

CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Agreement for the Provision of Engineering and Construction Services

MEETING DATE: March 4, 1998

SUBMITTED BY: Electric Utility Director

RECOMMENDED ACTION: That the City Council adopt the attached resolution authorizing the City Manager to enter into a contract for the Electric Utility Department to provide engineering and construction services to Woodbridge Irrigation District.

BACKGROUND: The City Council was briefed at their January 13, 1998 Shirtsleeve Session on the status of Woodbridge Irrigation District's efforts to become an electric power provider. At that time it was reported that Electric Utility Department staff had been providing professional assistance in examining the feasibility of this endeavor. The Council was clear in its direction that the Electric Utility Department should aggressively pursue wholesale sales opportunities and regional economic benefits. The proposed Agreement with Woodbridge Irrigation District provides Lodi with an opportunity to market surplus wholesale generation and improves the Electric Utility's economy of scale with respect to provision of electric services.

Since the January 13, 1998 meeting, Woodbridge has taken several steps to prepare to serve Sebastiani Wineries and is now ready to begin construction of a 12kV line to provide service to Sebastiani facilities in the Woodbridge area. The Electric Utility Department is requesting authorization to enter into a contract to act as Woodbridge's contractor for the construction of this line. The Electric Utility Department will provide labor and materials for construction of the line; Woodbridge Irrigation District will reimburse the Electric Utility Department over a period not to exceed eighty-four months. Interest will be paid by Woodbridge at a rate equal to that obtained by the Local Area Investment Fund. Sebastiani Wineries will become a customer of Woodbridge Irrigation District; the Electric Utility Department is not proposing to provide retail services outside its current service area. Operation and maintenance services, interconnection rights, and access to market priced power will be negotiated in the future under separate agreement.

- A. Woodbridge Irrigation District has approved a Negative Declaration of Environmental Impact for the project to serve Sebastiani Wineries.
- B. Woodbridge Irrigation District has obtained the approval of the Local Area Formation Commission to serve the Sebastiani facility that is not currently within its legal borders.
- C. Woodbridge Irrigation District has applied for membership in the Northern California Joint Pole Association.
- D. The Board of Directors of the Woodbridge Irrigation District is scheduled to consider this contract at their March 10, 1998 meeting.
- E. The contracting of services between the Electric Utility Department and the Woodbridge Irrigation District would result in the optimal allocation of personnel resources and improved economies of scale with respect to the provision of electric service.

Approved _____


H. Dixon Flynn
City Manager

- F. The availability of low cost power and improved reliability of distribution service in the Woodbridge area bordering the City of Lodi would be a benefit to the area's economy.
- G. Woodbridge Irrigation District would become a potential new wholesale customer for surplus Lodi electric power, achieving the Council's stated goal.

City staff has been meeting with PG&E's engineering staff with respect to design aspects of the proposed project.

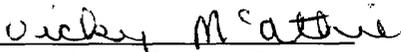
FUNDING: Electric Utility Department Operating Fund
Initial Cost: \$311,000. These costs will be repaid with interest by the Woodbridge Irrigation District.

Prepared by: Nancy Bougher, Senior Electric Utility Rate Analyst



Alan N. Vallow
Electric Utility Director

Funding Approval:



Vicky McAthie, Finance Director

ANV/NB/lst

c: City Attorney

Approved

H. Dixon Flynn
City Manager

AGREEMENT FOR THE PROVISION OF ENGINEERING AND CONSTRUCTION SERVICES

This Agreement is entered into by Woodbridge Irrigation District, a California irrigation district (Woodbridge) and the City of Lodi, a California municipal corporation (Lodi). The purpose of this Agreement is to provide for the design and construction of distribution facilities by Lodi on behalf of Woodbridge to allow Woodbridge to provide electric distribution service to Sebastiani Wineries. The Project consists of the design and construction of a 12kV line interconnected with the Lodi Electric Utility at Sargent and Lower Sacramento Roads and serving Sebastiani Winery's Vengange and Nathanson Creek facilities in Woodbridge. Lodi will provide design, construction and related services necessary to ensure the timely completion of the Project. Woodbridge will compensate Lodi as outlined below.

PROJECT SERVICES

The Project entails the design and construction of an overhead 12kV distribution line to provide electric services to Sebastiani Wineries. The line will interconnect with the Lodi electric system at Sargent and Lower Sacramento Roads. The line will run along Sargent Road to Ray Road as joint pole use with existing Pacific Gas and Electric (PG&E) distribution facilities. The line will then continue northerly as underbuild on an existing PG&E 60kV wood pole transmission line to the Woodbridge Irrigation District canal (approximately one-half mile). At this point the line will divide. One branch will continue northerly crossing the Union Pacific Railroad line and along the easterly fence line of Sebastiani Vendange Winery to Turner Road, then westerly on Turner Road as joint pole use on existing PG&E distribution line to the service entrance pole (approximately 350 feet westerly) at Service A. The other branch will be underbuild on the existing 60kV PG&E transmission line westerly to the Sebastiani Nathanson Creek Winery (approximately one-half mile) and then northerly one span to the service entrance pole at Service B. The line will include a recloser and metering facilities at the point of interconnection with the City of Lodi system at Sargent Road west of Lodi Avenue. A capacitor bank (600kVar) will be installed on Sargent Road in the vicinity of DeVries Road. Primary metering facilities will be installed at service points A and B. The line will be connected to the customer's service entrance equipment at the existing riser and padmount disconnect switch at Sebastiani Vendange Winery and at the customer installed disconnect switch and recloser at Sebastiani Nathanson Creek Winery.

Lodi shall, on behalf of Woodbridge, (1) prepare all engineering and design documents and shall obtain all materials necessary for construction of the Project. At the completion of the Project Lodi shall also prepare and deliver to Woodbridge copies of all engineering

documents, drawings and specifications prepared by Lodi as part of the Project; (2) obtain necessary easements, encroachment permits and right-of-ways. Woodbridge shall provide their full cooperation in obtaining these easements; and (3) prepare and submit required documentation for review and approval by PG&E and the Northern California Joint Pole Association (NCJPA).

Woodbridge agrees: (1) To obtain membership in the Northern California Joint Pole Association by March 15, 1998. Woodbridge recognizes that failure to obtain membership by this date could result in significant delays in obtaining approvals necessary to commence construction. If Woodbridge is not able to obtain NCJPA membership by this date, Woodbridge will promptly notify Lodi of the delay and any projected date for obtaining membership. Woodbridge agrees to hold Lodi harmless for damages caused by delays in obtaining NCJPA membership. (2) Obtain final regulatory and legal approvals from the San Joaquin Local Area Formation Commission (LAFCO) prior to the scheduled start of construction, May 1, 1998. Woodbridge recognizes that failure to obtain final LAFCO approval by this date may result in delays in the agreed upon Project schedule. Woodbridge agrees to hold Lodi harmless for damages caused by delays in obtaining final LAFCO approval prior to start of construction. (3) Obtain final California Environmental Quality Act (CEQA) clearance for all activities related to the construction and operation of the Project.

PROJECT SCHEDULE

March 15, 1998	Engineering design work completed, sent to NCJPA/PG&E for review and approval
March 18, 1998	Material bids returned, evaluated, ready for Council. Council to award material bids.
April 15, 1998	Design review completed by PG&E
May 1, 1998	Begin Line Construction
June 1, 1998	Energize 12kV Line

COMPENSATION AND PAYMENT TERMS

Total compensation, excluding interest, for Project Services described in this Agreement shall be \$311,000. This shall include all design, construction and related services described in this Agreement. Woodbridge shall make monthly payments. Payments will be calculated at \$0.00526 multiplied by Woodbridge KWH usage as metered at the Lodi-

Woodbridge interconnection point. The actual portion of the payment applied to principal and interest shall be calculated monthly and interest shall be charged equal to the rate obtained by the Local Area Investment Fund on the first day of each billing period. Lodi shall issue an invoice by the fifteenth day of each month after completion of the Project based on usage for the previous calendar month. Invoices shall be payable within thirty (30) days after the invoice date. Payments will cease when the principal amount and all applicable interest has been paid in full. Any principal balance outstanding at the end of eighty-four (84) months shall be invoiced in full to Woodbridge and shall be due and payable within thirty (30) days after the invoice date. Woodbridge may elect at any time to prepay all or any portion of the principal balance.

LATE PAYMENTS

If Woodbridge objects to all or any portion of an invoice, Woodbridge shall notify Lodi within seven (7) calendar days of invoice date, identify cause of disagreement, and pay when due, that portion of the invoice not in dispute. All outstanding balances will accrue a finance charge of one and one-half percent (1.5%) per month for each month the invoice is outstanding.

ADDITIONAL SERVICES

Lodi agrees to provide to Woodbridge operations and maintenance services, interconnection rights and access to market priced power. Negotiations for these services shall commence immediately upon signing of this Agreement and shall be concluded at the earliest possible date. Payment for these services shall be separate from payment for the Services described in Project Services above.

STANDARD OF CARE

All design and construction work will be performed in accordance with the standards, regulations and procedures set forth in General Order #95 (G.O. 95) from the State of California Public Utilities Commission. The City of Lodi Electric Utility Department shall provide tree trimming necessary for the proper clearances mandated by G.O. 95. Any required trimming of trees will be trimming that would normally occur for proper maintenance of power line easements. All trimming of oak trees shall be in compliance with applicable governmental regulations and ordinances. New wood poles installed as part of the Project will be taller than existing poles and may result in less trimming.

OWNERSHIP AND REUSE OF DOCUMENTS

Except as otherwise provided herein, engineering documents, drawings and specifications prepared by Lodi as part of this Agreement shall become the property of Woodbridge upon completion of work and payment in full of all monies due to Lodi; provided, however, that Lodi shall retain the unrestricted rights to their use and shall retain all common law, statutory, copyright, and other reserved rights.

Woodbridge shall not reuse or make any modification to any and all documents prepared by Lodi, including, but not limited to, engineering documents, drawings and specifications (the "documents") without the prior written authorization of Lodi. Woodbridge agrees, to the fullest extent permitted by law, to indemnify and hold Lodi harmless from any claim, liability or cost (including reasonable attorneys' fees and defense costs) arising or allegedly arising out of any unauthorized reuse or modification of the documents by Woodbridge or any person or entity that acquires or obtains the documents from or through Woodbridge without the written authorization of Lodi.

Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of Lodi's reserved rights.

INDEMNIFICATION

Lodi agrees, to the fullest extent permitted by law, to indemnify and hold Woodbridge harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by Lodi's negligent acts, errors or omissions in the performance of professional services under this Agreement and those of Lodi's employees, subcontractors, consultants or anyone for whom Lodi is legally liable and arising from the Project that is the subject of this Agreement. Lodi is not obligated to indemnify Woodbridge in any manner whatsoever for Woodbridge's own negligence.

Woodbridge agrees, to the fullest extent permitted by law, to indemnify and hold Lodi harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by Woodbridge's negligent acts, errors or omissions and those of Woodbridge's employees, contractors, subcontractors or consultants or anyone for whom Woodbridge is legally liable, and arising from the Project that is the subject of this Agreement.

NON-PERFORMANCE

Should Lodi fail to perform its obligations as described in this Agreement for reasons other than those detailed below, Lodi agrees to pay Woodbridge liquidated damages equal to Woodbridge's actual damages for failure to provide service to Sebastiani.

Lodi shall not be liable for unforeseeable actions or for acts beyond its control such as acts of God, sudden actions of the elements, actions or inactions by federal, state or municipal agencies, and actions or inactions of legislative, judicial, or regulatory agencies.

Lodi shall not be liable for any failure of Woodbridge perform any of its responsibilities as described in Project Services.

Lodi shall make all reasonable efforts to ensure that the engineering design review process is concluded as scheduled. However, Woodbridge shall not hold Lodi liable the failure of PG&E/NCJPA to provide essential data or complete their engineering design review in a timely manner.

TERMINATION OF SERVICES

This Agreement may be terminated by Woodbridge with five (5) days written notice. In the event of such termination Woodbridge shall pay Lodi for all services rendered from the date of the Agreement to date of termination, all related expenses, and all termination expenses.

SUCCESSORS AND ASSIGNS

Woodbridge and Lodi each binds itself and its partners, successors, executors, administrators, assigns and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives of such other party, in respect to all covenants, agreements, and obligations of this Agreement. This Agreement shall not be assigned by either party without the other party's express written consent. However, Lodi shall be entitled to subcontract portions of its work to other companies without first obtaining the written consent provided for under this Article.

EEO COMPLIANCE

Lodi and Woodbridge expressly agree not to discriminate against any employee or applicant for employment because of race, color, religion, gender, sexual orientation, national origin, or disability and shall during the performance of this Agreement comply with all applicable Executive Orders and federal regulations.

MEDIATION

All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement, which cannot be first settled through direct discussions, shall be submitted to mediation under the Commercial Mediation Rules of the American Arbitration Association. Woodbridge and Lodi agree to share the costs for such mediation services on an equal basis. Nothing contained in this paragraph shall preclude the parties to this Agreement from pursuing other means of dispute resolution either concurrently or subsequent to the mediation process. In the event any dispute is resolved by court order, then the prevailing party shall be entitled to its attorney's fees and all related costs, as ordered by the court, including costs and attorney's fees incurred on appeal.

APPLICABLE LAWS

This Agreement shall be governed by the laws of the State of California.

By: _____
Anders Christensen
Woodbridge Irrigation District

By: _____
H. Dixon Flynn
City Manager

Date: _____

Date: _____

APPROVED AS TO FORM:

ATTEST:

by [Signature]

Randall A. Hays
City Attorney

Alice M. Reimche
City Clerk

RESOLUTION NO. 98-39

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING
THE CITY MANAGER TO ENTER AN ENGINEERING AND
CONSTRUCTION SERVICES AGREEMENT BETWEEN THE CITY
OF LODI AND THE WOODBRIDGE IRRIGATION DISTRICT (WID)

=====

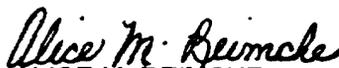
BE IT RESOLVED, by the City Council of the City of Lodi that the City Manager is hereby authorized and directed to execute an Engineering and Construction Services Agreement with the Woodbridge Irrigation District (WID) on behalf of the City of Lodi.

Dated: March 4, 1998

=====

I hereby certify that Resolution No. 98-39 was passed and adopted by the Lodi City Council in a regular meeting held March 4, 1998 by the following vote:

AYES: Council Members - Johnson, Land, Mann and Sieglock (Mayor)
NOES: Council Members - None
ABSENT: Council Members - None
ABSTAIN: Council Members - Pennino


ALICE M. REIMCHE
City Clerk