



LODI CITY COUNCIL
Carnegie Forum
305 West Pine Street, Lodi

AGENDA – REGULAR MEETING

Date: August 20, 2008
Time: Closed Session 6:00 p.m.
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:

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

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

C-1 Call to Order / Roll Call

C-2 Announcement of Closed Session

- a) Prospective Acquisition of Real Property Located at 232 North Washington Street (APN #043-087-17), 242 Rush Street (APN #043-090-13), and 420 E. Lockeford Street (APN #043-202-29), Lodi, California; the Negotiating Parties are City of Lodi and Union Pacific Railroad Company; Government Code §54956.8
- b) Conference with Dean Gualco, Human Resources Manager (Labor Negotiator), Regarding Lodi Police Dispatchers Association and Association of Lodi City Employees Regarding General Services and Maintenance & Operators Pursuant to Government Code §54957.6
- c) Threatened Litigation: Government Code §54956.9(b); One Application; Potential Suit by Michael Gold against City of Lodi, (DOI: 11/03/07)

C-3 Adjourn to Closed Session

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

C-4 Return to Open Session / Disclosure of Action

A. Call to Order / Roll call

B. Invocation – Associate Pastor Marianne Weethee, Heartland Community Church

C. Pledge of Allegiance

D. Presentations

D-1 Awards – None

D-2 Proclamations – None

D-3 Presentations

- a) Recognition of Lodi Police Department SWAT Team for Taking First Place at the Sierra Foothill Tactical Challenge
- b) Presentation to Lodi Extreme Babe Ruth Girls 16 and Under Softball World Series Champions (PR)
- c) Quarterly Update by the Greater Lodi Area Youth Commission (COM)

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

E-1 Receive Register of Claims in the Amount of \$6,692,393.69 (FIN)

- E-2 Approve Minutes (CLK)
 - a) July 16, 2008 (Regular Meeting)
 - b) August 5, 2008 (Shirtsleeve Session)
 - c) August 12, 2008 (Shirtsleeve Session)
- E-3 Accept the Quarterly Investment Report as Required by Senate Bill 564 (CM)
- E-4 Report of Sale of Surplus Equipment (PW)
- E-5 Approve Specifications and Authorize Advertisement for Bids for 40,000 Feet of #1/0 AWG, 15kV, EPR Insulated, Jacketed Concentric Neutral Underground Cable (EUD)
- E-6 Approve Specifications and Authorize Advertisement for Bids for 10,000 Feet of 1,100kcMil AWG, 15kV, EPR Insulated, Jacketed Concentric Neutral Underground Cable (EUD)
- Res. E-7 Adopt Resolution Authorizing the Purchase and Installation of a New Public Safety Solution System from OSSI Sungard, which will Replace the Lodi Police Department's DATA 911 System, and Authorizing Expenditure of \$250,998 in Police Department Budgeted Funds (PD)
- E-8 Accept Improvements under Contract for Turner Road Overlay and Lower Sacramento Road Widening (PW)
- Res. E-9 Adopt Resolution Authorizing an Additional Task Order for West Yost & Associates to Provide Permit Assistance and Prepare Various Studies Required by the City's Wastewater Discharge Permit and Appropriating Funds (\$400,000) (PW)
- Res. E-10 Adopt Resolution Authorizing the City Manager to Enter into an Interconnection Agreement between the City of Lodi and Northern California Power Agency for the Existing White Slough Water Pollution Control Facility Electric Connection (EUD)
- Res. E-11 Adopt Resolution Authorizing the City Manager to Execute an Amended and Restated Master Confirmation Agreement with Shell Energy North America (EUD)
- Res. E-12 Adopt Resolution Authorizing the City Manager to Execute Mutual Aid Agreements with American Public Power Association, California Municipal Utilities Association, and California Utilities Emergency Association (EUD)
- Res. E-13 Adopt Resolution Authorizing the City Manager to Enter into a Letter of Agreement between the City of Lodi and Schaefer Systems International for the Sale of Designated Municipal Electric Distribution Facilities (\$78,132) (EUD)
- Res. E-14 Adopt Resolution Directing the Mayor to Endorse Letter from the Northern California Power Agency to the Governor of California to Support Establishment of a 33% Renewable Portfolio Standard for All Electric Utilities in the State (EUD)
- Res. E-15 Adopt Resolution Authorizing the City Manager to Enter into Agreement with the State of California Department of General Services for the Issuance of a CAL-Card to the Buyer and Purchasing Technician (CM)
- Res. E-16 Adopt Resolution Authorizing the City Manager to Renew Agreement between San Joaquin County Data Processing and the City of Lodi Police Department (Estimated Annual Cost \$13,954.84) (PD)
- Res. E-17 Adopt Resolution Amending Traffic Resolution No. 97-148 by Approving Speed Limit Reduction from 50 to 40 Miles Per Hour on Turner Road between West City Limits and Evergreen Drive (PW)
- Res. E-18 Adopt Resolution Amending the Bylaws for the Lodi Improvement Committee to Allow for a Change in its Meeting Day and When it Elects Officers Each Year (CD)
- Res. E-19 Adopt Resolution Approving Interim Community Development Director Employment Agreement with Konradt Bartlam (CM)

- E-20 Set Public Hearing for September 3, 2008, to Consider Uses of the 2008 Mid-Year Allocation of Community Development Block Grant Program Funds and the Reallocation of Available Funds from Previous Program Years (CD)
- E-21 Set Public Hearing for September 3, 2008, to Consider Resolution Setting Fee for Storm Drainage Development Standard Plans Compliance Inspection for Post Construction Best Management Practices as Required in the Standards (PW)
- E-22 Set Public Hearing for September 3, 2008, to Consider Approval of a General Plan Amendment for Reynolds Ranch (CD)

F. Comments by the Public on Non-Agenda Items

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

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

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

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

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

I. Public Hearings – None

J. Communications

- J-1 Claims Filed Against the City of Lodi – None
- J-2 Appointments – None
- J-3 Miscellaneous – None

K. Regular Calendar

- Ord. (Introduce) K-1 Introduce Ordinance Amending Lodi Municipal Code Chapter 9.18 – Vending on Streets, Sidewalks, and Private Property – Section 9.18.050-A.-1 Relating to Location and Repealing and Reenacting Section 9.18.110 in its Entirety Relating to Sanitation (CD)
- Ord. (Introduce) K-2 Introduce Ordinance Amending Lodi Municipal Code Chapter 17.81 – Site Plan and Architectural Approval – Specifically by Repealing and Reenacting Sections 17.81.060 Pertaining to “Committee Actions” and 17.81.070 Pertaining to “Appeals from the Committee” (CD)
- K-3 Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$96,039.00) (CA)

L. Ordinances

- Ord. (Adopt) L-1 Ordinance No. 1815 Entitled, “An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Chapter 13.16 – Solid Waste – by Repealing and Reenacting Section 13.16.010, ‘Definitions’” (CLK)

M. Adjournment

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

Randi Johl, City Clerk



**CITY OF LODI
COUNCIL COMMUNICATION**

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AGENDA TITLE: Recognition of Lodi Police Department SWAT Team for Taking First Place at the Sierra Foothill Tactical Challenge

MEETING DATE: August 20, 2008

PREPARED BY: David J. Main, Chief of Police

RECOMMENDED ACTION: Chief David Main will introduce the Lodi Police Department SWAT Team to the Council, in recognition of their first place win at the Sierra Foothill Tactical Challenge.

BACKGROUND INFORMATION: On July 17 – 19, 2008, the Lodi Police Department SWAT Team competed in the Sierra Foothill Tactical Challenge and finished first among 12 teams. Of the teams participating, three were exclusively full-time SWAT units. Lodi's SWAT team is a collateral duty for full-time officers.

The event is highly competitive and physically challenging, consisting of three days of realistic training scenarios involving: hostage/rescue, high risk search warrant entry, narcotics buy bust and dignitary protection. Physical challenges involved traversing an exceptionally demanding ravine area; a timed land navigation course; and a 1.5 mile race through formidable forest terrain. Members participated in five different timed shooting ranges, where Sergeant Martinez placed 2nd out of 83 participants.

Exceptional teamwork, discipline, training and preparation went into winning this event. This is the third time the Lodi Police Department SWAT Team won the competition; previously placing first in 2001 and 2004.

Those competing in this year's challenge were Sergeant Fernando Martinez (team leader), Sergeant Mike Oden, Sean Blanford, Sierra Brucia, David Griffin, Kevin Kent and Mike Manetti.

FISCAL IMPACT: None

FUNDING AVAILABLE: Not Applicable

David J. Main
Chief of Police

DJMsm
Cc: City Attorney

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Presentation to Lodi Extreme Babe Ruth Girls 16 and Under Softball World Series Champions

MEETING DATE: August 20, 2008

PREPARED BY: Interim Parks and Recreation Director

RECOMMENDED ACTION: Presentation to Lodi Extreme Babe Ruth Girls 16 and Under Softball World Series Champions.

BACKGROUND INFORMATION: The Lodi Extreme Babe Ruth Girls 16 and Under softball team was one of 10 teams participating in the World Series Championships in Pittsfield, Massachusetts. Those 10 teams represented Babe Ruth regional champions from throughout the United States.

The Lodi Extreme has been to the World Series for the past three years with third place finishes in 2006 and 2007. The Lodi Extreme is sponsored by the Boosters of Boys and Girls Sports and the City of Lodi.

FISCAL IMPACT: None

FUNDING: None

James M. Rodems
Interim Parks and Recreation Director

JMR:tl

cc: City Attorney

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

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AGENDA TITLE: Quarterly Update by the Greater Lodi Area Youth Commission

MEETING DATE: August 20, 2008

PREPARED BY: Brad Vander Hamm, LYC Liaison

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

BACKGROUND INFORMATION: The LYC desires to stay more connected to the City Council and the community by having current commissioners provide quarterly reports on the activities of the Commission.

FISCAL IMPACT: None

FUNDING AVAILABLE: None

Jim Rodems
Community Center Director

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

APPROVED: _____
Blair King, City Manager



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CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Receive Register of Claims Dated July 24, 2008 and July 31, 2008 in the Total Amount of \$6,692,393.69

MEETING DATE: August 20, 2008

PREPARED BY: Financial Services Manager

RECOMMENDED ACTION: Receive the attached Register of Claims for \$6,692,393.69.

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of \$6,692,393.69 dated 07/24/08 and 07/31/08. Also attached is Payroll in the amount of \$1,315,338.01.

FISCAL IMPACT: n/a

FUNDING AVAILABLE: As per attached report.

Ruby R. Paiste, Financial Services Manager

RRP/rp

Attachments

APPROVED: _____
Blair King, City Manager

Accounts Payable
Council Report

Page
Date
Amount

- 1
- 08/05/08

| As of Thursday | Fund | Name | Amount |
|-------------------|-------|-------------------------------|--------------|
| 07/24/08 | 00100 | General Fund | 877,379.57 |
| | 00123 | Info Systems Replacement Fund | 958.21 |
| | 00130 | Redevelopment Agency | 6,233.40 |
| | 00160 | Electric Utility Fund | 4,459,282.14 |
| | 00161 | Utility Outlay Reserve Fund | 5,226.56 |
| | 00164 | Public Benefits Fund | 43,417.55 |
| | 00166 | Solar Surcharge Fund | 1,120.00 |
| | 00170 | Waste Water Utility Fund | 4,442.24 |
| | 00171 | Waste Wtr Util-Capital Outlay | 75,309.30 |
| | 00180 | Water Utility Fund | 4,811.93 |
| | 00210 | Library Fund | 1,627.74 |
| | 00260 | Internal Service/Equip Maint | 21,302.18 |
| | 00270 | Employee Benefits | 24,478.42 |
| | 00300 | General Liabilities | 1,811.53 |
| | 00310 | Worker's Comp Insurance | 24,081.02 |
| | 00321 | Gas Tax | 10,925.80 |
| | 00340 | Comm Dev Special Rev Fund | 1,005.24 |
| | 00345 | Community Center | 4,058.17 |
| | 00346 | Parks & Recreation | 2,777.99 |
| | 00502 | L&L Dist Z1-Almond Estates | 655.64 |
| | 00503 | L&L Dist Z2-Century Meadows I | 550.27 |
| | 00506 | L&L Dist Z5-Legacy I,II,Kirst | 831.25 |
| | 01218 | IMF General Facilities-Adm | 2,700.00 |
| | 01250 | Dial-a-Ride/Transportation | 185,808.81 |
| | 01410 | Expendable Trust | 7,146.89 |
| | | | ----- |
| Sum | | | 5,767,941.85 |
| | | | ----- |
| Total for Week | | | |
| Sum | | | 5,767,941.85 |

Accounts Payable
Council Report

Page - 1
Date - 08/05/08
Amount

| As of Thursday | Fund | Name | Amount |
|-------------------|-------|------------------------------|------------|
| 07/31/08 | 00100 | General Fund | 528,176.36 |
| | 00160 | Electric Utility Fund | 13,231.59 |
| | 00161 | Utility Outlay Reserve Fund | 99,800.00- |
| | 00164 | Public Benefits Fund | 689.28 |
| | 00170 | Waste Water Utility Fund | 76,662.29 |
| | 00172 | Waste Water Capital Reserve | 63,519.00 |
| | 00180 | Water Utility Fund | 3,162.82 |
| | 00181 | Water Utility-Capital Outlay | 130.38 |
| | 00210 | Library Fund | 404.95 |
| | 00211 | Library Capital Account | 31,012.00 |
| | 00230 | Asset Seizure Fund | 4,471.63 |
| | 00260 | Internal Service/Equip Maint | 6,190.74 |
| | 00270 | Employee Benefits | 9,782.80 |
| | 00300 | General Liabilities | 131.77 |
| | 00301 | Other Insurance | 128,938.00 |
| | 00321 | Gas Tax | 12,835.05 |
| | 00325 | Measure K Funds | 10,929.85 |
| | 00329 | TDA - Streets | 1,615.00 |
| | 00340 | Comm Dev Special Rev Fund | 702.49 |
| | 00345 | Community Center | 11,238.26 |
| | 00346 | Parks & Recreation | 7,242.06 |
| | 00459 | H U D | 1,400.00 |
| | 01211 | Capital Outlay/General Fund | 276.46 |
| | 01212 | Parks & Rec Capital | 2,919.38 |
| | 01214 | Arts in Public Places | 76,500.00 |
| | 01241 | LTF-Pedestrian/Bike | 4,585.00 |
| | 01250 | Dial-a-Ride/Transportation | 6,496.00 |
| | 01410 | Expendable Trust | 13,953.68 |
| | | | ----- |
| Sum | | | 917,396.84 |
| | 00184 | Water PCE-TCE-Settlements | 6,227.00 |
| | 00190 | Central Plume | 828.00 |
| | | | ----- |
| Sum | | | 7,055.00 |
| | | | ----- |
| Total for Week | | | |
| Sum | | | 924,451.84 |

Council Report for Payroll

| Payroll | Pay Per Date | Co | Name | Gross Pay |
|-------------------|--------------|-------|--------------------------------|--------------|
| Regular | 07/27/08 | 00100 | General Fund | 780,095.58 |
| | | 00160 | Electric Utility Fund | 155,989.89 |
| | | 00164 | Public Benefits Fund | 5,388.93 |
| | | 00170 | Waste Water Utility Fund | 93,792.91 |
| | | 00180 | Water Utility Fund | 1,934.28 |
| | | 00183 | Water PCE-TCE | 245.00 |
| | | 00210 | Library Fund | 35,031.86 |
| | | 00235 | LPD-Public Safety Prog AB 1913 | 4,323.67 |
| | | 00260 | Internal Service/Equip Maint | 21,192.21 |
| | | 00321 | Gas Tax | 55,920.29 |
| | | 00340 | Comm Dev Special Rev Fund | 33,905.97 |
| | | 00345 | Community Center | 25,660.73 |
| | | 00346 | Parks & Recreation | 53,510.96 |
| | | 01250 | Dial-a-Ride/Transportation | 3,270.29 |
| Pay Period Total: | | | | |
| | | | Sum | 1,270,262.57 |
| Retiree | 08/31/08 | 00100 | General Fund | 45,075.44 |
| Pay Period Total: | | | | |
| | | | Sum | 45,075.44 |



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CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Minutes
a) July 16, 2008 (Regular Meeting)
b) August 5, 2008 (Shirtsleeve Session)
c) August 12, 2008 (Shirtsleeve Session)

MEETING DATE: August 20, 2008

PREPARED BY: City Clerk

RECOMMENDED ACTION: Approve the following minutes as prepared:
a) July 16, 2008 (Regular Meeting)
b) August 5, 2008 (Shirtsleeve Session)
c) August 12, 2008 (Shirtsleeve Session)

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

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Randi Johl
City Clerk

RJ/JMP
Attachments

APPROVED: _____
Blair King, City Manager

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, JULY 16, 2008**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of July 16, 2008, was called to order by Mayor Mounce at 5:30 p.m.

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

Absent: None

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

C-2 Announcement of Closed Session

- a) Conference with Dean Gualco, Human Resources Manager (Labor Negotiator), Regarding Lodi Police Dispatchers Association, Police Mid-Managers, Fire Mid-Managers, and Association of Lodi City Employees Regarding General Services and Maintenance & Operators Pursuant to Government Code §54957.6

C-3 Adjourn to Closed Session

At 5:30 p.m., Mayor Mounce adjourned the meeting to a Closed Session to discuss the above matter. The Closed Session adjourned at 6:55 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:04 p.m., Mayor Mounce reconvened the City Council meeting, and City Attorney Schwabauer reported that Item C-2(a) was discussion only and there was no reportable action.

A. Call to Order / Roll call

The Regular City Council meeting of July 16, 2008, was called to order by Mayor Mounce at 7:04 p.m.

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

Absent: None

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

B. Invocation - Pastor Ken Owen, Christian Community Concerns

C. Pledge of Allegiance

D. Presentations

D-1 Awards - None

D-2 Proclamations - None

D-3 Presentations - None

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

Mayor Pro Tempore Hansen made a motion, second by Council Member Johnson, 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: Mayor Pro Tempore Hansen, Council Member Hitchcock, Council Member Johnson, Council Member Katzakian, and Mayor Mounce

Noes: None

Absent: None

E-1 Receive Register of Claims in the Amount of \$5,886,630.83 (FIN)

Claims were approved in the amount of \$5,886,630.83.

E-2 Approve Minutes (CLK)

The minutes of May 21, 2008 (Regular Meeting), July 1, 2008 (Shirtsleeve Session), and July 8, 2008 (Shirtsleeve Session) were approved as written.

E-3 Approve Plans and Specifications and Authorize Advertisement for Bids for the Finance Department Relocation from Leased Office Space to City-Owned Facility (PW)

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

City Manager King stated staff is moving down the path of relocating the Finance Department from leased property to City-owned property. He stated the current item involves authorizing bids for the tenant improvements needed for the City facility to effectuate the move for a longer-term savings.

In response to Council Member Hitchcock, Mr. Sandelin stated that, while the \$850,000 is not in the current budget, the funds will be appropriated at the time the contract is awarded and there will be a cost savings from the monthly rent.

In response to Council Member Hitchcock, Mr. King stated the current lease allows flexibility to allow the City to move forward and terminate the lease in six month increments.

Council Member Hitchcock made a motion, second by Council Member Katzakian, to approve the plans and specifications and authorize advertisement for bids for the Finance Department relocation from leased office space to City-owned facility.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

E-4 Approve Plans and Specifications and Authorize Advertisement for Bids for the Lodi Multi-Modal Station Driveway Replacement Project (PW)

Approved the plans and specifications and authorized advertisement for bids for the Lodi Multi -

Modal Station Driveway Replacement Project.

- E-5 Adopt Resolution Authorizing the City Manager to Negotiate and Purchase Four Type 2 Medium Bus (Dial-A-Ride) Transit Vehicles Off of the State Contract; Authorizing Conversion of the Four Vehicles to Compressed Natural Gas; and Appropriating Funds (\$380,000) (PW)

Adopted Resolution No. 2008-136 authorizing the City Manager to negotiate and purchase four Type 2 medium bus (Dial-A-Ride) transit vehicles off of the State contract; authorizing conversion of the four vehicles to compressed natural gas; and appropriating funds in the amount of \$380,000.

- E-6 Adopt Resolution Awarding the Purchase of Padmount Transformers to Various Vendors (\$148,908.36) (EUD)

Adopted Resolution No. 2008-137 awarding the purchase of padmount transformers to various vendors in the amount of \$148,908.36.

- E-7 Adopt Resolution Approving Downtown Parking Lot Cleaning Contract with United Cerebral Palsy of San Joaquin and Amador Counties, of Stockton, for Fiscal Year 2008-09 and Authorizing the City Manager to Execute the Contract (\$38,828) (PW)

Adopted Resolution No. 2008-138 approving Downtown parking lot cleaning contract with United Cerebral Palsy of San Joaquin and Amador Counties, of Stockton, for fiscal year 2008-09 in the amount of \$38,828 and authorizing the City Manager to execute the contract.

- E-8 Adopt Resolution Authorizing the City Manager to Execute a Contract Change Order with Western Water Constructors, Inc., of Santa Rosa, for Work Related to Concrete Lining of Sludge Lagoon No. 1 and Associated Equipment at the White Slough Water Pollution Control Facility and Appropriating \$900,000 (PW)

Adopted Resolution No. 2008-139 authorizing the City Manager to execute a contract change order with Western Water Constructors, Inc., of Santa Rosa, for work related to concrete lining of Sludge Lagoon No. 1 and associated equipment at the White Slough Water Pollution Control Facility and appropriating \$900,000.

- E-9 Report on Contract Change Orders for White Slough Water Pollution Control Facility Phase 3 Improvements Project 2007 (PW)

Received report on contract change orders for White Slough Water Pollution Control Facility Phase 3 Improvements Project 2007.

- E-10 Adopt Resolution Amending Traffic Resolution No. 97-148 by Approving a Multi-Way Stop Control at Intersection of Lockeford Street and Mills Avenue (PW)

Adopted Resolution No. 2008-140 amending Traffic Resolution No. 97-148 by approving a multi-way stop control at intersection of Lockeford Street and Mills Avenue.

- E-11 Adopt Resolution Authorizing the City Manager to Negotiate and Execute Cooperative Agreement with the San Joaquin Council of Governments for Dial-A-Ride Service (Fiscal Year 2008-09 to 2010-11) (\$360,000) (PW)

Adopted Resolution No. 2008-141 authorizing the City Manager to negotiate and execute Cooperative Agreement with the San Joaquin Council of Governments for Dial-A-Ride service

(fiscal year 2008-09 to 2010-11) in the amount of \$360,000.

E-12 Adopt Resolution Renewing Line of Credit with Farmers & Merchants Bank at No Cost to the City of Lodi for the Lodi Electric Utility through June 30, 2009 (\$3,000,000) (CM)

Adopted Resolution No. 2008-142 renewing the line of credit in the amount of \$3,000,000 with Farmers & Merchants Bank at no cost to the City of Lodi for the Lodi Electric Utility through June 30, 2009.

E-13 Authorize Funds from the Protocol Account for the City Council to Host a Reception Honoring Members of Council-Appointed Boards, Commissions, Committees, and Task Force Groups (Approximately \$2,600 / \$20 per person) (CLK)

Authorized funds in the amount of \$2,600 from the Protocol Account for the City Council to host a reception honoring members of Council-appointed boards, commissions, committees, and task force groups.

E-14 Receive Surface Water Treatment Facility Conceptual Design and Feasibility Evaluation Report (PW)

Received Surface Water Treatment Facility Conceptual Design and Feasibility Evaluation Report.

E-15 Set Public Hearing for September 3, 2008, to Consider Resolution Approving Reimbursement Agreement No. RA-08-01 for Public Improvements Constructed with the Vintner's Square Shopping Center (PW)

This item was **pulled** from the Consent Calendar and continued to the August 6, 2008, City Council meeting.

F. Comments by the Public on Non-Agenda Items THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES. The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Jennelle Bechthold of Central Valley Waste Services invited the public and City Council to participate in the free household hazardous and electronic waste collection event to be held on Saturday, July 19, 2008.

Gene Davenport spoke in favor of the San Joaquin Dive and Recovery Team, stating the County provided \$10,000 in funding to the effort. Mr. Davenport asked the City Council to commit to funding the effort for five years at \$500 or more per year as a benefit to the community. Mayor Mounce asked that the matter be placed on a future agenda for consideration and Mr. Davenport be notified accordingly.

David Williamson spoke in regard to his concerns for the Dial-A-Ride program, services for the disabled and senior community, fare increases, and possible solutions regarding fixed routes being completed by certain times of the day.

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

Council Member Johnson commended the Public Works Department on its tree trimming efforts on School Street. He also commented on an article in the Sacramento Bee regarding Roseville's jail and housing for rent program for potential inmates. In light of citizen inquiries, Mr. Johnson requested information regarding how City employee benefit packages generally compare to neighboring private sector companies of similar size, as well as the school district and County.

Mayor Mounce invited the public to attend the annual Hill House Museum ice cream social on July 19, 2008, and commended Electric Utility Director George Morrow on the Killelea substation dedication. She also asked that an item pertaining to a public safety initiative be placed on the next agenda for Council consideration and inquired about a cat leash law. City Clerk Johl stated the last day for a ballot measure is August 8, 2008. City Attorney Schwabauer stated that, while there is no longer a specific cat leash law, there is a general ordinance that prohibits animals from roaming freely. Council Member Johnson stated there may not be sufficient time to place a measure on the November ballot.

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

City Manager King encouraged Mr. Williamson to speak with Tiffani Fink regarding the Dial-A-Ride program versus the paratransit program, as it is the City's intent to provide greater services to eligible riders through the paratransit program. Mr. King also reported that the 2002 Electric Utility bonds were converted to a fixed rate of approximately 5% today and the City no longer has any variable rate debt nor any SWAPS.

At Mr. King's request, Streets & Drainage Manager George Bradley informed the public of the City's rubber chip seal project beginning on Monday, July 21, 2008. Mr. Bradley stated citizens were notified as necessary and the pertinent information, including the affected streets, is also available on the City's web page. Mr. King stated the material used for the project is recycled and meets with the City's sustainability goals.

I. Public Hearings - None

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments

a) Appointments to the Greater Lodi Area Youth Commission (Student Appointees):
Mykenzie Mattheis; Joshua Gums; Gordon Wong; Evan "Beau" Benko; Shelby Gotelli;
Kelsey Orr; and Emily McConahey (CLK)

Mayor Pro Tempore Hansen made a motion, second by Council Member Hitchcock, to make the following appointments:

Greater Lodi Area Youth Commission (Student Appointees):

Evan "Beau" Benko, Term to expire May 31, 2010
Shelby Gotelli, Term to expire May 31, 2010
Joshua Gums, Term to expire May 31, 2010
Mykenzie Mattheis, Term to expire May 31, 2010
Emily McConahey, Term to expire May 31, 2010
Kelsey Orr, Term to expire May 31, 2009
Gordon Wong, Term to expire May 31, 2009

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

J-3 Miscellaneous

a) Monthly Protocol Account Report (CLK)

Council Member Hitchcock made a motion, second by Mayor Mounce, to approve the cumulative Monthly Protocol Account Report through June 30, 2008.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

K. Regular Calendar

K-1 Provide Direction with Regard to Potential Revisions and Administrative Interpretations to Mobile Food Vending Ordinance, Lodi Municipal Code Section 9.18, "Vending on Streets, Sidewalks, and Private Property" (CD)

City Manager King briefly introduced the subject matter of the mobile food vendor ordinance.

Community Improvement Manager Joseph Wood provided a PowerPoint presentation regarding the mobile food vendor ordinance. Specific topics of discussion included review of the vendor ordinance, comprehensive regulations, purpose, phased implementation, application process, licensing and permits, site inspections and review, approval and denial of permitting, issues related to interpretation of the Code, multiple vendors on one property, self-contained operations, proximity to parks, and staff recommendations regarding the same.

In response to Council Member Hitchcock, Mr. Wood stated certain language could be crafted with respect to vendors in close proximity to neighborhood parks and competition in concession stands with the Lodi Boys and Girls Club or other non-profit organizations.

In response to Council Member Johnson, Mr. Wood stated after school programs are generally run at recreation centers and mobile food vendor ordinances typically keep the vendors away from schools and recreation centers.

In response to Mayor Mounce, Mr. Wood stated concerns regarding electrical boards are addressed in site reviews and through the permit to operate.

In response to Council Member Hitchcock, Mr. Wood stated electrical cords are generally permitted to run to outdoor electrical units, which are inspected to ensure proper installation, and trucks generally run to the building and out of the pedestrian way.

In response to Council Member Hitchcock, Mr. Wood stated the trucks do have the ability to be completely self-contained as a requirement of the County health permit. He stated a generator running continuously may be offensive to the surroundings.

Mayor Mounce and Council Member Hitchcock stated they do not support any type of electrical cords being exposed.

In response to Mayor Pro Tempore Hansen and Mayor Mounce, Mr. Wood stated concerns at any specific site, including Pine and Washington, can be addressed through an inspection and condition on the permit requiring hooking up directly to the wall.

Attorney David LeBeouf, speaking as a representative of some of the mobile food vendors operating in the City, stated there is a clear understanding of the ordinance and requested the Council not change the same. He also discussed concerns regarding the Kettleman Lane and Hutchins Street location, the 400-foot requirement, hook-up requirements that meet the Code, and the clear and concise language of the ordinance as it exists currently.

In response to Council Member Hitchcock, Mr. LeBeouf stated the electrical cords touching the ground are maintained in a safe manner so as to protect pedestrians and customers. He stated a generator is loud and smokey and the vendors are paying for electricity as a part of their lease.

In response to Council Member Hitchcock, Mr. Wood stated the zoning of a property is a separate issue from the subject ordinance. He stated if the Council desired to restrict electrical connections, the ordinance would need to state the same.

In response to Mayor Mounce, Mr. Wood stated staff is happy to address any concerns regarding electrical cords and seating on a case-by-case basis, which was the intent of the permitting process. He stated the vendors have responded to anything that has been pointed out to them.

In response to Council Member Johnson, Mr. Wood stated any improvements on the site are subject to approval through the permitting process and he is comfortable that the vendors will address complaints and there is an ability to enforce for lack of compliance.

In response to Mayor Pro Tempore Hansen, Mr. Wood stated 9 applicants were approved at the outset, he is unsure of which specific vendors use cords, 12 applicants now meet the interpretation of the ordinance, there are 6 remaining, and 3 have been denied primarily for parking.

In response to Mayor Pro Tempore Hansen, Mr. Wood confirmed that there are two sets of regulations for the public right of way and private property and the 400-foot regulation applies to the public right of way on the street.

In response to Mayor Mounce, Mr. Wood stated the Kettleman site consignment lot is operating unlawfully, the owner was notified, and enforcement is continuing.

Mayor Pro Tempore Hansen made a motion, second by Council Member Hitchcock, to direct staff to include language in the ordinance that reflects that mobile food vendors not operate in a manner or location so as to compete with the Lodi Boys and Girls Club concessions or other similar parks or non-profit concessions.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

Council Member Hitchcock made a motion, second by Mayor Mounce, to direct staff to include language in the ordinance applying the 400-foot requirement between vendors regulation to all locations.

VOTE:

The above motion failed by the following vote:

Ayes: Council Member Hitchcock, and Mayor Mounce

Noes: Mayor Pro Tempore Hansen, Council Member Johnson, and Council Member Katzakian

Absent: None

Mayor Pro Tempore Hansen made a motion, second by Mayor Mounce, to direct staff to retain the existing language in the ordinance regarding electricity with the caveat that specific location concerns, including safety concerns, are passed on to staff and addressed through the conditional use permit process for each site.

VOTE:

The above motion carried by the following vote:

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

Noes: Council Member Hitchcock

Absent: None

K-2 Adopt Resolution Amending Traffic Resolution No. 97-148 by Establishing Terminal Access Routes on Harney Lane from Hutchins Street to Stockton Street and Lower Sacramento Road from Turner Road to the Food 4 Less/Walmart Southerly (Truck) Driveway (PW)

City Manager King briefly introduced the subject matter of establishing terminal access routes on designated streets.

Traffic Engineer Paula Fernandez provided a presentation and specifically discussed the proposed Surface Transportation Assistance Act (STAA) routes in Lodi, previous route history with the City limit expansion, the history of CHP contacting businesses and truck drivers and indicating certain routes are non-designated, CalTrans not concurring with the same, stakeholder meetings with the various agencies and interested parties, and the proposed recommendation of the removal of certain routes as indicated.

In response to Mayor Pro Tempore Hansen, Ms. Fernandez stated she is confident that this change with signage satisfies CalTrans.

In response to Mayor Pro Tempore Hansen, Ms. Fernandez confirmed that this issue was driven by CHP contacting CalTrans on the STAA routes.

In response to Mayor Pro Tempore Hansen, Ms. Fernandez stated that the proposed recommendation addresses the turning issue on Stockton Street.

In response to Council Member Hitchcock, Ms. Fernandez stated the addition to Harney Lane is because a 24/7 turn around is required and Lower Sacramento is ending at Food 4 Less providing a 24/7 through the shopping center which works.

In response to Council Member Hitchcock, Ms. Fernandez stated Turner Road still has a restriction for no vehicles over two axles unless they are picking up or dropping off in the City. She stated other streets have straight restrictions with no exceptions.

In response to Council Member Hitchcock, the STAA routes are provided for longer trucks and a bill was passed in 1982 that requires the routes.

Mayor Pro Tempore Hansen made a motion, second by Council Member Katzakian, to adopt Resolution No. 2008-143 amending Traffic Resolution No. 97-148 by establishing terminal access routes on Harney Lane from Hutchins Street to Stockton Street and Lower Sacramento Road from Turner Road to the Food 4 Less/Walmart southerly (truck) driveway.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

K-3 Discussion and Action on Contracts with Greyhound Lines and MV Transportation and Adopt Resolutions Related to Greyhound Ticket Sales as Appropriate (PW)

City Manager King briefly introduced the subject matter of the contracts with Greyhound Lines and MV Transportation.

Transportation Manager Tiffani Fink provided a presentation regarding the existing contracts with Greyhound and MV Transportation. She specifically discussed the contract with the previous agent, a similar offer from Greyhound after the agent was terminated, the letter received by many jurisdictions last spring about a nine percent reduction in the commission sales, and the City's option as listed in the staff report.

In response to Mayor Pro Tempore Hansen, Ms. Fink stated there was no specific discussion regarding the connection to fuel costs as other jurisdictions are seeing the same reductions.

Discussion ensued between Council Member Hitchcock and Ms. Fink regarding the lack of a specific preference from staff and the choice being the will of the City Council, receipt of \$125 for administrative oversight costs, previous receipt of rental fees, availability of the service to residents, and the City having a better deal than some of the other agencies.

In response to Council Member Johnson, Ms. Fink stated the nine percent does not reflect the loss of rent because rent is not charged and the only income is from commission sales. Mr. King clarified that there is no opportunity cost lost because there is no reservation space that could be freed up for someone else.

Mayor Pro Tempore Hansen made a motion, second by Mayor Mounce, to adopt Resolution No. 2008-144 authorizing the City Manager to execute an amendment with Greyhound Lines, Inc., to reduce ticket sales commission and to adopt Resolution No. 2008-145 authorizing the City Manager to execute amendment to contract for fixed route, paratransit, and demand response services with MV Transportation to reflect a Greyhound ticket commission split of 7.5% MV / 1.5% City.

VOTE:

The above motion carried by the following vote:

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

Noes: Council Member Hitchcock, and Council Member Johnson

Absent: None

K-4 Approve Plans and Specifications and Authorize Advertisement for Bids for Residential

Water Meter Installation Project (Phase 3); and Approve Solicitation of Bids for 1,930 Water Meters and 400 Electronic Radio Transponders (PW)

City Manager King briefly introduced the subject matter of the residential water meter installation.

Public Works Director Wally Sandelin briefly reviewed the recommendation to approve the plans and specifications for the completion of the installation of approximately 1,900 water meters for residents who have purchased the meters in conjunction with a building permit for a new home constructed in 1992 or later.

In response to Council Member Johnson, Mr. Sandelin stated the water meter cost is approximately \$500 each, which includes the radio transmitter that may be the difference in pricing for the Sacramento meters. He stated staff will bring back the comparative pricing on the meters when they return for award of contract.

Council Member Hitchcock made a motion, second by Council Member Katzakian, to approve the plans and specifications and authorize advertisement for bids for Residential Water Meter Installation Project (Phase 3); and approve solicitation of bids for 1,930 water meters and 400 electronic radio transponders.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

K-5 Introduce Ordinance Amending Lodi Municipal Code Chapter 13.16 - Solid Waste - by Repealing and Reenacting Section 13.16.010, "Definitions" (PW)

City Manager King briefly introduced the subject matter of the solid waste ordinance and revising the section pertaining to definitions.

Public Works Director Wally Sandelin stated staff was recommending that a revision be made to add a construction and demolition waste definition to reflect industrial waste generated from within the City. He stated this was an item that was agreed to in the context of negotiations with Waste Management. Mr. Sandelin stated the matter came about from an example where an industrial user produced industrial waste outside of the City and therefore another carrier could service that client within the City.

In response to Council Member Johnson, Mr. Sandelin stated the subject client is Constellation.

In response to Mayor Pro Tempore Hansen, Mr. Sandelin stated Constellation generates waste at the Woodbridge Road facility and it contracts with another carrier, other than Waste Management, to pick it up. He stated the contract was extended to include waste pick-up by the same carrier inside the City. City Attorney Schwabauer stated the question appears to be whether the original waste is a part of the waste generated inside or outside of the City as that may determine who services.

Jack Fiori, General Manager of California Waste Recovery Systems, stated he has a concern regarding the industrial waste definition in the City because it has the potential of affecting his business. Mr. Fiori recommended that the Council not take any action tonight to allow for the stakeholders to meet to discuss the matter and come up with a solution.

In response to Council Member Johnson, Mr. Fiori stated that, in addition to servicing the County, he is a permitted industrial waste collector in the City. He stated this work is outside of the franchise agreement with Waste Management.

Discussion ensued between Mayor Pro Tempore Hansen and Mr. Schwabauer regarding the affect of eliminating other vendors from doing business in the City and the question of what is industrial waste.

In response to Council Member Johnson, Mr. Fiori stated industrial waste is defined by the process involved in its generation, which is mechanicalized. Mr. King stated the question before the City Council is whether manufacturing in a facility outside the City necessarily makes the facility warehouse inside the City as a manufacturing business as well.

In response to Mayor Pro Tempore Hansen, Mr. Sandelin stated the proposed ordinance does not prohibit the collection of industrial waste within the City by other carriers. He stated it does prohibit a carrier from outside the City from claiming a facility inside the City is necessarily a manufacturing business generating industrial waste simply because the outside business is manufacturing.

In response to Council Member Hitchcock, Mr. King confirmed that the ordinance is attempting to close a loop hole clarifying that a business inside the City is not necessarily manufacturing simply because the outside business is manufacturing.

Thom Sanchez of Central Valley Waste Management stated this item was discussed as a part of the negotiations and clarification was requested regarding the definition of what constitutes industrial waste in the City.

In response to Mayor Pro Tempore Hansen, Mr. Sanchez stated the changing of the definition would affect the Constellation contract because it would indicate the warehouse facility in the City does not necessarily generate industrial waste because of its relationship to the manufacturing facility outside the City.

Council Member Johnson suggested tabling the matter to allow for additional research and dialogue amongst the stakeholders. Mr. King stated staff can also provide additional examples. A brief discussion ensued regarding whether additional information was needed or if the Council could act currently.

Council Member Johnson made a motion, second by Mayor Pro Tempore Hansen, to table the subject matter.

VOTE:

The above motion carried by the following vote:

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

Noes: Council Member Hitchcock, and Mayor Mounce

Absent: None

K-6 Adopt Resolution Approving a Five Percent Pay Increase for the Community Development Director Position (CM)

City Manager King provided an overview of the recruitment for the Community Development Director. He specifically discussed the possibility of a five percent pay increase to create additional interest in the position, improvement of the candidate pool, the recommendation being supported by a below market analysis, the lack of a front runner candidate from the previous two panels, salary survey based on straight salary, and the need to maintain a differential

between like management positions.

Council Member Hitchcock stated she served on the interview panels and suggested increasing the salary range by 18% to 20% to bring the position in line with the market.

In response to Mayor Pro Tempore Hansen, Mr. King stated he is not sure what would need to be done if there was again a weak candidate pool from the next recruitment and, although additional salary may be needed, it may not be feasible.

In response to Council Member Katzakian, Mr. King stated a well-known firm, Avery & Associates, was used for the recruitment to generate a wide applicant pool.

In response to Council Member Katzakian, Mr. King stated a particular formula is not used for department salaries and there is an ongoing effort to maintain fairness between the same.

In response to Council Member Katzakian, Mr. King stated there may be an expectation that a candidate would want to get paid at the top of the advertised pay.

In response to Council Member Johnson, Mr. King stated he does anticipate a similar problem with the Deputy City Manager recruitment.

Council Member Johnson suggested doing a salary survey, generating a pool, and then determining the salary based on what the potential candidate is making now and what they will expect.

In response to Council Member Johnson, Mr. King stated it is possible to use an executive recruiter to place a long-term interim in the position while the firm searches for a qualified candidate even if the cost is a bit higher.

Mayor Pro Tempore Hansen suggested recruiting for the position at a salary that is dependent upon qualifications.

Mr. King reviewed the options for Council consideration including hiring a long-term firm, recruiting at a salary dependent upon qualifications, and adjusting the salary to market rate.

Council Member Johnson made a motion, second by Council Member Katzakian, to recruit for the Community Development Director position at a salary level dependent upon qualifications.

VOTE:

The above motion carried by the following vote:

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

Noes: Mayor Mounce

Absent: None

K-7 Approve Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$2,386.50) (CA)

Mayor Pro Tempore Hansen made a motion, second by Mayor Mounce, to approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation in the amount of \$2,386.50, as further detailed in the staff report.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

L. Ordinances

L-1 Adopt Ordinance No. 1813 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Chapter 5.32 - Massage Establishments - by Repealing and Reenacting Section 5.32.010, "Definitions" (CLK)

Mayor Pro Tempore Hansen made a motion, second by Council Member Johnson, to (following reading of the title) waive reading of the ordinance in full and adopt and order to print Ordinance No. 1813 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Chapter 5.32 - Massage Establishments - by Repealing and Reenacting Section 5.32.010, 'Definitions,'" which was introduced at a regular meeting of the Lodi City Council held July 2, 2008.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

L-2 Adopt Ordinance No. 1814 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Chapter 12.12 - Parks - by Adding Section 12.12.055, "Interfering with Parks and Recreation Programs" (CLK)

Council Member Katzakian made a motion, second by Mayor Mounce, to (following reading of the title) waive reading of the ordinance in full and adopt and order to print Ordinance No. 1814 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Chapter 12.12 - Parks - by Adding Section 12.12.055, 'Interfering with Parks and Recreation Programs,'" which was introduced at a regular meeting of the Lodi City Council held July 2, 2008.

VOTE:

The above motion carried by the following vote:

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

Noes: None

Absent: None

M. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 10:29 p.m.

ATTEST:

Randi Johl
City Clerk

**LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, AUGUST 5, 2008**

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, August 5, 2008, commencing at 7:04 a.m.

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

Absent: Council Member Johnson, and Mayor Mounce

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

B. Topic(s)

B-1 Receive Information Regarding Amending the Section of the Lodi Zoning Ordinance Dealing with Site Plan and Architectural Review (CD)

City Manager King briefly introduced the subject matter of amending site plan and architectural review.

