



LODI CITY COUNCIL

Carnegie Forum
305 West Pine Street, Lodi

AGENDA – REGULAR MEETING

Date: October 17, 2012

Time: 7:00 p.m.

For information regarding this Agenda please contact:

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

6:55 p.m. Invocation/Call to Civic Responsibility. Invocations/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 – N/A

C-2 Announcement of Closed Session – N/A

C-3 Adjourn to Closed Session – N/A

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

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

A. Call to Order / Roll Call

B. Presentations

B-1 Ralph Lea History Day Proclamation (CLK)

B-2 Presentation by League of California Cities Representative Stephen Qualls to Mayor Mounce (CLK)

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

C-1 Receive Register of Claims in the Amount of \$5,848,480.27 (FIN)

C-2 Approve Minutes (CLK)

a) October 2 and 9, 2012 (Shirtsleeve Sessions)

b) October 3, 2012 (Regular Meeting)

C-3 Report of Sale of Surplus Equipment (PW)

Res. C-4 Adopt Resolution Approving the Purchase of Safety Equipment Turnout Gear to Fisher Scientific, of Suwanee, Georgia (\$25,280.56) (FD)

Res. C-5 Adopt Resolution Authorizing the City Manager to Execute a Contract for the Phase 3 Grape Bowl Improvement Project with Diede Construction, Inc., of Woodbridge (\$1,327,000), and Professional Services Agreement for Grape Bowl Lighting Improvements with Musco Lighting, of Oskaloosa, Iowa (\$42,693), and to Approve an Inter-Fund Loan Agreement (\$675,000) and Appropriating Funds (\$1,364,032) (PW)

Res. C-6 Adopt Resolution Authorizing the City Manager to Execute the Direct Payment Program Agreement with the State of California Department of Community Services and Development for the Term of July 1, 2012 through September 30, 2014 (CM)

- C-7 Accept Improvements Under Contract for City of Lodi Facility Painting Project (PW)
- Res. C-8 Adopt Resolution Approving Impact Mitigation Fee Program Annual Report for Fiscal Year 2011/12 (PW)
- Res. C-9 Adopt Resolution Approving Benefit Modifications for Council Members (CM)
- C-10 Receive Update Regarding Energy Storage Systems as Defined Under State Law (EUD)
- Res. C-11 Adopt Resolution Supporting the San Joaquin Superior Court's Request for Additional Funding from the Judicial Council (CM)
- C-12 Set Public Hearing for November 7, 2012, to Consider Energy Efficiency Retrofit Project for Electric Utility Department (EUD)
- C-13 Set Public Hearing for November 21, 2012, to Consider Unmet Transit Needs in Lodi (PW)

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 Adoption of Resolution Amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fees for 2013 (CD)

H. Communications

- H-1 Post for Expiring Terms on the Lodi Animal Advisory Commission, Lodi Senior Citizens Commission, Recreation Commission, and the San Joaquin Valley Unified Air Pollution Control District Citizens Advisory Committee (CLK)

I. Regular Calendar – None

J. Ordinances

- Ord. (Adopt) J-1 Adopt Ordinance No. 1865 Entitled, "An Ordinance of the City Council of the City of Lodi Partially Rescinding and Amending Development Agreement Pertaining to the Development of 220 Acres Located on the South Side of Harney Lane Between State Highway 99 and the Union Pacific Railroad to the West (Reynolds Ranch) (Development Agreement 06-GM-01)" (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



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Ralph Lea History Day Proclamation
MEETING DATE: October 17, 2012
PREPARED BY: City Clerk

RECOMMENDED ACTION: Mayor Mounce present proclamation proclaiming Wednesday, October 17, 2012, as “Ralph Lea History Day” in the City of Lodi.

BACKGROUND INFORMATION: To recognize Ralph Lea for his lifetime of collecting, sharing, and writing Lodi’s history, the Mayor will present a proclamation to Ralph Lea proclaiming Wednesday, October 17, 2012, as “Ralph Lea History Day” in the City of Lodi.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None.

Randi Johl
City Clerk

RJ/JMR

APPROVED: _____
Konradt Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Presentation by League of California Cities Representative Stephen Qualls to Mayor Mounce

MEETING DATE: October 17, 2012

PREPARED BY: City Clerk

RECOMMENDED ACTION: Mayor Mounce will accept a plaque from the League of California Cities (League).

BACKGROUND INFORMATION: To recognize Mayor Mounce for her service with the League as President, Vice President, and State Director for the Central Valley Division, League Representative Stephen Qualls will present the Mayor with a plaque.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None.

Randi Johl
City Clerk

APPROVED: _____
Konradt Bartlam, City Manager



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Receive Register of Claims through September 27, 2012 in the Total Amount of \$5,848,480.27

MEETING DATE: October 17, 2012

PREPARED BY: Financial Services Manager

RECOMMENDED ACTION: Receive the attached Register of Claims for \$5,848,480.27.

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of \$5,848,480.27 through 9/27/12. Also attached is Payroll in the amount of \$1,270,113.89.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: As per attached report.

Ruby R. Paiste, Financial Services Manager

RRP/rp

Attachments

APPROVED: _____
Konradt Bartlam, City Manager

Accounts Payable
Council Report

Page - 1
Date - 10/03/12

As of Thursday	Fund	Name	Amount
09/27/12	00100	General Fund	1,519,468.33
	00123	Info Systems Replacement Fund	1,829.69
	00160	Electric Utility Fund	49,882.67
	00161	Utility Outlay Reserve Fund	5,835.34
	00164	Public Benefits Fund	5,352.70
	00166	Solar Surcharge Fund	12,657.63
	00170	Waste Water Utility Fund	343,647.40
	00171	Waste Wtr Util-Capital Outlay	167,648.75
	00180	Water Utility Fund	358,155.64
	00181	Water Utility-Capital Outlay	2,224,601.46
	00210	Library Fund	5,599.95
	00236	LPD-OTS Grants	926.65
	00260	Internal Service/Equip Maint	19,604.83
	00270	Employee Benefits	507,599.40
	00300	General Liabilities	1,301.00
	00310	Worker's Comp Insurance	22,114.25
	00321	Gas Tax-2105,2106,2107	38,894.61
	00325	Measure K Funds	12,026.11
	00329	TDA - Streets	19,341.50
	00340	Comm Dev Special Rev Fund	1,472.60
	00347	Parks, Rec & Cultural Services	27,384.22
	00459	H U D	131,282.08
	00516	L&L Dist Z14-Luca Place	23.25
	00518	L&L Dist Z16-W.Kettleman Comm.	5.37
	01217	IMF Parks & Rec Facilities	1,535.44
	01250	Dial-a-Ride/Transportation	342,415.61
	01251	Transit Capital	1,910.62
	01252	Transit-Prop. 1B	685.34
	01410	Expendable Trust	7,075.83
Sum			5,830,278.27
	00185	PCE/TCE Rate Abatement Fund	16,600.00
	00190	Central Plume	1,602.00
Sum			18,202.00
Total Sum			5,848,480.27

Council Report for Payroll

Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	09/16/12	00100	General Fund	708,604.46
		00160	Electric Utility Fund	139,161.45
		00161	Utility Outlay Reserve Fund	8,754.29
		00164	Public Benefits Fund	3,783.78
		00170	Waste Water Utility Fund	101,689.79
		00180	Water Utility Fund	9,879.70
		00210	Library Fund	29,498.24
		00235	LPD-Public Safety Prog AB 1913	830.88
		00260	Internal Service/Equip Maint	15,465.74
		00321	Gas Tax-2105,2106,2107	29,968.00
		00340	Comm Dev Special Rev Fund	23,613.03
		00345	Community Center	111.08
		00347	Parks, Rec & Cultural Services	118,746.50
		01250	Dial-a-Ride/Transportation	7,393.36
Pay Period Total:				
			Sum	1,197,500.30
Retiree	10/31/12	00100	General Fund	72,613.59
Pay Period Total:				
			Sum	72,613.59



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Minutes
a) October 2, 2012 (Shirtsleeve Session)
b) October 3, 2012 (Regular Meeting)
c) October 9, 2012 (Shirtsleeve Session)

MEETING DATE: October 17, 2012

PREPARED BY: City Clerk

RECOMMENDED ACTION: Approve the following minutes as prepared:
a) October 2, 2012 (Shirtsleeve Session)
b) October 3, 2012 (Regular Meeting)
c) October 9, 2012 (Shirtsleeve Session)

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

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Randi Johl
City Clerk

Attachments

APPROVED: _____
Konradt Bartlam, City Manager

**LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, OCTOBER 2, 2012**

The October 2, 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, OCTOBER 3, 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 October 3, 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, Deputy City Attorney Magdich, and City Clerk Johl

B. Presentations

B-1 Domestic Violence Awareness Month Proclamation (CLK)

Mayor Mounce presented proclamation to Paula Grech, Program Director with the San Joaquin County Women's Center, Youth & Family Services, proclaiming the month of October 2012 as "Domestic Violence Awareness Month" in the City of Lodi.

B-2 Public Power Week Proclamation (EUD)

Mayor Mounce presented proclamation to Electric Utility Director Elizabeth Kirkley proclaiming the week of October 7-13, 2012, as "Public Power Week" in the City of Lodi.

B-3 Lodi Fire Department Pink October Breast Cancer Awareness Month Fundraiser Proclamation (FD)

Mayor Mounce presented proclamation to Fire Captain Brad Doell proclaiming the month of October 2012 as "Lodi Fire Department Pink October Breast Cancer Awareness Month" fundraiser in the City of Lodi.

B-4 Presentation of Proclamation Recognizing Outstanding Work of Public Works Wastewater Division Employees (PW)

Following introductory comments by Karen Honer, Wastewater Plant Superintendent, Mayor Mounce presented proclamations to the following Public Works Wastewater Division employees recognizing them for their outstanding commitment, ingenuity, and creativity and the service they provide to the City and its customers: Kelly Powers, Tom Gabriel, Rod Olson, Lloyd Roper, Curtis Ray, Ken Capitanich, Nathan Shropshire, Greg Caldwell, Bobby Burkland, and Nick Williams.

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

Council Member Johnson made a motion, second by Council Member Katakian, 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 Katakian, Mayor Pro Tempore Nakanishi, and Mayor Mounce

Noes: None

Absent: None

C-1 Receive Register of Claims in the Amount of \$5,489,779.67 (FIN)

Claims were approved in the amount of \$5,489,779.67.

C-2 Approve Minutes (CLK)

The minutes of September 18, 2012 (Shirtsleeve Session), September 19, 2012 (Regular Meeting), and September 25, 2012 (Shirtsleeve Session) were approved as written.

C-3 Approve Plans and Specifications and Authorize Advertisement for Bids for DeBenedetti Park Maintenance Yard Enclosure (PW)

Approved the plans and specifications and authorized advertisement for bids for DeBenedetti Park maintenance yard enclosure.

C-4 Approve Specifications and Authorize Advertisement for Bids for Directional Boring and Conduit Installation (EUD)

Approved the specifications and authorized advertisement for bids for directional boring and conduit installation.

C-5 Adopt Resolution Approving Purchase of Service Vehicle for Surface Water Treatment Plant Electrician from Sanborn Chevrolet, Inc., of Lodi, and Appropriating Funds (\$37,175) (PW)

Adopted Resolution No. 2012-152 approving purchase of service vehicle for Surface Water Treatment Plant Electrician from Sanborn Chevrolet, Inc., of Lodi, and appropriating funds in the amount of \$37,175.

C-6 Adopt Resolution Approving Purchase of Hach Water Information Management Solution Software for Water and Wastewater Data Management and Reporting from Hach Company, of Loveland, Colorado (\$34,795), and Supporting Hardware from CDW-G, of Vernon Hills, Illinois (\$3,950), and Dell (\$8,406) (PW)

Adopted Resolution No. 2012-153 approving purchase of Hach Water Information Management Solution software for water and wastewater data management and reporting from Hach Company, of Loveland, Colorado, in the amount of \$34,795, and supporting hardware from CDW-G, of Vernon Hills, Illinois, in the amount of \$3,950, and Dell in the amount of \$8,406.

C-7 Accept Improvements Under Contract for Grape Bowl Scoreboard Improvements (PW)

Accepted the improvements under contract for Grape Bowl scoreboard improvements.

- C-8 Adopt Resolution Authorizing the City Manager to Execute Contract for the Lodi Transit Station and Parking Structure Security and Safety System Project with 3D Datacom, of Rancho Cordova (\$280,892), and Contract Change Order with Jacobs Engineering Group, Inc., of Sacramento, for Construction Services (\$15,000) (PW)

Adopted Resolution No. 2012-154 authorizing the City Manager to execute contract for the Lodi Transit Station and Parking Structure Security and Safety System Project with 3D Datacom, of Rancho Cordova, in the amount of \$280,892, and contract change order with Jacobs Engineering Group, Inc., of Sacramento, for construction services in the amount of \$15,000.

- C-9 Adopt Resolution Authorizing the City Manager to Execute Contract for Ham Lane and Harney Lane Traffic Signal and Lighting Project with Steiny and Company, Inc., of Vallejo (\$223,223) (PW)

Adopted Resolution No. 2012-155 authorizing the City Manager to execute contract for Ham Lane and Harney Lane Traffic Signal and Lighting Project with Steiny and Company, Inc., of Vallejo, in the amount of \$223,223.

- C-10 Adopt Resolution Authorizing the City Attorney to Execute Professional Services Agreement with NBS Government Finance Group, of Temecula, to Perform General Benefit Analysis of the City's Consolidated Landscape Maintenance District No. 2003-1 (\$16,224.85) (PW)

Adopted Resolution No. 2012-156 authorizing the City Attorney to execute Professional Services Agreement with NBS Government Finance Group, of Temecula, to perform general benefit analysis of the City's Consolidated Landscape Maintenance District No. 2003-1 in the amount of \$16,224.85.

- C-11 Adopt Resolution Authorizing the City Manager to Enter into a Professional Services Agreement for an Electric System Arc Flash Study with SAIC Energy, Environment & Infrastructure, LLC, of Hendersonville, Tennessee (\$45,700) (EUD)

Adopted Resolution No. 2012-157 authorizing the City Manager to enter into a Professional Services Agreement for an Electric System Arc Flash Study with SAIC Energy, Environment & Infrastructure, LLC, of Hendersonville, Tennessee, in the amount of \$45,700.

- C-12 Adopt Resolution Approving Expansion of the San Joaquin County Enterprise Zone Boundaries (CM)

Mayor Mounce pulled this item for further discussion.

In response to Mayor Mounce, Interim Parks, Recreation and Cultural Services Director Jeff Hood and City Manager Bartlam highlighted the changes in the Enterprise Zone with the expansion of approximately one square mile throughout the County and the overall benefits of enterprise zones.

In response to Mayor Pro Tempore Nakanishi, Mr. Bartlam stated the Enterprise Zone is geography based and does not cover the entire County, it is set up to assist those areas that most need job creation, and the State will need to approve the amendment.

Mayor Mounce made a motion, second by Council Member Johnson, to adopt Resolution No. 2012-161 approving expansion of the San Joaquin County Enterprise Zone boundaries.

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-13 Adopt Resolution Appointing New Representatives to the Lodi Tourism Business Improvement District Advisory Board (CLK)

Adopted Resolution No. 2012-158 appointing new representatives to the Lodi Tourism Business Improvement District Advisory Board.

C-14 Adopt Resolution Approving Job Description, Salary Range, and Reclassification for the Position of Metering Technician (CM)

Adopted Resolution No. 2012-159 approving job description, salary range, and reclassification for the position of Metering Technician.

C-15 Adopt Resolution Approving Year 2012 Amendments to Conflict of Interest Code (Government Code Section 87306.5) (CA)

Adopted Resolution No. 2012-160 approving Year 2012 amendments to Conflict of Interest Code (Government Code Section 87306.5).

C-16 Set Public Hearing for October 17, 2012, to Consider Adopting Resolution Setting the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fees for 2013 (CD)

Mayor Pro Tempore Nakanishi pulled this item for further discussion.

In response to Mayor Pro Tempore Nakanishi, Mr. Bartlam provided an overview of the program, stating it was adopted by the cities and the County in 2001 and serves as a one-stop shop for the development community to understand its responsibility to protect endangered species.

Mayor Pro Tempore Nakanishi made a motion, second by Council Member Katzakian, to set the public hearing for October 17, 2012, to consider adopting resolution setting the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan development fees for 2013.

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

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

Council Member Johnson commended those involved with the success of the handball tournament held in the City last weekend.

Council Member Hansen reported on his attendance at the Northern California Power Agency meetings and annual conference and specifically discussed the grant for the maritime highway and the project status, the status of the Highway 12 improvements, cap and trade, and a meeting with legislative analysts in an effort to reduce the burdensome reporting requirements.

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

City Manager Bartlam reported that Tyler Sandelin and Aaron Hood are resting comfortably at home and recovering successfully.

G. Public Hearings

G-1 Public Hearing 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)

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 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.

City Manager Bartlam provided a brief PowerPoint presentation regarding a growth management allocation application regarding 2110 Tienda Drive. Specific topics of discussion included project description, location, General Plan requirements, growth management allocation ordinance, allocation process, Planning Commission action, and allocation conditions.

In response to Mayor Mounce, Mr. Bartlam confirmed that the 2% self-imposed growth limit can be banked and used collectively in the future.

In response to Council Member Hansen, Mr. Bartlam stated he recalls two years where the City came close to the 2% growth amount, on average the City has grown less than 1% annually, and over the last five years has grown less than three quarters of a percent. Mr. Bartlam stated the program is primarily market driven, the City Council has discretion to regulate the pace of growth through the number of allocations, and the plan and design would still need to go back to the Planning Commission and Site Plan and Architectural Review Committee (SPARC).

In response to Council Member Katzakian, Mr. Bartlam provided an overview of the three different density levels, stating low density is approximately 7 units or less per acre, medium density is 7 to 20 units, and high density is generally high stacked flats such as apartment buildings.

In response to Council Member Johnson, Mr. Bartlam stated the City Council does have discretion to authorize less than 12 allocations, although the City has an excess of allocations and the burden will be on the developer to demonstrate that he can effectively design and build the allocated amount. Mr. Bartlam stated a future SPARC or Planning Commission decision

would be appealable to the City Council.

In response to Council Member Hansen, Mr. Bartlam stated the Vintage retirement complex is an example of a high-density project.

In response to Council Member Katzakian, Mr. Bartlam confirmed that the City does not need to meet certain requirements with respect to the number of low-, medium-, and high-density projects it constructs.

Mayor Mounce opened the public hearing.

John Giannoni spoke in favor of the proposed allocation of 12 units, stating the project will benefit the community through job creation and tax revenue. Mr. Giannoni also provided an overview of other projects he has successfully constructed in the City.

City Clerk Johl stated for the record that prior to the start of the meeting she received a petition in opposition to the proposed allocation from the Sunwest Community that appears to be signed by approximately 38 individuals.

Bill Griffiths spoke in regard to his concerns regarding limited growth in the future and the slow speed of recovery and development he sees in the future.

Lloyd Carger spoke in opposition to the proposed allocation based on the concerns submitted in the petition from the Sunwest Community referenced above.

In response to John Slaughterback, Mr. Bartlam provided a brief overview of the impact fee program, the General Plan, and the future obligation of developers to construct improvements as it relates to the proposed allocation and potential project.

Mayor Mounce closed the public hearing after receiving no additional comments.

Mayor Mounce made a motion, second by Council Member Johnson, to adopt Resolution No. 2012-162 approving the Planning Commission's recommendation for 2012 Growth Management Allocations to permit and construct nine residential units at 2110 Tienda Drive.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Nakanishi, and Mayor Mounce

Noes: Council Member Hansen, and Council Member Katzakian

Absent: None

G-2 Public Hearing to Consider Introducing Ordinance Terminating Reynolds Ranch Development Agreement with San Joaquin Valley Land Company, LLC (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 introducing ordinance terminating Reynolds Ranch Development Agreement with San Joaquin Valley Land Company, LLC.

City Manager Bartlam provided a brief presentation regarding the proposed termination of the Reynolds Ranch Development Agreement as set forth in the staff report and related blue sheets.

In response to Mayor Mounce, Mr. Bartlam stated the parcel of land to be dedicated for the fire station construction is located east of Stockton Street and south of Harney Lane. Mr. Bartlam

stated the dedication of the property will occur upon the filing of a parcel map, the proposed agreement does not have an expiration date and will stay in place into perpetuity or until a future City Council decides otherwise, and any future residential development will have to meet park requirements under the new impact fee program whereby the developer will need to construct the park directly.

Mayor Mounce opened the public hearing.

In response to Mayor Mounce, Dale Gillespie, representing Reynolds Ranch, stated he and his business partners have rehabilitated various properties in the City including Sienna Court at a cost of \$780,000 and two other properties at a cost of \$545,000 and \$915,000, respectively. Mr. Gillespie stated he continues to look for opportunities in the City to rehabilitate other properties.

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

In response to Council Member Hansen, Mr. Bartlam stated, notwithstanding the proposed termination of the Reynolds Ranch Development Agreement, community facilities districts would remain in place for future development.

Mayor Pro Tempore Nakanishi made a motion, second by Council Member Hansen, to introduce Ordinance No. 1865 terminating Reynolds Ranch Development Agreement with San Joaquin Valley Land Company, LLC.

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. Communications

H-1 Appointment to the Lodi Arts Commission and Re-Post for Remaining Vacancy on Lodi Arts Commission (CLK)

Mayor Mounce made a motion, second by Council Member Johnson, to make the following appointment and to further direct the City Clerk to re-post for the remaining vacancy on Lodi Arts Commission as follows:

APPOINTMENT:

Lodi Arts Commission

Nancy Ahlberg Mellor, Term to expire July 1, 2015

POSTING:

Lodi Arts Commission

One Vacancy (Turrentine), Term to expire July 1, 2013

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 - None

J. Ordinances

- J-1 Adopt Ordinance No. 1863 Entitled, "An Ordinance of the Lodi 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 027-400-09) Planned Development 35 (PD-35) from R-1, C-S, and R-C-P" (CLK)

Mayor Mounce made a motion, second by Council Member Hansen, (following reading of the title) to waive reading of the ordinance in full and adopt and order to print Ordinance No. 1863 entitled, "An Ordinance of the Lodi 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 027-400-09) Planned Development 35 (PD-35) from R-1, C-S, and R-C-P," which was introduced at a regular meeting of the Lodi City Council held September 19, 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

- J-2 Adopt Ordinance No. 1864 Entitled, "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" (CLK)

Mayor Mounce made a motion, second by Council Member Hansen, (following reading of the title) to waive reading of the ordinance in full and adopt and order to print Ordinance No. 1864 entitled, "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," which was introduced at a regular meeting of the Lodi City Council held September 19, 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

K. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 9:00 p.m.

ATTEST:

Randi Johl
City Clerk

**LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, OCTOBER 9, 2012**

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, October 9, 2012, commencing at 7:00 a.m.

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

B. Topic(s)

B-1 Update Regarding General Liability and Workers' Compensation Programs (CM)

City Manager Rad Bartlam briefly introduced the subject matter of the general liability and workers' compensation programs.

Deputy City Manager Jordan Ayers and Management Analyst Janet Hamilton provided a PowerPoint presentation regarding the general liability (GL) and workers' compensation (WC) programs. Specific topics of discussion included an overview of the GL program, frequency and severity of GL claims, GL reserves, GL program costs, an overview of the WC program, frequency and severity of WC claims, WC claims by fiscal year, WC claims by department, WC estimated outstanding losses at 55% and 70% confidence levels, WC reserves, WC program costs, and WC allocation methodology.

In response to Council Member Johnson, Ms. Hamilton gave a brief overview of what the numbers mean on the GL frequency and severity chart.

In response to Mayor Mounce, Ms. Hamilton confirmed a specific amount of money representing the liability for each claim must be set aside for the entire life of the claim, which is why the overall goal is to close claims as quickly as possible.

In response to Council Member Johnson, Mr. Ayers stated an excess in reserves will be reviewed in the near future for redistribution or other related purposes including refunds to departments.

In response to Council Member Hansen, Mr. Ayers stated that, if the reserve amount is exceeded, staff would come back to Council for permission to obtain additional funds from the General Fund or another fund to which the claim was directly related.

In response to Council Member Johnson and Council Member Hansen, Ms. Hamilton confirmed that the WC program does cover volunteers such as the Police Partners and part-time employees.

In response to City Manager Bartlam, Ms. Hamilton provided a brief overview of Labor Code Section 4850, which applies to public safety only, and how it compares to all other City employees including Public Works.

In response to Council Member Johnson, Mr. Ayers stated overtime costs to supplement lost time is not calculated in WC costs as it is tracked separately.

In response to Mayor Mounce, Ms. Hamilton stated the most worn out bodies related claims come from Public Works as opposed to public safety, which has a wellness program of sorts already in place.

In response to Council Member Hansen, Mr. Ayers and Ms. Hamilton confirmed that the \$7.5 million figure on page 11 of the presentation is close to the 70% confidence level for funding.

In response to Mayor Mounce, Ms. Hamilton stated staff does a departmental presentation in an effort to educate employees about the WC program and how it relates financially to their specific department and the City overall.

In response to Council Member Hansen, Ms. Hamilton stated in an effort to prevent abuse staff utilizes certain strategies such as direct communication with doctors and surveillance.

In response to Council Member Johnson, Ms. Hamilton stated that, while there may be some recourse at the State level to address the concern about doctors who are abusing the system, generally speaking it would be difficult because the WC Appeals Board has a tendency to side with employees. A brief discussion ensued amongst Council regarding the statutory rights associated with Labor Code Section 4850, the genuine need to have time off under the law, and system abuse.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 7:35 a.m.

ATTEST:

Randi Johl
City Clerk



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Report of Sale of Surplus Equipment

MEETING DATE: October 17, 2012

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Report of sale of surplus equipment.

BACKGROUND INFORMATION: The Public Works Fleet Services Division oversees the removal of vehicles and equipment from the City's fleet and provides quarterly reporting of surplus vehicles/equipment sales to the City Council. The Fleet Services Division coordinates the disposal process and paperwork once the City Manager and the Deputy City Manager authorize the dispositions.

During the third calendar quarter of 2012, the City sold the following surplus vehicles/equipment through Lodi Auto Wrecking, of Lodi. The City received the following amount from the sale:

<u>Vehicle</u>	<u>Department</u>	<u>Mileage/Hours</u>	<u>Sales Revenue</u>
1996 Ford Crown Vic (174268)	Police	113,498	\$ 270 (junked)

Revenues received from the sale of vehicles are credited to the General Fleet fund or the appropriate Enterprise Capital fund, according to the previous assignment of the vehicle sold.

FISCAL IMPACT: Revenues received from the sale of vehicle are credited as follows and are used to help fund the replacement of these vehicles.

General Fund (1201)	\$270
Total:	\$270

FUNDING AVAILABLE: None required.

F. Wally Sandelin
Public Works Director

Prepared by Randy Laney, Fleet Services Supervisor
FWS/RL/nl
cc: Jordan Ayers, Deputy City Manager/Internal Services Director
Lt. Bill Alexander, Police Fleet Coordinator

APPROVED: _____
Konradt Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving Purchase of Safety Equipment Turnout Gear to Fisher Scientific, of Suwanee, Georgia (\$25,280.56)

MEETING DATE: October 17, 2012

PREPARED BY: Fire Chief

RECOMMENDED ACTION: Adopt resolution approving the purchase of safety equipment turnout gear to Fisher Scientific, of Suwanee, Georgia, in the amount of \$25,280.56.

BACKGROUND INFORMATION: Firefighter safety requires that structural firefighting turnout gear meet the National Fire Protection Association (NFPA) 1851 standard. Turnouts are the firefighters' first line of protection from extreme temperatures, poisonous/toxic gases, and injury. The goal is to protect crews from extreme heat and byproducts of combustion while providing gear that is user friendly, maneuverable, and not restrictive to the myriad responsibilities of the job.

The life expectancy of turnouts is five years as long as the gear is able to pass the required annual testing process of NFPA 1971, which is designed to test the integrity of the equipment and ensure that it is providing appropriate levels of protection as it was designed to do. The enemies of the gear are age, ultraviolet light, moisture, extreme temperatures, abrasive environments, hydrocarbon vapors, and normal wear and tear. These are all environments commonly encountered in the fire service. Safety is the top priority for our personnel, maintaining a replacement turnout program is an integral part of the Lodi Fire Departments goal of firefighter safety.

There are only two companies in the State of California that provide the approved turnout gear referenced above. Staff received a bid from both companies. The bid amount from Fisher Scientific was \$25,280.56. The bid amount from Jaeco Fire & Safety was \$28,598.47. Therefore it is recommended that the purchase be made from Fisher Scientific.

FISCAL IMPACT: Funding is included in the annual operating budget. Maintaining the replacement schedule will reduce the need in the future for larger purchases.

FUNDING AVAILABLE: Emergency Operations Account 102012.7306

Jordan Ayers, Deputy City Manager



Larry Rooney
Fire Chief

APPROVED: _____
Konradt Bartlam, City Manager

RESOLUTION NO. 2012-_____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING PURCHASE OF SAFETY EQUIPMENT
TURNOUT GEAR FROM FISHER SCIENTIFIC OF
SUWANEE GEORGIA

=====

WHEREAS, Firefighter safety requires that structural firefighting turnout gear meet the National Fire Protection Association (NFPA) 1851 standard; and

WHEREAS, Turnouts are the firefighters' first line of protection from extreme temperatures, poisonous/toxic gases, and injury; and

WHEREAS, the goal is to protect crews from extreme heat and byproducts of combustion while providing gear that is user friendly, maneuverable and not restrictive to the myriad responsibilities of the job; and

WHEREAS, there are only two companies in the State of California that provide the approved turnout gear referenced above; and

WHEREAS, bids were received for 12 sets of Safety Equipment Turnout Gear from the following bidders:

Fisher Scientific	\$25,280.56
Jaeco Fire & Safety	\$28,598.47

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the purchase of 12 sets of Safety Equipment Turnout Gear from Fisher Scientific at a cost of \$25,280.56.

Date: October 17, 2012

=====

I hereby certify that Resolution No. 2012-_____ was passed and adopted by the Lodi City Council in a regular meeting held October 17, 2012, by the following vote:

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

RANDI JOHL
City Clerk



**CITY OF LODI
COUNCIL COMMUNICATION**

TM

AGENDA TITLE: Adopt Resolution Authorizing City Manager to Execute a Contract for the Phase 3 Grape Bowl Improvement Project with Diede Construction, Inc., of Woodbridge (\$1,327,000) and a Professional Services Agreement for Grape Bowl Lighting Improvements with Musco Lighting, of Oskaloosa, Iowa (\$42,693) and to Approve an Inter-Fund Loan Agreement (\$675,000) and Appropriating Funds (\$1,364,032)

MEETING DATE: October 17, 2012

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt resolution authorizing City Manager to execute a contract for the Phase 3 Grape Bowl improvement project with Diede Construction, Inc., of Woodbridge, in the amount of \$1,327,000, and a professional services agreement for Grape Bowl lighting improvements with Musco Lighting, of Oskaloosa, Iowa, in the amount of \$42,693, and to approve an inter-fund loan agreement in the amount of \$675,000, and appropriating funds in the amount of \$1,364,032.

BACKGROUND INFORMATION: The Phase 3 Grape Bowl improvements consist of constructing an Americans with Disabilities Act (ADA) accessible ramp to the south-side upper concourse; ADA seating at the south-side upper concourse; concrete plaza area; concession, restroom and ticket building; landscape; irrigation and other related facilities.

Plans and specifications for the project were approved on August 1, 2012. The City received the following five bids for this project on September 26, 2012. The award is based on the Base Bid amount. The lowest responsive bidder, Diede Construction, Inc., has signed the required Local Hire forms and agreed to attempt to employ local hires in its workforce and the workforce of its subcontractors. The Engineer's Estimate for the Base Bid work is \$1,362,319.

Bidder	Location	Base Bid	Base Bid + Alt. Bid A
Diede Construction, Inc.	Woodbridge	\$1,292,500	\$1,327,000
John F. Otto Construction	Sacramento	\$1,367,996	\$1,385,785
Seward L. Scheder Construction	Redding	\$1,490,884	\$1,514,146
A.M. Stephens Construction	Lodi	\$1,498,800	\$1,519,800
MCI Engineering	Stockton	\$1,591,000	\$1,626,000

To complete access around the perimeter of the playing field, staff included Alternate Bid Item A to install a six-inch thick concrete apron around the westerly end of the field. The bid price submitted by Diede Construction, Inc., for Alternate Bid Item A is \$34,500. Staff recommends awarding the construction contract to Diede Construction, Inc., including Alternate Bid Item A, for a total contract amount of \$1,327,000.

Additional light fixtures are required to meet ADA minimum-lighting standards for the new improvements and will be procured separately from Musco Lighting, the vendor that installed the existing lights by sole source contract. The work consists of installing two 1,000-watt fixtures at each of the four outermost light towers (eight fixtures total) and adding a 125-amp breaker to an existing electrical panel. The cost for this work is \$42,693.

APPROVED: _____
Konradt Bartlam, City Manager

Adopt Resolution Authorizing City Manager to Execute a Contract for the Phase 3 Grape Bowl Improvement Project with Diede Construction, Inc., of Woodbridge (\$1,327,000) and a Professional Services Agreement for Grape Bowl Lighting Improvements with Musco Lighting, of Oskaloosa, Iowa (\$42,693) and to Approve an Inter-Fund Loan Agreement (\$675,000) and Appropriating Funds (\$1,364,032)
 October 17, 2012
 Page 2

Lodi Municipal Code 3.20.070 allows the dispensing of bids when City Council determines it is the best method of purchase. Staff recommends the non-competitive purchase and installation of Musco ADA-required lighting improvements as described in the professional services agreement provided in Exhibit A.

Staff will utilize the firm of Neil O. Anderson & Associates for materials testing and geotechnical services for the Phase 3 improvements. This local firm prepared the geotechnical soils report for the design phase of the project. A portion of the requested appropriation will fund an existing professional services agreement for these services. The amount is not expected to exceed \$25,000.

The total budget for the project is \$1,700,000, as summarized in Exhibit B. It includes construction of the Phase 3 improvements, ADA lighting improvements, materials testing, construction management by City staff, permit fees, construction contingencies and other project-related expenses.

An inter-fund loan to Parks Capital from Wastewater Capital in the amount of \$675,000 is needed to fully fund the project and requires an inter-fund loan agreement be established. The interest charge will be set at the Local Agency Investment Fund rate. The term of the loan will be 63 months. Funds to repay the inter-fund loan will come from the remaining Waste Management Donation of \$675,000.

FISCAL IMPACT: Construction of the Phase 3 improvements will provide additional sponsorship and naming opportunities intended to generate revenues for constructing additional improvements at the Grape Bowl. Annual operation and maintenance costs will be slightly higher but may be offset by additional facility rental revenues.

FUNDING AVAILABLE:	CDBG Funds (4591211) ¹	\$ 335,968
	<u>Requested Appropriation:</u>	
	Friends of the Grape Bowl Donations (1212811)	\$ 178,000
	Waste Management Donation (to date) (1212811) ²	\$ 325,000
	Metro PCS Donation (1212811)	\$ 35,000
	CDBG Funds (4591103) ³	\$ 136,716
	Parks Capital Fund (1212811)	\$ 14,316
	Wastewater Capital Fund (171)	<u>\$ 675,000</u>
	Total Appropriation Request:	\$1,364,032
	TOTAL	\$1,700,000

¹Supplemental allocation to Grape Bowl approved by Council on September 19, 2012

² Amount of Waste Management donations received through September 2012. Sixty-three payments of \$10,714.29 remain totaling \$675,000. These funds will repay, with interest, the loan from the Wastewater Capital Fund.

³Re-appropriation of 2011 CDBG allocation to Grape Bowl

Jordan Ayers
 Deputy City Manager/Internal Services Director

F. Wally Sandelin
 Public Works Director



Quote

**Grape Bowl ADA Lighting
Lodi, California**

Date: September 18, 2012

To: Steve Virrey

Quotation Price

Musco's Light Structure Green™ lighting system as described below to the job site.

Application is to add two 1000 watt fixtures to poles F1, F3, F4 and F6, using the existing electrical wiring, and installing one 125 amp breaker in the existing electrical panel. The lighting is being provided for the pathway at Grape Bowl facility as per lighting design 156005R2 completed on September 10, 2012.

Total Price including tax:	\$42,693.00
Equipment cost FOB:	\$17,915.00
Install cost:	\$23,389.59
Tax:	\$1,388.41

Equipment Description

SportsCluster Green™ System delivered to your site

- Factory aimed and assembled poletop luminaire assemblies
- (8) 1000-watt metal halide fixtures
- UL Listed remote electrical component enclosures
- Mounting hardware for the pole top units and electrical component enclosures
- Pole length wire harness
- Disconnects

Also includes:

- Energy savings of more than 50% over standard lighting system
- 10-Year warranty including ten years parts, two years labor. Lamps are warranted for two years, with the first year including lamps and labor, and the second year lamps only

Delivery to the job site from the time of order, submittal approval, and confirmation of order details including voltage and phase, pole locations is approximately 30-45 days. Due to the built-in custom light control per luminaire, pole locations need to be confirmed prior to production. Changes to pole locations after the product is sent to production could result in additional charges.

Thank you for considering Musco for your sports-lighting needs. Please contact me with any questions.

Bob Crookham
Sales Representative
Musco Sports Lighting, LLC
Phone: 530/672-9500
E-mail: bob.crookham@musco.com
Fax: 530/672-9471


Musco Authorized Representative Signature

City Of Lodi
 Grape Bowl Phase 3 Improvements
 September 2012

EXHIBIT B

Budget Item	Amount
Construction	
Site Acquisition (None)	\$0
Wastewater Connection Fee	\$0
Impact Mitigation Fees	\$0
RTIF Fees	\$0
Utility Services (PG&E, EUD)	\$5,000
COG Habitat Fees	\$0
Construction Contract (Bid Amount)	\$1,327,000
Plan Check/Permit Fee (Building Dept.)	\$27,000
Plan Check/Permit Fee (Public Works)	\$20,000
Plan Printing Costs (Stockton Blue)	\$3,000
Project Management (City Staff)	\$75,000
Copy/Shipping Expenses Estimate	\$4,455
Environmental Inspection	\$9,000
Construction Total	\$1,470,455
Equipment Purchase	
Budget	
ADA Lighting and Installation	\$50,000
Equipment Total	\$50,000
Engineering Services	
Amount	
Materials Testing	\$25,000
Engineering Total	\$25,000
Total	\$1,545,455
Project Contingency	\$154,545

10%

Phase 3 Project Total Budget \$1,700,000

CITY OF LODI, CALIFORNIA

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

WITNESSETH:

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

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

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

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

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

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

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

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

Perform the work necessary for relocating and compacting of embankment fill, construction of an ADA accessible concrete ramp to the south upper concourse, ADA seating, concrete plaza area, landscaping, irrigation, the design build construction of an approximate 1,600 square foot ADA accessible concession, restroom, and ticket building, plumbing, electrical and all other associated work needed and described in the project bid plans (drawings) and specifications, all in accordance with the contract documents now on file with the Director of Public Works, City Hall, 221 West Pine Street, Lodi; and the completed bidder's design documents. **Note:** The bid drawings and specifications are intended to show Owner space and facility needs, the successful bid Designers are responsible for all dimensions and final layout to meet **ALL** code requirements.

CONTRACT ITEMS

Item	Description	Quantity	Unit	Total Price
1	Mobilization, bonds, insurance (not to exceed 5% of Total Bid amount)	1	LS	\$52,400.00
2	Sheeting, shoring, bracing	1	LS	\$5,000.00
3	Site demolition including but not limited to the demolition of fencing, tanks, small structures, hard cape and trees	1	LS	\$22,200.00
4	Site improvements including but not limited to earthwork, sub grade placement and compaction, concrete hard cape, retaining walls, railing, seating, fences and gates, and landscape and irrigation	1	LS	\$673,000.00
5	Site utilities including but not limited to the installation of all storm drain, water and wastewater piping and appurtenances and trench drains	1	LS	\$43,300.00
6	Building improvements including but not limited to final design and permitting, building shell, roof, interior and exterior walls and finishes, heating ventilation and air conditioning, plumbing, electrical and fixtures	1	LS	\$496,500.00
7	All work in accordance with the contract documents with the exception of work included under Contract Items 1 through 6 and 8	1	LS	\$100.00
8	Installation of 2,660 SF of 6-inch thick concrete apron as shown on Sheet C3.0	1	LS	\$34,500.00
	TOTAL			\$1,327,000.00

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

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

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

ARTICLE VIII - The Contractor agrees to commence work pursuant to this contract on the date stipulated in the Notice To Proceed and to diligently prosecute to completion within **180 CALENDAR DAYS**.

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

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

CONTRACTOR:

CITY OF LODI

By: _____
Konradt Bartlam
City Manager

By: _____

Date: _____

Attest

Title

City Clerk

(CORPORATE SEAL)

Approved As To Form

D. Stephen Schwabauer
City Attorney

AGREEMENT FOR PROFESSIONAL SERVICES

**ARTICLE 1
PARTIES AND PURPOSE**

Section 1.1 Parties

THIS AGREEMENT is entered into on _____, 2012, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and MUSCO LIGHTING (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 Purchase and Installation of Grape Bowl ADA Lighting (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 December 1, 2012 and terminates upon the completion of the Scope of Services or on June 30, 2013, 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: F. Wally Sandelin, Public Works Director

To CONTRACTOR: Musco Lighting
P.O. Box 808
Oskaloosa, IA 52577

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

CONTRACTOR: MUSCO LIGHTING

By: _____


By: _____
Name:
Title:

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

Funding Source: 1212811
(Business Unit & Account No.)

Doc ID: WP\Projects\Parks\GrapeBow\Phase3Improvements\PSA MuscoLighting

CA:rev.01.2012



**Grape Bowl ADA Lighting
Lodi, California
Date: September 18, 2012
To: Steve Virrey**

Quotation Price

Musco's Light Structure Green™ lighting system as described below to the job site.
Application is to add two 1000 watt fixtures to poles F1, F3, F4 and F6, using the existing electrical wiring, and installing one 125 amp breaker in the existing electrical panel. The lighting is being provided for the pathway at Grape Bowl facility as per lighting design 156005R2 completed on September 10, 2012.

Total Price including tax:	\$42,693.00
Equipment cost FOB:	\$17,915.00
Install cost:	\$23,389.59
Tax:	\$1,388.41

Equipment Description

SportsCluster Green™ System delivered to your site

- Factory aimed and assembled poletop luminaire assemblies
- (8) 1000-watt metal halide fixtures
- UL Listed remote electrical component enclosures
- Mounting hardware for the pole top units and electrical component enclosures
- Pole length wire harness
- Disconnects

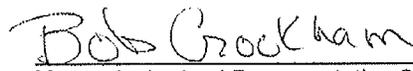
Also includes:

- Energy savings of more than 50% over standard lighting system
- 10-Year warranty including ten years parts, two years labor. Lamps are warranted for two years, with the first year including lamps and labor, and the second year lamps only

Delivery to the job site from the time of order, submittal approval, and confirmation of order details including voltage and phase, pole locations is approximately 30-45 days. Due to the built-in custom light control per luminaire, pole locations need to be confirmed prior to production. Changes to pole locations after the product is sent to production could result in additional charges.

Thank you for considering Musco for your sports-lighting needs. Please contact me with any questions.

Bob Crookham
Sales Representative
Musco Sports Lighting, LLC
Phone: 530/672-9500
E-mail: bob.crookham@musco.com
Fax: 530/672-9471


Musco Authorized Representative Signature



Turnkey Scope of Work
Grape Bowl ADA Lighting
Lodi, CA Project #156005

Owner Responsibilities:

1. Total access to the site and tower locations for construction.
2. Removal of any trees, limbs, shrubs, etc. for total access to tower locations as necessary.
3. Removal, replacement, and repair of all fencing necessary for construction.

Musco Responsibilities:

1. Provide required fixtures, enclosures, harnesses, mounting materials and associated designs as required.
2. Provide Project Management assistance as needed.

Musco Subcontractor Responsibilities:

1. Provide equipment and materials to off load equipment at jobsite per scheduled delivery.
2. Provide storage for material as necessary.
3. Provide adequate trash container for cardboard waste and packing debris.
4. Obtain required permits, owner to pay costs of permits, if any.
5. Provide materials and equipment to upgrade existing electrical service panels as required. This would include adding breakers for security fixture circuits.
6. Provide materials and equipment to assemble and install (8) Sportscluster Green™ fixtures(2 per corner pole) and terminate all necessary wiring in supplied cross-arms. Musco to supply mounting hardware and brackets as necessary to attach to existing towers.
7. Verify aiming points have been located and are correct before sighting in lighting cross-arms.
8. Provide equipment and materials to upgrade the Controls and Monitoring Cabinet and terminate all necessary wiring as necessary. Subcontractor to commission Control Link upon completion.
9. Provide startup and aiming as required to provide complete and operating sports and security lighting system.



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. <u>COMPREHENSIVE GENERAL LIABILITY</u>
\$3,000,000 Ea. Occurrence | 2. <u>COMPREHENSIVE AUTOMOBILE LIABILITY</u>
\$1,000,000 Bodily Injury - Ea. Person
\$1,000,000 Bodily Injury - Ea. Occurrence
\$1,000,000 Property Damage - 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
A certificate of insurance with a Completed Operations Endorsement, CG 20 37 07 04, will be provided to the City of Lodi during construction and for three years after acceptance of project.
- (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.

1. AA# _____
 2. JV# _____

CITY OF LODI APPROPRIATION ADJUSTMENT REQUEST			
TO:	Internal Services Dept. - Budget Division		
3. FROM:	Rebecca Areida-Yadav	5. DATE:	10/09/2012
4. DEPARTMENT/DIVISION:	Public Works		

6. REQUEST ADJUSTMENT OF APPROPRIATION AS LISTED BELOW					
	FUND #	BUS. UNIT #	ACCOUNT #	ACCOUNT TITLE	AMOUNT
A. SOURCE OF FINANCING	1212	12121	6153	Donations	\$ 213,000.00
	1212	-	4210	Transfer In	\$ 675,000.00
	1212	-	3205	Fund Balance	\$ 339,316.00
	171	-	3205	Fund Balance	\$ 675,000.00
	459	4591	5564	Comm Development Block Grants	\$ 136,716.00
B. USE OF FINANCING	1212	1212811	1825.2400	Grape Bowl	\$ 1,227,316.00
	171	-	4220	Transfer Out	\$ 675,000.00
	459	4591103	7720	Grape Bowl	\$ 136,716.00

7. REQUEST IS MADE TO FUND THE FOLLOWING PROJECT NOT INCLUDED IN THE CURRENT BUDGET
<p>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.</p> <p>Contracts for phase 3 Grape Bowl improvement project and the purchase and installation of ADA lighting</p>

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

Meeting Date: _____ Res No: _____ Attach copy of resolution to this form.

Department Head Signature: AWAAY LAUREL

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 AWARDING
AND AUTHORIZING THE CITY MANAGER TO EXECUTE
CONTRACT FOR THE PHASE 3 GRAPE BOWL IMPROVEMENT
PROJECT AND PROFESSIONAL SERVICES AGREEMENT FOR
PURCHASE AND INSTALLATION OF GRAPE BOWL ADA
LIGHTING AND TO APPROVE AN INTER-FUND LOAN
AGREEMENT AND FURTHER APPROPRIATING FUNDS

=====

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on September 26, 2012, at 11:00 a.m., for the Phase 3 Grape Bowl Improvement Project, described in the plans and specifications therefore approved by the City Council on August 1, 2012; and

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

Bidder	Base Bid	Base Bid + Alt. Bid A
Diede Construction, Inc.	\$1,292,500	\$1,327,000
John F. Otto Construction	\$1,367,996	\$1,385,785
Seward L. Scheder Construction	\$1,490,884	\$1,514,146
A.M. Stephens Construction	\$1,498,800	\$1,519,800
MCI Engineering	\$1,591,000	\$1,626,000

WHEREAS, staff recommends awarding the contract for the Phase 3 Grape Bowl Improvement Project, including Alternate Bid Item A to the low bidder, Diede Construction, Inc., of Woodbridge, California, in the amount of \$1,327,000; and

WHEREAS, additional light fixtures are required to meet ADA minimum-lighting standards for the new improvements and staff recommends procuring these separately from Musco Lighting, of Oskaloosa, Iowa, the vendor that installed the existing lights by sole source, in the amount of \$42,693; and

WHEREAS, per Lodi Municipal Code Section 3.20.070, Bidding, the bidding process may be dispensed when the City Council determines that the purchase or method of purchase is in the best interests of the City; and

WHEREAS, an inter-fund loan to Parks Capital from Wastewater Capital in the amount of \$675,000 is needed to fully fund the project and requires an inter-fund loan agreement be established. The interest charge will be set at the Local Agency Investment Fund rate, and the term of the loan will be 63 months. Funds to repay the inter-fund loan will come from the remaining Waste Management Donation of \$675,000.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby award the contract for the Phase 3 Grape Bowl Improvement Project, including Alternate Bid Item A, to the low bidder, Diede Construction, Inc., of Woodbridge, California, in the amount of \$1,327,000, and the Professional Services Agreement for the non-competitive purchase and installation of Grape Bowl ADA lighting with Musco Lighting, of Oskaloosa, Iowa, in the amount of \$42,693; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to approve an Inter-Fund Loan Agreement to Parks Capital from Wastewater Capital in the amount of \$675,000; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the contract and agreements; and

BE IT FURTHER RESOLVED that funds in the amount of \$1,364,032 be appropriated for this project as follows:

Friends of the Grape Bowl Donations	\$ 178,000
Waste Management Donation	\$ 325,000
Metro PCS Donation	\$ 35,000
CDBG Funds	\$ 136,716
Parks Capital Fund	\$ 14,316
Wastewater Capital Fund	\$ 675,000
Total Appropriation	\$1,364,032

Dated: October 17, 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 October 17, 2012, by the following vote:

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

RANDI JOHL
City Clerk



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Authorizing the City Manager to Execute the Direct Payment Program Agreement with the State of California Department of Community Services and Development for the Term of July 1, 2012 through September 30, 2014

MEETING DATE: October 17, 2012

PREPARED BY: Jordan Ayers, Deputy City Manager

RECOMMENDED ACTION: Adopt resolution authorizing the City Manager to execute the Direct Payment Program Agreement with the State of California, Department of Community Services and Development for the term of July 1, 2012 through September 30, 2014.

BACKGROUND INFORMATION: The LIHEAP (Low-Income Home Energy Assistance Program) is designed to provide assistance to qualified customers once a year or as a crisis intervention action. As a crisis intervention action, this program is crucial to customers who need help paying their utility bills, as otherwise they may suffer termination of service for non-payment. The State of California, Department of Community Services and Development determines program eligibility and issues funds to the City on behalf of qualified clients.

The State of California, Department of Community Services and Development (CSD) requires an agreement be entered into between CSD and the City of Lodi to provide for LIHEAP disbursements on behalf of the City of Lodi energy customers. The attached proposed agreement will provide for this program for the term of July 1, 2012 through September 30, 2014.

FISCAL IMPACT: Nominal program expenses for the City already included in Finance Division budget.

JA/pn
Attachments

Jordan Ayers
Deputy City Manager

APPROVED: _____
Konradt Bartlam, City Manager

5493(2)
RECEIVED
EDMUND G. BROWN, JR., Governor

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT

P. O. Box 1947
Sacramento, CA 95812-1947
(916) 341-4200
(916) 341-4203 (FAX)
(916) 327-6318 (TDD)

JUL 23 2012
CITY MANAGER'S OFFICE



July 17, 2012

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

Dear Mr. Bartlam:

Re: Contract Number 12Y-1414

Enclosed is a copy of the signed, executed contract referenced above.

If you have any questions regarding the contract process, you may contact me at (916) 576-5316.

Sincerely,

Abigail Churchill
Contract Services Unit

Enclosure



July 1, 2012-September 30, 2014
Direct Payment Agreement
Agreement No. 12Y-1414

**STATE OF CALIFORNIA
AGREEMENT**

This Agreement consists of this signature page, Exhibits A through F, and Attachments I through IV, which are attached hereto and incorporated herein by this reference. It is entered into between the State of California, Department of Community Services and Development, and the Utility Company, City of Lodi:

Utility Company: City of Lodi
The term of this Agreement is: July 1, 2012 through September 30, 2014
The maximum amount of this Agreement is: \$-0-
Agreed to and approved:

CONTRACTOR City of Lodi

By: [Signature] 7-10-2012
Authorized Signature Date Signed

Konradt Bartlam, City Manager
Printed Name and Title of Person Signing

Approved as to form
[Signature]
Deputy City Attorney

Address: City Hall, 221 W. Pine St.
P.O. Box 3006
Lodi, CA 95241-1910

ATTEST:
[Signature]
RANDI JOHL
City Clerk

Telephone: (209)333-6700
Facsimile: (209)333-6807

STATE OF CALIFORNIA
Department of Community Services and Development

By: [Signature] 07.16.2012
Authorized Signature Date Signed

Jean Johnson, Deputy Director of Administrative Services
Printed Name and Title of Person Signing

Address: P.O. Box 1947
Sacramento, California 95812-1947
Telephone: (916) 576-7109
Facsimile: (916) 263-1406

RECEIVED
CONTRACT SERVICES UNIT
2012 JUL 13 PM 2:57

Exhibit A
(Standard Agreement)

SCOPE OF WORK

1. The purpose of this Agreement between the Department of Community Services and Development, hereinafter referred to as CSD or the Department, and the City of Lodi, hereinafter referred to as Contractor, is for the purpose of making direct credit to the accounts of low-income energy customers of the Contractor that are identified by CSD as payment recipients under CSD's Low-Income Home Energy Assistance Program (LIHEAP), which includes the Home Energy Assistance Program (HEAP) and Energy Crisis Intervention Program – Fast Track (ECIP-FT).

2. LOCATION WHERE SERVICES ARE TO BE PROVIDED

Unless specified in writing, in advance, by CSD, the location of all services to be provided by CSD under this Agreement will be at:

Department of Community Services and Development
Program Services and Support Unit
2389 Gateway Oaks Way, Suite 100
Sacramento, California 95833

3. ADDRESSES

All notices to the parties shall, unless otherwise requested in writing, be sent to Contractor's address as follows:

Name and Title: Jordan Ayers, Deputy City Manager/Internal Services Director

Company name: City of Lodi

Address: P.O. Box 3006

City, State and Zip Code: Lodi, CA 95241-1910

or by facsimile to (209) 333 - 6807

and to CSD's address as follows:

Kathy Andry, Senior Manager
Department of Community Services and Development
P.O. Box 1947
Sacramento, CA 95812-1947
Or by facsimile to (916) 263-1651

EXHIBIT B
(Standard Agreement)

BUDGET DETAIL AND PAYMENT PROVISIONS

1. PAYMENT

Contractor will not receive any direct financial consideration under this Agreement.

2. CSD'S PROJECT COORDINATOR

The Manager of the Energy and Environmental Services is designated as the Department's Project Coordinator. The Department may, at any time, designate a substitute Project Coordinator.

3. CONTRACTOR'S PROJECT COORDINATOR

Ruby Paiste, Internal Services Manager is designated as the Contractor's Project Coordinator. The Project Coordinator can be reached at (209)333-6800 ext.2591. The Contractor may, at any time, designate a substitute Project Coordinator. Notification to CSD of any change in the Project Coordinator will be made in writing and will not require an amendment to this Agreement.

4. BUDGET CONTINGENCY CLAUSE

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, CSD shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the State of California Budget Act for purposes of this program, CSD shall have the option to either cancel this Agreement with no liability occurring to CSD, or offer an agreement amendment to Contractor to reflect the reduced amount.

EXHIBIT B
(Standard Agreement)

- C. Notwithstanding the language in Sections 4.A. or 4.B. above, if CSD believes that funds will be insufficient to allow the State to make LIHEAP payments to Contractor i.e., for the reasons described in Section 4.A. or 4.B. above, then CSD shall promptly notify Contractor's Project Coordinator. CSD and the Contractor's Project Coordinator shall attempt to amend this Agreement so the LIHEAP payments can continue to the extent possible given the nature of the shortage or unavailability of funding for LIHEAP. The parties agree that it is undesirable to terminate this Agreement for any short-term unavailability of LIHEAP funds and that it would be preferable, if Federal funds are not available for LIHEAP, to suspend LIHEAP until CSD is able to obtain sufficient funding to resume credits to qualified low-income energy customers, as provided for under LIHEAP.

5. PROVISIONS FOR FEDERALLY FUNDED CONTRACTS

- A. It is mutually understood between the parties that this Agreement may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.
- B. This contract is valid and enforceable only if sufficient funds are made available to CSD by the United States Government for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this Agreement in any manner.
- C. The parties mutually agree that if Congress does not appropriate sufficient funds for LIHEAP, this Agreement shall be amended to reflect any reduction in funds.
- D. CSD has the option to void the Agreement under the 30-day cancellation clause or to amend the Agreement to reflect any reduction for funds.
- E. CSD will notify Contractor's Project Coordinator if federal funds are insufficient for LIHEAP to continue as expected during the next fiscal year or if restrictions, limitations or conditions have been imposed by Congress on the LIHEAP or funding for it as soon as the Federal grant award letter has been issued with some constraint. CSD further agrees that Contractor's willingness to suspend the LIHEAP, as described herein and in Section 5.C. above, does not constitute an agreement by Contractor that: (i) funding for LIHEAP is unimportant or (ii) a delay in crediting a customer with LIHEAP funds is acceptable, to either Contractor or its customers.

EXHIBIT C
(Standard Agreement)

GENERAL TERMS AND CONDITIONS – GTC 610

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

EXHIBIT C
(Standard Agreement)

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

EXHIBIT C
(Standard Agreement)

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

EXHIBIT C
(Standard Agreement)

b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

a. If for this Contract Contractor made a commitment to achieve small business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)

b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code (PCC 10344(e)).

EXHIBIT D
(Standard Agreement)

SPECIAL TERMS AND CONDITIONS

1. **CANCELLATION**

Either party may terminate this Agreement by giving thirty (30) days prior written notice to the other party.

2. **SUBCONTRACTS**

No subcontracts shall be permitted under this Agreement; therefore, references to subcontractors or subcontracts as part of standard provisions that have been included herein shall have no applicability.

3. **CERTIFICATION**

Contractor's signature affixed hereon shall constitute a certification that to the best of its ability and knowledge it will, unless exempted, comply with the provisions set forth in the following: Information Integrity and Security (Department of Finance, Budget Letter 04-35).

4. **LABOR CODE/WORKERS' COMPENSATION**

Both parties agree that they are aware of the provisions that require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions, and CSD affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

5. **RESOLUTION**

Contractor must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body that by law has authority to enter into an agreement, authorizing execution of the agreement.

6. **COMPLIANCE WITH LAWS AND TAX WITHHOLDING**

- A. CSD shall comply with all applicable Federal, State, and local laws, rules, and regulations and shall obtain all permits required to conduct its business and perform the work called for in this Agreement, if applicable.
- B. CSD represents and warrants that it will withhold all taxes, if any, which are required to be withheld under applicable laws with respect to CSD personnel who perform services for the Contractor. CSD shall indemnify and hold the Contractor harmless, on an after-tax basis, for any liability incurred by the Contractor as a result of CSD's failure to institute any such required withholding.

EXHIBIT E
(Standard Agreement)

ADDITIONAL PROVISIONS

1. INDEPENDENT CONTRACTOR

CSD, and the agents and employees of CSD, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of Contractor.

2. DELEGATION OF CSD'S DUTIES

This Agreement is not assignable by CSD, either in whole or in part, without the consent of Contractor in the form of a formal written amendment. CSD shall not employ other consultants or contractors to provide key data entry, document perfection, and/or any other services under this Agreement without the prior written approval of Contractor, nor shall the duties of CSD, under this Agreement, be delegated without prior written approval of Contractor. Unless otherwise expressly agreed upon by Contractor, CSD shall remain responsible for the quality and timeliness of performance notwithstanding any delegation.

3. CONFLICT OF INTEREST/BUSINESS ETHICS

CSD shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with Contractor's interest. During the term of this Agreement, CSD shall not accept any employment or engage in any consulting work that creates a conflict of interest with Contractor or in any way compromises the services to be performed under this Agreement. All financial statements, reports, billings, and other documents rendered shall properly reflect the facts about all activities and transactions handled for the account of Contractor.

4. WARRANTY

CSD warrants to Contractor that the work under this Agreement shall be performed with the degree of skill and care that is required by current, good, and sound professional procedures and practices and in conformance with generally accepted professional standards prevailing at the time the work is performed, so as to ensure that the services performed are correct and appropriate for the purposes contemplated in this Agreement and related specifications.

EXHIBIT E
(Standard Agreement)

5. CONFIDENTIALITY

- A. In the course of performing the services under this Agreement, CSD may have access to confidential, commercial, or personal information concerning, but not limited to, technology, rate making, legislative, and personnel matters and practices of the Contractor, its subsidiaries, affiliates, or members of the public. CSD agrees not to disclose any such information without the prior written approval of Contractor.
- B. Contractor hereby agrees to provide required security to insure the confidential, physical security and safekeeping of all data, information, files, and documents while in its possession. Through the observance of the same or more effective procedural requirements as used by CSD, Contractor will protect from unauthorized use and disclosure all sensitive data, documentation, or other information that are designated confidential by CSD and made available to Contractor in order to carry out this Agreement. CSD shall provide to Contractor in writing the identification of all such confidential data and information, as well as CSD procedural requirements for protection of such data and information from unauthorized use and disclosure.
- C. Any representation herein made by CSD relating to confidentiality or the operations, limitations, and requirements for the furnishing of personnel records, as set forth in EXHIBIT E, ADDITIONAL PROVISIONS, Section 6., CSD's Use of Contractor's Property, below shall be subject to the Information Practices Act of 1977, Section 1798 et seq. of the California Civil Code, and the California Public Records Act, Section 6250 et seq. of the California Government Code.

6. CSD'S USE OF CONTRACTOR'S PROPERTY

All records, reports, computer programs, written procedures, and similar materials, documents, or data, in whatever form provided by Contractor for CSD's use in performance of services under this Agreement shall remain the confidential property of Contractor and shall be returned to Contractor immediately upon completion of CSD's use or upon written request of Contractor.

7. NONWAIVER

The waiver by either party of any breach of any term, covenant, or condition contained in this Agreement, or any default in the performance of any obligations under this Agreement, shall not be deemed to be a waiver of any other breach or default of the same or any other term, covenant, condition, or obligation; nor shall any waiver of any incident of breach or default constitute a continuing waiver of the same. All waivers shall be in writing.

EXHIBIT E
(Standard Agreement)

8. INCIDENTAL AND CONSEQUENTIAL DAMAGES

Contractor shall not be liable for incidental or consequential damages including but not limited to loss of profits, commitments to subcontractors, rental or lease agreement(s), and personal services contracts, unless expressly authorized in writing by Contractor.

9. INSURANCE

CSD is a self-insured entity. If said coverage no longer prevails, CSD will notify Contractor within thirty (30) days of said coverage expiration.

10. CAPTIONS

The captions of the various sections, paragraphs, and subparagraphs are for convenience only and shall not be considered or referred to in resolving questions of interpretations.

11. VENUE

In the event that suit shall be brought by either party to this Agreement, the parties agree that venue shall be exclusive vested in the State Courts of the County of Sacramento, or where otherwise appropriate, exclusively in the United States District Court for the Eastern District of California in Sacramento, California.

12. OTHER AGREEMENTS

This Agreement shall not prevent either party from entering into similar agreements with others.

13. DISPUTE RESOLUTION

- A. Unless otherwise mutually agreed to, any disputes between CSD and Contractor regarding the construction or application of this Agreement and claims arising out of this Agreement or its breach shall be submitted to mediation within thirty (30) calendar days of the written request of one party after the service of that request on the other party.

EXHIBIT E
(Standard Agreement)

- B. The parties shall make best efforts to settle all disputes arising under this Agreement as a matter of normal business and without recourse to either mediation or litigation. If the parties are unable to resolve a dispute with respect to this Agreement, either party may send a notice to the other requesting a meeting at which senior officers or officials of the parties will attempt to resolve the dispute. If the parties are unable to resolve the dispute within ten (10) days after the meeting notice is received by the party to whom it is directed, or such longer period as the parties may agree, then either party may initiate mediation as set forth herein.
- C. Mediation under this section is a condition precedent to filing an action in any court. In the event of litigation that arises out of any dispute related to this Agreement, the parties shall each pay their respective attorney's fees, expert witness costs, and cost of suit, regardless of the outcome the litigation.

14. FEDERAL EQUAL OPPORTUNITY LAWS

During the performance of this Agreement, and to the extent they may be applicable to this Agreement, CSD agrees to comply with the following:

- A. Federal Executive Order 11246, as amended by Executive Order 11375 relating to equal employment opportunity;
- B. Title VI and Title VII of the Civil Rights Act of 1964; as amended;
- C. Rehabilitation Act of 1973, as amended;
- D. Vietnam Era Veterans Readjustment Assistance Act of 1972, as amended;
- E. Title 41, Code of Federal Regulations (CFR), Chapter 60, Office of Federal Contract Compliance Program, Equal Employment Opportunity, Department of Labor, as amended; and
- F. Public Law 101-336, Americans with Disability Act of 1990, as amended.

EXHIBIT F
(Standard Agreement)

PROGRAMMATIC PROVISIONS

1. A. CSD will process applications and make a determination of applicant's eligibility for assistance based upon pre-established criteria pursuant to the LIHEAP. CSD will provide the Contractor with a disk which lists applicants determined eligible for assistance and the amount of assistance as shown on Attachment 2. Payment, in the form of a State of California warrant, and Direct Payment Summary (Attachment 3), shall accompany the disk, and shall represent the sum total of benefits contained on said transmittal.
- B. Contractor will process payments contained on aforementioned disk in accordance with the provisions of the enclosed LIHEAP Direct Payment Instructions (Attachment 1).
- C. Contractor will provide notification of LIHEAP payment to each customer for whom a credit is made. The wording of said notification must contain the words "LIHEAP credit."
- D. The Contractor shall attempt to credit the accounts of qualified low-income customers by the subsequent billing cycle following the receipt of the transmittal and State of California warrant.
- E.
 - 1) Contractor is responsible for completing and returning to CSD, the Direct Payment Summary that accompanies each transmittal, within ten (10) working days of processing and handling the batch run of eligible low-income utility customers receiving LIHEAP assistance. Contractor shall complete the Direct Payment Summary by indicating: a) the total number of customer accounts where the Contractor was successful in crediting full amount of eligible LIHEAP benefit; b) the customer accounts where the Contractor was only able to credit a partial amount of the eligible LIHEAP benefit, also referred to as Partial Payment Return; and c) the customer accounts where the Contractor was unable to credit any of the eligible LIHEAP assistance amount, also referred to as Full Payment Return.
 - 2) Contractor shall return any undeliverable LIHEAP benefits to CSD during the course of this Agreement.

2. **DISBURSEMENTS**

Funds provided under this Agreement shall be disbursed and applicant accounts credited in accordance with the provisions of the LIHEAP Direct Payment Instructions.

EXHIBIT F
(Standard Agreement)

3. ASSURANCES

- A. Contractor shall charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the payment amount made by the Department. The actual costs of the home energy shall be consistent with applicable utility company tariffs as approved by the CPUC, if applicable.
- B. Contractor assures that no household receiving assistance under this process will be treated adversely because of such assistance under applicable provisions of State Law regarding public regulatory requirements.

4. REPORTS

Reports required under this Agreement are detailed in the LIHEAP Direct Payment Instructions and the attachments thereto.

ATTACHMENTS

Direct Payment

LIHEAP Direct Payment Instructions and Samples

- **Attachment 1 – Direct Payment Instructions**
- **Attachment 2 – Sample Printout**
- **Attachment 3 – HEAP Direct Payment Summary**
- **Attachment 4 – Utility Direct Pay File Format**

ATTACHMENT 1

LIHEAP DIRECT PAYMENT INSTRUCTIONS

HOW TO MAKE A MATCH

OPEN ACCOUNTS: If an applicant's utility account is open at the time a LIHEAP payment is received, the full amount of the payment can be applied even if it creates a credit to the account.

It is incumbent upon your company to match payments to the correct account and customer of record to which the LIHEAP applicant has directed the benefit. For this purpose, both the "Customer of Record" and last name of the LIHEAP applicant, "Applicant Last Name" has been provided, as well as an account number and service address.

CLOSED ACCOUNTS: If, at the time the LIHEAP benefit is to be applied, and the applicant's reported utility account is closed, you must select and complete one of the three options below:

- 1.) A match can be made with an applicant's new account within the same utility company.
- 2.) If the account is CLOSED with an outstanding balance owed, a partial payment can be made and the difference refunded to CSD with a notation on your printout.
- 3.) If the account is CLOSED with no outstanding balance, the total amount of LIHEAP benefit should be returned to CSD with a notation on your printout.

HOW TO NOTIFY CSD OF PARTIALS AND/OR NON-MATCHES

1.) **PRINTOUTS:**

- Using the disk that was provided with the LIHEAP payment, print the page upon which the LIHEAP applicant's name appears.
- Circle the name of the customer of record to whose account the partial payment was applied (See Attachment 2).
- Note beside the LIHEAP payment the amount that is being returned to CSD (the difference between the CSD payment and the returned amount is the amount which was credited to the customer of record). If there is a 100% refund to CSD, note the total LIHEAP payment amount.

**July 1, 2012-September 30, 2014
Direct Payment Agreement**

- Provide an adding machine tape listing the total amount of money to be refunded to CSD. The tape should include both the individual amounts, as well as a total.
- Return the LIHEAP DIRECT PAYMENT SUMMARY SHEET, which accompanies each run of selected payment records, with the number of partials and/or non-matches (See Attachment 3).
- Attach a check made payable to CSD and return your printout (with partials/non-matches information), adding machine tape, and summary page to:

The Department of Community Services and Development
Energy and Environmental Services
P.O. Box 1947
Sacramento, CA 95812-1947

2.) Compact Disk (CD)/File Transfer Protocol (FTP)

- If you expect to return the "partial or non-match" information to CSD by CD or File Transfer Protocol (FTP), refer to Attachment 4 for more specific instructions on how to code the record.

WHAT IF ALL RECORDS ARE MATCHES

If you find that all records on a specific run are matches to your client database, you need to notify CSD on the LIHEAP Direct Payment Summary. In the case of a 100% match, the figure in the "Run \$ Total" column would be the same amount as the amount in the "Total \$ Match" column (Attachment 3).

ATTACHMENT 2

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT
2012 HOME ENERGY ASSISTANCE PROGRAM
(Federally Funded Programs)

DATE: 07/01/2012

UTILITY COMPANY NAME
Pay Run on 07/01/2012

ACCOUNT NUMBER	PAY AMT	CUSTOMER OF RECORD	SERVICE ADDRESS	APPLICANT LAST NAME	DLN
4257809602625000003301	\$236.00	BETTY CASTRO	2625 S MAIN ST LOS ANGELES, CA 95678	CASTRO	1204105000000004
1099766500156000000401	\$297.00	FRED JONES	156 W 82 ST LOS ANGELES, CA 90003	JONES	1206307000000026

GRAND TOTAL: \$530.00

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT

P.O. Box 1947
 Sacramento, CA 95812-1947
 (916) 576-7109
 (916) 263-1651 (FAX)
 (916) 263-1402 (TDD)



July 1, 2012-September 30, 2014
Direct Payment Agreement

ATTACHMENT 3

2012 LIHEAP DIRECT PAYMENT SUMMARY

PLEASE COMPLETE FOR EACH DIRECT PAYMENT BATCH

CSD RUN DATE (THIS DATE IS ON THE TOP LEFT HAND CORNER OF THE PRINT-OUTS)	(A) TOTAL DOLLAR AMOUNT FROM CSD (THIS IS THE CHECK AMOUNT THAT WAS SENT WITH THIS RUN DATE NOTE: THIS AMOUNT SHOULD MATCH THE PRINT-OUT)	(B) TOTAL DOLLAR AMOUNT BEING RETURNED CSD (ENTER THE AMOUNT OF THE CHECK THAT WILL BE RETURNED TO CSD WITH THIS FORM)	(C) TOTAL NUMBER OF RECORDS BEING RETURNED TO CSD (ENTER THE NUMBER OF RECORDS THAT WILL BE RETURNED TO CSD WITH THIS FORM)	(D) TOTAL DOLLARS THAT MATCHED (THIS IS THE AMOUNT THAT YOU STARTED WITH, MINUS ANY RETURN DOLLARS, EQUALS TOTAL DOLLARS MATCHED A-B=D)
07/01/2012				

COMPLETED BY: _____ PHONE: _____

UTILITY COMPANY: _____ DATE: _____

PLEASE RETURN THIS SUMMARY SHEET WITH PRINT-OUTS AND CHECK (FOR NON-MATCHES) NO LATER THAN 10 DAYS FOLLOWING RECEIPT FROM CSD

PLEASE RETURN SUMMARY SHEET TO: **Barbara Ramos, ENERGY SERVICES
 HOME ENERGY ASSISTANCE PROGRAM
 P. O. BOX 1947
 SACRAMENTO, CA 95812-1947**

**IF YOU HAVE ANY QUESTION PLEASE CONTACT
 Barbara Ramos (916) 576-7162**

CSD USE ONLY

CHECK NUMBER		DATE RECEIVED SUMMARY		DATE SENT TO ITS	
\$ AMOUNT RETURNED					

ATTACHMENT 4 Utility Direct Pay File Format

July 1, 2012-September 30, 2014
Direct Payment Agreement

Header Record					
Data Field	Length	Justification	Domain	Comment	Source
Header Identification Code	5	left	00HDR	First five characters of first line of all data files	constant
System Date	8	left	YYYYMMDD	Date file produced	system
System Time	6	left	HHMMSS	Time file produced	system
Utility Initials	5	left	XXXXX	PGE, SOCG etc.	u.utility_initials
Filler	259	left	spaces	pad to fixed record length *	calculated
Detail Record					
Data Field	Length	Justification	Domain	Comment	Source
Record Number	5	left	NNNNN	0001-NNNN	calculated
Utility Account Number	30	left	Utility specific	Complete current account number, without punctuation, including check digits (if used)-left-justify, force to upper-case, pad with trailing spaces	ap.account_no
Payment Amount	8	right	NNNNN.NN		p.paid_amount
Energy Bill Address Line 1	44	left			ae.bill_address_1
Energy Bill Address Line 2	18	left			ae.bill_address_2
Energy Bill Address City	30	left			ae.bill_city
Energy Bill Address State	2	left	XX		ae.bill_state_code
Energy Bill Address Zip	9	left	NNNNN(NNNNN)		ae.bill_zip_code
Bill First Name	20	left			ap.bill_first_name
Bill Last Name	30	left			ap.bill_last_name
Bill Middle Initial	1	left			ap.bill_middle_initial
Applicant First Name	20	left			a.first_name
Applicant Last Name	30	left			a.last_name
Applicant SSN	9	left	NNNNNNNNN	Applicant Social Security Number	a.ssn
App SLN	12	left	N(NNNNNNNNNN)	System Locator Number - left justified, padded with spaces	app.sln
App DLN	15	left	NNNNNNNNNNNNNNN	Document Locator Number - left justified, padded with spaces	app.dln
Footer Record					
Data Field	Length	Justification	Domain	Comment	Source
Footer Identification Code	5	left	99EOF	First five characters of footer	constant
Record Count	5	right	NNNNN	Total number of detail records	calculated
Payment Amount Total	12	right	NNNNNNNNN.NN	Payment amount total	calculated
Filler	261	left	spaces	pad to fixed record length *	calculated
Notes					
* Fixed record length: 283 characters + Carriage Return + Line Feed					
Source column table abbreviation key:					
a=applicant					
ap=app_program					
ae=app_energy					
p=app_program_payment					
u=utility					
(rev. 11/2/2001)					

DEPARTMENT OF COMMUNITY SERVICES AND DEVELOPMENT
P.O. Box 1947
Sacramento, CA 95812-1947
(916) 576-7109
(916) 263-1406 (FAX)
(916) 263-1402 (TDD)



May 14, 2012

To: All Direct Payment Program Participants:

July 1, 2012-September 30, 2014 Direct Payment Program Agreement

Attached, is the agreement referenced above for your approval and signature. In order to expedite the execution of your Agreement packet, please print two copies, observe the following instructions, and feel free to use this letter as a checklist:

- Please review your contract carefully as there are a few minor changes.
- Contractors must submit the Standard 204 attached. The following links may be used to access these forms or you may access on our CSD website.
<http://www.documents.dgs.ca.gov/osp/pdf/STD204.pdf>
- Print or type the name and title of the person authorized to sign the Agreement on both copies.
- Have your authorized representative sign both copies of the Agreement. Your authorized representative is the person who has your governing board's authorization to execute Agreements on behalf of your company.
- The Agreement shall be accompanied by a copy of the resolution, order motion, or ordinance of the local governing body, which by law has authority to enter into the proposed contract, authorizing the execution of the agreement.
- The Agreement must remain unchanged; CSD is not able to process Agreements that have been changed by a company. If you see the need to make changes to the Agreement, please contact your **Program Analyst, Mary Rhine** at (916) 576-7186, who will arrange for Contract Services Unit to immediately mail your company a corrected Agreement. Do not use correction fluid or tape. If a correction to any page is necessary, please contact your Program Analyst.
- Do not staple anything to the Agreement such as a transmittal letter or board resolution. You may place documents in front of or behind the Agreement packet.
- Return the Agreement package to CSD's Contract Services Unit within 30 days of the date of this letter. If you are unable do so, please contact your Program Analyst. Once it is fully executed, Contracts Services Unit will send your company one copy of the executed Agreement for your files.

If you have any questions regarding the Agreement process, you may contact Abigail Churchill of my staff at (916) 576-5316.

Sincerely,

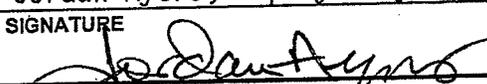
A handwritten signature in black ink, appearing to read "Kimberley Petz", with a long horizontal flourish extending to the right.

Kimberley Petz
Manager, Contract Services Unit
KP:ac



Enclosure

PAYEE DATA RECORD(Required when receiving payment from the State of California in lieu of IRS W-9)
STD. 204 (Rev. 6-2003)

1	INSTRUCTIONS: Complete all information on this form. Sign, date, and return to the State agency (department/office) address shown at the bottom of this page. Prompt return of this fully completed form will prevent delays when processing payments. Information provided in this form will be used by State agencies to prepare Information Returns (1099). See reverse side for more information and Privacy Statement. NOTE: Governmental entities, federal, State, and local (including school districts), are not required to submit this form.		
2	PAYEE'S LEGAL BUSINESS NAME (Type or Print) City of Lodi SOLE PROPRIETOR - ENTER NAME AS SHOWN ON SSN (Last, First, M.I.) _____ E-MAIL ADDRESS _____ MAILING ADDRESS P.O. Box 3006 BUSINESS ADDRESS 221 W. Pine St. CITY, STATE, ZIP CODE Lodi, CA 95241-1910 CITY, STATE, ZIP CODE Lodi, CA 95241-1910		
3	PAYEE ENTITY TYPE <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> ESTATE OR TRUST <input type="checkbox"/> INDIVIDUAL OR SOLE PROPRIETOR CHECK ONE BOX ONLY	ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN): 9 4 - 6 0 0 0 3 6 1 CORPORATION: <input type="checkbox"/> MEDICAL (e.g., dentistry, psychotherapy, chiropractic, etc.) <input type="checkbox"/> LEGAL (e.g., attorney services) <input type="checkbox"/> EXEMPT (nonprofit) <input checked="" type="checkbox"/> ALL OTHERS Municipal Corporation ENTER SOCIAL SECURITY NUMBER: _____ <small>(SSN required by authority of California Revenue and Tax Code Section 18646)</small>	NOTE: Payment will not be processed without an accompanying taxpayer I.D. number.
4	PAYEE RESIDENCY STATUS <input checked="" type="checkbox"/> California resident - Qualified to do business in California or maintains a permanent place of business in California. <input type="checkbox"/> California nonresident (see reverse side) - Payments to nonresidents for services may be subject to State income tax withholding. <input type="checkbox"/> No services performed in California. <input type="checkbox"/> Copy of Franchise Tax Board waiver of State withholding attached.		
5	I hereby certify under penalty of perjury that the information provided on this document is true and correct. Should my residency status change, I will promptly notify the State agency below.		
AUTHORIZED PAYEE REPRESENTATIVE'S NAME (Type or Print) Jordan Ayers, Deputy City Manager/Internal Services Director		TITLE Director	
SIGNATURE 		DATE 6/18/2012	TELEPHONE (209) 333-6700
6	Please return completed form to: Department/Office: Department of Community Services and Development Unit/Section: Contract Services Unit Mailing Address: P.O. Box 1947 City/State/Zip: Sacramento, California 95817-1947 Telephone: (916) _____ Fax: (916) _____ E-mail Address: _____		

PAYEE DATA RECORD

STD. 204 (Rev. 6-2003) (REVERSE)

1	<p><u>Requirement to Complete Payee Data Record, STD. 204</u></p> <p>A completed Payee Data Record, STD. 204, is required for payments to all non-governmental entities and will be kept on file at each State agency. Since each State agency with which you do business must have a separate STD. 204 on file, it is possible for a payee to receive this form from various State agencies.</p> <p>Payees who do not wish to complete the STD. 204 may elect to not do business with the State. If the payee does not complete the STD. 204 and the required payee data is not otherwise provided, payment may be reduced for federal backup withholding and nonresident State income tax withholding. Amounts reported on Information Returns (1099) are in accordance with the Internal Revenue Code and the California Revenue and Taxation Code.</p>								
2	<p>Enter the payee's legal business name. Sole proprietorships must also include the owner's full name. An individual must list his/her full name. The mailing address should be the address at which the payee chooses to receive correspondence. Do not enter payment address or lock box information here.</p>								
3	<p>Check the box that corresponds to the payee business type. Check only one box. Corporations must check the box that identifies the type of corporation. The State of California requires that all parties entering into business transactions that may lead to payment(s) from the State provide their Taxpayer Identification Number (TIN). The TIN is required by the California Revenue and Taxation Code Section 18646 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the Internal Revenue Code Section 6109(a).</p> <p>The TIN for individuals and sole proprietorships is the Social Security Number (SSN). Only partnerships, estates, trusts, and corporations will enter their Federal Employer Identification Number (FEIN).</p>								
4	<p><u>Are you a California resident or nonresident?</u></p> <p>A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California.</p> <p>A partnership is considered a resident partnership if it has a permanent place of business in California. An estate is a resident if the decedent was a California resident at time of death. A trust is a resident if at least one trustee is a California resident.</p> <p>For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.</p> <p>Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for State income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.</p> <p>For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below:</p> <table border="0" data-bbox="154 1333 1380 1417"> <tr> <td>Withholding Services and Compliance Section:</td> <td>1-888-792-4900</td> <td>E-mail address:</td> <td>wscs.gen@ftb.ca.gov</td> </tr> <tr> <td>For hearing impaired with TDD, call:</td> <td>1-800-822-6268</td> <td>Website:</td> <td>www.ftb.ca.gov</td> </tr> </table>	Withholding Services and Compliance Section:	1-888-792-4900	E-mail address:	wscs.gen@ftb.ca.gov	For hearing impaired with TDD, call:	1-800-822-6268	Website:	www.ftb.ca.gov
Withholding Services and Compliance Section:	1-888-792-4900	E-mail address:	wscs.gen@ftb.ca.gov						
For hearing impaired with TDD, call:	1-800-822-6268	Website:	www.ftb.ca.gov						
5	<p>Provide the name, title, signature, and telephone number of the individual completing this form. Provide the date the form was completed.</p>								
6	<p>This section must be completed by the State agency requesting the STD. 204.</p>								
	<p><u>Privacy Statement</u></p> <p>Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, State, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.</p> <p>It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and State law imposes noncompliance penalties of up to \$20,000.</p> <p>You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the State agency(ies) with which you transact that business.</p> <p>All questions should be referred to the requesting State agency listed on the bottom front of this form.</p>								

RESOLUTION NO. 2012-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO EXECUTE
DIRECT PAYMENT PROGRAM AGREEMENT WITH THE
STATE OF CALIFORNIA DEPARTMENT OF
COMMUNITY SERVICES AND DEVELOPMENT

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute the Direct Payment Program Agreement with the State of California Department of Community Services and Development for the Low-Income Home Energy Assistance Program; and

BE IT FURTHER RESOLVED that the term of this Agreement will be in effect from July 1, 2012 through September 30, 2014.

Dated: October 17, 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 October 17, 2012, by the following vote:

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

RANDI JOHL
City Clerk



**CITY OF LODI
COUNCIL COMMUNICATION**

TM

AGENDA TITLE: Accept Improvements Under Contract for City of Lodi Facility Painting Project
MEETING DATE: October 17, 2012
PREPARED BY: Public Works Director

RECOMMENDED ACTION: Accept improvements under contract for City of Lodi facility painting project.

BACKGROUND INFORMATION: The project was awarded to OnPoint Construction, of Millbrae, on January 18, 2012, in the amount of \$53,140. The contract has been completed in substantial conformance with the plans and specifications approved by City Council.

The project consisted of various painting needs and some minor repair work at various City facilities, including the exterior painting of the Electric Utility Department Administration and Water/Wastewater Utility office trailers; the under ceiling, rafters and fascia board of the equipment bays located at the Municipal Service Center; exterior doors at the Transit shop facility; exterior fascia board, lattice work, and minor repairs and patch painting at Fire Station No. 4; exterior metal top cap, downspout, and ornamental fascia woodwork at the Carnegie Forum; and exterior painting of stucco walls and handrails of City Hall; and the top flashing, doors, gutters and downspouts of the City Hall carport.

The contract completion date was May 2, 2012, and the actual completion date was September 25, 2012. The contract scope was expanded at the City's request in order to perform additional interior painting at the Electric Utility Department Administration office trailer, Fire Station No. 3 and Transit shop facility and to perform repairs to the City Hall basement resulting from moisture damage. The final contract price was \$67,860. The difference between the contract amount and the final contract price is due to the additional work outlined above.

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 notify vendors and subcontractors that the project is complete and begins their 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: This maintenance project will reduce the need for more costly repairs in the future.

FUNDING AVAILABLE: This project utilized funds from the following accounts: Electric Utility Administration, Water Operating, Wastewater Operating, Streets Fund, Building Maintenance, General Fund Capital, and Transit Facilities.

 F. Wally Sandelin
 Public Works Director

Prepared by Charles E. Swimley, Jr., City Engineer/Deputy Public Works Director
 FWS/CES/pmf

cc: Elizabeth Kirkley, Electric Utility Director
 John Munoz, Facilities Supervisor

APPROVED: _____
 Konradt Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving Impact Mitigation Fee Program Annual Report for Fiscal Year 2011/12

MEETING DATE: October 17, 2012

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution approving the Impact Mitigation Fee Program Annual Report for Fiscal Year 2011/12.

BACKGROUND INFORMATION: The City's Development Impact Mitigation Fee (IMF) program consists of eight separate fee categories/funds, plus the public art set-aside and the Regional Transportation Impact Fee. They are Water, Wastewater, Streets, Regional Transportation, Storm, Police, Fire, Parks and Recreation and General City Facilities. The fees can only be used for new capital improvements/ equipment needed to accommodate new growth. The fees were established in 1991 and updated this year.

In accordance with the State's annual reporting requirements, staff has prepared the following exhibits:

Exhibit A - A summary of the current and past fees, beginning and ending balances for each fee account, total fees collected, interest earned, and total expenditures from each account for FY 2011/12.

Exhibit B - A summary by account of public improvement projects on which fees were expended during FY 2011/12.

Revenue from some of the funds is being used to reimburse other funds for costs of past projects that were advanced ahead of the funds being available. These include a \$1.2 million loan from the Water IMF Fund to the Fire IMF Fund for construction of Fire Station No. 4. Additionally, the Water IMF Fund has a remaining loan due of \$50,000 plus interest from the Water Capital Fund that will be repaid this fiscal year if fund balance allows and the General City Facilities IMF Fund has a loan due of \$55,000 to Storm IMF Fund for the Impact Fee Program Update.

Per State law, this information needs to be available to the public at least 15 days prior to review by the City Council. This information has been posted on the City's website and media, such as the *Lodi News Sentinel* and the *Stockton Record*, have been notified of the report's availability.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

F. Wally Sandelin
Public Works Director

Prepared by Rebecca Areida-Yadav, Management Analyst
Attachments

APPROVED: _____
Konradt Bartlam, City Manager

	A	B	C	D	E	F	G	H	I	J	K
1	EXHIBIT A										
2	IMPACT MITIGATION FEE PROGRAM										
3	FY 2011/12 Annual Report										
4											
5											
6	Fee:	Wastewater	Water	Storm Drain	Streets	Regional Transp	Police	Fire	Parks & Rec	General Facilities	Art in PP
7	Fund # :	173	182	175	332	338	1215	1216	1217	1218	1214
8											
9	Fee Amount 7/1/11 - 12/31/11 (1)	5,938	5,584	20,422	15,887	2,987	2,196	2,145	30,841	8,866	2%
10	Fee Amount 1/1/12 - 6/30/12 (1)	6,140	5,721	20,924	16,277	2,987	2,249	2,198	31,599	9,084	2%
11											
12	Fund Balance - Beginning of Year	2,101,645.79	1,073,852.29	2,229,571.52	33,435.45	443,242.88	398,988.64	(1,255,910.94)	622,645.46	(55,397.10)	167,345.23
13											
14	Revenues:										
15	Investment Revenues	9,400.12	(543.76)	466.38	249.43	1,017.36	1,377.49	(63.62)	1,888.09	410.24	766.32
16	Impact Mitigation Fees	146,418.04	111,428.71	74,560.47	377,912.20	147,976.15	101,973.11	67,438.31	28,899.14	56,499.92	15,678.48
17	Other Revenue										
18											
19	Total Revenue	155,818.16	110,884.95	75,026.85	378,161.63	148,993.51	103,350.60	67,374.69	30,787.23	56,910.16	16,444.80
20											
21											
22	Expenditures:										
23	Capital Projects	(7,903.29)	(29,973.67)	(1,565,335.56)	(80,979.86)	(195,780.49)	(23,782.04)	(20,475.00)	(134,561.46)	(73,106.33)	(1,364.80)
24											
25	Total Expenditures	(7,903.29)	(29,973.67)	(1,565,335.56)	(80,979.86)	(195,780.49)	(23,782.04)	(20,475.00)	(134,561.46)	(73,106.33)	(1,364.80)
26											
27											
28	Other Sources (Uses):										
29	Operating Transfers In										
30	Operating Transfers Out	(1,571,979.98)			(26,378.29)		(478,000.00)				
31											
32	Total Other Sources (Uses)	(1,571,979.98)	0.00	0.00	(26,378.29)	0.00	(478,000.00)	0.00	0.00	0.00	0.00
33											
34											
35	Total Fund Balance - End of Year	\$677,580.68	\$ 1,154,763.57	\$739,262.81	\$304,238.93	396,455.90	\$557.20	(\$1,209,011.25)	\$518,871.23	(\$71,593.27)	\$182,425.23
36	Change in Receivables/Payables (2)	(17,249.51)	574.29	2,995.06							(155.46)
37	Interfund Loans		(1,157,973.84)	(55,000.00)				1,209,024.89		55,000.00	
38	Cash Balance - End of Year	\$660,331.17	\$ (2,635.98)	\$687,257.87	\$304,238.93	\$396,455.90	\$557.20	\$13.64	\$518,871.23	(\$16,593.27)	\$182,269.77
39											
40		(1) Fees listed are per acre for one Residential Acre Equivalent (RAE). Each land use									
41		presents a different demand for services that are reflected in RAE adjustment factors per LMC 15.64.070.									
42		RTIF fee listed is for one residential single family dwelling unit equivalent.									
43		Wastewater fees listed are per dwelling unit equivalent									
44											
45		(2) Difference between investments and accounts/retainages payable									

Cell: B30

Comment: Wastwater COP Debt Service - Future Users Portion.

Cell: E30

Comment: Transfer of funds from IMF Streets fund to street fund (320) for street facilities constructed before 1991 with capacity to serve new development.

Cell: G30

Comment: Transfer to General Fund for repayment of debt service on the Public Safety Building.

Cell: C37

Comment: Loan to Fire IMF for Fire Station #4 project (\$1,209,024.89) and a loan from Water Capital for Well 27 (\$51,051.05).

Cell: D37

Comment: Loan to General City Facilities IMF for the IMF update

Cell: H37

Comment: Loan from Water IMF for Fire Station #4 project.

Cell: J37

Comment: Loan from Storm IMF for the IMF update

EXHIBIT B
IMPACT MITIGATION FEE PROGRAM
SUMMARY OF PUBLIC IMPROVEMENT PROJECT EXPENDITURES
FY 2011/12

Account No.	Description	Wastewater 173	Water 182	Storm Drain 175	Streets 332	RTIF 338	Police 1215	Fire 1216	Parks & Rec 1217	General Facilities 1218	Art in Public PI 1214
173034	Impact Fee Update	12,647.75									
173005	G-Basin Pump Station	(4,744.46)									
182034	Impact Fee Update		9,340.71								
182463	Well #27		20,632.96								
175034	Impact Fee Update			69,424.90							
175061	G-Basin Storm Pump Station			1,467,327.91							
175040	Debenedetti Park Phase 1			28,582.75							
332034	Impace Fee Update				61,335.00						
332008	Harney Lane Widening				19,644.86						
338502	Harney Lane Interim Improvements					195,780.49					
1214014	Project Plaques										1,364.80
1215034	Impact Fee Update						23,782.04				
1216034	Impact Fee Update							20,475.00			
1217443	Roget Park								19,902.98		
1217743	Impact Fee Update								64,642.04		
1217040	Debenedetti Park Phase 1								50,016.44		
1218033	IMF Update									121.75	
1218034	Impact Fee Update								61,335.00		
1218050	General Plan								11,649.58		
Total		7,903.29	29,973.67	1,565,335.56	80,979.86	195,780.49	23,782.04	20,475.00	134,561.46	73,106.33	1,364.80

RESOLUTION NO. 2012-_____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING THE IMPACT MITIGATION FEE
PROGRAM ANNUAL REPORT FOR
FISCAL YEAR 2011-12

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby approves the Impact Mitigation Fee Program Annual Report for fiscal year 2011-12, as shown on Exhibits A and B attached and made a part of this Resolution.

Dated: October 17, 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 October 17, 2012, by the following vote:

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

RANDI JOHL
City Clerk

	A	B	C	D	E	F	G	H	I	J	K
1	EXHIBIT A										
2	IMPACT MITIGATION FEE PROGRAM										
3	FY 2011/12 Annual Report										
4											
5											
6	Fee:	Wastewater	Water	Storm Drain	Streets	Regional Transp	Police	Fire	Parks & Rec	General Facilities	Art in PP
7	Fund #:	173	182	175	332	338	1215	1216	1217	1218	1214
8											
9	Fee Amount 7/1/11 - 12/31/11 (1)	5,938	5,584	20,422	15,887	2,987	2,196	2,145	30,841	8,866	2%
10	Fee Amount 1/1/12 - 6/30/12 (1)	6,140	5,721	20,924	16,277	2,987	2,249	2,198	31,599	9,084	2%
11											
12	Fund Balance - Beginning of Year	2,101,645.79	1,073,852.29	2,229,571.52	33,435.45	443,242.88	398,988.64	(1,255,910.94)	622,645.46	(55,397.10)	167,345.23
13											
14	Revenues:										
15	Investment Revenues	9,400.12	(543.76)	466.38	249.43	1,017.36	1,377.49	(63.62)	1,888.09	410.24	766.32
16	Impact Mitigation Fees	146,418.04	111,428.71	74,560.47	377,912.20	147,976.15	101,973.11	67,438.31	28,899.14	56,499.92	15,678.48
17	Other Revenue										
18											
19	Total Revenue	155,818.16	110,884.95	75,026.85	378,161.63	148,993.51	103,350.60	67,374.69	30,787.23	56,910.16	16,444.80
20											
21											
22	Expenditures:										
23	Capital Projects	(7,903.29)	(29,973.67)	(1,565,335.56)	(80,979.86)	(195,780.49)	(23,782.04)	(20,475.00)	(134,561.46)	(73,106.33)	(1,364.80)
24											
25	Total Expenditures	(7,903.29)	(29,973.67)	(1,565,335.56)	(80,979.86)	(195,780.49)	(23,782.04)	(20,475.00)	(134,561.46)	(73,106.33)	(1,364.80)
26											
27											
28	Other Sources (Uses):										
29	Operating Transfers In										
30	Operating Transfers Out	(1,571,979.98)			(26,378.29)		(478,000.00)				
31											
32	Total Other Sources (Uses)	(1,571,979.98)	0.00	0.00	(26,378.29)	0.00	(478,000.00)	0.00	0.00	0.00	0.00
33											
34											
35	Total Fund Balance - End of Year	\$677,580.68	\$ 1,154,763.57	\$739,262.81	\$304,238.93	396,455.90	\$557.20	(\$1,209,011.25)	\$518,871.23	(\$71,593.27)	\$182,425.23
36	Change in Receivables/Payables (2)	(17,249.51)	574.29	2,995.06							(155.46)
37	Interfund Loans		(1,157,973.84)	(55,000.00)				1,209,024.89		55,000.00	
38	Cash Balance - End of Year	\$660,331.17	\$ (2,635.98)	\$687,257.87	\$304,238.93	\$396,455.90	\$557.20	\$13.64	\$518,871.23	(\$16,593.27)	\$182,269.77
39											
40		(1) Fees listed are per acre for one Residential Acre Equivalent (RAE). Each land use									
41		presents a different demand for services that are reflected in RAE adjustment factors per LMC 15.64.070.									
42		RTIF fee listed is for one residential single family dwelling unit equivalent.									
43		Wastewater fees listed are per dwelling unit equivalent									
44											
45		(2) Difference between investments and accounts/retainages payable									

Cell: B30

Comment: Wastwater COP Debt Service - Future Users Portion.

Cell: E30

Comment: Transfer of funds from IMF Streets fund to street fund (320) for street facilities constructed before 1991 with capacity to serve new development.

Cell: G30

Comment: Transfer to General Fund for repayment of debt service on the Public Safety Building.

Cell: C37

Comment: Loan to Fire IMF for Fire Station #4 project (\$1,209,024.89) and a loan from Water Capital for Well 27 (\$51,051.05).

Cell: D37

Comment: Loan to General City Facilities IMF for the IMF update

Cell: H37

Comment: Loan from Water IMF for Fire Station #4 project.

Cell: J37

Comment: Loan from Storm IMF for the IMF update

EXHIBIT B
IMPACT MITIGATION FEE PROGRAM
SUMMARY OF PUBLIC IMPROVEMENT PROJECT EXPENDITURES
FY 2011/12

Account No.	Description	Wastewater 173	Water 182	Storm Drain 175	Streets 332	RTIF 338	Police 1215	Fire 1216	Parks & Rec 1217	General Facilities 1218	Art in Public PI 1214
173034	Impact Fee Update	12,647.75									
173005	G-Basin Pump Station	(4,744.46)									
182034	Impact Fee Update		9,340.71								
182463	Well #27		20,632.96								
175034	Impact Fee Update			69,424.90							
175061	G-Basin Storm Pump Station			1,467,327.91							
175040	Debenedetti Park Phase 1			28,582.75							
332034	Impace Fee Update				61,335.00						
332008	Harney Lane Widening				19,644.86						
338502	Harney Lane Interim Improvements					195,780.49					
1214014	Project Plaques										1,364.80
1215034	Impact Fee Update						23,782.04				
1216034	Impact Fee Update							20,475.00			
1217443	Roget Park								19,902.98		
1217743	Impact Fee Update								64,642.04		
1217040	Debenedetti Park Phase 1								50,016.44		
1218033	IMF Update									121.75	
1218034	Impact Fee Update									61,335.00	
1218050	General Plan									11,649.58	
Total		7,903.29	29,973.67	1,565,335.56	80,979.86	195,780.49	23,782.04	20,475.00	134,561.46	73,106.33	1,364.80



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving Benefit Modifications for Council Members

MEETING DATE: October 17, 2012

PREPARED BY: Human Resources Manager

RECOMMENDED ACTION: Adopt resolution approving Benefit Modifications for Council Members.

BACKGROUND INFORMATION: The City recently negotiated modifications to its employees retirement and health care benefits which considerably reduce costs borne by the City. This communication reduces Council benefits to the same level as those negotiated by employees. Staff is recommending the following modifications be made to current and incoming Council Members salary and benefits effective the first pay period in which January 1, 2013 falls. The specific changes to Council benefits are:

- Council Members will begin paying 7 percent of the employee's share of retirement.
- Council Members medical premium will be capped at the January 1, 2012 rate for the lowest cost HMO.
- Council Members newly elected on or after November 6, 2012 will receive the reduced CalPERS retirement formula of 2 percent at 60 on January 1, 2013 or upon the date in which the City amends its retirement contract with CalPERS (whichever is later).

FISCAL IMPACT: It is estimated that the benefit modifications will save the City about \$5,800 over the next two calendar years.

FUNDING AVAILABLE: Necessary funding will be included in each fiscal year budget.

Jordan Ayers, Deputy City Manager/Internal Services Director

Dean Gualco, Human Resources Manager

APPROVED: _____
Konradt Bartlam, City Manager

RESOLUTION NO. 2012-_____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING BENEFIT MODIFICATIONS FOR
COUNCIL MEMBERS

=====

WHEREAS, City Council benefits shall be reduced to the same level as those negotiated by employees; and

WHEREAS, it is recommended that Council approve the following benefit modifications for Council Members:

- Council Members will begin paying 7 percent of the employee's share of retirement.
- Council Members medical premium will be capped at the January 1, 2012 rate for the lowest cost HMO.
- Council Members newly elected on or after November 6, 2012 will receive the reduced CalPERS retirement formula of 2 percent at 60 on January 1, 2013 or upon the date in which the City amends its retirement contract with CalPERS (whichever is later).

Date: October 17, 2012

=====

I hereby certify that Resolution No. 2012-_____ was passed and adopted by the Lodi City Council in a regular meeting held October 17, 2012, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Receive Update Regarding Energy Storage Systems as Defined Under State Law

MEETING DATE: October 17, 2012

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Receive an update regarding energy storage systems as defined under state law.

BACKGROUND INFORMATION: This new law requires the California Public Utilities Commission to open proceedings to determine appropriate targets, if any, for each load-serving entity to procure viable and cost-effective energy storage systems. For municipal service providers, the law requires the governing board of each local utility to initiate a process for determining targets for energy storage systems.

In March, the City Council approved a resolution acknowledging the City of Lodi's obligation regarding energy storage systems as defined under California law (Assembly Bill 2514). Energy storage system means commercially available technology that is capable of absorbing energy, storing it for a period of time, and then discharging it for use.

The City of Lodi remains in full compliance with this law, and as committed to Council utility staff is now providing this brief update regarding the process. Staff has clarified specific requirements of the law with staff from the Northern California Power Agency, and has begun to research commercially available energy storage systems that may be appropriate for Lodi Electric Utility to pursue. Utility staff will continue to research various technologies over the ensuing 12 to 18 months. Should viable energy storage systems be identified, the Lodi City Council must then adopt procurement targets by October 1, 2014.

FISCAL IMPACT: Not applicable.

FUNDING: Not applicable.

Elizabeth A. Kirkley
Electric Utility Director

PREPARED BY: Rob Lechner, Customer Service & Programs Manager

EAK/RSL/lst

APPROVED:

Konradt Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Supporting the San Joaquin Superior Court's Request for Additional Funding from the Judicial Council

MEETING DATE: October 17, 2012

PREPARED BY: City Manager

RECOMMENDED ACTION: Adopt resolution supporting the San Joaquin Superior Court's request for additional funding from the Judicial Council.

BACKGROUND INFORMATION: In 1997, the County Court system was transferred to the State. A prime reason for doing this was to create some equality between counties for funding. Prior to 1997-1998, all funding came from the County; however, San Joaquin County courts have historically been underfunded and the shift to State control has not corrected this issue. In fact, the court system has suffered from the economic downturn as have other branches of State government. Even with an additional \$1 million emergency funding last year, we saw the closing of one of Lodi's branch courts and all of the Tracy courts.

The San Joaquin Superior Court is once again seeking emergency funding in order to continue with the limited services that are currently offered. According to the Presiding Judge, without the additional funding it will be likely that the remaining Lodi branch court as well as the branch courts in Manteca will close. Not only will this impact the entire north county for access to the court system, but will cost the City of Lodi significant money by having to shift more resources to courts in Stockton as well as the County jail.

The Judicial Council is scheduled to meet on October 25 to consider the request. Staff is seeking City Council approval to provide a Resolution in support of the Court's request.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

Konradt Bartlam
City Manager

APPROVED: _____
Konradt Bartlam, City Manager

RESOLUTION NO. 2012-_____

A RESOLUTION OF THE LODI CITY COUNCIL
SUPPORTING THE SAN JOAQUIN SUPERIOR
COURT'S REQUEST FOR ADDITIONAL
FUNDING FROM THE JUDICIAL COUNCIL

=====

WHEREAS, in 1997 the County Court system was transferred to the State, the prime reason for doing this was to create some equality between counties for funding; and

WHEREAS, San Joaquin County courts have historically been underfunded and the shift to State control has not corrected this issue; and

WHEREAS, the court system has suffered from the economic downturn as have other branches of State government. Even with an additional \$1 million emergency funding last year, the City of Lodi saw the closing of one of Lodi's branch courts and all of the Tracy courts; and

WHEREAS, the San Joaquin Superior Court is once again seeking emergency funding in order to continue with the limited services that are currently offered, and without the additional funding it is likely that the remaining Lodi branch court as well as the branch courts in Manteca will close; and

WHEREAS, this will not only impact the entire north county for access to the court system, but will cost the City of Lodi significant money by having to shift more resources to courts in Stockton as well as the County jail; and

WHEREAS, the Judicial Council is scheduled to meet on October 25, 2012 to consider the request for additional funding for the San Joaquin Superior Court system.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby support the San Joaquin Superior Court's request for additional funding from the Judicial Council in order to keep the limited court services available to the public.

Date: October 17, 2012

=====

I hereby certify that Resolution No. 2012-_____ was passed and adopted by the Lodi City Council in a regular meeting held October 17, 2012, by the following vote:

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

RANDI JOHL
City Clerk



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Set Public Hearing for November 7, 2012 to Consider Energy Efficiency Retrofit Project for Electric Utility Department

MEETING DATE: October 17, 2012

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Set public hearing for November 7, 2012 to consider energy efficiency retrofit project for Electric Utility Department.

BACKGROUND INFORMATION: The energy efficient lighting retrofit project at the Electric Utility Department (EUD) offices (1331 S. Ham Lane) involves removing all existing T12 fluorescent lamps and magnetic ballasts inside the EUD main office building, warehouse building, and utility truck bay areas. In total, the project will cost \$44,460.19 and will save in excess of \$11,650 per year in electric utility costs to the City of Lodi. The projected energy savings for the project exceed 56,000 kilowatt hours per year.

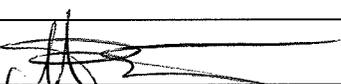
EUD staff has elected to use the services of Quantum Lighting of Sacramento to perform the lighting retrofit project. Quantum Lighting has been a successful bidder on several City of Lodi energy efficiency projects, including: the Public Library lighting retrofit project, the City Hall lighting occupancy sensor project and the EUD front office lighting occupancy sensor project. To complete this project, staff is opting to utilize government code section 4217, which allows municipal agencies to dispense with the public bidding process if an energy efficiency/conservation project is installed on a government-owned building or facility. However, section 4217 also requires the local governing board to conduct a public hearing regarding the requested process. After conclusion of the public hearing on November 7, 2012, staff will then officially request that the energy efficient lighting retrofit project be awarded to Quantum Lighting of Sacramento, in an amount not to exceed \$44,460.19.

FISCAL IMPACT: Upon completion of this lighting retrofit, it is anticipated that the City of Lodi will save approximately \$11,650 per year in electric utility costs, while reducing lighting maintenance expenses by as much as \$2,500.

FUNDING: Included in FY 2012/13 Budget Account No 164605


Elizabeth A. Kirkley
Electric Utility Director

PREPARED BY: Rob Lechner, Customer Service & Programs Manager
EAK/RSL/lst

APPROVED: 
Konradt Bartlam, City Manager



TM

CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Set Public Hearing for November 21, 2012, to Consider Unmet Transit Needs in Lodi

MEETING DATE: October 17, 2012

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Set public hearing for November 21, 2012, to consider unmet transit needs in Lodi.

BACKGROUND INFORMATION: The San Joaquin Council of Governments (SJCOG) is required to conduct an annual assessment of the existing transit system prior to the allocation of Local Transportation Funds for non-transit purposes (TDA Section 99401.5). SJCOG, the San Joaquin Regional Transit District, and local jurisdictions are sponsoring several upcoming Unmet Transit Needs hearings in San Joaquin County, including Lodi. Any comments received from those meetings will be communicated to City staff. It should be noted that many of the comments are given directly via email to SJCOG staff throughout the year.

Unmet Transit Needs are defined as transportation services not currently provided to those residents who use or would use public transportation regularly, if available, to meet their life expectations. SJCOG's Social Services Transportation Committee (SSTAC) will evaluate the comments received based on a reasonableness test of six criteria. The criteria include community acceptance, equity, potential ridership, cost effectiveness, operational feasibility, and funding. The funding criterion requires the imposed service does not cause the public agency to incur expenses in excess of the maximum allocation of TDA funds. Completion of the Draft Unmet Transit Needs study is tentatively scheduled for February 2013 with adoption of the Final Unmet Transit Needs study in April 2013. Dial-A-Ride transit services will be advertised in the local newspaper and available for passengers attending the public hearing on November 21, 2012.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: None required.

F. Wally Sandelin
Public Works Director

Prepared by Paula J. Fernandez, Transportation Manager/Senior Traffic Engineer

FWS/PJF/pmf

cc: Tanisha Taylor, San Joaquin Council of Governments
Aaron Hoyt, San Joaquin Council of Governments

APPROVED: _____
Konradt Bartlam, City Manager

Comments by the public on non-agenda items

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

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

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

Comments by the City Council Members on non-agenda items



**CITY OF LODI
COUNCIL COMMUNICATION**

TM

AGENDA TITLE: Conduct a Public Hearing to Consider Adoption of Resolution Amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fees For 2013

MEETING DATE: October 17, 2012

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Conduct a Public Hearing to consider adoption of resolution amending the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fees for 2013.

BACKGROUND INFORMATION: On February 21, 2001, the City of Lodi adopted the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). The Plan includes a schedule of fees to be paid by property owners who propose to develop their property with non-agricultural uses. These fees are used to mitigate for the cumulative impacts of new development on habitat lands within Lodi and San Joaquin County. According to the San Joaquin Council of Governments (SJCOG), it is necessary for all jurisdictions covered by the Plan to adopt the annual Habitat Conservation Plan (HCP) fees in order for those jurisdictions to continue to participate in the Plan. The fees are reviewed and adjusted as necessary on an annual basis.

SJCOG adopted a financial analysis model in late 2006 to calculate development fees. The Financial Analysis Model also established a formula method that provides for future annual adjustments of the fee schedule based on the established criteria. Utilizing this formula, the SJCOG has established a new fee schedule for 2013 (Exhibit A). For 2013, the per acre fees for all categories of habitat land have decreased. Open Space lands have decreased from \$7,195 to \$6,364 (by 11.55 percent). Agriculture and Natural lands, the two largest categories, have decreased by 11.56 percent from \$14,372 to \$12,711. Fees for Vernal Pool (grasslands) habitat lands decreased by 10.71 percent from \$41,534 to \$37,087 and Vernal Pool (wetted lands) decreased by 4.45 percent from \$81,989 to \$78,311. An explanation of the analysis methodology is included in the SJCOG staff report (Exhibit B).

On Thursday, September 20, 2012, The SJCOG Board unanimously approved the attached HCP fee schedule for 2013. All local jurisdictions are now being asked to adopt the new fee schedule that will take effect on January 1, 2013 and will expire December 31, 2013. The fees will be paid by land owners who develop their property with projects that are subject to the fees.

APPROVED: _____
Konradt Bartlam, City Manager

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

Konradt Bartlam
Community Development Director

KB/IB/kjc

Attachments:

- 1) Fee Schedule for 2013
- 2) SJCOG Staff Report w/Fee Analysis Update summary



SJCOG, Inc.

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0438

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)

Ken Vogel
CHAIR

Christopher Mateo
VICE CHAIR

Andrew T. Chesley
PRESIDENT

Member Agencies
CITIES OF
ESCALON,
LATHROP,
LODI,
MANTECA,
RIPON,
STOCKTON,
TRACY,
AND
THE COUNTY OF
SAN JOAQUIN

2013 Updated Habitat Fees*

Habitat Type	Fee Per Acre
Multi-Purpose Open Space	\$6,364
Natural	\$ 12,711
Agriculture	\$ 12,711
Vernal Pool - uplands	\$ 37,087
Vernal Pool - wetted	\$ 78,311

* Effective January 1, 2013 – December 31, 2013

2013 Endowment Fees with In-lieu Land**

Type of Preserve	Enhancement Cost/acre	Land Management Cost/acre	TOTAL PER ACRE ENDOWMENT
Agricultural Habitat Lands	\$3,136.27	\$1,785.92	\$4,922.19
Natural Lands	\$3,136.27	\$1,785.92	\$4,922.19
Vernal Pool Habitat			
<i>Vernal Pool Grasslands</i>	\$590.61	\$6,488.39	\$7,079.00
<i>Vernal Pool Wetted</i>	\$41,814.48	\$6,488.39	\$48,302.87

** Effective January 1, 2013 – December 31, 2013 in lieu of fees to be used as the endowment for the dedicated land preserves (Category B + C)

VELB Mitigation

A special fee category shall apply when removal of elderberries occurs. The fee shall be paid to SJCOG, Inc. or a VELB mitigation bank approved by the Permitting Agencies. The current fee, as established in the VELB Conservation Fund Account managed by the Center for Natural Lands Management, and approved by the USFWS, is \$1,800 per VELB Unit (one unit= one stem over 1" in diameter at ground level which is removed). Fees shall be established by the JPA during preconstruction surveys (i.e., counts of stems to be removed with and without exit holes shall be completed during preconstruction surveys) and shall be paid to the JPA prior to ground disturbance or stem removal, whichever comes first.

8/2012
SJCOG, Inc.

Staff Report

SUBJECT: 2013 SJMSCP Development Fees

RECOMMENDED ACTION: Motion to Approve the 2013 SJMSCP Development Fees as Adjusted Pursuant to Land Sale Comparables and Consumer Price Index

DISCUSSION:

In accordance with the SJMSCP and the updated financial analysis model adopted by the SJCOG, Inc. Board mid-2012 for current and future fee updates, SJCOG, Inc. staff shall notify each local jurisdiction regarding proposed annual adjustments to the SJMSCP development fees. The development fees are calculated using a formula method which will be adjusted annually as shown in the table below [FEE = Category A (acquisition) + Category B (assessment & enhancement) + Category C (management & admin)]. Each component of the formula is adjusted using a specific mechanism which relates to the individual component in the fees. The development fees established must be adopted by each of the jurisdictions and would become effective on January 1st of the subsequent year for projects using the SJMSCP.

The result was a decrease in the fees from 2012 to 2013 shown in the tables 1 and 2 below.

Table 1 - 2013 SJMSCP Development Fees

Habitat Type	Category A	Category B	Category C	Total Fee	Rounded Fee*
Open Space	\$3,894.21	\$1,568.14	\$901.85	\$6,364.19	\$6,364
AG/Natural	\$7,788.41	\$3,136.27	\$1,785.92	\$12,710.60	\$12,711
Vernal Pool (grasslands)	\$30,008.16	\$590.61	\$6,488.39	\$37,087.16	\$37,087
Vernal Pool (wetted)	\$30,008.16	\$41,814.48	\$6,488.39	\$78,311.03	\$78,311

Table 2 - 2012 SJMSCP Development Fees

Habitat Type	Category A	Category B	Category C	Total Fee	Rounded Fee*
<i>Open Space</i>	<i>\$4,770.60</i>	<i>\$1,538.90</i>	<i>\$885.03</i>	<i>\$7,194.54</i>	<i>\$7,195</i>
<i>AG/Natural</i>	<i>\$9,541.21</i>	<i>\$3,077.79</i>	<i>\$1,752.62</i>	<i>\$14,371.62</i>	<i>\$14,372</i>
<i>Vernal Pool (grasslands)</i>	<i>\$34,587.00</i>	<i>\$579.60</i>	<i>\$6,367.41</i>	<i>\$41,534.01</i>	<i>\$41,534</i>
<i>Vernal Pool (wetted)</i>	<i>\$34,587.00</i>	<i>\$41,034.82</i>	<i>\$6,367.41</i>	<i>\$81,989.22</i>	<i>\$81,989</i>

Projects which participate under the SJMSCP benefit from a pre-determined streamlined processing of the project rather than navigating through a very long and cumbersome regulatory process led by local jurisdiction staff outside the habitat plan. By opting for participation, the project can choose any number of ways to provide mitigation for the impacts of the project through the plan:

1. Pay a fee;
2. Redesign the project to avoid/minimize impacts;
3. Provide land in lieu of the SJMSCP fee which the project will negotiate the easement/fee title costs; or
4. Any combination of the above options.

Or, the project proponent can chose to not participate in the plan and fulfill mitigation requirements on their own with both permitting agencies.

Category A (acquisition) - Comparables

This category is directly related to land valuation based on comparables which occur in specific zones of the plan. This category is evaluated on a yearly basis by taking all qualified comparables in each zone, including SJCOG, Inc. easements, to set a weighted cost per acre using the same methodology as in the 2006 Financial Analysis Update created by EPS and recently updated in mid-2012 by the Habitat Technical Advisory Financial Sub-Committee and SJCOG, Inc. approval. The SJCOG, Inc. easements are evaluated using the appraised value of the property in the before condition to be included with the fee title sales of other property occurring in San Joaquin County meeting specific criteria below. The final weighted cost per acre of each zone is calculated into a blended rate under SJMSCP Fee Category A (acquisition) figure for each habitat type (*Attachment 1-Tables A-D*).

The criteria to determine valid comparables used in the weighted calculation are:

1. All SJCOG, Inc. transactions (fee title and appraised value of unencumbered property)
2. Sales not less than 40 acres
3. Sales not greater than 500 acres
4. No parcels with vineyard or orchard (except SJCOG, Inc. transactions for special needs)
5. Must be land which would fulfill mitigation under the plan
6. Comparable sales reviewed by Habitat Technical Advisory Financial Sub-committee
7. Not greater than 2 years old from the date of June 30th of each year with all acceptable comparables included (criteria 1-5). A minimum of 10 acceptable comparables are required for analysis. If the minimum of 10 transactions are not available, the time period will extend at 3 month intervals prior to the beginning date until 10 comparables are gathered.

The calculation results in a decrease to the Agricultural/Natural Habitat type of Category A (acquisition) component to be **\$7,788.41**.

Category B (assessment & enhancement) - Consumer Price Index

This category is a straight forward use of an average of the California Consumer Price Index (CPI) calculator, as reported by the California Department of Finance, for a 12 month period following a fiscal year (July – June) to keep up with inflation on a yearly basis. The California CPI calculation was an increase of **1.9%**.

The calculation results in an increase of the Agricultural/Natural Habitat type Category B (Assessment & Enhancement) component to be **\$3,136.27**.

Category C (management & administration) - Consumer Price Index

This category is a straight forward use of an average of the California Consumer Price Index (CPI) calculator, as reported by the California Department of Finance, for a 12 month period following a fiscal year (July – June) to keep up with inflation on a yearly basis. The California CPI calculation was an increase of **1.9%**.

The calculation results in an increase of the Agricultural/Natural Habitat type Category C (Management & Administration) component to be **\$1,785.92**.

SJCOG, Inc. staff calculated the fees using the SJMSCP Financial Analysis formula model [FEE = Category A (acquisition) + Category B (assessment & enhancement) + Category C (management & admin)] which is shown in Table 1-8 and final fee table in *attachment 2*. The overall result in the calculations was a decrease in the fees from the 2012 to the 2013 shown in the table below.

2013 SJMSCP Development Fees

Habitat Type	Category A	Category B	Category C	Total Fee	Rounded Fee*
Open Space	\$3,894.21	\$1,568.14	\$901.85	\$6,364.19	\$6,364
AG/Natural	\$7,788.41	\$3,136.27	\$1,785.92	\$12,710.60	\$12,711
Vernal Pool (grasslands)	\$30,008.16	\$590.61	\$6,488.39	\$37,087.16	\$37,087
Vernal Pool (wetted)	\$30,008.16	\$41,814.48	\$6,488.39	\$78,311.03	\$78,311

2012 SJMSCP Development Fees

Habitat Type	Category A	Category B	Category C	Total Fee	Rounded Fee*
<i>Open Space</i>	<i>\$4,770.60</i>	<i>\$1,538.90</i>	<i>\$885.03</i>	<i>\$7,194.54</i>	<i>\$7,195</i>
<i>AG/Natural</i>	<i>\$9,541.21</i>	<i>\$3,077.79</i>	<i>\$1,752.62</i>	<i>\$14,371.62</i>	<i>\$14,372</i>
<i>Vernal Pool (grasslands)</i>	<i>\$34,587.00</i>	<i>\$579.60</i>	<i>\$6,367.41</i>	<i>\$41,534.01</i>	<i>\$41,534</i>
<i>Vernal Pool (wetted)</i>	<i>\$34,587.00</i>	<i>\$41,034.82</i>	<i>\$6,367.41</i>	<i>\$81,989.22</i>	<i>\$81,989</i>

The SJMSCP process allows projects which participate under the county-wide habitat plan to realize pre-determined streamlined processing of the project through an otherwise cumbersome regulatory process in a much shorter period of time and cost than navigating outside the plan. By

opting for participation and realizing the benefits of the SJMSCP, the project can choose any number of ways to mitigate the impacts of the project through the plan. The SJMSCP allows projects to choose one or multiple mitigation options like simply pay a fee, redesign the project to avoid/minimize impacts, provide land in lieu of the SJMSCP fee which the project will negotiate the costs on their own, or a combination of the options.

The HTAC recommended approval by the SJCOG, Inc. Board to adopt the 2013 SJMSCP Development Fees during the August 2012 HTAC meeting.

RECOMMENDATION:

Staff recommends the SJCOG, Inc. Board to adopt the 2013 SJMSCP Development Fees.

Prepared by: Steve Mayo, Senior Habitat Planner
M:\STAFFRPT\2012\August\Board\2013 SJMSCP Development Fees

Attachment 2 - SJMSCP Fee Model

2013 Fees	Acquisition Costs	Assessment & Enhancement	Management and Administration	Total	Total Rounded
Other Open Space	\$3,894.21	\$1,568.14	\$901.85	\$6,364.19	\$6,364
Natural/Ag Lands	\$7,788.41	\$3,136.27	\$1,785.92	\$12,710.60	\$12,711
Vernal Pool Grasslands	\$30,008.16	\$590.61	\$6,488.39	\$37,087.16	\$37,087
Vernal Pool Wetted	\$30,008.16	\$41,814.48	\$6,488.39	\$78,311.03	\$78,311

Calculations:

Table 1 *Per-Acre Land Value Summary*
SJMSCP 2012 Fee Evaluation

Land Use		Central Zone	Primary Zone of the Delta	Southwest Zone***
Fee Title	a*	\$11,908	\$7,496	\$2,448
Row Crops/Grazing	b**	\$3,776	\$3,526	\$500
Easement Costs	a-b	\$8,132	\$3,970	\$1,000

*based off of 7/01/07-6/30/09 Applicable Ag Sale Comparables (Table A & B)
than that of the Central Zone Based on lower market rents for row crop land.

***based on standard easement cost of Southwest Zone of \$1,000/ac.

Table 2 *Per Acre Acquisition Cost Summary*
SJMSCP 2012 Fee Evaluation

Land Use Category		SJMSCP Zone			Total Weighted Acquisition Cost A+B+C
		Central Zone A	Primary Zone of the Delta B	Southwest Zone C	
Easement Cost by Zone (1)	d	\$8,132	\$3,970	\$1,000	
Natural Lands					
Riparian					
Percent in Zone (2)	e	89%	11%	0%	
Weighted Costs (3)	d*e	\$7,237.48	\$436.70	\$0.00	\$7,674.18
Delta Submerged Aquatic					
Percent in Zone (2)	f	0%	100%	0%	
Weighted Costs (3)	d*f	\$0	\$3,970	\$0	\$3,970
Other Water's Edge					
Percent in Zone (2)	g	100%	0%	0%	
Weighted Costs (3)	d*g	\$8,132	\$0	\$0	\$8,132
Southwest Grasslands					
Percent in Zone (2)	h	0%	0%	100%	
Weighted Costs (3)	d*h	\$0	\$0	\$1,000	\$1,000
Vernal Pool Wetted (4)		n/a	n/a	n/a	\$9,526
Vernal Pool Grasslands (4)		n/a	n/a	n/a	\$9,526
Agricultural Lands					
Percent in Zone (2)	i	97%	3%	0%	

Attachment 2 - SJMSCP Fee Model

Weighted Costs (3)	d*i	\$7,888.04	\$119.10	\$0.00	\$8,007.14
--------------------	-----	------------	----------	--------	-------------------

(1) See Table 2.

(2) Percent of total lands in each category assumed to be in a given zone. Based on 1996 Economic Analysis grasslands.

(4) Assumes fee title acquisition for vernal pool lands. Vernal pools fee title land costs assumed to be about 80% of average Central Zone fee title costs.

Table 3 **Total Acquisition Costs**
SJMSCP 2012 Fee Evaluation

Preserve Types	Cost per Acre (1)	Transaction Costs (2) 5%	Total Land Acquisition Costs
Agricultural Lands	\$8,007.14	\$400.36	\$8,407.50
Natural Lands			
Riparian	\$7,674.18	\$383.71	\$8,057.89
Delta Submerged Aquatic	\$3,970.00	\$198.50	\$4,168.50
Other Water's Edge	\$8,132.00	\$406.60	\$8,538.60
Southwest Grasslands	\$1,000.00	\$50.00	\$1,050.00
Vernal Pool Wetted	\$9,526.40	\$476.32	\$10,002.72
Vernal Pool Grasslands	\$9,526.40	\$476.32	\$10,002.72

(1) See Table 3. Assumes easement purchases in all cases except fee title purchases for vernal pool lands.

(2) Transaction costs include biological baseline, appraisal, escrow, and survey costs.

Table 4 **Total Per-Acre Costs**
SJMSCP 2021 Fee Evaluation

Preserve Type	Land Acquisition	% of Total Preserve Lands	Total Preserve Acres	Total Costs of Acquisition
Agricultural Lands	\$8,407.50	57%	57,635	\$484,566,089.60
Natural Lands				
Riparian	\$8,057.89	19%	19,185	\$154,590,600.47
Delta	\$4,168.50	0%	10	\$41,685.00
Other Water's Edge	\$8,538.60	2%	1,584	\$13,525,142.40
Southwest Grasslands	\$1,050.00	4%	4,146	\$4,353,300.00
Average of Natural/Ag Lands	\$7,958.78	82%	82,560	\$657,076,817.46
Vernal Pool Wetted	\$10,002.72	2%	354	\$3,540,962.88
Vernal Pool Grasslands	\$10,002.72	16%	17328	\$173,327,132.16

Table 5 **Total Preserve Costs, Breakdown by Category**

Attachment 2 - SJMSCP Fee Model

SJMSCP 2012 Fee Evaluation

Preserve Type	Total Preserve Acres	Acquisition Costs	
		Per Acre	Total
Vernal Pool Wetted	2,121	\$10,002.72	\$21,215,769.12
Vernal Pool Grasslands	15,561	\$10,002.72	\$155,652,325.92
Nat/Ag Lands	82,860	\$7,958.78	\$659,464,451.24
Total	100,542		\$836,332,546.28

Table 6 *Vernal Pool Surface and Grasslands / Acquisition Component*

SJMSCP 2012 Fee Evaluation

Preserve Type	Acres Converted	Acquisition Costs
Vernal Pool Wetted	707	
Total Cost		\$21,215,769.12
Fee per Acre		\$30,008.16
Vernal Pool Grasslands	5,187	
Total Cost		\$155,652,325.92
Fee per Acre		\$30,008.16

Table 7 *Nat/Ag Land and Open Space / Acquisition Component*

SJMSCP 2012 Fee Evaluation

Preserve Type	Land Acquisition		Total
	Land Acquisition	Transaction	
Cost associated with Nat/Ag Lands Conversion	\$626,491,228.68	\$32,973,222.56	\$659,464,451.24
Nat/Ag Land Conversion	65,940	65,940	65,940
Other Open Space Conversion	37,465	37,465	37,465
Multiplier for Nat/Ag Land Conversion	1	1	1
Multiplier for Other Open Space	0.5	0.5	0.5
Land Acquisition Component of Nat/Ag Lands Fee	\$7,398.99	\$389.42	\$7,788.41

Table 8 *Cat B & C Fee Component Calcs*

SJMSCP 2012 Fee Evaluation

Fee	Cal CPI	1.90%	
		Assessment & Enhancement	Management and Administration
	% of Land Preser.	B	C
Other Open Space		\$1,568.14	\$901.85
Natural/Ag Lands	82%	\$3,136.27	\$1,785.92
Vernal Pool Grasslands	16%	\$590.61	\$6,488.39
Vernal Pool Wetted	2%	\$41,814.48	\$6,488.39

RESOLUTION NO. 2012-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI
AMENDING THE SAN JOAQUIN COUNTY MULTI-SPECIES
HABITAT CONSERVATION AND OPEN SPACE PLAN
DEVELOPMENT FEE SCHEDULE

=====

WHEREAS, the City Council of the City of Lodi adopted an ordinance establishing the authority for collection of a Development Fee for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) for all new developments pursuant to the SJMSCP within the City of Lodi; and

WHEREAS, a "Fee Study" dated July 16, 2001, was prepared, which analyzed and identified the costs, funding, and cost-benefit of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan; and

WHEREAS, the purpose of the SJMSCP Development Fee is to finance the goals and objectives of the SJMSCP that include, but are not limited to, preserve land acquisition, preserve enhancement, land management, and administration that compensate for such lands lost as a result of future development in the City of Lodi and in San Joaquin County; and

WHEREAS, after considering the Fee Study and the testimony received at the public hearing, the Lodi City Council approved said report; and further found that the future development in the City of Lodi will need to compensate cumulative impacts to threatened, endangered, rare, and unlisted SJMSCP Covered Species and other wildlife and compensation for some non-wildlife related impacts to recreation, agriculture, scenic values and other beneficial Open Space uses; and

WHEREAS, an "Updated Fee Study" dated November 2, 2006, was prepared, which analyzed and identified the costs, funding, and indexing of the SJMSCP; and

WHEREAS, the SJMSCP Development Fees are divided into four categories: multi-purpose open space conversion; natural land and agricultural habitat land; and vernal pool habitat; and

WHEREAS, the SJMSCP Development Fees for these three categories will be decreased consistent with the Updated Fee Study findings for the year 2013.

WHEREAS, to ensure that the SJMSCP development fees keep pace with inflation, annual adjustments, based on the method set forth in this resolution, shall be made to the fees annually; and

WHEREAS, the Updated Fee Study with the SJMSCP and the fee amendment were available for public inspection and review in the office of the City Clerk for more than ten days prior to the date of this Public Hearing.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi as follows:

1. The City Council finds and declares that the purposes and uses of the Development Fee, and the determination of the reasonable relationship between the fees' uses and the type of development project on which the fees are imposed, are all established in Ordinance 1701, and remain valid, and the City Council therefore adopts such determinations.

2. The City Council finds and declares that since adoption of Ordinance 1707, the cost of land has decreased in San Joaquin County; and that in order to maintain the reasonable relationship established by Ordinance 1701, it is necessary to decrease the Development Fee for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan.
3. The Development Fee for natural lands, agricultural land, vernal pool habitat and multi-purpose open space conversion shall be consistent with the table identified in Exhibit "A" and attached hereto.
4. The Fee provided in this resolution shall be effective on January 1, 2013.

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED that the City of Lodi City Council hereby approves the proposed Habitat Conservation and Open Space fee adjustment.

Dated: October 17, 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 October 17, 2012, by the following vote:

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

RANDI JOHL
City Clerk



SJCOG, Inc.

555 East Weber Avenue • Stockton, CA 95202 • (209) 235-0600 • FAX (209) 235-0438

San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)

Ken Vogel
CHAIR

Christopher Mateo
VICE CHAIR

Andrew T. Chesley
PRESIDENT

Member Agencies
CITIES OF
ESCALON,
LATHROP,
LODI,
MANTECA,
RIPON,
STOCKTON,
TRACY,
AND
THE COUNTY OF
SAN JOAQUIN

2013 Updated Habitat Fees*

Habitat Type	Fee Per Acre
Multi-Purpose Open Space	\$6,364
Natural	\$ 12,711
Agriculture	\$ 12,711
Vernal Pool - uplands	\$ 37,087
Vernal Pool - wetted	\$ 78,311

* Effective January 1, 2013 – December 31, 2013

2013 Endowment Fees with In-lieu Land**

Type of Preserve	Enhancement Cost/acre	Land Management Cost/acre	TOTAL PER ACRE ENDOWMENT
Agricultural Habitat Lands	\$3,136.27	\$1,785.92	\$4,922.19
Natural Lands	\$3,136.27	\$1,785.92	\$4,922.19
Vernal Pool Habitat			
<i>Vernal Pool Grasslands</i>	\$590.61	\$6,488.39	\$7,079.00
<i>Vernal Pool Wetted</i>	\$41,814.48	\$6,488.39	\$48,302.87

** Effective January 1, 2013 – December 31, 2013 in lieu of fees to be used as the endowment for the dedicated land preserves (Category B + C)

VELB Mitigation

A special fee category shall apply when removal of elderberries occurs. The fee shall be paid to SJCOG, Inc. or a VELB mitigation bank approved by the Permitting Agencies. The current fee, as established in the VELB Conservation Fund Account managed by the Center for Natural Lands Management, and approved by the USFWS, is \$1,800 per VELB Unit (one unit= one stem over 1" in diameter at ground level which is removed). Fees shall be established by the JPA during preconstruction surveys (i.e., counts of stems to be removed with and without exit holes shall be completed during preconstruction surveys) and shall be paid to the JPA prior to ground disturbance or stem removal, whichever comes first.



*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 ADOPTING RESOLUTION SETTING
SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION
AND OPEN SPACE PLAN DEVELOPMENT FEES FOR 2013**

PUBLISH DATE: SATURDAY, OCTOBER 6, 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, OCTOBER 4, 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) _____ MB _____ JMR (initials)



DECLARATION OF POSTING

PUBLIC HEARING TO CONSIDER ADOPTING RESOLUTION SETTING SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN DEVELOPMENT FEES FOR 2013

On Thursday, October 4, 2012, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider adopting resolution setting San Joaquin County Multi-Species Habitat Conservation and Open Space Plan development fees for 2013 (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 October 4, 2012, at Lodi, California.

ORDERED BY:

**RANDI JOHL
CITY CLERK**


JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: October 17, 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, October 17, 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) **Adopt resolution setting the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan development fees for 2013.**

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: **October 3, 2012**

Approved as to form:

D. Stephen Schwabauer
City Attorney



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Post for Expiring Terms on the Lodi Animal Advisory Commission, Lodi Senior Citizens Commission, Recreation Commission, and the San Joaquin Valley Unified Air Pollution Control District Citizens Advisory Committee

MEETING DATE: October 17, 2012

PREPARED BY: City Clerk

RECOMMENDED ACTION: Direct the City Clerk to post for expiring terms on the Lodi Animal Advisory Commission, Lodi Senior Citizens Commission, Recreation Commission, and the San Joaquin Valley Unified Air Pollution Control District Citizens Advisory Committee.

BACKGROUND INFORMATION: Several terms are due to expire on various boards and commissions. Therefore, it is recommended that the City Council direct the City Clerk to post for the following. Government Code

Section 54970 et seq. requires that the City Clerk post for vacancies to allow citizens interested in serving to submit an application.

Lodi Animal Advisory Commission

Hayim "Hy" Cohen Term to expire December 31, 2012
Phillip N. Laughlin Term to expire December 31, 2012

Lodi Senior Citizens Commission

Mark Sey Term to expire December 31, 2012
Suzanne Schultz Term to expire December 31, 2012

Recreation Commission

David Akin Term to expire December 31, 2012
Larry Long Term to expire December 31, 2012

San Joaquin Valley Unified Air Pollution Control District Citizens Advisory Committee

Randall S. Blank Term to expire January 31, 2013

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

Randi Johl
City Clerk

RJ/JMR

APPROVED: _____
Konradt Bartlam, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Ordinance No. 1865 Entitled, "An Ordinance of the City Council of the City of Lodi Partially Rescinding and Amending Development Agreement Pertaining to the Development of 220 Acres Located on the South Side of Harney Lane Between State Highway 99 and the Union Pacific Railroad to the West (Reynolds Ranch) (Development Agreement 06-GM-01)"

MEETING DATE: October 17, 2012

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1865.

BACKGROUND INFORMATION: Ordinance No. 1865 entitled, "An Ordinance of the City Council of the City of Lodi Partially Rescinding and Amending Development Agreement Pertaining to the Development of 220 Acres Located on the South Side of Harney Lane Between State Highway 99 and the Union Pacific Railroad to the West (Reynolds Ranch) (Development Agreement 06-GM-01)," was introduced at the regular City Council meeting of October 3, 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

ORDINANCE NO. 1865

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
PARTIALLY RESCINDING AND AMENDING DEVELOPMENT AGREEMENT
PERTAINING TO THE DEVELOPMENT OF 220 ACRES LOCATED ON THE
SOUTH SIDE OF HARNEY LANE BETWEEN STATE HIGHWAY 99 AND THE
UNION PACIFIC RAILROAD TO THE WEST (REYNOLDS RANCH)
(DEVELOPMENT AGREEMENT 06-GM-01)

=====

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. The Lodi City Council passed Ordinance No. 1785 approving a Development Agreement covering the following property:

**220 ACRES LOCATED ON THE SOUTH SIDE OF HARNEY LANE
BETWEEN STATE HIGHWAY 99 AND THE UNION PACIFIC
RAILROAD (UPRR) TO THE WEST – ASSESSORS PARCEL
NUMBERS 058-110-04, 058-110-41, 058-130-06, 058-130-07,
058-130-08, 058-130-09, 058-130-11, 058-130-15, 058-130-16,
058-130-21, 058-130-22, 058-130-24, AND 058-130-04.**

SECTION 2. San Joaquin Valley Land Company LLC. (“SJVLC”), the sole party to the above referenced Development Agreement, requested that the agreement be partially rescinded and amending by letter of September 24, 2012, a copy of which is attached hereto and incorporated by reference. However, SJVLC, Citizens for Open Government and the City entered into a settlement agreement dated August 26, 2006 (“Settlement Agreement”), the obligations of which were incorporated into the Development Agreement and into the California Environmental Quality Act (CEQA) approvals set forth in Resolution 2006-162. This ordinance shall not terminate any of the obligations set forth in the Settlement Agreement. Moreover, CEQA Resolution 2006-162 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 partial termination of the Development Agreement and amendment as set forth in the attached Mutual Agreement to Terminate 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 partial termination of the Development Agreement and amendment as set forth in the attached Mutual Agreement to Terminate 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. 1865 partially rescinding and amending the Development Agreement by and between the City of Lodi and SJVLC as set forth in the attached Mutual Agreement to Terminate Development Agreement. However, the Settlement Agreement and CEQA Resolution 2006-162 shall continue in full force and obligate SJVLC 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 17th of October, 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. 1865 was introduced at a regular meeting of the City Council of the City of Lodi held October 3, 2012, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held October 17, 2012, by the following vote:

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

I further certify that Ordinance No. 1865 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

Approved as to Form:

RANDI JOHL
City Clerk

D. STEPHEN SCHWABAUER
City Attorney

**san joaquin
valley land
company®llc**

August 13, 2012

Mr. Rad Bartlam, City Manager
City of Lodi
221 W. Pine Street
Lodi, CA 95240

RE: Request to Terminate Reynolds Ranch Development Agreement

Dear Rad:

This letter concerns the Development Agreement, ("DA"), for the Reynolds Ranch project approved on August 30, 2006 by the Lodi City Council.

On behalf of SJVLC, I am requesting that the DA be terminated. The project is not sustainable financially with the DA in effect due to the combination of the cost of the obligations and the much lower land values since the DA and the project were originally approved in 2006. We understand that we will lose any benefits contained in the DA upon termination.

Please contact me at your earliest convenience so that we may discuss the steps necessary by us and the City to place this item on a City Council meeting agenda as soon as possible.

Sincerely,



Dale N. Gillespie, Managing Member
San Joaquin Valley Land Company, LLC

cc: SJVLC members

**MUTUAL AGREEMENT TO TERMINATE
DEVELOPMENT AGREEMENT**

This Mutual Agreement to Terminate Development Agreement (Agreement) is made this ____ day of _____, 2012 by and between the City of Lodi, a California general law city (Lodi) and San Joaquin Valley Land Company LLC (Landowner or Developer) and terminates that certain Development Agreement entered into by the parties on September 6, 2006 (Development Agreement) regarding the Reynolds Ranch Project (the "Project").

1. RECITALS.

A Landowner owns or controls certain real property generally known as the Reynolds Ranch Project and more specifically described in Exhibit A which is attached hereto and incorporated herein by this reference.

B. In 2005 Blue Shield of California, ("BSC"), which at the time employed over 600 employees in 3 separately leased Lodi facilities, and constituted one of Lodi's largest private employers, desired to consolidate their operations into a single owned location and thereafter expand their employment to 1100 employees. Despite best efforts by the City of Lodi, BSC was unable to find a suitable location within the then current Lodi municipal boundary and subsequently BSC decided to locate its new facility in Stockton.

C. The City of Lodi was discouraging residential development applications during this period of time, as it anticipated updating Lodi's General Plan, a process which had not yet begun.

D. During this same time, Landowner proposed developing a mixed use project adjacent to Highway 99 and South of Harney Lane that would be designed to accommodate Blue Shield's needs in the proposed Project. The Project as conceived and designed included approximately 1,100 residential units of various types, office uses, and an anchored retail shopping center.

E. Negotiations between BSC and Landowner resulted in an enforceable agreement in favor of BSC purchasing a 20.5 acre campus within the Project site contingent upon Lodi and San Joaquin County LAFCo approving the annexation of the Project site to Lodi and Lodi granting related land use entitlements within a certain time frame. BSC leveraged the fact that they had already secured the Stockton site due to BSC's inability to earlier locate a suitable site in Lodi to negotiate a substantial land price concession and a cap on its contribution to infrastructure far below BSC's fair share contribution.

F. Under State law and local ordinance development agreements between Lodi and land owners are optional. Lodi and Landowner entered into the Development Agreement, ("DA"), for purposes of, on Developers part: securing vested development rights; and on City's part: securing community benefits and applying conditions of approval that were functionally equivalent to the conditions of approval that were anticipated to be imposed by the yet to be adopted General Plan update.

G. On September 6, 2006 Lodi and Landowner entered into the Development Agreement, effective on October 6, 2006.

H. Lodi and LAFCo approved the annexation and related entitlements in August, 2006 and January, 2007 respectively. Landowner funded and constructed substantial dedicated public infrastructure for Phase 1 of the Project in order for BSC to construct and occupy the facility within BSC's identified time constraints. The public infrastructure, including the re-alignment, dedication of land for rights of way totaling almost 12 acres, and construction of the Hwy 99 frontage road, (now called Reynolds Ranch Parkway), to accommodate future reconstruction of the Hwy 99/Harney Lane interchange, in addition to a sewer line oversized to accommodate future development East of Hwy 99, was not reimbursed by the City of Lodi.

I Landowner completed Phase 1 of Reynolds Ranch and BSC completed their 160,000 square foot facility and moved in November of 2008, adding 500 new jobs to the 600 hundred jobs saved for a total of 1,100 jobs.

J. Economic conditions deteriorated rapidly beginning in 2007 before any residential development plans could be filed for and processed.

K. Landowner continued to attempt to develop other portions of the Project in spite of highly negative economic conditions without success, except for the Phase 2 retail shopping center. Both Costco and Home Depot became interested in the regional draw of Reynolds Ranch to a population center of over 190,000 people due to its proximity and access to Highway 99 and nearby roads that access the many foothill communities and north Stockton. However, though the letters of intent were signed for these two retailers in 2007, both postponed their development and construction plans with Costco starting in October 2010 and Home Depot starting in August 2011, which resulted in greatly reduced land sales prices and lower reimbursements of their offsite obligations otherwise owed to Landowner. In addition, significant unreimbursed holding costs were incurred between 2007 and 2010.

L. Phase 2 of Reynolds Ranch is currently being completed and Costco and Home Depot have opened. Many of the improvements in this phase have far-reaching regional benefits. The Phase 2 public improvements have also not been reimbursed to developer including two new signals on Reynolds Ranch Parkway, Developer's \$1.4 million cost for the Hwy 99/Harney Lane interim interchange improvements, and the engineering and related soft costs for the Hwy99/Harney Lane interim interchange improvements.

M. The Costco store generates significant sales tax revenue for Lodi. It also employs at least 180 employees, 20 in management positions. Approximately two-thirds of Costco's sales are to non-Lodi residents, creating additional sales opportunities for local merchants.

N. Home Depot opened its first LEED-certified 135,000 square foot store, which is one of the only "new-market" stores it opened in 2012. This store draws national attention as the only Home Depot store outfitted with state of the art energy management systems as part of a U.S. Department of Energy grant. The Lodi store is the test site for these systems on an on-going basis. The Home Depot employs approximately 150 employees, most full time. It is projected to create significant sales tax revenue to the City. Like Costco, approximately two-thirds of the projected sales volume is expected to be derived from non-Lodi residents.

O. Subsequent to the entry of the Development Agreement, the City adopted its anticipated General Plan but that General Plan did not contain many of the conditions anticipated in the Development Agreement.

P. Government Code Section 65868 authorizes the parties to terminate the Development Agreement upon mutual consent and providing the public notice required by Government Code Section 65867.

Q Therefore, the City finds the public interest has been served by locating the Blue Shield, Home Depot, Costco and other retail users at Reynolds Ranch. Further, the City finds the exactions imposed by the Development Agreement represent significant obstacles to the development of the residential aspect of the approved mixed use plan and the City will not enjoy the additional benefits flowing from full build out of this approved mixed use Project. Further, the City finds that the exactions imposed by the Development Agreement place the residential aspect of the mixed use plan at a fatal economic disadvantage in relationship to other pending or future residential projects in Lodi which do not carry the weight of the Development Agreement's conditions. The City further finds that conditions and terms imposed by the recently enacted General Plan Update are appropriate to the residential aspects of the Reynolds Ranch Project, fulfill the public interest and are the functional equivalent to the ad hoc conditions imposed by the Development Agreement.

2. TERMINATION OF DEVELOPMENT AGREEMENT.

Subject to the terms and conditions contained herein, the parties terminate the Development Agreement as of this Agreement's effective date. Thereafter the parties shall have no rights or duties to one another (except as set forth herein) or any third party from any and all rights or obligations arising from the Development Agreement, whether or not such rights or obligations have been fully or partially enjoyed and/or performed or if the enjoyment of the right or performance of the obligation has not yet happened. It is the intention of the parties that upon the effective date of this Agreement the parties shall

no longer have any rights or obligations between themselves under the Development Agreement except as set forth herein.

A. Obligations Arising from Existing Benefits: The obligations set forth below, which were triggered under the Development Agreement prior to this Termination Agreement but have not yet been satisfied by the Developer shall continue in full force and effect. In the event Developer has failed to meet any of the obligations set forth below at the time Developer applies for any development entitlements within the Project, City will be entitled to refuse to process the application until the below listed obligations are fully satisfied.

- i) Electric Utility Impact Fees. Developer shall pay an amount to be billed by the City not to exceed \$291,336.28 in electric utility Line Extension Costs called for in paragraph 6.4.10 of the Development Agreement by January 1, 2013.
- ii) Developer and Citizens for Open Government and the City entered into a settlement agreement dated August 24, 2006 (“Settlement Agreement”), the obligations of which were incorporated into the Development Agreement and into the CEQA approvals set forth in Resolution 2006-162. This agreement shall not terminate any of the obligations set forth in the Settlement Agreement. Moreover, CEQA Resolution 2006-162 shall continue in full force and obligate Developer to comply with all of the obligations set forth in the Settlement Agreement.
- iii) Agricultural Mitigation. Developer shall satisfy the Agricultural Mitigation Requirements set forth in Paragraph 6.1.2 and 6.4.11 of the Development Agreement at the times required by those sections. This obligation, among others, is also included in the Settlement Agreement referenced in section 2.A.ii above.
- iv) Maintenance of Public Improvements. Developer shall comply with the requirements of Paragraph 6.4.5 of the Development Agreement.
- v) Dedication of Fire Station Property. Developer shall comply with the requirement of Paragraph 6.4.6 of the Development Agreement to dedicate property for a Fire Station. The remainder of the requirements of paragraph 6.4.6 shall be terminated.
- vi) Public Art. Developer shall comply with the requirement to Install public Art set forth in the Project set forth in Paragraph 6.4.8 of the Development Agreement. The \$60,000 amount shall be reduced by the ratio that the acres of Project land developed as of the date

of this Agreement bears to the total acreage of the Project (52.7 acres/220 acres which equals \$14,373.00).

3. SUBSEQUENT DEVELOPMENT AND CONSTRUCTION SHALL BE SUBJECT TO CURRENT ORDINANCES, STANDARDS AND POLICIES.

A. Portions of the Project Already Constructed.

Those portions of the Project already constructed shall be regarded as vested from any changes in the ordinances, standards and policies in effect at the time the Development Agreement was effective and shall not be subject to any new ordinances, standards or policies enacted subsequently.

B. Portions of the Project not Yet Constructed.

Those portions of the Project that have not yet obtained a building permit from the City of Lodi shall be subject to the ordinances, standards and policies in effect at the time the building permit application is submitted unless Landowner first obtains a vested right affecting the applicability of such ordinances, standards and policies through a vesting tentative map, a development agreement or some other form of right.

4. MISCELLENOUS PROVISIONS.

A. Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid, and shall be enforced to the fullest extent permitted by law.

B. Waivers. No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act except those of the waiving party, which shall be extended by a period of time equal to the period of the delay.

C. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the parties hereto.

D. Professional Fees. If either party commences an action against the other to interpret or enforce any of the terms of this Agreement or because of the breach by the other party of any of the terms hereof, the losing party shall pay to the prevailing party reasonable attorneys' fees, costs and expenses and court costs and other costs of action incurred in connection with the prosecution or defense of such action, whether or not the action is prosecuted to a final judgment. For the purpose of this Agreement, the

terms "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties hereto, which may include printing, photostating, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals, librarians and others not admitted to the bar but performing services under the supervision of an attorney. The terms "attorneys' fees" or "attorneys' fees and costs" shall also include, without limitation, all such fees and expenses incurred with respect to appeals, arbitrations and bankruptcy proceedings, and whether or not any action or proceeding is brought with respect to the matter for which said fees and expenses were incurred. The term "attorney" shall have the same meaning as the term "counsel."

E. Entire Agreement. This Agreement (including all Exhibits attached hereto) is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto. This Agreement may not be modified, changed, supplemented, superseded, canceled or terminated, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto and lawful assignees.

F. Time of Essence. City of Lodi and Landowner hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that failure to timely perform any of the terms, conditions, obligations or provisions hereof by either party shall constitute a material breach of and a non-curable (but waivable) default under this Agreement by the party so failing to perform.

G. Construction. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared the same. Unless otherwise indicated, all references to paragraphs, sections, subparagraphs and subsections are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference.

H. Governing Law. The parties hereto acknowledge that this Agreement has been negotiated and entered into in the State of California. The parties hereto expressly agree that this Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.

I. Days of Week. If any date for performance herein falls on a Saturday, Sunday or holiday, as defined in Section 6700 of the California Government Code, the time for such performance shall be extended to 5:00 p.m. on the next business day.

J. No Construction Against Drafting Party. The parties agree that this Agreement was jointly negotiated and jointly drafted and that it shall not be interpreted or construed in favor of or against any party on the ground that the party or the parties' attorney drafted this Agreement.

IN WITNESS THEREOF this MUTUAL AGREEMENT TO TERMINATE DEVELOPMENT AGREEMENT is effective this ____ day of _____, 2012.

CITY OF LODI, a municipal corporation

ATTEST:

RANDI JOHL
City Clerk

KONRADT BARTLAM
City Manager

APPROVED AS TO FORM:

SAN JOAQUIN VALLEY LAND COMPANY, LLC

By: _____
D. STEPHEN SCHWABAUER,
City Attorney

By: _____
Name:
Title: