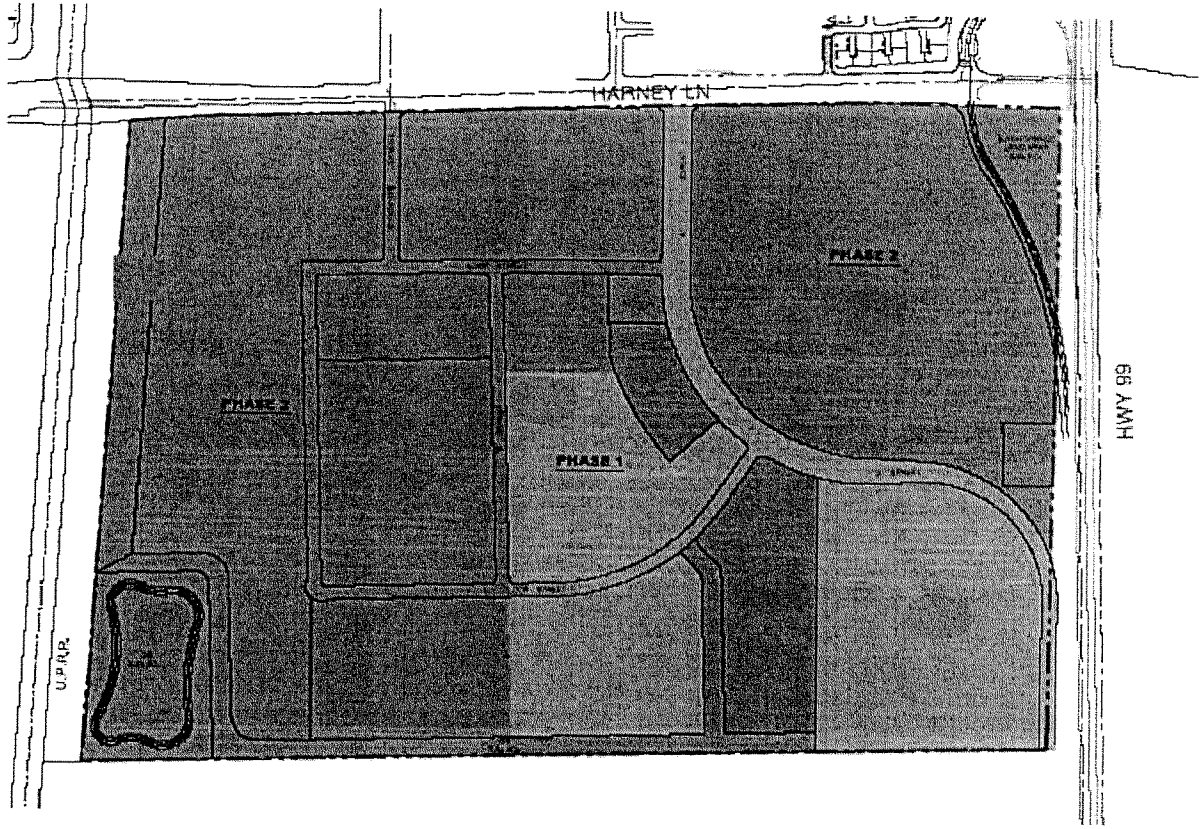
854085-1
Version 6 8/23/2006

FIGURE 2.4.3: REYNOLDS RANCH PHASING PLAN

PHASING PLAN

REYNOLDS RANCH

CITY OF LODI, CALIFORNIA



LEGEND

- PHASE I (BUILD-OUT 2008) (CONTAINS 150 UNITS)
- PHASE II (BUILD-OUT 2030)

APRIL 25, 2005

G.C. WALLACE OF CALIFORNIA, INC.

EXHIBIT I

SETTLEMENT AGREEMENT BETWEEN CITY, LANDOWNER AND CITIZENS FOR OPEN GOVERNMENT

854085-1
Version 6 8/23/2006

EXHIBIT 1

AGREEMENT TO AMEND DRAFT DEVELOPMENT AGREEMENT AND REFRAIN FROM CHALLENGING LAND USE PROJECT

THIS AGREEMENT is made this 24th day of August 2006 by and between the City of Lodi (City), a California General Law city, represented by the City Manager and City Attorney with the limited authority as described in Section 1.A; Citizens for Open Government, an unincorporated association (Citizens); and, San Joaquin Valley Land Company (Company) a California Limited Liability Company. The Parties agree as follows:

1. Recitals.

A. The parties to the Agreement.

City is a General Law city governed by a five-member city council. For all purposes herein and during all times during the negotiation of this Agreement the City Manager and City Attorney have represented the City. However in this Agreement and at all times during the negotiation of the Agreement the City Manager and/or City Attorney have lacked the capacity or legal authority to bind the City of Lodi and/or the City Council. The parties understand that throughout the negotiation and in executing this Agreement the City Manager and City Attorney can only recommend to the City Council that it take certain actions. All authority and discretion remains with the City Council over whether the City Council will approve or disapprove of this Agreement. The City Council is scheduled to hear the Project at a duly noticed public hearing scheduled for August 30, 2006.

Citizens is an unincorporated association that has commented on the development proposed by Company. Citizens desire to have certain mitigation measures and clarifications added to a development agreement negotiated between City and Company that in the opinion of Citizens will further the interest of the City and the interest of the public. If these amendments are added to the draft Development Agreement then Citizens will support the Project, or will not make negative comments about the project's EIR at the City Council public hearing, and will not subsequently challenge the certification of the EIR or the Project approval in court. Ann Cerney shall be the spokesperson for Citizens and make these statements at the City Council hearing.

Company, a private entity, is the applicant for various land use approvals that would permit a Blue Shield call center, a shopping center and several residential subdivisions (Project). The Project is more specifically described in the draft environmental impact report (EIR). By approving the project the City will retain Blue Shield, which currently employs approximately 600 to 800 workers and ultimately anticipates employing approximately 1,600 workers. The parties agree that retaining the Blue Shield operation in City is a substantial public benefit and a benefit that makes the Project unique for the City.

B. Although Citizens are not fully satisfied with all aspects of the Project and EIR it has balanced the benefits of the Project, including the changes to the draft Development Agreement proposed in this Agreement, against the adverse effects of the Project and has concluded that the project is more beneficial to the City than detrimental.

2. Modification of Development Agreement.

The parties agree that the draft Development Agreement, scheduled to be considered by the City Council at the public hearing on August 30, 2006 shall be amended as follows:

A. A. Company shall request that Blue Shield and major tenants within the commercial portion of the project prepare Transportation Demand Management Plans to reduce traffic impacts. These traffic reduction measures may include:

i. Providing flex time and/or shifting work schedules to avoid peak traffic;
ii. Establishing carpools and vanpools;
iii. Providing preferential and free parking for carpoolers and vanpoolers as well as ridesharing programs;
iv. Providing shuttle services from regional transportation (e.g., rail/bus) stations to final destinations;
v. Providing subsidies for transit passes; and
vi. Providing locker room facilities for employees (i.e. bicyclists).

B. The Company shall obtain permanent easements limiting the use of real property to agricultural or other open space uses and activities to be held by the City of Lodi (Agricultural Conservation Easements). The Agricultural Conservation Easements shall be recorded against an aggregate total of two hundred (200) acres of prime agricultural land, involving one or more parcels of land, located within fifteen (15) miles of the Project site. All of the land shall be located within San Joaquin County (excluding the Delta Primary Zone as presently defined by State Law) and shall be in current agricultural use. The easements, executed in a form suitable for recordation, shall be presented to the City Attorney for his or her review for form on or before the first residential building permit is issued for the project. The Agricultural Conservation Easements shall be recorded within three (3) days of the City Attorney approving the form of the document and the City Attorney shall not unreasonably withhold his or her approval. The cost of obtaining the Agricultural Conservation Easements shall rest with the Company. In addition, the Agricultural Conservation Easements shall not have previously been encumbered by: (a) any other perpetual conservation easement, (b) a deed restriction limiting use of the Protected Property to agricultural uses, or (c) currently be in use for agricultural mitigation; the site(s) must be subject to permanent restrictions on its use to ensure its continued agricultural production capacity by limiting non-farm development and other uses that are inconsistent with commercial agriculture; and the easements shall be designated and maintained according to all applicable federal, state, and local requirements, and shall not allow for any uses inconsistent with the goals of maintaining agricultural uses and open space uses on agricultural land and preserving the environmental integrity of the subject sites. City agrees to monitor the property subject to the easements biannually through its planning commission to ensure compliance with the requirements of this Paragraph. Company will pay City a one time fee of $5,000.00 to compensate City fort eh monitoring cost/contingencies.

City shall notify Citizens of which site(s) are selected to meet the requirements of this paragraph 30 days prior to the recordation of the Agricultural Conservation Easements.

C. The landscaping standards for the Blue Shield site shall be the current written design and landscaping requirements and standards found in the City's Large Scale Retail Design landscaping standards.

D. Home builders of the residential lots shall offer alternative energy features such as solar features and electrical car charging stations or outlets as optional features that each future homeowner may elect to purchase as part of the homeowner's option package.

E. In designing and developing the specific components of the of the project, the Company is committed to the design principles of "New Urbanism" adopted by the Congress for New Urbanism. This includes promoting neighborhoods that are walkable; interconnected; that incorporate a traditional grid system of streets; that include pedestrian friendly streetscapes; bicycle friendly design elements; well integrated, highly visible, and publicly accessible open spaces; a rhythm of housing and structural forms that are visually interesting, well modulated, constructed of high quality materials, individualized and proportionate to their surroundings, with minimized garage domination on the street frontages, and a range of housing types, sizes and affordability.

F. Pedestrian Transit and Bicycle Infrastructure: The Company shall implement the following measures:

1) Provide pedestrian enhancing infrastructure that includes: sidewalks and pedestrian paths, direct pedestrian connections, street trees to shade sidewalks, pedestrian safety designs/infrastructure, street lighting and/or pedestrian signalization and signage.

2) Provide bicycle-enhancing infrastructure that includes: bikeways/paths connecting to a bikeway system, and secure bike parking.

3) Prepare a transit study to assess the need for new routes or modified routes to serve the project area and comply with its requirements. The study would be conducted as part of the development plan.

G. Eastside Investment: The project requirement for investment in Lodi's eastside will be amended to require that any units which are rehabilitated or replaced which are currently at affordable rents for persons or families of low income shall remain affordable for persons of low income.

H. Funding of Water Supply. Prior to the acceptance of a residential subdivision map for the Project, a Community Facilities District (or equivalent financing mechanism) shall be formed to finance the construction of the improvements necessary to serve the WID Water to the Project "(Improvements") or Developer shall pay its proportionate share of the cost of the Improvements to the City.

I. Effect of Amendments:

1) Challenge by Citizens/Cerney: The amended Development Agreement shall provide that the amendments called for in this Agreement will not become effective in the event that Citizens and/or Ann Cerney: (1) file a legal action challenging the City's certification of the EIR; (2) file a legal action challenging the City's approval of the Project's land use approvals; (3) file a legal action challenging the San Joaquin Local Agency Formation Commission's compliance with CEQA; (4) file a legal action challenging the San Joaquin Local Agency Formation Commission's approval of the annexation of the territory to the City of Lodi; or, (5) qualify a referendum petition to require an election concerning one or more of the Project's legislative approvals.

2) Challenge by Third Party:

a. The amended Development Agreement shall provide that the amendments called for in this Agreement will become partially ineffective as set forth below in the event that any other party: (1) files a legal action challenging the City's certification of the EIR; (2) files a legal action challenging the City's approval of the Project's land use approvals; (3) files a legal action challenging the San Joaquin Local Agency Formation Commission's compliance with CEQA; (4) files a legal action challenging the San Joaquin Local Agency Formation Commission's approval of the annexation of the territory to the City of Lodi; or, (5) qualifies a referendum petition to require an election concerning one or more of the Project's legislative approvals.

b. If an event triggers a partial invalidity as called for above, provisions 2A and 2C of this Agreement will become null and void; the number of acres subject to paragraph 2B will be revised to 100 acres, and the fees in paragraph 3C will be reduced to $10,000.00. Moreover, Citizens Statute of Limitations to file an action challenging the City's certification of the EIR/land use approvals will be tolled 30 days from the limitations period established by CEQA. City and Company grant a second conditional and limited tolling of the statute of limitations to file an action challenging City's certification of the EIR. This Conditional and Limited Tolling will only arise upon a legal challenge by a third party to LAFCO's determination on the EIR and/or annexation and Citizens time to file an action shall extend for only thirty days after the third party files its action.

c. In the event that dismissals with prejudice are filed with the Court before answers are filed in the third party litigation then Citizens will dismiss any subsequent actions and the terms of this Agreement shall be fully restored.

3. Miscellaneous.

A. Ann Cerney, as a representative of Citizens, shall appear at the City Council hearing and express support for the approval of this Agreement and shall express support of the Project and certification of the EIR if the City amends the draft Development Agreement to include the changes found in Section 2 of this Agreement

B. Citizens represents and warrants that Ann Cerney has authority to execute this Agreement on behalf of Citizens and is authorized to speak on behalf of the organization at the Lodi City Council meeting.

C. Company conditionally agrees to pay $20,000 to Citizens to reimburse Citizens for attorney fees expended in the negotiation and executing of this Agreement and to reimburse members of the Citizens for extraordinary time and effort expensed in this process. The distribution of the money shall be at the sole discretion of Citizens. The reimbursement of attorney fees shall be due and payable thirty (30) days after the last day to take any of the actions described in this Section 3.C.

D. Company represents and warrants that prior to the August 30, 2006 City hearing Blue Shield shall issue a press release to local media outlets reasserting Blue Shield's commitment to the Project site.

E. If the benefits included in the amendments to the Development Agreement are not adopted by the City Council, Citizens' support for approval of the Project will be withdrawn and its previously stated objections will be renewed. City and Company agree not to assert an exhaustion of administrative remedies defense as to those issues raised and exhausted at the planning commission hearing if litigation ensues and this agreement becomes null and void, or partially invalid under Section 2.I and/or 4 of this Agreement.

4. Effective Date of Agreement.

Only Section 3.A, 3.B, and 3.D of the Agreement shall be immediately effective and binding upon Citizens and Company. The remainder of this Agreement shall only become effective upon the City Council approval of the amendments to the draft Development Agreement that are described in Section 2.

5. Agreement not to Sue or Circulate a Referendum Petition.

If the amendments to the Development Agreement called for in this Agreement are adopted by the City Council, Citizens agrees that neither it nor its individual members shall sue the City or the San Joaquin Local Agency Formation Commission over the sufficiency of the EIR or the land use/annexation decisions by these public agencies. Further neither Citizens nor its members shall encourage or give assistance to any others to challenge the Company's project either administratively or judicially. Moreover, neither Citizens, nor its members will encourage, indirectly assist or actually circulate a petition to place a

referendum on the ballot to force an election about one or more the Project's legislative approvals.

6. Counterparts.

This agreement may be executed in counterparts.

San Joaquin Valley Land Development Co.
Dale Gillespie, Partner

City of Lodi
Blair King, City Manager

Citizens for Open Government
Ann Cerney

EXHIBIT "A"

AGRICULTURAL CONSERVATION EASEMENT SELECTION GUIDELINES

1. Soils: Farmland evaluated by the California Department of Conservation Farmland Mapping and Monitoring Program as being "Prime farmland" or "Farmland of Statewide Significance" will receive the highest priority. The City of Lodi may also consider farmland designated as property that has significant value to the regional agricultural industry regardless of soil characteristics.

2. Water: The property has a dependable and sustainable supply of high quality water for irrigation.

3. The property is agriculturally viable:

   a. The land is large enough to sustain commercial agricultural production.

   b. The property is not substantially surrounded by urban development such that its continued agricultural viability is threatened.

4. Urbanization pressure. The property may be subject to urbanization pressure.

5. Consistent with Community plans and goals. Existing community goals, plans and political boundaries are compatible with permanent agricultural use of the property:

   a. The property is currently zoned for agriculture.

   b. The property is outside the primary sphere of influence of a city or a community service district.

   c. An agricultural easement on the property would have the potential to have a long term impact on urban growth in the area and encourage growth on less productive farmland.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of San Joaquin } ss.

On Dec. 20, 2006 (Date) before me, Diane D. Woods, a notary (Name and Title of Officer (e.g., "Jane Doe, Notary Public"))

personally appeared Dale N. Gillespie (Name(s) of Signer(s)),

☒ personally known to me
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary Public

DIANE D. WOODS
Commission # 1692346
Notary Public - California
San Joaquin County
My Comm. Expires Oct 5, 2010

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Reynolds Ranch Development Agmt

Document Date: 9/6/06 Number of Pages: 61

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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ACKNOWLEDGMENT

State of California

} ss.

County of San Joaquin

On December 20, 2006 (Date) before me Randi Johl, City Clerk (Name and Title of Officer (e.g., "Jane Doe, Notary Public")),

personally appeared City Manager Blair King (Name(s) of Signer (s)),

[X] personally known to me
[ ] proved to me on the basis of satisfactory evidence

to be the person~~(s)~~ whose name~~(s)~~ is~~/are~~ subscribed to the within instrument and acknowledged to me that he/~~she/ they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s) ac~~ted, executed the instrument.

RANDI JOHL
COMM. #1516020
NOTARY PUBLIC • CALIFORNIA
ORANGE COUNTY
Comm. Exp. SEPT. 27, 2008
MGC1

WITNESS my hand and official seal

Signature of Notary Public

Place Notary Seal Above

Comments by the public on non-agenda items

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

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

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

Comments by the City Council Members on non-agenda items

AGENDA ITEM_G-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Public Hearing to Consider Adopting Resolution Approving the 2011/12 Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report; an Amendment of the 2012/13 Action Plan to Accommodate the Reallocation of Unused CDBG Funds; and Appropriating Funds ($360,967.66).

MEETING DATE: September 19, 2012

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Public hearing to consider adopting resolution approving the 2011/12 Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report (CAPER) an amendment of the 2012/13 Action Plan to accommodate the reallocation of unused CDBG funds, and appropriating funds ($360,967.66).

BACKGROUND INFORMATION: A public hearing is required as part of the federal requirements of the Community Development Block Grant (CDBG) program.

The 2011/12 CAPER (Exhibit A) describes the programs and activities accomplished during that program year, in which the City received $675,772 in federal CDBG funds. The public review and comment period for the CAPER document began September 4, 2012 and will end September 19, 2012.

At the completion of the 2011/12 Program Year, there were unused CDBG funds from projects and/or services from the 2010/11 Program Year that will need to be reallocated to new or existing 2012/13 project(s), which requires the amendment of the 2012/13 Action Plan. In addition, we are looking to reallocate a portion of the funds from an existing 2012/13 Project to a new 2012/13 project, which also requires amendment of the 2012/13 Action Plan. The public review and comment period for this Action Plan amendment began August 20, 2012 and will end September 19, 2012.

Sources: A total of $360,967.66 is being considered for reallocation.

Project Number	Project Name	Reallocation Amount
10-04	Van Buskirk Playground	$104,960.70
10-10	Economic Development RLF	$156,006.96
12-02	ADA Retrofit Improvements	$100,000.00

APPROVED: _____
Konradt Bartlam, City Manager

Uses: The reallocated funds will be distributed as follows:

Project Number	Project Name	Reallocation Amount
12-09 (Existing Project)	LOEL Demolition Project	$25,000.00
12-11 (New Project)	Grape Bowl ADA Improvements II	$335,967.66

Descriptions:

The reallocation to the LOEL Center is based upon their request for an additional $25,000 to the $120,086 that they were awarded for 2012/13 in order to cover additional civil engineering costs that they have projected for their project that will demolish the existing church building at 125 S. Washington and make improvements for an interim use as a community garden and parking for the LOEL Center. The project contemplates the expansion of the LOEL Center facility or the development of affordable senior housing.

The reallocation to a new Grape Bowl ADA Improvement project is an alternative to the Section 108 Loan Guarantee Program application that was included and approved along with the 2012/13 Action Plan. That Section 108 application requested $808,000 for CDBG-eligible ADA improvements to remove barriers to accessibility at the facility and pledged a portion of our annual CDBG allocations for the next 15 years as a means of repayment. Based upon recently revised project cost estimates provided by Public Works, the estimated CDBG-eligible ADA improvement costs in this project have been reduced to approximately $475,000. The proposed reallocation of $335,964 would supplement the current 2011 allocation balance of $137,000 to meet that project estimate.

The reallocation of $100,000 from the 12-02 ADA Accessibility Improvement Project will leave a remaining balance of $190,041 for ADA parking and path of travel improvements that have been proposed at various locations throughout Lodi.

FISCAL IMPACT: The CAPER document and the Action Plan Amendment is being completed as an administrative activity that is funded through the City's CDBG administrative allocation from HUD.

FUNDING AVAILABLE: Funding Source:
4591.5564 - CDBG ($260,967.66)
4591202.7700 - ADA Retrofit Improvements ($100,000)

Requested Appropriation:
4591209.7700 – Demo of 125 S. Washington ($25,000)
4591211.7700 - Grape Bowl ADA Improvements II ($335,967.66)

_____
Jordan Ayers, Deputy City Manager

_____
Konradt Bartlam
Community Development Director

KB/jw

Attachments

Exhibit A

2011-12
CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)

DRAFT
2011-12
CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)

City of Lodi
Community Development Block Grant (CDBG) Program
September 3, 2012

2011-2012 CAPER

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ATTACHMENTS

EXHIBIT A.....Location of Area Benefit Activities

EXHIBIT B ..... City of Lodi Low-Income Target Areas

2011-2012 CAPER

I. EXECUTIVE SUMMARY

This Consolidated Annual Performance and Evaluation Report describes the City's housing and community development accomplishments in the 2011-12 program year, with a special focus on those activities funded by the Community Development Block Grant.

In the 2011-2012 program year, the City funded improvements to public facilities, infrastructure, and housing, as well as several public service activities.

Accomplishments include the following.

- Completed improvements to Van Buskirk Park.
- Completed second phase of alley drainage improvements and began third phase.
- Began ADA accessibility improvements to public streets.
- Completed the environmental review for the Grape Bowl and submitted a Section 108 loan application.
- Constructed three family shelter units at Hope Harbor.
- Removed over 900 instances of gang graffiti.
- Provided over 191,000 pounds of food to families in need.
- Educated tenants and landlords about fair housing rights and mediated disputes.
- Redeemed nearly 500 spay-neuter vouchers.

In addition, staff continued to make progress on the development of an 80-unit affordable senior housing complex (with Eden Housing) and implemented a first-time homebuyer assistance program. The City also provided one-on-one training to public service providers, and implemented monitoring and fiscal systems to oversee and track progress of the CDBG grant program.

II. INTRODUCTION

As an entitlement grantee for the United States Department of Housing and Urban Development (HUD) formula Community Development Block Grant (CDBG) program, the City of Lodi is required to prepare a Consolidated Annual Performance and Evaluation Report (CAPER) to analyze and summarize program accomplishments during the preceding program year.

This CAPER assesses Lodi's progress in completing activities identified in the 2011-12 Action Plan, which covers the period from July 1, 2011 through June 30, 2012. The CAPER also reports progress in meeting overall five-year Consolidated Plan goals and priorities, and identifies areas for improvement as a result of annual self-evaluations and HUD performance reviews.

The 2011-12 program year was the City of Lodi's third year as an entitlement recipient of Community Development Block Grant (CDBG) funds.

The Neighborhood Services Division, within the Community Development Department, serves as the lead agency for the administration of CDBG funds. Questions regarding this report should be directed to the staff within this division at:

CDBG Program Administrator
City of Lodi
221 W. Pine Street, PO Box 3006
Lodi, CA 95241
209-333-6711

This report was made available for public review during a public comment period from September 3, 2012 to September 19, 2012. A public notice announcing its availability was published in the *Lodi News-Sentinel* on August 20, 2012. A public hearing on the report was held on September 19, 2012 at the Lodi City Council meeting.

III. ACTIVITY SUMMARIES

HOUSING

Tienda Drive Senior Housing (11-10)

The City has allocated funding to Eden Housing, a non-profit housing developer, to purchase land along Tienda Drive for an affordable senior housing development.

2011-12 Objective:	Construct 80 affordable housing units.
Funding Allocated:	$78,000 in anticipated separation payments from San Joaquin Urban County. Total project cost is estimated to be $1.2 million including non-City sources.
2011-12 Accomplishment:	Developer Eden Housing acquired the property. Pre-development and financing underway.
2011-12 Expenditure:	$667,613.95 (in Urban County CDBG funds)
Total expenditures:	$667,613.95 (in Urban County CDBG funds)
Narrative:	The project is in pre-development. The developer and City are assembling financing. Construction on the project is anticipated to start in summer 2014. A total of 80 units are planned.

Home Accessibility Modification Program (11-09)

Provide free or low-cost assistance to disabled renters or homeowners in need of accessibility modifications. This program is implemented by the Disability Resource Agency for Independent Living (DRAIL). Accessibility modifications will be made by program staff or by a licensed contractor.

2011-12 Objective:	3 households assisted.
Funding Allocated:	$4,000
2011-12 Accomplishment:	No household assisted.
2011-12 Expenditure:	$270
Total expenditures:	$270
Narrative:	The program is in its initial phase of development and marketing. The program will continue in 2012-13.

PUBLIC FACILITIES

Van Buskirk Playground (10-04)

The City removed the existing playground equipment and replaced it with playground equipment that meets current ADA regulations and safety standards.

2011-12 Objective:	1 public facility improved
Funding Allocated:	$170,132
2011-12 Accomplishment:	Project completed
2011-12 Expenditure:	$60,503
Total Expenditures:	$65,603
Narrative:	This project went out to bid in June 2011. Construction work began in August 2011. Construction was completed in December of 2011. Un-expended funds will be re-allocated in a 2012-13 mid-year Action Plan amendment.

Alley Drainage Improvements – Phase II (10-11)

Reconstruction of two alleys in target areas in order to increase accessibility and drainage. Existing alley paving to be removed and replaced with storm drains and pervious concrete.

2011-12 Objective:	2 public facilities improved
Funding Allocated:	$329,794
2011-12 Accomplishment:	Project completed. Two improvements to infrastructure in low-income target areas.
2011-12 Expenditure:	$286,334
Total Expenditures:	$329,794
Narrative:	The project was completed in the program year.

Alley Drainage Improvements – Phase III (10-11)

Reconstruction of two alleys in target areas in order to increase accessibility and drainage. Existing alley paving to be removed and replaced with storm drains and pervious concrete.

2011-12 Objective:	Project bidding
Funding Allocated:	$ 64,476
2011-12 Accomplishment:	Project bid and awarded.
2011-12 Expenditure:	$4,333

Total Expenditures: $4,333

Narrative: The project was bid and awarded in the program year. It will be completed in September of 2012 using funds allocated in the 2012-13 annual Action Plan.

ADA Accessibility Improvements – Phase I (11-02)

Make ADA improvements, including installation of handicap ramps, at key locations throughout the City.

2011-12 Objective: Install 8 ramps

Funding Allocated: $133,061

2011-12 Accomplishment: Project bid and awarded.

2011-12 Expenditure: $3,854

Total Expenditures: $3,854

Narrative: Completed in program year 2012 as of the date of this report. Accomplishments to be reported in the 2012-13 CAPER.

Grape Bowl ADA Improvements (11-03)

Make ADA improvements to the Grape Bowl to remove barriers to accessibility. Improvements will include creating an at-grade entrance to the field's west end, new ticket booth and concession stands, and restroom upgrades.

2011-12 Objective: 1 public facility improvement

Funding Allocated: $150,000

2011-12 Accomplishment: Project to be completed in 2013

2011-12 Expenditure: $13,155

Total Expenditures: $13,155

Narrative: Environmental review completed. Section 108 loan application completed and submitted. Preliminary scope of work and estimate.

Salvation Army Transitional Housing (11-04)

Construct three transitional housing units at the Salvation Army's Hope Harbor location. The units will be installed in warehouse space existing within the building. The units will

provide housing options for families that include teenage or adult males, which the shelter is currently unable to accommodate.

2011-12 Objective: 3 transitional housing units constructed

Funding Allocated: $190,257

2011-12 Accomplishment: 3 transitional housing units constructed

2011-12 Expenditure: $190,257

Total Expenditures: $190,257

Narrative: The project was completed in April 2012 to create 3 family housing units in the Hope Harbor facility.

PUBLIC SERVICES

Graffiti Abatement (11-05)

The Graffiti Abatement Program will remove graffiti on properties located in target areas. Staff will remove graffiti by pressure-washing the structure or by painting over it. The goal of the program is to preserve neighborhood property values.

2011-12 Objective: 800 instances of graffiti removed

Funding Allocated: $49,000

2011-12 Accomplishment: 914 instances of graffiti removed

2011-12 Expenditure: $39,387

Total expenditures: $39,387

Narrative: The graffiti abatement program operated year-round. Most graffiti reported was removed within 1-2 days. Graffiti removal staff kept logs detailing location of graffiti and what was written to assist the police in identifying trends and combating future graffiti.

Second Harvest Food Bank (11-06)

Provide funding to Second Harvest Food Bank to purchase foods that are not typically donated to the food bank (e.g., meat and dairy products).

2011-12 Objective: 2,750 persons assisted

Funding Allocated: $5,000

2011-12 Accomplishment: 6,943 persons assisted

2011-12 Expenditure: $5,000

Total expenditures: $5,000

Narrative: Second Harvest operated two food assistance programs. The Senior Brown Bag program delivered 61,432 pounds of food to Lodi seniors with a value of $101,363. The Food Assistance program delivered 129,828 pounds of food to other Lodi residents with a value of $214,216. Second Harvest supplemented funds from the City of Lodi with private donations (food and cash), handling fees, and FEMA grants.

Table 3
Second Harvest Food Bank Beneficiaries

Category	Total	Percent of Total
Total Persons	6,943	100%
Total Low/Mod-Income	6,943	100%
Extremely low-income	6,407	92%
Very Low-income	349	5%
Low-income	187	3%
Special Needs	2,177	31%
Disabled HH Member	864	12%
Senior Headed HH	566	8%
Female Headed HH	747	11%
5+ Person HH	--	--
Race		
White	3,365	48.5%
Black or African-American	545	7.8%
Asian	134	1.9%
American Indian or Alaskan Native	126	1.8%
Native Hawaiian or Pacific	12	<1.0%
American Indian or Alaska Native and White	112	1.6%
Asian and White	139	2.0%
Black or African American and White	10	<1.0%
American Indian or Alaska Native and Black	32	<1.0%
Multiracial	N/A	
Other/No response	2,468	35.5%
Ethnicity		
Hispanic	2,443	35.2%
Not Hispanic	4,500	64.8%
Other/No response	--	

San Joaquin Fair Housing (11-07)

San Joaquin Fair Housing provides fair housing services, such as housing discrimination and tenant/landlord law hotline, complaint investigation, and outreach and education through public forums.

2011-12 Objective: 160 persons assisted

Funding Allocated: $17,000

2011-12 Accomplishment: 96 unduplicated contacts
25 mediation cases

2011-12 Expenditure: $16,424

Total expenditures: $16,424

Narrative: San Joaquin Fair Housing promoted fair housing by advertising in local media, attending nine community events in San Joaquin County, and distributing fliers to four locations in Lodi. They served a total of 96 persons by providing information on fair housing. A total of 25 households were served through formal intakes. Of the 25 cases, 20 were resolved. Issues relating to formal intakes were not concentrated on any topic.

Table 4
San Joaquin Fair Housing Beneficiaries

Category	Total	Percent of Total
Total persons	96	100%
Extremely low-income	71	74%
Low-income	13	14%
Low/Mod-income	5	5%
Moderate-income	1	1%
Did not respond	6	6%
Special Needs	--	--
Disabled HH Member	23	16%
Senior Headed HH	5	4%
Female Headed HH	74	53%
5+ Person HH	38	27%
Race	--	--
White	59	61%
Black or African-American	18	19%
Asian	3	3%
American Indian or Alaskan Native	2	2%
Native Hawaiian or Pacific	1	1%

American Indian or Alaskan Native and White	1	1%
Asian and White	1	1%
Black or African American and White	1	1%
American Indian or Alaskan Native and Black	0	0%
Multiracial/No response	10	10%
Ethnicity		
Hispanic	35	36%
Not Hispanic	61	64%
Other/No response	0	0%

Spay/Neuter Program (11-08)

Offer a spay/neuter program for feral cats trapped and released in target areas and pets (cats and pit bulls) owned by low-income households.

2011-12 Objective: 175 persons assisted

Funding Allocated: $25,364

2011-12 Accomplishment: 493 vouchers issued (245 to LMI households, 248 for feral cats)
140 unduplicated LMI households assisted

2011-12 Expenditure: $25,038

Total expenditures: $25,038

Narrative: The program spayed or neutered 493 animals – 245 owned by low-income households, 248 were trapped feral cats. A total of 140 unduplicated low-income households were assisted. All feral cats were trapped within low-income target areas.

Table 5
Spay/Neuter Program Beneficiaries

Category	Total	Percent of Total
Total Households	**140**	
Total Low/Mod-Income	**140**	**100%**
Extremely low-income	--	--
Very Low-income	--	--
Low-income	140	100%
Special Needs		
Disabled HH Member	28	20.0%
Senior Headed HH	--	--
Female Headed HH	67	47.9%

5+ Person HH	23	16.4%
Race		
White	119	85.0%
Black or African-American	1	0.7%
Asian	2	1.4%
American Indian or Alaskan Native	0	0.0%
Native Hawaiian or Pacific	1	0.7%
American Indian or Alaska Native and White	2	1.4%
Asian and White	1	0.7%
Black or African American and White	0	0.0%
American Indian or Alaska Native and Black	0	0.0%
Other/Multiracial	3	2.1%
No response	11	7.9%
Ethnicity		
Hispanic	22	15.7%
Not Hispanic	118	84.3%
Other/No response	0	0.0%

Note: Data is provided only on pet owners participating in the program. Persons living in target areas who benefited from feral cat spay/neuter are not included.

ECONOMIC DEVELOPMENT

Economic Development Revolving Loan Fund (10-10)

The Economic Development Revolving Loan Fund will make loans available to businesses creating or retaining low-income jobs. Up to $35,000 per full-time low-income job will be available to Lodi business owners.

2011-12 Objective: 2 business loans

Funding Allocated: $158,003

2011-12 Accomplishment: No loans.

2011-12 Expenditure: $0.00

Total expenditures: $0.00

Narrative: This program will be discontinued and funds be re-allocated in a 2012-13 mid-year amendment.

PLANNING AND ADMINISTRATION

CDBG Administration (11-01)

The planning and administration funding is intended to provide funding for general staff administration of CDBG programs and activities, including Integrated Disbursement and Information System (IDIS) training, program set-up, reporting, planning, and subrecipient training and monitoring.

Funding Allocated:	$163,036
2011-12 Expenditure:	$163,036
Total expenditures:	$163,036
Narrative:	CDBG staff carried out a wide range of administrative activities to implement programs and activities serving the target income and special needs population.

NON-CDBG HOUSING ACTIVITIES

First-Time Homebuyer Program

In 2009-10, the City received an $800,000 HOME grant through the California Department of Housing and Community Development. The grant funded a First Time Home Buyer (FTHB) loan program that provided up to $40,000 (or 20 percent of the purchase price) to qualified first-time homebuyers on down payment and closing costs. The funding contract for that program expired on May 31, 2012. At the completion of the contract, a total of three loans had been made. Two of those loans were completed in 2011-12..

Neighborhood Stabilization Program

The City, in coordination with the Urban County, received about $578,000 to assist in acquiring, rehabilitating, and renting or reselling foreclosed homes to low-income buyers. As of March 2011, five homes were acquired, in addition to one lot. All seven units (five rehabs and two new construction) were sold by are expected to be sold by June 2012. Those NSP I funds are no longer available.

EXPENDITURE SUMMARY

The following tables show the City's 2011-12 expenditures in different categories and in comparison to federally-mandated caps. The IDIS reports in **Appendix B** show additional detail on the City's expenditures.

The City received $139,425 in program income in the 2011-12 program year. This was a payment from San Joaquin County to liquidate the City's portion of housing program loans.

These funds were used for program administration and improvements to public facilities. (Please see the 2012-13 Action Plan.)

Table 6
2011-12 CDBG Allocations and Expenditures

Category	2011-12 Allocated	2011-12 Expended	Year End Balance
Planning and Administration	$ 163,036	163,036	-
Public Services	96,364	85,848	10,516
Housing	4,000	270	3,730
Economic Development	158,003	-	158,003
Public Improvements - City	798,902	368,179	430,723
Public Facilities - Nonprofit	190,257	190,257	-
Total	**1,410,563**	**807,590**	**602,973**

Table 7
Timely Expenditure Calculation

Timeliness Ratio (1.50 limit)	
2011-12 annual award	$ 675,772
Total funds remaining at year-end	602,973
Timeliness ratio	0.89

Table 8
Planning and Administration Calculation

Planning and Admin Calculation (20% cap)	
2011-12 annual award	$675,772
2011-12 program income	139,425
Cap basis	815,897
Total planning and admin expenditures	163,036
Planning and admin percentage	19.98%

Table 9
Public Services Calculation

Public Services Calculation (15% max)	
Total 2011-12 annual funding	$675,772
2011-12 program income	0
Cap basis	675,772
Total public services expenditures	96,364
Public services percentage	14.26%

Table 10
Annual Expenditure by Activity

City ID#	HUD ID#	Description	Total Allocation	2011-12 Available	Prior year Expenditures	2011-12 Expenditures	Total Expenditures	Year End Balance
10-04	17	VAN BUSKIRK PLAYGROUND	170,132	165,032	5,100	60,503	65,603	104,529
10-10	23	ECONOMIC DEVELOPMENT RLF	158,003	158,003	-	-	-	158,003
10-11	24	ALLEY DRAINAGE IMPROVEMENTS (PHASE II)	329,794	286,334	43,461	286,334	329,794	-
10-11	36	ALLEY DRAINAGE IMPROVEMENTS (PHASE III)	64,476	64,476	-	4,333	4,333	60,143
11-01	25	PROGRAM ADMINISTRATION	163,036	163,036	-	163,036	163,036	-
11-02	26	ADA ACCESSIBILITY IMPROVEMENTS (PHASE I)	133,061	133,061	-	3,854	3,854	129,207
11-03	27	GRAPE BOWL ADA IMPROVEMENTS	150,000	150,000	-	13,155	13,155	136,845
11-04	28	SALVATION ARMY FAMILY SHELTER UNITS	190,257	190,257	-	190,257	190,257	-
11-05	29	GRAFFITI ABATEMENT	49,000	49,000	-	39,387	39,387	9,613
11-06	30	SECOND HARVEST FOOD BANK	5,000	5,000	-	5,000	5,000	-
11-07	31	FAIR HOUSING	17,000	17,000	-	16,424	16,424	576
11-08	32, 34	SPAY/NEUTER PROGRAM	25,364	25,364	-	25,038	25,038	327
11-09	33	HOME ACCESSIBILITY MODIFICATIONS	4,000	4,000	-	270	270	3,730
TOTALS			**1,459,123**	**1,410,563**	**48,561**	**807,590**	**856,150**	**602,973**

IV. GENERAL NARRATIVE

GEOGRAPHIC DISTRIBUTION

In program year 2011-12, alley improvements and street accessibility projects were completed in low-income areas. The improvements to Van Buskirk Park and the Salvation Army facility were also in low-income areas. Please see the maps attached as Exhibits "A" and "B" showing activity locations and the City's low-income target areas.

The feral cat component of the spay-neuter program is also conducted on a low-income area basis. All cats were trapped in low-income areas.

AFFIRMATIVELY FURTHERING FAIR HOUSING

In 2009-10, the City completed an Analysis of Impediments to Fair Housing Choice. This document reviews demographics; lending patterns; local, state, and federal codes and regulations; fair housing complaints; and other relevant resources to determine impediments to fair housing in the community. The AI also identified actions the City will take in order to address fair housing impediments.

During the 2011-12 program year, the City contracted with San Joaquin Fair Housing, a local non-profit agency that offers information of fair housing law and mediates tenant-landlord disputes, as well as investigates housing discrimination complaints. No investigations were conducted in the program year.

Fliers relating to fair housing topics were distributed to four locations in Lodi. Information was available by phone from their Stockton offices five days per week.

Additional actions taken to promote fair housing include the participation in community events, advertisement in the Lodi News-Sentinel and on local cable access television, and maintaining a website with fair housing information.

The City displays fair housing materials at City Hall, and copies of these materials are free to the public. Fair housing information is sent free of charge to those who request it. In addition, the City promotes fair housing awareness in its housing programs and works with housing providers in the City to ensure the fair and equitable treatment of persons and households seeking housing in the City.

In the update of the City's Housing Element, the City committed to taking the following actions to address fair housing.

- Provide incentives for affordable housing development.

- Increase housing options through better definition of both transitional and supportive housing.
- Provide Homebuyer Assistance
- Subdivide larger sites for development of housing for low-income households

AFFORDABLE HOUSING

The City's affordable housing efforts in 2011-12 focused on expanding the supply of affordable housing and improving the ability of households to afford homeownership.

The City continued to work with Eden Housing on the 80-unit affordable senior housing complex planned in the Roget Park area. The project design was finalized and Eden Housing and the City have actively pursued funding to close the gap on this project. This project is currently in the pre-development phase.

The City also received an $800,000 HOME grant through the California Department of Housing and Community Development to offer a first-time homebuyer downpayment assistance program. The City completed the program guidelines and began marketing and accepting applications in 2010-11. The contract for funding expired in May 2012. At the completion of the contract, a total of three loans had been made. Two of those loans were completed in 2011-12

The City used an allocation of NSP and HOME funds available from the Urban County to complete four single-family new construction. Two are being marketed to low-income households (80% AMI), two to moderate income households (120% AMI). All have sales prices affordable to the buyers, all are resale restricted.

CONTINUUM OF CARE NARRATIVE

Lodi is a member of San Joaquin County Continuum of Care. The Continuum of Care is coordinated by the San Joaquin County Neighborhood Preservation Division, which also manages the Shelter Plus Care and Supportive Housing Programs, both of which provide homeless County residents with rental assistance and supportive services. San Joaquin County also coordinates the Homeless Prevention and Rapid Re-housing Program, which offers short-term and medium-term assistance to homeless households or households at-risk of becoming homeless due to the economic recession.

The Continuum of Care is in the process of developing a Homelessness Prevention Plan, which will contain strategies and priority actions to expand programs and services for homeless persons and those at risk of homelessness in the region. The focus will be on developing individual and family self-sufficiency and, to the extent possible, helping persons at risk of homelessness to remain in their homes. This effort has continued from the previous program year.

Lodi participates in the bi-annual countywide homeless survey. Staff assists with the planning and the point-in-time count, and sponsors a community event that focuses on connecting homeless persons with local services in coordination with the homeless count. The event was held on January 26, 2011. The general results of the survey noted a County-wide increase of 12% in sheltered homeless and 97% increase in unsheltered homeless. The next count is scheduled for January 2013.

Local Service Provider Assistance

There are many local and regional organizations that provide assistance to the homeless, persons at risk of homelessness, seniors, and other special needs groups. These organizations include the Salvation Army, Second Harvest Food Bank, LOEL Senior Center, Lodi House, Hand Up, and many others.

Second Harvest Food Bank, which provides food primarily to very low-income families, and LOEL, which serves primarily low-income seniors, both received grant funding in 2011-2012. The City has funded many other local service providers that serve homeless and special needs groups in prior years and continues to support their activities.

The City funded an expansion of the capacity of the local Salvation Army Shelter. The improvements will allow the shelter to serve families.

The City also participates in the planning for emergency food and shelter services as an active member of the local FEMA board.

Senior Services

The LOEL Center received funding for improvements in 2010-11. Those improvements facilitated an increase in nutrition services provided by the Center in 2011-12. The City also supported Second Harvest Food Bank which helps to meet the basic needs of seniors. The City also continued to make progress on the 80-unit affordable senior housing complex planned for the Roget Park area.

Homeless and Homeless Prevention Services

Lodi has several agencies that serve homeless populations. The Salvation Army operates an emergency shelter with 45 beds for men and 25 beds for women/children, and owns four units of transitional housing. In this past year, the Salvation Army has added three, single-parent shelter units to their facility. They also offer daily meals and a range of supportive services for homeless persons. Lodi House has a total of 26 beds for women/children, and they offer supportive services as well.

In 2011-12 the City provided funding to the Salvation Army to create three new family shelter units in the Hope Harbor facility.

Lodi staff also works with Hand Up, a grassroots homeless outreach organization that meets monthly to discuss homeless issues. Participants include the San Joaquin County Board of Supervisors, Salvation Army, the Unity Project, and several churches. Many of the churches work together to provide meals to the homeless in a local park.

OTHER ACTIONS IN SUPPORT OF CDBG GOALS

Actions to Address Obstacles to Meeting Under-Served Needs

The need for affordable housing for low-income households and seniors continues to exceed the available resources. The City has provided services, discussed previously under the Continuum of Care narrative, and has worked to create new affordable housing opportunities for under-served groups, including seniors.

Fostering and Maintaining Affordable Housing

The City of Lodi Strategic Plan identifies development of new housing resources as a primary component of the City's housing strategy. The City is actively encouraging affordable housing, most notably through the Tienda Drive affordable senior housing complex and the downpayment assistance program.

In 2011-12 the City continued to work with Eden Housing on the development of an 80-unit affordable senior housing complex. Site plans were completed, and the City assisted Eden Housing with applications for permanent financing. In 2010-11, the City sold property to Eden Housing in an arm's length transaction to construct the 80-unit Roget Park project.

The current program year was the final for the City's downpayment assistance program, funded by an $800,000 HOME grant through the California Department of Housing and Urban Development. Two homebuyers were assisted.

In 2012-13, the City plans to devote additional resources to advancing affordable housing opportunities. City staff plans to explore alternative resources, including tax credits and regional and state grant opportunities.

Barriers to Affordable Housing

Lodi continues to work toward meeting the housing needs of its low- and moderate-income residents. Although the current economy offers significant challenges to many households,

one bright side is that the housing stock affordable to low-income families has expanded significantly as a result of falling prices and historically low interest rates.

Based on the median income published by HUD, a four-person low-income household (80% AMI) can currently afford a mortgage of about $280,000 and a one-person household could afford about $184,000.

For the 12 months ending January 2012, the median home sales price was $145,000. The median rent for the same period was $1,334.

A continued supply of housing affordable to all household income levels is essential to meet the needs of the residents of the City. The City recognizes the importance of balancing construction of new affordable housing with preserving and rehabilitating current affordable housing resources.

Many of the City's efforts to foster and maintain affordable housing relate to the Housing Element. The City recently updated its General Plan Housing Element, which was certified in 2011. The City's 2010-16 Housing Element includes a number of important programs to facilitate the development of affordable housing in Lodi.

Both of these documents explore barriers to producing affordable housing, including governmental and non-governmental constraints. Governmental constraints include land use controls, entitlement processing, fees, and building codes. Land use controls are necessary to ensure orderly and appropriate development and growth in the City. Fees, land dedication, and public improvements are usually required as part of land development and entitlement processing to ensure an adequate supply of infrastructure, parks, and schools to serve the development.

To facilitate the development of affordable housing, the City may consider assisting developers to locate resources for funding affordable housing. Building and housing codes are implemented to ensure the safety of the community (housing residents, specifically). It is unlikely that the City will waive building or housing code requirements as a method of increasing affordability.

Non-governmental constraints include the availability of mortgage and rehabilitation financing, the supply and cost of land, and construction costs. The City will monitor these constraints and provide incentives to reduce them when possible.

Regional Housing Needs Allocation

In 2008, the City received its 2007-2014 regional housing needs allocation (RHNA) from the local Council of Governments. The allocation indicated the continued need for a supply of

affordable housing and targets these needs by income group. In summary, the allocation calls for 25 percent of new housing production to be affordable to low-income households and 17 percent to be affordable to moderate-income households (using the HUD CDBG income definitions, which differ from those used in the Housing Element). This is a total of 917 low-income units and 650 moderate-income units, and reflects a significant need for new affordable housing.

The City's draft 2010-2016 General Plan Housing Element states that based on the state allocation of regional housing needs, Lodi will need to demonstrate the capacity to accommodate 917 housing units affordable to low-income households and 650 housing units affordable to moderate-income households during the planning period. In addition, the City will have to demonstrate the capacity to accommodate 716 units for persons earning between 81 and 120 percent of the area median income.

Public Housing and Resident Initiatives

The City does not own any public housing. The 2009-2014 Consolidated Plan does not include plans to construct or operate public housing.

The City does have two public and/or subsidized housing developments within its boundaries. These are owned and operated by the Housing Authority of the County of San Joaquin (HACSJ). The City works with HACSJ to ensure the continued quality of public housing in the City.

Lead-Based Paint

The City did not conduct any activities for which lead-based paint clearance was necessary in 2011-12.

For non-CDBG-funded housing programs, the City does conduct a visual assessment to identify lead-based paint hazards when necessary and contracts with certified lead-based paint inspectors as required by state law.

Compliance and Monitoring

City staff met with the subrecipient staff responsible for each activity prior to the beginning of the program year. All subrecipients were informed of the obligations to collect the required information on income, household composition, and race and ethnicity. The City also provided information on subrecipient agreement policies, data collection, and financial management. The City recommended that each subrecipient read the "Playing by the Rules" guide produced by HUD. Staff provided technical assistance to subrecipients throughout the year.

Each quarter, staff examined the progress each subrecipient was making toward performance targets. Public services subrecipients must report their service population with each billing. Billings must be at least quarterly. Each subrecipient agreement contains provisions for reductions to or suspensions of payments in the event that targets are not being met (without valid reason) or when past performance issues have not been resolved.

The City has placed a strong emphasis on its subrecipients gathering complete and accurate information on the persons and/or households they serve, and regularly reporting on progress.

Anti-Poverty Strategy

During the program year, the City worked with several organizations that focus on increasing self-sufficiency among lower-income populations. These organizations included the Salvation Army, which provides a full range of counseling and training services to homeless residents, and the Lodi Library adult literacy program.

The Second Harvest Food Bank, which was funded by a $5,000 CDBG grant, provided food to low-income families through local churches and non-profits, many of whom offer social services to assist with job training and housing security.

The City provides code enforcement services to ensure that lower-income households have a habitable place to live.

The City contracts with San Joaquin Fair Housing to provide fair housing counseling to residents; most of the households that take advantage of this resource are low-income. The housing counseling offers advice on resolving tenant-landlord disputes, among other topics, in an attempt to help low-income households stay in their homes.

The City's support of the LOEL Center kitchen renovation will ensure that the City's elderly receive adequate nutrition at a nominal cost. This preserves the limited income that many elderly persons have.

LEVERAGING RESOURCES

With respect to public services funded with CDBG funds, the City requires all subrecipients to identify other resources they will utilize during the program year to operate and implement CDBG-supported activities. It is the City's intent to ensure adequate non-federal and private funds are available, thus minimizing the dependence on federal funds. To best leverage the City's available resources, the City will continue to layer private and non-federal resources with federal resources.

CITIZEN COMMENTS

The City provided public notice of the public review period and planned submission of this CAPER. The draft document was made available on the City website and at City Hall.

Public notice included the address of City Hall, staff contact names, mailing addresses, phone numbers, the address of website to view the report, and information on where to direct comments and questions.

If any comments are received, the City endeavors to respond to all questions or comments within 10 business days. The City received no comments on this CAPER during the public comment period.

SELF-EVALUATION

What is the status of grant programs?

The program year 2011-12 was Lodi's third year as a CDBG entitlement jurisdiction. The City has active grant programs engaging in public services, housing and public improvements.

Public Services
The City funded four public services activities in the program year: Graffiti Abatement, Second Harvest Food Bank, Fair Housing, and the Spay-Neuter program. The City had no performance issues with these services.

Infrastructure
During the program year the City completed Phase II of Alley Drainage improvements, Phase I of ADA Streets Accessibility, and improvements to the Van Buskirk Park playground. The City solicited bids and awarded contracts for Phase III of Alley Drainage improvements and Phase II of ADA Streets Accessibility.

Public Facilities
Improvements were completed at Salvation Army's Hope Harbor facility. Planning was done for the Grape Bowl stadium improvements including environmental review and a Section 108 loan application. By the end of the year planning was also underway for a demolition project to benefit the LOEL Senior Center and Gardens and for improvements to Lodi House.

Economic Development
The City has solicited business for its economic development program and not had any responses that are feasible. The City will discontinue this program and re-allocated funds.

Housing
The Home Accessibility Modifications Program has been slow to start. City staff will continue to work with the subrecipient to launch this program.

Are grant disbursements timely?

HUD requires that at a point approximately three-quarters of the way through the program year, CDBG grantees have available in their line of credit no more than 1.5 times that year's CDBG award.

The City of Lodi is compliant with this regulation with a timeliness ratio of 0.89 at the end of the program year. Funds are drawn from IDIS each month as they are expended.

Each mid-year, the City analyzes each project's rate of expenditure and ability to meet identified goals. As a result of this analysis, the City has routinely re-allocated funding that looked likely to remain unspent.

Are major goals on target?

Overall, the City is progressing toward its goals of fostering the development of affordable housing, improving target areas through public facilities and increases in services, and providing supportive services to the elderly and low-income households. The City will require additional effort to meet its goal of housing rehabilitation. The City has determined that a small-scale economic development program is not feasible.

Are any activities or types of activities falling behind schedule?

The Activity Summaries section of this CAPER provides a description of each activity undertaken in 2011-12 and its actual accomplishments during the year. As described previously, the home modification and housing rehabilitation programs are still in early implementation and design phase.

Are the activities and strategies making an impact on identified needs?

The housing and community development activities that are funded through the grant are making a positive impact in the community and specifically on the needs identified in the Consolidated Plan and Action Plan. The funded activities and strategies are vital to the City's health and well-being in many ways.

The City's considerable efforts to foster neighborhood improvements will allow more residents to have access to attractive, safe, and affordable housing, community services, and public facilities.

The funded public service activities provide many vulnerable citizens, such as seniors and extremely low-income persons, with essential and life-enhancing services. Each funded activity in this program year is directly related to one of the goals in the Consolidated Plan and helps to further achievement of the City's community development objectives and goals.

What barriers may have a negative impact on fulfilling the strategies and the overall vision?

The primary barrier to achieving the Consolidated Plan goals and strategies is a lack of funding. The City's need for affordable housing, public facilities, and public services to fully serve the low- and moderate-income population is extensive, and far exceeds available funding resources. The economic recession also limits the City's ability to funds projects and program using local resources.

Based on findings, what adjustments or improvements to strategies and activities might meet the City's needs more effectively?

The City will devote substantial staff time to researching new funding opportunities to maximize the City's ability to meet residents' needs. The City will also evaluate all proposed activities based on factors such as leveraging and number of beneficiaries in an attempt to increase funding efficacy.

1. AA# _____
2. JV# _____

CITY OF LODI
APPROPRIATION ADJUSTMENT REQUEST

TO:	Internal Services Dept. - Budget Division		
3. FROM:	**Joseph Wood**	5. DATE:	**9/6/12**
4. DEPARTMENT/DIVISION:	**Community Development /Neighborhood Services**		

6. REQUEST ADJUSTMENT OF APPROPRIATION AS LISTED BELOW

	FUND #	BUS. UNIT #	ACCOUNT #	ACCOUNT TITLE	AMOUNT
A.	**459**	**4591**	**5564**	**CDBG**	**$260,968**
SOURCE OF	**459**	**4591202**	**7700**	**ADA Retrofit Improvements**	**$100,000**
FINANCING					
B.	**459**	**4591209**	**7700**	**Demo of 125 S. Washington**	**$25,000**
USE OF	**459**	**4591211**	**7700**	**Grape Bowl ADA Improvements II**	**$335,968**
FINANCING					

7. REQUEST IS MADE TO FUND THE FOLLOWING PROJECT NOT INCLUDED IN THE CURRENT BUDGET

Please provide a description of the project, the total cost of the project, as well as justification for the requested adjustment. If you need more space, use an additional sheet and attach to this form.

Sources for reallocation: Project 10-04 Van Buskirk Playground ($104,960.70); Project 10-10 Economic Development RLF ($156,006.96); Project 12-02 ADA Retrofit Improvements ($100,000), for a total of $360,967.66. Uses for reallocation: One existing project - 12-09 Demo of 125 S. Washington ($25,000) and one new project - 12-11 Grape Bowl ADA Improvements II ($335,967.66).

If Council has authorized the appropriation adjustment, complete the following:

Meeting Date: _____ Res No: _____ Attach copy of resolution to this form.

Department Head Signature: _____

8. APPROVAL SIGNATURES

Deputy City Manager/Internal Services Manager Date

Submit completed form to the Budget Division with any required documentation.
Final approval will be provided in electronic copy format.

RESOLUTION NO. 2012-____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING THE 2011-12 COMMUNITY DEVELOPMENT BLOCK GRANT CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER); APPROVING AN AMENDMENT OF THE 2012-13 ACTION PLAN TO ACCOMMODATE THE REALLOCATION OF UNUSED COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS, AND FURTHER APPROPRIATING FUNDS

==========

WHEREAS, the Department of Housing and Urban Development (HUD) has determined that the City of Lodi, California, is entitled to Community Development Block Grant (CDBG) as an entitlement community; and

WHEREAS, the 2011-12 CAPER describes the programs and activities accomplished during that program year, in which the City received $675,772 in federal CDBG funds; and

WHEREAS, the City of Lodi has held, with proper notification and at the completion of the mandatory 15 day public comment period, a public hearing at the City Council meeting of September 19, 2012, to receive comments on the draft CAPER; and

WHEREAS, the 2012-13 Action Plan was adopted on May 2, 2012 and approved by the U.S. Department of Housing and Urban Development (HUD) in June 2012; and

WHEREAS, the City has identified the following three projects that have a total of $360,967.66 in CDBG funding available for reallocation:

Project 10-04	Van Buskirk Playground	$104,960.70
Project 10-10	Economic Development RLF	$156,006.96
Project 12-02	ADA Retrofit Improvements	$100,000.00

WHEREAS, the City has identified one existing project and one new project in which to commit the reallocated funds:

Project 12-09	(Existing) LOEL Demolition Project	$ 25,000.00
Project 12-11	(New) Grape Bowl ADA Improvements II	$335,967.66

WHEREAS, the reallocation of funds requires an amendment of the 2012-13 Action Plan; and

WHEREAS, the City of Lodi has held, with proper notification and at the completion of the mandatory 30 day public comment period, a public hearing at the City Council meeting of September 19, 2012, to receive comments on the proposed Action Plan amendment.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby approve the Final 2011-12 CAPER that is to be submitted to HUD by September 30, 2012; and

BE IT FURTHER RESOLVED that the Lodi City Council does also approve the amendment of the 2012-13 Action Plan to accommodate the aforementioned reallocations; and

BE IT FURTHER RESOLVED that the Lodi City Council does hereby approve the reallocation of funds ($360,967.66) from the following projects:

Project 10-04	Van Buskirk Playground	$104,960.70
Project 10-10	Economic Development RLF	$156,006.96
Project 12-02	ADA Retrofit Improvements	$100,000.00

to the projects listed below:

Project 12-09	(Existing) LOEL Demolition Project	$ 25,000.00
Project 12-11	(New) Grape Bowl ADA Improvements II	$335,967.66

Dated: September 19, 2012

==========

I hereby certify that Resolution No. 2012-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 19, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

CITY OF LODI

LEGAL ADVERTISEMENT

ADVERTISING INSTRUCTIONS

SUBJECT: NOTICE OF PUBLIC HEARING FOR DISCUSSION OF THE 2011-12 CDBG CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) AND AMENDMENT OF 2012-13 ANNUAL ACTION PLAN (AAP)

PUBLISH (DATES): August 18, 2012

TEAR SHEETS WANTED: 2 EXTRA

DELIVER TO: Community Development Dept.

AFFIDAVIT & BILL TO: Community Development - CDBG
City of Lodi
221 W. Pine Street
Lodi, CA 95241

DATE: August 16, 2012

ORDERED BY: Joseph Wood

TITLE: Neighborhood Services Division Manager

LEGAL NOTICE

NOTICE OF PUBLIC HEARING FOR DISCUSSION OF THE 2011-12 CDBG CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) AND AN AMENDMENT TO THE 2012-13 ANNUAL ACTION PLAN (AAP)

NOTICE IS HEREBY GIVEN that a public hearing will be held on Wednesday, September 19, 2012 at 7:00 a.m. or as soon thereafter as the matter may be heard, in the Lodi City Council Chambers, 305 West Pine Street, Lodi, CA 95241 in order to consider the Community Development Block Grant (CDBG) Program Consolidated Annual Performance and Evaluation Report (CAPER) and an amendment to the 2012-13 Annual Action Plan (AAP). The 2011-12 CAPER describes the programs and activities accomplished during that program year, in which the City received $675,772 in federal CDBG funds. The AAP generally describes how the City will utilize program funds for eligible activities during the fiscal year. The AAP can be amended as needed to reallocate funds to housing and community development activities.

The City proposes to reallocate funds from projects with unspent funds from previous years to existing or new projects.

The release of this notice is one of the City's activities to fulfill citizen participation requirements. Federal regulations require localities to provide the public with reasonable access to the documents.

The CAPER and the AAP amendment are available for public review at the Lodi City Hall, 221 West Pine Street, and on the City's website at www.lodi.gov/community_development/neighborhoods/cdbg.html. Copies of the CAPER and the AAP amendment will be made available upon request and are free of charge.

The public review and comment period for the 2011-12 CAPER begins September 3, 2012 and will end September 19, 2012. The public review and comment period for the amendment of the 2012-13 AAP begins August 20, 2012 and will end September 19, 2012 The City Council will consider adoption of the 2011-12 CAPER and amendment of the 2012-13 AAP and provide an opportunity for public comment at their September 19, 2012 meeting.

The purpose of this public hearing will be to give citizens an opportunity to make their comments known regarding community needs and accomplishments under the CDBG Program. If you are unable to attend the public hearing, you may direct written comments to the City Clerk, City of Lodi, PO Box 3006, Lodi, CA 95241, or you may telephone (209) 333-6711. In addition, information is available for review at Lodi City Hall (221 West Pine Street) between the hours of 8:00 a.m. and 5:00 p.m. on weekdays.

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.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 333-6702. Notification 48 hours prior

to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

The City promotes fair housing and makes all its programs available to low- and moderate-income families regardless of age, race, color, religion, sex, national origin, sexual preference, marital status or handicap.

Neighborhood Services Manager
Joseph Wood

Dated: August 16, 2012

DECLARATION OF POSTING

PUBLIC HEARING TO CONSIDER AND APPROVE THE 2011/12 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT AND AN AMENDMENT OF THE 2012/13 ACTION PLAN TO ACCOMMODATE THE REALLOCATION OF UNUSED CDBG FUNDS

On Thursday, August 16, 2012, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider and approve the 2011/12 Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report and an amendment of the 2012/13 Action Plan to accommodate the reallocation of unused CDBG funds (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 August 16, 2012, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK

Jennifer M. Robison

JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

N:\Administration\CLERK\Forms\DECPOSTCD.DOC

DECLARATION OF MAILING

PUBLIC HEARING TO CONSIDER AND APPROVE THE 2011/12 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT AND AN AMENDMENT OF THE 2012/13 ACTION PLAN TO ACCOMMODATE THE REALLOCATION OF UNUSED CDBG FUNDS

On Thursday, August 16, 2012, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a Notice of Public Hearing to consider and approve the 2011/12 Community Development Block Grant (CDBG) Consolidated Annual Performance and Evaluation Report and an amendment of the 2012/13 Action Plan to accommodate the reallocation of unused CDBG funds, attached hereto marked Exhibit A. The mailing list for said matter is attached hereto marked Exhibit B.

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

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

Executed on August 16, 2012, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK, CITY OF LODI

Jennifer M. Robison

JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

EXHIBIT A

THE CITY OF LODI
COMMUNITY DEVELOPMENT DEPARTMENT
Notice of Public Hearing for Discussion of the Community Development Block Grant Program

NOTICE IS HEREBY GIVEN that a public hearing will be held on **Wednesday, September 19, 2012, at 7:00 a.m., or as soon thereafter as the matter may be heard**, in the Lodi City Council Chambers, 305 West Pine Street, Lodi, CA 95241 in order to consider the Community Development Block Grant (CDBG) Program Consolidated Annual Performance and Evaluation Report (CAPER) and an amendment to the 2012-13 Annual Action Plan (AAP). The 2010-11 CAPER describes the programs and activities accomplished during that program year, in which the City received $675,772 in federal CDBG funds. The AAP generally describes how the City will utilize program funds for eligible activities during the fiscal year. The AAP can be amended as needed to reallocate funds to housing and community development activities.

The release of this notice is one of the City's activities to fulfill citizen participation requirements. Federal regulations require localities to provide the public with reasonable access to the documents.

The CAPER is available for public review at the Lodi City Hall, 221 West Pine Street, and on the City's website at www.lodi.gov/community_development/neighborhoods/cdbg.html. Copies of the CAPER will be made available upon request and are free of charge.

The public review and comment period for the 2011-12 CAPER begins September 3, 2012 and will end September 19, 2012. The public review and comment period for the amendment of the 2012-13 AAP begins August 20, 2012 and will end September 19, 2012 The City Council will consider adoption of the 2011-12 CAPER and amendment of the 2012-13 AAP and provide an opportunity for public comment at their September 19, 2012 meeting.

The purpose of this public hearing will be to give citizens an opportunity to make their comments known regarding community needs and accomplishments under the CDBG Program. If you are unable to attend the public hearing, you may direct written comments to the City Clerk, City of Lodi, PO Box 3006, Lodi, CA 95241, or you may telephone (209) 333-6711. In addition, information is available for review at Lodi City Hall (221 West Pine Street) between the hours of 8:00 a.m. and 5:00 p.m. on weekdays.

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.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (209) 333-6702. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

The City promotes fair housing and makes all its programs available to low- and moderate-income families regardless of age, race, color, religion, sex, national origin, sexual preference, marital status or handicap.

EXHIBIT B

2011/12 CDBG Applicant Mailing List

Capt. Martin Ross
c/o Salvation Army, Lodi Corps
PO Box 1388
Lodi, CA 95241

Mike Mallory
c/o Second Harvest Food Bank
704 E. Industrial Park Drive
Manteca, CA 95337-6116

Sandra Graham
c/o Disability Resource Agency for Independent Living
501 W. Weber Ave
Stockton, CA 95202

Peggy Wagner
c/o San Joaquin County Fair Housing Association
247 E. Miner Ave
Stockton, CA 95202

AGENDA ITEM_G-02

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Public Hearing to Consider and Approve the Recommendation of the Planning Commission to Rezone the Property Located at 515 South Lower Sacramento Road from R-1, C-S and R-C-P to Planned Development (PD)-35

MEETING DATE: September 19, 2012

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Public hearing to consider and approve the recommendation of the Planning Commission to rezone the property located at 515 South Lower Sacramento Road from R-1, C-S and R-C-P to Planned Development (PD)-35.

BACKGROUND INFORMATION: At the Planning Commission Meeting of June 13, 2012, the Commission considered a request for rezoning of the property located at 515 South Lower Sacramento Road from R-1 (Single Family Residence), R-C-P (Residential, Commercial, and Professional) and C-S (Commercial Shopping) to Planned Development (PD)-35. Rezoning of the property to PD-35 would create a uniform zoning designation and permit commercial development to occur. The City's General Plan designates the subject sites as Commercial. The Commission received a staff report; heard a staff presentation; asked questions of staff, as well as the applicant, and the general public; heard testimony in support and in opposition to the application; closed the public hearing, and voted 6-0, with one Commissioner absent, to recommend the City Council approve the applicant's request to rezone the property.

ANALYSIS

The subject property is located at 515 South Lower Sacramento Road. The parcel currently has three different zoning designations assigned to it: R-1, Single Family Residence, R-C-P, Residential Commercial and Professional, and C-S, Shopping Center. The owner is petitioning to rezone the subject property to Planned Development (PD)-35. PD-35 zoning district covers the area commonly known as the Raley's Shopping Center, which is located immediately north of the project site and is also owned by the same entity.

The Planned Development (PD)-35 District is designed to accommodate various types of commercial uses such as neighborhood commercial, shopping centers, professional and administrative offices, commercial service centers, and residential uses. The change in zoning designation to PD-35 would allow development of the vacant parcel as specifically permitted in the Lodi Municipal Code §17.33.040. The Planned Development District, as defined in the City's Zoning Ordinance, provides the flexibility for applicants to design their own development criteria. This includes setbacks, heights, lot coverage and other land use issues as defined in Lodi Municipal Code.

At the present time, there is an inherent contradiction between the General Plan and the current zoning designations. When the City adopted the current General Plan, it changed the land use designation to Commercial per the property owner's request. The presence of residential designation prohibits

---

APPROVED: _____
Konradt Bartlam, City Manager

commercial development to occur. Approval of the requested rezoning would make the zoning consistent with the current General Plan and facilitate the development of the site by removing constraints imposed by the current zoning designations. At this time, no development is proposed. Future development plans will be subject to review and approval by the Site Plan and Architecture Review Committee (SPARC) and possibly the Planning Commission.

FISCAL IMPACT: Not applicable

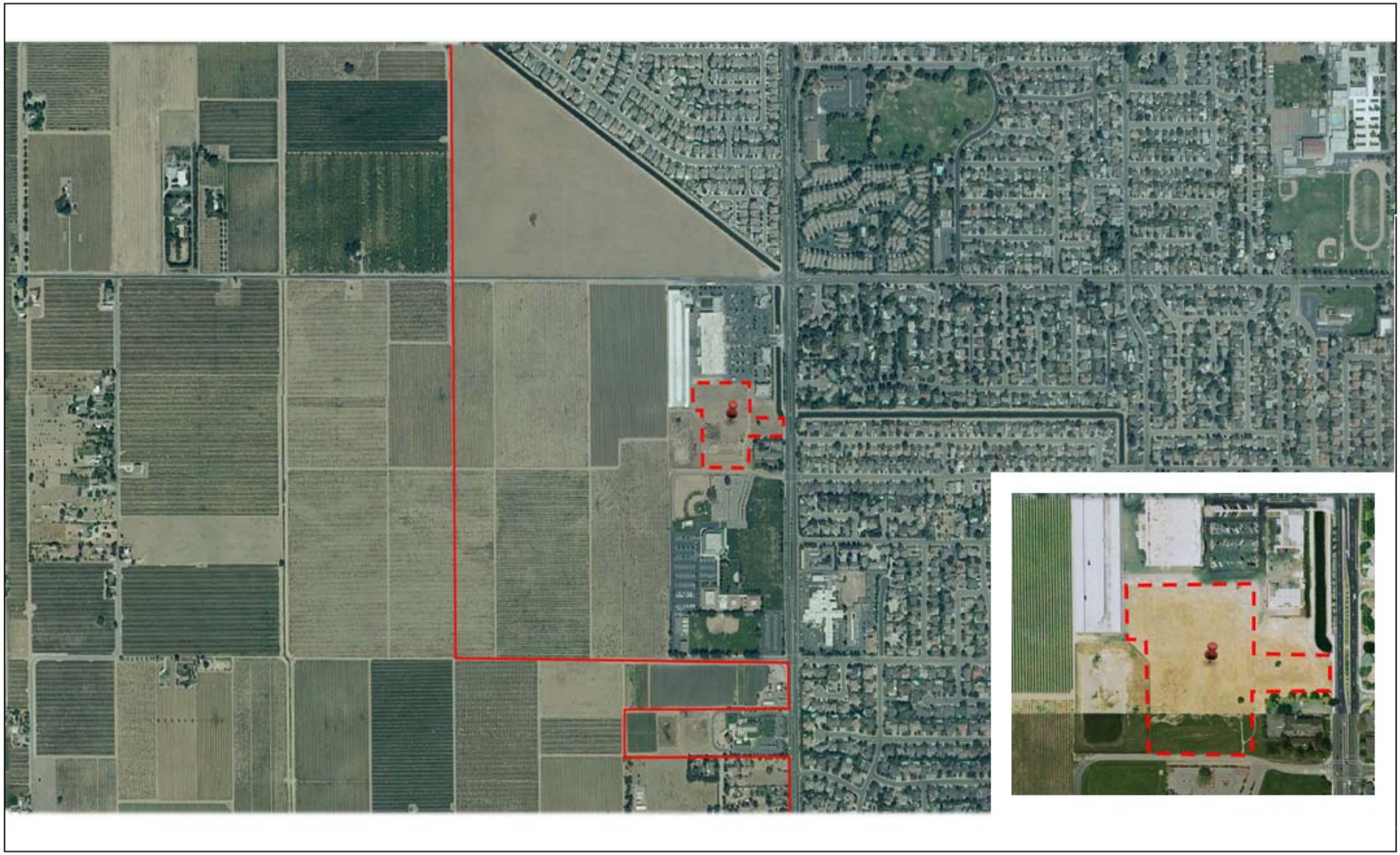
FUNDING AVAILABLE: Not applicable

Konradt Bartlam
Community Development Director

KB/IB

Attachment:
1. Aerial Map
2. Vicinity Map
3. General Plan Map
4. Proposed Zoning Map
5. Planning Commission Staff Report
6. Planning Commission Resolutions
7. Planning Commission minutes of June 13, 2012
8. Draft Ordinance

Aerial Map



N

Not Scaled

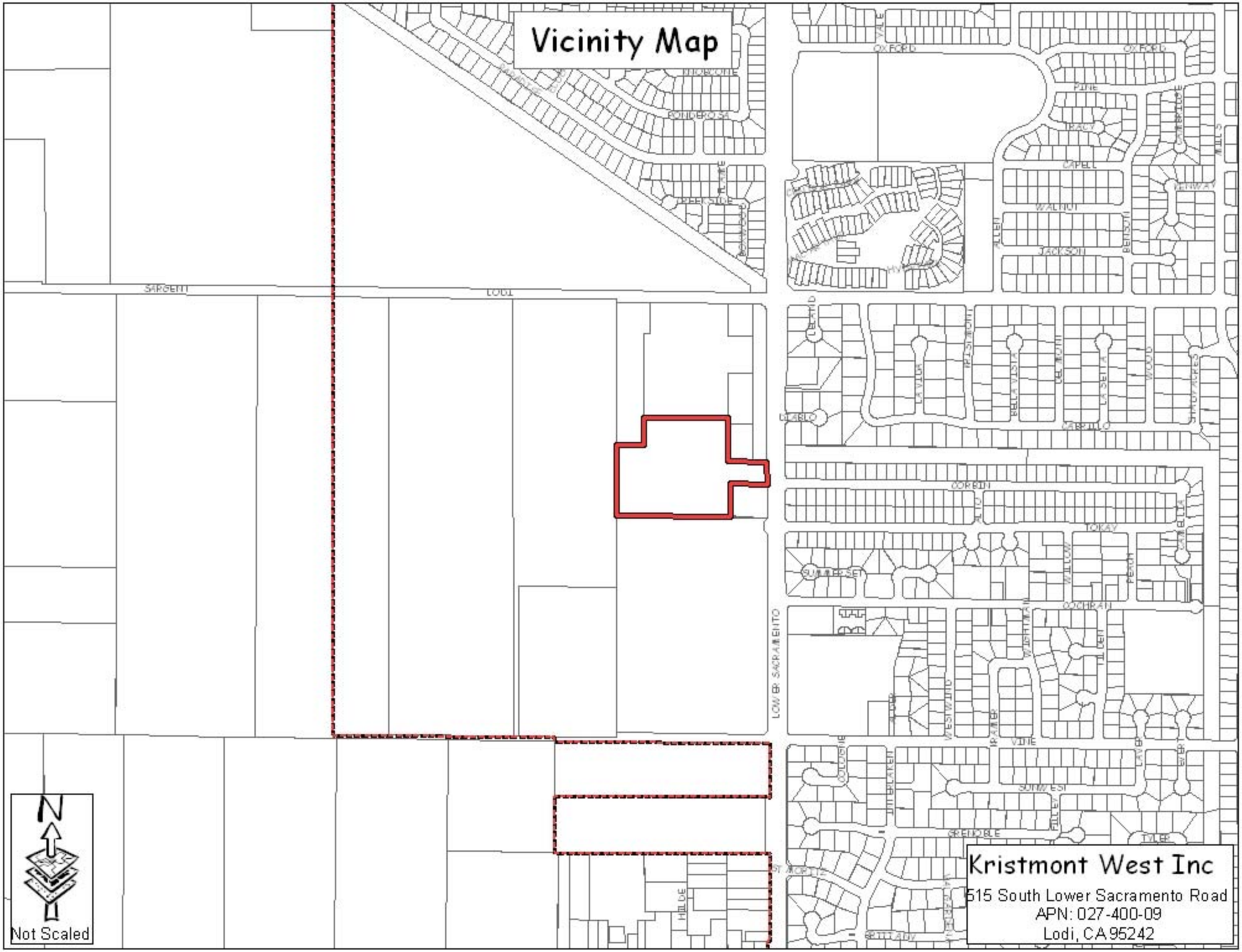
Kristmont West Shopping

515 South Lower Sacramento Road
APN: 027-400-09
Lodi, CA 95242

Project Site

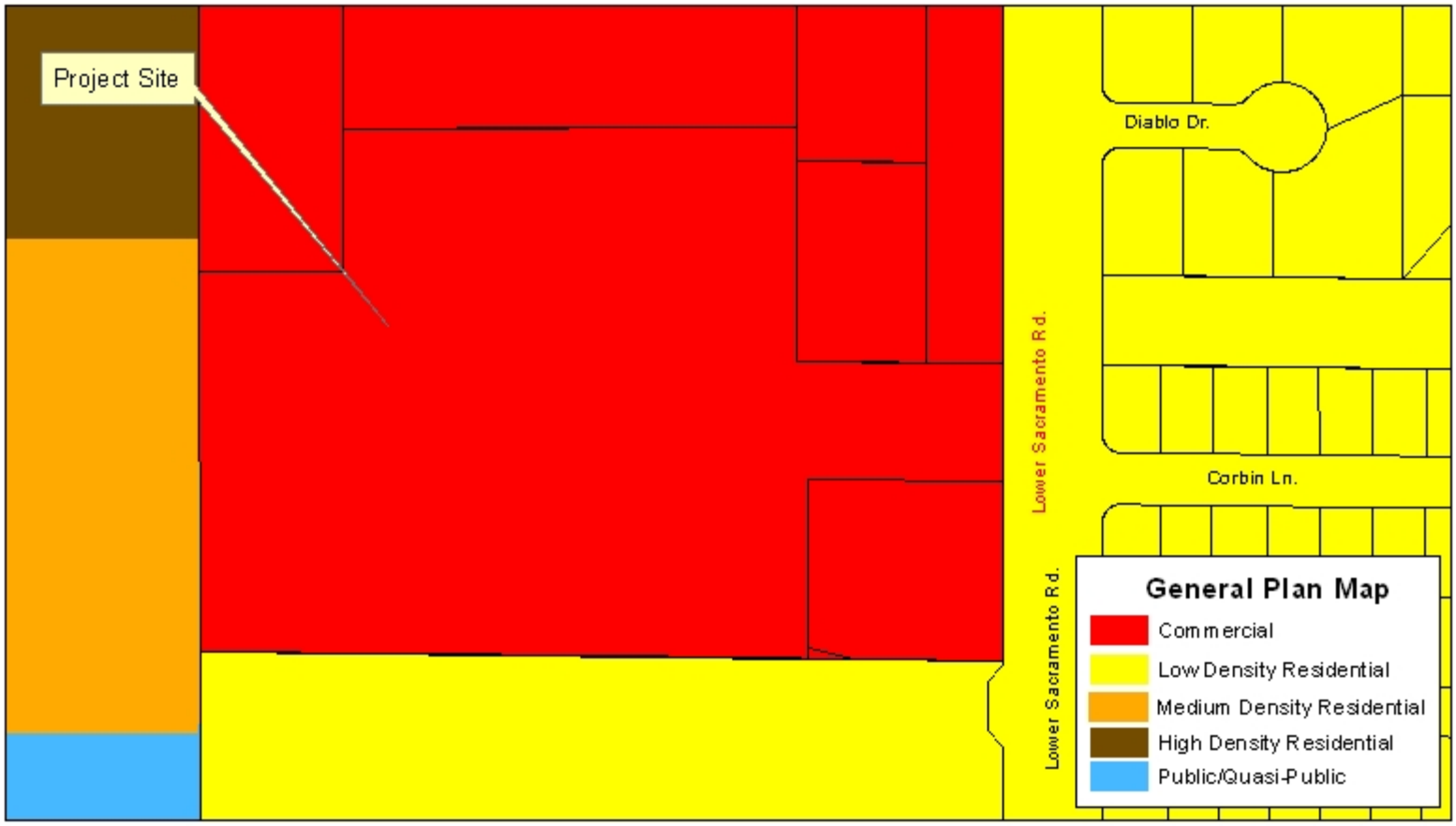
City Limits

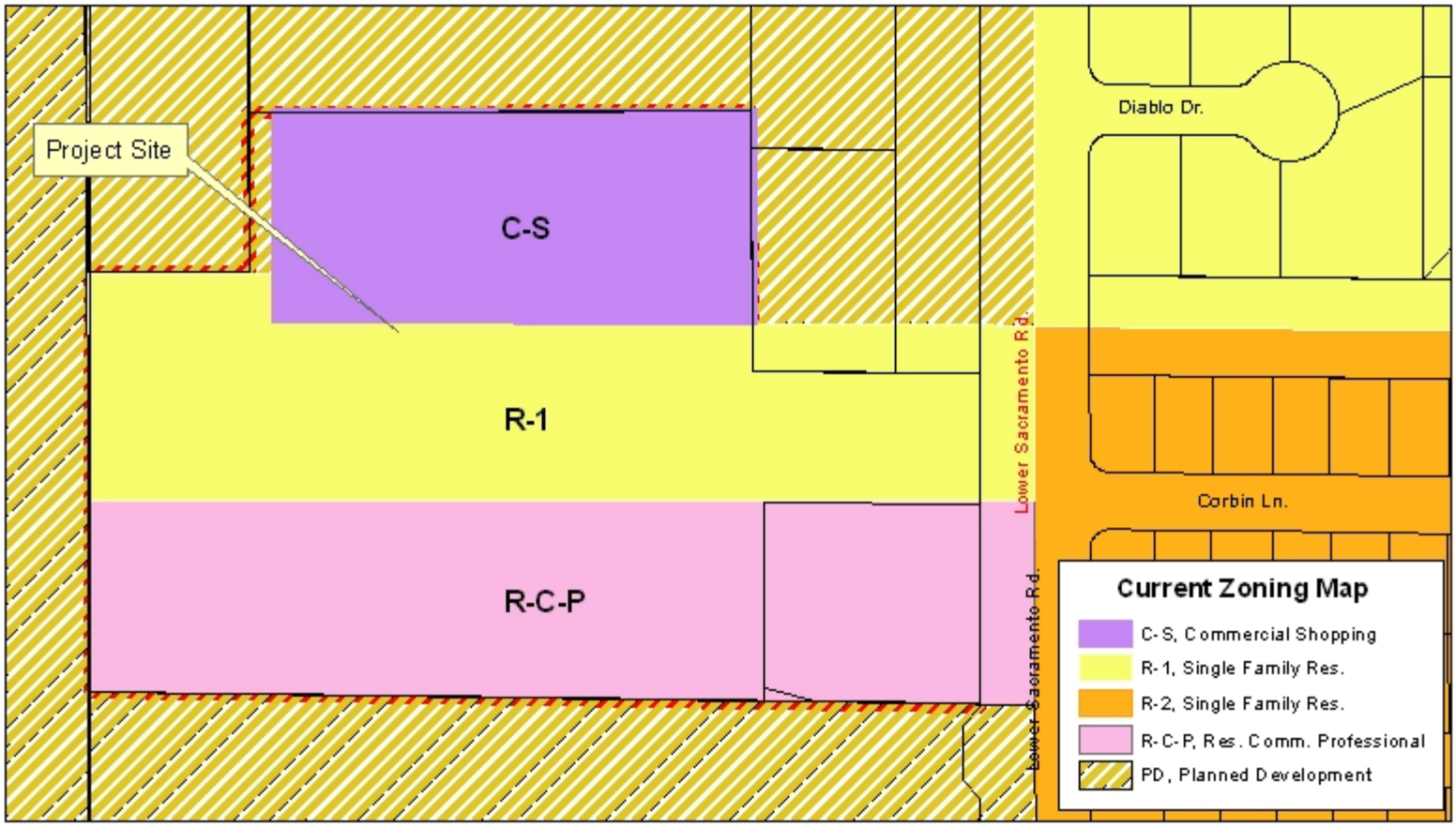
Vicinity Map

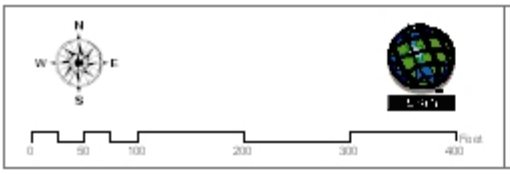


Kristmont West Inc

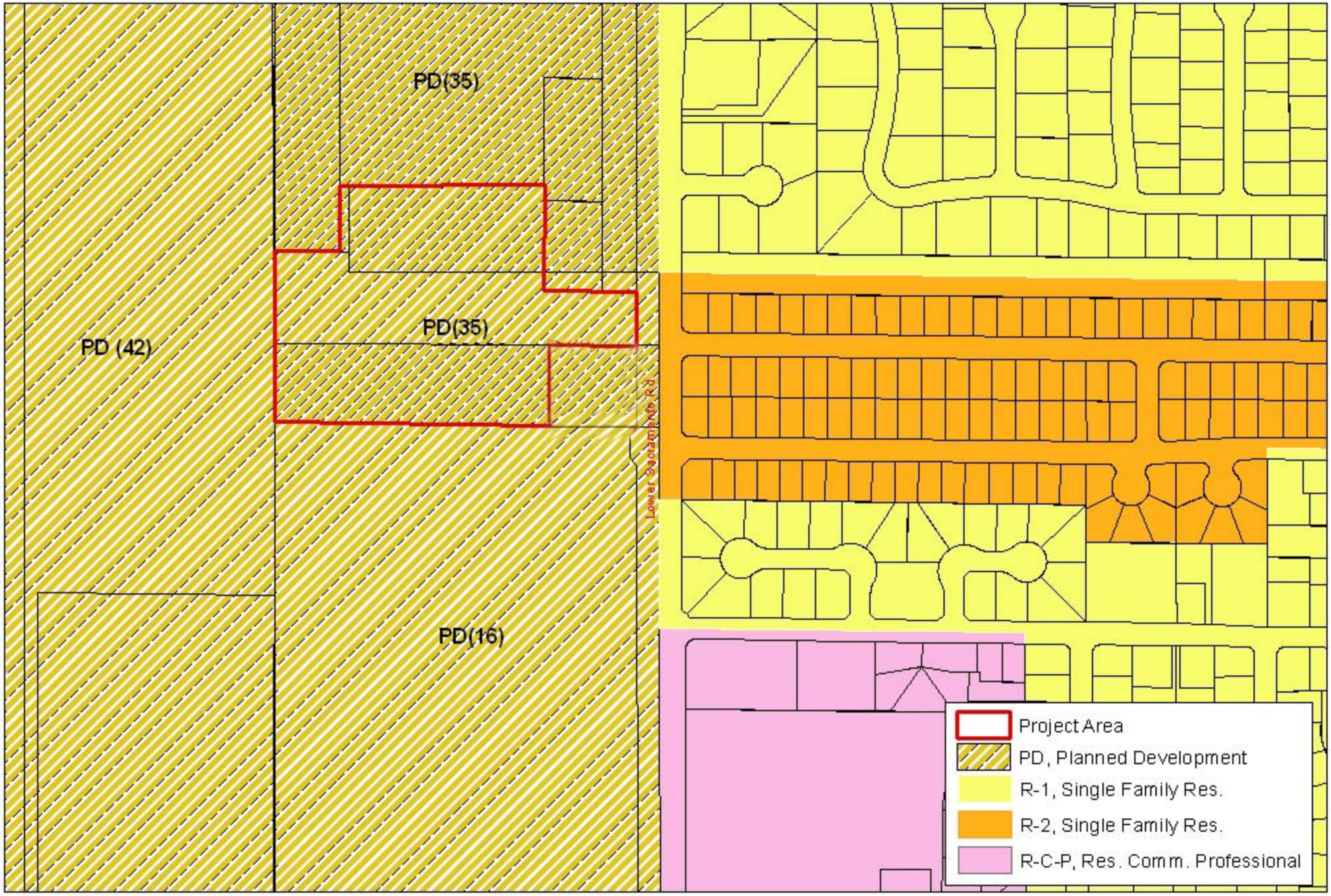
515 South Lower Sacramento Road
APN: 027-400-09
Lodi, CA 95242







515 and 617 S. Lower Sacramento Road
Lodi, CA 95242



Proposed Zoning Change

515 and 617 S. Lower Sacramento Road
Lodi, CA 95242

N

CITY OF LODI
PLANNING COMMISSION
Staff Report

MEETING DATE: June 13, 2012

APPLICATION NO: 11-Z-01

REQUEST: Request for Planning Commission to make a Recommendation to the City Council to approve rezoning of a property located at 515 South Lower Sacramento Road from R-1, C-S and R-C-P to Planned Development (PD)-35. (Applicant, Kristmont West Inc.; File # 11-Z-01)

LOCATION: 515 South Lower Sacramento Road
APN: 027-400-09
Lodi, CA 95242

PROPERTY OWNER: Kristmont West Inc
7700 College Town Drive #111
Sacramento, CA 95826

APPLICANT: The same as above.

RECOMMENDATION
Staff recommends the Planning Commission recommend to the City Council approval of the Rezone application, subject to conditions of approval outlined in the attached resolution.

PROJECT AREA DESCRIPTION
General Plan Designation: Commercial
Zoning Designation: C-S: Commercial Shopping, R-1, Single Family Residence and R C-P, Residential, Commercial and Professional.
Property Size: Approximately 9.3 acres

The adjacent zoning and land use characteristics:

	General Plan	Zone	Land Use
North	Commercial	PD-35: Planned Development 35	Variety of stores
South	Low Density Residential	PD-16: Planned Development 16	Temple Baptist Church
East	Low Density Residential	R-1 and R-2 Residences	Single Family Residences
West	High and Medium Density Residential	PD-42: Planned Development 42	Agricultural land

SUMMARY
The application involves rezoning of a property located at 515 South Lower Sacramento Road. The subject property is currently zoned R-1, R-C-P and C-S. The owner is petitioning to rezone the subject property to Planned Development (PD)-35. PD-35 zoning district covers the area commonly known as Raley's Shopping Center, which is located immediately north of the project sites and is also owned by the same entity. Rezoning of the properties to PD-35 would create a uniform zoning designation and permit commercial development to occur. The City's General Plan designates the subject sites as Commercial. Staff recommends the Commission recommend approval of the proposed rezoning as shown in Attachment "6" to the City Council based on the findings and subject to the conditions contained in the attached resolution. No development plans for the property are proposed at this time. The only action currently before the Commission is the proposal to rezone the property.

BACKGROUND

This rezoning application involves a parcel located near the corner of Lower Sacramento Road and Lodi Avenue. The second parcel is located at 515 South Lower Sacramento Road and is a vacant parcel. The area was annexed into the City in 1966. The shopping center was developed sometime prior to that. Many additions to the center have been made since its first phase was completed, including the U.S.A gas station, and the movie theater (since demolished).

In 2000, the property owner applied for a Zoning Amendment to change the zoning of the shopping center to Planned Development (PD). However, the subject property were excluded. The vacant parcel currently features three zoning designations divided equally. The northern 1/3 is zoned Shopping Center (C-S), the southern 1/3 is zoned Residential-Commercial-Professional (R-C-P), and the middle part is zoned Single Family Residence (R-1).

ANALYSIS

The application involves two properties that contain three different City zoning designations. These properties are located at 515 and 617 South Lower Sacramento Road. These zoning designations are R-1, Single Family Residence, R-C-P, Residential Commercial and Professional, and C-S, Shopping Center. The owner petitions to amend Planned Development (PD)-35 to include these two parcels. PD-35 covers the Raley's Shopping center, which is also owned by the applicant. PD-35 was established to allow commercial development. The City's General Plan designates both sites as commercial. Rezoning of these properties to PD-35 would be consistent with the General Plan land use policy. The request was prompted from a desire of the applicant to develop the vacant parcel for commercial uses. The R-1 zoning designation prohibits commercial uses. Thus, the applicant requests the zoning designations be changed to Planned Development 35.

The planned development district is designed to accommodate various types of development such as neighborhood commercial, shopping centers, grouped professional and administrative office area, commercial serve centers and other types of commercial and residential uses. The change in zoning designation to planned development would allow development of the parcels as specifically permitted in §17.33.040. The Planned Development District, as defined in the City's Zoning Ordinance, provides the flexibility for applicants to design their own development criteria. This includes setbacks, heights, lot coverage and other land use issues as defined in §§ 17.33 Planned Development District (P-D) of the City's Ordinances. At this time, no development is proposed. However, future development plans are subject to review and approval by Site Plan and Architecture Review Committee (SPARC) and possibly Planning Commission.

Per City Code, the Planning Commission must make the following findings in order to recommend approval of a proposed rezoning to the City Council:

(1) The proposed zoning amendment is in general conformance with the General Plan

The proposed rezoning conforms to the General Plan in that it will still allow commercial development on the property consistent with the commercial development prescribed by the Land Use Chapter of the General Plan should the property owner decide to propose such development in the future. In the mean time, rezoning will remove any constraints imposed by the current zoning designations.

(2) The public necessity, convenience, and general welfare require the adoption of the proposed rezoning.

At the present time, there is an inherent contradiction between the General Plan and the zoning designations. When the City adopted the current General Plan, it changed the land use designation to Commercial per the property owner's request. The presence of residential designation prohibits commercial development. As such, planning staff recommends that the properties be rezoned from R-1, R-C-P and C-S to Planned District (35). Approval of the requested rezoning will make the zoning consistent with the current General Plan and facilitate the development of the site today with a more viable land use or new land use plan.

The applicant will not be required to pay impact fees for the proposed rezoning because no development is proposed. When an application is submitted to develop the properties, the developer

will be required to pay the applicable impact fees in effect at the time building permits are obtained. Staff finds the proposed request to amend the Zoning designation to Planned Development 35 is consistent with the General Plan. Staff further finds that the request is reasonable and provides for the existing and future needs of the residents of the area, and that it integrates well with the surrounding land uses. Therefore, staff recommends the Planning Commission find the proposed rezoning application exempt from the California Environmental Quality Act (CEQA) pursuant to Guideline 15183 and 15061(b)(3) which exempts projects that have no potential for having a significant impact on the environment; find the project consistent with the General Plan for the reasons enumerated in this staff report; find that the rezoning fulfills the applicable requirements set forth in §17.33 of the Lodi Municipal Code; and recommend to the City Council to adopt an ordinance to rezone the properties from R-1, R-C-P and C-S to Planned Development-35, based upon the findings and subject to the conditions of approval set forth in draft resolution.

ENVIRONMENTAL ANALYSIS:
The California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereafter CEQA) requires analysis of agency approvals of discretionary "projects." A "project," under CEQA, is defined as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." The proposed zoning change is a project under CEQA.

Staff has reviewed the project to determine the required level of review under CEQA. The proposed zoning change is exempt from CEQA under State CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review. The proposed rezone is consistent with the Lodi's General Plan land use designation of Commercial. Further, the certified General Plan EIR analyzed the commercial development of this property and its potential impacts. Therefore, the project qualifies for the identified exemption. In addition, this proposed rezoning is exempt from the California Environmental Quality Act (CEQA) pursuant to Guideline 15061(b)(3) in that it is not a project which has the potential to have a significant impact on the environment because it will not change the allowable commercial use of the property consistent with the current General Plan land use designation.

PUBLIC HEARING NOTICE:
Legal Notice for the Use Permit was published on March 3, 2011. A total of 32 public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property as required by California State Law §65091 (a) 3.

ALTERNATIVE PLANNING COMMISSION ACTIONS:

- Approve the Request with Alternate Conditions
- Deny the Request
- Continue the Request

Respectfully Submitted,

Immanuel Bereket
Associate Planner

Concur,

Konradt Bartlam
Community Development Director

ATTACHMENTS:

1. Vicinity Map
2. Aerial Map
3. Site Plan
4. Existing General Plan and Zoning Maps
5. Proposed Zoning Map
6. Draft Resolution

P.C. RESOLUTION NO. 12- 08

A RESOLUTION OF THE CITY OF LODI PLANNING COMMISSION RECOMMENDING THE CITY COUNCIL ADOPT AN ORDINANCE REZONING 515 SOUTH LOWER SACRAMENTO ROAD FROM R-1, SINGLE FAMILY RESIDENCE, R-C-P, RESIDENTIAL COMMERCIAL AND PROFESSIONAL, AND C-S, SHOPPING CENTER TO PLANNED DEVELOPMENT (PD)-35

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, On November 3, 2011, the City of Lodi received an application from Tom Smith, on behalf of Kristmont West, (referred to as "applicant"), to rezone 515 and 617 South Lower Sacramento Road, Assessor's Parcel Numbers: 027-400-09 and 027-400-10, respectively; and

WHEREAS, the subject property located at 515 South Lower Sacramento Road (APN:027-400-09) is owned by Kristmont West, 7700 College Town Drive #111, Sacramento, CA; and

WHEREAS, the subject properties have a General Plan designation of Commercial; and

WHEREAS, the subject property located at 515 South Lower Sacramento Road (APN:027-400-09) is zoned R-1, C-S, and R-C-P; and

WHEREAS, the requested rezoning is to change the zoning designations of 515 South Lower Sacramento Road (APN: 027-400-09) from R-1, C-S, and R-C-P to Planned Development 35; and

WHEREAS, the proposed zoning change is consistent with the General Plan and other applicable standards; and

WHEREAS, the proposed zoning change would allow commercial development to occur on the sites; and

WHEREAS, the Planning Commission of the City of Lodi conducted the public hearing at the time and place stated in the notice and afforded all persons interested in the matter of the rezoning, or in any matter or subject related thereto, an opportunity to appear before the Commission and be heard and to submit any testimony or evidence in favor of or against the approval of the application; and

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, hereby, makes the following findings:

1. The project was found to be Categorically Exempt according to the California Environmental Quality Act, Guidelines Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning). CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review. The proposed rezone is consistent with the General Plan land use designation of Commercial. Further, the certified General Plan EIR analyzed the commercial development of this property and its potential impacts. Therefore, the project qualifies for the identified exemption. In addition, this proposed rezoning is exempt from the California Environmental Quality Act (CEQA) pursuant to Guideline 15061(b)(3) in that it is not a project which has the potential to have a significant impact on the environment because it will not change the allowable commercial use of the property consistent with the current General Plan land use designation.

2. Implementation of the Rezoning will not result in significant physical change in the environment and in that the site is an infill project and will not alter the impervious surface.

3. The proposed Rezoning will not have impacts that are individually limited but cumulatively considerable because this is an infill project that is currently served by all public utilities and services.

4. The proposed rezoning is in complete conformance with the General Plan in that it will permit commercial development on the properties consistent with the type of use and range prescribed by the Land Use Chapter of the General Plan should the owner of the properties decide to propose such development in the future.

5. The public necessity, convenience, and general welfare require the adoption of the proposed rezoning in that leaving the properties zoned as R-1, R-C-P and C-S with associated restrictions prescribed by the Zoning Ordinance is illogical and places unnecessary governmental constraints. The underlying General Plan land use designation of the subject properties is Commercial, so rezoning the property to Planned Development 35 will make the zoning consistent with the current General Plan, remove governmental constraint and facilitate the development of the infill project site.

6. It is found that the required zoning change to Planned Development 35 (PD-35) Zoning District does not conflict with adopted plans or policies of the General Plan and will serve sound planning practice.

7. It is further found that the project parcel of the proposed Planned Development 35 (PD-35) Zoning District is physically suitable for commercial development.

8. Future development of the project sites will be required to adhere to all applicable standards adopted by the City, improvements mandated by the City of Lodi Public Works Department Standards and Specifications, Zoning Ordinance as well as all other applicable standards.

9. The design of the proposed project and type of improvements are not likely to cause serious public health problems in that all public improvements will be built per City standards and all private improvements will be built per the California Building Code.

NOW, THEREFORE, BE IT DETERMINED, AND RESOLVED, that the Lodi Planning Commission hereby recommends the City Council rezone properties located within the City of Lodi, specifically at 515 South Lower Sacramento Road (APN:027-400-09) and 617 S. Lower Sacramento Road (APN:027-400-10) to Planned Development 35 (PD-35), subject to the following development conditions and standards for the proposed PD-35 Zoning District:

1. The property owner and/or developer and/or successors in interest and management shall, at their sole expense, defend, indemnify and hold harmless the City of Lodi, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include, but is not limited to, any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Lodi shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

2. An approval granted by the Planning Commission does not constitute a building permit or authorization to begin any construction. An appropriate permit issued by the Division of Building and Safety shall be obtained prior to construction, enlargement, relocation, conversion, or demolition of any building or structure within the City.

3. All applicable state statutes, and local ordinances, including all applicable Building and Fire Code requirements for hazardous materials shall apply to the project. In an event of a conflict, the strictest law or regulation shall apply.
4. No variance from any City of Lodi adopted code, policy or specification is granted or implied by this approval.

Public Works Department, Engineering:

The conditions listed below will be required at the time of development of the subject parcels:

5. All conditions for on- and off-site improvements shall be required at the time of a development application.

Dated: June 13, 2012

I hereby certify that Resolution No. 12-08 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on June 13, 2012, by the following vote:

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

ATTEST:_____

Secretary, Planning Commission

LODI PLANNING COMMISSION
REGULAR COMMISSION MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JUNE 13, 2012

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of June 13, 2012, was called to order by Chair Olson at 7:00 p.m.

Present: Planning Commissioners – Cummins, Heinitz, Hennecke, Jones, Kiser, and Chair Olson

Absent: Planning Commissioners – Kirsten

Also Present: Community Development Director Konradt Bartlam, Associate Planner Immanuel Bereket, and Administrative Secretary Kari Chadwick

2. MINUTES

"May 9, 2012"

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Kiser second, approved the Minutes of May 9, 2012 as written. (Commissioners Hennecke abstain because he was not in attendance of 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 Olson called for the public hearing to consider the request for Planning Commission to make a Recommendation to the City Council to approve rezoning of a property located at 515 South Lower Sacramento Road from R-1, C-S and R-C-P to Planned Development (PD)-35. (Applicant, Kristmont West Inc.; File # 11-Z-01)

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Hearing Opened to the Public

- Tom Smith, representative of the property owner, came forward to answer questions. Mr. Smith stated that there are no current plans to develop the property.
- Steven Opp, Executive Paster of Temple Baptist Church the property just south of the proposed rezoning, came forward to make some comments and ask some questions regarding the project. Mr. Opp asked if the C-S zoning could be explained. Director Bartlam stated that the PD-35 zoning designation would allow any kind of retail, office, gas station, restaurant, and it would allow for High-Density Residential. It would not allow other kinds of residential or industrial uses. Mr. Opp would like to see similar development as to the Raleys Shopping Center which he calls active development. He would not like to see any outdoor public storage which he calls passive development. Chair Olson asked if it was a visual objection or if it was due to something else. Mr. Opp stated that he will get into that a little bit later, but stated that there are already some issues with the property in the visual area. The outdoor storage of vehicles, RV's, and boats would cause a negative visual impact to the church property. Mr. Opp stated asked what the plan was for the retention basin as far as possible expansion. Mr. Bartlam stated that all of the Public Works conditions have been consolidated and staff will not know what requirements will be put in place until we receive a development plan. Mr. Opp stated that the basin is currently sitting on the south property line and if there

were to be an expansion on Tokay it would need to be altered. Mr. Bartlam stated that the basin may need to be moved once a development plan is presented. The current basin used to have a cyclone fence around it and it has been removed and there is a concern with the dangers that may be there. The church is concerned about the esthetics of any future project. Mr. Opp would like to know who will be responsible for the improvements to the extension of Tokay Street. Mr. Bartlam stated that there should be a sharing of the improvements once a project for development comes forward.

Public Portion of Hearing Closed

MOTION / VOTE:
The Planning Commission, on motion of Commissioner Kiser, Heinitz second, approved the request of the Planning Commission to make a Recommendation to the City Council to approve rezoning of a property located at 515 South Lower Sacramento Road from R-1, C-S and R-C-P to Planned Development (PD)-35 subject to the conditions in the resolution. The motion carried by the following vote:

Ayes:	Commissioners –	Cummins, Heinitz, Hennecke, Jones, Kiser and Chair Olson
Noes:	Commissioners –	None
Absent:	Commissioners -	Kirsten

b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Olson called for the public hearing to consider the request to amend approved Use Permit application 11-U-03 to allow Type 2, 9, 14, 17 and 20 Alcoholic Beverage Control licenses at 9 and 9 ½ West Locust Street. (Applicant: Jeff Hansen, on behalf of AH Wines, Inc. File Number: 11-U-03a)

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Hearing Opened to the Public

- Robert Colarossi, applicant, came forward to answer questions.
- Commissioner Kiser asked when they planned on starting to do wine tasting. Mr. Colarossi stated that the area that they plan on expanding into will be used for storage. Kiser asked when the tasting would start in the current space. Mr. Colarossi stated there should be wine tasting in about a year.

Public Portion of Hearing Closed

MOTION / VOTE:
The Planning Commission, on motion of Commissioner Cummins, Hennecke second, approved the request of the Planning Commission to amend approved Use Permit application 11-U-03 to allow Type 2, 9, 14, 17 and 20 Alcoholic Beverage Control licenses at 9 and 9 ½ West Locust Street subject to the conditions in the resolution. The motion carried by the following vote:

Ayes:	Commissioners –	Cummins, Heinitz, Hennecke, Jones, Kiser and Chair Olson
Noes:	Commissioners –	None
Absent:	Commissioners -	Kirsten

c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Olson called for the public hearing to consider the request to amend approved Use Permit application 10-U-11 to allow operation of a Charter School at 1530 West Kettleman Lane Suites B & C. (Applicant: Dennis G. Bennett, on behalf of Rio Valley Charter School; File Number: 10-U-11a)

Associate Planner Bereket gave a brief PowerPoint presentation based on the staff report. Staff recommends approval of the project.

Hearing Opened to the Public

- Bob Smith, representative of Dennis Bennett, came forward to answer questions.
- Chair Olson asked if the administration office was located on site. Mr. Smith stated that administration is on site at all times.

Public Portion of Hearing Closed

- Commissioner Cummins asked if there have been any reported problems with the traffic in the area. Mr. Bartlam stated that there have not been any traffic issues.

MOTION / VOTE:
The Planning Commission, on motion of Commissioner Heinitz, Kiser second, approved the request of the Planning Commission to amend approved Use Permit application 10-U-11 to allow operation of a Charter School at 1530 West Kettleman Lane Suites B & C subject to the conditions in the resolution. The motion carried by the following vote:

Ayes:	Commissioners –	Cummins, Heinitz, Hennecke, Jones, Kiser and Chair Olson
Noes:	Commissioners –	None
Absent:	Commissioners -	Kirsten

4. PLANNING MATTERS/FOLLOW-UP ITEMS

None

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Director Bartlam stated that there has been a memo provided in the packet and staff is available to answer any questions.

7. DEVELOPMENT CODE UPDATE

Director Bartlam stated that there should be a draft version of the Residential and the Mixed Use sections brought to the Commission to start the review process at the July meeting.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. ART IN PUBLIC PLACES

None

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

Commisisoner Cummins asked if there has been any movement on the Super Wal Mart project. Mr. Bartlam stated that the formal appeal period has passed and the project is now approved, there isn't a set time table as of yet.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:30 p.m.

ATTEST:

Konradt Bartlam
Planning Commission Secretary

ORDINANCE NO.____

AN ORDINANCE OF THE LODL CITY COUNCIL AMENDING THE OFFICIAL DISTRICT MAP OF THE CITY OF LODI AND THEREBY REZONING THE PARCEL LOCATED AT 515 SOUTH LOWER SACRAMENTO ROAD (APN: 027-4 00-09) PLANNED DEVELOPMENT 35 (PD-35) FROM R-1, C-S AND R-C-P

==========

BE IT ORDAINED BY THE LODL CITY COUNCIL AS FOLLOWS:

Section 1. The Official District Map of the City of Lodi adopted by Title 17 of the Lodi Municipal Code is hereby amended as follows:

The parcel located at 515 South Lower Sacramento Road (APN: 027-400-09) is hereby rezoned as follows:

9.3 acres - 515 South Lower Sacramento Road (APN: 027-400-09) from R-1 (single family residence), C-S (Commercial Shopping), and R-C-P (Residential, Commercial and Professional) to Planned Development 35, as shown on the Vicinity Map, on file in the office the City Clerk.

Section 2. The alterations, changes, and amendments of said Official District Map of the City of Lodi herein set forth have been approved by the City Planning Commission and by the City Council of this City after public hearings held in conformance with provisions of Title 17 of the Lodi Municipal Code and the laws of the State of California applicable thereto.

Section 3 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 4 - Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severabie. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 5. All ordinances and parts of the ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 6. This ordinance shall be published one time in the “Lodi News Sentinel,” a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect 30 days from and after its passage and approval.

Approved this ____ of September, 2012

_____

JOANNE MOUNCE
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 September 19, 2012, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2012, 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 as 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 AND APPROVE THE RECOMMENDATION OF THE PLANNING COMMISSION TO REZONE PROPERTY LOCATED AT 515 SOUTH LOWER SACRAMENTO ROAD FROM R-1, C-S, AND R-C-P TO PLANNED DEVELOPMENT (PD)-35**

PUBLISH DATE: **SATURDAY, AUGUST 18, 2012**

LEGAL AD

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

SEND AFFIDAVIT AND BILL TO:
LNS ACCT. #0510052

RANDI JOHL, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, AUGUST 16, 2012

ORDERED BY: RANDI JOHL
CITY CLERK

Jennifer M. Robison

JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

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

LNS Faxed to the Sentinel at 369-1084 at _____(time) on _____(date) _____(pages)
_____ Phoned to confirm receipt of all pages at _____(time) ____JMR ____MB (initials)

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DECLARATION OF POSTING

PUBLIC HEARING TO CONSIDER AND APPROVE THE RECOMMENDATION OF THE PLANNING COMMISSION TO REZONE PROPERTY LOCATED AT 515 SOUTH LOWER SACRAMENTO ROAD FROM R-1, C-S, AND R-C-P TO PLANNED DEVELOPMENT (PD)-35

On Thursday, August 16, 2012, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider and approve the recommendation of the Planning Commission to rezone property located at 515 South Lower Sacramento Road from R-1, C-S, and R-C-P to Planned Development (PD)-35 (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 August 16, 2012, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK

Jennifer M. Robison

JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

N:\Administration\CLERK\Forms\DECPOSTCDD.DOC

DECLARATION OF MAILING

PUBLIC HEARING TO CONSIDER AND APPROVE THE RECOMMENDATION OF THE PLANNING COMMISSION TO REZONE PROPERTY LOCATED AT 515 SOUTH LOWER SACRAMENTO ROAD FROM R-1, C-S, AND R-C-P TO PLANNED DEVELOPMENT (PD)-35

On Thursday, August 16, 2012, in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a Notice of Public Hearing to consider and approve the recommendation of the Planning Commission to rezone property located at 515 South Lower Sacramento Road from R-1, C-S, and R-C-P to Planned Development (PD)-35, attached hereto Marked Exhibit A. The mailing list for said matter is attached hereto, marked Exhibit B.

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

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

Executed on August 16, 2012, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK, CITY OF LODI

Jennifer M. Robison

JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

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CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING
Date: September 19, 2012
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, September 19, 2012**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following item:

a) **Recommendation of the Planning Commission to rezone property located at 515 South Lower Sacramento Road from R-1, C-S, and R-C-P to Planned Development (PD)-35.**

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

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

By Order of the Lodi City Council:

Randi Johl
City Clerk

Dated: August 15, 2012

Approved as to form:

D. Stephen Schwabauer
City Attorney

EXHIBIT B

300' Mailing List for the Rezoning of 515 S. Lower Sacramento Rd.

PARCEL #	OWNER NAME	CARE OF	STREET	CITY	STATE	ZIP5
2710102	DAETWEILER, ESTHER K TR		2449 CORBIN LN	LODI	CA	95242
2710103	MCCANN, GARY & TAMMY		2354 E SPIESS RD	ACAMPO	CA	95220
2710104	CHRISTY, NEFF EMERY TR		2437 CORBIN LN	LODI	CA	95242
2710125	WOODBRIDGE, IRRIG DIST					0
2710201	SIEGLOCK, JACK & BRENDA		1702 TIMBERLAKE CIR	LODI	CA	95242
2710202	WITHERS, JUDITH TR ETAL		2448 CORBIN LN	LODI	CA	95242
2710203	BOYER, HARVEY V SR & INA M TR		2442 CORBIN LN	LODI	CA	95240
2710204	MURATA, GARY & ROSE		9051 E HARNEY LN	LODI	CA	95240
2710236	ELLIS, ANNA H TR		2443 W TOKAY ST	LODI	CA	95242
2710237	VASQUEZ, RUBEN G & PETRA		2449 W TOKAY ST	LODI	CA	95242
2710238	JOINES, RALPH T & MARSHA P TR		15360 STRATFORD DR	SAN JOSE	CA	95124
2734005	FURR, SHIRLEY A GELDERT TR		2420 DIABLO DR	LODI	CA	95242
2734006	BELLA, ETTORE BRUNO TR		2430 DIABLO DR	LODI	CA	95242
2740004	KRISTMONT WEST		7700 COLLEGE TOWN DR #111	SACRAMENTO	CA	95826
2740005	WESTGATE SHOPPING CENTER LLC	AKT DEVELOPMENT INC	7700 COLLEGE TOWN DR #101	SACRAMENTO	CA	95826
2740009	KRISTMONT WEST		7700 COLLEGE TOWN DR #111	SACRAMENTO	CA	95826
2740010	ZINFANDEL PLAZA LLC		7700 COLLEGE TOWN DR #101	SACRAMENTO	CA	95826
2740011	KRISTMONT, WEST		7700 COLLEGE TOWN DR #111	SACRAMENTO	CA	95826
2740012	TEMPLE BAPTIST CHURCH OF LODI		801 S LOWER SAC RD	LODI	CA	95242
2740013	WESTGATE SHOPPING CENTER LLC	AKT DEVELOPMENT INC	7700 COLLEGE TOWN DR #101	SACRAMENTO	CA	95826
2740014	KRISTMONT WEST CORP	AKT DEV ATTN JEAN	7700 COLLEGE TOWN DR STE 101	SACRAMENTO	CA	95826
2740015	LODI WESTSIDE PROPERTIES LLC		10100 TRINITY PKWY STE 420	STOCKTON	CA	95219
2740017	LODI CITY OF		CITY HALL	LODI	CA	95240

AGENDA ITEM G-03

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Public Hearing to Consider Adoption of Resolution Levying Annual (2013) Assessment for Downtown Lodi Business Improvement Area No. 1 and Confirming the Downtown Lodi Business Partnership 2012 Annual Report as Approved by Council on August 15, 2012

MEETING DATE: September 19, 2012

PREPARED BY: Deputy City Manager

RECOMMENDED ACTION: Public hearing to consider adoption of resolution levying annual (2013) assessment for Downtown Lodi Business Improvement Area No. 1 and confirming the Downtown Lodi Business Partnership 2012 Annual Report as approved by Council on August 15, 2012.

BACKGROUND INFORMATION: The Downtown Lodi Business Improvement Area No. 1 2012 Annual Report was presented and approved by the City Council on August 15, 2012. The Council established September 19, 2012, as the public hearing date during which time the public would have an opportunity to present written or oral protests to the assessment being proposed. The public hearing is established pursuant to Section 36535 of the California Streets and Highways Code.

Pursuant to Lodi Municipal Code Section 12.06.110: The purpose of this process is to comply with the Act provisions regarding public notice and hearing prior to establishing the benefit fees for the following billing period. City shall not adopt, modify, or otherwise amend any billing period budget of the area that is inconsistent in any way with such billing period's budget as agreed to and presented by the board except in the case of a written majority protest (regarding elimination or modification of any specific budget item) from business owners which will pay 50 percent or more of the fees proposed to be levied as to any specific budget item pursuant to the Streets and Highways Code Section 36525(b). In such case, the written protest regarding any specific budget item shall be grounds to eliminate or modify such expenditure from the area's proposed budget pursuant to the written protest.

Streets and Highways Code 36535(c) states: At the conclusion of the public hearing, the City Council may adopt a resolution confirming the report as originally filed or as changed by it. The adoption of the resolution shall constitute the levy of an assessment for the year referred to in the report.

FISCAL IMPACT: The Downtown Lodi Business Partnership (DLBP) was established in order to create the mechanisms necessary to give Downtown Lodi the ability to compete regionally as a shopping center and entertainment destination. The purpose of the assessment is to pool contributions of individual business owners in order to provide the DLBP with the resources to provide marketing and events coordination.

FUNDING AVAILABLE: As collected by the City on behalf of the DLBP.

_____
Jordan Ayers
Deputy City Manager

APPROVED: _____
Konradt Bartlam, City Manager

DOWNTOWN
L•O•D•I
BUSINESS
PARTNERSHIP

August 20, 2012

Lodi City Council,

Thank you for your support at the August 15th council meeting and your approval of DLBP's 2012 Annual Report. Included in the report was our 2012 budget that was approved by our board in November 2011. In May, we restructured the Farmers Market beer garden and did not amend the budget to reflect the changes.

The beer garden at the Farmers Market has rapidly grown over the past few years. The DLBP does not have the resources to maintain the level of service or associated costs required. Not only is it extremely challenging to find volunteers to set-up, break-down and man the garden for 18 straight weeks, the DLBP does not have the equipment and inventory necessary to meet the high demand of the customers. The board agreed to have the professionals, in this case Lodi Beer Co., cater the garden and assume all the responsibilities associated with it. The DLBP received a $10,000 sponsorship (instead of the previous $5,000 one.)

In previous years, the income and expenses for the beer garden were run through the DLBP office that held the alcohol license and the liability. The process of how things flowed through the office frequently raised questions and concerns. Lodi Beer Co. now pulls their ABC license and assumes the liability. Having the garden catered and out of DLBP's finances, helps make things more transparent and saves a good amount of office and bookkeeping time.

Please find attached the amended budget for 2012 that reflects the changes to the Farmers Market beer garden structure made in May 2012. The additional $5000 income was added to contract labor in administrative expenses to balance the budget. The budget will be officially approved by the board at our next meeting on September 10th, prior to the public hearing scheduled for the September 19th council meeting.

Should you have any questions, or would like more detailed information, please don't hesitate to call me at (209) 369-8052. Again, thank you for your continued support.

Sincerely,

Jaime Watts

Jaime Watts, Executive Director
Downtown Lodi Business Partnership

P.O. Box 1565 Lodi, Ca 95241-1565 Office 209.369.8052 Fax 209.369.8053 www.downtownlodi.com

Downtown Lodi Business Partnership
Proposed Budget
January 1, 2012 through December 31, 2012
(Amended August 2012)

Income	
Assessment Fees	40000.00
City of Lodi	24225.00
Event Revenue	
Farmers Market	61000.00
Parade of Lights	11000.00
Street Banner Program	500.00
Miscellaneous Events & Sales	0.00
Total Income	**136,725.00**
Expenses	
Administrative	
Director's Salary	47500.00
Staff Wages	0.00
Staff Phone	1800.00
Mileage & Meetings	1800.00
Payroll Taxes	6500.00
Contract Labor	15000.00
Event Commission	3000.00
Insurance	8000.00
Professional Fees	2000.00
Rent	4800.00
Storage	780.00
Office Supplies	3500.00
Office Equipment Lease	5000.00
Bank & Merchant Fees	2100.00
Postage	300.00
Utilities (phone, internet, alarm, etc.)	3500.00
Marketing Expenses	
Advertising, Marketing & Promotions	2900.00
Public Relations	600.00
Seminars & Conferences	1000.00
Website	1500.00
Membership Expenses	
Newsletters	300.00
Quarterly Mixers	200.00
Plaques & Trophies	300.00
Sunshine Committee	200.00

Revitalization Expenses	
Downtown Beautification & Flowers	1000.00
Kiosks (maps, printing, maintenance)	1500.00
Event Expenses	
Farmers Market	16000.00
Parade of Lights	4200.00
Street Banner Program	525.00
Winterfest	800.00
Passport Promotions	120.00
Miscellaneous Events & Sales	0.00
Total Expenses	**136,725.00**

DOWNTOWN L•O•D•I BUSINESS PARTNERSHIP

DOWNTOWN LODI BUSINESS PARTNERSHIP
2012 ANNUAL REPORT

B.I.D. INFORMATION

- California Streets and Highway Code Requirements
- Articles of Incorporation
- Benefit Fee Schedule
- Map of Zoned Business Improvement District
- Mission Statement

BUDGET & FINANCIALS

- Funding & Expense Flow Chart
- 2012 Proposed Budget
- 2011 Balance Sheet
- 2011 Profit & Loss Statement
- 2012 2nd Quarter Balance Sheet
- 2012 2nd Quarter Profit & Loss Statement

DOWNTOWN EVENTS

- 2012 & 2013 Calendar of Events
- Event Highlights

DOWNTOWN MARKETING & CAMPAIGNS

- Marketing Activities and Plans
- DLBP Marketing Material

Prepared by Jaime Watts, Executive Director

DOWNTOWN
L•O•D•I
BUSINESS
PARTNERSHIP

August 1, 2012

Mr. Rad Bartlam, City Manager
City of Lodi
221 W. Pine Street
Lodi, CA 95240

Re: DLBP Annual Report 2012

Dear Mr. Bartlam,

Section 11.0 of the City Ordinance Number 1654, establishing the Downtown Lodi Business Improvement Area, requires that we submit to you by September of each year our annual report and budget.

In addition, the State of California Streets and Highways code, which is the enabling legislation, also specifies that certain additional information be provided. You will find all of the required information contained in our report.

We have provided you an electronic file of the report.

Thank you for your continued support.

Sincerely,

Jaime Watts

Jaime Watts, Executive Director
Downtown Lodi Business Partnership

P.O. Box 1565 Lodi, Ca 95241-1565 Office 209.369.8052 Fax 209.369.8053 www.downtownlodi.com

DOWNTOWN
L·O·D·I
BUSINESS
PARTNERSHIP

2012 ANNUAL REPORT

Items listed below refer to Section 36533(b) of the California Streets and Highway Code:

No changes in boundaries of benefit zones within the area are proposed.

No physical improvements are planned.

Budget for the 2012 calendar year is enclosed.

The budget details all sources of income and projected expenses.

A Benefit Fee Schedule and a Map of the Business Improvement Area are enclosed.

P.O. Box 1565 Lodi, Ca 95241-1565 Office 209.369.8052 Fax 209.369.8053 www.downtownlodi.com

2038309
ENDORSED
FILED
In the office of the Secretary of State
of the State of California

MAR 31 1998

BILL JONES, Secretary of State

ARTICLES OF INCORPORATION OF

DOWNTOWN LODI BUSINESS PARTNERSHIP

A California Nonprofit Mutual Benefit Corporation

One: The name of the corporation is Downtown Lodi Business Partnership (A California Nonprofit Mutual Benefit Corporation).

Two: This corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under such law.

Such purposes for which this corporation is formed are to promote and improve the downtown Lodi business area, to generally improve business conditions in the downtown area, and to generally enhance the downtown area of the City of Lodi. Notwithstanding any other provision of these articles, this corporation shall not engage in any activities or exercise any powers that are not in furtherance of the purposes of this corporation.

Three: The name and address of the corporation's initial agent for service of process is Ronald M. Beckman, Esq., 111 N. Church Street, Lodi, California, 95240.

Four: The right to determine the consideration for which memberships will be issued shall be vested in the Regular Members, to be determined by a majority vote of the Regular Members in good standing.

Five: No part of the net earnings of the corporation shall inure to the benefit of any member or private shareholder, as defined for purposes of Section 501 (c) (5) of the Internal Revenue Code of 1954.

Dated: March 31, 1998

Ronald M. Beckman

Ronald M. Beckman, Incorporator

OFFICE OF THE SECRETARY OF STATE

DOWNTOWN
L•O•D•I
BUSINESS
PARTNERSHIP

DOWNTOWN LODI BUSINESS PARTNERSHIP BENEFIT FEE SCHEDULE

BUSINESS TYPE	ZONE A	ZONE B
Retailers/Restaurants*	$240 (1-3 Employees)	$120
	$360 (4-6 Employees)	$180
	$480 (7+ Employees)	$240
Service Businesses	$180	$90
Professional Businesses	$120	$60
Financial Institutions	$600	$600

**Note: Retail and restaurant businesses are assessed based on the number of employees - either full-time, or the equivalent made up of multiple employees.*

BUSINESS TYPE DEFINITIONS:

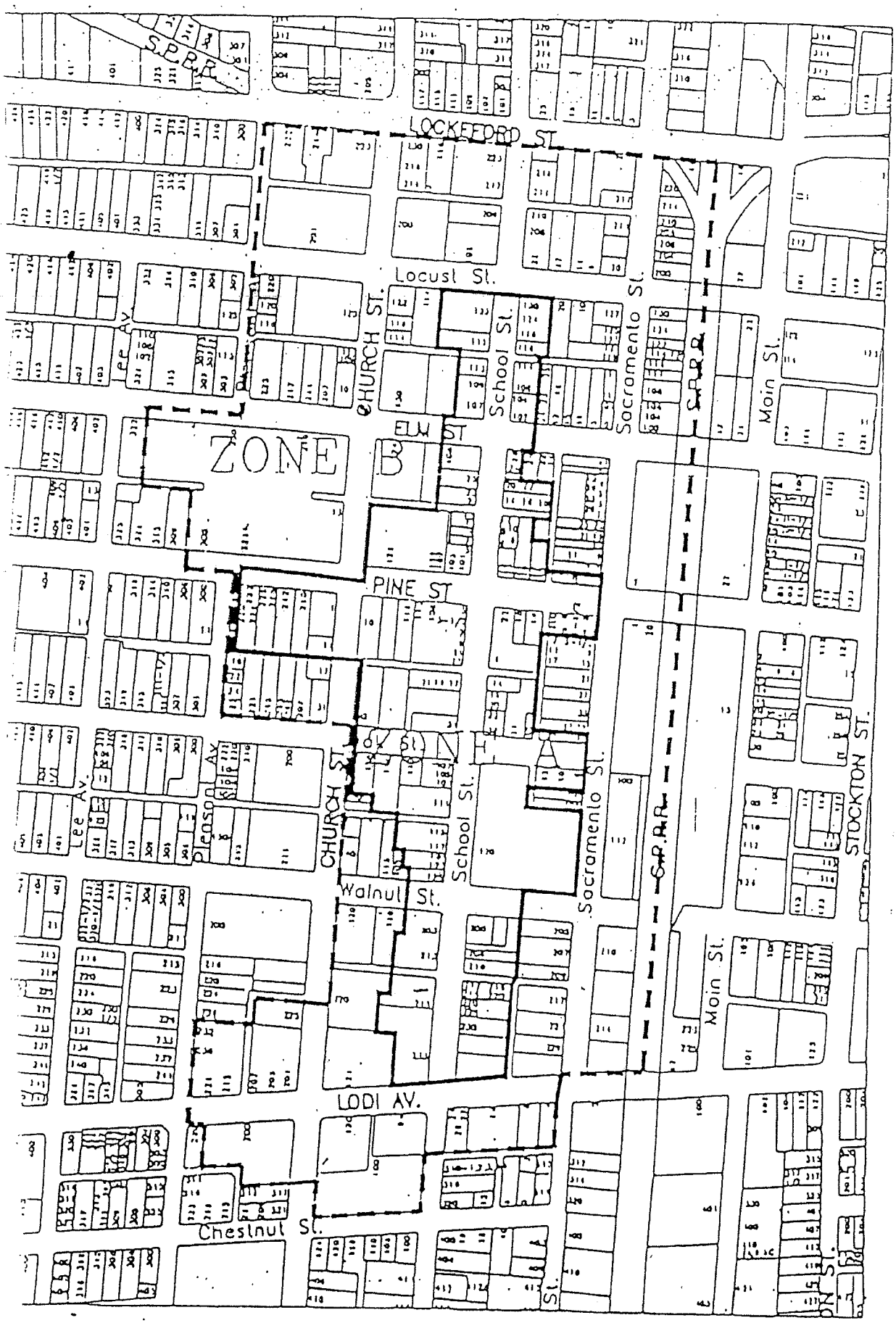
Retail and Restaurant – Businesses that buy and resell goods. Examples would be clothing stores, shoe stores, office supplies, as well as businesses that sell prepared food and drinks.

Service Businesses – Businesses that sell services. Examples are beauty and barber shops, repair shops, lodging, most automotive-oriented businesses, entertainment businesses such as theaters, etc.

Professional Businesses – Includes architects, engineers, attorneys, dentists, doctors, accountants, optometrists, realtors, insurance offices, mortgage brokers and most other businesses which require advanced or specialized licenses, and/or advanced academic degrees.

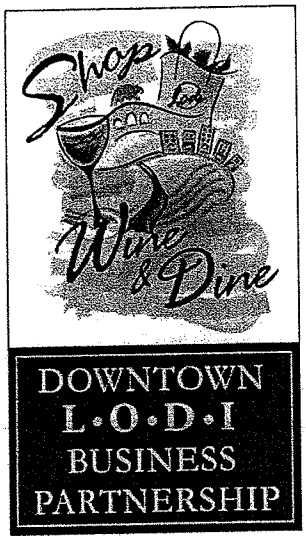
Financial Institutions – Includes banking and savings and loan institutions, as well as credit unions, etc.

Downtown Lodi Business Partnership
4 West Pine Street, Lodi, California 95240
209.369.8052 phone 209.369.8053 fax
www.downtownlodi.com



DOWNTOWN LODI BUSINESS PARTNERSHIP

EXHIBIT D



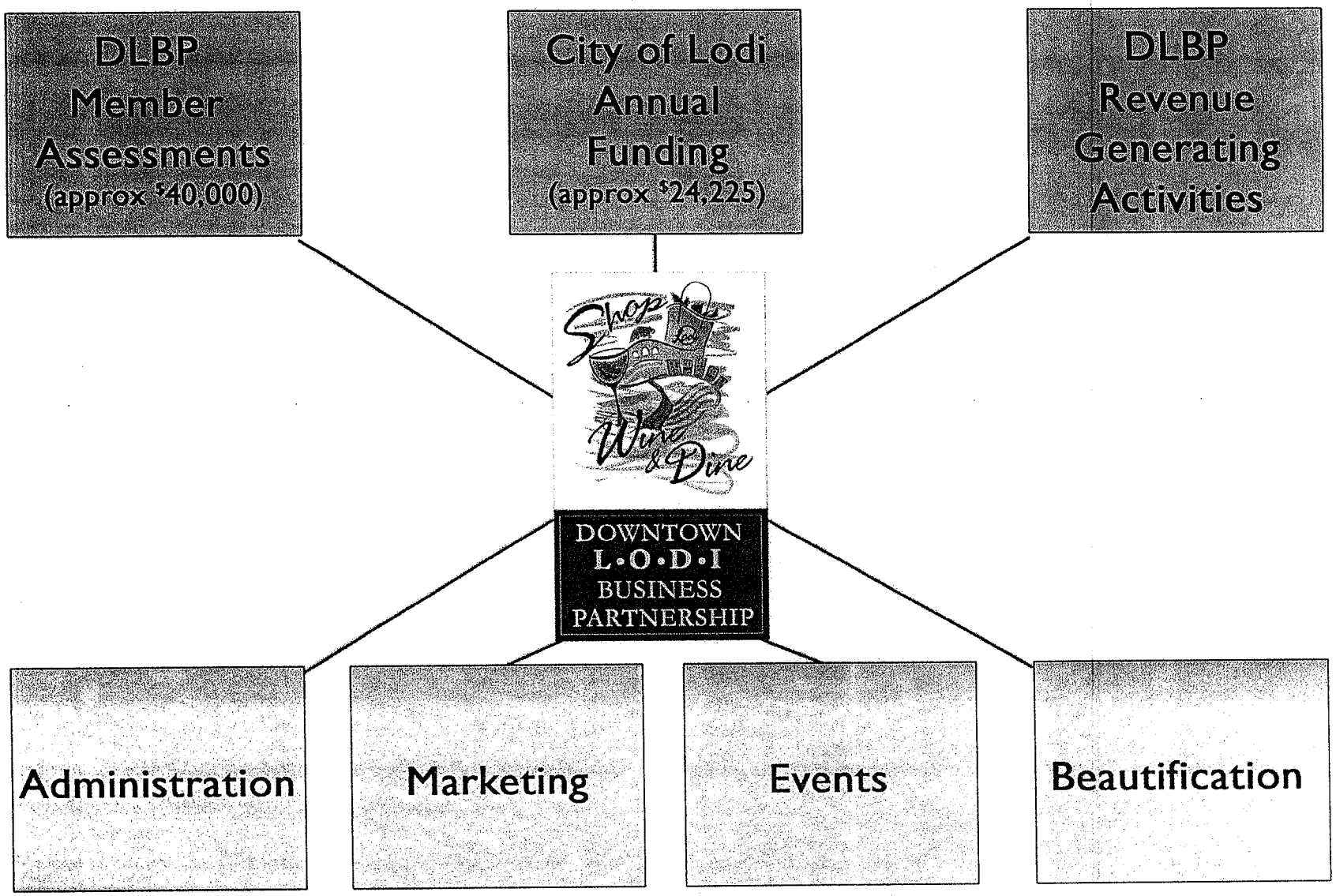
MISSION STATEMENT

The Downtown Lodi Business Partnership, comprised of business owners, professionals and merchants, is a non-profit association developed to encourage growth and prosperity in the Downtown Community of Lodi, and to maintain its economic health on an on-going basis.

This will be accomplished by:

- Encouraging development of new businesses, while retaining and revitalizing existing businesses
- Promoting retail activity by creating and maintaining a quality environment through coordinated advertising and downtown events
- Serving as an advocate for downtown businesses in dealing with local government, maintenance projects, the media and general public

4 West Pine Street, Lodi, Ca 95240
209.369.8052 phone 209.369.8053 fax
www.downtownlodi.com


DLBP Member Assessments (approx $40,000)
City of Lodi Annual Funding (approx $24,225)
DLBP Revenue Generating Activities
Shop to Wine & Dine
DOWNTOWN L•O•D•I BUSINESS PARTNERSHIP
Administration
Marketing
Events
Beautification

Downtown Lodi Business Partnership
Proposed Budget
January 1, 2012 through December 31, 2012

Income	
Assessment Fees	40000.00
City of Lodi	24225.00
Event Revenue	
Farmers Market	101000.00
Parade of Lights	11000.00
Street Banner Program	500.00
Miscellaneous Events & Sales	0.00
Total Income	**176,725.00**
Expenses	
Administrative	
Director's Salary	47500.00
Staff Wages	0.00
Staff Phone	1800.00
Mileage & Meetings	1800.00
Payroll Taxes	6500.00
Contract Labor	10000.00
Event Commission	3000.00
Insurance	8000.00
Professional Fees	2000.00
Rent	4800.00
Storage	780.00
Office Supplies	3500.00
Office Equipment Lease	5000.00
Bank & Merchant Fees	2100.00
Postage	300.00
Utilities (phone, internet, alarm, etc.)	3500.00
Marketing Expenses	
Advertising, Marketing & Promotions	2900.00
Public Relations	600.00
Seminars & Conferences	1000.00
Website	1500.00
Membership Expenses	
Newsletters	300.00
Quarterly Mixers	200.00
Plaques & Trophies	300.00
Sunshine Committee	200.00

Revitalization Expenses	
Downtown Beautification & Flowers	1000.00
Kiosks (maps, printing, maintenance)	1500.00
Event Expenses	
Farmers Market	61000.00
Parade of Lights	4200.00
Street Banner Program	525.00
Winterfest	80000
Passport Promotions	120.00
Miscellaneous Events & Sales	0.00
Total Expenses	**176,725.00**

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05/14/12

Cash Basis

Downtown Lodi Business Partnership
Balance Sheet
As of December 31, 2011

	Dec 31, 11
ASSETS	
Current Assets	
Checking/Savings	
Farmers Savings	77.14
Farmers & Merchants Bank	139.86
Petty Cash	124.69
Total Checking/Savings	341.69
Accounts Receivable	
Accounts Receivable	-140.00
Total Accounts Receivable	-140.00
Total Current Assets	201.69
Fixed Assets	
Office Equipment	12,959.98
Furniture & Fixtures	2,712.99
Accumulated Depreciation	-9,985.63
Total Fixed Assets	5,687.34
TOTAL ASSETS	5,889.03
LIABILITIES & EQUITY	
Equity	
Retained Earnings	1,474.72
Net Income	4,414.31
Total Equity	5,889.03
TOTAL LIABILITIES & EQUITY	5,889.03

8:53 AM
05/14/12
Cash Basis

Downtown Lodi Business Partnership
Profit & Loss
January through December 2011

		Jan - Dec 11
Ordinary Income/Expense		
Income		
Member Assessment Fees		42,307.00
City of Lodi Funds		19,240.00
Event Revenue		
Advertising & Promotion Revenue	1,325.77	
Beverage Sales	49,673.47	
Parade Entry Fees	8,168.00	
Sponsorship	19,400.00	
Vendor Fee	34,837.41	
Other Income	4,641.00	
Total Event Revenue		118,045.65
TNT Fireworks		37,146.49
Return Check Charge		621.00
Friends of Downtown		250.00
Other Income		1,512.67
Total Income		219,122.81
Expense		
Administrative Expenses		
Bank Service Charges		
Merchant Fees	1,631.68	
Bank Service Charges - Other	417.44	
Total Bank Service Charges		2,049.12
Contract Labor		10,382.50
Dues and Subscriptions		202.00
Equipment Lease		5,096.30
Insurance-D & O and State Fund		672.00
Insurance - Events Liability		7,121.52
Interest		37.46
Licenses & Permits		50.00
Office Maintenance & Repairs		969.37
Office Supplies		3,749.82
Payroll Expenses		
Director's Wages	42,635.58	
Payroll Taxes	10,978.35	
Cell Phone	1,725.00	
Mileage & Meetings	1,725.00	
Director's Event Commission	7,637.43	
Total Payroll Expenses		64,701.36
Postage		487.21
Professional Fees		
Accounting/Payroll Fees	1,914.00	
Total Professional Fees		1,914.00
Rent		
Office	5,460.00	
Storage	715.00	
Rent - Other	0.00	
Total Rent		6,175.00
Security		655.00
Sponsorship Sales Commission		2,570.00
Telephone/Internet		2,938.23
Total Administrative Expenses		109,770.89
Prior Years Taxes		0.00
Marketing Expenses		
Advertising & Promotions		
Annual Banner Program	297.97	
Advertising & Promotions - Other	349.00	
Total Advertising & Promotions		646.97

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05/14/12

Cash Basis

Downtown Lodi Business Partnership
Profit & Loss
January through December 2011

		Jan - Dec 11
Public Realtions	496.77	
Seminars & Marketing Campaigns	139.00	
Website	1,507.24	
Total Marketing Expenses		2,789.98
Membership		
Plaques & Trophies	321.26	
Postage and Delivery	309.84	
Quarterly Mixers	130.59	
Total Membership		761.69
Revitalization		
Downtown Beautification		
Supplies	555.73	
Labor/Repairs	580.00	
Total Downtown Beautification	1,135.73	
Kiosk Update	563.06	
Total Revitalization		1,698.79
Event Expenses		
Awards/Banners/Posters	79.71	
Beverage Expense	45,643.99	
Entertainment	6,750.00	
Equipment Rental	415.32	
Labor/Repairs	7,918.74	
License/Permits/Inspection	3,684.55	
Location Rent	1,450.00	
Lodi Public Saftey Surcharge	1,218.75	
Postage & Delivery	10.95	
Marketing / Promotions	674.00	
Sales Tax	2,919.00	
Signage	3,070.89	
Sanitation	5,106.01	
Supplies	2,276.46	
TNT Fireworks	18,468.78	
Total Event Expenses		99,687.15
Total Expense		214,708.50
Net Ordinary Income		4,414.31
Net Income		**4,414.31**

Downtown Lodi Business Partnership
Balance Sheet
As of June 30, 2012

Cash Basis

	Jun 30, 12
ASSETS	
Current Assets	
Checking/Savings	
Farmers Savings	47.14
Farmers & Merchants Bank	16,824.75
Petty Cash	173.69
Total Checking/Savings	17,045.58
Accounts Receivable	
Accounts Receivable	-140.00
Total Accounts Receivable	-140.00
Total Current Assets	16,905.58
Fixed Assets	
Office Equipment	12,959.98
Furniture & Fixtures	2,712.99
Accumulated Depreciation	-9,985.63
Total Fixed Assets	5,687.34
TOTAL ASSETS	**22,592.92**
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	-10.30
Total Accounts Payable	-10.30
Other Current Liabilities	
Payroll Liabilities	
Withhold from Employees	502.35
Total Payroll Liabilities	502.35
Total Other Current Liabilities	502.35
Total Current Liabilities	492.05
Total Liabilities	492.05
Equity	
Retained Earnings	3,756.82
Net Income	18,344.05
Total Equity	22,100.87
TOTAL LIABILITIES & EQUITY	**22,592.92**

Downtown Lodi Business Partnership
Profit & Loss
January through June 2012

Cash Basis

			Jan - Jun 12
Ordinary Income/Expense			
Income			
Member Assessment Fees			38,331.00
City of Lodi Funds			12,115.00
Event Revenue			
Sponsorship		15,000.00	
Vendor Fee		32,935.00	
Other Income		2,120.00	
Total Event Revenue			50,055.00
Total Income			100,501.00
Expense			
Administrative Expenses			
Bank Service Charges			
Bank Fees		62.00	
Merchant Fees		767.28	
Total Bank Service Charges			829.28
Contract Labor			7,135.00
Dues and Subscriptions			215.00
Equipment Lease			3,482.19
Insurance-D & O and State Fund			1,382.00
Insurance - Events Liability			4,490.00
Office Maintenance & Repairs			480.48
Office Supplies			2,540.97
Payroll Expenses			
Director's Wages		23,786.52	
Payroll Taxes		2,630.55	
Cell Phone		900.00	
Mileage & Meetings		900.00	
Director's Vacation		2,652.92	
Director's Event Commission		6,313.61	
Total Payroll Expenses			37,183.60
Postage			394.30
Professional Fees			
Accounting/Payroll Fees		1,075.00	
Total Professional Fees			1,075.00
Rent			
Office		3,780.00	
Storage		455.00	
Total Rent			4,235.00
Security			340.00
Sponsorship Sales Commission			2,050.00
Telephone/Internet			1,306.34
Total Administrative Expenses			67,139.16
Prior Years Taxes			3,937.80
Marketing Expenses			
Advertising & Promotions			
Annual Banner Program		129.14	
Advertising & Promotions - Other		50.00	
Total Advertising & Promotions			179.14
Mileage & Meetings			15.60
Public Realtions			455.29
Seminars & Marketing Campaigns			75.84
Website			286.50
Total Marketing Expenses			1,012.37
Revitalization			
Downtown Beautification			
Labor/Repairs		250.00	

Downtown Lodi Business Partnership
Profit & Loss
January through June 2012

Cash Basis

	Jan - Jun 12
Downtown Beautification - Other	549.20
Total Downtown Beautification	799.20
Kiosk Update	515.00
Total Revitalization	1,314.20
Event Expenses	
Entertainment	1,200.00
Equipment Rental	655.00
Labor/Repairs	2,437.24
License/Permits/Inspection	710.56
Refunds	150.00
Signage	2,150.00
Sanitation	1,361.91
Supplies	88.71
Total Event Expenses	8,753.42
Total Expense	82,156.95
Net Ordinary Income	18,344.05
Net Income	**18,344.05**

DOWNTOWN
L•O•D•I
BUSINESS
PARTNERSHIP

2012 Calendar of Events

Valentine's Day Promotion
"Couples Passport to Downtown Lover's Lane"
Saturday, February 11th

Downtown Farmers Market
Every Thursday beginning
June 7th through September 27th

7th Annual "Stuck in Lodi" Car Show
Saturday, August 4th

4th Annual Fall Flavor Fest
"The Best of Downtown's Night Life"
Saturday, October 13th

Downtown Trick-or-Treat & Festival
Saturday, October 27th

17th Annual Parade of Lights
Thursday, December 6th

Downtown Winterfest
Horse Drawn Carriage Rides & Holiday Festivities
Saturdays, dates tba

2013 Calendar of Events

Valentine's Day Promotion
"Couples Passport to Downtown Lover's Lane"
Saturday, February 9th

Downtown Farmers Market
Every Thursday beginning
June 6th through September 26th

8th Annual "Stuck in Lodi" Car Show
Saturday, August 3rd

5th Annual Fall Flavor Fest
"The Best of Downtown's Night Life"
Saturday, October 12th

Downtown Trick-or-Treat & Festival
Saturday, October 26th

18th Annual Parade of Lights
Thursday, December 5th

Downtown Winterfest
Horse Drawn Carriage Rides & Holiday Festivities
Saturdays, dates tba

Visit www.downtownlodi.com
for detailed event descriptions and more information

2012 Downtown Marketing Program

DOWNTOWN L•O•D•I BUSINESS PARTNERSHIP

The Downtown Lodi Business Partnership has three programs that provide marketing opportunities for your business. You can pick and choose any combination that best meets your organization's goals or all three programs at a discounted price!

Annual Banner Attachment Program

Your annual sponsorship includes an attachment banner with your business name, address and phone number. For an additional $40 you can add your full color logo. Please send a full color, high quality pdf file to jaime@downtownlodi.com. Your banner will be guaranteed a prime location downtown until March 2013. Advertise your business & support downtown!

- ☐ *New Sponsorship DLBP Member $250 year*
- ☐ *New Sponsorship Non-Member $300 year*
- ☐ *Renewal DLBP Member $200 year*
- ☐ *Renewal Non-Member $250 year*

☐ ***Yes!*** *Add my full color logo on both sides of my banner for an additional $40*

www.downtownlodi.com web advertisement - 6 month run

The Downtown Lodi Business Partnership has advertising space available on www.downtownlodi.com. The website averages over 20,000 hits per month and is the official site for downtown events and promotions. You can provide your own .jpg artwork that is 430 pixels wide x 60 pixels high, or for an additional $25 the DLBP will design your advertisement for you. Your web advertisement will run for 6 months. Visit the website and view the banner ads at the bottom for examples. The exposure is priceless!

Website Page linked to www.downtownlodi.com

If you don't have your own website, but want your business highlighted with photos and detailed information, the DLBP can custom design a page for you that links to downtown's website. We will come to your establishment, take photos, gather information and design a page that links to www.downtownlodi.com. If you are a DLBP member, your page will be linked to your business listing under your category, if you are a non-member, your page will be linked to a listing under the "Friends of Downtown" category. For an example of an existing website page visit the website, downtown businesses, category "Specialty Home", McKinley's Frame Shop.

Menu for DLBP Members

- ☐ Banner Program $_____ *(Amount from above)*
- ☐ Website Ad $50 for 6 months
- ☐ Web Ad Design $25
- ☐ Website Page $40

Bundle Package for all 3 Programs! ☐
Only $345 A Savings of $60!
Includes Full Color Banner Attachment & Web Ad Design

Menu for Non-DLBP Members

- ☐ Banner Program $_____ *(Amount from above)*
- ☐ Website Ad $75 for 6 months
- ☐ Web Ad Design $25
- ☐ Website Page $50

Bundle Package for all 3 Programs! ☐
Only $430 A Savings of $60!
Includes Full Color Banner Attachment & Web Ad Design

Business Name:_____

Contact Name:_____

Address:_____

Phone:_____ Fax:_____ e-mail:_____

Total Amount Enclosed: $_____

Comments/Location Request:_____

*Return application & payment to **DLBP**, P.O. Box 1565, Lodi, CA 95241 or call (209) 369-8052 for more information*

RESOLUTION NO. 2012 -____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI CONFIRMING THE 2012 ANNUAL REPORT FOR THE DOWNTOWN LODI BUSINESS IMPROVEMENT AREA NO. 1 AND LEVY OF ASSESSMENT

==========

WHEREAS, Downtown Lodi Business Improvement Area No. 1 was established December 17, 1997, by Council adoption of Ordinance No. 1654; and

WHEREAS, the Annual Report, as required by Streets and Highways Code §36533, has been submitted to the City Council by the Board of Directors of said Improvement Area; and

WHEREAS, a public hearing was held as required by Streets and Highways Code §36535 on September 19, 2012, in the City Council Chambers at Carnegie Forum, 305 West Pine Street, Lodi, California, at 7:00 pm., or as soon thereafter as possible, to consider protests to the assessment levy.

NOW, THEREFORE, the City Council of the City of Lodi does hereby resolve, determine, and find as follows:

1) The required public hearing was duly held, at which time the public was allowed to present written or oral protests to the levy of assessment for Downtown Lodi Business Improvement Area No. 1.

2) A majority protest as defined in the Streets and Highways Code §36525 was not made.

3) The 2012 Annual Report as submitted on August 15, 2012, by the Board of Directors of the Improvement Area to the City Council is hereby confirmed as originally filed and attached hereto.

4) The confirmation of the report and adoption of this resolution constitutes the levy of the assessment as contained in the Annual Report for the calendar year 2013.

Date: September 19, 2012

==========

I hereby certify that Resolution No. 2012-____ was passed and adopted by the Lodi City Council in a regular meeting held September 19, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

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: **RESOLUTION AND NOTICE OF PUBLIC HEARING REGARDING DOWNTOWN LODI BUSINESS PARTNERSHIP 2012 ANNUAL REPORT AND INTENTION TO LEVY ANNUAL ASSESSMENT**

PUBLISH DATE: **SATURDAY, AUGUST 18, 2012**

LEGAL AD

TEAR SHEETS WANTED: **Three (3) please**

SEND AFFIDAVIT AND BILL TO:
LNS ACCT. #0510052

RANDI JOHL, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, AUGUST 16, 2012

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 (initials)

forms\advins.doc

DECLARATION OF POSTING

RESOLUTION AND NOTICE OF PUBLIC HEARING REGARDING DOWNTOWN LODI BUSINESS PARTNERSHIP 2012 ANNUAL REPORT AND INTENTION TO LEVY ANNUAL ASSESSMENT

On Thursday, August 16, 2012, in the City of Lodi, San Joaquin County, California, a resolution and Notice of Public Hearing regarding Downtown Lodi Business Partnership 2012 Annual Report and intention to levy annual assessment (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 August 16, 2012, at Lodi, California.

ORDERED BY:

RANDI JOHL
CITY CLERK

JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

N:\Administration\CLERK\Forms\DECPOSTCM.DOC

EXHIBIT A

NOTICE OF PUBLIC HEARING

RESOLUTION NO. 2012-143

A RESOLUTION OF INTENTION TO LEVY ANNUAL ASSESSMENT FOR DOWNTOWN LODI BUSINESS IMPROVEMENT AREA NO. 1, ESTABLISHING PUBLIC HEARING DATE, AND APPROVING ANNUAL REPORT

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WHEREAS, Downtown Lodi Business Improvement Area No. 1 was established December 17, 1997, by City Council adoption of Ordinance No. 1654; and

WHEREAS, the Annual Report as required by Streets and Highways Code §36533 has been submitted to the Council by the Board of Directors of said improvement area.

NOW, THEREFORE, the City Council of the City of Lodi does hereby resolve, determine, and finds as follows:

1. Approves the Annual Report as submitted, said report being on file with the City Clerk.

2. **Establishes September 19, 2012, in the City Council Chambers, Carnegie Forum, 305 West Pine Street, Lodi, California, at 7:00 p.m.**, or soon thereafter as possible, as the date, place, and time to hold the public hearing required by Streets and Highways Code §36534.

3. It is the intention of the City Council to levy and collect assessments within the parking and business improvement area for calendar year 2013 (the Area's fiscal year).

4. The boundaries of the entire area to be included in the Area and the boundaries of each separate benefit zone within the area set forth in a Map, Exhibit D, incorporated herein by reference. A true and correct copy of the map is on file with the City Clerk of the City of Lodi.

5. The types of improvements and activities proposed to be funded by the levy of assessments on businesses in the Area include marketing and promotional efforts; event coordination; and other activities with the goal to promote retail activities. A detailed description of activities is included in the Annual Report incorporated by reference.

6. At the time of the public hearing, written and oral protests may be made. The form and manner of protests shall comply with Streets and Highways Code § 36524 and 36525.

Date: August 15, 2012

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I hereby certify that Resolution No. 2012-143 was passed and adopted by the Lodi City Council in a regular meeting held August 15, 2012, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Katzakian, Nakanishi, and Mayor Mounce

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

RANDI JOHL
City Clerk

AGENDA ITEM_H-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Monthly Protocol Account Report

MEETING DATE: September 19, 2012

PREPARED BY: City Clerk

RECOMMENDED ACTION: None required, information only.

BACKGROUND INFORMATION: The City Council, at its meeting of July 19, 2000, adopted Resolution No. 2000-126 approving a policy relating to the City's "Protocol Account." As a part of this policy, it was directed that a monthly itemized report of the "Protocol Account" be provided to the City Council.

Attached please find the cumulative report through August 31, 2012.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: See attached.

Randi Johl
City Clerk

RJ/JMR

Attachment

APPROVED: _____
Konradt Bartlam, City Manager

council/councom/protocolreport.doc

PROTOCOL ACCOUNT SUMMARY
FISCAL YEAR 2012-13
Cumulative Report through August 31, 2012

Date	Vendor	Description	Amount	Balance
				Starting Bal. $5,000.00
7/2/12	Impact Office Solutions	Certificate Holders	24.11	
			Total Expenditures: ($24.11)	*Ending Bal.* **$4,975.89**

Prepared by: JMR

AGENDA ITEM_I-01

CITY OF LODI
COUNCIL COMMUNICATION
™

AGENDA TITLE: Introduce Ordinance Amending Lodi Municipal Code Title 5, Permits and Regulations, Chapter 5.12 Cardrooms by Repealing and Re-enacting Section 5.12.140 "Rules and Regulations" and further Repealing and Re-enacting Section 5.12.170 "Gross Revenue Permit Fees"

MEETING DATE: September 19, 2012

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: Introduce Ordinance amending Lodi Municipal Code Title 5, Permits and Regulations, Chapter 5.12 Cardrooms by repealing and re-enacting Section 5.12.140 "Rules and Regulations" and further repealing and re-enacting Section 5.12.170 "Gross Revenue Permit Fees"

BACKGROUND INFORMATION: At the February 1, 2012 City Council meeting, staff requested direction from the Council regarding amendments to the cardroom ordinance proposed by Wine Country Cardroom. Following that meeting, the following proposed changes were submitted to the Attorney General's office for their review and approval:

1) Cap Card Room License Fee at $20,000 on the first $240,000 of monthly gross revenue the permittee received from cardroom operations, and 4.5% of monthly gross revenue in excess of $240,000;
2) Allow the cashing of checks and issuance of credit to the extent permitted by State law;
3) Allow two additional tables;
4) Eliminate limits on players per table;
5) Eliminate specific daily hourly operation limits in favor of a maximum limit of 140 hours per week
6) Allow gaming in any rooms with an exterior unlocked door (instead of the current main entrance requirement).

The typical turnaround time for the Attorney General's review and approval is 30 days. However, because of the proposed change to the hours of operation, the changes were significantly delayed. After three months and several inquires by the City Attorney's office, Wine Country Cardroom asked that the City resubmit the requested changes with a revision to the hours of operation to read as follows:

> "Cardrooms may be operated seven days a week and shall not open until the hour of nine a.m. Cardrooms shall close no later than five a.m. A cardroom shall adopt a schedule of hours of operation before it shall be allowed to operate. Such schedule of hours shall be clearly posted at the cardroom in order to provide adequate notice of its hours of operation."

APPROVED: _____
Konradt Bartlam, City Manager

By letter dated August 7, 2012 (copy attached), the Attorney General's office has approved all of the requested changes with the revised hours of operation.

Staff recommends that the City Council consider introducing the attached Ordinance.

The Police Department and Community Development Department have both indicated that they have no history of complaints or enforcement issues as the cardroom is currently operated.

FISCAL IMPACT: On a calendar year basis, the existing fee structure produces:

- Actual 2010 Fee $310,887
- Actual 2011 Fee $358,680
- Projected 2012 Fee $428,386

The proposed fee structure would produce:

- Actual 2010 Fee $265,844
- Actual 2011 Fee $289,740
- Projected 2012 Fee $324,593

Approved:_____
Stephen Schwabauer, City Attorney

Approved:_____
Jordan Ayers, Deputy City Manager/
Internal Services Director

KAMALA D. HARRIS
Attorney General

State of California
DEPARTMENT OF JUSTICE

BUREAU OF GAMBLING CONTROL
P. O. Box 168024
Sacramento, CA 95816-8024
Public: (916) 227-2363
Fax: (916) 227-1812

August 7, 2012

AUG 09 2012
CITY ATTORNEY'S OFFICE

Mr. D. Stephen Schwabauer
City Attorney
PO Box 3006
Lodi, California 95241-1910

Re: City of Lodi's Gambling Ordinance

Dear Mr. Schwabauer:

On July 2, 2012, the Bureau of Gambling Control (Bureau) received the revised draft of the proposed amendments to the Lodi Municipal Code 5.12 "Cardrooms," in accordance with Business and Professions (B&P) Code section 19961.1.

The Bureau offers the following comments regarding the submitted amendments:

The proposed changes to increase the maximum number of gaming tables from eleven to thirteen in each gambling establishment per B&P Code section 19961.06, complies with applicable provisions of the Act.

The proposed changes including the Cap Card Room License Fee; the cashing of checks and issuance of credit; the elimination of player limits per table; and the allowance of gaming in any room with an exterior unlocked door, all comply with applicable provisions of the Gambling Control Act.

The proposed amendment, specifically Section 5.12.140(F), states that "Cardrooms may be operated seven days a week and shall not open until the hour of nine a.m. Cardrooms shall close no later than five a.m." In 1996, the City of Lodi allowed cardrooms to operate 112 hours per week. The proposed increase would permit cardrooms in the City of Lodi to operate 140 hours per week. We find this to be permissible under the Gambling Control Act (Act).

Upon approval and adoption of the proposed amendments, please provide the Bureau with a signed certified copy of the amendments. If you have any questions, please contact Analyst Brenda Weygandt of my staff at (916) 227-5681. Thank you for your cooperation in this matter.

Sincerely,

A. Opdyke

for NORM PIERCE
Assistant Bureau Chief
Bureau of Gambling Control

For KAMALA D. HARRIS
Attorney General

ORDINANCE NO. ____

AN ORDINANCE OF THE LODI CITY COUNCIL AMENDING CHAPTER 5.12 "CARDROOMS" BY REPEALING AND REENACTING SECTIONS 5.12.140 "RULES AND REGULATIONS" AND 5.12.170 "GROSS REVENUE PERMIT FEES" IN THEIR ENTIRETY

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BE IT ORDAINED BY THE LODI CITY COUNCIL AS FOLLOWS:

SECTION 1. Lodi Municipal Code Section 5.12.140 "Rules and Regulations" is hereby repealed and reenacted to read as follows:

5.12.140 Rules and Regulations.

It is unlawful to operate a cardroom in violation of any of the following regulations and rules:

A. Not more than one cardroom shall be located at any one address.

B. Only those games approved by and as defined by the California Office of the Attorney General, Bureau of Gambling Control, shall be played in any cardroom.

C. Not more than ~~eleven~~ **thirteen** tables shall be permitted in any cardroom. No more than ~~eleven~~ **thirteen** tables shall be permitted to operate within the city.

~~D. Not more than ten players shall be permitted at any one cardtable~~ .
~~E~~D. ~~Cardrooms shall be located on the ground floor, and so arranged that cardtables and the players at the tables shall be plainly visible from the front door opening when the door is opened. No wall, partition, screen or similar structure between the front door opening on the street and any cardtable located in the cardroom shall be permitted if it interferes with the visibility~~. No gambling establishment may be located in any zone which has not been specifically approved for such a business. Additionally, none may be located near any of the unsuitable areas, as specified in Business and Professions Code Section 19852(a)(3).

~~F~~E. No person under the age of twenty-one shall be permitted at any cardtable, nor shall any person under the age of twenty-one be permitted to participate in any game played thereat.

~~G~~F. Cardrooms may be operated seven days a week and shall not open until the hour of ~~eight~~nine a.m. Cardrooms shall close no later than ~~four~~five a.m. A cardroom shall adopt a schedule of hours of operation before it shall be allowed to operate. Such schedule of hours shall be clearly posted at the cardroom in order to provide adequate notice of its hours of operation.

~~H~~G. All cardrooms shall be open to police inspection during all hours of operation.

~~I~~H. Only table stakes shall be permitted.

I. The cashing of bank checks for players or extensions of credit to players shall be in full compliance with the California Gambling Law and Regulations. No

cardroom shall extend credit or cash checks for players in a manner not authorized by State law.

~~J. The cashing of bank checks for players shall not be permitted in any cardroom~~.
~~K.~~J. Each cardtable shall have assigned to it a person whose duty shall be to supervise the game to see to it that it is played strictly in accordance with the terms of this chapter, and with the provisions of the penal code of the state. This person may have more than one table under his supervision. He shall not, however, participate in the game.

~~L~~J.K. There shall be posted in every cardroom in letters plainly visible from all parts thereof, signs stating that only games approved by and as defined by the California Office of the Attorney General, Bureau of Gambling Control, shall be played in the cardroom. These signs shall also contain such other information relating to the regulations contained in this chapter as the Chief of Police may require.

~~M~~K.L. No person who is in a state of intoxication shall be permitted in any cardroom.

~~N.~~M. The sale, purchase, transfer, assignment, or pledge of any property, or of any document evidencing title to the same, is prohibited in any cardroom.

~~O~~.N. The operator or his employees shall not ~~extend credit to a player, nor shall he accept IOU's or other notes,~~ loan money to any person on any ring, watch, or other article of personal property for the purpose of securing tokens, chips, or other representatives of money as an ante.

~~P.~~O. No shills shall engage in card games. This prohibition shall not apply to house players, provided they wear a badge in a conspicuous place, which badge identifies them as employees of the licensee.

~~Q~~.P. Patron Security and Safety. Each cardroom license shall be responsible and liable for its patrons' safety and security in and around the cardroom establishment. Before it shall be allowed to operate, each cardroom shall adopt a plan, to be approved by the city, to provide for the safety and security of its patrons.

SECTION 2. Lodi Municipal Code Section 5.12.170 "Gross Revenue Permit Fees," is hereby repealed and reenacted to read as follows:

5.12.170 Gross Revenue Permit Fees.

A. In addition to the permit fees previously prescribed each permittee permitted pursuant to the provisions of this article shall pay to the city a monthly fee equal to ~~nine percent (9%) of the gross revenue of the permittee received from the cardroom operation~~ **$20,000.00 on the first $240,000.00 of monthly gross revenue the permittee received from cardroom operations, and 4.5 % of monthly gross revenue in excess of $240,000.00**. Such payment shall be made to the city not later than fifteen days after the end of each month during which such gross revenues on which it was computed were received by the permittee.

B. Each permittee shall file with the Finance Department before the 15th day following the end of each month a statement, under oath, showing the true and correct amount of

gross revenue derived from the card game business permitted by the permit issued to the permittee for the preceding month. Such statement shall be accompanied by the payment of the correct amount of permit fee due and owing in accordance with the provisions of subsection (a) of this section, and such sums correctly reflecting the monthly fees payable for the preceding month shall be accepted by the city, subject, however, to the right of the city to audit the matters reported in the statement to determine the accuracy of the figures contained therein and whether or not the correct amount payable to the city has been paid.

A signed declaration shall be attached to the statement or included therein, which shall be in substantially the same form:

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

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 6. This ordinance shall be published pursuant to law and shall become effective 30 days from the date of passage and adoption.

SECTION 7. The amended Schedules referenced above shall be effective on applicable electric utility billings prepared by the City of Lodi on or after January 1, 2012, or the first date allowable under State law.

Approved this ____ day of _____, 2012

_____
JOANNE L. MOUNCE
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 September 19, 2012, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2012, 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

AGENDA ITEM J-01

CITY OF LODI
COUNCIL COMMUNICATION

TM

AGENDA TITLE: Ordinance No. 1861 Entitled, "An Ordinance of the City Council of the City of Lodi Rescinding Development Agreement Pertaining to the Development of 257.76 Acres Located on the West Side of Lower Sacramento Road Between Highway 12-Kettleman Lane and Harney Lane (Southwest Gateway) (Development Agreement GM-05-001)"

MEETING DATE: September 19, 2012

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1861.

BACKGROUND INFORMATION: Ordinance No. 1861 entitled, "An Ordinance of the City Council of the City of Lodi Rescinding Development Agreement Pertaining to the Development of 257.76 Acres Located on the West Side of Lower Sacramento Road Between Highway 12-Kettleman Lane and Harney Lane (Southwest Gateway) (Development Agreement GM-05-001)," was introduced at the regular City Council meeting of August 15, 2012.

ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. ***Cal. Gov't Code § 36934***.

Ordinances take effect 30 days after their final passage. ***Cal. Gov't Code § 36937***.
This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Randi Johl
City Clerk

RJ/jmr
Attachment

APPROVED: _____
Konradt Bartlam, City Manager

N:\Administration\CLERK\Council\COUNCOM\Ordinance1.DOC

ORDINANCE NO. 1861

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI RESCINDING DEVELOPMENT AGREEMENT PERTAINING TO THE DEVELOPMENT OF 257.76 ACRES LOCATED ON THE WEST SIDE OF LOWER SACRAMENTO ROAD BETWEEN HIGHWAY 12-KETTLEMAN LANE AND HARNEY LANE (SOUTHWEST GATEWAY) (DEVELOPMENT AGREEMENT GM-05-001

==========

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. The Lodi City Council passed Ordinance No. 1788 approving a Development Agreement covering the following property:

> Southwest Gateway: 257.76 acres located on the west side of Lower Sacramento Road between Highway 12-Kettleman Lane and Harney Lane, Assessors Parcel Numbers: 058-030-09, 058-030-03, 058-030-04, 058-030-05, 058-030-06, 058-040-01, 058-040-02, 058-040-04, 058-040-05, and 058-040-14.

SECTION 2. Frontier Community Builders ("Frontiers"), the sole party to the above referenced Development Agreement, requested that the agreement be rescinded by letter of May 16, 2012, a copy of which is attached hereto and incorporated by reference. However, Frontiers, Citizens for Open Government and the City entered into a settlement agreement dated November 15, 2006 ("Settlement Agreement"), the obligations of which were incorporated into the Development Agreement and into the CEQA approvals set forth in Resolution 2006-209. This ordinance shall not terminate any of the obligations set forth in the Settlement Agreement. Moreover, CEQA Resolution 2006-209 shall continue in full force and obligate Frontiers to comply with all of the obligations set forth in the Settlement Agreement.

SECTION 3. The City Council hereby finds that termination of the Development Agreement is in the best interest of the City to ensure that any construction is subject to the new impact mitigation fee program, and to eliminate conditions in the Development Agreement that could present barriers to housing construction in the current economy.

SECTION 4. The City Council hereby finds that the termination of the Development Agreement is consistent with the General Plan land use designation and the zoning for the proposed Development.

SECTION 5. The City Council hereby adopts Ordinance No. 1861 rescinding the Development Agreement by and between the City of Lodi and Frontier Community Builders. However, the Settlement Agreement and CEQA Resolution 2006-209 shall continue in full force and obligate Frontiers to comply with all of the obligations set forth in the Settlement Agreement.

SECTION 6. 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 for 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 7. 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 8. 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 30 days from and after its passage and approval.

Approved this 19th of September, 2012

_____
JOANNE MOUNCE
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. 1861 was introduced at a regular meeting of the City Council of the City of Lodi held August 15, 2012, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held September 19, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES; COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1861 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 as to Form:

D. STEPHEN SCHWABAUER
City Attorney

FCB HOMES

May 16, 2012

Mr. Rad Bartlem
City Manager
City of Lodi
221 West Pine Street
Lodi, CA 95240

Re: Westside and Southwest Gateway Development Agreements – Request for Termination

Dear Rad,

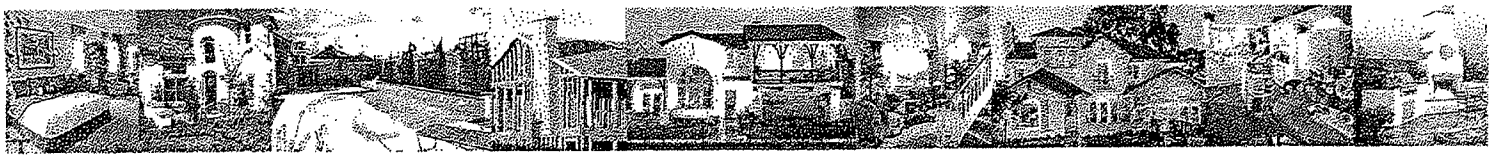
Last April, 2011, I sent you a letter formally requesting termination of the Westside and Southwest Gateway Development Agreements (see attached). The letter followed nearly ten months of regular meetings with City Staff and their consultants working on Lodi's Impact Mitigation Fee Program (IMFP) update. We were convinced then that the Westside and Southwest Gateway properties should be included in the IMFP and the Development Agreements terminated. Now, over a year later, the IMFP update is nearly complete, and the Westside and Southwest Gateway properties are an integral part of the updated IMFP. Clearly, then, it is time to move forward to cancel the old Westside and Southwest Gateway Development Agreements and establish an economic framework for residential development to proceed within the current City limits.

At your request, I will outline below the main reasons we feel the Development Agreements should be cancelled.

1. The Development Agreements did not address the actual impacts resulting from new residential development.

   When the Westside and Southwest Gateway projects were moving through the entitlement process, the City's existing impact fee program - originally adopted in 1991 - had not been updated for 15 years. While the fees had been periodically increased over time, many of the underlying assumptions about program funding had changed and it was those old fee programs that provided the basis for the Agreements. Furthermore, other fees were included in the Agreements, some of which bore little or no relationship to growth impacts from the Westside and Gateway projects.

10100 TRINITY PARKWAY, SUITE 420 STOCKTON, CALIFORNIA 95219
209-957-8112 FAX 209-957-3618 WWW.FCBHOMES.COM



Now, nearly six years later, the City has the cumulative benefit of precise plans for the Westside and Southwest Gateway and a new General Plan. The City's Staff is also approaching the end of a two year comprehensive study of growth impacts via the IMFP which include the Westside and Southwest Gateway properties. Their work, along with the Council's ultimate approval, will result in an updated, tailored IMFP. The new IMFP will be a far better and more accurate way to mitigate impacts from both the Westside and Gateway projects in comparison to the mitigation sought by the Agreements.

2. The Development Agreements have a fifteen year term, were never implemented and cannot be completed before they expire.

   The national, state and local housing markets were at historic levels when the Development Agreements were approved in 2006. The fifteen year term of the Agreements seemed reasonable at the time given the active market conditions. However, the market has since plummeted to historic lows. Furthermore, City Staff, consultants, and developers are not expecting new residential development to even begin for another two to three years. By that time, the Development Agreements will only have approximately seven years remaining before they expire. This is less than half the time that was deemed appropriate under the best of market conditions and will simply not be sufficient time to complete these projects. At a minimum, the Development Agreements need to be renegotiated to account for this fact alone. However, as noted, it would be more accurate and efficient to put the entire City under one (updated) IMFP. Having to renegotiate the Development Agreements, regularly monitor compliance, and account for all funds and programs separate from the IMFP would be time consuming and an unnecessary financial burden for everyone involved.

3. The Development Agreements required predetermined lump sum payments for certain fees that cannot be financed without a robust and consistent housing market.

   Historically, the City's IMFP has been designed to be a "pay-as-you-go" system. This allowed the pace of development to mirror the acceleration or decline of the housing market. The proposed updated IMFP will likewise operate on a "pay-as-you-go" basis. This is a more sustainable way to manage growth, particularly in a community like Lodi - where the long term residential growth rate is relatively slow. Development in Westside and Southwest Gateway will likely occur in phases by multiple development interests. While this is consistent with how development in Lodi has occurred for many years, it makes the payment of large, lump sums on a predetermined schedule virtually impossible to finance.

   Development Agreements with lump sum payments work best on large scale projects expected to be completed in a predictable fashion. They can even work effectively on small projects when the completion can be reasonably forecasted. However, in a community like Lodi, this structure will not work effectively on larger scale areas of development over longer (less economically predictable) periods of time.

Summary

While the issues outlined above are not exhaustive, they highlight several important factors which underscore the need to terminate the Westside and Southwest GatewayDevelopment Agreements. Alternatively, these Development Agreements could be renegotiated, but that should be weighed against the inclusion of these projects in the updated IMFP program.

The Agreements were executed during an unprecedented "Housing Bubble" fueled by the "Irrational Exuberance" of a dysfunctional financial system. These dynamics no longer exist and will not return in our lifetime. The housing market, as well as the overall economy, is struggling to find its footing following one of the worst recessions in history. Fortunately, the City has moved on and set a course to plan for sustainable future growth base on realistic assumptions.

The Westside and Southwest Gateway projects will be a major component of the City's planned growth plans for the next ten to fifteen years. With this in mind, it is our belief that it will be more efficient, balanced and productive to utilize the updated IMFP for the Westside and Southwest Gateway projects once it is adopted by the City Council.

Sincerely,

Tom Doucette

Thomas P. Doucette
President

AGENDA ITEM J-02

CITY OF LODI
COUNCIL COMMUNICATION

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AGENDA TITLE: Ordinance No. 1862 Entitled, "An Ordinance of the City Council of the City of Lodi Rescinding Development Agreement Pertaining to the Development of 151 Acres Located on the West Side of Lower Sacramento Road Between the Woodbridge Irrigation District Canal and Vine Street (Westside Project) (Development Agreement GM-05-002)"

MEETING DATE: September 19, 2012

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1862.

BACKGROUND INFORMATION: Ordinance No. 1862 entitled, "An Ordinance of the City Council of the City of Lodi Rescinding Development Agreement Pertaining to the Development of 151 Acres Located on the West Side of Lower Sacramento Road Between the Woodbridge Irrigation District Canal and Vine Street (Westside Project) (Development Agreement GM-05-002)," was introduced at the regular City Council meeting of August 15, 2012.

ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. ***Cal. Gov't Code § 36934***.

Ordinances take effect 30 days after their final passage. ***Cal. Gov't Code § 36937***.

This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Randi Johl
City Clerk

RJ/jmr
Attachment

APPROVED: _____
Konradt Bartlam, City Manager

council/councom/Ordinance2.doc

ORDINANCE NO. 1862

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI RESCINDING DEVELOPMENT AGREEMENT PERTAINING TO THE DEVELOPMENT OF 151 ACRES LOCATED ON THE WEST SIDE OF LOWER SACRAMENTO ROAD BETWEEN THE WOODBRIDGE IRRIGATION DISTRICT CANAL AND VINE STREET (WESTSIDE PROJECT) (DEVELOPMENT AGREEMENT GM-05-002)

==========

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. The Lodi City Council passed Ordinance No. 1794 approving a Development Agreement covering the following property:

> Westside Project: 151 acres within the Westside Project area located on the west side of Lower Sacramento Road between the Woodbridge Irrigation District canal and Vine Street (Assessors Parcel Numbers 029-380-05, 027-040-01, 027-040-020, and 027-040-030).

SECTION 2. Frontier Community Builders ("Frontiers"), the sole party to the above referenced Development Agreement, requested that the agreement be rescinded by letter of May 16, 2012, a copy of which is attached hereto and incorporated by reference. However, Frontiers Citizens for Open Government and the City entered into a settlement agreement dated December 4, 2007 ("Settlement Agreement"), the obligations of which were incorporated into the Development Agreement. This ordinance shall not terminate any of the obligations set forth in the Settlement Agreement. Moreover, the Settlement Agreement shall continue in full force and obligate Frontiers to comply with all of the obligations set forth in the Settlement Agreement.

SECTION 3. The City Council hereby finds that termination of the Development Agreement is in the best interest of the City to ensure that any construction is subject to the new impact mitigation fee program, and to eliminate conditions in the Development Agreement that could present barriers to housing construction in the current economy.

SECTION 4. The City Council hereby finds that the termination of the Development Agreement is consistent with the General Plan land use designation and the zoning for the proposed Development.

SECTION 5. The City Council hereby adopts Ordinance No. 1862 rescinding the Development Agreement by and between the City of Lodi and Frontier Community Builders. However, the Settlement Agreement shall continue in full force and obligate Frontiers to comply with all of the obligations set forth in the Settlement Agreement.

SECTION 6. 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 for 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 7. 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 8. 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 30 days from and after its passage and approval.

Approved this 19th of September, 2012

_____
JOANNE MOUNCE
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. 1862 was introduced at a regular meeting of the City Council of the City of Lodi held August 15, 2012, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held September 19, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES; COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1862 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 as to Form:

D. STEPHEN SCHWABAUER
City Attorney

FCB HOMES

May 16, 2012

Mr. Rad Bartlem
City Manager
City of Lodi
221 West Pine Street
Lodi, CA 95240

Re: Westside and Southwest Gateway Development Agreements – Request for Termination

Dear Rad,

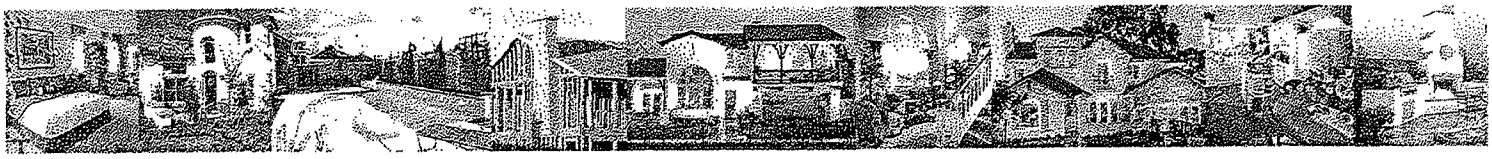
Last April, 2011, I sent you a letter formally requesting termination of the Westside and Southwest Gateway Development Agreements (see attached). The letter followed nearly ten months of regular meetings with City Staff and their consultants working on Lodi's Impact Mitigation Fee Program (IMFP) update. We were convinced then that the Westside and Southwest Gateway properties should be included in the IMFP and the Development Agreements terminated. Now, over a year later, the IMFP update is nearly complete, and the Westside and Southwest Gateway properties are an integral part of the updated IMFP. Clearly, then, it is time to move forward to cancel the old Westside and Southwest Gateway Development Agreements and establish an economic framework for residential development to proceed within the current City limits.

At your request, I will outline below the main reasons we feel the Development Agreements should be cancelled.

1. The Development Agreements did not address the actual impacts resulting from new residential development.

   When the Westside and Southwest Gateway projects were moving through the entitlement process, the City's existing impact fee program - originally adopted in 1991 - had not been updated for 15 years. While the fees had been periodically increased over time, many of the underlying assumptions about program funding had changed and it was those old fee programs that provided the basis for the Agreements. Furthermore, other fees were included in the Agreements, some of which bore little or no relationship to growth impacts from the Westside and Gateway projects.

10100 TRINITY PARKWAY, SUITE 420 STOCKTON, CALIFORNIA 95219
209-957-8112 FAX 209-957-3618 WWW.FCBHOMES.COM



Now, nearly six years later, the City has the cumulative benefit of precise plans for the Westside and Southwest Gateway and a new General Plan. The City's Staff is also approaching the end of a two year comprehensive study of growth impacts via the IMFP which include the Westside and Southwest Gateway properties. Their work, along with the Council's ultimate approval, will result in an updated, tailored IMFP. The new IMFP will be a far better and more accurate way to mitigate impacts from both the Westside and Gateway projects in comparison to the mitigation sought by the Agreements.

2. The Development Agreements have a fifteen year term, were never implemented and cannot be completed before they expire.

   The national, state and local housing markets were at historic levels when the Development Agreements were approved in 2006. The fifteen year term of the Agreements seemed reasonable at the time given the active market conditions. However, the market has since plummeted to historic lows. Furthermore, City Staff, consultants, and developers are not expecting new residential development to even begin for another two to three years. By that time, the Development Agreements will only have approximately seven years remaining before they expire. This is less than half the time that was deemed appropriate under the best of market conditions and will simply not be sufficient time to complete these projects. At a minimum, the Development Agreements need to be renegotiated to account for this fact alone. However, as noted, it would be more accurate and efficient to put the entire City under one (updated) IMFP. Having to renegotiate the Development Agreements, regularly monitor compliance, and account for all funds and programs separate from the IMFP would be time consuming and an unnecessary financial burden for everyone involved.

3. The Development Agreements required predetermined lump sum payments for certain fees that cannot be financed without a robust and consistent housing market.

   Historically, the City's IMFP has been designed to be a "pay-as-you-go" system. This allowed the pace of development to mirror the acceleration or decline of the housing market. The proposed updated IMFP will likewise operate on a "pay-as-you-go" basis. This is a more sustainable way to manage growth, particularly in a community like Lodi - where the long term residential growth rate is relatively slow. Development in Westside and Southwest Gateway will likely occur in phases by multiple development interests. While this is consistent with how development in Lodi has occurred for many years, it makes the payment of large, lump sums on a predetermined schedule virtually impossible to finance.

   Development Agreements with lump sum payments work best on large scale projects expected to be completed in a predictable fashion. They can even work effectively on small projects when the completion can be reasonably forecasted. However, in a community like Lodi, this structure will not work effectively on larger scale areas of development over longer (less economically predictable) periods of time.

Summary

While the issues outlined above are not exhaustive, they highlight several important factors which underscore the need to terminate the Westside and Southwest GatewayDevelopment Agreements. Alternatively, these Development Agreements could be renegotiated, but that should be weighed against the inclusion of these projects in the updated IMFP program.

The Agreements were executed during an unprecedented "Housing Bubble" fueled by the "Irrational Exuberance" of a dysfunctional financial system. These dynamics no longer exist and will not return in our lifetime. The housing market, as well as the overall economy, is struggling to find its footing following one of the worst recessions in history. Fortunately, the City has moved on and set a course to plan for sustainable future growth base on realistic assumptions.

The Westside and Southwest Gateway projects will be a major component of the City's planned growth plans for the next ten to fifteen years. With this in mind, it is our belief that it will be more efficient, balanced and productive to utilize the updated IMFP for the Westside and Southwest Gateway projects once it is adopted by the City Council.

Sincerely,

Tom Doucette

Thomas P. Doucette
President