Interim Co-Community Development Director Peter Pirnejad provided a PowerPoint presentation regarding site plan and architectural review. Specific topics of discussion included background on the Site Plan and Architectural Review Committee (SPARC), SPARC format, purpose for change, Alternative 1 to eliminate SPARC, Alternative 2 to divide duties, and Alternative 3 to improve guidelines.

In response to Mayor Pro Tempore Hansen, Mr. Pirnejad stated one member of SPARC is appointed by the Planning Commission to provide some connection through a liaison that will report back directly to the Commission.

In response to Council Member Hitchcock, Mr. Pirnejad stated there is still only one meeting before the Planning Commission but the applicants, who prefer obtaining the entitlements up front, would generally be more prepared with some architectural information as well.

In response to Mayor Pro Tempore Hansen, Mr. Pirnejad stated districts can be used for historical preservation, promotion of certain types of architecture in particular areas, and to address specific areas of concern including mansionization.

In response to Council Member Hitchcock, Mr. Pirnejad stated the applicants prefer the streamlined version and it is not a big burden to throw some architecture in the preliminary information.

In response to Council Member Hitchcock, City Attorney Schwabauer stated there may be some instances where a permit is issued administratively without discretionary approval, such as obtaining a building permit for medical storage files in an industrial area; although, there are certain guidelines that will still need to be followed.

In response to Myrna Wetzel, Mr. Pirnejad stated painting alone generally does not fall within SPARC review unless it is associated with a reconstruction project.

In response to Mayor Pro Tempore Hansen, Mr. Pirnejad confirmed that there is some control

over paint color in new multi-family or other similar projects.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 7:25 a.m.

ATTEST:

Randi Johl
City Clerk

**LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, AUGUST 12, 2008**

A. Roll Call by City Clerk

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, August 12, 2008, commencing at 7:02 a.m.

B. Topic(s)

B-1 Receive Recommended Design Guidelines for Transit Oriented Development for Downtown Area (CD)

City Manager King briefly introduced the subject matter of the Transit Oriented Development (TOD) design guidelines.

Planning Manager Peter Pirnejad provided a PowerPoint presentation regarding the TOD design guidelines. He specifically discussed goals and objectives, project area, project timeline, progress timeline, acknowledgements, community workshop outreach plan, community workshops, Site 1 with fine grain and mixed-use infill, Site 2 with block-sensitive design and adaptive reuse, Site 3 with flexible downtown infill, and Site 4 with industrial infill development.

In response to Mayor Pro Tempore Hansen, Mr. Pirnejad stated parking was considered and incorporated with respect to Site 1 in conjunction with the current municipal code and the anticipated dependence upon the fact that people will be using transit.

In response to Council Member Johnson, Mr. Pirnejad stated the TOD is practical if there is commuter rail going through downtown and it may work with seniors, although it may take some time with urban professionals. He stated the renderings and parking options were based on the consultant's experience with the same.

In response to Council Member Hitchcock, Mr. King stated the three different parking options are structured, surface, and a combination of both. Mr. King stated structured parking is the most costly and may drive the ratio of units.

In response to Council Member Johnson, Mr. Pirnejad confirmed that the San Joaquin County Rail Commission was a participant and additional parking will be requested if commuter rail does come to town. Transportation Manager Tiffani Fink stated that discussion did come up with the Commission and structure and express feeder options were reviewed. Ms. Fink stated the structure is not currently full and designation of certain spots as transit only may also be considered. She stated they are continuing to look to partner with the Rail Commission on TOD for Measure K applicability.

In response to Mayor Mounce, Mr. Pirnejad stated that, while the Hassan site property owner was not opposed to the utilization of his building, certain site requirements will have to be met prior to any project being constructed on that site.

In response to Council Member Hitchcock, Mr. Pirnejad stated it is best not to put too much emphasis on the architectural details shown in the renderings at this point because they can always be changed. He stated the renderings were designed more to illustrate set backs and other requirements and project mass.

In response to Myrna Wetzel, Mr. Pirnejad stated the green building and sustainability were a part of the considerations for long-term viability of projects. He stated options could include dual-paned windows, insulation, and solar.

In response to Mayor Mounce, Mr. King stated the previously received letter from Union Pacific Railroad, which was written in conjunction with redevelopment, indicated that the railroad was opposed to any intensification along the railroad unless it was mitigated.

In response to Council Member Katzakian, Mr. Pirnejad stated Site 4 does back up to the railroad tracks.

In response to Myrna Wetzel, Council Member Johnson stated there is no final decision to date as to whether commuter rail will go through downtown or through the west of the City.

C. Comments by Public on Non-Agenda Items

None.

D. Adjournment

No action was taken by the City Council. The meeting was adjourned at 7:42 a.m.

ATTEST:

Randi Johl
City Clerk



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Accept the Quarterly Investment Report as Required by Senate Bill 564

MEETING DATE: August 20, 2008

PREPARED BY: City Manager

RECOMMENDED ACTION: Accept the quarterly report of the City of Lodi pooled money investments as required by Senate Bill 564 and the City of Lodi Investment Policy.

BACKGROUND INFORMATION: Senate Bill 564 and the City of Lodi Investment Policy require that local agency treasurers submit a quarterly report on investments to the legislative body of the local agency.

The total of all invested funds as of the quarter ending June 30, 2008 is \$67,939,864.08. The average return on all invested funds over this quarter has been 2.95%.

FISCAL IMPACT: N/A

FUNDING AVAILABLE: As per attached report.

Blair King
City Manager

Attachment

APPROVED: _____
Blair King, City Manager



**CITY OF LODI
INTERNAL SERVICES DEPARTMENT
BUDGET DIVISION**

June 30, 2008 INVESTMENT STATEMENT

| | | |
|--|--|--------------------------|
| Local Agency Investment Funds * | 71.7% of Portfolio | |
| Average interest earnings as of 6/30 - | 3.11% | |
| LODI | Local Agency Inv Fund (LODI) | 30,713,791.35 |
| LPIC | Local Agency Inv Fund (LPIC) | 17,969,526.77 |
| | Subtotal LAIF | 48,683,318.12 |
| | | |
| Certificates of Deposit | 0.4% of Portfolio | |
| SYS76WEST - matures 4/17/09 | Bank of the West (cost) 1.70% int. | 100,000.00 |
| SYS75 - matures 12/19/08 | Bank of America (cost) 3.7% int. | 100,000.00 |
| Farmers & Merchants - matures 8/27/08 | Farmers & Merchants (cost) 2.0% int. | 100,000.00 |
| | Subtotal CD | 300,000.00 |
| | | |
| Passbook/Checking Accounts | 27.9% of Portfolio | |
| Farmers & Merchants | demand account -no interest earnings** | 6,856,947.51 |
| Farmers & Merchants - Money Mkt. | 2.24% interest earnings | 3,705,567.59 |
| Farmers & Merchants - Payroll | demand account - no interest earnings | 37,930.45 |
| Farmers & Merchants - Central Plume | demand account - no interest earnings | 14,231.97 |
| Farmers & Merchants - CP Money Mkt. | 2.24% interest earnings | 8,341,868.44 |
| | Subtotal P/C Accts | 18,956,545.96 |
| | TOTAL | 67,939,864.08 |

Based on the approved budget and to the extent the budget is adhered to, liquidity is available, and the City will be able to meet its expenditure requirements for the next six months. This portfolio is in compliance with the City of Lodi Investment Policy.

Kirk J Evans
Budget Manager

Date

* In accordance with the terms of the Local Agency Investment Fund, invested funds may be utilized on the same day if transaction is initiated before 10:00 a.m.

** On June 30, 2008 the City received \$6,000,000 from LAIF. This amount is included in the account balance for the end of that day. On July 1, 2008, the City wired \$6,557,213.07 to the Bank of New York to cover debt service payments for Electric Utility bond issues A,C,D.



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Report of Sale of Surplus Equipment
MEETING DATE: August 20, 2008
PREPARED BY: Public Works Director

RECOMMENDED ACTION: Receive the report of sale of surplus equipment which is made in compliance with the Fleet Policies and Procedures.

BACKGROUND INFORMATION: The Fleet Policies and Procedures approved by the City Council require the quarterly reporting of surplus equipment sales. The Fleet Services Division coordinates the paperwork once the City Manager and the Budget Manager authorize the disposition. 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.

During the second calendar quarter of 2008, the City sold the following surplus equipment through Public Surplus, an on-line auction company, and three pieces of equipment were junked. The City received from the sales the following amounts:

| <u>Vehicle</u> | <u>Mileage</u> | <u>Sales Revenue</u> |
|---------------------------------------|----------------|----------------------|
| 1997 Ford Mustang (VIN 143184) | 79,201 | \$ 1,419.18 |
| 1950 CAT D-4 (VIN 7U5272) | 4,515 | 3,441.00 |
| 1987 P&H Crane (VIN 54324) | 7,314 | 33,573.00 |
| 1957 CAT Grader (VIN 70D386) | Broken Meter | 4,743.00 |
| 1976 Case Backhoe (VIN 778292) | 959 | 0 (Junked) |
| 1994 Dodge CNG Caravan (VIN 748206) | 54,667 | 0 (Junked) |
| 1968 Aerial Emulsion Tank (VIN 92703) | N/A | 0 (Junked) |

FISCAL IMPACT: 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. The receipts are used to help fund the replacement of these vehicles.

FUNDING AVAILABLE: None required.

F. Wally Sandelin
Public Works Director

Prepared by Dennis J. Callahan, Fleet and Facilities Manager
FWS/DJC/njl

cc: Kirk Evans, Budget Manager
Curt Juran, Streets & Drainage Fleet Coordinator
George Morrow, Electric Utility Director
Larry Manetti, Police Fleet Coordinator

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Specifications and Authorize Advertisement for Bids for 40,000 Feet of #1/0 AWG, 15kV, EPR Insulated, Jacketed Concentric Neutral Underground Cable (EUD)

MEETING DATE: August 20, 2008

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Approve the specifications and authorize advertisement for bids for 40,000 feet of #1/0 AWG, 15kV, EPR insulated, Jacketed Concentric Neutral underground cable.

BACKGROUND INFORMATION: The #1/0 15kV underground cable is a standard component of the City's electric power network. It will be used in new developments and in existing electrical distribution system upgrades/replacements.

The current inventory level is under the minimum stock level and is insufficient to meet known upcoming needs. The last procurement for this cable was made on March 22, 2007.

In order to fill the minimum stock level and meet present project requirements and anticipated future needs over the next few years, staff recommends purchasing 40,000 feet of #1/0 AWG 15kV underground electric cable.

FISCAL IMPACT: Estimated cost is \$96,000

FUNDING: Fiscal Year 2008-09 Budget Account No. 160651 (System Maintenance-Underground).

Kirk Evans, Budget Manager

George F. Morrow
Electric Utility Director

PREPARED BY: Demy Bucaneg, Jr., P.E., Assistant Electric Utility Director
Weldat Haile, Senior Power Engineer

GFM/DB/lst

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Specifications and Authorize Advertisement for Bids for 10,000 Feet of 1100kcMil AWG, 15kV, EPR Insulated, Jacketed Concentric Neutral Underground Cable (EUD)

MEETING DATE: August 20, 2008

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Approve the specifications and authorize advertisement for bids for 7,500 feet of 1100kcMil, AWG 15kV, EPR insulated, Jacketed Concentric Neutral underground cable.

BACKGROUND INFORMATION: The 1100kcMil AWG 15kV underground cable is a standard component of the City's of Lodi Electric Utility for trunk feeder and substation getaway power networks. It will be used as a minimum stock level for replacement of existing trunk feeders and substation getaways in case of a need in the electrical distribution system.

The current inventory level is under the minimum level. The last procurement for this cable was made on April 9, 2007.

In order to fill the minimum stock level, staff recommends purchasing 7,500 feet of 1100kcMil, AWG 15kV underground cable.

FISCAL IMPACT: Estimated cost is \$60,000.

FUNDING: Fiscal Year 2008-09 Budget Account No. 160651 (System Maintenance-Underground).

Kirk Evans, Budget Manager

George F. Morrow
Electric Utility Director

PREPARED BY: Demy Bucaneg, Jr., P.E., Assistant Electric Utility Director
Weldat Haile, Senior Power Engineer

GFM/DB/lst

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing the Purchase and Installation of a New Public Safety Solution System from OSSI Sungard, which will Replace the Lodi Police Department's DATA 911 System, and Authorizing Expenditure of \$250,998 in Police Department Budgeted Funds

MEETING DATE: August, 20, 2008

PREPARED BY: Chief of Police

RECOMMENDED ACTION: Adopt resolution authorizing the purchase and installation of a new public safety solution system from Sungard OSSI, which will replace Lodi Police Department's DATA 911 system, and authorizing expenditure of \$250,998 in Police Department budgeted funds.

BACKGROUND INFORMATION: Since 1997 The Lodi Police Department has utilized a public safety solution system provided by DATA 911. This system includes our Computer Aided Dispatch (CAD), Records Management, Field Reporting and Mobile Computing. During this time period technology has vastly improved, however DATA 911 has failed to remain current and can no longer meet the needs of our organization. Despite paying a significant amount of money to DATA 911 for an extended service agreement on a yearly basis (intended to provide regular updates and improvements), we have not received software updates from DATA 911 in five years.

Our current system has failed to keep up with the times. We are unable to extract meaningful crime analysis information. Using the system's data to prepare reports on significant issues such as response times, problematic call locations, patterns, and employee productivity is labor intensive and often inaccurate. The system currently does not have a fire dispatch component, mapping, or GIS integration with CAD. The system lacks web integration for online reporting and citizen information sharing.

During the past several years, the department has examined a number of alternatives, most of which we discovered were either cost prohibitive or did not meet our specific organizational needs. A committee consisting of potential users researched and examined a software system by Sungard OSSI. Sungard OSSI meets our needs in a number of areas such as computer aided dispatching (CAD), records management, field reporting and mobile reporting, but also provides a number of other capabilities that will enhance our ability to provide better service to our citizens. These options include fully integrated police and fire dispatching and reporting, integrated mapping, sophisticated link analysis, voice activated Mobile Data Computer responses, accident sketch wizards, integrated online reporting, Web-based, police-to-citizen data sharing, complete jail management software, management report options, bar coding for evidence/property tracking, sex offender, gang member and probation/parole tracking, and animal control management. The company provided an onsite full demonstration to a large number of our users. The user group unanimously endorsed this system, finding it to be sophisticated, user friendly, and highly efficient.

APPROVED: _____
Blair King, City Manager

Sungard OSS/ is used by 350 agencies nationwide and is part of a worldwide company that has \$5 billion in annual revenue; however, it is not yet present in California. They are offering a 90% discount on software for any agency that is "first in state." The system would cost approximately \$1.2 million if purchased without any discounts. Sungard OSS/ has provided the Lodi Police Department with a quote of \$250,997.21.

FISCAL IMPACT: No additional funding will be necessary from the General Fund. The police department has been able to locate funding sources to absorb the cost within the current 2008-09 fiscal year, which are detailed below.

FUNDING AVAILABLE:

| | | |
|--|----------|---------------------|
| • Police Operating Budget; Approved 2008-09 | \$83,500 | Acct. # 101031.7335 |
| • Flag City Non-Departmental (1-time fund) | \$45,430 | Acct. # 100241 |
| • California Law Enforcement Equipment Program | \$12,111 | Acct. # 1211378 |
| • Inmate Welfare Trust | \$10,350 | Acct. # 1410.2357.9 |
| • Webcam Fund | \$ 6,000 | Acct. # 100241 |
| • Congressional Public Safety Grant | \$93,950 | Acct. # 2341202 |

Kirk Evans, Budget Manager

David J. Main
Chief of Police

DJM:JPB
Cc: City Attorney

RESOLUTION NO. 2008-

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE PURCHASE AND INSTALLATION OF A NEW PUBLIC SAFETY SOLUTION SYSTEM FROM OSSI SUNGARD, REPLACING THE DATA 911 SYSTEM, AND AUTHORIZING EXPENDITURE OF FUNDS

WHEREAS, the Lodi Police Department has utilized a public safety solution system provided by DATA 911 since 1997 which included Computer Aided Dispatch (CAD), Records Management, Field Reporting and Mobile Computing; and

WHEREAS, during this time period technology has vastly improved, however DATA 911 has failed to remain current and can no longer meet the needs of our organization; despite receiving a significant amount of money for an extended service agreement on a yearly basis yet not providing software updates in 5 years; and

WHEREAS, a committee of potential users researched and examined a software system by Sungard OSSI and the group unanimously endorsed the system, which will meet Lodi Police Department's needs in a number of areas and also provides a number of other capabilities that will enhance the ability to provide better service to the citizens; and

WHEREAS, staff therefore recommends purchasing and installing this new Public Safety Solution system; and

WHEREAS, Lodi Municipal Code Section 3.20.070 authorizes dispensing with bids for purchases of supplies, services, or equipment when it is in the best interest of the City to do so.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the purchase and installation of a new Public Safety Solution system from OSSI Sungard in the amount of \$250,997.21; and

BE IT FURTHER RESOLVED that the City Council does hereby authorize expenditure of funds in the amount of \$250,997.21 from Police Department budgeted funds.

Dated: August 20, 2008

I hereby certify that Resolution No. 2008-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 20, 2008, by the following vote:

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

RANDI JOHL
City Clerk

2008-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Accept Improvements Under Contract for Turner Road Overlay and Lower Sacramento Road Widening

MEETING DATE: August 20, 2008

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Accept the improvements under the Turner Road Overlay and Lower Sacramento Road Widening contract.

BACKGROUND INFORMATION: The contract for this project was executed with George Reed, Inc., of Lodi, on September 10, 2007, in the amount of \$661,840.90.

This project consisted of widening Lower Sacramento Road from Eilers Lane to Turner Road and overlaying Turner Road from 200 feet west of Lower Sacramento Road to Loma Drive. The project also included traffic signal modifications at Turner Road and Lower Sacramento Road.

The project included removing the crosswalk on the east leg of Turner Road at Lower Sacramento Road (General Mills). The primary reason for the crosswalk removal is the newly constructed northeast corner created a longer walking distance for the pedestrians. In the past ten months, we have not received any complaints or concerns since the crosswalk was paved over and not reinstalled. The intersection operations improved without the additional delay of pedestrians crossing the east leg. After approval by the Police Department and City Manager, City staff provided public notification to permanently remove the crosswalk.

The final contract price was \$735,483.26. The difference between the contract amount and the final contract price was mainly due to Contract Change Order No. 1 which was issued to expand the scope of work for this project and overlay Lower Sacramento Road from Turner Road to the north City limit line. The original contract widened this portion of Lower Sacramento Road but did not include any treatment of the existing pavement.

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: In the near term, maintenance costs will be reduced. As the pavement ages, pavement maintenance steps will be initiated.

FUNDING AVAILABLE: Lower Sacramento Road Congestion Relief and Measure K Grant funds were used to cover the costs for this project.

F. Wally Sandelin
Public Works Director

Prepared by Wes Fujitani, Senior Civil Engineer
FWS/WKF/pmf
cc: City Attorney
Streets and Drainage Manager

Purchasing Officer

APPROVED: _____
Blair King, City Manager



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CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing an Additional Task Order for West Yost & Associates to Provide Permit Assistance and Prepare Various Studies Required by the City's Wastewater Discharge Permit and Appropriating Funds (\$400,000)

MEETING DATE: August 20, 2008

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution authorizing an additional task order for West Yost & Associates to provide permit assistance and prepare various studies required by the City's wastewater discharge permit (Permit) issued by the State Central Valley Regional Water Quality Control Board (Board) and appropriating funds as shown below.

BACKGROUND INFORMATION: The City's new wastewater discharge permit includes requirements for a number of studies to be conducted and plans or reports to be developed on various aspects of the City's wastewater treatment operations. On December 19, 2007, Council authorized West Yost & Associates to proceed with preparing work plans for various studies required by the Permit. The work reflected in the attached proposal includes studies that build upon those Permit-required work plans authorized by Council last December and recently approved by the Board, along with assistance in meeting permit compliance requirements.

The City's wastewater consultant, West Yost & Associates, has furnished the City with a combined proposal to respond to the Permit requirements for FY 08/09, including assisting City staff in regulatory program management.

The following includes a brief description of the Permit-required tasks for FY 08/09; a more detailed description is included in the attached proposal (Exhibit A).

Task 1: Project Management – This task includes overall project coordination and principal engineer oversight of the work products. (\$22,300)

Task 2: State Board Petition Support – The City's Permit has been petitioned by the California Sportfishing Protection Alliance. This task includes assistance during a Board evidentiary hearing likely to be held this fall and, if appropriate, preparing a response to any State Order issued. (\$32,100)

Task 3: San Joaquin Valley Air Pollution Control District Biosolids Rule Compliance – Provides assistance in obtaining a variance to Biosolids Operations Rule 4565. (\$9,900)

APPROVED: _____
Blair King, City Manager

Adopt Resolution Authorizing an Additional Task Order for West Yost & Associates to Provide Permit Assistance and Prepare Various Studies Required by the City's Wastewater Discharge Permit and Appropriating Funds (\$400,000)

August 20, 2008

Page 2

Task 4: Regulatory Program Management – Includes meetings and coordination efforts with the Board regarding permitting issues. This task also involves guidance related to new regulatory requirements associated with the current permit. (\$46,200)

Task 5: Land Application Monitoring Coordination – This task includes coordinating development of the City's monthly land application reports and the costs associated with the Permit-required agronomist's review and certification. (\$31,400)

Task 6: Compliance Studies – This task includes efforts needed to complete the Board-required Corrective Action/Method of Compliance Work Plan, Pollution Prevention Plan and Treatment Feasibility Study. These studies are required of all dischargers that receive permit compliance schedules for new effluent limitations. (\$24,800)

Task 7: Toxicity Reduction Evaluation (TRE) – Though not expected, this task is to respond to a Board-required TRE in the event of a toxicity exceedence. TRE's are very time sensitive and require an intricate series of steps that are dependent on the outcome of initial findings. If a TRE is not needed, the budget for this item will not be expended. (\$68,400)

Task 8: Title 22 Engineering Report – This task includes implementation of the Title 22 Work Plan approved in June 2008 and includes documentation of the City's recycled water uses and operations, UV system validation, review and documentation of Northern California Power Agency (NCPA) facilities (the City supplies NCPA non-contact cooling water) and coordination with the Department of Public Health. Title 22 Reports are required for all treatment plants that supply recycled water for other than agricultural purposes. (\$75,000)

Task 9: Wintertime Irrigation Management Plan – Since approximately one-half of the City's land application areas are located within the 100-year flood plain of the Delta, this plan is required to minimize potential for winter flooding events to wash out biosolids from the land application areas to the Delta. (\$4,800)

Task 10: Temperature Study – This task includes implementation of the Temperature Study Work Plan approved in June 2008. The purpose of this Permit-required study is to establish receiving water temperature limitations that are protective of the beneficial uses (specifically, aquatic life uses) identified for the receiving water (Dredger Cut). (\$12,200)

Task 11: Industrial Influent Characterization Study – This task includes implementation of the Industrial Characterization Work Plan approved in June 2008. This Permit-required study is intended to characterize the wastewater influent collected by the industrial sewer system over a two-year period through quarterly influent monitoring. The majority of the costs associated with this study are laboratory related. (\$13,100)

Task 12: Pond Freeboard Evaluation Study – This Permit-required study is intended to evaluate the stability of the storage pond berms and to identify if a need exists to implement mitigation or control measures that may be necessary to prevent undesirable risks associated with berm failure or overtopping. (\$6,600)

Task 13: Salinity Evaluation and Minimization Plan – This task includes implementation of the Salinity Evaluation and Minimization Plan that is required of all municipal dischargers of one million gallons per day or larger in the Central Valley and is intended to identify sources of salinity in the City's domestic and industrial effluent. (\$10,000)

Task 14: Background Groundwater Quality and Degradation Assessment Study – This Permit-required study will be implemented in accordance with the Background Monitoring Well Work Plan approved in June 2008 and is intended to establish local background groundwater conditions in an effort to quantify the threat to groundwater quality associated with the City's land application practices. (\$8,500)

FISCAL IMPACT: The estimated cost for this work is \$365,300. Staff suggests a contingency amount of approximately 10% to account for unforeseen issues for a total of \$400,000. The studies' monitoring efforts are required in the City's Permit and non-performance would subject the City to significant fines.

FUNDING AVAILABLE: The requested appropriation of \$400,000 from the Wastewater fund will be split between operating and capital funds:

| | |
|-----------------|-------------------|
| Operating (170) | \$ 290,000 |
| Capital (172) | <u>\$ 110,000</u> |
| | \$ 400,000 |

Kirk Evans, Budget Manager

F. Wally Sandelin
Public Works Director

FWS/CS/pmf

Attachment

August 5, 2008

Mr. Charles E. Swimley, Jr.
Water Services Manager
City of Lodi
1331 South Ham Lane
Lodi CA 95242

SUBJECT: Proposal for Engineering Services—NPDES Permit Assistance for
Fiscal Year 2008/2009

Dear Mr. Swimley:

West Yost Associates (WYA) appreciates the opportunity to present to you this letter proposal for engineering services related to ongoing assistance to the City of Lodi (City) in meeting the NPDES permit compliance requirements for the Lodi Water Pollution Control Facility (WPCF).

The Regional Water Quality Control Board (Regional Board) adopted the final NPDES permit and associated Time Schedule Order (TSO) for the City's WPCF on September 14, 2007. The scope of work presented in this proposal includes the development of the NPDES permitting submittals that are anticipated to be needed beginning in September 2008 and continuing through the end of the July 2009 (hereinafter referred to as Fiscal Year 2008/2009, or FY 08/09).

Note that this scope does not cover any efforts pertaining to the completion of the Organic Loading Study. This effort was presented under a separate scope of work, and is expected to be funded under a different contract as the efforts outlined in this letter. In addition, it has been assumed that the City staff will complete all of the necessary monitoring needed to achieve the objectives of the tasks outlined in the Scope of Work section, and that the City will contract directly with a certified laboratory for the completion of any necessary analytical efforts (with the exception of the monitoring and analytical work needed for UV system validation). Under the Regulatory Program Management task, WYA will provide support for coordinating these efforts with other regulatory needs.

SCOPE OF WORK

The following are the detailed engineering service tasks related to ongoing assistance to the City in meeting the NPDES permit compliance requirements for the Lodi WPCF. These tasks include the following:

- Task 1: Project Management
- Task 2: State Board Petition Support
- Task 3: SJVAPCD Biosolids Rule Compliance
- Task 4: Regulatory Program Management

- Task 5: Land Application Monitoring Coordination
- Task 6: Compliance Studies (Method of Compliance Work Plan, Pollution Prevention Plan and Treatment Feasibility Study)
- Task 7: Toxicity Reduction Evaluation
- Task 8: Title 22 Report
- Task 9: Wintertime Irrigation Management Plan
- Task 10: Temperature Study
- Task 11: Industrial Influent Characterization Study
- Task 12: Pond Freeboard Study
- Task 13: Salinity Evaluation and Minimization Plan
- Task 14: Groundwater Background Analysis

Task 1. Project Management

Task 1 includes project management-related activities including general project coordination. In addition, to ensure continued achievement of consistently high quality work products, and in accordance with the WYA Quality Assurance/Quality Control (QA/QC) policy, a WYA staff member at the Principal Engineer level or higher will review progress and significant work products. Brief descriptions of services performed under this task will be included on monthly invoices.

The efforts needed during FY 08/09 under this task can only be estimated at this time, and the associated fee estimate presented in this letter proposal are based on WYA's knowledge of the City's current permitting concerns. If the proposed budget is not expended in the timeframe anticipated for this scope of services, it can be directed toward the completion of other efforts.

Task 2. State Board Petition Support

This task includes support efforts needed to support the City in the event of a State Water Resources Control Board (SWRCB) action regarding the petition filed by the California Sports Fisheries Alliance. These efforts may include:

- Review Draft SWRCB Order and prepare written comments;
- Prepare for and represent the City at Workshop/hearing before the SWRCB;
- Prepare comments on a revised draft order (if any); and
- Prepare for and Represent the City at the Final Hearing before the SWRCB (if any).

The actual level of effort necessary and the ultimate deliverables are uncertain. Therefore, a nominal fee has been assumed for this task. All work will be performed on a time and material basis. Monthly invoices will detail the efforts and costs. However, depending on the level of effort required, a scope and budget amendment may be necessary in the future. Somach Simmons and Dunn (SSD) will also continue provide support services related to these efforts.

Deliverable: Written comment letter that provides the City's response to the State Board Order.

Tasks 3. SJVAPCD Biosolids Rule Compliance

In March 2007, the San Joaquin Valley Air Pollution Control District (SJVAPCD) adopted Biosolids Operation Rule 4565. This rule requires that the implement additional controls for Volatile Organic Carbon (VOC) emissions from the City's biosolids land application practices. The City will not be able to comply with the SJVAPCD Biosolids Operation Rule. Therefore, the City will need to work with SJVAPCD staff to identify a compliance strategy and timeline that can be incorporated into a temporary variance.

The purpose of this task to provide assistance to the City, as needed, to obtain a variance to the San Joaquin Valley Air Pollution Control District (SJVAPCD) Biosolids Operation Rule 4565. Additional efforts are assumed to not be needed at this time. The actual level of effort is uncertain. Therefore, a nominal fee has been assumed for this task. All work will be performed on a time and material basis. Monthly invoices will detail the efforts and costs. However, depending on the level of effort required, a scope and budget amendment may be necessary in the future.

Deliverable: SJVAPCD Variance Request Document.

Task 4. Regulatory Program Management

WYA anticipates that the City will continue to require ongoing assistance related to understanding general regulatory compliance issues and implementing the measures needed to achieve compliance. It is difficult to predict the level of effort needed for this task. Assistance under this task is anticipated to include one or more of the following items:

1. Working with City staff to understand the permit compliance requirements;
2. Maintaining and updating the attached implementation schedule for the compliance measures;
3. Developing of presentations for City staff, Council, and/or other consultants to the City outlining the regulatory compliance concerns;
4. Reviewing permits and other regulatory guidance documents issued by the Regional Board and SWRCB that would be applicable to the WPCF;
5. Providing assistance to the City, as needed, for developing responses to Regional Board requests;
6. Providing assistance in developing semi-annual permit compliance progress reports (Due February 1, 2008 and August 1, 2009);
7. Coordinating efforts between all the studies and other planning-related issues;
8. Helping the City to develop monitoring programs;
9. Completing analyses of regularly collected monitoring data to identify potential future regulatory concerns;

10. Providing support to the City and the PCP Cannery in completion of the Land Discharge Organic Loading Study and other food processing waste disposal issues; and/or
11. Attending and preparing for meetings to discuss the results of such activities outlined above.

All of the specific work efforts and deliverables under this task cannot reasonably be determined at this time, and the associated fee estimate presented in this letter proposal are based on WYA's knowledge of the City's current permitting concerns. All work will be performed on a time and material basis, and monthly invoices will detail the efforts and costs. Depending on the level of effort required, a scope and budget amendment may be necessary in the future. Moreover, if the estimated fee is not expended in the timeframe anticipated for this scope of services, it may be directed toward the completion of other efforts. These tasks may also require support from our sub-consultants SSD and RBI, and a small budget has also been assumed for these efforts.

It will be critical that the City's regulatory compliance efforts are completed in coordination with Regional Board staff and other regulatory authorities. It is imperative that these agencies are in agreement with the study approach and the type and amount of information to be obtained from the study. Therefore, this task also involves the participation of WYA staff and our subconsultants, as needed, in meetings with the appropriate regulatory agency staff. Meetings are currently anticipated as follows:

- September 2008 to discuss the approach for the Treatment Feasibility Study Work Plan, the Salinity Evaluation and Minimization Plan, and the Pond Freeboard Evaluation Study;
- January/February 2009 to discuss the Organic Loading Study Results and identify appropriate permit modifications; and
- June/July 2009 to discuss the results of Year 1 monitoring for the Industrial Influent Characterization Study, the Pollution Prevention Plan, the Temperature Study and the Groundwater Background monitoring; the recommended Year 2 monitoring for these studies (if any); and the approach for the Treatment Feasibility Study and the Verification of Permit Compliance/Request for Flow Increase.

Other coordination meetings are also anticipated to be required.

Deliverable: Up to five meetings with the City, the Regional Board and/or other regulatory authorities regarding the acceptability of the proposed Work Plans and other regulatory matters. February 2009 Semi-Annual Progress Report (Temperature Study, Industrial Influent Characterization Study, Background Groundwater Quality and Degradation Assessment). August 2009 Semi-Annual Progress Report (Pollution Prevention Plan, Corrective Action Plan).

Task 5. Land Application Monitoring Coordination

The new NPDES permit requires that the City significantly increase the level of monitoring for the land application area site. In addition, the City must employ the efforts of a certified agronomist in the completion of the land management monthly and annual reports. This task involves providing the following items related to these efforts:

- Support with development of the August, September, and October monthly land management monitoring reports. (It is assumed that WYA will need to provide minimal support during the 2009 irrigation season);
- Review the 2008 data and help with development of the required 2008 Annual Cropping and Irrigation Report;
- Efforts completed by Lew Baumbach (WFS) for oversight, review, and approval of the August, September, and October monthly land management reports and the annual land management report. *(Based on discussions with City staff, it is assumed that the City will contract directly with WFS during the 2009 irrigation season.);* and
- Coordination with City staff and tenant farmers regarding collection of required monitoring data during the 2008 irrigation season.

Deliverables: PDF copies of the August, September and October monthly land management reports. A MS EXCEL version of the 2008 Spreadsheet Management Tool, with all data incorporated. A MS EXCEL version of the 2009 Spreadsheet Management Tool for use by the City. The 2008 Annual Land Management Report with approval by Lew Baumbach from WFS.

Task 6. Compliance Studies

The following compliance studies are required under the new NPDES permit:

- Corrective Action Plan/Method of Compliance Work Plan
- Pollution Prevention Plan
- Treatment Feasibility Study

This task includes the efforts that will need to be completed for these studies during FY 08/09.

Subtask 6.1. Corrective Action Plan/Method of Compliance Work Plan

WYA completed the Method of Compliance Work Plan (MOC Work Plan) in April 2008. Approval of the MOC Work Plan was provided by the Regional Board in a letter dated June 26, 2008. Implementation of the Work Plan requires support that will be provided under the Regulatory Program Management Task (Task 4), including the submittal of an Annual Progress Report on August 1, 2008, which will detail the progress that has been made toward achieving compliance. Therefore, this subtask is complete and will not require additional scope or budget (now or in the future).

Mr. Charles E. Swimley Jr.
August 5, 2008
Page 6

Subtask 6.2. Pollution Prevention Plan

Pollution Prevention Plans (PPPs) are required for all dischargers that receive permit compliance schedules for new effluent limitations. Therefore, the City is required to develop a PPP for mercury, aluminum, chlorodibromomethane, dichlorobromomethane, manganese nitrate and nitrite.

WYA completed the Pollution Prevention Plan Work Plan (PPP Work Plan) on behalf of the City in April 2008. Comments on the PPP Work Plan were received on July 9, 2008. In this letter, the Regional Board requested that the City submit an Initial Manganese PPP Study, in accordance with the requirements of the City's TSO. In addition, the Regional Board requested an addendum to the PPP Work Plan, providing the completion date for the City's current upgrade projects. This information has recently been provided and approval of the PPP Work Plan and the Initial Manganese PPP Study is anticipated by September 2008.

The PPP Work Plan calls for monitoring of the City's municipal water supply, the discharges from specific industrial and commercial dischargers and the WPCF influent. The sampling parameters and frequency are also provided in the PPP Work Plan. WYA anticipates that the City staff will complete all of the sample collection efforts required under the PPP Work Plan during FY 08/09. WYA also assumes that the City will contract directly with the analytical laboratory for the sample analysis.

WYA efforts during the PPP implementation Phase I (FY 08/09) will include review of the data collected under the PPP Work Plan. It is anticipated that such data will be provided to WYA as it becomes available from the laboratory.

WYA will also provide recommendations for additional efforts that should be completed during Phase II (FY 09/10). As discussed in the PPP Work Plan, the additional PPP recommendations will be included in the August 2009 Progress Report, which will be provided under the Regulatory Program Management Task (Task 4). In addition, WYA will participate in a meeting with Regional Board staff to discuss the results of the FY 08/09 monitoring and the recommendations for FY 09/10 monitoring. This effort will also be provided under the Regulatory Program Management Task (Task 4).

Finally, the Initial Manganese PPP Study calls for the development of a community pamphlet that details the water quality issues associated with self-regenerating water softeners. WYA will develop the technical information needed for this effort. In addition, WYA graphical design staff will develop an electronic version of the pamphlet, which will then be submitted to the City for production and distribution. WYA will coordinate, as needed, with the City's designated production staff to ensure the electronic version is compatible with their needs.

Deliverables: Electronic version of the Self-Regenerating Water Softener Pamphlet.

Task 6.3 Treatment Feasibility Study

The NPDES permit requires that the City submit a Work Plan for the completion of a Treatment Feasibility Study (TFS) within one year of the effective date of the permit (or by November 3, 2008). The purpose of the TFS Work Plan is to describe the efforts that will be completed by the City to examining the feasibility, costs and benefits of different treatment options that may be required to remove aluminum, ammonia, chlorodibromomethane, and dichlorobromomethane from the discharge. A TFS is required for all dischargers that receive permit compliance schedules for new effluent limitations.

This subtask involves the completion of the TFS Work Plan. Note that the City is in the process of constructing the facilities needed to meet the effluent limitations in question, and compliance should be achievable by early 2009. Therefore, the TFS Work Plan will outline the monitoring that will be completed by the City once these upgrades are complete to verify that the compliance objectives have been met. Note that this monitoring will also be used to support the City's request for a flow increase to 8.5 million gallons per day.

Note that the NPDES permit provides the City with a two year timeline to complete the TFS from when the TFS Work Plan is approved by the Executive Officer. The support required by the City to complete the activities outlined in the TFS Work Plan cannot be reasonably identified at this time. Therefore, this task does not currently include any additional efforts needed for completion of the TFS. However, WYA will provide the City with a scope and budget for providing support to the City for the completion of the TFS along with the Draft TFS Work Plan.

Deliverables: Treatment Feasibility Study Work Plan.

Task 7. Toxicity Reduction Evaluation

RBI, in association with WYA, completed the Toxicity Reduction Evaluation Work Plan (TRE Work Plan) in January 2008. Approval of the TRE Work Plan was provided by the Regional Board in a letter dated June 26, 2008. Implementation of the TRE Work Plan will only be required should the WPCF exceed the TRE trigger outlined in the NPDES permit. This requirement applies to all NPDES dischargers. As detailed in the TRE Work Plan, the major items that may need to be included under a TRE are as follows:

- Whole Effluent Toxicity Testing Bioassay Evaluation;
- Information and Data Acquisition;
- Facility Operations and Performance Evaluation;
- Preparation of a Final TRE Action Plan;
- Toxicity Identification Evaluation (TIEs);
- Toxicity Source Evaluation and Control; and/or
- Preparation of a TRE Report.

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The efforts needed during FY 08/09 are based on the assumption that the City will need to implement a Toxicity Reduction Evaluation (TRE) as presented in the TRE Work Plan. However, if the City's monitoring does not demonstrate toxicity in the WPCF effluent, a TRE will not be necessary. If the fee estimate outlined in this letter proposal is not expended in the timeframe anticipated for this scope of services, they can be directed toward the completion of future efforts. On the other hand, the amount of services needed to complete a TRE cannot be accurately predicted at this time because the amount of effort needed for key steps in the process, and even the sequential steps in the process itself, are largely dictated by the outcome of the bioassays and the Toxicity Identification Evaluations (TIEs) and having the TIE be effective in identifying the constituent causing the toxicity that then needs to be controlled. These outcomes cannot be known at this time. The amount of services needed for facility operations and performance evaluation will be also dependent upon the amount of this task completed by City, which will likely be dependant on the timing and frequency of the toxicity exceedances. Therefore, this scope of work for this task is limited to the budget allocated in this letter proposal. In the event that a TRE requires services beyond that scoped and budgeted herein, WYA would, upon request, submit a separate proposal for additional services. The budget also assumes that the City will contract directly with the bioassay laboratory for all TRE bioassay and TIE work.

In addition, because TREs are an intricate series of steps and assessments over time, with the exact nature of activities in latter tasks largely dictated by the outcome and findings in the initial tasks, the proper and efficient conducting of a TRE requires extensive technical oversight, coordination, and direction. Therefore, this task provides budget for such services as well as miscellaneous services provided during the TRE process not specifically covered under other the specific TRE items listed above.

Given their expertise, RBI would serve as the technical lead for this work. However, WYA will provide support and coordination in completing these efforts. Coordination meetings required over the next twelve months in support of completing this task will be covered under the Regulatory Program Management Task (Task 4) described above.

Task 8. Title 22 Engineering Report

WYA completed the Title 22 Engineering Report Work Plan (Title 22 Work Plan) in April 2008. The purpose of the Title 22 Report is to document the City's current recycled water uses and operations. The recycled water uses at the WPCF include irrigation on City-owned property, supply water for the Northern California Power Agency (NCPA) power plant, and supply water for the San Joaquin County Mosquito and Vector Control District (SJCM&VCD) fish rearing ponds. A Title 22 Report, prepared in accordance with the information listed in Department of Public Health (DPH) March 2001 document "*Guidelines for the Preparation of an Engineering Report for the Production, Distribution, and Use of Recycled Water*" is required for all wastewater treatment facilities that supply recycled water.

Approval of the Title 22 Work Plan was provided by the Regional Board in a letter dated June 18, 2008. The implementation phase of the Title 22 Work Plan will need to be completed during FY 08/09, and development of the Title 22 Report will occur during FY 09/10. Implementation of the Title 22 Work Plan during FY 08/09 will include the following items:

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- UV System Validation
- Review of Northern California Power Authority (NCPA) Facilities
- Coordination with Department of Public Health (DPH)

8.1 UV System Validation

This task covers the following items:

- Preparation of the UV Validation test protocol;
- Design of the experimental set up;
- Testing of electrical components, controls, and alarms;
- Instrumentation calibration;
- Conducting the bioassay checkpoint test (including sample collection and analytical work); and
- Preparation of the summary test report.

Given their expertise in this area, Carollo Engineers (Carollo) will take the lead in the performance of the commission testing of the City's UV disinfection system in general accordance with the NWRI UV Guidelines (2003). All equipment required to conduct the various tests will be provided by Carollo and/or WYA.

One, knowledgeable WPCF staff will need to be available on site during the days of testing to provide required wastewater flows through the system, ensure proper dosing, and manually operate the UV system when needed. Approximately 20 hours of staff time is assumed to be needed over a period of three days.

Deliverables: UV Validation Testing Protocol Document and UV Validation Testing Report of Results.

8.2 Review of NCPA Facilities

This task involves the development of the documentation needed for the Title 22 Report to demonstrate that the appropriate steps have been taken by NCPA to ensure protection of public and employees, and that cross-connection control procedures are in place at the NCPA recycled water use facility. The supporting documentation required to establish these objectives are listed below:

- Description of the type of systems using the recycled water, including potential for employee or public exposure, and the mitigative measures to be employed;
- Maps and/or plans showing the location of the transmission facilities and the distribution system layout. This should include the location of all potable water, recycled water and sewer lines within the NCPA facility;

- Description of cross connection control procedures and policies in the NCPA areas where both potable and recycled water lines exist. This includes the cross-connection control employed at the NCPA's recycled water treatment facility prior to use in the cooling towers. It is assumed that the NCPA facility does not meet the Title 22 definition of implementing a "dual plumbed system", therefore, Sections 60314 through 60316 of the DPH Recycled Water Criteria do not apply to this facility;
- Description of training received by NCPA employees with regard to complying with the recycled water criteria; and
- Description of the periodic inspection carried out at the NCPA, including identification of the locations where problems are most likely to occur.

It has been assumed that WYA will need to participate in one meeting with the City and NCPA staff, and that one site-visit to the NCPA facility will be needed to complete this task. It is also assumed that NCPA will provide access to the documentation listed above during the site visit. WYA will review the documentation provided by NCPA to determine that all necessary components are included. It is also assumed that some additional follow-up efforts will be needed to discuss and verify the documentation provided by NCPA.

8.3 Coordination with Department of Public Health

The City is proposing the following two activities that are site-specific to the WPCF that will require DPH approval:

- Provide "undisinfected secondary" effluent to the SJCM&VCD fish rearing ponds. The DPH Title 22 Guidelines require the use of "disinfected tertiary" water in impoundments where the public has access. Because the fish rearing ponds are located on City-owned property, the City is requesting that DPH allow the use of "undisinfected secondary" effluent at this facility. Allowance for this type of operation would provide cost savings to the City.
- Provide "disinfected secondary" effluent to the NCPA Power Plant when the water is being used as boiler feed water. The City will need to demonstrate that this standard can be reliably met when the UV system is operated at a lower dosage than what is needed to meet the "disinfected tertiary" standard. Allowance for such operations could provide cost savings to the City.

WYA will prepare for, and participate in, up to two (2) meetings with DPH staff regarding the above activities. The UV Validation testing will also be discussed at these meetings.

The first meeting will be conducted early in the Title 22 Work Plan implementation stages to obtain initial comments from DPH staff regarding the proposed operations. WYA anticipates that DPH staff will provide guidance at this meeting regarding the type of documentation needed to support the proposed actions. (Note that if documentation is needed for the NCPA facility that is not currently listed under subtask 8.2, WYA will also work with the City and NCPA to obtain and review such documentation.)

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A follow-up meeting will be held once the documentation requested by DPH has been developed. If at either of these meetings DPH staff indicates that support of the proposed operations is not likely, the City may elect to modify the proposed Title 22 compliance approach. The scope and budget for this task may be reduced pending such a decision.

Deliverables: Up to two meetings with the City and DPH regarding the City's site-specific Title 22 Compliance requirements.

Task 9. Wintertime Irrigation Management Plan

WYA completed the Wintertime Irrigation Management Plan Work Plan (WIMP Work Plan) in April 2008. Conditional approval of the WIMP Work Plan was provided by the Regional Board in a letter dated June 19, 2008. As required under the City's NPDES permit, the City must submit the WIMP by December 19, 2008. This document must describe the actions that will be taken by the City to minimize potential water quality impacts during flooding events that would cause washout of wastewater or biosolids from the land application area. This requirement was included in the City's permit because approximately half of the City's land application areas are located within the 100-year floodplain for the Sacramento-San Joaquin Rivers Delta.

Deliverable: Wintertime Irrigation Management Plan

Task 10. Temperature Study

RBI, in association with WYA, completed the Temperature Study Work Plan for the White Slough WPCF Effluent and Downstream Water Bodies (Temperature Study Work Plan) in April 2008. Approval of the Temperature Study Work Plan was provided by the Regional Board in a letter dated June 26, 2008. The implementation phase of the Temperature Study Work Plan began on July 22, 2008. Given their expertise in this area, RBI will continue to serve as the technical lead for this work. WYA will provide support and coordination efforts during the completion of this study.

The purpose of the Temperature Study is to define what future objectives should be applied to the receiving water with respect to temperature. The City was required to do this study because direct enforcement of the Thermal Plan cannot be applied to the City's receiving waters. The Temperature Study Work Plan calls for continuous monitoring of the temperature of the City's receiving and the WPCF effluent for a period of twelve months. WYA anticipates that the City staff will complete all of the data collection efforts required under the Temperature Study Work Plan during FY 08/09, including the purchase of monitoring equipment.

The scope of work for WYA/RBI efforts during the Temperature implementation phase (FY 08/09) include review of the data collected. It is anticipated that the City will download the temperature data on a weekly basis and this data will be provided to WYA/RBI on a monthly basis.

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In addition, WYA/RBI will also participate in up to two (2) meetings with the City and/or Regional Board staff to discuss the results of the FY 08/09 monitoring and the recommendations for development of the Temperature Study Report. The City must also submit a Progress Report on February 1, 2009 detailing the status of the Temperature Study. Assistance will be provided by the WYA/RBI team for these efforts under the Regulatory Program Management Task (Task 4).

Task 11. Industrial Influent Characterization Study

WYA completed the Industrial Influent Characterization Study Work Plan (Industrial Characterization Work Plan) in April 2008. The goal of the study is to identify any potential groundwater contamination issues, if any, from discharges of the untreated industrial wastewater to the City's agricultural fields. Based upon the results of this study, the City's permit may be reopened to include/modify effluent limitations, land application specifications, or to provide additional requirements.

Approval of the Industrial Characterization Work Plan was provided by the Regional Board in a letter dated June 26, 2008. In accordance with the City's permit, the Industrial Characterization Work Plan calls for monitoring of the City's industrial wastewater on a quarterly basis to characterize the wastewater influent collected by its industrial sewer system. The sampling parameters and monitoring details are provided in the Industrial Characterization Work Plan. WYA anticipates that the City staff will complete all of the sample collection efforts required under the Industrial Characterization Work Plan during FY 08/09. WYA also assumes that the City will contract directly with the analytical laboratory for the sample analysis.

In accordance with the City's NPDES permit, the Industrial Characterization will occur over a two-year period. The scope of work for WYA efforts during the first year (FY 08/09) include review of the data collected (it is anticipated that such data will be provided to WYA as it becomes available from the laboratory). WYA will also provide a Technical Memorandum summarizing the results of the first year of monitoring and recommendations for additional sampling that should be completed during the second year of monitoring (FY 09/10). As discussed in the Industrial Characterization Work Plan, the additional Industrial Characterization recommendations will be provided by July 1, 2009.

The City will also need to submit a Progress Report on February 1, 2009, which will be provided under the Regulatory Program Management Task (Task 4). In addition, WYA will participate in a meeting with Regional Board staff to discuss the results of the FY 08/09 monitoring and the recommendations for FY 09/10 monitoring. This effort will also be provided under the Regulatory Program Management Task (Task 4).

Deliverable: Technical Memorandum summarizing the results of the first year monitoring and providing recommendations for monitoring during the second year.

Task 12. Pond Freeboard Evaluation Study

The NPDES permit requires that the City submit a Pond Freeboard Evaluation Study Work Plan (Pond Freeboard Work Plan) that describes the actions the City will take to evaluate the stability of the pond berms, the risk for undesirable reactions caused by berm failure or pond overtopping, the need to implement mitigation or control measures necessary to prevent undesirable risk, and also shall determine an adequate freeboard that prevents undesirable risks. The Pond Freeboard Evaluation Study Work Plan must be submitted to the Regional Board within twelve months of the effective date of the permit, or by November 2, 2008.

The City was required to complete this study in lieu of receiving a requirement in the NPDES permit to maintain a 2-foot freeboard in the ponds at all times. Therefore, based upon the results of this study, the permit may be reopened to include additional requirements with respect to the freeboard in the ponds.

WYA will develop the Pond Freeboard Work Plan in accordance with the permit requirements. As part of the development of the Pond Freeboard Work Plan, WYA will identify a geotechnical engineer that can evaluate the stability of the pond berms.

Following the Executive Office approval of this Work Plan, the City will need to complete several actions over a two-year period to develop the Pond Freeboard Evaluation Study. The support required by the City to complete these activities cannot be reasonably identified at this time. Therefore, this task does not currently include any additional efforts needed for completion of the Pond Freeboard Evaluation Study. However, WYA will provide the City with a scope and budget for completion of the Pond Freeboard Evaluation Study along with the Draft Pond Freeboard Work Plan.

Deliverables: Pond Freeboard Evaluation Study Work Plan.

Task 13. Salinity Evaluation and Minimization Plan

The NPDES permit requires that the City submit a Salinity Evaluation and Minimization Plan that identifies the sources of salinity in the WPCF domestic and industrial influent. These plans are required for all municipal dischargers of 1 million gallons per day or larger in the Central Valley per the guidance documents developed by the Regional Board in 2007. The Salinity Evaluation and Minimization Plan must be submitted within twelve months of the effective date of the permit, or by November 2, 2008.

WYA will develop the Salinity Evaluation and Minimization Plan in accordance with the permit requirements. Data collected during the first quarter monitoring under the PPP will be used to develop this Plan.

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Following Executive Office approval of the Salinity Evaluation and Minimization Plan, the City must provide annual reports (first one is due on August 1, 2009) demonstrating reasonable progress in the reduction of salinity in its discharge to Dredger Cut and the Agricultural Fields. These reduction measures may include source control, mineralization reduction, chemical addition reductions, changing to water supplies with lower salinity, and limiting the salt load from domestic and industrial dischargers. The support required by the City to complete this progress report will not occur during FY 08/09. Therefore, this task does not currently include any additional efforts needed for completion of the Annual Report. However, WYA has provided the City with an estimated budget for completion this effort.

Deliverables: Salinity Evaluation and Minimization Plan.

Task 14. Background Groundwater Quality and Degradation Assessment Study

WYA completed the revised Background Monitoring Well Installation Work Plan (Monitoring Well Work Plan) in May 2008. This Monitoring Well Work Plan identified the approximate locations and construction details for three new monitoring wells to evaluate background nitrate concentrations and electrical conductance (EC) levels near the WPCF. The Regional Board approved this Work Plan on June 4, 2008. In accordance with the Monitoring Well Work Plan, the monitoring wells will be installed during the last week of August 2008 (and therefore will not be completed under this scope of services).

WYA will develop a well completion report in accordance with applicable Department of Water Resources, Regional Board, and San Joaquin County Department of Environmental Health requirements.

The wells will need to be monitored on a quarterly basis in accordance with the Monitoring and Reporting Program included in the City's permit. WYA anticipates that the City staff will complete all of the sample collection efforts required during FY 08/09. WYA also assumes that the City will contract directly with the analytical laboratory for the sample analysis.

WYA will provide review of the data collected (it is anticipated that such data will be provided to WYA as it becomes available from the laboratory). WYA will also assist the City in the development of a Progress Report due on February 1, 2009. In needed, WYA will participate in a meeting with Regional Board staff to discuss the results of the FY 08/09 monitoring and the recommendations for FY 09/10 monitoring. These efforts will be provided under the Regulatory Program Management Task (Task 4).

Following the installation of the background monitoring wells, the City will need to complete background monitoring to develop the data needed to complete the Background Groundwater Quality and Degradation Study Report (due to the Regional Board by August 1, 2010). The support required by the City to complete the Background Groundwater Quality and Degradation Study Report cannot be reasonably identified at this time. Therefore, this task does not currently include these efforts. However, WYA has provided the City with an estimated budget for the total effort needed to complete the Background Groundwater Quality and Degradation Study Report.

Deliverables: Background Monitoring Well Completion Report.

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PROJECT BUDGET

The total fee for the scope of work described above is estimated to be \$365,300. A summary of the project costs by task is shown in the attached Table 1, and a detailed breakdown is also attached. WYA will perform all work on an hourly basis at standard company charge rates, and will not exceed the estimated cost without written authorization. If additional budget is required to complete work identified herein, WYA will request City authorization prior to exceeding the budget.

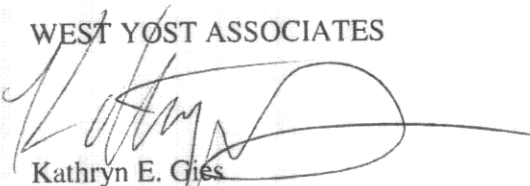
SCHEDULE

Work will begin upon notice to proceed from City, and will be completed by August 1, 2009. A detailed schedule showing all of the permit compliance activities has recently been provided by the City and will be maintained by WYA throughout the duration of this contract. WYA and our sub-consultants will provide additional services related to the studies needed under the renewed permit, subject to mutually agreeable adjustments to the scope, authorized budget, and schedule.

WYA appreciates the opportunity to provide additional permitting services to the City. Please contact me if you have any questions or need additional information.

Sincerely,

WEST YOST ASSOCIATES



Kathryn E. Gies
Senior Engineer

KEG:nmp

cc: Wally Sandelin, City of Lodi
Del Kerlin, City of Lodi

Table 1. Estimated Fee for FY 08/09 Permit Implementation Support

| Task | WYA Fee Estimate, dollars | Subconsultants | | | | | Total Estimated Fee, dollars |
|---|---------------------------|---|-------------------------------------|---|---|--|------------------------------|
| | | Technical Support Budget (RBI), dollars | Legal Support Budget (SSD), dollars | Technical Support Budget (WFS), dollars | Technical Support Budget UV Validation, dollars | Biological Analysis UV Validation, dollars | |
| Task 1. Project Management | \$14,100 | \$ 8,200 | - | - | - | - | \$ 22,300 |
| Task 2. State Board Support | \$18,800 | - | \$13,300 | - | - | - | \$ 32,100 |
| Task 3. SJVAPCD Biosolids Rule Compliance | \$9,900 | - | - | - | - | - | \$ 9,900 |
| Task 4. Regulatory Program Management | \$34,800 | \$ 5,900 | \$5,500 | - | - | - | \$ 46,200 |
| Task 5. Land Application Monitoring Coordination | \$16,000 | - | - | \$15,400 | - | - | \$ 31,400 |
| Task 6: Compliance Studies | \$24,800 | - | - | - | - | - | \$ 24,800 |
| Task 7: Toxicity Reduction Evaluation | \$14,400 | \$54,000 | - | - | - | - | \$ 68,400 |
| Task 8: Title 22 Report | \$17,500 | - | - | - | \$ 44,000 | \$ 13,500 | \$ 75,000 |
| Task 9: Wintertime Irrigation Management Plan | \$4,800 | - | - | - | - | - | \$ 4,800 |
| Task 10: Temperature Study | \$2,000 | \$10,200 | - | - | - | - | \$ 12,200 |
| Task 11: Industrial Influent Characterization Study | \$13,100 | - | - | - | - | - | \$ 13,100 |
| Task 12: Pond Freeboard Study | \$6,600 | - | - | - | - | - | \$ 6,600 |
| Task 13: Salinity Evaluation and Minimization Plan | \$10,000 | - | - | - | - | - | \$ 10,000 |
| Task 14: Background Groundwater Analysis | \$8,500 | - | - | - | - | - | \$ 8,500 |
| Totals | \$195,300 | \$78,300 | \$18,800 | \$15,400 | \$44,000 | \$13,500 | \$365,300 |

| Estimated Staff Hours and Budget West Yost Associates | | Labor | | | | | Drafting | | Modeling | | Costs | | | | Sub. 1 | Sub. 2 | Sub. 3 | Sub. 4 | Sub. 5 | | |
|---|--|--------------------------|-----------------------|-----------------------|-----------------|---------------------|------------------|-------------|-------------|-------------|-------------|-----------------|----------------------|--------------------------|------------------|------------------|------------------|-------------|-------------|-------------|--|
| PROJECT: Regulatory Assistance - Preliminary Draft | | P/VP \$200 BGW/JDP | SE/SS \$157 KEG | PE/PS \$174 KLL | ADMIV \$89 | ESII \$124 BM | Hours | Fee | Hours | Fee 25 | Hours | Fee 25 | Routine ODC 5% | Sub. w/ markup 10% | Other Direct | Total Costs | | | | | |
| Task 1.0 Project Management | | | | | | | | | | | | | | | | | | | | | |
| 1.01 | General | 20 | 60 | | | 80 | \$ 13,420 | | | | | \$ 671 | \$ 8,235 | | \$ 22,326 | | \$ 7,486 | | | | |
| Subtotal, Task 1 (hours) | | 20 | 60 | 0 | 0 | 80 | | 0 | | 0 | | | | | | | | | | | |
| Subtotal, Task 1 (\$) | | \$ 4,000 | \$ 9,420 | \$ - | \$ - | \$ - | \$ 13,420 | \$ - | \$ - | \$ - | \$ - | \$ 671 | \$ 8,235 | \$ - | \$ 22,326 | \$ - | \$ 7,486 | \$ - | \$ - | \$ - | |
| Task 2.0 State Board Assistance | | | | | | | | | | | | | | | | | | | | | |
| 2.01 | State Board Hearing Support | 16 | 40 | | 6 | 60 | \$ 17,454 | | | | | \$ 873 | \$ 13,343 | \$ 500 | \$ 32,170 | \$ 12,130 | | | | | |
| Subtotal, Task 2 (hours) | | 16 | 40 | 0 | 6 | 60 | | 0 | | 0 | | | | | | | | | | | |
| Subtotal, Task 2 (\$) | | \$ 3,200 | \$ 6,280 | \$ - | \$ 534 | \$ 7,440 | \$ 17,454 | \$ - | \$ - | \$ - | \$ - | \$ 873 | \$ 13,343 | \$ 500 | \$ 32,170 | \$ 12,130 | \$ - | \$ - | \$ - | \$ - | |
| Task 3.0 SJVAPCD Coordination | | | | | | | | | | | | | | | | | | | | | |
| 3.01 | Meetings | | 8 | | | 8 | \$ 1,256 | | | | | \$ 63 | \$ - | \$ 200 | \$ 1,519 | | | | | | |
| 3.02 | Ongoing Coordination | | 24 | | | 34 | \$ 7,984 | | | | | \$ 399 | \$ - | | \$ 8,383 | | | | | | |
| Subtotal, Task 3 (hours) | | 0 | 32 | 0 | 0 | 34 | | 0 | | 0 | | | | | | | | | | | |
| Subtotal, Task 3 (\$) | | \$ - | \$ 5,024 | \$ - | \$ - | \$ 4,216 | \$ 9,240 | \$ - | \$ - | \$ - | \$ - | \$ 462 | \$ - | \$ 200 | \$ 9,902 | \$ - | \$ - | \$ - | \$ - | \$ - | |
| Task 4.0 Regulatory Program Management | | | | | | | | | | | | | | | | | | | | | |
| 4.01 | General Support | 4 | 40 | | | 24 | \$ 10,056 | | | | | \$ 503 | \$ 4,400 | | \$ 14,959 | \$ 4,000 | | | | | |
| 4.02 | Status Reports (Aug. and Feb.) | 2 | 40 | | | 60 | \$ 14,120 | | | | | \$ 706 | \$ - | | \$ 14,826 | | | | | | |
| 4.03 | Meetings (5) | 4 | 40 | | | 44 | \$ 7,080 | | | | | \$ 354 | \$ 7,024 | \$ 2,000 | \$ 16,458 | \$ 1,000 | \$ 5,385 | | | | |
| Subtotal, Task 4 (hours) | | 10 | 120 | 0 | 0 | 84 | | 0 | | 0 | | | | | | | | | | | |
| Subtotal, Task 4 (\$) | | \$ 2,000 | \$ 18,840 | \$ - | \$ - | \$ 10,416 | \$ 31,256 | \$ - | \$ - | \$ - | \$ - | \$ 1,563 | \$ 11,424 | \$ 2,000 | \$ 46,242 | \$ 5,000 | \$ 5,385 | \$ - | \$ - | \$ - | |
| Task 5.0 Land Application Area Monitoring and Coordination | | | | | | | | | | | | | | | | | | | | | |
| 5.01 | Spreadsheet Tool Update | | | | | 0 | \$ - | | | | | \$ - | \$ - | | \$ - | | | | | | |
| 5.02 | Annual Reports | 2 | 24 | | 12 | 40 | \$ 10,196 | | | | | \$ 510 | \$ 2,112 | | \$ 12,818 | | \$ 1,920 | | | | |
| 5.03 | Data Collection Support | | | | | 0 | \$ - | | | | | \$ - | \$ 13,313 | | \$ 13,313 | | \$ 12,103 | | | | |
| 5.04 | Monthly Report Support (April 08 - April 09) | | 32 | | | 32 | \$ 5,024 | | | | | \$ 251 | \$ - | | \$ 5,275 | | | | | | |
| Subtotal, Task 5 (hours) | | 2 | 56 | 0 | 12 | 40 | | 0 | | 0 | | | | | | | | | | | |
| Subtotal, Task 5 (\$) | | \$ 400 | \$ 8,792 | \$ - | \$ 1,068 | \$ 4,960 | \$ 15,220 | \$ - | \$ - | \$ - | \$ - | \$ 761 | \$ 15,425 | \$ - | \$ 31,406 | \$ - | \$ 14,023 | \$ - | \$ - | \$ - | |
| Task 6.0 Regulatory Compliance Studies | | | | | | | | | | | | | | | | | | | | | |
| 6.01 | Self-Regenerating Water Softener Pollution Prevention Pamphlet | 1 | 8 | | 24 | 32 | \$ 7,560 | | | | | \$ 378 | \$ - | \$ 1,000 | \$ 8,938 | | | | | | |
| 6.02 | Pollution Prevention Plan Implementation Support | | 16 | | | 24 | \$ 5,488 | | | | | \$ 274 | \$ - | | \$ 5,762 | | | | | | |
| 6.03 | Treatment Feasibility Study Work Plan/Scope | 2 | 24 | | 6 | 40 | \$ 9,662 | | | | | \$ 483 | \$ - | | \$ 10,145 | | | | | | |
| Subtotal, Task 6 (hours) | | 3 | 48 | 0 | 30 | 96 | | 0 | | 0 | | | | | | | | | | | |
| Subtotal, Task 6 (\$) | | \$ 600 | \$ 7,536 | \$ - | \$ 2,670 | \$ 11,904 | \$ 22,710 | \$ - | \$ - | \$ - | \$ - | \$ 1,136 | \$ - | \$ 1,000 | \$ 24,846 | \$ - | \$ - | \$ - | \$ - | \$ - | |

| Estimated Staff Hours and Budget West Yost Associates | | Labor | | | | | | | | | | Drafting | | | Modeling | | Costs | | | | Sub. 1 | Sub. 2 | Sub. 3 | Sub. 4 | Sub. 5 |
|---|-----------------------------|--------------------------|-----------------------|-----------------------|---------------|---------------------|------------|------------------|-------------|-------------|-------------|---------------|----------------------|--------------------------|------------------|----------------|------------------|-------------|------------------|------------------|-------------|--------|--------|--------|--------|
| PROJECT: Regulatory Assistance - Preliminary Draft | | P/VP \$200 BGW/JDP | SE/SS \$157 KEG | PE/PS \$174 KLL | ADMIV \$89 | ESII \$124 BM | Hours | Fee | Hours | Fee | Hours | Fee | Routine ODC 5% | Sub. w/ markup 10% | Other Direct | Total Costs | SSD | RBI | WFS | UVV | BIO | | | | |
| Task 7.0 Toxicity Reduction Evaluation | | | | | | | | | | | | | | | | | | | | | | | | | |
| 7.01 | TRE Support (Assumed) | | 40 | | | 60 | 100 | \$ 13,720 | | | | | \$ 686 | \$ 54,032 | | \$ 68,438 | | \$ 49,120 | | | | | | | |
| Subtotal, Task 7 (hours) | | 0 | 40 | 0 | 0 | 60 | 100 | | 0 | 0 | 0 | | | | | | | | | | | | | | |
| Subtotal, Task 7 (\$) | | \$ - | \$ 6,280 | \$ - | \$ - | \$ 7,440 | | \$ 13,720 | \$ - | \$ - | \$ - | \$ 686 | \$ 54,032 | \$ - | \$ 68,438 | \$ - | \$ 49,120 | \$ - | \$ - | \$ - | \$ - | | | | |
| Task 8.0 Title 22 Engineering Report | | | | | | | | | | | | | | | | | | | | | | | | | |
| 8.01 | UV Validation | 2 | 32 | | | 34 | | \$ 5,424 | | | | \$ 271 | \$ 57,530 | | \$ 63,225 | | | | | \$ 40,000 | \$ 12,300 | | | | |
| 8.02 | NCPA Site Review | | 24 | | | 64 | | \$ 8,728 | | | | \$ 436 | \$ - | | \$ 9,164 | | | | | | | | | | |
| 8.03 | DPH Coordination | | 16 | | | 16 | | \$ 2,512 | | | | \$ 126 | \$ - | | \$ 2,638 | | | | | | | | | | |
| Subtotal, Task 8 (hours) | | 2 | 72 | 0 | 0 | 40 | 114 | | 0 | 0 | 0 | | | | | | | | | | | | | | |
| Subtotal, Task 8 (\$) | | \$ 400 | \$ 11,304 | \$ - | \$ - | \$ 4,960 | | \$ 16,664 | \$ - | \$ - | \$ - | \$ 833 | \$ 57,530 | \$ - | \$ 75,027 | \$ - | \$ - | \$ - | \$ 40,000 | \$ 12,300 | \$ - | | | | |
| Task 9.0 Wintertime Irrigation Management Plan | | | | | | | | | | | | | | | | | | | | | | | | | |
| 9.01 | Final Plan | 1 | 8 | | 2 | 24 | 35 | \$ 4,610 | | | | \$ 231 | \$ - | | \$ 4,841 | | | | | | | | | | |
| Subtotal, Task 9 (hours) | | 1 | 8 | 0 | 2 | 24 | 35 | | 0 | 0 | 0 | | | | | | | | | | | | | | |
| Subtotal, Task 9 (\$) | | \$ 200 | \$ 1,256 | \$ - | \$ 178 | \$ 2,976 | | \$ 4,610 | \$ - | \$ - | \$ - | \$ 231 | \$ - | \$ - | \$ 4,841 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | | | | |
| Task 10.0 Temperature Study | | | | | | | | | | | | | | | | | | | | | | | | | |
| 10.01 | Year 1 Implementation | | 12 | | | 12 | | \$ 1,884 | | | | \$ 94 | \$ 10,153 | | \$ 12,131 | | | | | \$ 9,230 | | | | | |
| Subtotal, Task 10 (hours) | | 0 | 12 | 0 | 0 | 0 | 12 | | 0 | 0 | 0 | | | | | | | | | | | | | | |
| Subtotal, Task 10 (\$) | | \$ - | \$ 1,884 | \$ - | \$ - | \$ - | | \$ 1,884 | \$ - | \$ - | \$ - | \$ 94 | \$ 10,153 | \$ - | \$ 12,131 | \$ - | \$ - | \$ - | \$ - | \$ 9,230 | \$ - | | | | |
| Task 11.0 Industrial Influent Characterization Study | | | | | | | | | | | | | | | | | | | | | | | | | |
| 11.01 | Implementation | | 8 | | | 24 | 32 | \$ 4,232 | | | | \$ 212 | \$ - | | \$ 4,444 | | | | | | | | | | |
| 11.02 | Phase II Recommendations TM | 2 | 16 | | 4 | 40 | 62 | \$ 8,228 | | | | \$ 411 | \$ - | | \$ 8,639 | | | | | | | | | | |
| Subtotal, Task 11 (hours) | | 2 | 24 | 0 | 4 | 64 | 94 | | 0 | 0 | 0 | | | | | | | | | | | | | | |
| Subtotal, Task 11 (\$) | | \$ 400 | \$ 3,768 | \$ - | \$ 356 | \$ 7,936 | | \$ 12,460 | \$ - | \$ - | \$ - | \$ 623 | \$ - | \$ - | \$ 13,083 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | | | | |
| Task 12.0 Pond Freeboard Study | | | | | | | | | | | | | | | | | | | | | | | | | |
| 12.01 | Work Plan | 2 | 16 | | 4 | 24 | 46 | \$ 6,244 | | | | \$ 312 | \$ - | | \$ 6,556 | | | | | | | | | | |
| Subtotal, Task 12 (hours) | | 2 | 16 | 0 | 4 | 24 | 46 | | 0 | 0 | 0 | | | | | | | | | | | | | | |
| Subtotal, Task 12 (\$) | | \$ 400 | \$ 2,512 | \$ - | \$ 356 | \$ 2,976 | | \$ 6,244 | \$ - | \$ - | \$ - | \$ 312 | \$ - | \$ - | \$ 6,556 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | | | | |
| Task 13.0 Salinity Management Plan | | | | | | | | | | | | | | | | | | | | | | | | | |
| 13.01 | Develop Plan | 2 | 24 | | 4 | 40 | 70 | \$ 9,484 | | | | \$ 474 | \$ - | | \$ 9,958 | | | | | | | | | | |
| Subtotal, Task 13 (hours) | | 2 | 24 | 0 | 4 | 40 | 70 | | 0 | 0 | 0 | | | | | | | | | | | | | | |
| Subtotal, Task 13 (\$) | | \$ 400 | \$ 3,768 | \$ - | \$ 356 | \$ 4,960 | | \$ 9,484 | \$ - | \$ - | \$ - | \$ 474 | \$ - | \$ - | \$ 9,958 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | | | | |

| Estimated Staff Hours and Budget West Yost Associates | Labor | | | | | | Drafting | | Modeling | | Costs | | | | Sub. 1 SSD | Sub. 2 RBI | Sub. 3 WFS | Sub. 4 UVV | Sub. 5 BIO | |
|---|--------------------------|-----------------------|-----------------------|----------------|---------------------|-------------|-------------------|----------|-------------|----------|-------------|----------------------|--------------------------|-----------------|-------------------|------------------|------------------|------------------|------------------|------------------|
| | P/VP \$200 BGW/JDP | SE/SS \$157 KEG | PE/PS \$174 KLL | ADMIV \$89 | ESII \$124 BM | Hours | Fee | Hours | Fee | Hours | Fee | Routine ODC 5% | Sub. w/ markup 10% | Other Direct | | | | | | Total Costs |
| PROJECT: Regulatory Assistance - Preliminary Draft | | | | | | | | | | | | | | | | | | | | |
| Task 14.0 Groundwater Monitoring Background Assessment | | | | | | | | | | | | | | | | | | | | |
| 14.01 Well Installation | | | 8 | 2 | 24 | 34 | \$ 4,546 | | | | | \$ 227 | \$ - | \$ 200 | \$ 4,973 | | | | | |
| 14.02 Data Review and Support | | | 8 | | 16 | 24 | \$ 3,376 | | | | | \$ 169 | \$ - | | \$ 3,545 | | | | | |
| Subtotal, Task 14 (hours) | 0 | 0 | 16 | 2 | 40 | 58 | | 0 | | 0 | | | | | | | | | | |
| Subtotal, Task 14 (\$) | \$ - | \$ - | \$ 2,784 | \$ 178 | \$ 4,960 | | \$ 7,922 | | \$ - | | \$ - | \$ 396 | \$ - | \$ 200 | \$ 8,518 | \$ - | \$ - | \$ - | \$ - | \$ - |
| TOTAL (hours) | 60 | 552 | 16 | 64 | 606 | 1298 | | 0 | | 0 | | | | | | | | | | |
| TOTAL (\$) | \$12,000 | \$86,664 | \$2,784 | \$5,696 | \$75,144 | | \$ 182,288 | | \$ - | | \$ - | \$ 9,114 | \$ 170,141 | \$ 3,900 | \$ 365,444 | \$ 17,130 | \$ 71,221 | \$ 14,023 | \$ 40,000 | \$ 12,300 |

RESOLUTION NO. 2008-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING ADDITIONAL TASK ORDER WITH
WEST YOST & ASSOCIATES TO PROVIDE PERMIT
ASSISTANCE AND PREPARE VARIOUS STUDIES
REQUIRED BY THE CITY'S WASTEWATER DISCHARGE
PERMIT AND FURTHER APPROPRIATING FUNDS

=====

WHEREAS, the City's new wastewater discharge permit includes requirements for a number of studies to be conducted and plans or reports to be developed on various aspects of the City's wastewater treatment operations; and

WHEREAS, on December 19, 2007, Council authorized West Yost & Associates to proceed with preparing work plans for various studies required by the Permit; and

WHEREAS, West Yost & Associates has furnished the City with a combined proposal to respond to the Permit requirements for FY 08/09, including assisting City staff in regulatory program management; and

WHEREAS, the studies' monitoring efforts are required in the City's Permit and non-performance would subject the City to significant fines; and

WHEREAS, the estimated cost for this work is \$365,300 and staff suggests a contingency amount of approximately 10% to account for unforeseen issues for a total of \$400,000.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize an additional task order with West Yost & Associates, of Davis, California, to provide permit assistance and prepare various studies required by the City's wastewater discharge permit issued by the State Central Valley Regional Water Quality Control Board; and

BE IT FURTHER RESOLVED that funds in the amount of \$400,000 be appropriated from the Wastewater Fund for this project.

Dated: August 20, 2008

=====

I hereby certify that Resolution No. 2008-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 20, 2008, by the following vote:

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

RANDI JOHL
City Clerk

2008-_____



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt a Resolution Authorizing the City Manager to Enter into an Interconnection Agreement Between the City of Lodi and Northern California Power Agency (NCPA) for the Existing White Slough Water Pollution Control Facility Electric Connection (EUD)

MEETING DATE: August 20, 2008

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to enter into an Interconnection Agreement between the City of Lodi and Northern California Power Agency (NCPA) for the existing White Slough Water Pollution Control Facility electric connection.

BACKGROUND INFORMATION: In 2004, the White Slough Water Pollution Control Facility (Plant) made various capital improvements, significantly increasing the Plant's electric load. The Plant had previously been served by two Pacific Gas & Electric (PG&E) sources. The cost to increase the capacity of the two PG&E sources (plus the ongoing energy delivery, maintenance and standby capacity charges) was judged not to be cost effective when compared to providing service to the Plant by Lodi Electric Utility. To accomplish the provision of such service, it was necessary to interconnect the Lodi distribution system serving the Plant to the NCPA's electrical facilities at the site.

On August 18, 2004, the City Council authorized a Letter of Agreement with NCPA to develop the connection and an associated Interconnection Agreement. Recently it was found that the Interconnection Agreement was not brought to the City Council for approval, though the electrical connection was made. We now ask for approval to execute the Interconnection Agreement in order to formally document the existing state of agreement between the parties.

FISCAL IMPACT: None

FUNDING: Not applicable.

George F. Morrow
Electric Utility Director

PREPARED BY: Ken Weisel, Assistant Electric Utility Director

GFM/KW/lst

APPROVED: _____
Blair King, City Manager

AGREEMENT

FOR

INTERCONNECTION

BY AND BETWEEN

THE CITY OF LODI

AND

THE NORTHERN CALIFORNIA

POWER AGENCY

This Agreement for Interconnection (Agreement) is entered into as of the 28th day of October, 2004, by and between the Northern California Power Agency, a California joint powers and public entity having its central office at 180 Cirby Way, Roseville, California 95678 (NCPA), and the City of Lodi, California, a general law California municipal corporation, having its central office at 221 W. Pine Street, Lodi, California 95240. NCPA and LODI are occasionally herein referred to individually as a "Party" or collectively the "Parties." This Agreement is premised on the following:

RECITALS:

WHEREAS, NCPA provides, among other services to its membership: electric generation facility development and power resource pooling services to the majority of its member public entities and an associate nonprofit member, and technical, operational, and maintenance services on behalf of the majority of member and associate member entities, for the operation and maintenance of NCPA electric generating projects in which they are invested, as well as dispatch, scheduling coordination, trading and risk management services, so that members of NCPA on the whole, exercising their common powers pursuant to the Joint Exercise of Powers Act, may supply electrical power and energy for their residential, commercial, and industrial customers on a reliable, cost-effective, and environmentally sensitive basis, with the advantages of the economy of scale, which may, under some circumstances, benefit all of NCPA's members; and

WHEREAS, LODI, as a member of NCPA, wishes to request that NCPA interconnect its STIG Electrical System to the LODI distribution system so that LODI may, at its sole risk, and without hazard to NCPA and its other members, serve its retail service load through the STIG electrical system for the benefits of LODI's customers, although other NCPA members may not share interests in LODI's particular effort; and

WHEREAS, this Agreement has been drawn to first protect NCPA and its members from any exposure to liability of any kind that might result from any act or omission in the performance of this Agreement, to the fullest extent permitted by law, due to the fact that NCPA will be acting for the benefit of LODI and not for the benefit of any other member in its performance of this Agreement; and

WHEREAS, LODI desires to utilize the benefits of the investment in the STIG Electrical system, and expertise available through the auspices of NCPA, and NCPA having weighed the

consideration herein, and the protection LODI intends to provide NCPA and its other members in this Agreement, wishes to assist LODI; and

WHEREAS, LODI has indicated that this interconnection is temporary and to remain in place for an undetermined period of time, until a decision is made on how to permanently interconnect the loads to be served by way of this interconnection with the remainder of LODI's distribution system.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and conditions set forth herein, the Parties have entered into this

AGREEMENT:

ARTICLE 1 – OPERATIONAL PARAMETERS

Upon mutual agreement, and subject to the General Conditions described below, NCPA will interconnect its STIG Electrical system to the LODI Distribution System in accordance with terms and conditions of this Agreement including the attached Schedules.

- 1.1 **General Conditions.** By reason of the interconnection established pursuant to this Agreement, NCPA shall not be obligated to provide any services to, or undertake any transactions for LODI, notwithstanding that fact that LODI may have completely and faithfully complied with each and every term, condition, and covenant of this Agreement. NCPA may decline to furnish any service or transaction requested by LODI in the sole and absolute discretion of NCPA, acting by and through its Commission without the vote of LODI, and such discretion of the Commission shall not be subject to review or to the dispute resolution provisions of this Agreement.
- 1.2 **Losses:** LODI agrees to reimburse NCPA for any real power losses arising from the interconnection.
- 1.3 **Metering:** NCPA shall install and maintain revenue meters and related communications equipment to measure capacity, energy, real and reactive power delivered to LODI. Meter data obtained under this section shall be adjusted to separate the impact of this interconnection from the meter data that otherwise would have been recorded for only the STIG electrical system according to California ISO metering protocols. An example of the adjustments currently anticipated is include in Schedule B to this Agreement for illustrative purposes only.

- 1.4 **Power Factor:** LODI agrees to maintain a power factor for loads on its interconnected distribution system within the range of 95% leading or lagging.
- 1.5 **Parallel Operation:** LODI shall not simultaneously take delivery of power and energy from the NCPA's STIG electrical system and either (1) any other delivery or distribution system, or (2) any backup generation installed on LODI's distribution system.
- 1.6 **Backup Generation:** Prior to installing any backup generation on its distribution system, LODI shall notify NCPA to arrange for such generators to be installed in accordance with prudent utility practice after safeguards are implemented to insure that power does not flow from the LODI distribution system to the STIG electrical system.

ARTICLE 2 – DELIVERY SERVICES & INTERRUPTION

- 2.1 **Delivery Not Guaranteed:** NCPA through its best efforts, will attempt to deliver a continuous and sufficient supply of electric energy to the interconnected LODI distribution system, but does not guarantee delivery continuity or sufficiency of supply. NCPA will not be liable for interruption or shortage or insufficiency of supply, or any loss or damage of any kind of character occasioned thereby, if same is caused by inevitable accident, act of God, fire, strikes, riots, war, or any other cause except that arising from its failure to exercise reasonable diligence.

NCPA specifically maintains the right to interrupt its service deliveries, without liability to LODI when, in NCPA's sole opinion, such interruption is necessary for reasons including, but not limited to, the following:

1. Safety of a NCPA employee, or the public at large.
2. Breach of code or regulation on either NCPA-owned or LODI-owned facilities.
3. Emergency affecting or likely to affect NCPA's STIG Electrical system, the ISO grid or any other system through which NCPA directly or indirectly receives or supplies power.
4. Maintenance, improvements, repairs, or expansion of NCPA's STIG Electrical system.

NCPA shall be the sole judge of whether it is operationally able to receive or deliver electric energy through the STIG electrical system. NCPA shall not be liable to LODI,

for damages or losses resulting from interruption due to transmission constraint, allocation of transmission or intertie capacity, or other transmission related outage, planned or unplanned.

- 2.2 **Notice of Interruption:** When NCPA deems it necessary to make repairs or improvements to its system, NCPA will have the right to suspend temporarily the delivery of electric energy. In all such cases, reasonable notice will be given to LODI and NCPA will make repairs or improvements as rapidly as practicable. If practicable, and without additional cost to NCPA, such work will be done at a time that will cause the least inconvenience to LODI. Should NCPA be required to initiate an interruption upon order of the ISO so work may be done on the ISO transmission grid or the Stig Electrical system, NCPA will make best efforts attempt to provide LODI with notice, but shall not be liable for interruption if notice cannot be provided in a timely manner.

ARTICLE 3 – DUE DILIGENCE

- 3.3 **Continuing Disclosure.** Annually LODI shall present NCPA with its audited financial statements. NCPA may request LODI to report contemporaneously in writing on significant events that may materially adversely affect LODI's financial capability to timely pay and retire all of the costs and liabilities associated with this Interconnection.

ARTICLE 4 – REPRESENTATIONS AND WARRANTIES

- 4.1 **Initial Representations and Warranties.** On the Effective Date and the date of entering into each related service hereunder, LODI represents and warrants to NCPA that:
- (i) it is duly organized, validly existing and in good standing under the laws of California and of the United States;
 - (ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;
 - (iii) the execution, delivery and performance of this Agreement and are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
 - (iv) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation

enforceable against it in accordance with its terms; subject to any Equitable Defenses.

- (v) it is not Bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming Bankrupt;
- (vi) there is not pending or, to its knowledge, threatened against it or any legal proceedings or investigations that could materially adversely affect its ability to perform its obligations under this Agreement;
- (vii) no Event of Default or Potential Event of Default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;
- (viii) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of NCPA in providing advice of any kind, and LODI is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement;
- (ix) it has entered into this Agreement in connection with the conduct of its public service utility enterprise;

4.2 **Further Representations and Warranties.** On the Effective Date, LODI further represents and warrants to NCPA that: (i) all acts necessary to the valid execution, delivery and performance of this Agreement, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures has or will be taken and performed as required under the laws of the State of California and the charter, ordinances, bylaws or other regulations, (ii) all persons making up the governing body of LODI are the duly elected or appointed incumbents in their positions and hold such positions in good standing in accordance with the state and local, and other applicable law, (iii) entry into and performance of this Agreement by LODI are for a proper public purpose within the meaning of all relevant constitutional, organic or other governing documents and applicable law, (iv) the term of this Agreement does not extend beyond any applicable limitation imposed by the relevant constitutional, organic or other governing documents and applicable law, (v) LODI's obligations to make payments hereunder are unsubordinated obligations and such payments are (a) operating

and maintenance costs (or similar designation) which enjoy first priority of payment at all times under any and all bond ordinances or indentures or agreements to which it is a party, and all other relevant constitutional, organic or other governing documents and applicable law or (b) otherwise not subject to any prior claim under any and all bond ordinances or indentures or agreements to which it is a party, and all other relevant constitutional, organic or other governing documents and applicable law and are available without limitation or deduction to satisfy all of LODI's obligations hereunder or (c) are to be made solely from a special fund of LODI set aside for this Agreement, (vi) entry into and performance of this Agreement by LODI will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any obligation of LODI or NCPA otherwise entitled to such exclusion, and (vii) obligations to make payments hereunder do not constitute any kind of indebtedness of LODI or create any kind of lien on, or security interest in, any property or revenues of LODI which, in either case, is proscribed by any provision of any relevant constitutional, organic or other governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets.

- 4.3 **Primacy of NCPA Projects.** Notwithstanding the availability of NCPA personnel and equipment LODI acknowledges and agrees that the first priority for NCPA personnel are NCPA projects in general, and specifically in this case the NCPA STIG project in which more than one member participates, and that the Interconnection that NCPA provides under this Agreement is subordinate to NCPA's duties to serve the other members.

ARTICLE 6 – BALANCING ACCOUNT AND SECURITY

- 6.1 **Balancing Account.** The Balancing Account is an account established at NCPA pursuant to this Agreement. The Balancing Account is established to: (i) make timely payments to NCPA under this Agreement and to a Counterparty pursuant to a service hereunder and to protect NCPA from potential Member default by providing funds and time to cure, (ii) to bridge timing differences between the receipt of payments from LODI and the date payments are due a Counterparty, (iii) satisfy any security deposit requirements, and (iv) provide security against Member default.
- 6.2 **Initial Amount.** Before the effective date of a service hereunder, LODI shall deposit in the Balancing Account an amount equal to its three highest months of projected

Counterparty invoices for the succeeding twelve (12) months. NCPA shall maintain a detailed accounting of the Balancing Account. Interest earned on the Balancing Account shall be credited to LODI. Any losses in the Balancing Account, due for example to the compulsory sale of investments to comply with a requirement of the Counterparty, shall be allocated to LODI.

- 6.3 **Periodic Reviews.** Prior to the effective date of a service hereunder and at least quarterly thereafter, NCPA shall review the balances in the Balancing Account to ensure the amount is equal to the current projection of the three highest months of LODI's projected Counterparty invoices for the succeeding twelve months. Any funds in excess of one hundred ten per cent (110%) of this amount shall be credited to LODI. If the funds on deposit in the Balancing Account are less than ninety per cent (90%) of this amount, NCPA shall prepare an invoice to LODI who shall remit such funds within thirty (30) days of the invoice date.
- 6.4 **Emergency Additions.** In the event that the funds in the Balancing Account are insufficient to allow payment of a Counterparty invoice, NCPA shall notify LODI and then prepare and send a special or emergency assessment to LODI.
- 6.5 **Return of Funds.** On the termination of this Agreement and all services hereunder, LODI may apply to NCPA for the return of its Balancing Account funds ninety (90) days after the effective date of such termination. NCPA shall, in its sole discretion, as determined by a vote of the Commission, excluding the vote of LODI, estimate the then outstanding liabilities of LODI, including any estimated contingent liabilities, such as by way of example Counterparty invoices subject to dispute or to revision by the Counterparty or the Federal Energy Regulatory Commission, and retain all such funds until all such liabilities have been fully paid or otherwise satisfied in full. NCPA may apply any remaining Balancing Account funds to any remaining obligation of LODI, including but not limited to revised Counterparty invoices.
- 6.6 **Counterparty Security Deposit.** Any security or other deposit required by a third party for a service hereunder shall be provided by LODI prior to the date NCPA provides any Agency Services and shall be maintained as may be required thereafter.
- 6.7 **Changes in Security.** Any changes in security or other deposits required by the Counterparty may be released by NCPA from the Balancing Account, and NCPA shall invoice LODI within ten (10) working days for the total NCPA released to the Counterparty.

ARTICLE 7 – PAYMENTS AND DEFAULTS

- 7.1 **Billing and Payment.** Monthly billing statements prepared by NCPA shall be sent to LODI showing LODI's unpaid balance for services hereunder and other expenses relating to this Agreement incurred by NCPA for the previous month. This information may be provided on monthly billing statements prepared by NCPA pursuant to other Project Agreements. NCPA will provide the monthly billing statements electronically if requested by LODI; otherwise NCPA shall mail the statements First Class, U.S. Postal Service.
- 7.2 **Application of Balancing Account.** NCPA may apply LODI's Balancing Account to the payment of any portion of the monthly billing statement. Application of such funds shall not relieve LODI from any late payment charges.
- 7.3 **Late Payments.** Amounts shown on each billing statement are due and payable at the time noted on the invoice, but not later than thirty (30) days after the date of the invoice, except that any amount due on a Friday, holiday or weekend may be paid on the following working day. Any amount due and not paid by LODI shall bear interest at the per annum prime rate (or reference rate) of the Bank of America NT & SA then in effect, plus two percent per annum computed on a daily basis until paid.
- 7.4 **Settlement Data.** NCPA will make settlement data, including underlying data received from the California ISO, available to LODI.
- 7.5 **Audit Rights.** LODI shall have the right to audit at its expense any data created or maintained by NCPA pursuant to this Agreement on thirty (30) days written notice, unless otherwise agreed by LODI and NCPA.
- 7.6 **Failure To Pay.** If LODI fails to pay any amount due to NCPA within thirty (30) days of the date of the estimated or final invoice enumerating such amounts, LODI is in default and material breach under this Agreement.
- 7.7 **Other Material Breaches.** If LODI is in default or in breach of any of its covenants under any other agreement with NCPA, it shall also be considered in material default of this Agreement.
- 7.8 **Cure Period.** Upon written notice by NCPA, LODI shall cure any default within five (5) working days.
- 7.9 **Cure of Defaults.** A default shall be cured by the payment of any monies due NCPA, including any late payment charges, and repayment of any funds drawn from the

Balancing Account. A default under any other agreement with NCPA shall be cured by compliance with the covenant.

- 7.10 **Remedies in the Event of a Material Default.** NCPA may suspend the provision of any Agency Service or Advisory Service to LODI with a default which has not been cured within the Cure Period, including deducting sums in default from the Balancing Account of the defaulting Member, demanding further assurances, and taking any other legal or equitable action before or after the Cure Period to compel the correction of the default, as for example, to mandate the collection of a surcharge to produce Revenues to secure the cure of the default, (and the selection of one remedy shall not preclude the use of other remedies), on behalf of NCPA and other Members (in which event the defaulting Member shall not have the right to vote while such defaulting Member is in material default as determined by the NCPA Commission).
- 7.11 **Obligations in the Event of Default.** In the event that LODI's share of the Balancing Account is insufficient to cover all invoices related to a service provided hereunder to the defaulting Member, (i) the defaulting Member shall cooperate in good faith with NCPA and shall cure the default as rapidly as possible, on an emergency basis, taking all such action as is necessary, including, but not limited to, raising rates and charges to its customers to increase its Revenues to replenish its share of the Balancing Account as provided herein, drawing on its cash-on-hand and lines of credit, obtaining further assurances by way of credit support and letters of credit, repairing its Electric System, and taking all such other action as will cure the default quickly; and provided, however, (ii) that neither NCPA nor any other member shall be liable under this Agreement for the obligations of the defaulting Member, and LODI shall be solely responsible and liable for performance of its obligations under this Agreement.

ARTICLE 8 – TERM OF THIS AGREEMENT

- 8.1 **Term of This Agreement.** This Agreement shall remain in effect for so long as the NCPA STIG electrical system remains interconnected to the LODI distribution system.
- 8.2 **Termination:** Either party may terminate this agreement upon six months' written notice to the other, provided however, all financial obligations incurred hereunder shall remain until satisfied.

ARTICLE 9 – NO IMMUNITY CLAIM

- 9.1 **No Immunity Claim.** LODI warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from (i) suit, (ii) jurisdiction of a court (including a court located outside the jurisdiction of its organization), (iii) relief by way of injunction, order for specific performance or recovery of property, (iv) attachment of assets, or (v) execution or enforcement of any judgment.

ARTICLE 10 – MEMBER COVENANTS

The definitions in this Article 10 apply to the covenants in section 10.3 and elsewhere in this Agreement.

- 10.1 **Electric System.** Electric System means, with respect to LODI, all properties and assets, real and personal, tangible and intangible, of LODI now or hereafter existing, used or pertaining to the generation, transmission, transformation, distribution and sale of electric capacity and energy, including all additions, extensions, expansions, improvements and betterments thereto and equipment thereof; provided, however, that to the extent LODI is not the sole owner of an asset or property or to the extent that an asset or property is used in part for the above described purposes, only LODI's ownership interest in such asset or property or only the part of the asset or property used for electric purposes shall be considered to be part of its Electric System.
- 10.2 **Revenues.** Revenues means, with respect to LODI, all income, rents, rates, fees, charges, and other moneys derived by LODI from the ownership or operation of its Electric System, including, without limiting the generality of the foregoing, (i) all income, rents, rates, fees, charges or other moneys derived from the sale, furnishing and supplying of electric capacity and energy and other services, facilities, and commodities sold, furnished, or supplied through the facilities of its Electric System, (ii) the earnings on and income derived from the investment of such income, rents, rates, fees, charges or other moneys to the extent that the use of such earnings and income is limited by or pursuant to law to its Electric System, and (iii) the proceeds derived by LODI directly or indirectly from the sale, lease or other disposition of all or a part of the Electric System, but the term Revenues shall not include (a) customers' deposits or any other deposits subject to refund until such deposits have become the property of LODI or (b) contributions from customers for the payment of costs of construction of facilities to serve them.

- 10.3 **Member Covenants.** LODI covenants and agrees to (i) establish and collect rates and charges for the services and commodities provided by its Electric System sufficient to provide Revenues adequate to meet its obligations under this Agreement and to pay all other amounts payable from, and all lawful charges against or liens upon, the Revenues; (ii) make payments under this Agreement from the Revenues of, and as an operating expense of, its Electric System; (iii) make payments under this Agreement whether or not there is an interruption in, interference with, or reduction or suspension of services provided under this Agreement (such payments are not subject to any reduction, whether by offset or otherwise, and regardless of whether any dispute exists); and (iv) operate its Electric System and the business in connection therewith in an efficient manner and at reasonable cost and to maintain its Electric System in good repair, working order, and condition

ARTICLE 11 – MAINTENANCE AND OPERATION

- 12.1 **Maintenance.** LODI shall be responsible for maintenance of their electrical distribution system on the load side of the point of interconnection, as that point is specified in Appendix A; provided however, that NCPA shall own, operate, test, and maintain all metering equipment necessary for billing and power measurement in accordance with applicable control area requirements. NCPA's ownership, operation, and maintenance rights with respect to such metering equipment shall exist notwithstanding that: (i) LODI agrees to pay for all costs of acquiring, testing, operating and maintaining the meter equipment, and (ii) the metering equipment is physically located on LODI's distribution system or on the load side of the point of interconnection. NCPA shall operate and maintain interconnection facilities installed on the line side of the point of interconnection and all such equipment and facilities located on its premises at the expense of LODI.
- 12.2 **Cooperation.** The parties agree to coordinate maintenance of their respective electrical systems in accordance with good utility practice and applicable control area requirements
- 12.3 **Access.** Each party shall provide the other with the right of access to their respective premises so that each party can perform its obligations under this agreement. Access shall be upon reasonable notice and each party may designate representatives to be present during periods of access, whether for inspection, testing, maintenance, or operations.

12.4 Notice of Operational Change. LODI agrees notify NCPA notice of any operational changes on its interconnected distribution system which could affect the NCPA, including the including the of generation facilities.

12.5 Generators. LODI shall not connect any generators to the its electrical distribution system on the load side of the point of interconnection with out the advance written consent of NCPA, provided that such consent shall unreasonably withheld. Any such generator connection shall be performed in accordance with good utility practice, applicable control area standards, and consistent with NCPA’s interconnection agreement with PG&E.

ARTICLE 12 – LITIGATION

12.1 Litigation. In the event of litigation, dispute resolution, governmental inquiry, including investigations or legislative inquiries, relating to any matter involving this Agreement, NCPA may select Counsel of its choice to advise and represent NCPA and LODI, and LODI shall pay NCPA for such expenses, as billed pursuant to this Agreement.

ARTICLE 13 – UNCONTROLLABLE CIRCUMSTANCES – SUSPENSION OF PERFORMANCE

13.1 Definition. In this Agreement “Uncontrollable Circumstances” shall mean acts, events or conditions not reasonably foreseeable by a Party which prevent the affected Party from performing its obligations under this Agreement, except the obligation for the payment of money, if and only if such acts, events or conditions and their effects (i) are beyond the reasonable control of such Party (or any third Party over whom such Party has control), (ii) are not reasonably avoidable, (iii) cannot be mitigated or eliminated through reasonably available alternative actions, and (iv) are not a result of the willful or negligent action or inaction of such Party or of any third Party over whom such Party has control:

Examples of Uncontrollable Circumstances include, but are not limited to, the following:

13.1.1 An act of God, landslide, lightning, earthquake, fire, explosion, storm, flood, weather conditions precluding construction activity from progressing;

13.1.2 Acts of a public enemy, war, blockade, insurrection, strike, riot or civil disturbance, sabotage or similar occurrence or a mandate, directive, order, or restraint of any governmental, regulatory or judicial body or agency, or the

exercise of the power of eminent domain, police power, inverse condemnation or other taking by or on behalf of any public, quasi-public or private entity; or

13.1.3 A Change in Law. In this Agreement, a Change in Law shall mean a material change in the requirements of the Scope of Services or the operation or maintenance of the Project, made by a governmental authority, that becomes effective on or after the date of this Agreement.

13.2 **Suspension of Performance.** The suspension of performance due to Uncontrollable Circumstances shall be no longer than reasonably required, and the Party suffering the Uncontrollable Circumstances shall use its best reasonable efforts to overcome such circumstances and partially or fully remedy its inability to perform. The Party suffering the Uncontrollable Circumstance shall give the other Party notice that is reasonable under such circumstances, including written notice as soon as practicable.

ARTICLE 14 – INDEMNIFICATION, DEFENSE, RELEASE,
AND COVENANT NOT TO SUE

14.1 **Indemnity Obligation of Member.** LODI hereby assumes all responsibility and liability for the Interconnection and related services provided under the Agreement as if they were performed by LODI's employees and accordingly intends to protect NCPA, its member entities, governing officials, officers, agents, and employees against claims or losses of any kind whatsoever resulting from Interconnection and related services provided pursuant to this Agreement. LODI is willing to take on such complete responsibility as an inducement to NCPA to enter into this Agreement. NCPA would not enter into this Agreement absent such inducement for NCPA's sole source of revenue comes from its members, which cannot be exposed to the risks of loss or damage due to this Agreement or services hereunder. Thus, LODI (the "Indemnifying Party") agrees to indemnify, defend and hold harmless NCPA and its members, including their respective governing officials, officers, agents, and employees ("Indemnified Party or Parties"), from and against any and all claims, suits, losses, damages, expenses and liability of any kind or nature, including, without limitation, reasonable attorneys' fees ("Claim" or collectively "Claims") to the extent caused by any breach of contract, negligence, active or passive, gross negligence or willful misconduct of the Indemnifying Party, its officers, employees, subcontractors or agents, to the maximum extent permitted by law, but only as to Claims related to this Agreement.

- 14.2 **Notice and Defense.** Promptly after receipt by an Indemnified Party of any Claim or notice of a Claim or the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for in section 14.1 may apply, the Indemnified Party shall notify the Indemnifying Party of such fact. The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by the Indemnifying Party and satisfactory to the Indemnified Party; provided, however, that if the defendants in any such action include both the Indemnified Party and the Indemnifying Party, and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it and/or other Indemnified Parties which are different from or additional to those available to the Indemnifying Party, the Indemnified Party or Parties shall, at the expense of the Indemnifying Party, have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such Indemnified Party or Parties.
- 14.3 **Failure to Assume Defense.** Should any of the Indemnified Parties be entitled to indemnification under section 14.1 as a result of a Claim by a third Party, and should the Indemnifying Party fail to assume the defense of such Claim after reviewing notification thereof as provided in section 14.2, then such Indemnified Party may, at the expense of the Indemnifying Party, contest or settle such Claim. To the extent that any of the Indemnified Parties is required to initiate and prevails in legal proceedings against the Indemnifying Party to enforce rights under this Article, the Indemnifying Party shall pay all costs and attorneys' fees incurred by the Indemnified Party in enforcing its rights.
- 14.4 **Release and Covenant Not to Sue.** LODI hereby FOREVER RELEASES and DISCHARGES NCPA, its members, governing officials, officers, agents, employees, and subcontractors (Released Parties) from any and all liabilities, claims, demands or causes of action that LODI may hereafter have for injuries, damages, or losses of any kind whatsoever arising out of this Agreement or services hereunder, performed or not performed, or inadequately performed by NCPA, including, but not limited to, losses caused by the PASSIVE OR ACTIVE NEGLIGENCE of the Released Parties or hidden, latent, or obvious defects in equipment or materials used.

LODI understands and acknowledges that the Project and the Services have inherent dangers that no amount of care, caution, instruction or expertise can eliminate and LODI expressly and voluntarily ASSUMES ALL RISK of death, personal injury, damages or

losses of any kind whatsoever sustained in connection with the Project and the Services, including the risk of passive or active negligence of the Released Parties, or hidden, latent, or obvious defects in the materials used.

LODI acknowledges the enforceability of the foregoing release under *Paralift, Inc. v. Superior Court* (1993) 23 Cal.App.4th 748 (Paralift Case). LODI hereby FOREVER COVENANTS NOT TO SUE the Released Parties for any injuries, damages, or losses, or liabilities, claims, demands or causes of action related thereto, to which the foregoing release applies, even if the Paralift Case is overruled or affected by a judicial decision or legislation, state or federal, or by an international treaty.

ARTICLE 15 – GENERAL PROVISIONS

- 15.1 **Independent Contractor.** NCPA shall be an independent contractor with respect to the Services to be performed hereunder. Neither NCPA nor its subcontractors, nor their agents or employees, shall be deemed to be the servants, employees, or agents of LODI, notwithstanding Article 14.
- 15.2 **Occupational Safety and Health Act.** LODI shall design, equip, and maintain and operate its Election System in accordance with all applicable rules, regulations, orders, standards and interpretations promulgated under the Occupational Safety and Health Act (1970) (OSHA), as amended and in effect as of the day of execution of this Agreement or such similar act as adopted by the State of California, if applicable.
- 15.3 **Proprietary Information.** To the extent permitted by law, in particular the California Public Records Act, the Parties shall maintain the confidentiality of proprietary information.
- 15.4 **Patents.** LODI shall defend, indemnify and hold harmless NCPA from any suit or action brought against NCPA based on a claim that any item of the Project, or materials and equipment procured therefore, or any part thereof, furnished or specified by NCPA or LODI hereunder or any use thereof for purposes of the Project, constitutes an infringement of any claim of patent.
- 15.5 **Binding Effect: Successors and Assigns.**
- 15.5.1 This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assignees.

- 15.5.2 Neither Party hereto shall assign or convey any of its rights, titles or interests under this Agreement without the prior written consent of the other Party hereto.
- 15.6 **Not for Benefit of Third Parties.** This Agreement and each and every provision thereof is for the exclusive benefit of LODI and not for the benefit of any other party except that NCPA and the other member entities are intended to benefit from the protections provided them in this Agreement in Article 14.
- 15.7 **Choice of Law.** This Agreement is made and is to be performed in California and any dispute arising there from shall be governed and interpreted in accordance with California laws.
- 15.8 **Article Headings and Subheadings.** All article headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- 15.9 **No Waiver.** No waiver by a Party of any breach or default by the other Party of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach of default in the performance by such other Party of the same or any other obligations of such other Party hereunder. The giving of a waiver by a Party in any one instance shall not limit or waive the necessity to obtain such Party's waiver in any future instance. No waiver of any rights under this Agreement shall be binding unless it is in writing signed by the Party waiving such rights.
- 15.10 **Good Faith and Fair Dealing.** The Parties agree to deal fairly and to act in good faith in the performance or enforcement of this Agreement. Wherever this Agreement requires a consent or approval of a Party hereto, such consent or approval shall not be unreasonably withheld or delayed except as otherwise specifically provided herein.
- 15.11 **Severability.** In the event that any of the provisions of this Agreement, or portions or applications thereof, are held to be unenforceable or invalid by any court of competent jurisdiction, LODI and NCPA shall negotiate an equitable adjustment in the provisions of this Agreement with a view toward effecting the purposes of this Agreement, and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby.
- 15.12 **Legal Capacity.** Each Party represents and warrants that it has the legal capacity to enter into this Agreement and to perform all obligations undertaken herein.

- 15.13 **No Counterparts.** This Agreement and any amendments will not be executed in counterparts but in one or more duplicate originals which shall constitute but one and the same instrument.
- 15.14 **Further Assurances.** If either Party reasonably determines that any further instruments, representation of assurance of payment, or performance, or any other things are necessary or desirable to carry out the terms of this Agreement, the other Party will execute and deliver all such instruments and assurances and do all such things as the first Party reasonably deems necessary or desirable to carry out the terms of this Agreement.
- 15.15 **Hazardous Waste.** Although it is not presently contemplated that any this Agreement or services hereunder will involve “Hazardous Waste,” if on the contrary they do, then this section 15.15 shall apply. “Hazardous Waste” means (A) any product, substance, chemical, element, compound, mixture, solution, material, pollutant, contaminant or waste whose presence, nature, quantity or intensity of use, manufacture, processing, treatment, storage, disposal, transportation, spillage, release, or effect, either by itself or in combination with other materials, is regulated, monitored, or subject to reporting by any federal, state or local government entity; (B) those terms that are included within the definitions of “hazardous substances”, “hazardous materials”, “hazardous waste”, “extremely hazardous substances”, “toxic substances”, or “oil and hazardous substances”, as defined in one or more of the following environmental laws: the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Sec. 9601 et seq. (“CERCLA”), as amended by the Superfund Amendments and Reauthorization Act of 1986 (“SARA”); the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Sec. 11001 et seq. (“EPCRTKA”); the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6901 et seq. (“RCRA”); the Toxic Substances Control Act, 15 U.S.C. Sec. 2601 et seq. (“TSCA”); the Federal Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq. (the “Clean Water Act”); the Clean Air Act, 42 U.S.C. Sec. 7401 et seq. (“CAA”); the Hazardous Materials Transportation Act, 49 U.S.C. Sec. 5101 et seq. (“HMTA”); the Safe Drinking Water Act, 42 U.S.C. Sec. 300f et seq. (“SDWA”), or comparable state cleanup statutes, and in the regulations promulgated pursuant to said laws, all as amended from time to time; or (C) any material, pollutant, substance or waste that comprises, in whole or in part, includes, or is a by-product or constituent of (i) petroleum (including crude oil or any fraction thereof that is not specifically listed or designated as a hazardous substance, and natural gas, natural gas liquids, liquefied natural gas, or synthetic gas

usable for fuel), (ii) asbestos, (iii) polychlorinated biphenyls, (iv) flammables or explosives, (v) biochemical agents, or (vi) radioactive materials.

If, during the course of performing under this Agreement, either Party becomes aware of any Hazardous Waste that exists on or under the location of the Interconnection or related services, whether or not created or brought on the location by a Party, the Party that so became aware shall report such condition to LODI in writing immediately and before disturbing (or further disturbing) the Hazardous Waste. NCPA shall not be liable for any Hazardous Waste on or under the location notwithstanding the fact that NCPA may have created, brought on, or released the Hazardous Waste into, over, on, or under the location. LODI shall be solely liable for any Hazardous Waste at the location because of NCPA or any of its employees or subcontractors, and LODI shall perform all cleanup, removal, remediation and disposition services with respect thereto. In the event NCPA encounters Hazardous Waste at the location, NCPA shall take reasonable actions necessary to mitigate costs to LODI or liability of LODI due to such Hazardous Waste. The cost of actions taken by NCPA pursuant to this section shall be fully reimbursed by LODI to NCPA.

- 15.16 **Status of Parties and Regulatory Compliance.** The Parties acknowledge that this Agreement is formed between two public agencies. Neither Party shall have any claim against LODIs, governing officials, officers, employees or agents of either Party. LODI is subject to the regulatory compliance requirements of several agencies. LODI shall be solely responsible for, and shall reimburse NCPA for any costs of compliance with any permits or license conditions, including any fines or penalties, to the maximum extent permitted by law.
- 15.17 **NCPA's Organization.** LODI is responsible for assuring for itself that NCPA's personnel are appropriately trained, educated, and skilled to competently perform the Services. LODI acknowledges and agrees that NCPA makes no warranties or representations regarding the qualifications of its employees, agents, and subcontractors.
- 15.18 **Acknowledgments and Interpretation.** The Parties acknowledge and agree that the terms and conditions of this Agreement have been freely and fairly negotiated. The Parties acknowledge that in executing this Agreement they rely solely on their own judgment, belief, and knowledge, and such advice as they may have received from their own counsel, and they have not been influenced by any representation or statements made

by any other Party or its counsel. No provision in this Agreement is to be interpreted for or against any Party because that Party or its counsel drafted such provisions.

- 15.19 **Default Termination.** Upon the occurrence of a material default, the non-breaching Party shall notify in writing the breaching Party of its intent to terminate this Agreement if the breach is not cured within thirty (30) days. If the breaching Party does not cure the event of default within such thirty (30) day period, the non-breaching Party may immediately terminate this Agreement for Default. Written notice of termination shall be delivered to the breaching Party at the address shown on page 2 of this Agreement or as changed, as provided therein.
- 15.20 **Default Termination Remedies.** In the event of a default termination for material breach or abandonment by LODI, NCPA may by appropriate court action or actions, either at law or in equity, preserve its position to recover damages and expenses associated with the breach; and/or pursue, concurrently or separately, other remedies available in law, in equity or in bankruptcy in anticipation of pursuing its remedies pursuant to Article 16 of this Agreement.
- 15.21 **Survival.** The terms of this Agreement shall survive any termination or cancellation hereof to the extent necessary to allow a Party to enforce any remedy granted hereunder in connection with such termination or cancellation. The terms of Article 14 of this Agreement, entitled "Indemnification, Defense, Release, and Covenant Not to Sue" shall survive any termination or cancellation, in perpetuity as to the Release, and otherwise for ten (10) years and one day after the effective date of termination or cancellation.

ARTICLE 16 – DISPUTE RESOLUTION

- 16.1 **Negotiations.** The Parties will attempt in good faith to resolve through negotiation any dispute, arising out of or relating to this Agreement. Either Party may initiate negotiations by providing written notice in letter form to the other Party, setting forth the subject of the dispute and the relief requested. The recipient of such notice will respond in writing within five (5) days with a detailed statement of its position on, and recommended solution to, the dispute. If the dispute is not resolved by this exchange of correspondence, then representatives of each Party with full settlement authority will meet at a mutually agreeable time and place within ten (10) days of the date of the initial notice in order to exchange relevant information and perspectives, and to attempt to

resolve the dispute. If the Parties are unable to resolve the dispute at the meeting by negotiations, they shall consider mediation.

During any dispute and negotiation LODI shall continue to timely pay NCPA for the Interconnection and related services rendered hereunder for which obligations remain unsatisfied, even though such dispute may concern those services. NCPA agrees to continue performing the services, provided that no payment due from LODI is overdue.

16.2 **Mediation.** The Parties agree that any and all disputes arising out of or relating to this Agreement that are not resolved by their mutual agreement after negotiations pursuant to section 16.1, should be submitted to mediation before JAMS, or its successor or similar alternative dispute resolution (ADR) organization of respected, retired judges, or to a private judge, as LODI may determine, in its reasonable discretion, and with the written consent of NCPA, provided that LODI will be responsible for all of the expenses of mediation. Either Party may commence the mediation process called for in this Agreement by filing a written request for mediation with JAMS, its successor, or another ADR organization or private judge with a copy to the other Party. The Parties agree that they will participate in the mediation in good faith when and if LODI determines to invoke mediation as a dispute resolution remedy, at its expense.

16.3 **Waiver of Certain Judicial Rights.** If the Parties fail to either negotiate or mediate a mutually satisfactory resolution of any dispute, then upon written notice given twenty (20) days in advance, either Party may terminate this Agreement, subject to any unpaid or un-reimbursed compensation or costs payable by LODI to NCPA, and without affecting the survival of Article 14, entitled "Indemnification, Defense, Release, and Covenant Not to Sue" for its full term, notwithstanding any default hereunder by NCPA. The Parties agree not to, and covenant not to sue, and waive their respective rights thereto.

ARTICLE 17 – LIMITATION OF LIABILITY

17.1 **Limitation of Liability.** To the extent the law allows, NCPA, its members, governing officials, officers, employees, and agents shall have no liability to LODI under this Agreement with respect to all claims however caused, arising out of the performance or non-performance of the Services and obligations under this Agreement, whether based in contract, warranty, tort (including negligence), strict liability, or otherwise, including without limitation, liability for consequential damages pursuant to Article 18, NCPA shall

not be required to carry any insurance, and even if insurance is carried by NCPA, such insurance shall not be available to LODI for any claim, death, damages, injuries, losses of any kind whatsoever, unless, and solely to the extent, that LODI procures such insurance of its own accounts, and pays, and is solely responsible for any and all premiums and costs related to such coverage. If notwithstanding the foregoing limitations of this Section 17.1, liability is imposed, then such total liability shall be limited to the net present value of the expertise NCPA gained through this Agreement that is of value to its other members.

ARTICLE 18 – CONSEQUENTIAL DAMAGES

18.1 **Consequential Damages.** NCPA, its members, governing officials, officers, employees, and agents (excluding counterparties) shall not be liable to LODI, for incidental, indirect, punitive, exemplary, special or consequential loss or damage arising out of or relating to this Agreement, including, but not limited to, loss of use, customer claims and damages, loss of revenue, loss of power sales, loss of electric system reliability, outages and cascading disturbances, principal office expenses, delay, loss by reason of plant shutdown or inability to operate, increased cost of operating and maintaining the Project, debt service, rental payments or contractual damages incurred by LODI or to others. LODI is and will remain through the survival provisions of Article 15 of this Agreement, solely responsible for such risks, losses, damages and costs, however described; including consequential damages that may be suffered by NCPA, its members, governing officials, officers, employees, and agents (excluding counterparties).

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement on the Effective Date, having acknowledged and accepted the terms, conditions, promises, and covenants of this Agreement, as evidenced by the following signatures of the representatives of the Parties, who are represented and warranted to be fully and lawfully authorized, by all necessary official action, to execute and deliver this Agreement.

MEMBER:

NCPA:

CITY OF LODI

NORTHERN CALIFORNIA POWER
AGENCY

By: _____

By: _____

Name: Blair King

Name: James H. Pope

Title: City Manager

Title: General Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: D. Stephen Schwabauer

By: Michael F. Dean

Attorney

Michael F. Dean

NCPA Member

NCPA General Counsel

ATTEST:

By: Randi Johl

Clerk

APPENDIX A – ONE-LINE DIAGRAMS

Figure 1 – NCPA STIG Electrical System after Interconnection

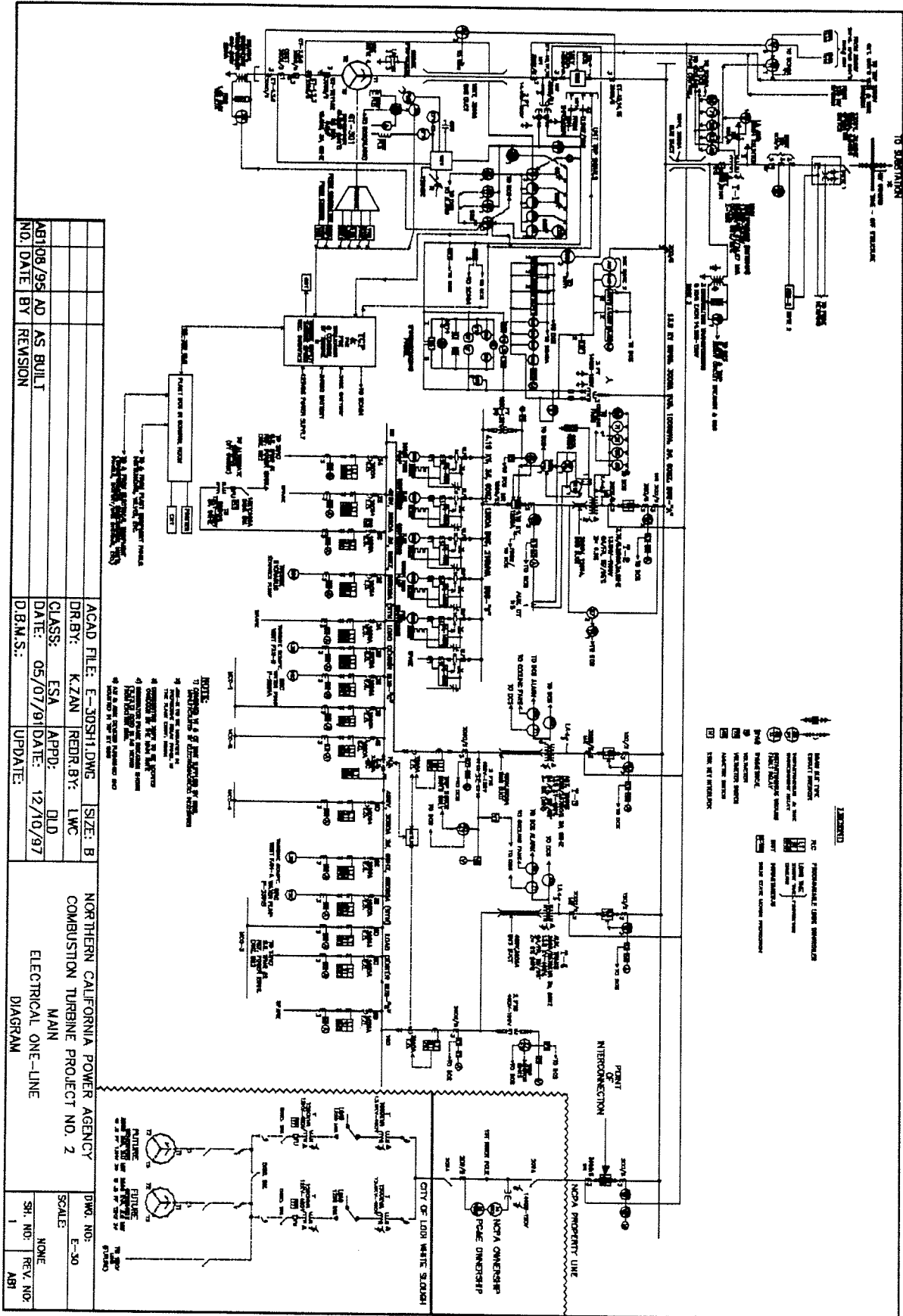
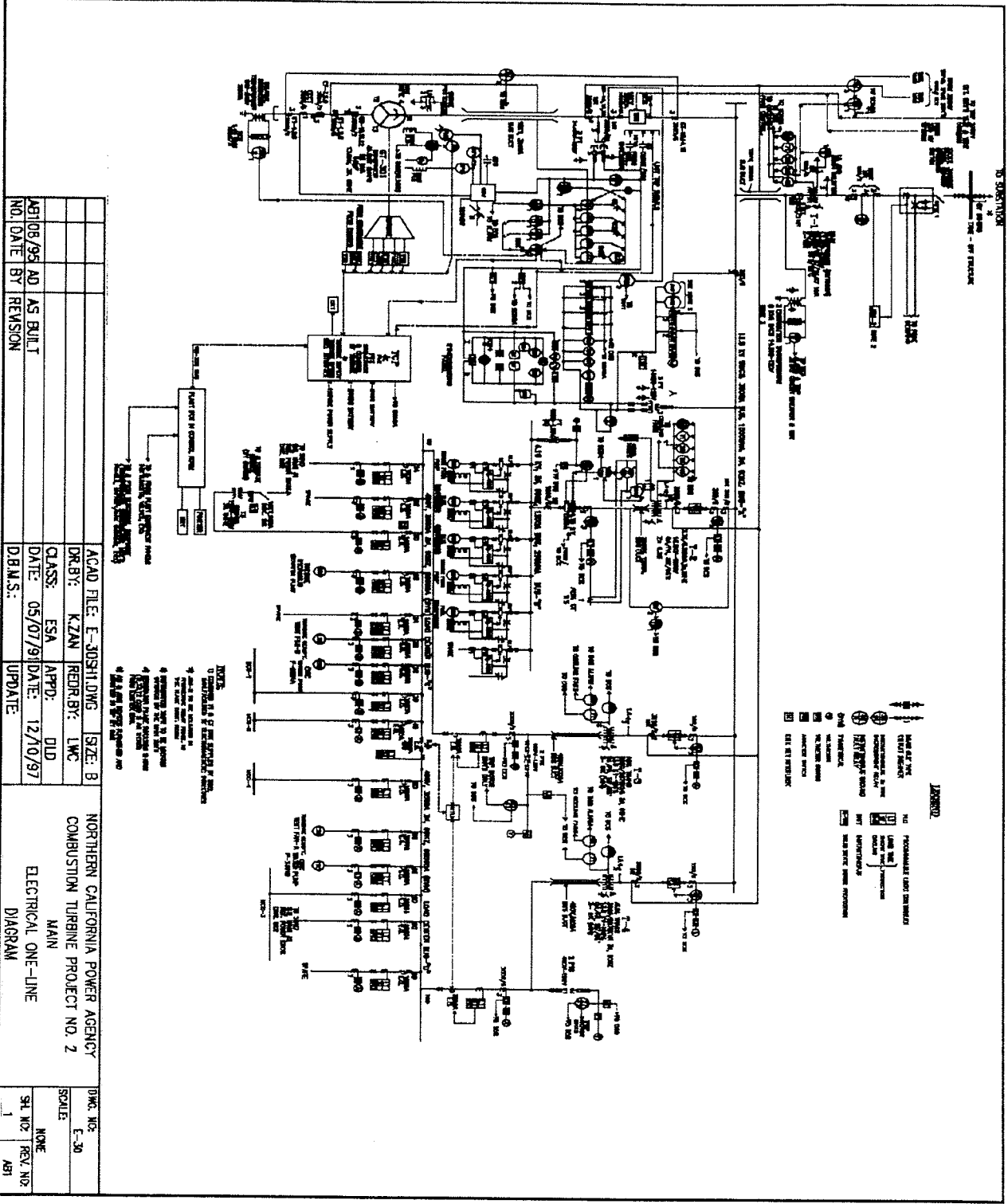


Figure 2 – NCPA STIG Electrical System before Interconnection



| | | | | | | |
|----------------------------------|----------|-----|----------|----------------------------------|-----|----------|
| NO. | DATE | BY | REVISION | AS BUILT | AD | AS BUILT |
| 1 | 05/07/91 | ESA | DATE | 12/10/97 | DID | APPD. |
| DB.M.S.: | | | | UPDATE | | |
| ACAD FILE: E-30SH1.DWG | | | | SIZE: B | | |
| DR BY: K.ZAN | | | | REDR BY: LWC | | |
| CLASS: ESA | | | | APPD: DID | | |
| DATE: 05/07/91 | | | | DATE: 12/10/97 | | |
| NORTHERN CALIFORNIA POWER AGENCY | | | | COMBUSTION TURBINE PROJECT NO. 2 | | |
| ELECTRICAL ONE-LINE | | | | MAIN | | |
| DIAGRAM | | | | | | |
| DWG. NO. E-30 | | | | SCALE: NONE | | |
| SH. NO. 1 | | | | REV. NO. 1 | | |

APPENDIX B – METER DATA PROTOCOLS & ADJUSTMENTS

LODI is requesting interconnection to our Stig electrical system to temporarily supplement their interconnection to PG&E and existing service via the White Slough Substation. Once the Stig interconnection is completed, the breakers will be opened on the White Slough lines and that portion of the LODI distribution system containing their wastewater treatment plant load will be fed directly from the Stig electrical system. However, with the consent of PG&E the White Slough service will remain as an emergency backup should delivery service be unavailable from the Stig electrical system.

The ISO model needs the logic below added into NCPA's MSSA. The current treatment of White Slough should remain the same.

To insure that the impact of the interconnection is accurately recorded, during operation of the Stig generator, the output of the generator will need to be increased by the load recorded on the new meter being placed between Stig and the LODI Wastewater Treatment plant. The mathematical adjustments involved to accurately account for all the components of load and generation on the interconnected Stig/LODI systems are shown below.

Grid---<---M1---->---| Stig Unit |-----M2--->---| TreatmentPlant |---breaker--<---Existing White Slough meters (5840502, 5840503)

M1 is the existing ISO-pollled meter on the grid side of Stig, bi-directional.

M2 is the new ISO-pollled meter between Stig and the Treatment plant, Load only.

Note that M2 will include losses when the Stig is off-line via breaker 52G. This will make the Treatment load a wholesale load.

When Stig is not generating, M1in (total station service) will be greater than M2.

ISOTreatmentLoad = M2 + 5840502 + 5840503

Total Stig gen = max(M1out + ISOTreatmentLoad - M1in, 0)

PG&EStigSS = max((M1in - ISOTreatmentLoad), 0)
SS for Stig)

If generating then Total Gen else 0

If generating then 0 else M1in - M2 (Net

RESOLUTION NO. 2008-_____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERCONNECTION AGREEMENT BETWEEN THE CITY OF LODI AND NORTHERN CALIFORNIA POWER AGENCY (NCPA) FOR THE EXISTING WHITE SLOUGH WATER POLLUTION CONTROL FACILITY ELECTRIC CONNECTION

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby authorizes the City Manager to execute an Agreement for Interconnection by and between the City of Lodi and the Northern California Power Agency (NCPA) relating to an electric connection between the NCPA Combustion Turbine No. 2 Project (STIG) and the Lodi White Slough Water Pollution Control Facility.

Dated: August 20, 2008

=====

I hereby certify that Resolution No. 2008-_____ was passed and adopted by the Lodi City Council of the City of Lodi in a regular meeting held August 20, 2008, by the following vote:

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

RANDI JOHL
City Clerk



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt Resolution Authorizing the City Manager to Execute an Amended and Restated Master Confirmation Agreement with Shell Energy North America (EUD)

MEETING DATE: August 20, 2008

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to execute an Amended and Restated Master Confirmation Agreement with Shell Energy North America (Shell).

BACKGROUND INFORMATION: The Electric Utility Department (EUD) regularly purchases wholesale electric energy from the marketplace in order to stabilize/hedge costs by reducing its “open position.” Such purchases are made pursuant to contracts with sellers that have grown in complexity following the 2001 energy crisis in California and as electricity prices have become more volatile.

It is now common practice for wholesale electric sellers and buyers to establish master agreements to govern future bilateral transactions. This is prudent from an efficiency standpoint and since market prices for electricity change from moment to moment making it impractical to negotiate/consummate contracts for deals “on the fly.”

The proposed Master Confirmation Agreement (and Credit Annex) with Shell Energy North America utilizes the Western Systems Power Pool (WSPP) Agreement as a foundation. The WSPP is composed of over 300 members nationally and the core features of the WSPP agreement are time-tested and accepted by most parties in the energy marketplace. It supersedes an earlier/outdated agreement with a predecessor of Shell (Coral Power LLC) that was executed by the City in 2003.

It is recommended that the City Council approve execution of a Master Confirmation Agreement with Shell. The City Attorney has reviewed the attached agreement.

FISCAL IMPACT: There is no cost to execute the recommended agreement.

FUNDING: Not applicable.

George F. Morrow
Electric Utility Director

APPROVED: _____
Blair King, City Manager

**AMENDED AND RESTATED
MASTER CONFIRMATION AGREEMENT
UNDER THE WSPP AGREEMENT
BETWEEN SHELL ENERGY NORTH AMERICA (US), L.P. AND
THE CITY OF LODI, CALIFORNIA**

This *Amended and Restated Master Confirmation Agreement* (this "Master Confirmation") dated August 1, 2008 (the "Effective Date") is by and between the City of Lodi, a California municipal corporation, and Shell Energy North America (US), L.P. ("Shell Energy"), a Delaware limited partnership, amends (successor in interest by merger to Coral Power, L.L.C.) restates, supersedes and replaces the following:

Master Confirmation Agreement under the Western Systems Power Pool Agreement dated effective as of April 24, 2003 (the "Original Master Confirmation") between Coral Power, L.L.C., a Delaware Limited Liability Company ("Coral"), and the City of Lodi, California, a California Municipal Corporation ("Lodi").

Lodi and Shell Energy are collectively referred to herein as the "Parties" and individually as a "Party."

WHEREAS, this Master Confirmation is being provided pursuant to and in accordance with *WSPP Agreement dated April 1, 2008* ("WSPP Agreement") as if Lodi and Shell Energy were members of WSPP Inc. but recognizing that Lodi is not a member and that it is not intended that it will become a member for purposes of this Master Confirmation.

WHEREAS, the Parties desire to further amend the Master Confirmation with respect to all transactions and confirmations between them;

NOW THEREFORE, in consideration of the mutual consents and agreements contained herein and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Shell Energy and Lodi agree to the following terms and conditions.

GENERAL. This Master Confirmation shall govern all transactions between the Parties under the WSPP Agreement. By entering into this Master Confirmation, Shell Energy and Lodi intend to have these provisions modify, supplement and amend the WSPP Agreement and to have these provisions apply to all Confirmation Agreements and transactions between Shell Energy and Lodi. The WSPP Agreement, as modified, supplemented and amended by this Master Confirmation, shall be referred to as the "Agreement". Terms used but not defined herein shall have the meanings ascribed to them in the WSPP Agreement. In the event of any conflict between this Master Confirmation and the WSPP Agreement, this Master Confirmation shall control.

SPECIFIC MODIFICATIONS TO THE WSPP AGREEMENT

1. Change in Delivery Point Definition. In the event the delivery point is affected by a change in the geographic market encompassing the point of delivery, and is revised or divided into alternate areas, the Parties shall agree on the newly defined point or geographic area that most closely resembles the location, trading liquidity and congestion as the original delivery point.
2. Section 4.1c of the WSPP Agreement is modified by including "CAISO" as an equivalent abbreviated form of the defined term "California ISO" such that the definition now reads: "4.1c California ISO (or CAISO) ..."

3. A new Section 4.1g shall be added in Section 4 as follows: "4.1g "CAISO Energy" means with respect to a Transaction, a Product under which the Seller shall sell and the Buyer shall purchase a quantity of energy equal to the hourly quantity without Ancillary Services (as defined in the CAISO Tariff) that is or will be scheduled as a schedule coordinator to schedule coordinator transaction pursuant to the applicable tariff and protocol provisions of the California Independent System Operator ("CAISO") for which the only excuse for failure to deliver or receive is an "Uncontrollable Force" (as defined in the CAISO Tariff). A CAISO "Schedule Adjustment" (defined as a schedule change implemented by the CAISO that is neither caused by, or within the control of, either Party) shall not constitute an Uncontrollable Force (as defined in the Tariff).
4. A new Section 4.1h shall be added in Section 4 as follows: "4.1h CAISO Tariff: the FERC approved tariff of CAISO, including all CAISO protocols, as the same may be amended from time to time."
5. Choice of Laws: Section 24 of the WSPP Agreement is deleted and replaced with the following: "This Agreement and any Confirmation Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to the conflicts of laws rules thereof. Any dispute arising under this Agreement and any Confirmation Agreement shall be brought in the Federal District Court for the Northern District of California, or if such court declines jurisdiction, any California state court located within the geographical venue of the Federal District Court for the Northern District of California. EACH PARTY WAIVES ITS RESPECTIVE RIGHT TO ANY JURY TRIAL WITH RESPECT TO ANY LITIGATION ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT."
6. Mobile-Sierra Provision. To the extent of FERC jurisdiction, the standard of review for changes to any portion of this Agreement or any transaction entered into hereunder proposed by a Party, a non-party or the Federal Energy Regulatory Commission acting sua sponte shall be the "public interest" standard of review set forth in United Gas Pipeline Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) (the "Mobile-Sierra" doctrine).
7. No Challenge; Defense of Agreement. Neither Party will exercise any of its respective rights under Section 205 or Section 206 of the Federal Power Acts to challenge or seek to modify any of the rates or other terms and conditions of this Agreement or any transactions entered into hereunder.
8. Section 27. Creditworthiness. Section 27 of the WSPP Agreement shall be modified by (i) replacing the words "Section 21.3" in the second sentence with the words "Sections 21.3 or 22.3"; and (ii) by adding the Credit Annex Attached hereto.
9. Section 28. Payment Netting.
 - (a) Section 28.1 of the WSPP Agreement is deleted in its entirety and replaced with the following: "The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to all transactions through netting, in which case all amounts owed by each Party to the other Party for the purchase and sale of electric energy, capacity, Products and/or Services, during the monthly billing period under this Agreement, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it."
 - (b) Section 28.2 of the WSPP Agreement is deleted in its entirety. Furthermore, the Parties agree that Exhibit A of the WSPP Agreement shall not be applicable to any transaction under this Agreement.

10. Section 34. Dispute Resolution. Section 34 and Exhibit D of the WSPP Agreement are hereby deleted.

11. Section 9. Notice Information, Billing Addresses. All written notices under this Confirmation shall be deemed properly sent if delivered in person or sent by facsimile, or by registered or certified mail, postage prepaid to the persons specified below. Either Party may change addresses for notices by written notice to the other Party.

| If to Lodi: | If to Shell Energy: |
|--|--|
| <p>Notices: City of Lodi 1331 S. Ham Lane Lodi, California 95242 Attn: George Morrow Electric Utility Director Fax: (209) 333-6839; Fax: (209) 339-0851</p> | <p>Notices: Shell Energy North America (US), L.P. 909 Fannin, Plaza Level 1 Houston, Texas 77010 Phone: 713-767-5400; Fax: 713-767-5414</p> <p>With a copy to: Shell Energy North America (US), L.P. 4445 Eastgate Mall, Suite 100 San Diego, California 92121 Attn: Commercial Advisor Phone: 858-526-2151; Fax: 858-320-2651</p> <p>With a copy to General Counsel Phone: 713-767-5400; Fax: 713-230-2900</p> |
| <p>Wire Transfer: Bank: { _____ } ABA Routing: { _____ } For Deposit to: { _____ } Acct No. { _____ }</p> | <p>Wire Transfer: Bank: Citibank Acc. Name: Shell Energy North America (US), L.P. ABA: #021000089 ACCT: #30603873</p> |
| <p>Pre-scheduling: NCPA Phone: 916-781-4237 Fax: (916) 782-4239</p> | <p>Pre-scheduling: Attn: 24 Hour Operations (San Diego, California) Phone: 1-858-320-1500; Fax: 858-320-1550</p> |
| <p>Confirmations of Transactions Phone: 209-333-6764</p> | <p>Confirmations of Transactions Phone: 858-320-1500</p> |

12. Section 9.2 of the WSPP Agreement is modified as follows: insert the phrase “in writing” after the words “designated by the Party” in the third sentence of Section 9.2.

13. Section 10 of the WSPP Agreement is amended by inserting in the fourth sentence the words “loss, failure or” after the word “Seller’s” in sub-section (i). Section 10 is further amended by inserting at the end of the fourth sentence a new sub-section (iii) which reads, “; or (iii) Seller’s ability to sell capacity and/or energy to a market at a price more advantageous to Seller.”

14. Section 11 of the WSPP Agreement shall be modified by adding the following sentence at the end of the Section: “No waiver shall be deemed to have been given unless it is in writing.”

15. Section 12.2 of the WSPP Agreement shall be deleted in its entirety and replaced with the following: "12.2 Any notice sent pursuant to this Section shall be considered delivered (a) in three (3) Business Days if sent by mail, (b) when received if sent by hand delivery, or (c) on the date of confirmation if by facsimile or telegram (except that if a notice by hand-delivery, facsimile or telegram is received after 5 p.m. at the location of receipt on a Business Day, it shall be considered to be received on the next Business Day)."

16. LIABILITY AND DAMAGES

- (a) Section 21.3(a)(4) of the WSPP Agreement shall be modified by replacing the language beginning with "within the billing period" through the end of the sentence, with the following: "within seven (7) Business Days from the date that an invoice for such amount is received. The Performing Party may invoice the Non-Performing Party at any time following the Performing Party having incurred an amount under this Section, subject to the two-year limitation as specified in Section 9.4."
- (b) Section 21.3(d) of the WSPP Agreement shall be modified by deleting the second and third sentences of the Section in their entirety and replacing them with "Upon resolution of the dispute, any excess amount of bills which may have been overpaid shall be returned by the owing Party upon determination of the correct amount, with interest accrued at the rate set forth in Section 9.4, prorated by days from the date of overpayment to the date of refund."

17. DEFAULT

- (a) A new Section 22.1(f) is added to Section 22 of the WSPP Agreement as follows: "An Event of Default shall also include the failure by the Defaulting Party to schedule, deliver, or receive capacity and/or energy or Ancillary Services or other products sold and purchased under a specified Confirmation for three (3) consecutive calendar days and such failure is not excused pursuant to the product definition, this Agreement or under the terms of the specified Confirmation."
- (b) Section 22.3(a) of the WSPP Agreement shall be modified by deleting the language beginning with "either quoted" in the first sentence through the end of the next full sentence and inserting in its place the following: "determined by the average of the good faith quotations for the economic equivalent of the remaining payments or deliveries in respect of the Terminated Transaction, solicited from not less than three (3) Reference Market-makers; provided, however, that the Party soliciting such quotations shall use commercially reasonable efforts to obtain good faith quotations from at least five (5) Reference Market-makers and, if at least five (5) such quotations are obtained, the average shall be determined disregarding the highest and lowest quotations. If the Non-Defaulting Party is unable, after using commercially reasonable efforts, to obtain quotations from at least three (3) Reference Market-makers, then the Non-Defaulting Party shall determine the Settlement Amount in a commercially reasonable manner. As used above, the term "Reference Market-maker" means any marketer, trader or seller of or dealer in firm energy products selected by the Non-Defaulting Party, not including any affiliates thereof, whose long-term unsecured senior debt is rated BBB or better by S&P and Baa2 or better by Moody's Investor Services, Inc. or its successor. If fewer than three quotations are obtained it shall be deemed that a market quotation average price cannot be determined per this Section and the Parties agree that the WSPP Agreement Section 22.3 (a) shall govern the terms of this Section."
- (c) Section 22.3(c) of the WSPP Agreement shall be modified by deleting, in the third sentence, the language beginning with "shall pay the remaining amount" through the end of that sentence and inserting in its place the words "shall make no payment to the other Party, and notwithstanding

anything in this Agreement to the contrary, the amount by which such Gain exceeds the Losses and Costs for the purpose of this Agreement shall be deemed to be zero (0)."

- (d) Section 22.3(e) shall be deleted in its entirety.
- (e) Section 22.3(f) shall be modified by deleting, in the second sentence, the phrase "(except if the option under 22.3(e) has been invoked in which case the payment times in that provision would apply)".
- (f) Section 22.3(g)(ii) of the WSPP Agreement shall be modified by adding the phrase "plus any amount due but not yet paid under Termination Transactions" after the phrase "in accordance with this Section 22.3" and before the semicolon.

18. Section 30 of the WSPP Agreement shall be modified by inserting, after the phrase "(1) required by law" and before the comma, the phrase "(as reasonably determined by counsel of the disclosing Party)".

19. Section 32.4.2 of the WSPP Agreement shall be modified by inserting the following sentence at the end of the Section: "If there is any dispute relating to an oral agreement, each Party agrees that it will provide to the other Party promptly upon request any recording relating to such oral agreement."

20. Section 35 of the WSPP Agreement is modified by inserting the following paragraph between the first and second sentences: "The Parties agree that each Party's business consists in whole or in part of entering into forward contracts as or with merchants in capacity and/or energy, which is presently the subject of dealing in the forward contract trade. The parties further agree that the transactions entered into pursuant to any Confirmations hereunder (as provided in Section 22.3 of the WSPP Agreement) are forward contracts involving the sale of capacity and/or energy, which are presently the subject of dealing in the forward contract trade. No Party shall assert before any court or other governmental authority either that another Party is not, or shall not be treated as a forward contract merchant or that the transactions entered into pursuant to any Confirmations hereunder (as provided in Section 22.3 of the WSPP Agreement) are not, or shall not be treated as forward contracts under the United States Bankruptcy Code."

Notwithstanding any contrary provision in the WSPP Agreement, any conflict between this Master Confirmation, including the Credit Annex attached hereto and made a part hereof, and the WSPP Agreement, shall be resolved in favor of this Master Confirmation. If any provision in this Master Confirmation is held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such provision so adjudged will be deemed separate, distinct, and independent, and the remainder of this Master Confirmation will be and remain in full force and effect.

Except to the extent herein provided for, no amendment or modification to the Agreement shall be enforceable unless reduced to writing and executed by both Parties.

In WITNESS WHEREOF, the Parties have caused this Master Confirmation to be duly executed by their authorized officers or agents effective as of the date first above written.

CITY OF LODI, a municipal Corporation

By: _____
Name: Blair King
Title: City Manager
Date:

ATTEST:

Randi Johl, City Clerk

SHELL ENERGY NORTH AMERICA (US), L.P.

By: Beth Bowman
Name: Beth Bowman
Title: Senior Vice President
Date: August 7, 2008

APPROVED AS TO FORM:

By: _____
D. Steven Schwabauer, City Attorney

Attachment: Credit Annex

WSPP Agreement Credit Support Addendum
by and between
Shell Energy North America (US), L.P. and the City of Lodi, California

The purpose of this Credit Support Addendum ("CSA"), effective as of August 7, 2008 ("Effective Date") is to confirm the agreement of **Shell Energy North America (US), L.P.** ("Shell Energy") and the **City of Lodi, California** ("Lodi") (herein sometimes referred to individually as a "Party" and collectively as the "Parties") regarding transactions consummated under the Master Confirmation Agreement between the Parties, effective as of August 1, 2008, as it may be amended from time to time ("MCA"). Pursuant to the terms and conditions of the MCA, Shell Energy and Lodi are executing this CSA to become effective as of the date hereof and to apply to each Confirmation (which term "Confirmation" shall include both written and oral transactions) for transactions agreed to by the Parties under the MCA. Each Confirmation for transactions agreed to under the MCA shall be deemed to include the following provisions, without requiring the Confirmation specifically to include such provisions or reference this CSA.

A. Credit Terms. Any capitalized terms used herein but not otherwise defined herein shall have the meaning ascribed to such terms in the MCA, which is incorporated by reference herein. Defined terms used in this CSA and not defined in the MCA shall have the meaning set forth in Paragraph F hereto.

(a) Security Threshold. As used in this CSA, "Security Threshold" means with respect to either Party on any date of determination, the lower of: (x) US \$15,000,000; or (y) \$0 if a Material Adverse Change or an Event of Default has occurred and is continuing with respect to that Party or its Credit Support Provider, if any.

(b) Material Adverse Change. As used herein, "Material Adverse Change" means

(x) either Party's Credit Rating falls below BBB- by S&P or Baa3 by Moody's or the Party is no longer rated by at least one of the foregoing; and/or

(y) a default has occurred with respect to indebtedness for borrowed money of the other Party or its Credit Support Provider, if any, that has resulted in an acceleration of such indebtedness in an aggregate amount in excess of US \$50,000,000; provided, however, with respect to either Party, a Material Adverse Change shall not be deemed to have occurred so long as that Party maintains a Credit Rating of at least BBB- by S&P or Baa3 by Moody's.

(c) Guaranties.

(i) Shell Energy Guaranty. Not applicable.

(ii) Lodi Guaranty. Not applicable

B. Credit Requirements. If at any time, and from time to time, during the term of the CSA, the Contract Exposure for a Party (the "Providing Party") exceeds such Party's Security Threshold, then the other Party (the "Requesting Party") may request that the Providing Party provide Performance Assurance in an amount equal to the amount by which its Contract Exposure exceeds its Security Threshold. On any Business Day (but no more frequently than weekly with respect to letters of credit and daily with respect to cash), the Providing Party, at its sole cost, may request that the amount of Performance Assurance be reduced based upon a decrease in the Contract Exposure as calculated on such Business Day. Any Performance Assurance being provided or returned shall be delivered within two (2) Business Days of the date of such request. The amount of Performance Assurance being provided by the Providing Party shall be rounded upwards to the next multiple of U.S. \$100,000 and the amount of Performance Assurance being returned by the Requesting Party shall be rounded down to the next multiple of U.S. \$100,000. Neither Party shall be required to provide Performance Assurance as long as it maintains a Credit Rating of at least BBB- by S&P or Baa3 by Moody's.

C. Grant of Security Interest; Remedies. To secure its obligations under the CSA, and to the extent it delivers Performance Assurance hereunder as the Providing Party, each Party hereby grants to the Requesting Party, as

secured party, a present and continuing security interest in, lien on, and right of setoff against, all Performance Assurance in the form of cash, and any and all proceeds resulting therefrom, held by or on behalf of the Requesting Party. The Providing Party agrees to take such further action as the Requesting Party may reasonably require in order to perfect, maintain and protect the Requesting Party's security interest in such collateral. Upon the occurrence and continuance of a Event of Default with respect to the Providing Party, then, unless the Providing Party has satisfied in full all of its payment and performance obligations under the CSA that are then due, the Requesting Party may (i) exercise any of the rights and remedies of a secured party under applicable law with respect to all Performance Assurance; (ii) exercise its right of setoff against any and all Performance Assurance; (iii) draw on any Letter of Credit issued for its benefit, and (iv) liquidate all Performance Assurance then held by the Requesting Party free from any claim or right of any nature whatsoever of the Providing Party. The Requesting Party shall either (x) apply the proceeds of the Performance Assurance realized upon exercise of such rights or remedies to reduce the Providing Party's obligations under the CSA, in such order as it elects, and the Providing Party shall remain liable for any amounts owing to the Requesting Party after such application, subject to the Requesting Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full, or (y) hold such proceeds as collateral security for the Providing Party's obligations under the CSA.

D. **Credit Events Of Default.** The following events ("Credit Events") shall be additional Events of Default under Section 22.1 of the MCA and the Non-Defaulting Party shall have the right to exercise any of the remedies provided for under Section 22.2 upon the occurrence of a Credit Event as provided herein:

(i) the failure by the Defaulting Party to establish, maintain, extend or increase Performance Assurance when required pursuant to this CSA; or

(ii) the occurrence of a Material Adverse Change with respect to the Defaulting Party; provided, such Material Adverse Change shall not be deemed to be an Event of Default if the Defaulting Party (x) establishes and maintains Performance Assurance in an amount equal to the Contract Exposure of the Defaulting Party as of such date, and (y) increases such Performance Assurance as the other Party shall from time to time request based upon any increase of such Contract Exposure; or

(iii) the failure of the Defaulting Party or its Credit Support Provider, if any, to timely provide financial information as required in this CSA and such failure is not remedied within thirty (30) days after written notice of such failure is given to the Defaulting Party.

E. **Disputed Calculations**

(a) If the Pledging Party disputes the amount of Performance Assurance requested by the Secured Party and such dispute relates to the amount of the Contract Exposure claimed by the Secured Party, then the Pledging Party shall (i) notify the Secured Party of the existence and nature of the dispute not later than the 12:00 p.m. Central Prevailing Time on the first Business Day following the date that the demand for Performance Assurance is made by the Secured Party, and (ii) provide Performance Assurance to or for the benefit of the Secured Party in an amount equal to the Pledging Party's own estimate, made in good faith and in a commercially reasonable manner, of the Pledging Party's Collateral Requirement. In all such cases, the Parties thereafter shall promptly consult with each other in order to reconcile the two conflicting amounts. If the Parties have not been able to resolve their dispute on or before the second Business Day following the date that the demand is made by the Secured Party, then the Secured Party shall obtain market quotations from two Reference Market Makers within two (2) Business Days (taking the arithmetic average of those obtained to obtain the average Current Mark-to-Market Value; *provided, that*, if only one (1) quotation can be obtained, then that quotation shall be used and if no quotations can be obtained, Secured Party's original calculation shall be applicable) for the purpose of recalculating the Current Mark-to-Market Value of each transaction in respect of which the Parties disagree as to the Current Mark-to-Market Value thereof, and the Secured Party shall inform the Pledging Party of the results of such recalculation (in reasonable detail). Performance Assurance shall thereupon be provided, returned, or reduced, if necessary, on the next Business Day in accordance with the results of such recalculation.

(b) If the Secured Party disputes the amount of Performance Assurance to be reduced by the Secured Party and such dispute relates to the amount of the Contract Exposure claimed by the Secured Party, then the Secured Party shall (i) notify the Pledging Party of the existence and nature of the dispute not later than the 12:00 Central Prevailing Time

on the first Business Day following the date that the demand to reduce Performance Assurance is made by the Pledging Party and (ii) effect the reduction of Performance Assurance to or for the benefit of the Pledging Party in an amount equal to the Secured Party's own estimate, made in good faith and in a commercially reasonable manner, of the Pledging Party's Collateral Requirement. In all such cases, the Parties thereafter shall promptly consult with each other in order to reconcile the two conflicting amounts. If the Parties have not been able to resolve their dispute on or before the second Business Day following the date that the demand is made by the Pledging Party, then the Secured Party's Contract Exposure shall be recalculated by Secured Party requesting quotations from two (2) Reference Market-Maker within two (2) Business Days (taking the arithmetic average of those obtained to obtain the average Current Mark-to-Market Value; provided, that, if only one (1) quotation can be obtained, then that quotation shall be used and if no quotation can be obtained, Secured Party's original calculation shall be applicable) for the purpose of recalculating the Current Mark-to-Market Value of each transaction in respect of which the Parties disagree as to the Current Mark-to-Market Value thereof, and the Secured Party shall inform the Pledging Party of the results of such recalculation (in reasonable detail). Performance Assurance shall thereupon be provided, returned, or reduced, if necessary, on the next Business Day in accordance with the results of such recalculation.

F. **Financial Information.** Upon request by Shell Energy, Lodi or its Credit Support Provider, if any, shall deliver to Shell Energy (i) within 120 days following the end of its fiscal year, a copy of the audited consolidated financial statements for such fiscal year certified by independent certified public accountants and (ii) within 45 days after the end of each of the first three fiscal quarters of its fiscal year, a copy of the quarterly unaudited consolidated financial statements for such fiscal quarter. In all cases the statements shall be for the most recent accounting period and prepared in accordance with generally accepted accounting principles or such other principles then in effect.

G. **Definitions.** With respect to this CSA the following definitions shall apply.

"Calculation Date" means any Business Day on which a Party chooses or is requested by the other Party to make the determinations referred to in Paragraph B and Paragraph E.

"Collateral Requirement" means the Secured Party's Contract Exposure minus the amount of Performance Assurance transferred to the Secured Party.

"Contract Exposure" means an amount equal to (x) the Termination Payment that would be payable from the Providing Party to the Requesting Party, as if an Early Termination Date had been declared pursuant to Section 22.2 of the WSPP Agreement, effective as of April 1, 2008, as it may be amended from time to time as referenced by the MCA (notwithstanding whether or not an Event of Default has occurred) and all transactions had been terminated; (y) plus the net amount of all other payments owed but not yet paid between the Parties, whether or not such amounts are then due, for performance already provided pursuant to any and all transactions conducted under the MCA; (z) less the amount of any Performance Assurance then held by the Requesting Party.

"Credit Rating" means (x) with respect to a Party or its Credit Support Provider, if any, the lower of its long-term senior unsecured debt rating (not supported by third party credit enhancement) or its issuer rating by the specified rating agency, and (y) with respect to a financial institution, the lower of its long-term senior unsecured debt rating (not supported by third party credit enhancement) or its deposit rating by the specified rating agency.

"Credit Support Provider" means a third party providing a guaranty for a Party pursuant to this CSA. With respect to Shell Energy, its Credit Support Provider is Not Applicable.

"Current Mark-to-Market Value" of an outstanding transaction, on any Calculation Date, means the amount, as calculated in good faith and in a commercially reasonable manner, which a Party to the MCA would pay to (a negative Current Mark-to-Market Value) or receive from (a positive Current Mark-to-Market Value) the other Party as the Settlement Amount (calculated, only for purposes of establishing Contract Exposure in connection with setting Performance Assurance levels, at the mid-point between the bid price and the offer.

"Letter of Credit" means one or more irrevocable, standby letters of credit from a Qualified Institution in a form reasonably acceptable to the requesting Party.

"Moody's" means Moody's Investors Service, Inc., or its successor.

“Performance Assurance” means collateral in the form of cash, Letters of Credit, or other security acceptable to the Requesting Party. If the collateral is in the form of cash, such cash shall be placed by the Requesting Party in a segregated, interest-bearing escrow account on deposit with a Qualified Institution and interest shall accrue to the Providing Party. The requirement to maintain a segregated escrow account shall not apply if the Requesting Party or its Credit Support Provider, as applicable, has a Credit Rating of at least A- by S&P or A3 by Moody’s.

“Pledging Party” means either Party, when that Party receives a demand for or is required to transfer Performance Assurance.

“Qualified Institution” means a major U.S. commercial bank having a Credit Rating of at least A- from Standard and Poor’s or A3 from Moody’s.

“Reference Market-maker” means a leading dealer in the relevant market selected by a Party determining its Contract Exposure in good faith from among dealers of the highest credit standing which satisfy all the criteria that such Party applies generally at the time in deciding whether to offer or to make an extension of credit.

“S&P” means Standard & Poor’s Ratings Services (a division of McGraw-Hill, Inc.) or its successor.

“Secured Party” means either Party, when that Party makes a demand for or is entitled to receive Performance Assurance.

“Settlement Amount” means, with respect to a transaction and the Non-Defaulting Party, the Losses or Gains, and Costs expressed in U.S. Dollars, which such Party incurs as a result of the liquidation of a Terminated transaction pursuant to Section 22.2 of the MCA.

H. **Obligations and Delivers.** Lodi will deliver, upon execution of the CSA and as deemed necessary for further documentation: (a) Certified copies of all resolutions, and other documents evidencing the necessary authorizations of the, MCA, the Confirmation and this CSA (collectively the “Agreement”), and the transactions contemplated hereby, (b) Certified incumbency certificate or other evidence of authority and specimen signatures with respect to signatories executing the Agreement or any Credit Support Document(s).

I. **Successors.** In the event of an assignment of this CSA by Lodi as provided herein, the provisions of this CSA shall not be applicable to any such assignee. In such event an assignee will be required to meet the reasonable credit requirements of Shell Energy for the extension of unsecured credit before further deliveries of energy are made.

J. **Provisions Applicable to a Municipality.**

(i) **Definitions.** The Parties agree to add the following definitions in Section 24.

“Act” means California Constitution, Article II, Section 9 and California Government Code, Section 34000 et seq.

“Special Fund” means a fund or account of Lodi set aside and or pledged to satisfy Lodi’s obligations hereunder out of which amounts shall be paid to satisfy all of Lodi’s obligations under this Agreement for the entire Delivery Period.

(ii) **Uncontrollable Forces.** The following sentence shall be added to the end of the definition of “Uncontrollable Force” in Section 10. “If the Claiming Party is Lodi, Uncontrollable Force does not include any action taken by Lodi in its governmental capacity.

(iii) **Representations And Warranties.** The Parties agree to add the following representations and warranties to Section 37: “Further, Lodi represents and warrants to the other Party continuing throughout the term of this CSA, with respect to this CSA and each transaction, as follows:

all acts necessary to the valid execution, delivery and performance of this CSA, including without limitation, competitive bidding, public notice, election, referendum, prior appropriation or other required procedures has or will be taken and performed as required under the Act and Lodi's ordinances, bylaws or other regulations,

all persons making up the governing body of Lodi are the duly elected or appointed incumbents in their positions and hold such positions in good standing in accordance with the Act and other applicable law,

entry into and performance of this CSA by Lodi are for a proper public purpose within the meaning of the Act and all other relevant constitutional, organic or other governing documents and applicable law,

the term of this Agreement does not extend beyond any applicable limitation imposed by the Act or other relevant constitutional, organic or other governing documents and applicable law,

Lodi's obligations to make payments hereunder are unsubordinated obligations and such payments are (a) operating and maintenance costs (or similar designation) which enjoy first priority of payment at all times under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law or (b) otherwise not subject to any prior claim under any and all bond ordinances or indentures to which it is a party, the Act and all other relevant constitutional, organic or other governing documents and applicable law and are available without limitation or deduction to satisfy all Lodi's obligations hereunder and under each transaction or (c) are to be made solely from a Special Fund,

obligations to make payments hereunder do not constitute any kind of indebtedness of Lodi or create any kind of lien on, or security interest in, any property or revenues of Lodi which, in either case, is proscribed by any provision of the Act or any other relevant constitutional, organic or other governing documents and applicable law, any order or judgment of any court or other agency of government applicable to it or its assets, or any contractual restriction binding on or affecting it or any of its assets, and

Lodi warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on grounds of sovereignty or similar grounds with respect to itself or its surplus revenues from (a) suit, (b) jurisdiction of court (including a court located outside the jurisdiction of its organization, subject to the law of proper venue), (c) relief by way of injunction, order for specific performance or recover of property, or (d) execution or enforcement of any valid judgment."

- (iv) The Parties agree to add the following sections:

Lodi's Deliveries. On the Effective Date and as a condition to the obligations of Shell Energy under this Agreement, Lodi shall provide to Shell Energy:

certified copies of all ordinances, resolutions, public notices and other documents evidencing the necessary authorizations with respect to the execution, delivery and performance by Lodi of this Master Confirmation, and

an opinion of counsel for Lodi, in form and substance reasonably satisfactory to Shell Energy, regarding the validity, binding effect and enforceability of this Master Confirmation against Lodi in respect of the Act and all other relevant constitutional organic or other governing documents and applicable law."

- (v) Security. The Parties agree to add the following to Section 27:

"Lodi Security. With respect to each transaction, Lodi shall either (i) have created and set aside a Special Fund or (ii) upon execution of this CSA and prior to the commencement of each subsequent fiscal year of Lodi during any Delivery Period, have obtained all necessary budgetary approvals and certifications for payment of all of its obligations under this CSA for such fiscal year; any breach of this provision shall be deemed to have arisen during a fiscal period of Lodi for which budgetary approval or certification of its obligations under this CSA is in effect and, notwithstanding anything to the contrary in Section 21, an Early Termination Date shall automatically and without further notice occur hereunder as of such date wherein

Lodi shall be treated as the Defaulting Party. Lodi shall have allocated to the Special Fund or its general funds a revenue base that is adequate to cover Lodi's payment obligations hereunder throughout the entire Delivery Period."

(vi) Governmental Security. As security for payment and performance of Lodi's obligations hereunder, Lodi hereby pledges, sets over, assigns and grants to the other Party a security interest in all of Lodi's right, title and interest in and to Special Fund.

Notwithstanding any contrary provision in the MCA, any conflict between this CSA and the MCA shall be resolved in favor of this CSA. If any provision in this CSA is held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such provision so adjudged will be deemed separate, distinct, and independent, and the remainder of this CSA will be and remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Parties have signed this CSA effective as of the date first set forth above.

CITY OF LODI

By: _____
Name: Blair King
Title: City Manager

**SHELL ENERGY NORTH
AMERICA (US), L.P.**

By: Beth Bowman
Name: Beth Bowman
Title: Sr. Vice President

APPROVED AS TO FORM:

D. Stephen Schwabauer, City Attorney

ATTEST:

Randi Johl, City Clerk

RESOLUTION NO. 2008-_____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDED AND RESTATED MASTER CONFIRMATION AGREEMENT WITH SHELL ENERGY NORTH AMERICA

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize (i) the City Manager to execute an Amended and Restated Master Confirmation Agreement with Shell Energy North America and (ii) the Electric Utility Director to implement and administer such agreement including any necessary confirmations related to transactions thereunder.

Dated: August 20, 2008

=====

I hereby certify that Resolution No. 2008-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 20, 2008, by the following vote:

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

RANDI JOHL
City Clerk

2008-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing the City Manager to Execute Mutual Aid Agreements with American Public Power Association, California Municipal Utilities Association and California Utilities Emergency Association (EUD)

MEETING DATE: August 20, 2008

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to enter into mutual aid agreements with American Public Power Association (APPA), California Municipal Utilities Association (CMUA) and California Utilities Emergency Association (CUEA).

BACKGROUND INFORMATION: Mutual Aid Agreements provide the terms for organizations to assist each other when mutually agreeable. They are of particular benefit in speeding response to emergencies, but may also give us additional economical sources when we need to use a certain piece of equipment only occasionally. They may also provide some cost recovery for idle equipment we have that is needed for a time by another party. We have found three Mutual Aid Agreements that are available to us.

Attachment 1 is the Mutual Aid Agreement coordinated by the American Public Power Association. The Agreement is explicit that aid is not contingent on an emergency or disaster. The Aiding Signatory provides assistance at its discretion upon request of the Requesting Signatory. The Requesting Signatory pays the Aiding Signatory's invoice for labor, equipment, and transportation at the Aiding Signatory's reasonable and customary rates and for meal and lodging expenses at reasonable and actual costs. Parties include SMUD, Roseville, Alameda and Redding. There is no other cost just for entering into the Agreement.

Attachment 2 is the Mutual Aid Agreement coordinated by the California Municipal Utilities Association. It is similar to the APPA Agreement, with the following key difference: it is intended for use in emergencies (though it doesn't explicitly bar aid at other times), reimbursement is at cost + 10%, and it has explicit provisions to clarify matters of liability and indemnification. Parties include Alameda, Palo Alto and Santa Clara. There is no other cost just for entering into the Agreement.

Attachment 3 is the Mutual Aid Agreement of the California Utilities Emergency Association coordinated by the California Office of Emergency Services. It is similar to the APPA Agreement except that requesting aid requires the description of an emergency and the Agreement adds more detail in matters such as liability, arbitration and audit rights. Parties include PG&E, SMUD, MID, Palo Alto, Redding, Roseville and Santa Clara. The cost to belong to CUEA is currently \$4.35/year per million of Operating Revenue, with a \$500/year minimum (and \$40,000 maximum, that affects PG&E, Southern California Edison (SCE) and the like). CUEA also provides certain free training and would provide services to the water and wastewater utilities, as well as electric.

APPROVED: _____
Blair King, City Manager

The proposed resolution would authorize the City Manager to execute all three Mutual Aid Agreements and authorize the Electric Utility Director or his/her designee to administer them, subject (in the absence of an emergency) to budget limitations.

FISCAL IMPACT: Minimum \$500 per year for the CUEA Agreement, if aid is not requested. If requesting assistance without an emergency, use is limited by adopted budget constraints. If providing assistance, use may provide revenue to defray fixed costs.

FUNDING: Fiscal Year 2008-09 Budget Account No. 160650 (System Maintenance-Overhead) \$500.

Kirk Evans, Budget Manager

George F. Morrow
Electric Utility Director

GFM/KW/lst

Attachments

Attachment 1

APPA Mutual Aid Agreement

MUTUAL AID AGREEMENT

In consideration of the mutual commitments given herein, each of the Signatories to this Mutual Aid Agreement agrees to render aid to any of the other Signatories as follows:

- 1.) Request for aid. The Requesting Signatory agrees to make its request in writing to the Aiding Signatory within a reasonable time after aid is needed and with reasonable specificity. The Requesting Signatory agrees to compensate the Aiding Signatory as specified in this Agreement and in other agreements that may be in effect between the Requesting and Aiding Signatories.
- 2.) Discretionary rendering of aid. Rendering of aid is entirely at the discretion of the Aiding Signatory. The agreement to render aid is expressly not contingent upon a declaration of a major disaster or emergency by the federal government or upon receiving federal funds.
- 3.) Invoice to the Requesting Signatory. Within 90 days of the return to the home work station of all labor and equipment of the Aiding Signatory, the Aiding Signatory shall submit to the Requesting Signatory an invoice of all charges related to the aid provided pursuant to this Agreement. The invoice shall contain only charges related to the aid provided pursuant to this Agreement.
- 4.) Charges to the Requesting Signatory. Charges to the Requesting Signatory from the Aiding Signatory shall be as follows:
 - a.) Labor force. Charges for labor force shall be in accordance with the Aiding Signatory's standard practices.
 - b.) Equipment. Charges for equipment, such as bucket trucks, digger derricks, and other special equipment used by the Aiding Signatory, shall be at the reasonable and customary rates for such equipment in the Aiding Signatory's location.
 - c.) Transportation. The Aiding Signatory shall transport needed personnel and equipment by reasonable and customary means and shall charge reasonable and customary rates for such transportation.
 - d.) Meals, lodging and other related expenses. Charges for meals, lodging and other expenses related to the provision of aid pursuant to this Agreement shall be the reasonable and actual costs incurred by the Aiding Signatory.
- 5.) Counterparts. The Signatories may execute this Mutual Aid Agreement in one or more counterparts, with each counterpart being deemed an original Agreement, but with all counterparts being considered one Agreement.
- 6.) Execution. Each party hereto has read, agreed to and executed this Mutual Aid Agreement on the date indicated.

Date _____ Entity _____ (name/ state)
By _____ (please print)
Title _____

Fax back to Michael Hyland at 202/467-2992 or mail back to: American Public Power Association, ATTN - Michael Hyland, 1875 Connecticut Ave, N.W., Ste 1200, Washington, D.C. 20009-5715

**APPA Mutual Aid Agreement
California Participants**

| | |
|--|-------------------|
| Alameda Power & Telecom | Alameda |
| City of Azusa | Azusa |
| Lassen Municipal Utility District | Susanville |
| City of Redding | Redding |
| City of Roseville | Roseville |
| Sacramento Municipal Utility District | Sacramento |

Attachment 2

CMUA Mutual Aid Agreement

MUTUAL AID AGREEMENT

THIS AGREEMENT (herein "Agreement"), effective this 3rd day of March 1993, by and among the City of Burbank, California; the City of Glendale, California; the City of Pasadena, California; the City of Alameda, California; the City of Palo Alto, California; and the City of Santa Clara, California; and among other Parties who may become signatory to this Agreement. The signatories to this Agreement may be referred to herein collectively as the "Parties" or individually as a "Party."

R E C I T A L S:

Each of the Parties hereto is engaged in the production, acquisition, transmission and distribution of electricity within their respective boundaries, and the operation of similar facilities for such purpose; and

Each of the Parties has the power and duty to operate and maintain their respective facilities in good condition, and each employs skilled personnel and uses parts and equipment to repair and maintain such facilities; and

Severe breakdowns or other emergencies may arise in the operation of such facilities, in the normal course of operations, or by an act of God or civil disobedience, or war, requiring immediate correction and repair for which a Party hereto may have insufficient personnel, equipment or material to make such immediate repair; and

The Parties each have power to enter into contracts for the maintenance and repair of its facilities, and it is in the best interests of the public and the Parties to enter into this Agreement, as exemplified and authorized by the California Emergency Services Act, California Government Code Sections 8550 et seq.;

AGREEMENT PROVISIONS:

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties do agree as follows: ...

1. In the event of an emergency as defined in Government Code Section 8558 or local laws requiring repair or other corrective action to be taken immediately to protect life, property or facilities within the jurisdictional boundaries of any Party, the Designated Representative of such Party may call on any or all of the other Parties for assistance by way of personnel, equipment and material. Such requests may take the form of general need or requirements for individual specific crafts or job titles.

1

2. When request for assistance is received, the Party which responds (herein the "Responding Party") shall promptly advise of the extent of response, and provide whatever personnel, equipment, and/or facilities can be provided without jeopardizing the safety of persons or property within its jurisdiction. No Party receiving a request for assistance shall be under any obligation to provide assistance or incur any liability for not complying with the request.

3. When the Responding Party's personnel, equipment, and/or facilities are no longer required or when Responding Party advises that its resources are required within its own jurisdiction, the Party requesting assistance (herein the "Requesting Party") shall immediately arrange for the return of those resources.

4. Requesting Party shall be responsible for the safekeeping of the resources provided by the Responding Party. Requesting Party shall remain in charge of the incident or occurrence and shall provide control and direction to all resources provided by the Responding Party. The request may include providing supervisory personnel to take direct charge of the resources under the general direction of the Requesting Party. Requesting Party shall make arrangements for medical care, housing and feeding, assisting personnel, fueling, servicing, and repair of equipment if such support is requested by Responding Party.

Requesting Party agrees to pay Responding Party's total costs plus ten percent (10%) incurred as a result of providing assistance pursuant to this Agreement, based upon standard rates applicable to Responding Party's internal operations. "Total costs" include direct labor, direct material, direct equipment and applicable expenses at Requesting Party's site and en route to and from Requesting Party's site. Payment shall be made within sixty (60) days after receipt of a detailed invoice. Requesting Party shall not assume any liability for the direct payment of any salary or wages to any officer or employee of Responding Party.

When mutual aid is provided, the Requesting Party and Responding Party shall both keep account records of the personnel, equipment, and materials provided as required by Federal and State (NDAA) and FEMA guidelines to maximize the possibility of Federal and State disaster reimbursement. Each Party shall have access to the other Party's records for this purpose.

5. Any Party may withdraw from this Agreement by giving each of the other Parties thirty (30) days' prior written notice.

2

6. Indemnification

A. Requesting Party shall hold harmless, indemnify, and defend the Responding Party, its officers, agents, and employees against all liability, claims, losses, demands or actions for injury to, or death of, a person or persons, or damage to property, arising out of this Agreement provided such liability, claims, losses, demands, or actions are claimed to be due to the acts or omissions of Requesting Party, its officers, agents, or employees, or employees of the Responding Party when the act or omission of such Responding Party employee occurs within the course and scope of providing emergency aid. Injuries, death or damages occurring en route to or from Requesting Party are not considered to be within the course and scope of providing emergency aid.

B. Responding Party shall hold harmless, indemnify, and defend the Requesting Party, its officers, agents, and employees against all liability, claims, losses, demands or actions for injury to or death of, a person or persons or damage to property arising out of the use of any defective equipment or product supplied [and used by] Responding Party in response to a call for assistance from a Requesting Party.

C. The indemnifying Party shall, upon request, either (1) assume on behalf of the indemnified Party the defense of any action at law in which liability is sought to be imposed upon said indemnified Party; or (2) reimburse said indemnified Party for all reasonable costs of defending such action including attorney's fees. The indemnified Party shall promptly provide the indemnifying Party with notice of any claims or actions and copies of relevant documents. Indemnified Party shall make its employees available to assist in litigation and in litigation preparation. Indemnifying Party shall pay indemnified Party's total costs for such assistance to the same extent provided in Section 4 hereof.

7. Employees of a Responding Party shall follow the safety rules of Responding Party unless directed by Requesting Party to follow safety rules which require a higher order of safety as to the particular activity.

8. Each Party shall designate a representative who shall be the contact person under this Agreement and shall be authorized to make decisions and on sending or receiving aid pursuant to this Agreement.

9. Participation is open to all public, non-investor owned electric utilities with the consent of the new Parties' governing bodies and a majority of existing Parties' designated representatives.

10. Any controversy or claim between the Parties hereto arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the Rules of the American Arbitration Association and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

11. Nothing in this Agreement is intended or shall be construed to abrogate, waive, or to operate in any manner so as to diminish the privileges and immunities conferred upon the Parties, their officers, agents and employees by the California Tort Claims Act (California Government Code Sections 800 et seq.), the California Emergency Services Act (California Government Code Sections 8550 et seq.) or any other provision of law. The Parties intend that the provisions of Government Code Section 8656 shall govern pursuant to this Agreement as if this statute were at all times in effect and applicable hereto.

12. This Agreement may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument and as if all the Parties to all of the counterparts had signed the same instrument.

IN WITNESS WHEREOF, each Party has executed a counterpart of this Agreement with the approval of its governing body, and represents and warrants that the Party has all requisite authority, and has duly agreed to be bound by all of the terms and conditions of this Agreement.

COUNTERPARTS

CITY OF LODI

By _____

Title: City Manager Date: / /08

LODI ELECTRIC UTILITY

By _____

Title: Electric Utility Director

Approved as to Form:

By _____
City Attorney of City of Lodi

ATTEST:

By: _____
City Clerk

APPENDIX A

MUTUAL AID AGREEMENT

| <u>Parties</u> | <u>Designated Representative</u> | <u>Contact Point</u> |
|------------------------------|--|---|
| City of Burbank, CA | Ronald V. Stassi General Manager | Property Guard 818-238-3778 |
| City of Glendale, CA | William R. Hall Electrical Services | Operations/Dispatch 818-548-2011 |
| City of Pasadena, CA | Rufus Hightower General Manager | Dispatch Center 818-405-4480 |
| City of Alameda, CA | Clifford R. Hubbard Assistant General Manager | System Dispatcher 510-748-3966 |
| City of Palo Alto, CA | Larry Starr Asst. Director Eng/Ops | System Dispatcher 415-496-6914 |
| City of Santa Clara, CA | John C. Roukema Assistant Director of Electric Utility | Power System Dispatcher 408-984-3137 |
| Trinity County | Rick Coleman General Manager | Richard Laudahl 916-623-5536 |
| City of Anaheim | Edward K. Aghjayan Public Utilities General Manager | System Operations 714-956-5980 |
| Hetch Hetch Water & Power | Lawrence T. Klein General Manager | Ken Cooper c/o Power House 209-989-2099 |
| City of Riverside | Bill Carnahan General Manager | Stephen E. Lafond 909/351-6344 |

Attachment 3

CUEA Mutual Aid Agreement

MUTUAL ASSISTANCE AGREEMENT
(Electric and Natural Gas)

AMONG

MEMBERS OF THE
CALIFORNIA UTILITIES EMERGENCY
ASSOCIATION

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0. DEFINITIONS

As used herein, unless otherwise indicated, the following terms are defined as set forth below.

- 0.1 **Activation:** The initiation of the Assistance and administrative process of this Agreement including: request for Assistance, assessing and communicating the scope of assistance request, assessing and communicating the resources available for Assistance, activation procedures, mutual assistance coordination, and other processes and procedures supporting the Mobilization of Assistance resources.
- 0.2 **Assistance:** Includes all arrangements and preparation for and the actual mobilization of personnel, material, equipment, supplies and/or tools or any other form of aid or assistance, including all related costs and expenses as set forth in this Agreement, provided by an Assisting Party to a Requesting Party, from the time of the official authorization by the Requesting Party and including the return and demobilization by an Assisting Party of its personnel and equipment, also as set forth in this Agreement.
- 0.3 **Deactivation:** The termination of the Assistance and administrative process including: notification of Deactivation, Demobilization planning, identification of applicable costs, processes and procedures supporting Demobilization of resources, provide for invoicing, audit, critique information, and closure of the Assistance.
- 0.4 **Demobilization:** The actual returning of all Assistance resources to the Assisting Party's normal base.
- 0.5 **Emergency:** Any unplanned event that, in the reasonable opinion of the Party to this Agreement, could result, or has resulted, in (a) a hazard to the public, to employees of any Party, or to the environment; (b) material loss to property; or (c) a detrimental effect on the reliability of any Party's electric or natural gas system. The Emergency may be confined to the utility infrastructure or may include community-wide damage and emergency response. An Emergency may be a natural or human caused event.
- 0.6 **Mobilization:** The actual collecting, assigning, preparing and transporting of all Assistance resources.
- 0.7 **Mutual Assistance Liaison:** The person(s) designated by the Requesting Party, and Assisting Party, to coordinate all administrative requirements of the Agreement.

- 0.8 **Natural Gas or Gas:** The term "natural gas" as used in this Agreement shall include all commercially available forms of natural gas including Synthetic Natural Gas.
- 0.9 **Operations Liaison:** As described in Section 3.18, the person or persons designated by the Requesting Party to provide direct contact, communications and coordination at the operations level for Assisting Party's crews and resources at the location of the assistance. This may include but is not limited to: contact and communications for assisting crews, safety information processes and procedures, ensuring coordination of lodging and meals, addressing issues of Equipment requirements, materials requirements, and other logistical issues necessary to ensure safe effective working conditions.
- 0.10 **Qualified:** The training, education and experience of employees completing an apprenticeship or other industry / trade training requirements consistent with Federal Bureau of Apprenticeships and Training, Department of Transportation Pipeline Safety Regulations, or other recognized training authority or regulation. Training and qualification standards and are the responsibility of the Requesting Party to evaluate, in advance, the acceptable level of qualification for trade employees (i.e. lineman, electrician, fitter, etc.).
- 0.11 **Work Stoppages:** Any labor disputes, labor union disagreements, strikes, or any circumstance creating a shortage of qualified labor for a company during a non-emergency situation.

MUTUAL ASSISTANCE AGREEMENT
(Electric and Natural Gas)

1. PARTIES

This Mutual Assistance Agreement (hereinafter referred to as "Agreement") is made and entered into effective September 15, 2005. Each Party is, and at all times it remains a Party, shall be a member in good standing of the California Utilities Emergency Association. Each of the parties that has executed this Agreement may hereinafter be referred to individually as "Party" and collectively as "Parties." The Parties to this Agreement are listed in Attachment "A" hereto.

2. RECITALS

This Agreement is made with reference to the following facts, among others:

- 2.1 Certain of the Parties to this Agreement entered into a prior agreement ("Prior Agreement") dated January 15, 1999 to provide one another with mutual assistance. This Prior Agreement set forth procedures governing the requesting and providing of assistance in the restoration of electric and/or natural gas service. It is the intention of the Parties that this new Agreement, when signed by the Parties shall be effective for requesting or providing Assistance for the restoration of electric service following natural or man-made Emergencies which may occur on or after the date on which each of the Parties involved in the requesting or providing of Assistance signed this Agreement. Upon execution of this Agreement the Prior Agreement shall terminate, except that any rights or obligations which arose under the Prior Agreement shall remain unaffected by this new Agreement. Upon satisfaction of any such rights or obligations, the Prior Agreement shall be of no further validity or effect.
- 2.2 Being a Party to this Agreement does not by itself assure any Party that Assistance will be provided if, when or as requested. Each Party reserves the sole right to respond or not to respond to requests for Assistance on a case-by-case basis. By signing this Agreement, each Party thereby agrees that any Assistance which is received or given upon the request of a Party to this Agreement shall be subject to each and every one of the terms and conditions of this Agreement.
- 2.3 The Parties own, operate and maintain electric and/or natural gas utility facilities and are engaged in the production, acquisition, transmission, and / or distribution of electricity or natural gas.

- 2.4 Each of the Parties operates and maintains their respective facilities within accepted industry practices and employs skilled and Qualified personnel to operate, repair and maintain such facilities according to such industry practices.
- 2.5 It is in the mutual interest of the Parties to be prepared to provide for Emergency repair and restoration to such services, systems and facilities on a reciprocal basis. The purpose of this new Agreement is to provide the procedures under which one Party may request and receive assistance from another Party. This new Agreement is also designed to allow a new Party to join in the Agreement by signing a copy of this Agreement following the giving of notice to the existing Parties pursuant to Section 6.3 of this Agreement.
- 2.6 Assistance for labor shortages due to Work Stoppages are beyond the scope of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties have mutually agreed effective on the date set forth on the signature page hereof and agree further as follows:

3. SCOPE OF ASSISTANCE

- 3.1 In the event of an Emergency affecting the electrical generation, electrical or natural gas transmission, distribution, and/or related facilities owned or controlled by a Party, such Party ("Requesting Party") may request another Party ("Assisting Party") to provide Assistance. The Assisting Party shall, in its sole discretion, determine if it shall provide such Assistance. If the Assisting Party determines to provide Assistance, such Assistance shall be provided in accordance with the terms and conditions of this Agreement.
- 3.2 Requests for Assistance may be made either verbally or in writing by the Authorized Representative of the Requesting Party and shall be directed to the Authorized Representative of the Assisting Party. Authorized Representatives of the Parties are identified in Attachment "B" hereto and shall be updated upon any change in such Authorized Representative. Upon acceptance of a request for Assistance either verbally or in writing, the Assisting Party shall respond with reasonable dispatch to the request in accordance with information and instructions supplied by the Requesting Party. All requests for Assistance shall follow the procedures described in Attachment "D". The Requesting Party shall also follow the procedures set forth in Attachment "E" for Deactivation of Assistance.
- 3.3 The Requesting Party shall provide the Assisting Party with a description of the work needed to address the Emergency, with the most urgent needs

for Assistance addressed first. If the request is not based on a lack of resources, such information must be stated in the request. The Assisting Party shall use its reasonable efforts to schedule the Assistance in accordance with the Requesting Party's request. However, the Assisting Party reserves the right to recall any and all personnel, material, Equipment, supplies, and/or tools at any time that the Assisting Party determines necessary for its own operations. Any Requesting Party for whom an Operator Qualification (OQ) Program and/or Drug and Alcohol Program under 49 CFR Parts 192 and 199 respectively, is required should pre-screen the other Parties to this Agreement to determine which Parties have compatible regulatory agency accepted programs and may therefore be contacted for assistance. Parties to this agreement agree to make their programs and related records available for review to assist in the pre-screening.

- 3.4 The Requesting Party will provide the name and contact information for the person(s) designated as the Mutual Assistance Liaison(s), the Operations Liaison(s) described in Section 3.18, and person(s) to be designated as supervisory personnel to accompany the crews and Equipment. The Assisting Party will provide the name(s) and contact information for the person(s) designated to be the Mutual Assistance Liaison and the Operations Liaison(s).
- 3.5 All Reasonable Costs and Expenses associated with the furnishing of Assistance shall be the responsibility of the Requesting Party and deemed to have commenced when the Requesting Party officially authorizes the Assisting Party to proceed with Mobilization of the personnel and Equipment necessary to furnish Assistance, and shall be deemed to have terminated after Demobilization when the transportation of Assisting Party personnel and Equipment returns to the work headquarters, individual district office, or home (to which such personnel are assigned for personnel returning at other than regular working hours) is completed.

For the purposes of this Agreement, a Requesting Party shall be deemed to have authorized the Assisting Party to proceed with Mobilization when the Requesting Party signs and submits a formal request to the Assisting Party, in a form substantially similar to that included as Attachment "F". If written information cannot be furnished, a verbal confirmation will be acceptable, with a written confirmation to follow within 24 hours.

The Parties hereto agree that costs arising out of inquiries as to the availability of personnel, material, Equipment, supplies and/or tools or any other matter made by one party to another prior to the Requesting Party authorizing the Assisting Party to proceed with Mobilization, as set forth in this Section 3.5, will not be charged to the potentially Requesting Party.

- 3.6 For purposes of this Agreement, the term "Reasonable Costs or Expenses" shall be defined to mean those costs, expenses, charges, or outlays paid or incurred by an Assisting Party in any approved phase of rendering Assistance to a Requesting Party pursuant to the provisions of this Agreement. Reasonable Costs or Expenses shall be deemed to include those costs and/or expenses that are appropriate and not excessive; under the circumstances prevailing at the time the cost or expense is paid or incurred. Reasonable Costs or Expenses may include, but are not limited to, direct operating expenses such as wages, materials and supplies, transportation, fuel, utilities, housing or shelter, food, communications, and reasonable incidental expenses, as well as indirect expenses and overhead costs such as payroll additives, taxes, insurance, depreciation, and administrative and general expenses. Notwithstanding the above, any such Reasonable Costs or Expenses shall continue to be subject to the provisions of Section 5 of this Agreement regarding Audit and Arbitration.
- 3.7 The Assisting Party and Requesting Party shall mutually agree upon and make all arrangements for the preparation and actual Mobilization of personnel, material, Equipment, supplies and/or tools to the Requesting Party's work area and the return (i.e. Demobilization) of such personnel, material, Equipment, supplies and/or tools to the Assisting Party's work area. The Requesting Party shall be responsible for all Reasonable Costs or Expenses incurred by the Assisting Party for Mobilization and/or Demobilization, notwithstanding any early termination of such assistance by the Requesting Party.
- 3.8 Unless otherwise agreed upon in writing, the Requesting Party shall be responsible for providing food and lodging for the personnel of the Assisting Party from the time of their arrival at the designated location to the time of their departure. The food and housing provided shall be subject to the approval of the supervisory personnel of the Assisting Party.
- 3.9 If requested by the Assisting Party, the Requesting Party, at its own cost, shall make or cause to be made all reasonable repairs to the Assisting Party's Equipment, necessary to maintain such Equipment safe and operational, while the Equipment is in transit or being used in providing Assistance. However, the Requesting Party shall not be liable for cost of repair required by the gross negligence, bad faith or willful acts or misconduct of the Assisting Party.
- 3.10 Unless otherwise agreed the Requesting Party shall provide fuels and other supplies needed for operation of the Assisting Party's vehicles and Equipment being used in providing Assistance.

- 3.11 Unless otherwise agreed to by the Parties, the Requesting Party shall provide field communications Equipment and instructions for the Assisting Party's use. The Assisting Party shall exercise due care in use of the Equipment and return the Equipment to the Requesting Party at the time of departure in like condition; provided, however, if repairs are necessary the Requesting Party will be financially responsible unless such repairs are necessitated by the gross negligence, bad faith or willful acts or misconduct of the Assisting Party.
- 3.12 Employees of the Assisting Party shall at all times continue to be employees of the Assisting Party, and such employees shall at no time and for no purpose be deemed to be employees of the Requesting Party.
- 3.13 Wages, hours and other terms and conditions of employment applicable to personnel provided by the Assisting Party, shall continue to be those of the Assisting Party.
- 3.14 If the Assisting Party provides a crew or crews, it shall assign supervisory personnel as deemed necessary by the Assisting Party, who shall be directly in charge of the crew or crews providing Assistance.
- 3.15 All time sheets, Equipment and work records pertaining to personnel, material, vehicles, Equipment, supplies and/or tools provided by the Assisting Party shall be kept by the Assisting Party for invoicing and auditing purposes as provided in this Agreement.
- 3.16 No Party shall be deemed the employee, agent, representative, partner or the co-venturer of another Party or the other Parties in the performance of activities undertaken pursuant to this Agreement.
- 3.17 The Parties shall, in good faith, attempt to resolve any differences in work rules and other requirements affecting the performance of the Parties' obligations pursuant to this Agreement.
- 3.18 The Requesting Party and Assisting Party shall each provide an Operations Liaison to assist with operations, personnel and crew safety. These individuals shall be the link between the Parties and keep the crews apprised of safety, operational, and communication issues.
- 3.19 All work performed by the Parties under this Agreement shall conform to all applicable Laws and Good Utility Practices.
- 3.20 All workers performing work under this Agreement shall follow their own employer's established safety and other operation rules. Each Party will use its best reasonable effort to respect the safety and work practices of the

other Party, and will at all times cooperate in the interest of the safety of both Parties. Where it is not possible for both Parties to safely and independently follow their own safety and work practices, field personnel will discuss and mutually agree upon the safety and work practices for both Parties for the particular work at issue

4. PAYMENT

- 4.1 The Requesting Party shall reimburse the Assisting Party for all Reasonable Costs and Expenses that are appropriate and not excessive, under the circumstances prevailing at the time the cost or expense is paid or incurred by the Assisting Party as a result of furnishing Assistance. Such costs and expenses shall include, but not be limited to, the following:
 - (a) Employees' wages and salaries for paid time spent in Requesting Party's service area and paid time during travel to and from such service area, plus the Assisting Party's standard payroll additives to cover all employee benefits and allowances for vacation, sick leave, holiday pay, retirement benefits, all payroll taxes, workers' compensation, employer's liability insurance, administrative and general expenses, and other benefits imposed by applicable law or regulation.
 - (b) Employee travel and living expenses (meals, lodging, and reasonable incidentals).
 - (c) Cost of Equipment, materials, supplies and tools at daily or hourly rate, including their normally applied overhead costs inclusive of taxes, insurance, depreciation, and administrative expenses. Cost to replace or repair Equipment, materials, supplies, and tools (hereinafter collectively referred to as the "Equipment", which are expended, used, damaged, or stolen while the Equipment is being used in providing Assistance; provided, however, the Requesting Party's financial obligation under this Section 4.1 (c): (i) shall not apply to any damage or loss resulting from the gross negligence, bad faith or willful misconduct of the Assisting Party, and (ii) shall only apply in excess of, and not contribute with, any valid and collectible property insurance which applies to such damage or loss.
 - (d) Cost of vehicles provided by Assisting Party for performing Assistance at daily or hourly rate, including normally applied overhead costs inclusive of taxes, insurance, depreciation, and administrative expenses. Cost to repair or replace vehicles which are damaged or stolen while the vehicles are used in providing

Assistance; provided, however, that Requesting Party's financial obligation under this Section 4.1 (d): (i) shall not apply to any damage or loss resulting from the gross negligence, bad faith or willful misconduct of the Assisting Party, and (ii) shall only apply in excess of, and not contribute with, any valid and collectible first-party physical damage insurance which applies to such loss.

- (e) Administrative and general costs which are properly allocable to the Assistance to the extent such costs are not chargeable pursuant to the foregoing subsections.
 - (f) Overtime costs incurred by the Assisting Party in their service territory as a result of Assistance provided to the Requesting Party.
- 4.2 Unless otherwise mutually agreed to, the Assisting Party shall invoice the Requesting Party at the address designated on Attachment "B" for all Reasonable Costs and Expenses of the Assisting Party in one invoice. If the Assistance extends beyond a thirty (30) day period, invoicing can occur monthly unless otherwise agreed upon in writing. The Assisting Party shall provide the invoice in substantially the form set forth in Attachment "G".
- 4.3 The Requesting Party shall pay such invoice in full within sixty (60) days of receipt of the invoice, and shall send payment to the Assisting Party at the address listed in Attachment "B" unless otherwise agreed to in writing.
- 4.4 Delinquent payment of invoices shall accrue interest at a rate of twelve percent (12%) per year prorated by days until such invoices are paid in full.

5. AUDIT AND ARBITRATION

- 5.1 A Requesting Party has the right to designate its own qualified employee representative(s) or its contracted representative(s) with a management/accounting firm who shall have the right to audit and to examine any cost, payment, settlement, or supporting documentation relating to any invoice submitted to the Requesting Party pursuant to this Agreement.
- 5.2 A request for audit shall not affect the obligation of the Requesting Party to pay amounts due as required herein. Any such audit(s) shall be undertaken by the Requesting Party or its representative(s) upon notice to the Assisting Party at reasonable times in conformance with generally

accepted auditing standards. The Assisting Party agrees to reasonably cooperate with any such audit(s).

- 5.3 This right to audit shall extend for a period of two (2) years following the receipt by Requesting Party of invoices for all Reasonable Costs and Expenses. The Assisting Party agrees to retain all necessary records/documentation for the said two-year period, and the entire length of this audit, in accordance with its normal business procedures.
- 5.4 The Assisting Party shall be notified by the Requesting Party, in writing, of any exception taken as a result of the audit. In the event of a disagreement between the Requesting Party and the Assisting Party over audit exceptions, the Parties agree to use good faith efforts to resolve their differences through negotiation.
- 5.5 If ninety (90) days or more have passed since the notice of audit exception was received by the Assisting Party, and the Parties have failed to resolve their differences, the Parties agree to submit any unresolved dispute to binding arbitration before an impartial member of an unaffiliated management/accounting firm. Arbitration shall be governed by the laws of the State of California. Each Party to an arbitration will bear its own costs, and the expenses of the arbitrator shall be shared equally by the Parties to the dispute.

6. TERM AND TERMINATION

- 6.1 This Agreement shall be effective on the date of execution by at least two Parties hereto and shall continue in effect indefinitely, except as otherwise provided herein. Any Party may withdraw its participation at any time after the effective date with thirty (30) days prior written notice to all other Parties.
- 6.2 As of the effective date of any withdrawal, the withdrawing Party shall have no further rights or obligations under this Agreement except the right to collect money owed to such Party, the obligation to pay amounts due to other Parties, and the rights and obligations pursuant to Section 5 and Section 7 of this Agreement.
- 6.3 Notwithstanding Section 12, additional parties may be added to the Agreement, without amendment, provided that thirty (30) days notice is given to all Parties and that any new Party agrees to be bound by the terms and conditions of this Agreement by executing a copy of the same which shall be deemed an original and constitute the same agreement executed by

the Parties. The addition or withdrawal of any Party to this Agreement shall not change the status of the Agreement among the remaining Parties.

7. LIABILITY

- 7.1 Except as otherwise specifically provided by Section 4.1 and Section 7.2 herein, to the extent permitted by law and without restricting the immunities of any Party, the Requesting Party shall defend, indemnify and hold harmless the Assisting Party, its directors, officers, agents, employees, successors and assigns from and against any and all liability, damages, losses, claims, demands actions, causes of action, and costs including reasonable attorneys' fees and expenses, resulting from the death or injury to any person or damage to any property, which results from the furnishing of Assistance by the Assisting Party, unless such death or injury to person, or damage to property, is caused by the gross negligence or willful misconduct of the Assisting Party.
- 7.2 Each Party shall bear the total cost of discharging all liability arising during the performance of Assistance by one Party to the other (including costs and expenses for reasonable attorneys' fees and other costs of defending, settling, or otherwise administering claims) which results from workers' compensation claims or employers' liability claims brought by its own employees. Each Party agrees to waive, on its own behalf, and on behalf of its insurers, any subrogation rights for benefits or compensation paid to such Party's employees for such claims.
- 7.3 In the event any claim or demand is made, or suit or action is filed, against the Assisting Party, alleging liability for which the Requesting Party shall indemnify and hold harmless the Assisting Party, Assisting Party shall notify the Requesting Party thereof, and the Requesting Party, at its sole cost and expense, shall settle, compromise or defend the same in such manner as it, in its sole discretion, deems necessary or prudent. However, Requesting Party shall consult with Assisting Party during the pendency of all such claims or demands, and shall advise Assisting Party of Requesting Party's intent to settle any such claim or demand. The Party requesting indemnification should notify the other Party in writing of that request.
- 7.4 The Equipment which the Assisting Party shall provide to the Requesting Party pursuant to Section 3 above, is accepted by the Requesting Party in an "as is" condition, and the Assisting Party makes no representations or warranties as to the condition, suitability for use, freedom from defect or otherwise of such Equipment. Requesting Party shall utilize the Equipment at its own risk. Requesting Party shall, at its sole cost and expense, defend, indemnify and hold harmless Assisting Party, its

directors, officers, agents, employees, successors and assigns, from and against any and all liability, damages, losses, claims, demands, actions, causes of action, and costs including reasonable attorneys' fees and expenses, resulting from the death or injury to any person or damage to any property, arising out of the utilization of the Equipment by or for the Requesting Party, or its employees, agents, or representatives, unless such death, injury, or damage is caused by the gross negligence, bad faith or willful misconduct of the Assisting Party.

- 7.5 No Party shall be liable to another Party for any incidental, indirect, or consequential damages, including, but not limited to, under-utilization of labor and facilities, loss of revenue or anticipated profits, or claims of customers arising out of supplying electric or natural gas service, resulting from performance or nonperformance of the obligations under this Agreement.
- 7.6 Nothing in Section 7, Liability, or elsewhere in this Agreement, shall be construed to make the Requesting Party liable to the Assisting Party for any liability for death, injury, or property damage arising out of the ownership, use, or maintenance of any watercraft (over 17 feet in length) or aircraft which is supplied by or provided by the Assisting Party. It shall be the responsibility of the Assisting Party to carry liability and hull insurance on such aircraft and watercraft as it sees fit. Also, during periods of operation of watercraft (over 17 feet in length) or aircraft in a situation covered by this Agreement, the Party which is the owner/lessee of such aircraft or watercraft shall use its best efforts to have the other Parties to this Agreement named as additional insurers on such liability coverage.

8. GOVERNING LAW

This Agreement shall be interpreted, governed and construed by and under the laws of the State of California as if executed and to be performed wholly within the State of California.

9. AUTHORIZED REPRESENTATIVE

The Parties shall, within thirty 30 days following execution of this Agreement, appoint Authorized Representatives and Alternate Authorized Representatives, and exchange all such information as provided in Attachment "B". Such information shall be updated by each Party prior to January 1st of each year that this Agreement remains in effect, or within 30 days of any change in Authorized Representative or Alternate Representative.

The Authorized Representatives or the Alternate Authorized Representatives shall have the authority to request and provide Assistance.

10. ASSIGNMENT OF AGREEMENT

No Party may assign this Agreement, or any interest herein, to a third party, without the written consent of the other Parties.

11. WAIVERS OF AGREEMENT

Failure of a Party to enforce any provision of this Agreement, or to require performance by the other Parties of any of the provisions hereof, shall not be construed to waive such provision, nor to affect the validity of this Agreement or any part thereof, or the right of such Parties to thereafter enforce each and every provision. This Agreement may not be altered or amended, except by a written document signed by all Parties.

12. ENTIRE AGREEMENT

This Agreement and the Exhibits referenced in or attached to this Agreement constitute the entire agreement between the Parties concerning the subject matter of the Agreement. It supercedes and takes the place of all conversations the Parties may have had, or documents the Parties may have exchanged, with regard to the subject matter, including the Prior Agreement.

13. AMENDMENT

No changes to this Agreement other than the addition of new Parties shall be effective unless such changes are made by an amendment in writing, signed by each of the Parties hereto. A new Party may be added to this Agreement upon the giving of 30 days notice to the existing Parties and upon the new Party's signing a copy of this Agreement as in effect upon the date the new Party agrees to be bound by each and every one of the Agreement's terms and conditions.

14. NOTICES

All communications between the Parties relating to the provisions of this Agreement shall be addressed to the Authorized Representatives of the Parties, or in their absence, to the Alternate Authorized Representative as identified in Attachment "B". Communications shall be in writing, and shall be deemed given

if made or sent by e-mail with confirmation of receipt by reply email, confirmed fax, personal delivery, or registered or certified mail postage prepaid. Each Party reserves the right to change the names of those individuals identified in Attachment "B" applicable to that Party, and shall notify each of the other Parties of such change in writing. All Parties shall keep the California Utilities Emergency Association informed of the information contained in Attachment "B" and reply to all reasonable requests of such association for information regarding the administration of this Agreement.

15. GENERAL AUTHORITY

Each Party hereby represents and warrants to the other Parties that as of the date this Agreement is executed by the Parties: (i) the execution, delivery and performance of this Agreement have been duly authorized by all necessary action on its part and it has duly and validly executed and delivered this Agreement; (ii) the execution, delivery and performance of this Agreement does not violate its charter, by-laws or any law or regulation by which it is bound or governed, and (iii) this Agreement constitutes a legal, valid and binding obligation of such Party enforceable against it in accordance with the terms hereof, except to the extent such enforceability may be limited by bankruptcy, insolvency, reorganization of creditors' rights generally and by general equitable principles.

16. ATTACHMENTS

The following attachments to this Agreement are incorporated herein by this reference:

Attachment A Parties to the Agreement;

Attachment B Names and Address of Authorized Representative(s)/Invoicing;

Attachment C Custodianship of Agreement;

Attachment D Procedures for Requesting and Providing Assistance;

Attachment E Procedures for Deactivation of Assistance;

Attachment F Request for Assistance Letter;

Attachment G Invoice.

16. SIGNATURE CLAUSE

This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized officers as of the dates set forth below.

Company Name: City of Lodi

Signature of Officer: _____

Title of Officer: City Manager

Date Executed: August 21, 2008

ATTACHMENT A

Parties To The Mutual Assistance Agreement

The Parties to this Agreement are:

- Anza Electric Cooperative, Inc., member-owned
- Southern California Water Company doing business as Bear Valley Electric Service, a California corporation
- Lassen Municipal Utility District, a municipal utility formed under the laws of the State of California
- Modesto Irrigation District, an irrigation district organized under the laws of the State of California
- Pacific Gas & Electric Company, a California corporation
- Plumas-Sierra Rural Electric Cooperative, a member-owned non-profit California corporation
- Sacramento Municipal Utility District, a municipal utility district organized under the laws of the State of California
- San Diego Gas & Electric Company, a California corporation
- Sierra Pacific Power Company, a Nevada corporation
- Southern California Edison Company, a California corporation
- The City of Anaheim, a municipal corporation of the State of California
- The City of Healdsburg, a municipal corporation of the State of California
- The City of Los Angeles Department of Water and Power
- The City of Palo Alto, a municipal corporation of the State of California
- The City of Redding, a municipal corporation of the State of California
- The City of Riverside, a municipal corporation of the State of California
- The City of Roseville, a municipal corporation of the State of California
- The City of Santa Clara, a municipal corporation of the State of California, dba Silicon Valley Power
- The City of Shasta Lake
- Truckee-Donner Public Utility District, a public utility district organized under the laws of the State of California.

ATTACHMENT B

Names and Address of Authorized Representative(s)/Invoicing

| | | | |
|---|--|-----------------|--------------|
| Date | August 21, 2008 | | |
| Name of Utility | City of Lodi | | |
| Mailing Address | 1331 South Ham Lane | | |
| City, State, Zip | Lodi CA 95242 | | |
| Individuals to Call for Emergency Assistance: | | | |
| AUTHORIZED REPRESENTATIVE | | | |
| Name | Barry Fisher <i>bfisher@lodielectric.com</i> | | |
| Title | Const/Maint Sup | | |
| E-Mail | Same | | |
| Day Phone | 209-333-6762 | Night Phone | 209-810-4624 |
| FAX | 209-339-0851 | Cellular Phone | Same |
| ALTERNATE AUTHORIZED REPRESENTATIVE | | | |
| Name | Ken Weisel <i>kweisel@lodielectric.com</i> | | |
| Title | Assist UD | | |
| E-Mail | Same | | |
| Day Phone | 209-333-6764 | Night Phone | 209-606-6682 |
| FAX | 209-333-6839 | Cellular Phone | Same |
| DISPATCH CENTER WITH 24-HOUR TELEPHONE ANSWERING | | | |
| Name | Utility Dispatch | | |
| Title | Operator | | |
| Address | Same | | |
| Phone | 209-368-5735 | Radio Frequency | |
| FAX | 209-339-0851 | | |

INVOICING/PAYMENT ADDRESS

| | |
|---------------------------|------------------|
| Name of Utility | City of Lodi |
| Department of Utility | Electric Utility |
| Invoicing/Payment Address | PO Box 3006 |
| City, State, Zip | Lodi CA 95241 |
| Telephone No. | 209-333-6762 |
| FAX | 209-333-6839 |

ATTACHMENT C

Custodianship of Agreement

Responsibilities of the California Utilities Emergency Association's Mutual Assistance Agreement (Electric) Custodian are:

- A. Request all Parties provide an annual update of the Authorized Representative and Alternate Authorized Representative, as identified in Attachment "B", no later than December 15 of each year.
- B. Distribute annual update of Attachment "B" no later than January 15 of each year.
- C. Coordinate and facilitate meetings of the parties to the Agreement, as necessary, to include an after action review of recent mutual assistance activations and document changes requested by any party to the Agreement. An annual meeting will also be held to review general mutual assistance issues.
- D. Assist and guide utilities interested in becoming a party to the Agreement by providing a copy of the existing Agreement for their review and signature.
- E. Facilitate any necessary reviews of the Agreement.

ATTACHMENT D

Procedures for Requesting and Providing Assistance

- A. The Requesting Party shall include the following information, as available in its request for Assistance:
 - A.1 A brief description of the Emergency creating the need for the Assistance;
 - A.2 A general description of the damage sustained by the Requesting Party, including the part of the electrical or natural gas system, e.g., generation, transmission, substation, or distribution, affected by the Emergency;
 - A.3 The number and type of personnel, Equipment, materials and supplies needed;
 - A.4 A reasonable estimate of the length of time that the Assistance will be needed;
 - A.5 The name of individuals employed by the Requesting Party who will coordinate the Assistance;
 - A.6 A specific time and place for the designated representative of the Requesting Party to meet the personnel and Equipment being provided by the Assisting Party;
 - A.7 Type of fuel available (gasoline, propane or diesel) to operate Equipment;
 - A.8 Availability of food and lodging for personnel provided by the Assisting Party; and
 - A.9 Current weather conditions and weather forecast for the following twenty-four hours or longer.

- B. The Assisting Party, in response to a request for Assistance, shall provide the following information, as available, to the Requesting Party:
 - B.1 The name(s) of designated representative(s) to be available to coordinate Assistance;
 - B.2 The number and type of crews and Equipment available to be furnished;
 - B.3 Materials available to be furnished;
 - B.4 An estimate of the length of time that personnel and Equipment will be available;
 - B.5 The name of the person(s) to be designated as supervisory personnel to accompany the crews and Equipment; and
 - B.6 When and where Assistance will be provided, giving consideration to the request set forth in section A.6. above.

ATTACHMENT E

Procedures for Deactivation of Assistance

- A. The Requesting Party shall, as appropriate, include the following in their Deactivation:
 - A.1 Number of crews returning and, if not all crews are returning, expected return date of remaining crews.
 - A.2 Notification to the Assisting Party of the time crews will be departing.
 - A.3 Information on whether crews have been rested prior to their release or status of crew rest periods.
 - A.4 Current weather and travel conditions along with suggested routing for the Assisting Party's return.

- B. The Assisting Party shall, as appropriate, include the following in their Deactivation:
 - B.1 Return of any Equipment, material, or supplies, provided by the Requesting Party.
 - B.2 Provide any information that may be of value to the Requesting Party in their critique of response efforts.
 - B.3 Estimation as to when invoice will be available.
 - B.4 Invoice to include detail under headings such as labor charges (including hours) by normal time and overtime, payroll taxes, overheads, material, vehicle costs, fuel costs, Equipment rental, telephone charges, administrative costs, employee expenses, and any other significant costs incurred.
 - B.5 Retention of documentation as specified in Section 5.3 of the Mutual Assistance Agreement.
 - B.6 Confirmation that all information pertaining to the building, modification, or other corrective actions taken by the Assisting Party have been appropriately communicated to the Requesting Party.

ATTACHMENT F

Letter Requesting Assistance

Date

Assisting Party Name

Assisting Party Address

In recognition of the personnel, material, Equipment, supplies and/or tools being sent to us by [name of Assisting Party] in response to a request for mutual assistance made by [Requesting Party] on [date of request], we agree to be bound by the principles noted in the California Utilities Emergency Association Mutual Assistance Agreement (Electric and Natural Gas).

(Brief Statement of Assistance Required)

[Requesting Party Name]

[Authorized Representative of Requesting Party].

[Signature of Authorized Representative of Requesting Party]

ATTACHMENT G

SUPPLEMENTAL INVOICE INFORMATION

Sections 4 and 5 of this Mutual Assistance Agreement provide for the accumulation of costs incurred by the Assisting Party to be billed to the Requesting Party for Assistance provided. Each utility company has their own accounts receivable or other business enterprise system that generates their billing invoices. Generally these invoices do not provide for a breakdown of costs that delineate labor hours, transportation costs, or other expenses incurred in travel to and from the Assistance, or the subsequent repair of equipment that may be necessary.

This attachment provides guidelines, format and explanations of the types of cost breakdown, and supportive information and documentation that are important to accompany the invoice for providing of mutual assistance. It is intended to provide sufficient information to the Requesting Party at the time of invoice to minimize an exchange of detail information requests that may delay the payment of the invoice.

This information in no way eliminates the requesting Party's ability to audit the information or request additional cost detail or documentation.

Supplemental Invoice Information is a recommendation and not a requirement.

The form is available electronically from the Agreement Custodian.



**CUEA MUTUAL ASSISTANCE AGREEMENT
(ELECTRIC - NATURAL GAS)
SUPPLEMENTAL INVOICE INFORMATION**

This supplemental invoice information detail is submitted pursuant to Sections 4.0 and 5.0 of the CUEA, Mutual Assistance Agreement for Electric and Natural Gas, for assistance provided. (RP = Requesting Party, AP = Assisting Party)

AP Invoice Date: RP Purchase Order # 7
 AP Invoice #: RP Reference or W/O# 2
 Bill To: 3 Remit To: 4
 (Requesting Party) (Assisting Party)
 Address: Address:

Phone: Phone:
 Attention: 5 Attention: 6

Name or Description of Event:
 Location of Assistance or Event:

Assistance / Billing Period: From: 7 To: 8

Date Assistance Accepted: Date Demobilization Complete:

LABOR 1: Employee Wages and Salary while at RP Service Area 9
 Labor: Hours Wages Additives
 Straight Time, Overtime and Premiums: LABOR 1 Subtotal:

LABOR 2: Employee Wages and Salary while traveling to and from RP Service Area 10
 Labor: Hours Wages Additives
 Straight Time, Overtime and Premiums: LABOR 2 Subtotal:

LABOR 3: Employee Wages and Salary of service and support personnel not traveling to RP Service Area 11
 Labor: Hours Wages Additives
 Straight Time, Overtime and Premiums: LABOR 3 Subtotal:

LABOR 4: Overtime Wages and Salary Incurred in AP Service Area as a Result of Assistance 12
 Labor: Hours Wages Additives
 Overtime and Premiums: LABOR 4 Subtotal:

LABOR TOTAL TOTAL Wages, Salaries and Payroll Additives:

MATERIALS: Cost of materials, supplies, tools, and repair or replacement of non-fleet equipment used in assistance 13
MATERIALS TOTAL TOTAL Materials, Equipment, etc. and Additives:

TRANSPORTATION: Cost of vehicles and equipment including parts and repairs and Additives (No Wages)
 Fleet Costs: (Hourly or Use Charge for vehicles and equipment and Additives) 14
 Repair Costs: (Cost of repair or replacement of vehicles and equipment, excluding labor) 15
TRANSPORTATION TOTAL TOTAL Vehicles, Equipment, etc. and Additives:

EXPENSE: Cost of transporting employees and equipment, to and from RP's Service area, and living expenses not provided by RP
 Transportation Expense: Cost to transport vehicles and equipment (fleet) to and from RP Service Area 16
 Travel Expense: Cost to transport personnel, airfare etc., (non-fleet equip/tools) to and from RP Service Area 17
 Living Expense: Cost of meals, lodging and incidentals not provided by RP or incurred during travel 18
 Meals: Lodging: Incidentals:
EXPENSE TOTAL TOTAL Transportation, Travel and Living and Additives:

ADMINISTRATIVE & GENERAL COSTS: Cost properly allocable to the Assistance and not charged in above sections 19
ADMINISTRATIVE & GENERAL TOTAL TOTAL Administrative & General:

All costs and expenses of Assisting Company are summarized in this invoice.

Pay This Amount: _____

(A Form W-9, Request for Taxpayer Identification Number and Certification, has been included with this invoice.) 20

Instructions and Explanations

This information provides a breakdown of costs incurred in the providing of assistance, and is intended to provide sufficient details to allow Requesting Party to expedite payment by minimizing requests for detailed information. This detailed breakdown, and supportive documentation, should supplement the remittance invoice normally generated by the utility's business enterprise or accounts receivable systems.

Reference Section Explanations: (Numbers correspond to sections on preceding supplemental invoice page(s).)
(Information in parentheses and italics are references to the related section of the CUEA MAA)

- 1 If Requesting Company has designated a Purchase Order to be used for this remittance, provide the PO number in this space.
- 2 If Requesting Company has designated a Work Order or Tracking number to be used for this remittance, provide the number here.
- 3 This "Bill To" address is designated by the Requesting Party and may be the same as the Billing / Payment Address as it appears on the Assisting Company's "Attachment B" of the Agreement. *(Sec. 4.2)*
- 4 This "Remittance Address" is the address specified on the Assisting Company's Primary Invoice.
- 5 The person identified in Billing / Payment section of Requesting Party's "Attachment B", or Authorized Representative, or the Requesting Party's designated Mutual Assistance Coordinator.
- 6 The person identified in Billing / Payment section of Requesting Party's "Attachment B", or Authorized Representative, or the Assisting Party's designated Mutual Assistance Coordinator.
- 7 The date the assistance was agreed to commence. *(Sec. 3.2)*
- 8 The date the assistance demobilization is complete. *(Sec. 3.7) (Note: subsequent repair or replacement costs incurred by the AP may be realized and billed past this date, as noticed by the AP to the RP in writing.)*
- 9 Labor 1: This total includes all hourly wages, including straight time, overtime, premium pay and payroll additives that are the normal payroll of the Assisting Party. This is for time worked in the Requesting Party's service area, and does NOT include time or pay for travel to, or from, the Requesting Party's service area. Labor 1 total includes all employees, management and supervision, that physically traveled to the Requesting Party's service area. (The numbers are reported as totals for Hours, Wages, and Additives (premiums and additives reported in same total). Supportive information such as time sheets, or spreadsheets, that break down the totals reported, is strongly recommended.) *(Sec. 4.1(a))*
- 10 Labor 2: This total includes all hourly wages, including straight time, overtime, premium pay and payroll additives that are the normal payroll of the Assisting Party. This is for time or pay for travel to, or from, the Requesting Party's service area, and does NOT include time worked in RP's service area. Labor 2 total includes all employees, management and supervision, that physically traveled to the Requesting Party's service area. (The numbers are reported as totals for Hours, Wages, and

Additives (premiums and additives reported in same total). Supportive information such as time sheets, or spreadsheets, that break down the totals reported, is strongly recommended.) *(Sec. 4.1(b))*

- 11 Labor 3: This total includes all hourly wages, including straight time, overtime, premium pay and payroll additives that are the normal payroll of the Assisting Party. This is for time or pay for employees, management, or supervision that is directly attributed to the assistance, but did NOT travel to the Requesting Party's service area. Labor 3 total may include support services in the Assisting party's own service area such as warehouse, fleet, Assistance Liaisons, administrative and coordination personnel. (The numbers are reported as totals for Hours, Wages, and Additives (premiums and additives reported in same total). (Supportive information such as time sheets, or spreadsheets, that break down the totals reported, is strongly recommended.) (Sec. 4.1)
- 12 Labor 4: This total includes only overtime pay and additives that are incurred by the Assisting Party for emergency response in the Assisting Party's service area, that is directly attributable to the providing of assistance. This total requires detailed support information and explanation provided to the Requesting Party prior to the inclusion of costs for assistance. (Sec. 4.1 (f))
- 13 Materials: This total includes all non-fleet equipment, tools and supplies, provided by Assisting Party's warehouse or other supplier that was used, consumed, or has normally applied overhead costs or depreciation, as outlined in the agreement. (Sec. 4.1 (c))
- 14 Transportation: This total includes the hourly or use charge of vehicles and equipment, and normally applies overheads and additives, for all vehicles and equipment used in the providing of assistance. These are direct "Fleet" costs excluding labor, which is included in Labor totals. (Sec. 4.1 (d))
- 15 Transportation: This total includes cost of repair or replacement of vehicles or equipment used in the providing of assistance, by AP, dealer service, or contracted repairs, including all normally applies overheads and additives. These are direct "Fleet" costs excluding labor, which is included in Labor totals. (Sec. 4.1 (d))
- 16 Transportation Expense: This total includes only the incurred costs of transporting, by contractor or entity other than the AP or RP, the fleet vehicles and equipment to RP's service area, and return to AP's home base. (Supportive information such as contract carrier's invoice or trip tickets is recommended.)
- 17 Travel Expense: These include all costs incurred by AP for the transportation of personnel to and from the RP's service area. These include airfare, cab fare, rental vehicles, or any other transportation not provided by the RP. It also included the transportation or shipping costs of non-fleet tools or equipment to and from the RP's service area. (Sec. 4.1)
- 18 Living Expense: This includes all meals, lodging, and incidentals incurred during travel to and from RP's service area. It includes any of these costs incurred while working in the RP's service area that were not provided by the RP. (Sec. 4.1(b))
- 19 Administrative and General Costs: This includes all costs that are allocable to the Assistance, to the extent that they are not included in all the foregoing costs identified in this invoice. (Sec. 4.1(e))
- 20 Form W-9, Tax Identification and Certification: This standard tax form should be completed and accompany this form, unless such information has been previously transmitted to the Requesting Company.

RESOLUTION NO. 2008-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO
EXECUTE MUTUAL AID AGREEMENTS

=====

WHEREAS, the City of Lodi Electric Utility may be benefited by requesting or providing aid to other utilities; and

WHEREAS, three Mutual Aid Agreements are available to the City of Lodi, as follows:

- 1) The first Mutual Aid Agreement is coordinated by the American Public Power Association, which Agreement is explicit in that aid is not contingent on an emergency or disaster. The Aiding Signatory provides assistance at its discretion upon request of the Requesting Signatory. The Requesting Signatory pays the Aiding Signatory's invoice for labor, equipment, and transportation at the Aiding Signatory's reasonable and customary rates and for meal and lodging expenses at reasonable and actual costs. Parties include SMUD, Roseville, Alameda and Redding. There is no other cost just for entering into the Agreement.
- 2) The second Mutual Aid Agreement is coordinated by the California Municipal Utilities Association. It is similar to the APPA Agreement, with the following key difference: it is intended for use in emergencies (though it doesn't explicitly bar aid at other times), reimbursement is at cost + 10%, and it has explicit provisions to clarify matters of liability and indemnification. Parties include Alameda, Palo Alto and Santa Clara. There is no other cost just for entering into the Agreement.
- 3) The third is a Mutual Aid Agreement of the California Utilities Emergency Association coordinated by the California Office of Emergency Services. It is similar to the APPA Agreement except that requesting aid requires the description of an emergency and the Agreement adds more detail in matters such as liability, arbitration and audit rights. Parties include PG&E, SMUD, MID, Palo Alto, Redding, Roseville and Santa Clara. The cost to belong to CUEA is currently \$4.35/year per million of Operating Revenue, with a \$500/year minimum (and \$40,000 maximum, that affects PG&E, Southern California Edison (SCE) and the like). CUEA also provides certain free training and would provide services to the water and wastewater utilities, as well as electric.

WHEREAS, staff recommends authorizing the City Manager to execute all three Mutual Aid Agreements as set forth above; and

WHEREAS, staff further recommends that the Electric Utility Director or his/her designee be authorized to administer the agreements in the absence of an emergency or disaster, to the constraints of budgets adopted or ratified by the City Council.

NOW, THEREFORE BE IT RESOLVED that the Lodi City Council hereby authorizes the City Manager or his/her designee to execute the mutual aid agreements as set forth above; and

BE IT FURTHER RESOLVED that the Electric Utility Director or his/her designee is hereby authorized to apply for membership on behalf of the City of Lodi in the California Utilities Emergency Association; and

BE IT FURTHER RESOLVED that the Electric Utility Director or his/her designee is hereby authorized to administer said agreements, subject, in the absence of an emergency or disaster, to the constraints of budgets adopted or ratified by the City Council.

Dated: August 20, 2008

=====

I hereby certify that Resolution No. 2008-_____ was passed and adopted by the Lodi City Council of the City of Lodi in a regular meeting held August 20, 2008, by the following vote:

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

RANDI JOHL
City Clerk

2008 - _____



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt Resolution Authorizing the City Manager to Enter into a Letter of Agreement Between the City of Lodi and Schaefer Systems International for the Sale of Designated Municipal Electric Distribution Facilities (\$78,132) (EUD)

MEETING DATE: August 20, 2008

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to enter into a Letter of Agreement between the City of Lodi and Schaefer Systems International for the Sale of Designated Municipal Electric Distribution Facilities in the amount of \$78,132.

BACKGROUND INFORMATION: Schaefer Systems International, Inc. (Schaefer) has two (2) utility services; both are assigned to the G5 secondary rate tariff. Representatives from Schaefer met with the City of Lodi (COL) earlier this year requesting that the two existing secondary services/accounts be collapsed into one I1 primary service. In order to accomplish this task, the following would occur:

Schaefer would need to reconstruct the existing G5 secondary services, upgrading these two meters to primary voltage/service. To achieve this, Schaefer must purchase existing COL overhead electric distribution equipment, the two existing padmount transformers and a new primary electric meter. Schaefer would pay the COL \$78,132.00 for said facilities (this cost figure includes labor required by COL line crews to install said facilities). Schaefer will then be responsible for maintaining this electrical equipment including the transformers.

The proposed arrangement conforms to City Council approved Electric Rules and Regulations:

- Rule 2, Section 3a: “Three-phase demand loads in excess of 500 KVA, but less than 7000 KVA may, with City approval, be supplied by means of a primary service at the primary distribution voltage available at the location.”

This is a sound financial decision for Schaefer, as the project will pay for itself in a relatively short period due to the expected savings associated with collapsing the existing G5 accounts into one I1 account.

This industrial customer is interested in entering into the attached LOA with the COL as soon as possible. If the Council approves this LOA, Electric Utility staff would then order required primary metering equipment and related materials. It is anticipated that this project would be completed by November 1, 2008.

APPROVED: _____
Blair King, City Manager

FISCAL IMPACT: The sale of facilities and services will result in revenue to the Electric Utility Department in the amount of \$78,132.

FUNDING: Not applicable.

George F. Morrow
Electric Utility Director

Prepared By: Rob Lechner, Manager, Customer Service and Programs

GFM/RSL/lst

Attachments (1)

LETTER OF AGREEMENT: SALE OF MUNICIPAL FACILITIES

BETWEEN

THE CITY OF LODI

AND

SCHAEFER SYSTEMS INTERNATIONAL, INCORPORATED

This Letter of Agreement (LOA) is between the City of Lodi (COL) and Schaefer Systems International, Incorporated (Schaefer). By way of this signed LOA, Schaefer agrees to purchase and maintain designated electric utility facilities as identified on the attached Appendix A.

In summary, Schaefer will purchase designated overhead electric distribution facilities located at the customer's plant site of 1250 E. Thurman Street, as well as a padmount transformer. In addition Schaefer agrees to purchase all necessary primary metering equipment and compensate the COL for all required labor costs to install said equipment.

In purchasing the aforementioned equipment (padmount transformers and overhead electric distribution facilities) Schaefer also agrees to properly maintain said equipment and pay for all repairs necessary for maintaining said equipment in the event of equipment failure in perpetuity.

The total purchase price of the equipment and associated labor costs listed on Appendix A is in the amount of \$78,132.00. *Note: in the event that the labor required to perform this project occurs after COL operating hours (7:00am to 4:30pm, Monday through Friday, excluding holidays and weekends), Schaefer will be charged any/all additional labor costs above and beyond the costs identified on Appendix A.*

Schaefer agrees to compensate the COL for the total amount listed in the LOA *prior* to completion of said project.

Letter of Agreement: Sale of Municipal Facilities Between COL & Schaefer

IN WITNESS HEREOF, the parties hereto have entered into this Letter of Agreement dated _____, 2008.

CITY OF LODI

SCHAEFER SYSTEMS

Blair King
City Manager

President

Date

ATTEST:

Randi Johl
City Clerk

APPROVED AS TO FORM:

D. Stephen Schwabauer
City Attorney

Letter of Agreement: Sale of Municipal Facilities Between COL & Schaefer

APPENDIX 'A'

| | Installation Cost | Depreciation Allowance | Buy Out Cost/Total |
|----------------------------|----------------------|---------------------------|--------------------|
| Purchase existing plant | \$28,657.00 | \$10,517.00 | \$18,140.00 |
| Purchase 2 transformers | \$30,050.00 | \$11,028.00 | \$19,022.00 |
| Labor/Installation | \$13,774.00 | \$0.00 | \$13,774.00 |
| Upgrade existing system | \$27,196.00 | \$0.00 | \$27,196.00 |
| TOTAL | \$99,677.00 | \$21,545.00 | \$78,132.00 |

NOTES:

- 1) Existing plant & padmount transformers were installed in 1997.
- 2) Existing plant & padmount transformers based on 30 year service life.
- 3) Primary metering installation & upgrade costs based on straight time labor. One day plant shut down (minimum) required for each of three pole upgrades and installation of primary metering equipment.

RESOLUTION NO. 2008-_____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING
THE CITY MANAGER TO ENTER INTO A LETTER OF AGREEMENT
BETWEEN THE CITY OF LODI AND SCHAEFER SYSTEMS
INTERNATIONAL FOR THE SALE OF DESIGNATED MUNICIPAL
ELECTRIC DISTRIBUTION FACILITIES

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby authorizes the City Manager to enter into a Letter of Agreement between the City of Lodi and Schaefer Systems International for the sale of designated municipal electric distribution facilities in the amount of \$78,132. This figure includes the purchase of two transformers, primary metering equipment and labor costs associated with the installation of said equipment and upgrading the existing system to accommodate the customer's need.

Dated: August 20, 2008

=====

I hereby certify that Resolution No. 2008-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 20, 2008, by the following Vote:

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

RANDI JOHL
City Clerk

2008-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Directing the Mayor to Endorse a Letter from the Northern California Power Agency to the Governor of California to Support Establishment of a 33% Renewable Portfolio Standard for All Electric Utilities in the State (EUD)

MEETING DATE: August 20, 2008

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Adopt a resolution directing the Mayor to endorse a letter from the Northern California Power Agency (NCPA) to the Governor of California to support establishment of a 33% Renewable Portfolio Standard (RPS) for all electric utilities in California.

BACKGROUND INFORMATION: Current state law requires all publicly owned electric utilities to adopt and implement a renewable energy target of at least 20% by 2010. In compliance, the Lodi City Council previously established an RPS of 20% through Resolution No. 2003-71 on April 16, 2003. Today, Lodi's power supply mix is about 25% renewable when qualified small hydro is included and approximately 50% renewable with large hydroelectric energy in the mix. (The State's definition of renewable energy excludes large hydro.)

There is significant pressure in the state to increase the RPS. The Office of the Governor has released a document titled "Guiding Legislative Principles to Achieve 33% Renewables by 2020". We are told the Governor intends to make a late-session legislative push to place such an increased standard into law. A part of the rationale for action at this time may be the initiative (Proposition 7) that has qualified for the November 2008 ballot to increase RPS to 40% by 2020 and 50% by 2025. Many feel this is a flawed initiative and one which is overly prescriptive on publicly owned utilities like Lodi Electric utility.

The purpose of the attached letter, which would be sent to the Governor by the Northern California Power Agency with endorsement by the leaders of NCPA members, is to (i) support establishment of an increased RPS target of 33% by 2020 and (ii) request that local agencies be given flexibility to implement such a target through local decision-making instead of state direction.

The City Council's endorsement of the attached letter is requested.

FISCAL IMPACT: None

FUNDING: Not applicable.

George F. Morrow
Electric Utility Director

APPROVED: _____
Blair King, City Manager

August __, 2008

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol Building
Sacramento, CA 94249

Dear Governor Schwarzenegger,

The Northern California Power Agency (NCPA) and its member communities across Northern California have a long tradition of leadership in the investment in renewable energy resources. We attribute that strong record of achievement to publicly owned utilities' long-held ability to retain local authority to meet the goals of the communities they serve, as well as those of both the State Legislature and your office.

NCPA is a nonprofit California joint powers agency established in 1968 to generate, transmit, and distribute electric power to and on behalf of its seventeen member utilities. Together, we serve nearly 700,000 electric consumers in Central and Northern California and approximately 3.2 percent of the state's electricity load.

NCPA is supportive of a 33% statewide Renewable Portfolio Standard (RPS) target for all state utilities, provided that the authority over, and oversight of, the RPS program remains— as is now the practice— with the local governing boards and elected officials who are directly accountable to their residents and community. **Our strong and effective record on renewable energy provides no basis for further state intrusion on local government authority.** In fact, publicly owned utilities' success in growing our supplies of renewable energy and keeping greenhouse gas (GHG) emissions low is directly attributable to our ability to make locally tailored renewable energy decisions that allow communities to determine for themselves the most effective path to meeting the state's renewable energy targets that reflects the unique meteorological, geographical, and demographical aspects of our communities.

To that end, each NCPA member community has formally adopted aggressive RPS targets, and are in most instances already exceeding the state average RPS numbers. Collectively, NCPA members are already above the 20% RPS threshold, and many individual NCPA member utilities already have California-eligible RPS levels that exceed a 33% threshold.

The ability of California's public power utilities, including NCPA's members, to create community-specific RPS programs has resulted in publicly owned utilities making greater progress toward achieving the state's renewable energy and GHG reduction goals – at lower cost to electricity consumers –than would be possible with a "one-size-fits-all" mandate. Each community-owned public utility is unique, and we see this great diversity is an asset to the state's effort to maximize the use of renewable energy to help achieve the state's overall goal of reducing GHG emissions.

Northern California's public power systems and their governing boards are committed to doing their part to meet the energy needs of their communities as well as those of the State of California. Both collectively and individually, NCPA's members— through aggressive and forward-looking energy efficiency programs and new continuing investment in renewable energy sources— are leading the way in meeting the goals of AB 32. We look forward to continuing our work with you and your office to achieve these goals.

Sincerely,

RESOLUTION NO. 2008-_____

A RESOLUTION OF THE LODI CITY COUNCIL DIRECTING THE MAYOR
TO ENDORSE A LETTER FROM THE NORTHERN CALIFORNIA
POWER AGENCY TO THE GOVERNOR OF CALIFORNIA TO SUPPORT
ESTABLISHMENT OF A 33% RENEWABLE PORTFOLIO STANDARD
(RPS) FOR ALL ELECTRIC UTILITIES IN THE STATE

=====

WHEREAS, current state law requires all publicly owned electric utilities to adopt and implement a renewable energy target of at least 20% by 2010; and

WHEREAS, in compliance, the Lodi City Council previously established an RPS of 20% through the adoption of Resolution No. 2003-71 on April 16, 2003; and

WHEREAS, Lodi's power supply mix is about 25% renewable when qualified small hydro is included and approximately 50% renewable with large hydroelectric energy in the mix. (The State's definition of renewable energy excludes large hydro); and

WHEREAS, there is significant pressure in the state to increase the RPS, whereby the Office of the Governor has released a document titled "Guiding Legislative Principles to Achieve 33% Renewables by 2020"; and

WHEREAS, the purpose of the attached letter, which would be sent to the Governor by the Northern California Power Agency with endorsement by the leaders of NCPA members, is to (i) support establishment of an increased RPS target of 33% by 2020 and (ii) request that local agencies be given flexibility to implement such a target through local decision-making instead of state direction.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby directs the Mayor to endorse a letter from the Northern California Power Agency (NCPA) to the Governor of California to support establishment of a 33% Renewable Portfolio Standard (RPS) for all electric utilities in California.

Dated: August 20, 2008

=====

I hereby certify that Resolution No. 2008-_____ was passed and adopted by the Lodi City Council of the City of Lodi in a regular meeting held August 20, 2008, by the following vote:

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

RANDI JOHL
City Clerk

2008-_____



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt Resolution Authorizing the City Manager to Enter into Agreement with the State of California Department of General Services for the Issuance of a CAL-Card to the Buyer and Purchasing Technician

MEETING DATE: August 20, 2008

PREPARED BY: Budget Manager

RECOMMENDED ACTION: That the City Council adopt a resolution authorizing the City Manager to enter into agreement with the State of California Department of General Services for the issuance of a CAL-Card to the Buyer and Purchasing Technician.

BACKGROUND INFORMATION: The City's purchasing policies and procedures adopted by the City Council by Resolution 2005-261, allows for the purchase of materials, supplies, small tools and equipment costing \$500 or less through the use of a CAL-Card procurement card. The CAL-Card is a VISA purchase card that can be used anywhere VISA credit cards are accepted.

The CAL-Card program has many benefits, including:

- Ability to set spending limits per purchase/per month and to specify types of purchases allowed by each individual card holder;
- All State of California CAL-Cards are barred from making purchases from a standard list of prohibited merchant category codes which can be expanded by the City;
- Reduces the need to use petty cash or blanket purchase orders for small purchases;
- Consolidates invoices from many vendors onto one statement, payable to just one vendor which reduces the number of checks processed by Accounts Payable;
- Allows the CAL-Card administrator to monitor expenditures of all card holders through an online access program;
- Rewards the city with rebates for timely payments; reduces and/or eliminates late and finance charges currently being incurred by some vendors due to short payment terms.

Staff is recommending the issuance of a CAL-Card procurement card to the Buyer and Purchasing Technician positions.

FISCAL IMPACT: None; the CAL-Card is a no cost program.

APPROVED: _____
Blair King, City Manager

FUNDING AVAILABLE: Not applicable.

Kirk Evans, Budget Manager

Prepared by: Susan Bjork, Management Analyst II

RESOLUTION NO. 2008-_____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING
THE CITY MANAGER TO ENTER INTO AGREEMENT WITH
THE STATE OF CALIFORNIA DEPARTMENT OF GENERAL
SERVICES FOR THE ISSUANCE OF A CAL-CARD TO THE
BUYER AND PURCHASING TECHNICIAN

=====

WHEREAS, on December 21, 2005, the Lodi City Council ratified purchasing policies and procedures that allows for the use of CAL-Card procurement cards for low-cost expenditures that would be impractical to process through the purchase order system; and

WHEREAS, CAL-Cards may be used for single purchases of less than \$500; and

WHEREAS, staff recommends the issuance of CAL-Card procurement cards to the Buyer and Purchasing Technician.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to enter into agreement with the State of California Department of General Services for the issuance of a CAL-Card to the Buyer the Purchasing Technician

Dated: August 20, 2008

=====

I hereby certify that Resolution No. 2008-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 20, 2008, by the following vote:

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

RANDI JOHL
City Clerk

2008-_____



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution authorizing City Manager to renew agreement between San Joaquin County Data Processing and the City of Lodi Police Department (Estimated Annual Cost \$13,954.84)

MEETING DATE: August 20, 2008

PREPARED BY: Chief of Police

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to renew an agreement between the Lodi Police Department and San Joaquin County, through its Data Processing Division, for Fiscal Year 2008-09 to provide data processing services and access to Automated Message Switching/CJIS Systems.

BACKGROUND INFORMATION: This is a renewal of the yearly contractual agreement between the City of Lodi and the County of San Joaquin. Criminal Justice Information System (CJIS) is the county-wide computer connection that provides the Police Department with State and Federal computer access. (A copy of that proposed Agreement is attached.)

This data processing service allows the police department to access County warrant information and other criminal justice information housed in the San Joaquin County Data Base. This information is critical to local law enforcement. Without access to the Automated Message Switching/CJIS Systems the police department will not be able to conduct checks on individuals with local warrants, probation status on offenders and inmate records such as custody status, trial status, adjudications and sentencing.

FISCAL IMPACT: Estimated cost is \$13,954.84.

FUNDING AVAILABLE: Fiscal Year 2008-09 Budget Account No. 101031.7335.

Kirk Evans, Budget Manager

David J. Main
Chief of Police

APPROVED: _____
Blair King, City Manager

AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of July, 2008 by and between the **COUNTY OF SAN JOAQUIN**, through its Information Systems Division, hereinafter referred to as "**COUNTY**" and **CITY OF LODI**, hereinafter referred to as "**AGENCY**";

WITNESSETH:

WHEREAS, COUNTY provides services and/or equipment listed in Attachment "A" hereinafter referred to as "**COMPUTER SERVICES**" to **AGENCY**; and

WHEREAS, COUNTY has certain computer equipment and is able to provide information services which **AGENCY** desires to use in its operations;

WHEREAS, COUNTY'S Information Systems Division services offered to **AGENCY** under this Agreement differs from that provided in previous years and it is necessary to set out the understanding of the parties as to the extent of services and liability for provision of access to the **COMPUTER SERVICES** for information.

IT IS HEREBY AGREED between the parties as follows:

1. **COMPUTER SERVICES FOR ACCESS TO NON-REDUNDANT, NON-FAULT TOLERANT COMPUTER SYSTEMS**

The COUNTY shall provide to AGENCY the COMPUTER SERVICES of COUNTY'S Information Systems Division. The parties expressly acknowledge that the Information Systems Division computer systems are non-fault tolerant, non-redundant systems which do not provide continuous access seven (7) days a week and twenty-four (24) hours a day. The computer systems may go down and be unable to provide COMPUTER SERVICES at any time of day or night for undeterminable periods of time and also must be scheduled to be taken down for maintenance and repairs from time to time. Therefore, COUNTY does not represent that the COMPUTER SERVICES provided under this Agreement will enable AGENCY to receive information from the computer systems within any specific time period. AGENCY has considered the express limitations set forth in this Agreement of the COMPUTER SERVICES, together with the needs of AGENCY, and has determined that AGENCY'S business operations require the use of the services set out in this Agreement.

2. **COMPENSATION**

- a. COUNTY will provide the COMPUTER SERVICES for the estimated annual amount of compensation as shown in Attachment "A". COUNTY shall bill AGENCY only for actual COMPUTER SERVICES provided, one month after COMPUTER SERVICES are provided. AGENCY shall provide full payment to COUNTY of the billed amount by the fifteenth day of the date of billing. In the event payment is not made in accordance with this provision COUNTY may, at its option, terminate the agreement in accordance with the provisions of Paragraph 5.
- b. In the event that the AGENCY'S estimated quantities, as indicated in Attachment "A", are exceeded for any reason, County may evaluate and, if necessary, increase the quantities indicated in Attachment "A", which may also result in the estimated annual amount of compensation provided herein to be increased. County will notify AGENCY, in writing, no less

than thirty (30) calendar days in advance of any intended increase of estimated annual amount of compensation. AGENCY shall be allowed the option to terminate this agreement in accordance with the provisions of Paragraph 5 in the event of an increase in the estimated annual amount of compensation.

- c. In the event that County's cost of Computer Services are increased due to any reason, County may increase the rate of compensation, as indicated in Attachment "A", which may also result in the estimated annual amount of compensation provided herein to be increased. County will notify AGENCY, in writing, no less than thirty (30) calendar days in advance of any intended increase of estimated annual amount of compensation. AGENCY shall be allowed the option to terminate this agreement in accordance with the provisions of Paragraph 5 in the event of an increase in the estimated annual amount of compensation.

3. OPTIONAL SERVICE AND EQUIPMENT

COMPUTER SERVICES under this agreement are limited solely to the ongoing services, systems, and equipment listed in Attachment "A" which are in operation on the effective date of this agreement. Services and/or equipment not covered in this agreement may be provided to AGENCY at COUNTY'S option subject to the following conditions:

- (a) AGENCY must submit a written request for the additional services and/or equipment which has been signed by the appropriate agency official, and
- (b) Additional services, and/or equipment shall be provided at the current rates of compensation and shall be billed as additional items over and beyond the total estimated annual amount compensation designated in this agreement.

Maintenance in connection with the equipment provided under this agreement is included in the rate of compensation for equipment and will not be billed as an additional charge to AGENCY.

4. TERM

The term of this contract shall be one year beginning July 1, 2008 and ending June 30, 2009.

5. TERMINATION

- a. This contract may be terminated by either party upon thirty (30) calendar days advance written notice to the other party. Notwithstanding such termination, AGENCY shall compensate COUNTY for the actual COMPUTER SERVICES provided through the date the termination of the contract is effective. If AGENCY fails to timely compensate COUNTY as provided in this contract, AGENCY shall be held liable for the reasonable cost of collecting such compensation including attorneys fees and court costs incurred by COUNTY. In no event shall COUNTY be liable for reimbursing AGENCY for the costs to procure alternative services to those services provided under this Agreement regardless of whether AGENCY or COUNTY initiates termination of the Agreement.
- b. All rental equipment in the possession of AGENCY shall be returned to COUNTY in the same condition as it was delivered to AGENCY, less normal wear and tear. COUNTY shall be compensated by contractor for all loss or damage to said equipment which is not the result of a willful or negligent act by COUNTY and which does not constitute normal wear and tear.

6. INDEMNIFICATION AND HOLD HARMLESS

The AGENCY agrees that it shall indemnify, defend and hold harmless the COUNTY, the members

of its Board of Supervisors, its officers, agents, and employees, from and against all demands, claims, damages, losses, expenses, and costs including attorneys' fees and court costs arising out of and/or resulting from the performance of the activities and services contemplated by this agreement, except for demands, claims, damages, losses, expenses, and costs resulting from the sole and exclusive negligence of the COUNTY, or its agents, or those brought by employees or agents of COUNTY concerning their employment or agency relationship.

7. LIMITATIONS OF LIABILITY

In no event shall COUNTY be responsible for any damage, compensatory, consequential, punitive, or special in the event that the AGENCY is unable to access and/or obtain information from COMPUTER SERVICES of COUNTY. This Agreement shall not be construed to be either a representation or a warranty to AGENCY that it will be able to access and obtain information from the COMPUTER SERVICES at any particular time or within any particular response time. COUNTY does not grant any warranty as to the validity, completeness or usefulness of any information received by AGENCY from the COMPUTER SERVICES. COUNTY shall not be responsible nor liable for the costs to AGENCY to procure alternative services to the services provided for under this Agreement or upon termination of this Agreement by either party.

In the event of errors in COMPUTER SERVICES due to the failure of COUNTY'S equipment, software, circumstances beyond the control of COUNTY, or the failure of COUNTY'S employee(s) to operate the equipment in accordance with COUNTY'S standard operating procedures, or COUNTY'S inability to provide COMPUTER SERVICES due to circumstances beyond its control, COUNTY'S liability shall be limited to either subparagraph (a) or (b) below, either of which will be considered to be AGENCY exclusive remedy:

- (a) The correction of errors of which COUNTY has received written notice and proof or the performance of the service, whichever is the situation; or
- (b) Where such correction or performance of service is not practicable, AGENCY shall be entitled to an equitable credit not to exceed the charges invoiced to AGENCY for that portion of the service which produced the erroneous result or for that portion of the service which could not be performed, whichever is the situation.

COUNTY shall be liable for the loss, destruction or damage to AGENCY supplied materials only if such loss, destruction, or damages was due to the negligence of COUNTY and AGENCY sole remedy shall be COUNTY restoring the same, provided such restoration can be reasonably performed by COUNTY and provided that AGENCY provides COUNTY with all source data necessary for such restoration in similar form to that normally presented to COUNTY under this Agreement.

8. INDEPENDENT CONTRACTOR

The AGENCY, and the agents and employees of AGENCY, in the performance of this agreement, shall act in an independent capacity and not as officers or employees or agents of COUNTY.

9. ASSIGNMENT

Without the written consent of COUNTY, this agreement is not assignable by AGENCY either in whole or in part.

10. TIME OF THE ESSENCE

Time is of the essence in this agreement.

11. MODIFICATIONS

No alteration, variation, or modification of the terms of this contract shall be valid unless made in writing prior to the effective date and signed by the parties hereto, and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

12. COMPLIANCE WITH LAWS

AGENCY shall comply with the California Fair Employment Practices Act (Labor Code Section 1410, et seq.) and any amendments thereto.

This contract may, at the option of COUNTY, be terminated or suspended in whole or in part in the event AGENCY fails to comply with the nondiscrimination clause of the contract. In the event of termination under this paragraph, COUNTY shall be compensated for goods and services provided to the date of termination. Termination or suspension shall be effective upon receipt of written notice thereof.

13. CONFIDENTIALITY

AGENCY, its employees, officers, and agents shall protect and keep all information and materials obtained through the services of this agreement confidential and from unauthorized use and disclosure. This clause shall not apply to that information which is or becomes a public record subject to the disclosure requirements of the Public Records Act.

IN WITNESS WHEREOF the parties hereto have executed this agreement the day and year first written above.

COUNTY OF SAN JOAQUIN, a political subdivision of the State of California

By Jerry Becker
JERRY BECKER
Information Systems Director
"COUNTY"

CITY OF LODI

By _____
Blair King

Title City Manager

"AGENCY"

APPROVED AS TO FORM:
DAVID WOOTEN
County Counsel

By Lawrence P. Meyers
LAWRENCE P. MEYERS
Deputy County Counsel

Attest:

Randi Johl
City Clerk

Dated: _____

APPROVED AS TO FORM:

Stephen Schwabauer
D. Stephen Schwabauer
City Attorney

**Rate Schedule
Fiscal Year 2008/2009**

Computer Services

Automated Message Switching System Access
CJIS System Access

| Service | Estimated Quantity | Type | Estimated Rate | Estimated Annual Cost | Estimated Total |
|------------------------------------|-------------------------------|-------------|---------------------------|--------------------------------------|----------------------------|
| Telephone Line Charge | 12 | Month | \$ 92.69 | \$ 1,112.28 | |
| * Special Processing Request | 8 | Hours | \$ 99.07 | \$ 792.56 | |
| Transactions | 250,000 | Each | \$ 0.0482 | \$ 12,050.00 | |
| Total Estimated Annual Cost | | | | | \$ 13,954.84 |

* Special Processing Requests require written authorization specifying work to be performed.

RESOLUTION NO. 2008-

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH SAN JOAQUIN COUNTY TO PROVIDE DATA PROCESSING SERVICES AND ACCESS TO AUTOMATED MESSAGE SWITCHING AND CRIMINAL JUSTICE INFORMATION SYSTEMS BY LODI POLICE DEPARTMENT FOR FISCAL YEAR 2008-09

WHEREAS, San Joaquin County provides to the City of Lodi access to Automated Message Switching and Criminal Justice Information Systems; and

WHEREAS, San Joaquin County has certain data processing equipment and is able to provide data processing services, which the City of Lodi desires to use in its operations.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to enter into an agreement with San Joaquin County through its Data Processing Division, for fiscal year 2008-09 to provide data processing services and access to Automated Message Switching and Criminal Justice Information Systems to the Lodi Police Department in an amount not to exceed \$13,954.84; and

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute said agreement on behalf of the City of Lodi.

Dated: August 20, 2008

I hereby certify that Resolution No. 2008-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 20, 2008, by the following vote:

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

RANDI JOHL
City Clerk

2008-____



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Amending Traffic Resolution No. 97-148 by Approving Speed Limit Reduction from 50 to 40 Miles Per Hour on Turner Road between West City Limits and Evergreen Drive

MEETING DATE: August 20, 2008

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution amending Traffic Resolution No. 97-148 by approving the speed limit reduction from 50 to 40 miles per hour (mph) on Turner Road between the west City limits and Evergreen Drive, as shown on Exhibit A.

BACKGROUND INFORMATION: Staff has recently updated Engineering and Traffic Surveys on Turner Road and on Woodhaven Drive. Based on the results of the surveys, we are recommending no change to the existing 35 mph speed limit on Woodhaven Drive; however, on Turner Road, we are recommending the speed limit be reduced from 50 mph to 40 mph between the west City limits and Evergreen Drive.

FISCAL IMPACT: The estimated cost to replace two speed limit signs and two speed limit legends is \$600.

FUNDING AVAILABLE: FY 2008-09 Budget, Account No. 3215031

Kirk Evans, Budget Manager

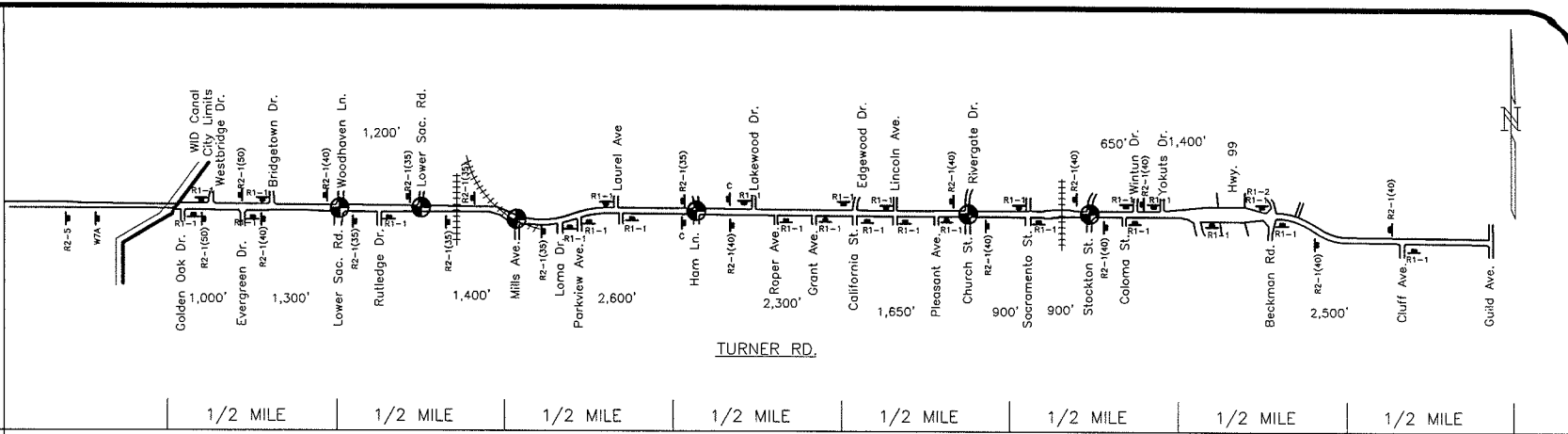
F. Wally Sandelin
Public Works Director

Prepared by Rick S. Kiri, Senior Engineering Technician
FWS/RSK/pmf
Attachment
cc: City Attorney
Police Chief
Streets and Drainage Manager
Senior Traffic Engineer

APPROVED: _____
Blair King, City Manager

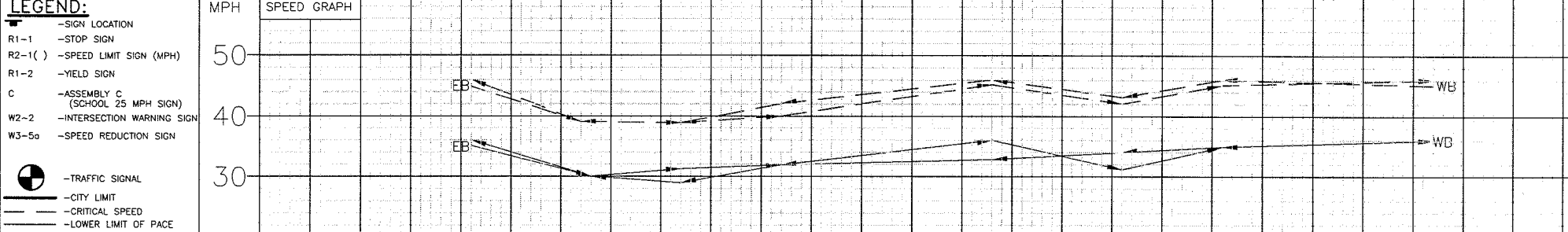
**ENGINEERING
AND TRAFFIC SURVEY**

**SEE NARRATIVE FOR
BACKGROUND INFORMATION**



| SPEED TABLE | | 1/2 MILE | 1/2 MILE | 1/2 MILE | 1/2 MILE | 1/2 MILE | 1/2 MILE | 1/2 MILE | | |
|-------------------------------|--|--------------|------------------|-----------|-----------|-----------|-----------|-----------------|------------|-------|
| ROADWAY WIDTH | | 74' | 60'-64' (Varies) | | | | | | | |
| NO. OF LANES | | 2-3w/TWLT&BL | 4w/TWLT | 4 | | | 4+TWLT | 2 | 2w/TWLT&BL | |
| MEDIAN (TYPE) | | NONE | | | | | | 12' Raised Conc | NONE | |
| TRAFFIC SIGNAL DATA | | 8øAct | | 6øAct | | 2øAct | | 6øAct | | 2øAct |
| AVERAGE DAILY TRAFFIC | | 8,020 | 14,775 | 20,340 | 17,255 | 15,245 | 15,820 | 7,980 | | |
| OBS. SPEED-CRITICAL, 85th% EB | | 45 | 39 | 39 | 40 | 45 | 42 | 45 | 46 | |
| WB | | 46 | 39 | 39 | 42 | 46 | 43 | 46 | 45 | |
| -PACE(%) EB | | 35-45(77) | 30-40(89) | 31-41(84) | 32-42(83) | 36-46(83) | 31-41(71) | 35-45(74) | 34-44(74) | |
| WB | | 36-46(77) | 30-40(90) | 29-39(85) | 32-42(84) | 33-43(80) | 34-44(85) | 35-45(79) | 34-44(75) | |
| -MEDIAN, 50th% EB | | 41 | 36 | 35 | 37 | 41 | 37 | 41 | 40 | |
| WB | | 41 | 35 | 36 | 38 | 40 | 38 | 41 | 40 | |

| | | | | | | | | | |
|---------------------|----------------|--------|--------|--------|--|--------|--------|--|--|
| EXISTING SPEED ZONE | 55 mph(County) | 50 mph | 40 mph | 35 mph | | | 40 mph | | |
| PROPOSED SPEED ZONE | 55 mph(County) | 40 mph | 35 mph | | | 40 mph | | | |



| | | | | | | | | | | | | | | |
|-----------------------------------|----------|-----|-------|------|------------|---|------------|---------|---------|-----------|-----|-----|---|-------|
| ACCIDENT PLOT | YR: 2006 | 0 | 11 11 | 0 | 1111 2 | 1 | 1 | 2 | 1 | 5 | 1 1 | 1 2 | 1 | 1 |
| | YR: 2007 | 1 | 1 | 11 1 | 121 11 111 | | 11 1 1 1 1 | 1 1 1 1 | 1 1 1 1 | 1 1 4 1 1 | | 2 | 1 | 1 1 1 |
| ACCIDENT RATE-ACC./MILL. VEH.-MI. | | 0.4 | 2.0 | 0.8 | 2.6 | | 1.4 | | | 3.5 | | 2.2 | | |

| | | | | | |
|-------------------|-----|------|----------|---------------------------------|-------------|
| DR: RSK | No. | Date | Revision | ADPT | Approved By |
| CH: | | | | | |
| DATE: August 2008 | | | | Senior Traffic Engineer TR 1625 | Date |



CITY OF LODI
PUBLIC WORKS DEPARTMENT

TURNER RD.
W. City Limits to Guild Avenue

SPEED ZONE SURVEY

Exhibit A

SPEED ZONE REPORT - Turner Road

- REFERENCE - Speed zone surveys are performed in the City of Lodi following the California MUTCD in accordance with Section 40802 (b) of the California Vehicle Code.
- STUDY CRITERIA - Important factors to consider in determining the speed limit which is most appropriate to facilitate the orderly movement of traffic and that is reasonably safe are:

Prevailing Speeds (85th Percentile Speeds) - Reasonable speed limits conform to the actual behavior of the majority of motorists, and by measuring motorists' speeds, one will be able to select a speed limit that is both reasonable and effective. Speed limits should normally be established at the nearest five mile per hour (mph) increment to the 85th percentile speed. However, in matching existing conditions with the traffic safety needs of the community, engineering judgment may indicate the need for a further reduction of five mph.

Accidents - Accident records for two recent years were considered in determining the speed zones. Accidents on segments of roadways are classified by their accident rate. Accident rates are determined by the number of accidents occurring within a segment of roadway and the traffic volume within that segment. Accident rates are shown in accidents per million vehicle miles (ACC/MVM). The average Citywide accident rate is 3.4 ACC/MVM.

Unexpected Conditions – Highway, traffic, and roadside conditions not readily apparent to the driver were considered. When roadside development results in traffic conflicts and unusual conditions which are not readily apparent to drivers, speed limits below the 85th percentile may be justified.

Other Factors - The following factors were considered: residential density, pedestrian and bicycle safety, roadway design speed, safe stopping sight distance, superelevation, shoulder conditions, profile condition, intersection spacing and offsets, commercial driveway characteristics and pedestrian traffic in the roadway without sidewalks.

- STUDY RESULT
Sixteen radar surveys were performed and the 85th percentile speeds ranged from 39 to 46 mph as shown below:

| <u>Street Segment</u> | <u>Eastbound</u> | <u>Westbound</u> |
|--|------------------|------------------|
| West City Limits to Lower Sacramento Rd/Woodhaven Ln | 45 mph | 46 mph |
| Lower Sac Rd/Woodhaven Ln to Lower Sac (N) | 39 mph | 39 mph |
| Lower Sac (N) to Mills Avenue | 39 mph | 39 mph |
| Mills Avenue to Ham Lane | 40 mph | 42 mph |
| Ham Lane to Church Street | 45 mph | 46 mph |
| Church Street to Stockton Street | 42 mph | 43 mph |
| Stockton Street to East City Limits | 45-46 mph | 45-46 mph |

West City Limits to Lower Sacramento Road/Woodhaven Lane

The 85th percentile speeds on this segment are 45 and 46 mph. The 50th percentile speed is 41 mph. The accident rate of 0.4 on this segment is lower than the citywide average and higher than the 0.0 rate from the 2003 study. Based solely on prevailing speeds, the speed limit could be posted at 45 mph; however, due to the continuing low accident rate and bicycle safety, we recommend a 40 mph speed limit on this segment.

Lower Sacramento Road/Woodhaven Lane to Lower Sacramento Road (North)

The 85th percentile speed on this segment is 39 mph. The 50th percentile speeds are 35 and 36 mph. The accident rate of 2.0 on this segment is lower than the citywide average and below the 4.4 rate from the 2003 survey. Based solely on prevailing speeds, the speed limit on this segment could be posted at 40 mph; however, due to the reduced accident rate at the current speed limit, we recommend retaining the 35 mph speed limit on this segment.

Lower Sacramento Road (North) to Mills Avenue

The 85th percentile speed on this segment is 39 mph. The 50th percentile speeds are 35 and 36 mph. The accident rate of 0.8 on this segment is below the citywide average and lower than the 1.3 rate from the 2003 survey. Based solely on prevailing speeds, the speed limit on this segment could be posted at 40 mph; however, due to the continuing low accident rate at the current speed limit, we recommend retaining the 35 mph speed limit on this segment.

Mills Avenue to Ham Lane

The 85th percentile speeds on this segment are 40 and 42 mph. The 50th percentile speeds are 37 and 38 mph. The accident rate of 2.6 on this segment is below the citywide average and lower than the 3.9 rate from the 2003 survey. Based solely on the prevailing speeds, the speed limit could be set at 40 mph; however, due to the reduced accident rate at the current speed limit and residential density, we recommend retaining the 35 mph speed limit on this segment.

Ham Lane to Church Street

The 85th percentile speeds on this segment are 45 and 46 mph. The 50th percentile speeds are 40 and 41 mph. The accident rate of 1.4 on this segment is below the citywide average and lower than the 3.6 rate from the 2003 survey. Based solely on prevailing speeds, the speed limit could be posted at 45 mph; however, due to the reduced accident rate at the current speed limit and residential density, we recommend retaining the 40 mph speed limit on this segment.

Church Street to Stockton Street

The 85th percentile speeds on this segment are 42 and 43 mph. The 50th percentile speeds are 37 and 38 mph. The accident rate of 3.5 on this segment is slightly higher than the citywide average and higher than the 3.2 rate from the 2003 survey. Based on prevailing speeds and reasonable accident rate at the current speed limit, we recommend retaining the 40 mph speed limit on this segment.

Stockton Street East City Limits

The 85th percentile speeds on this segment range from 45 to 46 mph. The 50th percentile speeds range from 40 to 41 mph. The accident rate of 2.2 on this segment is below the citywide average and slightly lower than the 2.8 rate from the 2003 survey. Based solely on prevailing speeds, the speed limit on this segment could be posted at 45 mph; however, due to the continuing low accident rate at the current speed limit and commercial driveway characteristics, we recommend retaining the 40 mph speed limit on this segment.

◦ CONCLUSION

The recommended speed limits are shown below:

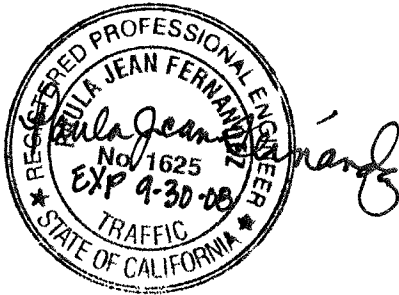
STREET SEGMENT

West City limits to Evergreen Drive
Evergreen Dr to Lower Sacramento Rd/Woodhaven Ln
Lower Sacramento Rd/Woodhaven Ln to Lower Sac (N)
Lower Sac (N) to Mills Avenue
Mills Avenue to Ham Lane
Ham Lane to Church Street
Church Street to Stockton Street
Stockton Street to East City Limits

POSTED SPEED LIMIT

50 to 40 mph
40 mph (no change)
35 mph (no change)
35 mph (no change)
35 mph (no change)
40 mph (no change)
40 mph (no change)
40 mph (no change)

Paula J. Fernandez.
Senior Traffic Engineer



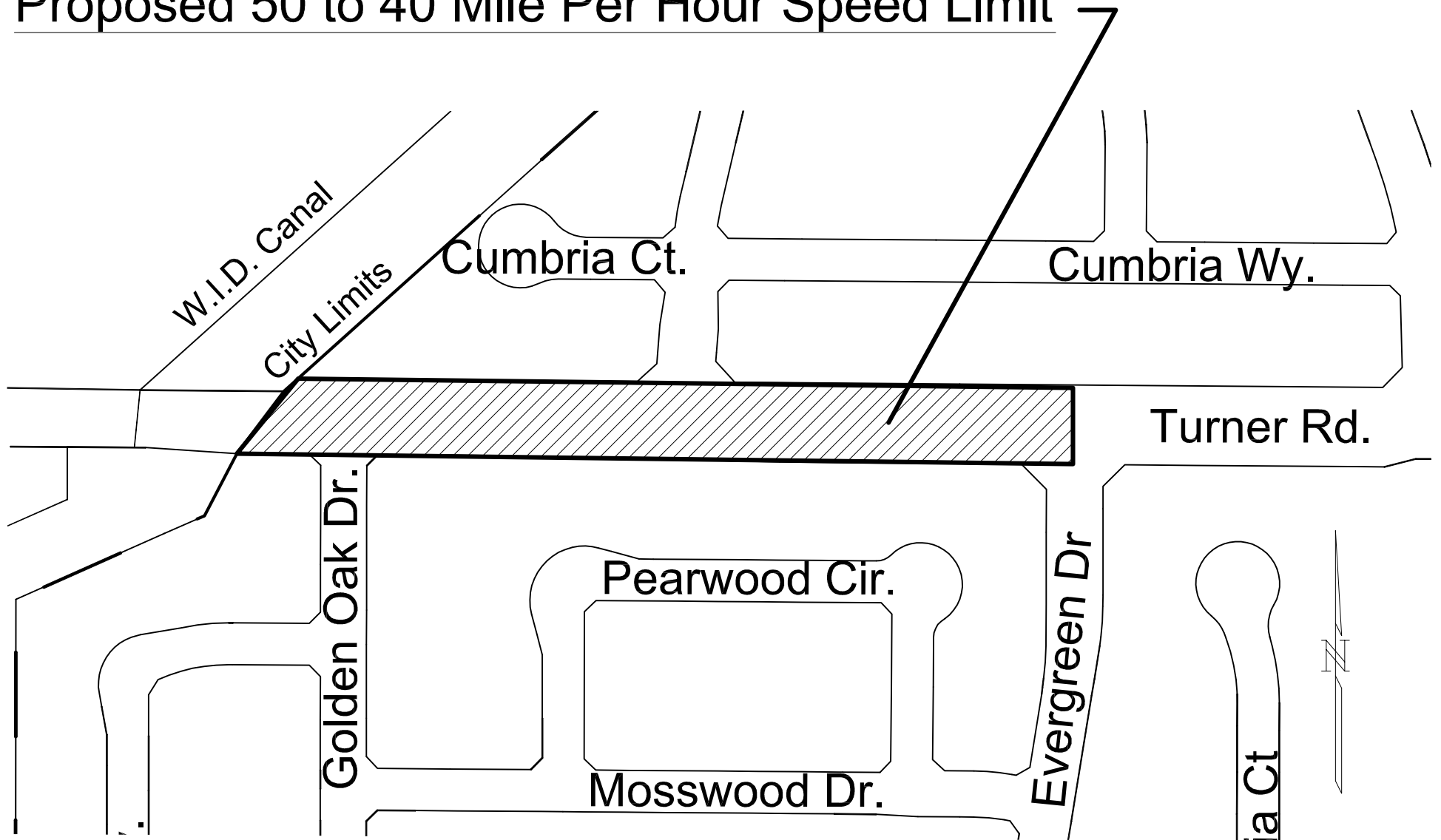


CITY OF LODI

PUBLIC WORKS DEPARTMENT

Turner Road
West City Limit to Evergreen Drive
Proposed 50 to 40 Mile Per Hour Speed Limit

Proposed 50 to 40 Mile Per Hour Speed Limit



RESOLUTION NO. 2008-_____

A RESOLUTION OF THE LODI CITY COUNCIL
AMENDING TRAFFIC RESOLUTION NO. 97-148
BY REDUCING SPEED LIMIT ON TURNER ROAD
BETWEEN WEST CITY LIMITS AND EVERGREEN
DRIVE FROM 50 MILES PER HOUR TO 40 MILES
PER HOUR

=====

WHEREAS, staff has recently updated Engineering and Traffic Surveys on Turner Road; and

WHEREAS, staff recommends the speed limit be reduced from 50 miles per hour to 40 miles per hour between the west City limits and Evergreen Drive.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the speed limit reduction from 50 miles per hour to 40 miles per hour on Turner Road between the west City limits and Evergreen Drive; and

BE IT FURTHER RESOLVED that the City of Lodi Traffic Resolution No. 97-148, Section 7, "Speed Limits," is hereby amended by reducing the speed limit on Turner Road between the west City limits and Evergreen Drive from 50 miles per hour to 40 miles per hour.

Dated: August 20, 2008

=====

I hereby certify that Resolution No. 2008-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 20, 2008, by the following vote:

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

RANDI JOHL
City Clerk

2008-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Amending the Bylaws for the Lodi Improvement Committee to allow for a change in their meeting day and when they elect Officers each year.

MEETING DATE: August 20, 2008

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Adopt a Resolution amending the Bylaws for the Lodi Improvement Committee (LIC) to allow for a change in their meeting day and when they elect Officers each year.

BACKGROUND INFORMATION: The Lodi Improvement Committee wishes to change its meeting day to the second Tuesday of each month. It also wants to change the month in which it selects officers each year. Those dates are specified within the By-Laws for the LIC and therefore require Council action to approve.

Article VII – Section 2 of the By-Laws specifies that regular meetings will be on the first Tuesday of each month. In order to be able to hold its regular meetings within the Carnegie Forum, the LIC did choose to move its regular meeting date to the second Tuesday of each month and did approve an amendment of the Bylaws accordingly to read, “Regular meetings of the Board shall be held once a month, on the second Tuesday of each month, at a location to be determined by the Board and opened to the public.”

Article IV – Section 1, of the By-Laws specifies that, “New officers shall be elected by the Board annually at the first meeting in March.” This usually creates a conflict with the appointment/re-appointment of members to the LIC which is done through the Lodi City Council. Those appointments are usually done at either the first or second Council meeting in March, which is usually after the LIC’s regular meeting. In order to allow for the election of officers to occur after the appointments/re-appointments have been made, the LIC has chosen to amend the language within the By-Laws to read, “New officers shall be elected by the Board annually at the first meeting in April.”

The Lodi Improvement Committee reviewed and approved these revisions unanimously at special meetings held on July 8, 2008 and August 12, 2008. The Lodi Improvement Committee is requesting that the City Council approve the proposed By-Law amendments, attached as Exhibit A.

APPROVED: _____
Blair King, City Manager

FISCAL IMPACT: None

FUNDING AVAILABLE: N/A

Joseph Wood
Co-Interim Community Development Director

Attachment (1)

RESOLUTION NO. 2008-_____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING AMENDMENTS TO THE BYLAWS FOR
THE LODI IMPROVEMENT COMMITTEE

=====

WHEREAS, the members of the Lodi Improvement Committee (LIC) wish to change the language in the By-laws pertaining to the day in which their meetings are held and the month in which they elect officers; and

WHEREAS, at Special Meetings held on July 8, 2008 and August 12, 2008, the LIC voted and approved said amendments to the By-laws and hereby respectfully submits the amended By-laws to the Lodi City Council for its review and approval.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the amendments to the bylaws for LIC, changing language pertaining to the day in which meetings are held and the month in which officers are elected each year, as shown on Exhibit A attached and made a part of this Resolution.

Dated: August 20, 2008

=====

I hereby certify that Resolution No. 2008-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 20, 2008, by the following vote:

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

RANDI JOHL
City Clerk

2008-_____

BYLAWS OF

THE LODI IMPROVEMENT COMMITTEE

ARTICLE I

ORGANIZATION

SECTION 1.

Under the auspices of the City of Lodi, there is hereby created the Lodi Improvement Committee.

ARTICLE II

PURPOSES

SECTION 1. GENERAL PURPOSE

The Lodi Improvement Committee is organized and created for the purposes of maintaining and improving the quality of life and appearance of Lodi by the coordinated efforts of a broad spectrum of the community.

SECTION 2. SPECIFIC GOALS/PURPOSES

- A) To combat illegal drugs, prostitution, and other crimes by such measures as cooperation with or establishment of groups such as Crime Stoppers and Neighborhood Watch.
- B) To eliminate blight and encourage the maintenance, improvement, or rehabilitation of properties throughout Lodi, with the cooperation of residents, property owners, business, and government.
- C) To act as an advocate for residents in issues dealing with the upgrade, improvement and maintenance of all infrastructure, including streets, alleys, water, sewer and storm drainage systems.
- D) To encourage compliance with building, housing, fire, and other health and safety laws, and local property maintenance ordinances by property owners, residents, and businesses.

- E) To coordinate with churches, civic and community groups, and other community based organizations to educate and inform the public on ways of achieving these goals, and to keep the public informed of the efforts.
- F) To work with business community to encourage a healthy business climate.
- G) Provide acknowledgement to properties and businesses throughout the City that show marked improvements in service and appearance that contributes to the image and quality of the community.

ARTICLE III

MEMBERSHIP

SECTION 1. GENERAL MEMBERSHIP

General membership shall be open to all persons.

SECTION 2. BOARD OF DIRECTORS

Effective April 1, 1994, the fifteen (15) person Board of Directors established by City Council action on March 17, 1993 shall, by attrition, be reduced to a nine (9) member board. Such attrition shall occur by resignation or removal of directors currently serving. During the transition, a quorum of the Board for voting or meeting purposes shall consist of fifty percent (50%) plus one of all directors then serving on the Board. After transition is complete, directors shall continue to serve three year staggered terms, based on their original date of appointment.

SECTION 3. SUBCOMMITTEES

There may be as many subcommittees as deemed necessary by the Board to accomplish any specific goal to be achieved by the Improvement Committee.

ARTICLE IV

OFFICERS

SECTION 1. EXECUTIVE OFFICERS

The Executive Officers shall consist of a Chairperson, Vice-Chairperson, and Treasurer. New officers shall be elected by the Board annually at the first meeting in ~~March~~ April.

SECTION 2.

The Chairperson or Vice Chairperson shall serve as spokesperson for the Lodi Improvement Committee and liaison with the Lodi City Council.

SECTION 3.

Any Executive Officer or Board of Directors member who misses three (3) unexcused meetings within a one year period without the consent of one of the Executive Board Members shall be deemed to have vacated the office.

ARTICLE V

FINANCIAL MATTERS

SECTION 1. REVENUES

All revenues of the Lodi Improvement Committee shall be administered through a bank account, to be monitored by the City of Lodi and into which all donations, gifts, or other revenues raised by the Lodi Improvement Committee shall be placed. All expenditures must be approved by a majority vote of the Board, subject to City Council overview and signed by Treasurer and one Executive Officer.

SECTION 2. AUDITING

The fund account for the Lodi Improvement Committee shall be audited as part of the City's regular annual audit and quarterly expenditures reports will be submitted by the Treasurer to the Finance Department of the City of Lodi.

ARTICLE VI

TERM OF EXISTENCE/DISSOLUTION

SECTION 1. CONTINUOUS OPERATION

The Lodi Improvement Committee shall continue and be permanent until dissolved by action of the City Council or the Improvement Committee Board of Directors.

ARTICLE VII

BOARD PROCEDURES

SECTION 1. PROCEDURES

After the transition described in Article III, Section 2 above is complete, five Board Members shall constitute a quorum and may conduct business at any regular meeting. A majority of those present may act by affirmative vote. No proxy voting is allowed.

SECTION 2. MEETING

Regular meetings of the Board shall be held once a month, on the ~~first~~ second Tuesday of each month, at a location to be determined by the Board and opened to the public. Special meetings shall be held as necessary. All meetings shall be subject to the provisions of the Ralph M. Brown Act (Gov. Code §54950 et. Seq.),

SECTION 3. COMMUNICATIONS

All external communications to the public or media shall be through or authorized by the Chairperson, or in his/her absence, by the Vice-Chairperson or a designated Board Member.

ARTICLE VIII

AMENDMENTS

SECTION 1.

These Bylaws shall constitute the empowering documents for the Lodi Improvement Committee and may be revised by the City Council or a majority vote of the Board of Directors, at a regular meeting previously announced for the purpose, subject to ratification by the Lodi City Council.

ADOPTED BY CITY COUNCIL VOTE ON _____, RATIFIED BY MAJORITY VOTE OF THE LODI IMPROVEMENT COMMITTEE ON JULY 8, 2008 AND AUGUST 12, 2008.

CHAIRPERSON

APPROVED AS TO FORM

D. STEPHEN SCHWABAUER
CITY ATTORNEY



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving Interim Community Development Director Employment Agreement with Konradt Bartlam

MEETING DATE: August 20, 2008

PREPARED BY: City Manager

RECOMMENDED ACTION: Adopt resolution approving Interim Community Development Director employment agreement with Konradt Bartlam.

BACKGROUND INFORMATION: The City Manager has selected Konradt Bartlam to serve as the Interim Community Development Director while a new Community Development Director is being recruited. The contract will commence August 25, 2008, and will continue until a Community Development Director has been appointed.

Attached is the proposed agreement. It calls for a minimum of 24 hours per week (Tuesday through Thursday) payable at \$80 per hour paid bi-weekly. This reflects base salary plus all benefits as part of the individual contract; no City benefits will be provided.

It should be noted that this contract is separate from the contract with Mr. Bartlam for General Plan management services and that said contract shall remain in place.

FISCAL IMPACT: The financial terms will allow an experienced Community Development Director, who is familiar with the Lodi organization and community, to serve in an interim capacity until such time that the position can be filled permanently.

FUNDING AVAILABLE: Position is currently funded in the 2008-09 budget.

Kirk Evans, Budget Manager

Blair King
City Manager

BK/JMP
Attachments

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2008-____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING
THE INTERIM COMMUNITY DEVELOPMENT DIRECTOR
EMPLOYMENT AGREEMENT WITH KONRADT BARTLAM

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the Interim Community Development Director Employment Agreement with Konradt Bartlam, as shown on Exhibit A attached hereto; and

Dated: August 20, 2008

=====

I hereby certify that Resolution No. 2008-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 20, 2008, by the following vote:

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

RANDI JOHL
City Clerk

2008-____

CONSULTANT CONTRACT

EXHIBIT A

This Agreement is made and entered into as of August 20, 2008, by and between the City of Lodi, a municipal corporation, hereinafter called "City" and Konradt Bartlam, hereinafter called "Consultant," both of whom agree as follows:

RECITALS:

It is the desire of the City to retain the services of Consultant on an interim basis to perform the functions of the Community Development Director.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. GENERAL:

City hereby agrees to contract with Consultant to perform the functions of the Interim Community Development Director of the City starting August 25, 2008 and Consultant agrees to perform the functions and duties the City Manager shall from time to time assign to him.

2. HOURS OF WORK:

The Consultant has discretion as to his work schedule but must devote an average minimum of 24 hours per week to the job and will typically have office hours on Tuesday through Thursday.

3. COMPENSATION:

City agrees to provide the following compensation to Consultant during the term of the Agreement:

- (a) Consultant shall be paid a salary of \$80.00 per hour biweekly.
- (b) Because Consultant is an independent contractor, consultant shall be responsible for all employer costs required by law, including but not limited to: Social Security, FICA, Medicare, Unemployment Compensation, and workers compensation.

4. BENEFITS:

As an independent contractor, Consultant shall not be entitled to any benefits set forth in the Executive Management Statement of Benefits including but not limited to PERS retirement, sick leave, vacation, administrative leave, health insurance, deferred compensation, or life insurance.

5. TERMINATION:

- (a) Termination by Consultant - In the event Consultant terminates this contract with City, he shall give City at least twenty-one (21) days advance written notice and shall be entitled to all earned compensation.

- (b) Termination by City – The City Manager may terminate this Agreement at any time, with or without cause. Twenty-four hours Notice of Termination shall be provided to Consultant in writing. Moreover, this agreement shall automatically terminate upon the hiring of a permanent Community Development Director.

6. MODIFICATIONS:

No modification of this agreement shall be valid unless said modification is in writing and signed by both parties.

7. CONFLICT OF INTEREST:

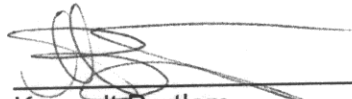
Consultant shall also be subject to the conflict of interest provisions of the California Government Code and any conflict of interest code applicable to his City consultancy. Consultant is responsible for submitting to the City Clerk the appropriate Conflict of Interest Statements at the time of appointment, annually thereafter, and at the time of separation from the position.

IN WITNESS WHEREOF, the City Manager of the City of Lodi has signed this Agreement and Consultant has signed and executed this Agreement as of the day and year first above written.

CITY OF LODI, a municipal corporation:

CONSULTANT:

By: _____
Blair King
City Manager



Konradt Bartlam

Attest:

Randi Johl
City Clerk

Approved as to Form:

D. Stephen Schwabauer
City Attorney



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Set a Public Hearing for September 3, 2008, to consider uses of the 2008 Mid-Year Allocation of Community Development Block Grant (CDBG) Program Funds and the reallocation of available funds from previous program years.

MEETING DATE: August 20, 2008

PREPARED BY: Community Development Department

RECOMMENDED ACTION: That the City Council set a public hearing for September 3, 2008, to consider and approve community input and proposals for potential uses of the 2008 Mid-Year allocation of CDBG Program funds and the reallocation of available funds from previous program years.

BACKGROUND INFORMATION: Beginning with the annual allocation process of CDBG funds for 2008/09 Program year, the City implemented a Council policy of designating 60% of the CDBG funds for City projects and services, and the remaining 40% to Community-Based Organization (CBO) projects and services.

The 40-percent set-aside amounts to \$250,000. Staff was able to recommend only \$103,000 of the funding requests for approval, leaving a remainder of \$147,000 for CBO's. The City received more than \$800,000 in funding requests from CBO's. Rather than move the unallocated funds to eligible City projects and services, the City requested and received authorization from San Joaquin County (which serves as Lodi's Housing and Urban Development Department administrator) to designate those funds for a Mid-Year Allocation process. This would allow Staff to work with some of the CBO applicants to refine their projects and/or applications to be eligible for a September reallocation of funds.

A portion of those funds has already been allocated by Council to the Lodi Police Department – Animal Services Division to fund a spay/neuter program. In addition to the 2008 CDBG funding that has been set aside for this mid-year reallocation, Staff has identified additional funding from previous program years that has not been used and needs to be reallocated.

Staff is continuing to evaluate proposals and current needs and is working toward making a final recommendation to the City Manager before the public hearing.

FISCAL IMPACT: N/A

FUNDING AVAILABLE: 2008/09 CDBG Program

Joseph Wood
Co-Interim Community Development Director

APPROVED: _____
Blair King, City Manager



**CITY OF LODI
COUNCIL COMMUNICATION**

TM

AGENDA TITLE: Set Public Hearing for September 3, 2008, to Consider Resolution Setting Fee for Storm Drainage Development Standard Plans Compliance Inspection for Post Construction Best Management Practices as Required in the Standards

MEETING DATE: August 20, 2008

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Set a public hearing for September 3, 2008, to consider a resolution setting the fee for Storm Drainage Development Standard Plans compliance inspection for post construction Best Management Practices as required in the Standards.

BACKGROUND INFORMATION: The State Water Resources Control Board issued the City of Lodi Permit WDID No. 5B39NP00028 (Permit) that governs the discharge of storm water runoff. A condition of that permit requires the adoption of a Stormwater Development Standards Plan (Standards) per Attachment No. 4 of the State’s General Discharge Permit. These Standards were adopted by Council at the August 6, 2008 meeting.

The Permit requires inspections of the Best Management Practices (BMPs) required by the Standards during construction and annually thereafter to confirm they are being correctly maintained and operated. The construction inspection fee was adopted by City Council on April 18, 2007 and is currently \$122 per site per visit. The proposed post-construction fee is \$122 per site per year, assuming a single visit is required. The property owner would be billed after each inspection. Should a site require multiple inspections, that expense would also be billed.

The Standards also apply to subdivisions of ten lots or greater, in which case, community-serving BMPs may be required. Although the construction cost for the BMPs would be borne by the developer, the costs for the annual inspections would belong to the City. Alternatives for funding this class of inspections include Community Facilities Districts for Public Services, Homeowner Associations, and Lighting and Landscape Maintenance Districts. Policy direction on this class of BMPs will be brought to the City Council on a case-by-case basis.

The fee will become effective 30 days after the date of adoption of the resolution and would be annually adjusted on July 1, using the Consumer Price Index (San Francisco, Urban, unadjusted).

Staff requests the City Council set a public hearing for September 3, 2008, to consider a resolution establishing the fee for the Storm Drainage Development Standard Plans compliance inspection for post construction Best Management Practices as required in the Standards.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

F. Wally Sandelin
Public Works Director

Prepared by George M. Bradley, Streets & Drainage Manager
FWS/GMB/dsg

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Set Public Hearing for September 3, 2008 to consider a General Plan Amendment for Reynolds Ranch

MEETING DATE: August 20, 2008

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Set Public Hearing for September 3, 2008 to consider a General Plan Amendment for Reynolds Ranch

BACKGROUND INFORMATION: San Joaquin Partners, the developers of Reynolds Ranch, have requested a General Plan amendment for Reynolds Ranch. Proposed modifications include increasing the territory available for senior assisted living and senior residences; and increasing the retail commercial territory in response to market demand.

The Planning Commission is scheduled to consider the General Plan amendment and provide its recommendation to the City Council on August 27th. In the event the Planning Commission does not make a recommendation, the Public Hearing will be rescheduled.

FISCAL IMPACT: N/A

FUNDING AVAILABLE: N/A

Peter Pirnejad
Co-Interim Community Development Director

APPROVED: _____
Blair King, 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

AGENDA TITLE: Introduce Ordinance Amending Lodi Municipal Code Chapter 9.18 “Vending on Streets, Sidewalks and Private Property”, Section 9.18.050-A-1. Relating to Location; and Repealing and Reenacting Section 9.18.110 in its entirety relating to Sanitation.

MEETING DATE: August 20, 2008

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Introduce Ordinance amending Lodi Municipal Code Chapter 9.18 “Vending on Streets, Sidewalks and Private Property”, Section 9.18.050-A-1 relating to location; and repealing and reenacting Section 9.18.110 in its entirety relating to sanitation.

BACKGROUND INFORMATION: In July of 2007, the City Council approved a new set of comprehensive regulations covering the vending of produce and prepared or prepackaged foods, goods, wares, and/or services on public streets, sidewalks or alleys and on private property.

Those regulations, covered under a revised Chapter 9.18 of the Lodi Municipal Code, more commonly referred to as the “Vending Ordinance”, cover all facets of vending activities from the lunch wagons that operate either from a fixed location or an established route, to push cart and motorized ice cream and food vendors, and to the itinerant merchants who sell a variety of flags, statues, flowers and other wares during weekends and around holidays.

On July 16, 2008, the Vending Ordinance was brought back before the City Council for review. At that meeting, Staff recommended that the City Council consider revising the regulation that pertains to vendors operation around City parks. Vendors operating from the street or sidewalk are currently restricted from operating “within three hundred feet of any school grounds, park, playground, or city operated recreation center”. This language was taken from the regulations of another jurisdiction and it applies mainly to ice cream trucks and push cart vendors. Staff felt that it may be reasonable to allow vendors around City parks, considering that the regulations pertaining to proximity to other vendors and the requirement to move every ten minutes still would provide adequate protection from over-concentration of vendors in one park and would prevent them from lingering too long in one location, thereby maintaining a decent park atmosphere for families.

The City Council did provide direction to amend that language, with an additional condition that would prohibit vendors from operating near those parks where City-authorized food concessions were in operation. Subsequent to that Council meeting, Staff also received comment from the Parks Superintendent stating that he would prefer that vendors only be allowed to operate from the

APPROVED: _____
Blair King, City Manager

street/sidewalk around the parks and not from the park interiors. The attached proposed Ordinance language incorporates those conditions.

While not mentioned at the July 16th meeting, Staff has noted an erroneous reference to the State Health and Safety Code within one portion of the Vending Ordinance that does need to be corrected. Section 9.18.110 (C) states that, "*A motorized food wagon or conveyance shall comply with California Health and Safety Code Section 114299.5 regarding the availability of adequate toilet facilities for use by food service personnel.*" The reference to the Health and Safety Code should be to Section 114315. The attached proposed Ordinance language incorporates that correction.

FISCAL IMPACT: No fiscal impact.

FUNDING AVAILABLE: N/A

Joseph Wood, Interim Co-Director
Community Development Department

Attachment

cc:

Attachment "A"

9.18.050 Location.

A. A vendor may locate and operate in the public right-of-way subject to the following conditions:

1. A vendor shall not operate within three hundred feet of; ~~any school grounds, park, playground, or city operated recreation center.~~

a.) school grounds; or

b.) a park, playground, or city operated recreation center where a City-authorized food concession exists. Where permissible, vendor operations at City parks shall be restricted to the streets and sidewalks around the perimeter of the parks.

9.18.110 Sanitation.

A. All motorized food wagons or conveyances shall operate out of a commissary pursuant to California Health and Safety Code Section 114287.

B. All motorized food wagons or conveyances shall be equipped with refuse containers large enough to contain all refuse generated by the operation of such a vehicle, and the vendor of the motorized food wagon or conveyance shall pick up all refuse generated by such operation within a twenty-five foot radius of the vehicle before such vehicle is moved. No vendor shall dispose of any trash or refuse in any such public or private trash receptacle other than a trash receptacle owned, operated, or otherwise provided by and under the control of such vendor.

C. A motorized food wagon or conveyance shall comply with California Health and Safety Code Section ~~114299.5~~ 114315 regarding the availability of adequate toilet facilities for use by food service personnel.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI AMENDING LODI MUNICIPAL CODE CHAPTER 9.18 "VENDING ON STREETS, SIDEWALKS AND PRIVATE PROPERTY" SECTION 9.18.050-A.-1. RELATING TO VENDING LOCATION; AND REPEALING AND REENACTING SECTION 9.18.110 IN ITS ENTIRETY RELATING TO SANITATION

=====

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

SECTION 1. Lodi Municipal Code Section 9.18.050-A.-1. "Location" – is hereby amended to read as follows:

9.18.050 Location.

- A. A vendor may locate and operate in the public right-of-way subject to the following conditions:
 - 1. A vendor shall not operate within three hundred feet of:
 - a.) school grounds; or
 - b.) a park, playground, or city operated recreation center where a City-authorized food concession exists. Where permissible, vendor operations at City parks shall be restricted to the streets and sidewalks around the perimeter of the parks.

SECTION 2. Lodi Municipal Code Section 9.18.110 "Sanitation" – is hereby repealed and reenacted to read as follows:

9.18.110 Sanitation.

- A. All motorized food wagons or conveyances shall operate out of a commissary pursuant to California Health and Safety Code Section 114287.
- B. All motorized food wagons or conveyances shall be equipped with refuse containers large enough to contain all refuse generated by the operation of such a vehicle, and the vendor of the motorized food wagon or conveyance shall pick up all refuse generated by such operation within a twenty-five foot radius of the vehicle before such vehicle is moved. No vendor shall dispose of any trash or refuse in any such public or private trash receptacle other than a trash receptacle owned, operated, or otherwise provided by and under the control of such vendor.
- C. A motorized food wagon or conveyance shall comply with California Health and Safety Code §114315 regarding the availability of adequate toilet facilities for use by food service personnel.

SECTION 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 4. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 5. 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 6. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall take effect thirty (30) days from and after its passage and approval.

Approved this ____ day of _____, 2008

JOANNE MOUNCE
Mayor

Attest:

RANDI JOHL
City Clerk

=====
State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held August 20, 2008, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2008, by the following vote:

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

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

RANDI JOHL, City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Introduce Ordinance Amending Lodi Municipal Code Chapter 17.81 entitled “Site Plan and Architectural Approval”, specifically by Repealing and Reenacting Sections 17.81.060 pertaining to “Committee Actions” and Section 17.81.070 pertaining to “Appeals from the Committee”.

MEETING DATE: August 20, 2008

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Introduce Ordinance Amending Lodi Municipal Code Chapter 17.81 entitled “Site Plan and Architectural Approval”, specifically by Repealing and Reenacting Sections 17.81.060 pertaining to “Committee Actions” and Section 17.81.070 pertaining to “Appeals from the Committee”.

BACKGROUND INFORMATION: The Lodi Municipal Code (LMC) Chapter 17.81 establishes the requirement for certain categories of building projects to undergo a formal site plan and architectural review by the City. The LMC establishes the Site Plan and Architectural Review Committee (SPARC) as the body that will conduct the required site plan and architectural review. The Planning Commission has recommended that the LMC be amended to permit a change in the way design reviews are conducted.

Currently, the Site Plan and Architectural Review Committee has the responsibility to review all projects that are required to undergo a formal design review process. In recent years, there has been some discussion regarding whether there might be a better process for reviewing the site plan and architectural merits of these projects. The issue has surfaced largely as a result of isolated incidents when conflicting conditions were placed on projects reviewed by both the Planning Commission and SPARC. This situation can result when a project is reviewed by the Planning Commission for a Use Permit or other discretionary approval and the project is approved with a set of PC conditions. SPARC then reviews the project, and based on their review, establishes an additional set of conditions that may in some way conflict with the PC conditions. While conflicting conditions are an infrequent situation, the Planning Commission requested staff explore whether there might be a better process to review new building projects to avoid this situation.

The Planning Commission looked at several options to improve the review process. They ranged from eliminating SPARC to developing a new set of design guidelines for design review. Following these discussions, the Planning Commission recommended an option that will divide the duties of site plan and architectural review between the Planning Commission and SPARC. The PC would review the site and architectural design of all building projects that come before the PC for discretionary review, which could include use permits, variances and land use changes. The applicant would obtain both discretionary land use approval and also site plan and architectural review approval from the PC, and would be subject to a single set of design conditions. Projects that do not require discretionary approval would continue going to SPARC for site plan and architectural review and SPARC would develop the conditions of approval for the particular project.

APPROVED: _____
Blair King, City Manager

This process will streamline the design review process and provide the applicant with a consistent set of requirements and conditions as part of the design review process.

In order to implement the proposed changes, the Chapter of the Municipal Code regulating site plan and architectural review will need to be repealed and reenacted to clarify the new responsibilities of the Planning Commission and the Site Plan and Architectural Review Committee in the design review process. The proposed changes are reflected in Exhibit A.

Peter Pirnejad
Co-Interim Community Development Director

Attachment

1. Proposed Amended Ordinance

17.81.060 Site Plan and Architectural Review.

- A. If a project falls into one of the categories of projects listed in Section 17.81.030 and requires site plan and architectural review, the review of the proposed building project will be done in the following manner:
1. Planning staff shall review the Site Plan and Architectural Review application to determine if the project requires discretionary approval (use permit, variance, etc.) from the Planning Commission in addition to site plan and architectural review.
 2. If a project is determined to require a discretionary approval from the Planning Commission, the Planning Commission shall ~~also be the body that reviews and approves~~ the site plan and architectural design of the project.
 3. If a project falls into one of the categories listed in Section 17.81.030 but does not require a discretionary approval from the Planning Commission, ~~the required review and approval of the Site Plan and Architectural Review application submittal and plans shall be conducted by the Site Plan and Architectural Review Committee (SPARC)~~ SPARC shall review the site plan and architectural design of the project. The approval body, whether the Planning Commission or SPARC shall have the ~~function, duty and~~ power to approve or disapprove the application; or to approve the application subject to compliance with such modifications or conditions as it may deem necessary to carry out the purpose of ~~these regulations, the external design and site plan of all proposed new buildings or structures for which site plan and architectural approval are required. The approval body shall impose such conditions as are necessary to carry out policies adopted by ordinance or resolution of the City Council~~ the Lodi Municipal Code and all other applicable laws and regulations.
- B. Upon approval of submitted plans and after the expiration of the ten-day appeal period, the building inspector ~~can~~ may issue a building permit. ~~; provided that all other provisions of law have been complied with and except as otherwise herein provided for buildings requiring use permits or on items appealed to the Planning Commission and/or City Council.~~

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LODI AMENDING LODI MUNICIPAL CODE TITLE 17 - ZONING
– BY REPEALING AND REENACTING CHAPTER 17.81
RELATING TO SITE PLAN AND ARCHITECTURAL APPROVAL

=====

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

Section 1. Lodi Municipal Code Title 17 – Zoning is hereby amended by repealing and reenacting Chapter 17.81 – “Site Plan and Architectural Approval” and shall read as follows:

Chapter 17.81 SITE PLAN AND ARCHITECTURAL APPROVAL

- 17.81.010 Purpose.
- 17.81.020 Committee established.
- 17.81.030 Required.
- 17.81.040 Application.
- 17.81.050 Maps and drawings.
- 17.81.060 Committee action.
- 17.81.070 Appeal from committee.

17.81.010 Purpose.

The purpose of site plan and architectural review and approval is to ensure compliance with this title (i.e. zoning ordinance) and to promote the orderly development of the City; the stability of land values; investment and the general welfare; and to help prevent the impairment or depreciation of land values and development by the erection of structures, additions or alterations thereto without proper attention to good site planning and architectural appearance.

17.81.020 Committee established.

There is established a site plan and architectural review committee (SPARC) to assist the planning commission in reviewing site plans and architectural drawings. The membership of the committee shall consist of five members. Four of the members shall be appointed to four-year, overlapping terms by the Mayor with the approval of the City Council. The fifth member shall be a member of the Planning Commission and appointed by the Planning Commission to serve a one year term on the committee.

17.81.030 Required.

Site plan and architectural approval is required for the following uses:

- A. Residential building proposed to be erected in areas zoned R-GA, R-MD, R-HD, R-C-P, C-1 and C-2, except single-family dwellings, duplexes and triplexes.
- B. Commercial-professional offices and institutional buildings proposed to be erected in areas zoned R-C-P and C-1.
- C. Nonresidential buildings proposed to be erected in areas zoned C-1, C-2 and C-M.
- D. Nonresidential buildings proposed to be erected in areas zones M-1 and M-2 which abut upon areas zones R-1, R-2, R-GA, R-MD, R-HD, R-C-P, C-1 and C-2.

- E. Any use requiring a use permit (Ord. 1353 § 1, 1985: prior code § 27-18(c)); or when the Planning Commission or City Council requires a site plan and architectural review as a condition of a discretionary permit.

17.81.040 Application.

An application for site plan and architectural review shall be made by the property owner or agent on an application form provided by the City.

17.81.050 Maps and drawings.

The following maps and drawings, in duplicate, shall be submitted that show the following:

- A. A site plan of the proposed structures that compliment the neighborhood and preserve light and air on adjoining properties;
- B. Landscaping and/or fencing of yards and setback area, use of landscaping and/or wall or fencing for screening purposes;
- C. Design of ingress and egress;
- D. Off-street parking and loading facilities;
- E. Drawings or sketches of the exterior elevations;
- F. Designation of location of existing fire hydrants.

17.81.060 Site Plan and Architectural Review.

- A. If a project falls into one of the categories of projects listed in Section 17.81.030 and requires site plan and architectural review, the review of the proposed building project will be done in the following manner:
 - 1. Planning staff shall review the Site Plan and Architectural Review application to determine if the project requires discretionary approval (use permit, variance, etc.) from the Planning Commission in addition to site plan and architectural review.
 - 2. If a project is determined to require a discretionary approval from the Planning Commission, the Planning Commission shall review the site plan and architectural design of the project.
 - 3. If a project falls into one of the categories listed in Section 17.81.030 but does not require a discretionary approval from the Planning Commission, SPARC shall review the site plan and architectural design of the project. The approval body, whether the Planning Commission or SPARC shall have the power to approve or disapprove the application; or to approve the application subject to compliance with such modifications or conditions as it may deem necessary to carry out the purpose of the Lodi Municipal Code and all other applicable laws and regulations.
- B. Upon approval of submitted plans and after the expiration of the ten-day appeal period, the building inspector may issue a building permit.

17.81.070 Appeals.

Any actions of the Site Plan and Architectural Review Committee on matters referred to in this chapter may be appealed to the Planning Commission by filing, within ten business days, a written appeal to the Community Development Director. Any action of the Planning Commission on matters referred to in this chapter may be appealed to the City Council by filing, within ten business days, a written appeal to the City Clerk. The appeal shall be processed in accordance with Chapter 17.88, Appeals, of the Lodi Municipal Code.

Section 2 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. In the event that any portion of this Ordinance is determined to be invalid or illegal then the entire Ordinance will be repealed and reenacted back to its form prior to September 21, 2005.

Section 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 5. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this ____ day of _____, 2008

JOANNE MOUNCE
Mayor

Attest:

RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held August 20, 2008, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2008, by the following vote:

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

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

RANDI JOHL
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney



**CITY OF LODI
COUNCIL COMMUNICATION**

TM

AGENDA TITLE: Approval of Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$96,039.00).

MEETING DATE: August 20, 2008 City Council Meeting

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: That the City Council approve for payment expenses incurred by outside Counsel/Consultants related to the Environmental Abatement litigation in the total amount of \$96,039.00.

BACKGROUND INFORMATION: Listed below are invoices from the City's outside counsel, Folger, Levin & Kahn; and various consultants for services incurred relative to the Environmental Abatement Program litigation that are currently outstanding and need to be considered for payment.

Folger Levin & Kahn - Invoices Distribution

| Matter No. | Invoice No. | Date | Description | Water Acct. |
|--------------|-------------|----------|----------------------------------|--------------------|
| 8002 | 109923 | 04/30/08 | People v. M & P Investments | 16,668.74 |
| | 133972 | 05/31/08 | Hemming Morse re: Col v. Donovan | 3,271.75 |
| | 134124 | 06/30/08 | Hemming Morse re: Col v. Donovan | 3,615.50 |
| 8008 | 109960 | 07/31/08 | City of Lodi v. Envision | 68,665.23 |
| Total | | | | \$92,221.22 |

MISCELLANEOUS

| Invoice No. | Date | Description | Water Account |
|-------------|-----------|-------------------------------------|-------------------|
| 888701 | 5/1/2008 | Harry A. Cannon re: City v. Donovan | 1,238.64 |
| 892701 | 7/22/2008 | Harry A. Cannon re: City v. Donovan | 1,125.85 |
| 892902 | 7/14/2008 | Harry A. Cannon re: City v. Donovan | 341.96 |
| 893101 | 7/15/2008 | Harry A. Cannon re: City v. Donovan | 1,111.33 |
| | | | \$3,817.78 |

FISCAL IMPACT: All expenses will be paid out of the Water Fund.

FUNDING AVAILABLE: 184010.7323 - \$96,039.00

Approved: _____
Kirk Evans, Budget Manager

D. Stephen Schwabauer, City Attorney

APPROVED: _____
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Ordinance No. 1815 Entitled, “An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Chapter 13.16 – Solid Waste – by Repealing and Reenacting Section 13.16.010, ‘Definitions’”

MEETING DATE: August 20, 2008

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1815.

BACKGROUND INFORMATION: Ordinance No. 1815 entitled, “An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Chapter 13.16 – Solid Waste – by Repealing and Reenacting Section 13.16.010, ‘Definitions,’” was introduced at the regular City Council meeting of August 6, 2008.

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/jmp
Attachment

APPROVED: _____
Blair King, City Manager

ORDINANCE NO. 1815

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF LODI AMENDING LODI MUNICIPAL CODE
CHAPTER 13.16 – SOLID WASTE – BY REPEALING
AND REENACTING SECTION 13.16.010, “DEFINITIONS”

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

Section 1. Lodi Municipal Code Chapter 13.16 – Solid Waste – is hereby amended by repealing and reenacting Section 13.16.010, “Definitions,” and shall read as follows:

13.16.010 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, the following definitions apply:

- A. “Collection” means the act of collecting refuse at the place of waste generation by an approved collection agent (public or private) and is distinguished from “removal.”
- B. “Collection vehicle or equipment” means and includes any vehicle or equipment used in the collection of residential refuse or commercial or industrial solid wastes.
- C. “Commercial customers” means all commercial (non-manufacturing) enterprises within the city limits except industrial customers.
- D. “Construction/Demolition waste” means used or discarded materials generated within the city limits during the construction, remodeling, renovation, or demolition on residential and commercial buildings and any other structure or pavement.
- E. “Container service” means the type of refuse removal consisting of containers ranging from one cubic yard to fifty cubic yards, typically for large volume refuse generators.
- F. “Contract” means the written agreement covering the performance of the work, including, but not limited to, the formal agreement, and special provisions, affidavits and certificates of equal opportunity employment, certificate of worker’s compensation insurance, the proposal, contract specifications, and performance bond.
- G. “Contractor” means the individual, partnership, corporation, joint venture or other legal entity entering into a contract with the city to perform the work. When modified by the phrase “as constituted,” it means the partnership, corporation, or other legal entity as organized and existing, with the same majority shareholders, as determined at the time of the execution of a contract between the contractor and the city.
- H. “Disposal site” means and includes the place, location, tract of land, area, or premises in use, intended to be used, or which has been used for the landfill disposal of solid wastes.

- I. "Garden (green) waste" means refuse consisting of grass, leaves, wood chips, green plants, weeds, tree branches, and garden trimmings.
- J. "Industrial customer" means all manufacturing enterprises who generate industrial waste within the city limits except commercial customers. The city manager or other designee shall determine whether a customer is "industrial" or "commercial."
- K. "Industrial waste" means solid waste originating from manufacturing facilities and factories within the city limits including construction and demolition projects. Industrial waste also means solid waste produced by any person, firm, or corporation primarily engaged in the business of processing and manufacturing for the purpose of wholesale.
- L. "Multi-cart service" means the type of refuse removal designed for source separating into three carts. One cart for non-recyclable materials and non-green waste, one cart for recyclable materials, and one cart for green waste. This type of service is generally for lower volume refuse generators with carts of less than one hundred gallons.
- M. "Recycling" means the process by which salvaged materials become usable products.
- N. "Refuse" means any and all discarded items and substances of every kind, including salvageable or recyclable materials, and garden (green) wastes, but not including sewage, septic tank contents, infectious wastes, or hazardous wastes as defined by state and/or federal law.
- O. "Removal" means the act of taking solid wastes from the place of waste generation either by an approved collection agent or by a person in control of the premises.
- P. "Residential customer" means all residences within the city limits, including single-family and multi-family dwellings.
- Q. "Subcontractor" means the individual, partnership, or corporation or other legal entity entering into a contract with the contractor to perform a portion of the work.
- R. "Transfer station/resource recovery facility" means and includes those facilities utilized to receive solid wastes, temporarily store, separate, convert or otherwise process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport to their final place of disposition.

Section 2 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. In the event that any portion of this Ordinance is determined to be invalid or illegal then the entire Ordinance will be repealed and reenacted back to its form prior to September 21, 2005.

Section 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 5. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this 20th day of August, 2008

Attest:

JOANNE MOUNCE
Mayor

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. 1815 was introduced at a regular meeting of the City Council of the City of Lodi held August 6, 2008, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held August 20, 2008, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1815 was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney