



# CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Approve the sale of approximately \$31,445,000 Certificates of Participation (COPs) to refund the current General Fund COPs and provide proceeds through a new COP Financing for construction of General Fund Capital Projects.

**MEETING DATE:** January 2, 2002

**PREPARED BY:** City Manager and Finance Director

**RECOMMENDED ACTION:** That the City Council approve the attached resolution regarding the sale of approximately \$31,445,000 Certificates of Participation (COPs) to refund the current General Fund COPs and provide proceeds through a new COP Financing for construction of General Fund Capital Projects.

**BACKGROUND INFORMATION:** As discussed with Council at the December 4<sup>th</sup> shirtsleeve session, the 2001-03 Financial Plan and Budget expressed the need to finance a number of General Fund capital projects over the next several years including the Public Safety Building Remodel/Expansion (\$15.0m), a Parking Structure (\$5.0m), DeBeneditti Park/G-Basin (\$6.20m), Indoor Sports Facility (\$5.9m), an Aquatics Center (\$3m), and an Animal Shelter Facility (\$2.5m).

Past financing programs included the issuance of a \$5 million Certificates of Participation (COP) in 1995, and \$10,120,000 COPs in 1996. The combined annual debt service on these COP's is approximately \$1,268,000. Given the current low interest rate environment, the City has an opportunity to issue new COPs to legally defease the 1995 and 1996 COP's to their respective call dates and generate debt service savings for the General Fund. At current rates, the size of a stand-alone refunding issue would be approximately \$15,050,000 and the resulting present value savings would be approximately \$411,000. Staff is recommending the sale of such refunding COPs.

At the shirtsleeve meeting staff also presented several financing options for construction of General Fund Capital projects. The new COP funds would be combined with the \$4m State grant and the \$4.5m budgeted set aside to finance the new Public Safety Building and remodel the current Public Safety Building. Excess construction funds would be used for other projects such as the construction of the Parking Structure, and toward the design costs for the various Parks & Recreation projects listed above, Fire Station #2 improvements, and the Animal Shelter project. The financing of the balance of the DeBeneditti Park/G-Basin, the Indoor Sports Facility, an Aquatics Center, and the Animal Shelter Facility will be brought back to Council for discussion at a later date.

The new COPs (like the existing COPs) would be secured by annual lease payments from the City's General Fund. Staff is recommending Council approve Scenario C which reflects a level aggregate debt service.

The attached resolution concerns approval, execution and delivery of the COP documents listed below:

1. Certificate Purchase Contract
2. Escrow, Site & Facility, Lease and Assignment Agreements
3. Preliminary Official Statement
4. Continuing Disclosure Statement, and
5. Official Statement (delivered later).

**APPROVED:** \_\_\_\_\_

*H. Dixon Flynn*  
H. Dixon Flynn -- City Manager



# CITY OF LODI

## COUNCIL COMMUNICATION

The above documents are substantially in final form. Upon COP pricing, dollar amounts and dates will be updated and presented for execution.

George Wolf from Salomon Smith Barney, Alex Burnett from Public Financial Management, and City staff will be in attendance at the Council meeting.

FUNDING: None required at this time.

APPROVED: \_\_\_\_\_

H. Dixon Flynn -- City Manager

# City of Lodi Financing Opportunities

January 2, 2002

*presented by*  
**Public Financial Management**  
505 Montgomery Street, Suite 800  
San Francisco, CA 94111  
415 982-5544  
415 982-4513 fax



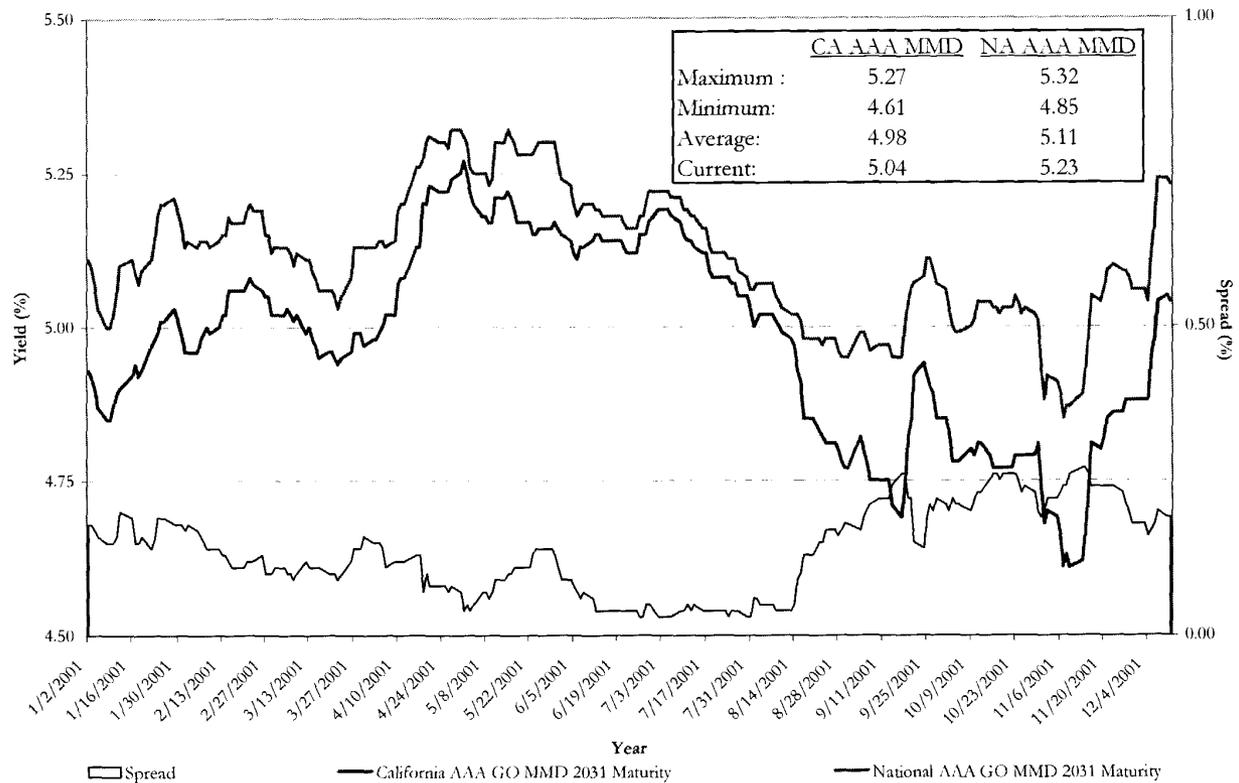
**City of Lodi**

# Since we last met ...



- There has been significant volatility.

**Municipal Market Date AAA General Obligation Bond Index (National versus California)**  
 (As of December 11, 2001)



## Summary of General Fund Past Events



City of Lodi

- **PFM has met with the City Council several times over the past two years to review the General Fund and the potential to finance a new Public Safety Building.**
- **Met with City Council on March 30, 2000 to evaluate the financing of the public safety complex.**
  - Project Cost: \$18,350,000
  - Annual Debt Service: approximately \$1,580,000
  - Borrowing Rate: 6.13%
- **Met with City Council on June 27, 2001, to review budget results.**
- **Met with City Council on October 22, 2001 and December 4, 2001, to review Public Safety Building financing structures.**





## Outline of Projects – General Fund

The City has several potential projects it is considering; including the Public Safety Building and Parks and Recreation.

Sources of Funds (\$000):

Par Amount of Bonds	\$32,020
Cash Contribution	4,500
State Grants	4,000
<u>Total Sources of Funds</u>	<u>\$40,520</u>

Uses of Funds (\$000):

Public Safety Complex	
New Public Safety Building	\$12,000
Old Public Safety Building Remodel	3,000
Total Public Safety Complex	\$15,000
Other Projects	\$8,500
Refunding Escrow Deposits	\$13,262
Debt Service Reserve Funds	\$2,672
Cost of Issuance	\$1,086
<u>Total Uses of Funds</u>	<u>\$40,520</u>



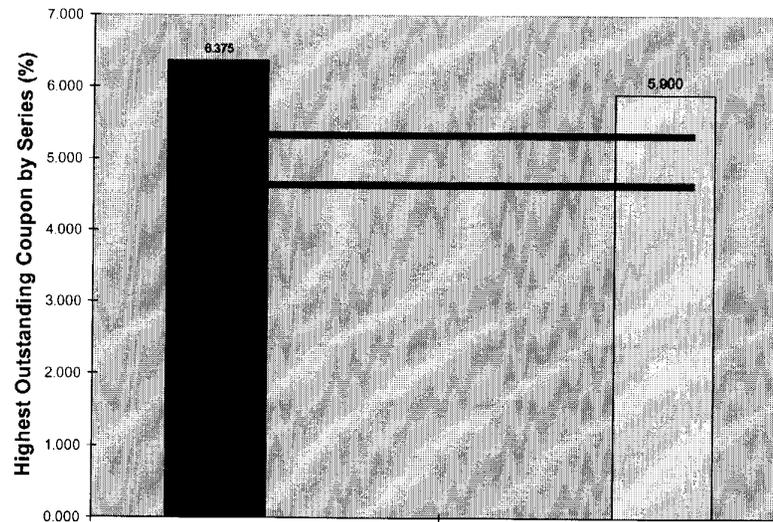
# General Fund Market Opportunities



## Refunding of Outstanding 1995 and 1996 COPs

- Current market rates also provide the opportunity to refund all of the outstanding COPs to generate reduced debt service costs for the General Fund.

– Par Amount:	\$15,050,000
– Borrowing Rate (16-year term):	4.54%
– Annual Debt Service Savings:	approx. \$16,000
– Net Present Value Savings:	approx. \$411,000



Public Safety Building TIC (5.18%)  
 Refunding TIC (4.54%)

10/1/2015 10/1/2016  
 1995 COPs 2015 Term Bond 1996 COPs 2016 Term Bond



# Summary of General Fund Alternatives



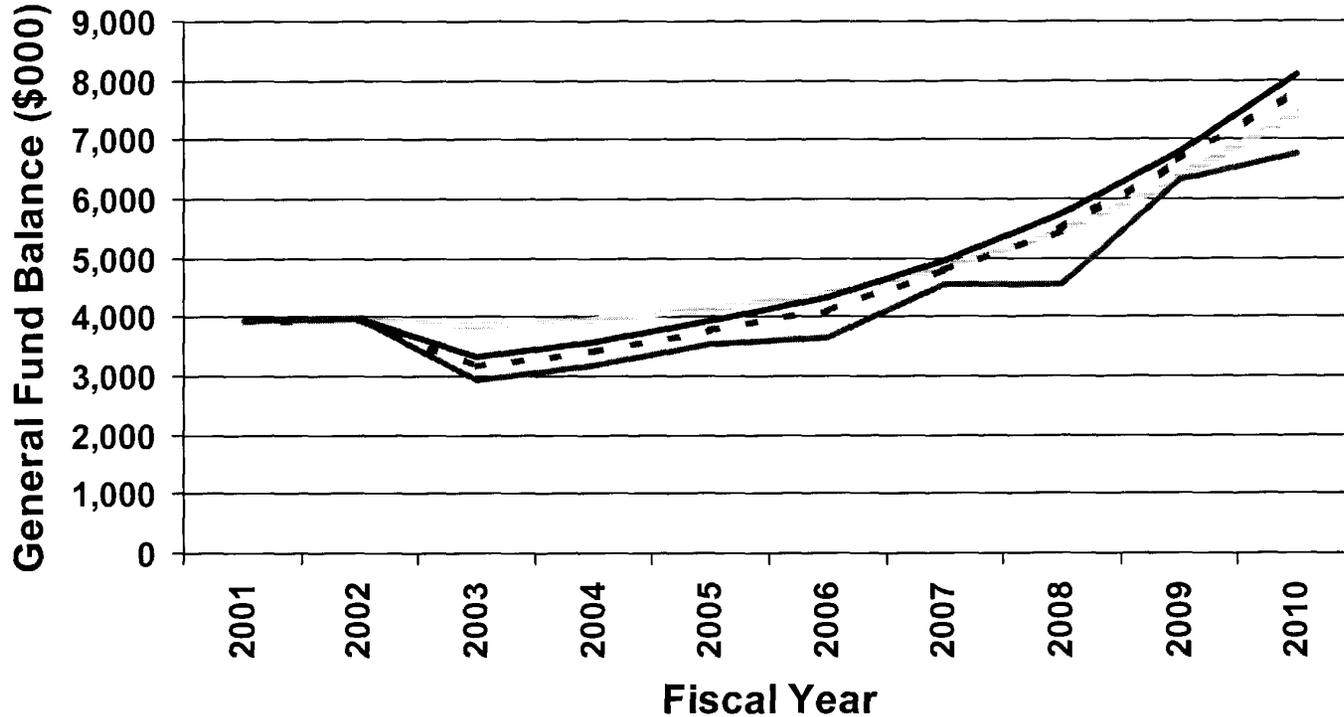
Fiscal Year Ending	Outstanding General Fund Net Debt Service	Scenario A Refunding Only		Scenario B Level with PSB Only		Scenario C Level Aggregate PSB + \$3.5 mm Add. Proceeds		Scenario D Level New Money PSB + \$3.5 mm Add. Proceeds	
		Aggregate Net Debt Service <sup>(1)</sup>	Net Cost of Financing <sup>(2)</sup>	Aggregate Net Debt Service <sup>(1)</sup>	Net Cost of Financing <sup>(2)</sup>	Aggregate Net Debt Service <sup>(1)</sup>	Net Cost of Financing <sup>(2)</sup>	Aggregate Net Debt Service <sup>(1)</sup>	Net Cost of Financing <sup>(2)</sup>
6/30/2002	\$1,275,208	\$101,896	(\$251,593)	\$209,165	(\$144,324)	\$262,671	(\$90,819)	\$241,255	(\$112,235)
6/30/2003	1,267,891	1,254,029	(13,862)	2,028,906	761,014	1,883,422	615,530	2,262,855	994,964
6/30/2004	1,268,679	1,252,898	(15,781)	2,031,593	762,914	1,883,831	615,152	2,258,745	990,067
6/30/2005	1,267,361	1,251,191	(16,170)	2,028,490	761,129	1,883,809	616,448	2,258,845	991,484
6/30/2006	1,268,691	1,252,851	(15,841)	2,028,321	759,630	1,887,597	618,905	2,261,649	992,957
6/30/2007	1,267,411	1,251,754	(15,657)	2,029,581	762,169	1,879,553	612,142	2,255,717	988,306
6/30/2008	1,268,239	1,252,157	(16,082)	2,031,246	763,008	1,884,134	615,895	2,264,880	996,641
6/30/2009	1,261,154	1,244,566	(16,588)	2,023,963	762,809	1,881,519	620,365	2,254,746	993,592
6/30/2010	1,265,914	1,249,618	(16,296)	2,028,610	762,696	1,887,173	621,259	2,261,350	995,436
6/30/2011	1,262,151	1,246,928	(15,224)	2,024,744	762,593	1,880,963	618,812	2,254,234	992,083
6/30/2012	1,254,479	1,237,328	(17,152)	2,013,388	758,909	1,883,326	628,847	2,244,475	989,995
6/30/2013	1,252,487	1,239,268	(13,219)	2,012,598	760,111	1,883,110	630,623	2,240,019	987,532
6/30/2014	1,256,394	1,242,243	(14,151)	2,021,623	765,229	1,885,148	628,754	2,250,106	993,712
6/30/2015	1,251,506	1,237,384	(14,122)	2,011,932	760,426	1,880,235	628,729	2,241,194	989,687
6/30/2016	1,247,824	1,234,659	(13,166)	2,008,598	760,773	1,883,235	635,411	2,238,350	990,525
6/30/2017	828,748	811,359	(17,388)	1,590,271	761,523	1,878,967	1,050,219	1,820,404	991,657
6/30/2018				765,820	765,820	1,882,285	1,882,285	996,035	996,035
6/30/2019				763,127	763,127	1,878,585	1,878,585	992,998	992,998
6/30/2020				764,102	764,102	1,881,510	1,881,510	993,242	993,242
6/30/2021				763,602	763,602	1,885,635	1,885,635	996,492	996,492
6/30/2022				766,977	766,977	1,882,135	1,882,135	993,367	993,367
6/30/2023				764,227	764,227	1,881,010	1,881,010	993,867	993,867
6/30/2024				765,352	765,352	1,882,010	1,882,010	997,742	997,742
6/30/2025				765,227	765,227	1,880,010	1,880,010	994,992	994,992
6/30/2026				763,852	763,852	1,884,760	1,884,760	995,617	995,617
6/30/2027				765,389	765,389	1,879,379	1,879,379	993,567	993,567
6/30/2028				764,677	764,677	1,883,517	1,883,517	993,667	993,667
6/30/2029				767,258	767,258	1,883,454	1,883,454	996,535	996,535
6/30/2030				763,133	763,133	1,884,060	1,884,060	997,042	997,042
6/30/2031				767,170	767,170	1,880,204	1,880,204	995,185	995,185
6/30/2032				765,487	765,487	1,877,859	1,877,859	995,266	995,266
Total	\$19,764,137	\$18,360,127	(\$482,291)	\$41,598,424	\$22,756,005	\$56,735,109	\$37,892,690	\$48,534,434	\$29,692,015

(1) Debt Service net of Capitalized Interest and Debt Service Reserve Fund Receipts

(2) Refunded Prior Debt Service in 2002 equals \$353,489



# Preliminary Results: General Fund Balance with Debt Structures



- - - Base Case: Do Nothing  
 - - - Scenario B: Level PSB with Refunding  
 — Scenario C: Level Aggregate Debt Service with PSB and \$3.5 mm Add. Proceeds with Refunding  
 — Scenario D: Level PSB and \$3.5 mm Add. Proceeds with Refunding

Fiscal Years	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Base Case: Do Nothing	3,948,398	3,984,543	3,881,031	3,977,571	4,164,932	4,412,126	4,839,767	5,470,190	6,327,571	7,438,065
Scenario B: Level PSB with Refunding	3,948,398	3,984,543	3,163,914	3,424,404	3,779,133	4,104,380	4,799,424	5,465,226	6,647,808	7,801,640
Scenario C: Level Agg. and Add. Proceeds with Ref.	3,948,398	3,984,543	3,309,398	3,569,888	3,924,617	4,342,712	4,944,908	5,753,665	6,793,292	8,090,080
Scenario D: Level PSB and Add. Proceeds with Ref.	3,948,398	3,984,543	2,929,964	3,190,454	3,545,184	3,637,104	4,565,475	4,569,866	6,324,761	6,741,729

## **Next Steps**



– Council Approval of Bond Documents January 2

Week of January 14

– Pricing

Week of January 28

– Funding

RESOLUTION NO. 2002-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI  
RELATING TO CERTIFICATES OF PARTICIPATION (2002 PUBLIC  
IMPROVEMENT FINANCING PROJECT); APPROVING THE FORMS OF AND  
AUTHORIZING THE EXECUTION AND DELIVERY OF A SITE AND FACILITIES  
LEASE, A LEASE AGREEMENT, A TRUST AGREEMENT, A CERTIFICATE  
PURCHASE CONTRACT, ESCROW AGREEMENTS, AN OFFICIAL  
STATEMENT, AND A CONTINUING DISCLOSURE AGREEMENT, AND  
APPROVING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT  
IN CONNECTION THEREWITH; AND AUTHORIZING CERTAIN OTHER  
MATTERS RELATING THERETO

=====

WHEREAS, the City of Lodi, a municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the State of California (the "City"), has determined to finance and refinance the costs of certain public improvement projects for the benefit of the City and its inhabitants, including, but not limited to, the construction, development, furnishing and equipping of a new police building and jail for the City, a parking garage and a community park and the remodeling of the current City public safety building and such other projects as the City may substitute therefor (the "2002 Project"); and

WHEREAS, in order to implement the foregoing, the City and the Lodi Public Improvement Corporation, a non-profit, public benefit corporation duly organized and existing under and by virtue of the laws of the State of California (the "Corporation") propose to execute and enter into a Site and Facilities Lease (the "Site Lease"), whereby the Corporation will lease from the City certain real property and improvements, including, but not limited to, the Lodi City Hall, the Carnegie Forum, the existing public safety building, Fire Stations 2 and 3 and the Hutchins Street Square (as such term is defined in the Site Lease the "Property"); and

WHEREAS, in order to make a portion of the Property available for lease to the Corporation, the City desires to prepay its lease payment obligations (the "Prior Lease Payments") under those two certain lease agreements, each between the Corporation and the City and dated as of October 1, 1995 and as of August 1, 1996, respectively; and

WHEREAS, pursuant to a Lease Agreement (the "Lease"), between the City and the Corporation, the City will lease the Property from the Corporation and will be obligated to make lease payments (the "Lease Payments") to the Corporation as rental for the Property; and

WHEREAS, the City desires to approve the financing of the 2002 Project and the prepayment of the Prior Lease Payments as provided in the Site Lease and the Lease through the execution and delivery of Certificates of Participation (2002 Public Improvement Financing Project) (the "Certificates"), evidencing proportionate interests of the owners thereof in the Lease Payments to be made by the City under the Lease, pursuant to a Trust Agreement (the "Trust Agreement"), proposed to be executed by the City, the Corporation and such trustee (the "Trustee") as shall be duly appointed by the City and the Corporation; and

WHEREAS, the City proposes to execute and deliver a Certificate Purchase Contract (the "Certificate Purchase Contract") with Salomon Smith Barney Inc. (the "Underwriter"), pursuant to which the Underwriter will purchase the Certificates for reoffering to the public, and to authorize the execution and distribution of a Preliminary Official Statement, and an Official Statement pertaining to the Certificates; and

WHEREAS, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transactions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such transactions for the purpose, in the manner and upon the terms herein provided.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LODI, AS FOLLOWS:

Section 1. The City Council hereby specifically finds and determines that the actions authorized hereby constitute and are with respect to the public affairs of the City and that the statements, findings and determinations of the City set forth above and in the preambles of the documents approved herein are true and correct and that the consummation of the transactions contemplated therein shall result in significant public benefits to the City in that the City expects to improve the efficient operation of the City's public safety functions and to enhance the City's public facilities through financing the 2002 Project and prepaying the Prior Lease Payments as provided in the Site Lease and the Lease.

Section 2. The Site and Facilities Lease, in the form presented at this meeting and on file with the City Clerk, and the performance by the City of its obligations thereunder, are hereby approved, and the City Manager and the Finance Director, each acting singly, are hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Corporation the Site and Facilities Lease in substantially said form, with such changes therein as the officer executing such document may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. The Lease Agreement, in the form presented at this meeting and on file with the City Clerk, and the performance by the City of its obligations thereunder, are hereby approved, and the City Manager and the Finance Director, each acting singly, are hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Corporation the Lease Agreement in substantially said form, with such changes therein as the officer executing such document may approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. The Trust Agreement, in the form presented at this meeting and on file with the City Clerk, and the performance by the City of its obligations thereunder, are hereby approved, and the City Manager and the Finance Director, each acting singly, are hereby authorized to appoint a bank or trust company to serve as the Trustee under the Trust Agreement, provided that such Trustee shall meet the qualifications of a successor Trustee set forth in the Trust Agreement; and the City Manager and the Finance Director, each acting singly, are hereby further authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Corporation and the Trustee the Trust Agreement in substantially said form, with such changes therein as such officer executing such document may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof, provided, that the aggregate principal amount of the Certificates to be executed and delivered thereunder shall not exceed \$35,000,000, the final principal payment date of the Certificates shall be not later than 35 years from their date of delivery and the interest component with respect to the Certificates shall not exceed 8%.

Section 5. The Certificate Purchase Contract, in the form presented at this meeting and on file with the City Clerk, and the performance of the City of its obligations thereunder, are hereby approved, and the City Manager and the Finance Director, each acting singly, are hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to

the Underwriter the Certificate Purchase Contract in substantially said form, with such changes therein as the officer executing such document may approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided that the Underwriter's discount in connection with the sale of the Certificates shall not exceed 1.5% of the principal amount of the Certificates.

Section 6. The Escrow Deposit and Trust Agreement, dated as of January 1, 2002 (the "1995 Escrow Agreement"), proposed to be executed and entered into by and between the City and BNY Western Trust Company, as trustee (the "1995 Trustee") under that certain trust agreement dated as of October 1, 1995, among the City, the Corporation and the 1995 Trustee, and the Escrow Deposit and Trust Agreement, dated as of January 1, 2002 (the "1996 Escrow Agreement" and together with the 1995 Escrow Agreement, the "Escrow Agreements"), proposed to be executed and entered into by and between the City and BNY Western Trust Company, as trustee (the "1996 Trustee" and together with the 1995 Trustee, the "Prior Trustees") under that certain trust agreement dated as of August 1, 1996, among the City, the Corporation and the 1996 Trustee, in the forms presented at this meeting and on file with the City Clerk, and the performance by the City of its obligations thereunder, are hereby approved, and the City Manager and the Finance Director, each acting singly, are hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the appropriate Prior Trustee the applicable Escrow Agreement in substantially said form, with such changes therein as the officer executing such document may approve, such approval to be conclusively evidenced by the execution and delivery thereof; provided, however, that nothing in this Resolution shall preclude the combining of the two Escrow Agreements into a single document.

Section 7. The Preliminary Official Statement, in the form presented at this meeting and on file with the City Clerk, is hereby approved. The City Manager and the Finance Director, each acting singly, are hereby authorized and directed to cause the Preliminary Official Statement to be deemed final for purposes of Rule 15c2-12 of the Securities and Exchange Act of 1934 (the "Rule") and to be distributed to potential purchasers of the Certificates in substantially the form presented to this meeting with such changes therein as the officer deeming the Preliminary Official Statement final for purposes of the Rule and causing the Preliminary Official Statement to be distributed may approve, such approval to be conclusively evidenced by causing the Preliminary Official Statement to be distributed.

Section 8. The preparation and delivery of an Official Statement, and its use by the Underwriter in connection with the offering and sale of the Certificates are hereby approved. The Official Statement shall be substantially in the form of the Preliminary Official Statement with such changes therein as the officer executing the Official Statement may approve, such approval to be conclusively evidenced by such officer's execution and delivery thereof. The City Manager and the Finance Director, each acting singly, are hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Official Statement and any amendment or supplement thereto contemplated by the Certificate Purchase Contract, in the name and on behalf of the City, and thereupon to cause the final Official Statement and any such amendment or supplement to be delivered to the Underwriter with such execution being conclusive evidence of the approval thereof.

Section 9. The Continuing Disclosure Agreement, proposed to be executed and entered by the City and the Trustee, in the form presented at this meeting and on file with the City Clerk, and the performance by the City of its obligations thereunder, are hereby approved, and the City Manager and the Finance Director, each acting singly, are hereby authorized and directed for and in the name and on behalf of the City to execute and deliver the Continuing Disclosure Agreement in substantially said form, with such changes therein as the officer executing such document may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 10. The City Clerk is hereby authorized and directed to attest the signature of the City Manager or the Finance Director and to affix and attest the seal of the City, as may be required or appropriate, in connection with the execution and delivery of the Certificates and the documents approved by this Resolution.

Section 11. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things (including the negotiating and obtaining of a municipal bond insurance policy or reserve fund surety bond with respect to the Certificates if the City Manager or Finance Director determine that such insurance policy or surety bond will result in savings to the City) and to execute and deliver any and all documents which they may deem necessary or desirable in order to consummate the transactions authorized hereby and to consummate the sale, execution and delivery of the Certificates and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the Site and Facilities Lease, the Lease Agreement, the Trust Agreement, the Escrow Agreements, the Preliminary Official Statement, the Official Statement, the Continuing Disclosure Agreement and the Certificates; and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 12. This Resolution shall take effect immediately upon its passage.

Date: January 2, 2002

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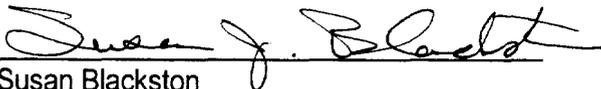
I hereby certify that Resolution 2002-08 was passed and adopted by the City Council of the City of Lodi in a regular meeting held January 2, 2002 by the following votes:

AYES: COUNCIL MEMBERS – Howard, Land, Nakanishi, and Mayor Pennino

NOES: COUNCIL MEMBERS – Hitchcock

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

  
Susan Blackston  
City Clerk

Approved As to Form:

  
Randall A. Hays  
City Attorney

2002-08

RESOLUTION NO. 2002-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI  
EXPRESSING POLICY REGARDING THE USE OF THE  
PROCEEDS OF THE CERTIFICATES OF PARTICIPATION  
(2002 PUBLIC IMPROVEMENT FINANCING PROJECT)

=====

WHEREAS, on January 2, 2002 the City Council approved the Certificates of Participation (2002 Public Improvement Financing Project); and

WHEREAS, the City Council wishes to express a policy with regard to the use of the proceeds of that issuance.

NOW, THEREFORE, BE IT RESOLVED that \$5 million of the proceeds of the Certificates of Participation (2002 Public Improvement Financing Project) issuance are to be used toward the design of the following six projects only:

- Public Safety Building Remodel/Expansion
- Parking Structure
- DeBenedetti Park/G-Basin
- Indoor Sports Facility
- Aquatics Center
- Animal Shelter Facility

Dated: January 2, 2002

---

I hereby certify that Resolution No. 2002-09 was passed and adopted by the City Council of the City of Lodi in a regular meeting held January 2, 2002, by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Howard, Land, Nakanishi,  
and Mayor Pennino

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

  
SUSAN J. BLACKSTON  
City Clerk

---

TRUST AGREEMENT

Dated as of January 1, 2002

by and among

BNY Western Trust Company,  
as Trustee

and the

LODI PUBLIC IMPROVEMENT CORPORATION  
as Lessor

and the

CITY OF LODI  
as Lessee

\$ \_\_\_\_\_  
Certificates of Participation  
(2002 Public Improvement Financing Project)

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## TRUST AGREEMENT

THIS TRUST AGREEMENT, dated as of the 1st day of December, 2002, by and among BNY Western Trust Company, a banking corporation organized and existing under the laws of the State of California, as trustee (the "Trustee"), the Lodi Public Improvement Corporation, a nonprofit, public benefit corporation duly organized and existing under the laws of the State of California (the "Corporation"), and the City of Lodi, a municipal corporation duly organized and existing under the Constitution and the laws of the State of California (the "City").

### W I T N E S S E T H :

WHEREAS, the Corporation is a nonprofit, public benefit corporation duly organized and existing under the laws of the State of California, authorized to lease, as lessor or as lessee, real and personal property in furthering the public interests of the inhabitants of the City; and

WHEREAS, the City has determined that the consummation of the transactions contemplated in the Lease (capitalized terms used in these preambles and not otherwise defined shall have the meanings given such terms in Section 1.01), the Site Lease and this Trust Agreement will result in significant public benefits; and

WHEREAS, the City and the Corporation have entered into the Prior Leases whereby the Corporation leased certain land, buildings, improvements and other real property to the City; and

WHEREAS, the City has determined that it is in the best interests of the City to provide for the acquisition, construction and installation of the 2002 Project as provided in the Lease and this Trust Agreement; and

WHEREAS, for the purpose of providing for all of the City's lease payment obligations under the Prior Leases and to provide for the acquisition, construction and installation of the 2002 Project, the City has leased the Property to the Corporation on the terms and conditions set forth in the Site Lease; and

WHEREAS, the City has leased the Property back from the Corporation pursuant to the terms of the Lease; and

WHEREAS, the Corporation has assigned certain of its rights under and interests in this Lease and the Site Lease under and pursuant to the Assignment Agreement from the Corporation to the Trustee;

WHEREAS, the City and the Corporation have entered into this Trust Agreement to provide for the execution and delivery of the Certificates of Participation (2002 Public Improvement Financing Project) evidencing proportionate interests of the Owners thereof in the Lease Payments to be made by the City under the Lease; and

WHEREAS, pursuant to this Trust Agreement, the proceeds of the sale of the Certificates are to be applied, among other purposes, to the funding of an escrow to provide for all of the City's obligations under the Prior Leases and to provide funds to pay the Costs of the 2002 Project;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the parties hereto hereby agree as follows:

## ARTICLE I

### DEFINITIONS

SECTION 1.01. Definitions and Rules of Construction. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Trust Agreement, have the meanings herein specified. Words of the masculine gender used in this Trust Agreement shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa. The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Trust Agreement, refer to this Trust Agreement as a whole.

“Additional Payments” means Additional Payments as defined in Section 4.10 of the Lease.

“Assignment Agreement” means the Assignment Agreement, dated as of the date hereof, by and between the Trustee and the Corporation, and any duly authorized and executed amendments thereto.

“Beneficial Owner” means any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Certificates (including persons holding Certificates through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Certificates for federal income tax purposes.

“Business Day” means any day other than (i) a Saturday or Sunday or (ii) a day on which commercial banks in New York, New York, San Francisco, California or Los Angeles, California are authorized or obligated by law or executive order to close or (iii) a day on which the New York Stock Exchange is closed.

“Certificate of the City” means an instrument in writing signed by a City Representative. Such certificate shall include (a) a statement that, in the opinion of the signer, he or she has made or caused to be made such examination or investigation as is necessary to enable the signatory to express an informed opinion as to what he or she is certifying to and (b) a statement as to whether, in the opinion of the signer, the agreement, condition, covenant or term being certified to has been complied with.

“Certificate of the Corporation” means an instrument in writing signed by a Corporation Representative. Such certificate shall include (a) a statement that, in the opinion of the signer, he or she has made or caused to be made such examination or investigation as is necessary to enable the signatory to express an informed opinion as to what he or she is certifying to and (b) a statement as to whether, in the opinion of the signer, the agreement, condition, covenant or term being certified to has been complied with.

“Certificate Payment Date” means \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year, commencing \_\_\_\_\_ with respect to the interest on the Certificates, and January 1 of each year, commencing January 1, 200\_\_\_\_, with respect to the principal of the Certificates.

“Certificates” means the aggregate principal amount of Certificates of Participation (2002 Public Improvement Financing Project) to be executed and delivered pursuant hereto.

“Certificate Year” means the twelve month period beginning on July 1 of one calendar year and ending on June 30 of the following calendar year.

“City” means the City of Lodi, municipal corporation duly organized and existing under the Constitution and laws of the State, and its successors and assigns.

“City Representative” means the Mayor, the City Manager, the Director of Finance, the City Clerk, or such other City officers authorized to act on behalf of the City under or with respect to this Trust Agreement.

“Closing Date” means the day when the Certificates, duly executed by the Trustee, are delivered to the Underwriter thereof.

“Code” means the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder, as the same may be amended from time to time, and any successor provisions of law. Reference to a particular section of the Code shall be deemed to be a reference to any successor to any such section.

“Continuing Disclosure Certificate” means that certain Continuing Disclosure Certificate executed by the City dated the date of the execution and delivery of the Certificates, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“Corporation” means the Lodi Public Improvement Corporation, a nonprofit, public benefit corporation duly organized and existing under the laws of the State of California.

“Corporation Representative” means the President or the Secretary of the Corporation, or any person authorized to act on behalf of the Corporation under or with respect to the Lease.

“Cost” means the costs, expenses and liabilities paid or incurred or to be paid or incurred by the City in connection with the planning, engineering, designing, acquiring, constructing, installing, and financing the 2002 Project or any portion thereof, and the obtaining of all governmental approvals, certificates, permits and licenses with respect thereto, including, but not limited to, the cost of any demolitions or relocations necessary in connection therewith, any good faith or other similar payment or deposits, the cost of acquisition by or for the City of real and personal property or any interests therein, costs of physical construction and costs of the City incidental to such construction or acquisition, all costs relating to injury and damage claims, the costs of any indemnity or surety bonds and premiums on insurance, including obligations to a stock, mutual or reciprocal insurance company or exchange, preliminary investigation and development costs, engineering fees and expenses, contractors’ fees and expenses, the costs of labor, materials, equipment and utility services and supplies, legal fees and expenses,

administration and general overhead expenses and costs of keeping accounts and making reports required by this Contract prior to or in connection with the completion of construction, and all federal, state and local taxes and payments in lieu of taxes legally required to be paid in connection with the 2002 Project during the period of construction thereof and shall include reimbursements to the City for any of the above items theretofore paid by or on behalf of the City. It is intended that this definition of Cost be broadly construed to encompass all costs, expenses and liabilities of the City which are chargeable to the capital accounts of the 2002 Project in accordance with generally accepted accounting principles.

“Costs of Issuance Fund” means the “City of Lodi 2002 Certificates Cost of Issuance Fund” established pursuant to Section 3.05 hereof.

“Delivery Costs” means and further includes all items of expense directly or indirectly payable by or reimbursable to the City or the Corporation relating to the refunding of the Prior Certificates and the financing of the 2002 Project from the proceeds of the Certificates, including but not limited to costs provided in the purchase contract with the Underwriter, title insurance, filing and recording costs, settlement costs, printing costs, word processing costs, reproduction and binding costs, initial fees and charges of the Trustee including its first annual administration fee and the fees of its counsel, bond insurance and/or surety bond premiums, if any, legal fees and charges, financing and other professional consulting fees, costs of Rating Agencies or credit ratings, fees for execution, transportation and safekeeping of the Certificates and charges and fees in connection with the foregoing.

“Defeasance Securities” mean the following:

- A. United States Treasury Certificates, Notes and Bonds (including State and Local Government Series)
- B. Direct obligations of the Treasury which have been stripped by the Treasury itself, CATS, TIGRS and similar securities
- C. Resolution Funding Corp. (“RECORP”) Only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book entry form are acceptable.
- D. Pre-refunded municipal bonds rate “Aaa” by Moody’s and “AAA” by S&P. If however, the issue is only rated by S&P (i.e., there is no Moody’s rating), then the pre-refunded bonds must have been pre-refunded with cash, direct United States or United States guaranteed obligations, or “AAA” rated pre-refunded municipals to satisfy this condition.
- E. Obligations issued by the following agencies which are backed by the full faith and credit of the United States:
  1. United States Export-Import Bank  
Direct obligations or fully guaranteed certificates of beneficial ownership

2. Farmers Home Administration (“FmHA”)  
Certificates of beneficial ownership
3. Federal Financing Bank
4. General Services Administration  
Participation certificates
5. United States Maritime Administration  
Guaranteed Title XI financing
6. United States Department of Housing and Urban Development  
Project Notes  
Local Authority Bonds  
New Communities Debentures – United States government guaranteed debentures  
United States Public Housing Notes and Bonds – United States government guaranteed public housing notes and bonds.

“Eligible Securities” means

(1) Non-callable obligations of, or obligations guaranteed as to principal and interest by, the United States or any agency or instrumentality thereof, when such obligations are backed by the full faith and credit of the United States. These include, but are not limited to:

- (i) U.S. Treasury Obligations
  - All direct or fully guaranteed obligations
- (ii) Farmers Home Administration
  - Certificates of beneficial ownership
- (iii) General Services Administration
  - participation certificates
- (iv) U.S. Maritime Administration
  - Guaranteed Title XI financing
- (v) Small Business Administration
  - Guaranteed participation certificates
  - Guaranteed pool certificates
- (vi) Government National Mortgage Association (GNMA)
  - GNMA - guaranteed mortgage-backed securities
  - GNMA - guaranteed participation certificates

- (vii) U.S. Department of Housing and Urban Development
  - Local Corporation bonds
  - State and Local Government Series
- (viii) Veterans Administration
  - Guaranteed REMIC Pass-through certificates
- (2) Non-callable obligations of government-sponsored agencies that are not backed by the full faith and credit of the U.S. Government. These include, but are not limited to:
  - (i) Federal Home Loan Mortgage Corp. (FHLMC) Debt Obligations
  - (ii) Farm credit System (Formerly: Federal Land Banks, Intermediate Credit Banks, and Banks for Cooperatives) Consolidated Systemwide bonds and notes
  - (iii) Federal Home Loan Banks (FHL Banks) Consolidated debt obligations
  - (iv) Federal National Mortgage Association (FNMA) Debt Obligations
  - (v) Student Loan Marketing Association (SLMA) Debt obligations
  - (vi) Resolution Funding Corp. (REFCORP) Debt obligations
  - (vii) U.S. Agency for International Development (U.S. A.I.D.) Guaranteed Notes (must mature at least 4 Business Days before the appropriate payment date)
- (3) Certain stripped securities where the principal-only and interest-only strips are derived from non-callable obligations issued by the U.S. Treasury, and REFCORP securities stripped by the Bank of New York. (No custodial receipts, i.e. CATs, TIGERS, unit investment trusts and mutual funds, etc. will be permitted).

“DTC” means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York in its capacity as securities depository for the Certificates.

“Escrow Agent” means BNY Western Trust Company, as trustee under the Prior Trust Agreements or any successor thereto, acting as Escrow Agent under the Escrow Agreement.

“Escrow Agreement” means that certain Escrow Agreement, dated as of the date hereof, by and between the City and the Escrow Agent.

“Escrow Fund” means the fund created by that name under Section 1 of the Escrow Agreement.

“Event of Default” means an event of default under the Lease, as defined in Section 9.1 thereof.

“Fitch” means Fitch Inc.

“Improvement Fund” means the City of Lodi 2002 Certificates Improvement Fund established pursuant to Section 3.01 of this Trust Agreement.

“Independent Appraiser” means a qualified appraiser who is not an employee of the Corporation, the Trustee or the City.

“Independent Counsel” means an attorney duly admitted to the practice of law before the highest court of the state in which such attorney maintains an office and who is not an employee of the Corporation, the Trustee or the City.

[“Insurer” means \_\_\_\_\_, a \_\_\_\_\_ insurance company, or any successor thereto or assignee thereof, as issuer of the Municipal Bond Insurance Policy and the Surety Bond.]

“Lease” means the Lease Agreement, dated the date hereof, between the City and the Corporation, and any authorized and executed amendments thereto.

“Lease Payment” means any payment required to be paid by the City to the Corporation pursuant to Section 4.3 of the Lease.

“Lease Payment Date” means the Lease Payment Date as defined in Section 4.3(a) of the Lease.

“Lease Payment Fund” means the City of Lodi 2002 Certificates Lease Payment Fund established and held by the Trustee pursuant to Section 5.02 hereof.

“Letter of Representations” means the letter of the City and the Trustee delivered to and accepted by the Depository on or prior to delivery of the Certificates as book-entry certificates setting forth the basis on which the Depository serves as depository for such book-entry certificates, as originally executed or as it may be supplemented or revised or replaced by a letter from the City and the Trustee delivered to and accepted by the Depository.

“Moody’s” means Moody’s Investors Service.

[“Municipal Bond Insurance Policy” means the Municipal Bond Insurance Policy to be issued by the Insurer guaranteeing the scheduled payment of principal and interest with respect to the Certificates when due.]

“Net Proceeds” means any title insurance proceeds with respect to the City’s leasehold interest in the Property pursuant to the Lease or with respect to the Corporation’s leasehold

interest in the Property pursuant to the Site Lease and proceeds of property damage of insurance carried pursuant to Section 5.2 of the Lease, including proceeds of any self-insurance program, performance bonds, or taking by eminent domain or condemnation paid with respect to the Property remaining after payment therefrom of any expenses (including attorneys' fees) incurred in the collection thereof.

"Net Proceeds Fund" means the "City of Lodi 2002 Certificates Net Proceeds Fund" established and held by the Trustee pursuant to Section 7.01 hereof.

"Nominee" means "CEDE & CO." as the nominee of the Depository Trust Company, as determined from time to time pursuant to Section 2.14 hereof.

"Outstanding," when used as of any particular time with respect to the Certificates, means (subject to the provisions of Section 10.03 hereof) all Certificates theretofore executed and delivered by the Trustee under this Trust Agreement except:

(1) Certificates theretofore cancelled by the Trustee or surrendered to the Trustee for cancellation;

(2) Certificates for the payment or prepayment of which funds or Government Obligations, together with interest earned thereon, in the necessary amount shall have theretofore been deposited with the Trustee (whether upon or prior to the maturity or prepayment date of such Certificates) pursuant to Article XIV hereof, provided that, if such Certificates are to be prepaid prior to maturity, notice of such prepayment shall have been given as provided in Section 4.05 hereof or provision satisfactory to the Trustee shall have been made for the giving of such notice; and

(3) Certificates in lieu of or in exchange for which other Certificates shall have been executed and delivered by the Trustee pursuant to Sections 2.08 or 2.09 hereof.

"Owner" or "Certificate Owner" or "Owner of a Certificate," or any similar term, when used with respect to a Certificate, means the person in whose name such Certificate is registered on the registration books maintained by the Trustee.

"Participants" means those broker-dealers, banks and other financial institutions from time to time for which the Depository holds book-entry certificates as securities depository.

"Permitted Investments" mean any of the following obligations if and to the extent that they are permissible investments of funds of the City as stated in its current investment policy (copies of which the Corporation shall cause the City to provide on a current basis to the Trustee) and to the extent then permitted by law:

A. Direct obligations of the United States (including obligations issued or held in book-entry form on the books of the Department of the Treasury, and CATS and TIGRS) or obligations the principal of and interest on which are unconditionally guaranteed by the United States.

B. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States (stripped securities are only permitted if they have been stripped by the agency itself):

1. United States Export-Import Bank  
Direct obligations or fully guaranteed certificates of beneficial ownership
2. Farmers Home Administration  
Certificates of beneficial ownership
3. Federal Financing Bank
4. Federal Housing Administration Debentures
5. General Services Administration  
Participation certificates
6. Government National Mortgage Association (“GNMA”)  
GNMA - guaranteed mortgage-backed bonds  
GNMA - guaranteed pass-through obligations
7. United States Maritime Administration  
Guaranteed Title XI financing
8. United States Department of Housing and Urban Development  
Project Notes  
Local Authority Bonds  
New Communities Debentures - United States government guaranteed debentures  
United States Public Housing Notes and Bonds - United States government guaranteed public housing notes and bonds

C. Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit United States government agencies (stripped securities are only permitted if they have been stripped by the agency itself):

1. Federal Home Loan Bank System  
Senior debt obligations
2. Federal Home Loan Mortgage Corporation (“FHLMC”)  
Participation Certificates  
Senior debt obligations
3. Federal National Mortgage Association (“FNMA”)  
Mortgage-backed securities and senior debt obligations

4. Student Loan Marketing Association  
Senior debt obligations
5. Resolution Funding Corporation obligations
6. Farm Credit System  
Consolidated systemwide bonds and notes

D. Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of “AAAm-G,” “AAA-m” or “AA-m” and if rated by Moody’s rated “Aaa,” “Aa1” or “Aa2,” including funds for which the Trustee or any of its affiliates (including any holding company, subsidiaries, or other affiliates) provides investment advisory or other management services.

E. Certificates of deposit secured at all times by collateral described in (A) and/or (B) above. Such certificates must be issued by commercial banks (including affiliates of the Trustee), savings and loan associations or mutual savings banks. The collateral must be held by a third party and the bondholders must have a perfected first security interest in the collateral.

F. Certificates of deposit, savings accounts, deposit accounts or money market deposits (including those of the Trustee and its affiliates) which are fully insured by FDIC, including BIF and SAIF.

G. Investment Agreements, including Guaranteed Investment Contracts, Forward Purchase Agreements and Reserve Fund Put Agreements acceptable to the Certificate Insurer.

H. Commercial paper rated, at the time of purchase, “Prime - 1” by Moody’s and “A-1” or better by S&P.

I. Bonds or notes issued by any state or municipality which are rated by Moody’s and S&P in one of the two highest rating categories assigned by such agencies.

J. Federal funds or bankers acceptances with a maximum term of one year of any bank (including those of the Trustee and its affiliates) which has an unsecured, uninsured and unguaranteed obligation rating of “Prime - 1” or “A3” or better by Moody’s and “A-1” or “A” or better by S&P.

K. Repurchase Agreements for 30 days or less must follow the following criteria. Repurchase Agreements which exceed 30 days must be acceptable to the Certificate Insurer Repurchase agreements provide for the transfer of securities from a dealer bank or securities firm (seller/borrower) to a municipal entity (buyer/lender), and the transfer of cash from a municipal entity to the dealer bank or securities firm with an agreement that the dealer bank or securities firm will repay the cash plus a yield to the municipal entity in exchange for the securities at a specified date.

1. Repurchase agreements must be between the municipal entity and a dealer bank or securities firm
  - a. Primary dealers on the Federal Reserve reporting dealer list which are rated “A” or better by S&P Corporation and Moody’s, or
  - b. Banks rated “A” or above by S&P and Moody’s.
2. The written repurchase agreements contract must include the following:
  - a. Securities which are acceptable for transfer are:
    - (1) Direct United States governments, or
    - (2) Federal agencies backed by the full faith and credit of the United States government (and FNMA & FHLMC)
  - b. The term of a repurchase agreement may be up to 30 days
  - c. The collateral must be delivered to the municipal entity, trustee (if trustee is not supplying the collateral) or third party acting as agent for the trustee (if the trustee is supplying the collateral) before/simultaneous with payment (perfection by possession of certificated securities).
  - d. Valuation of Collateral
    - (1) The securities must be valued weekly, marked-to-market at current market price plus accrued interest
    - (a) The value of collateral must be equal to 104% of the amount of cash transferred by the municipal entity to the dealer bank or security firm under the repo plus accrued interest. If the value of securities held as collateral slips below 104% of the value of the cash transferred by municipality, then additional cash and/or acceptable securities must be transferred. If, however, the securities used as collateral are FNMA or FHLMC, then the value of collateral must equal 105%.
3. A legal opinion must be delivered to the municipal entity to the effect that the repurchase agreement meets guidelines under state law for legal investment of public funds.
  - L. Any state administered pool investment fund in which the City is statutorily permitted or required to invest will be deemed a permitted investment.

“Person” means an individual, corporation, firm, association, partnership, trust, or other legal entity or group of entities, including a governmental entity or any agency or political subdivision thereof.

“Prepayment” means any payment made by the City pursuant to Article X of the Lease as a prepayment of Lease Payments.

“Prepayment Fund” means the “City of Lodi Series 2002 Certificates Prepayment Fund” established pursuant to Section 4.01 hereof.

“Principal Office” means the principal corporate trust office of the Trustee in San Francisco, California, or such other place as designated by the Trustee, provided however, that for purposes of transfer, exchange, surrender, payment and prepayment, such term means the corporate trust officer or agency of the Trustee at which, at any particular time, its corporate trust agency business shall be conducted.

“Prior Certificates” means the \$ \_\_\_\_\_ principal amount of outstanding Certificates of Participation (1995 Public Improvement Financing Project) and the \$ \_\_\_\_\_ principal amount of outstanding Certificates of Participation (1996 Public Improvement Financing Project) executed and delivered pursuant to the Prior Trust Agreements.

“Prior Leases” means the Lease Agreement, dated as of October 1, 1995, between the Corporation, as lessor, and the City, as lessee and the Lease Agreement, dated as of August 1, 1996, between the Corporation, as lessor, and the City as lessee.

“Prior Trust Agreements” means the Trust Agreement, dated as of October 1, 1995 among the City, the Corporation and U.S. Bank Trust National Association, as successor to Bank of America National Trust and Savings Association, as trustee and the Trust Agreement, dated as of August 1, 1996, among the City, the Corporation and U.S. Bank Trust National Association, as successor to First Trust of California, National Association, as the same have been amended and supplemented to the date hereof.

“Property” means that certain real property and improvements thereon described in Exhibit B to the Lease.

“Rating Agencies” means Fitch and Standard & Poor’s.

“Record Date” means the close of business on the fifteenth day of the month preceding each Certificate Payment Date, whether or not such fifteenth day is a Business Day.

“Related Document” means each of this Trust Agreement, the Lease, the Site Lease and the Assignment Agreement.

“Requisition” means the form of written requisition substantially in the form attached hereto as Exhibit B.

“Reserve Fund” means the “City of Lodi 2002 Certificates Reserve Fund” established and held by the Trustee pursuant to Section 6.01 hereof.

“Reserve Requirement” means as of the date of calculation the least of (1) the maximum aggregate annual Lease Payments payable under the Lease during the then-current and all remaining Certificate Years the Certificates are to remain Outstanding, (2) 125% of the average annual aggregate Lease Payments payable under the Lease for the then-current and any remaining Certificate Years the Certificates are to remain Outstanding calculated based on a Certificate Year, or (3) 10% of the Net Proceeds derived from the sale of the Certificates.

“Site Lease” means the Site and Facilities Lease, dated the date hereof, between the Corporation and the City.

“Special Counsel” means any attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the federal tax exemption of interest on obligations of states and political subdivisions, selected by the City and duly admitted to practice law before the highest court of any state of the United States of America.

“Standard & Poor’s” means Standard & Poor’s Ratings Services.

“State” means the State of California.

[“Surety Bond” means the municipal bond debt service reserve fund insurance policy issued by the Insurer.]

“Tax Certificate” means the Tax Certificate dated as of the date of delivery of the Certificates, concerning certain matters pertaining to the use and investment of proceeds of the Certificates, executed by and delivered to the City on the date of execution and delivery of the Certificates, including any and all exhibits attached thereto).

“Term” means, with respect to the Lease, the term thereof determined pursuant to Section 4.2 of the Lease.

“Trustee” means BNY Western Trust Company or any successor thereto.

“Trust Agreement” or “Agreement” means this Trust Agreement, together with any amendments hereof or supplements hereto permitted to be made hereunder.

“Underwriter” means Salomon Smith Barney Inc.

“Written Request of the City” means an instrument in writing signed by a City Representative.

SECTION 1.02. Rules of Construction. The headings or titles of the several articles and sections hereof and the table of contents appended hereto shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof. All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof; and the words “hereby,” “herein,” “hereof,” “hereto,” “herewith,” “hereunder” and other words of similar import refer to this Trust Agreement as a whole and not to any particular article, section, subdivision or clause hereof.

References in this Trust Agreement to principal of the Certificates or similar terms shall refer to the principal components of the Lease Payments evidenced by such Certificates and references to interest borne by the Certificates or interest on the Certificates or similar terms shall refer to the interest components of the Lease Payments evidenced by such Certificates.

SECTION 1.03. Authorization. Each of the parties hereby represents and warrants that it has full legal authority and is duly empowered to enter into this Trust Agreement, and has taken all actions necessary to authorize the execution of this Trust Agreement by the officers and persons signing it.

## ARTICLE II

### THE CERTIFICATES OF PARTICIPATION

SECTION 2.01. Authorization. The Trustee is hereby authorized and directed to register, execute and deliver Certificates in an aggregate principal amount of \$ \_\_\_\_\_ evidencing proportionate interests in the Lease Payments.

SECTION 2.02. Date. Each Certificate shall be dated \_\_\_\_\_, and interest with respect thereto shall be payable from the Certificate Payment Date next preceding the date of execution thereof, unless:

(i) it is executed as of a Certificate Payment Date, in which event interest with respect thereto shall be payable from the date thereof; or

(ii) it is executed after a Record Date and before the following Certificate Payment Date, in which event interest with respect thereto shall be payable from such following Certificate Payment Date, or

(iii) it is executed prior to the close of business on January 15, 2002, in which event interest with respect thereto shall be payable from the date of its delivery.

*provided, however,* that if, as of the date of execution of any Certificate, interest has not been paid when due with respect to any Outstanding Certificate, interest with respect to such Certificate shall be payable from the Certificate Payment Date to which interest has previously been paid or made available for payment with respect to the Outstanding Certificates.

SECTION 2.03. Maturity; Interest Rates. The Certificates shall mature on \_\_\_\_\_ 1 of the following years and shall represent interest at the following rates:

Year                      Amount                      Rate

[TO COME]

SECTION 2.04. Registration; Interest. The Certificates shall be delivered in the form of fully registered Certificates without coupons in the denomination of \$5,000 or any integral multiple thereof. The Certificates shall be numbered as the Trustee deems appropriate.

Interest with respect to the Certificates shall be payable on \_\_\_\_\_, and semiannually thereafter on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year, to the date of maturity or prepayment, whichever is earlier. Said interest shall represent the portion of Lease Payments designated as interest and coming due during the period preceding each Certificate Payment Date with respect to the Certificates computed on the basis of a 360-day year of twelve 30-day months. The proportionate share of the portion of Lease Payments designated as interest with respect to any Certificate shall be computed by multiplying the portion of Lease Payments designated as principal with respect to such Certificate by the rate of interest applicable to such Certificate.

SECTION 2.05. Form of Certificates. The Certificates and the assignment to appear thereon shall be substantially in the respective forms set forth in Exhibit A attached hereto and by this reference incorporated herein. Pending the preparation of definitive Certificates, at the request of the Underwriter, the Certificates may be delivered in temporary form exchangeable for definitive Certificates when ready for delivery. If the Trustee delivers temporary Certificates, it shall execute and deliver definitive Certificates in an equal aggregate principal amount, when available, and thereupon the temporary Certificates shall be surrendered to the Trustee at its Principal Office. Until so exchanged, the temporary Certificates shall be entitled to the same benefits under this Trust Agreement as definitive Certificates.

SECTION 2.06. Execution. The Certificates shall be executed by and in the name of the Trustee by the manual signature of any authorized signatory of the Trustee. The Trustee shall insert the date of execution of each Certificate in the place provided thereon.

SECTION 2.07. Application of Proceeds and Other Moneys. The proceeds and any other moneys received by the Trustee in connection with the original sale of the Certificates shall forthwith be deposited by the Trustee in the following respective funds and accounts:

- (a) Lease Payment Fund: The Trustee shall deposit \$ \_\_\_\_\_ to the Lease Payment Fund, representing accrued interest on the Certificates.

(b) Escrow Fund: The Trustee shall deposit or deliver to the Escrow Agent for deposit in the Escrow Fund \$ \_\_\_\_\_ to provide for the payment and discharge of the Prior Certificates and costs incidental thereto.

(c) Reserve Fund: [The Trustee shall deposit \$ \_\_\_\_\_ to the Reserve Fund.]

(d) Cost of Issuance Fund: The Trustee shall deposit \$ \_\_\_\_\_ in the Cost of Issuance Fund to pay Delivery Costs.

(e) Improvement Fund: The Trustee shall deposit the balance of the proceeds and other moneys received in connection with the original sale of the Certificates in the Improvement Fund.

SECTION 2.08. Transfer and Exchange.

(a) Transfer of Certificates. Any Certificate may, in accordance with its terms, be transferred upon the books required to be kept pursuant to the provisions of Section 2.12 hereof by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Certificate for cancellation at the Principal Office accompanied by a duly executed written instrument of transfer in a form acceptable to the Trustee. Whenever any Certificate or Certificates shall be surrendered for transfer, the Trustee shall execute and deliver a new Certificate or Certificates of the same aggregate principal amount, maturity and interest rate in authorized denominations.

(b) Exchange of Certificates. Certificates may be presented for exchange at the Principal Office for the same aggregate principal amount of Certificates of other authorized denominations of the same maturity and interest rate. The Trustee may require the payment by the Certificate Owner requesting such exchange of any tax or other governmental charge required to be paid with respect to such exchange. The City shall pay all other registration, transfer and exchange costs, including the cost of printing Certificates. All Certificates surrendered pursuant to the provisions of this Section shall be cancelled by the Trustee and shall not be redelivered.

(c) Time for Transfer or Exchange. The Trustee shall not be obligated to transfer or exchange any Certificate (i) between the date which is fifteen (15) days immediately preceding the selection of Certificates for prepayment and the date that notice of such prepayment is mailed, and (ii) as to any Certificate selected for prepayment.

SECTION 2.09. Certificates Mutilated, Lost, Destroyed or Stolen. If any Certificate shall become mutilated, the Trustee shall execute and deliver a new Certificate of like tenor as the Trustee shall determine in exchange and substitution for the Certificate so mutilated, but only upon surrender to the Trustee of the Certificate so mutilated. Every mutilated Certificate so surrendered to the Trustee shall be cancelled by it and redelivered to, or upon the order of, the City. If any Certificate shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee, and if such evidence is satisfactory to the Trustee and the City and if an indemnity satisfactory to the Trustee and the City indemnifying the Trustee, the

Corporation and the City shall be given, the Trustee shall execute and deliver a new Certificate of like tenor and numbered as the Trustee shall determine in lieu of and in substitution for the Certificate so lost, destroyed or stolen. The Trustee may require payment of an appropriate fee for each new Certificate delivered under this Section and of the expenses which may be incurred by the Trustee in carrying out the duties under this Section. Any Certificate executed under the provisions of this Section in lieu of any Certificate alleged to be lost, destroyed or stolen shall be equally and proportionately entitled to the benefits of this Trust Agreement with all other Certificates secured by this Trust Agreement. The Trustee shall not be required to treat both the original Certificate and any replacement Certificate as being Outstanding for the purpose of determining the principal amount of Certificates which may be executed and delivered hereunder or for the purpose of determining any percentage of Certificates Outstanding hereunder, but both the original and replacement Certificate shall be treated as one and the same. Notwithstanding any other provision of this Section, in lieu of delivering a new Certificate which has been mutilated, lost, destroyed or stolen, and which has matured, the Trustee may make payment with respect to such Certificate upon receipt of the aforementioned indemnity.

SECTION 2.10. Payment. Payment of interest with respect to any Certificate on any Certificate Payment Date or prepayment date shall be made to the person appearing on the registration books of the Trustee as the Owner thereof as of the Record Date immediately preceding such Certificate Payment Date or prepayment date, as the case may be, such interest to be paid by check mailed on the Certificate Payment Date by first class mail to such Owner at his address as it appears on such registration books. Payment of interest with respect to Certificates may, at the option of any Owner of at least \$1,000,000 aggregate principal amount of Certificates (such option to be exercised by the written request of such Owner to the Trustee on or before the Record Date), be transmitted by wire transfer to a bank account located in the United States of America, which bank account number shall be on file with the Trustee as of the Record Date immediately preceding the applicable Certificate Payment Date. Any such written request shall remain in effect until rescinded in writing by the Owner. The principal and premium, if any, payable upon maturity or prepayment with respect to the Certificates shall be payable by check upon surrender thereof at the Principal Office. Said amounts shall be payable in lawful money of the United States of America. The Trustee is hereby authorized to pay or prepay the Certificates when duly presented for payment at maturity or on prepayment, or on purchase by the Trustee prior to maturity, and to cancel all Certificates upon payment thereof.

SECTION 2.11. Execution of Documents and Proof of Ownership. Any request, direction, consent, revocation of consent or other instrument in writing required or permitted by this Trust Agreement to be signed or executed by Certificate Owners may be in any number of concurrent instruments of similar tenor, and may be signed or executed by such Owners in person or by their attorneys or agents appointed by an instrument in writing for that purpose, or by any bank, trust company or other depository for such Certificates. Proof of the execution of any such instrument, or of any instrument appointing any such attorney or agent, and of the ownership of Certificates shall be sufficient for any purpose of this Trust Agreement (except as otherwise herein provided), if made in the following manner:

- (a) The fact and date of the execution by any Owner or his attorney or agent of any such instrument and of any instrument appointing any such attorney or agent, may be proved by a certificate, which need not be acknowledged or verified, of an officer of

any bank or trust company located within the United States of America, or of any notary public, or other officer authorized to take acknowledgments of deeds to be recorded in such jurisdictions, that the persons signing such instruments acknowledged before him the execution thereof. Where any such instrument is executed by an officer of a corporation or association or a member of a partnership on behalf of such corporation, association or partnership, such certificate shall also constitute sufficient proof of his Corporation.

(b) The fact of the ownership of Certificates by any person, the amount and numbers of such Certificates and the date of execution shall be proved by the registration books maintained pursuant to Section 2.12 hereof.

Nothing contained in this Article II shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which the Trustee may deem sufficient. Any request or consent of the Owner of any Certificate shall bind every future Owner of the same Certificate in respect of anything done or to be done by the Trustee in pursuance of such request or consent.

SECTION 2.12. Certificate Register. The Trustee will keep or cause to be kept sufficient books for the registration and transfer of the Certificates which shall, during normal working hours, be open to inspection by the City and the Corporation with reasonable prior notice; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said books, Certificates as hereinbefore provided. The City, the Corporation and the Trustee shall be entitled to treat the registered owner of a Certificate as the absolute owner thereof for all purposes, whether or not a Certificate shall be overdue, and the City, the Corporation and the Trustee shall not be affected by any notice to the contrary.

SECTION 2.13. Destruction of Cancelled Certificates. Whenever in this Trust Agreement provision is made for the surrender or cancellation by the Trustee and the delivery to the City of any Certificates, the Trustee shall, in lieu of such delivery, destroy such Certificates and deliver a certificate of such destruction to the City.

SECTION 2.14. Book-Entry System.

(a) Election of Book-Entry System. Prior to the execution and delivery of the Certificates, the City may provide that such Certificates shall be initially executed and delivered as book-entry Certificates. If the City shall elect to deliver any Certificates in book-entry, then the City shall cause the delivery of a separate single fully registered certificate (which may be typewritten) for each maturity date of such Certificates in an authorized denomination corresponding to that total principal amount of the Certificates designated to mature on such date. Upon initial execution and delivery, the ownership of each such Certificate shall be registered in the Certificate register in the name of CEDE & CO., as the initial nominee (the "Nominee") of The Depository Trust Company ("DTC") and ownership of the Certificates, or any portion thereof may not thereafter be transferred except as provided in Section 2.14(e).

With respect to book-entry Certificates, the City and the Trustee shall have no responsibility or obligation to any Participant or to any person on behalf of which such a Participant holds an interest in such book-entry Certificates. Without limiting the immediately preceding sentence, the City and the Trustee shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, the Nominee, or any Participant with respect to any ownership interest in book-entry Certificates, (ii) the delivery to any Participant or any other person, other than an Owner as shown in the Certificate register, of any notice with respect to book-entry Certificates, including any notice of prepayment, (iii) the selection by DTC and its Participants of the beneficial interests in book-entry Certificates to be prepaid in the event the City prepays the Certificates in part, or (iv) the payment by DTC or any Participant or any other person, of any amount with respect to principal, premium, if any, or interest evidenced and represented by book-entry Certificates. The City and the Trustee may treat and consider the person in whose name each book-entry Certificate is registered in the Certificate register as the absolute Owner of such Book-Entry Certificate for the purpose of payment of principal, premium and interest with respect to such Certificate, for the purpose of giving notices of prepayment and other matters with respect to such Certificate, for the purpose of registering transfers with respect to such Certificate, and for all other purposes whatsoever. The Trustee shall pay all principal, premium, if any, and interest evidenced and represented by the Certificates only to or upon the order of the respective Owner, as shown in the Certificate register, or his respective attorney duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of, premium, if any, and interest evidenced and represented by the Certificates to the extent of the sum or sums so paid. No person other than an Owner, as shown in the Certificate register, shall receive a Certificate evidencing the obligation to make payments of principal, premium, if any, and interest evidenced and represented by the Certificates. Upon delivery by DTC to the Owner and the Trustee, of written notice to the effect that DTC has determined to substitute a new nominee in place of the Nominee, and subject to the provisions herein with respect to Record Dates, the word "Nominee" in this Trust Agreement shall refer to such nominee of DTC.

(b) Delivery of Letter of Representations. In order to qualify the book-entry Certificates for DTC's book-entry system, the City and the Trustee shall execute and deliver to DTC the Letter of Representations. The execution and delivery of the Letter of Representations shall not in any way impose upon the City or the Trustee any obligation whatsoever with respect to persons having interests in such book-entry Certificates other than the Owners, as shown on the Certificate register. In addition to the execution and delivery of the Letter of Representations, the City and the Trustee shall take such other actions, not inconsistent with this Trust Agreement, as are reasonably necessary to qualify the Certificates for DTC's book-entry program.

(c) Selection of Depository. In the event (i) DTC determines not to continue to act as securities depository for book-entry Certificates, or (ii) the City determines that continuation of the book-entry system is not in the best interest of the Beneficial Owners of the Certificates or the City, then the City may discontinue the book-entry system with DTC. If the City determines to replace DTC with another qualified securities depository, the City shall prepare or direct the preparation of a new single, separate, fully registered Certificate for each of the maturity dates of such book-entry Certificates, registered in the name of such successor or substitute qualified

securities depository or its Nominee as provided in subsection (e) hereof. If the City fails to identify another qualified securities depository to replace DTC, then the Certificates shall no longer be restricted to being registered in such Certificate register in the name of the Nominee, but shall be registered in whatever name or names the Owners transferring or exchanging such Certificates shall designate, in accordance with the provisions of Section 2.08 hereof.

(d) Payments To Depository. Notwithstanding any other provision of this Trust Agreement to the contrary, so long as all Outstanding Certificates are held in book-entry and registered in the name of the Nominee, all payments with respect to principal, prepayment premium, if any, and interest evidenced and represented by such Certificate and all notices with respect to such Certificate shall be made and given, respectively to the Nominees, as provided in the Letter of Representations or as otherwise instructed by DTC and agreed to by the Trustee notwithstanding any inconsistent provisions herein.

(e) Transfer of Certificates to Substitute Depository.

(i) Registered ownership of the Certificates, or any portions thereof, may not thereafter be transferred except:

(A) to any successor of DTC or its nominee, or of any substitute depository designated pursuant to clause (B) of subsection (i) of this Section 2.14(e) (“Substitute Depository”); provided that any successor of DTC or Substitute Depository shall be qualified under any applicable laws to provide the service proposed to be provided by it;

(B) to any Substitute Depository, upon (1) the resignation of DTC or its successor (or any Substitute Depository or its successor) from its functions as depository, or (2) a determination by the City that DTC (or its successor) is no longer able to carry out its functions as depository; provided that any such Substitute Depository shall be qualified under any applicable laws to provide the services proposed to be provided by it; or

(C) to any person as provided below, upon (1) the resignation of DTC or its successor (or any Substitute Depository or its successor) from its functions as depository, or (2) a determination by the City to discontinue the book-entry system.

(ii) In the case of any transfer pursuant to clause (A) or clause (B) of subsection (i) of this Section 2.14(e), upon receipt of all Outstanding Certificates by the Trustee, together with a Written Request of the City to the Trustee designating the Substitute Depository, a single new Certificate, which the City shall prepare or cause to be prepared, shall be executed and delivered for each maturity of Certificates then Outstanding, registered in the name of such successor or such Substitute Depository or their Nominees, as the case may be, all as specified in such Written Request of the City. In the case of any transfer pursuant to clause (C) of subsection (i) of this Section 2.14(e), upon receipt of all Outstanding Certificates by the Trustee, together with a Written Request of the City to the Trustee, new Certificates, which the City shall prepare or cause

to be prepared, shall be executed and delivered in such denominations and registered in the names of such persons as are requested in such Written Request of the City, provided that the Trustee shall not be required to deliver such new Certificates within a period of less than sixty (60) days from the date of receipt of such Written Request of the City.

(iii) In the case of a partial prepayment or an advance refunding of any Certificates evidencing a portion of the principal maturing in a particular year, DTC or its successor (or any Substitute Depository or its successor) shall make an appropriate notation on such Certificates indicating the date and amounts of such reduction in principal, in form acceptable to the Trustee, all in accordance with the Letter of Representations. The Trustee shall not be liable for such Depository's failure to make such notations or errors in making such notations.

(iv) The City and the Trustee shall be entitled to treat the person in whose name any Certificate is registered as the Owner thereof for all purposes of this Trust Agreement and any applicable laws, notwithstanding any notice to the contrary received by the Trustee or the City; and the City and the Trustee shall not have responsibility for transmitting payments to, communicating with, notifying, or otherwise dealing with any Beneficial Owners of the Certificates. Neither the City nor the Trustee shall have any responsibility or obligation, legal or otherwise, to any such Beneficial Owners or to any other party, including DTC or its successor (or Substitute Depository or its successor), except to the Owner of any Certificates, and the Trustee may rely conclusively on its records as to the identity of the Owners of the Certificates.

### ARTICLE III

#### IMPROVEMENT FUND; COST OF ISSUANCE FUND

SECTION 3.01. Establishment of Improvement Fund. The Trustee shall establish a special fund designated as the "City of Lodi 2002 Certificates Improvement Fund." The Trustee shall keep the Improvement Fund separate and apart from all other funds and moneys held by it; and shall administer the Improvement Fund as herein provided. The Improvement Fund shall be held by the Trustee.

SECTION 3.02. Purpose of Improvement Fund. Moneys in the Improvement Fund shall be expended for Costs of the 2002 Project in accordance herewith.

SECTION 3.03. Deposit of Moneys; Payment of Costs.

(a) Deposits. There shall be credited to the Improvement Fund the following amounts:

(1) the proceeds of sale of the Certificates required to be deposited therein pursuant to Section 2.07(d) hereof; and

(2) all amounts transferred to the Improvement Fund pursuant to Section 3.08 hereof; and

(3) any other funds from time to time deposited with the Trustee to pay Costs of the 2002 Project.

(b) Disbursements. The Trustee shall disburse moneys in the Improvement Fund from time to time to pay for Costs of the 2002 Project directly or to reimburse the City for payment thereof upon receipt by the Trustee of a Written Request of the City substantially in the form of Exhibit B hereto. The Trustee shall not be responsible for the representations made in such Requisition and may conclusively rely thereon. The Trustee shall be absolutely protected in making any disbursement from the Improvement in reliance upon a Written Request of the City.

SECTION 3.04. Transfers of Unexpended Proceeds. Upon written certification from the City that all Costs of the 2002 Project have been paid, the Trustee shall withdraw all remaining moneys in the Cost of Issuance Fund (other than any moneys retained therein to pay costs not then due and payable as certified by the City Representative), and shall transfer such moneys to the Lease Payment Fund.

SECTION 3.05. Establishment of Cost of Issuance Fund. The Trustee shall establish a special fund designated as the "City of Lodi 2002 Certificates Cost of Issuance Fund" (the "Cost of Issuance Fund"); shall keep the Cost of Issuance Fund separate and apart from all other funds and moneys held by it; and shall administer the Cost of Issuance Fund as herein provided. The Cost of Issuance Fund shall be held by the Trustee.

SECTION 3.06. Purpose of Cost of Issuance Fund. Moneys in the Cost of Issuance Fund shall be expended for Delivery Costs in accordance herewith.

SECTION 3.07. Deposit of Moneys; Payment of Delivery Costs.

(a) Deposits. There shall be credited to the Cost of Issuance Fund the following amounts:

(1) the proceeds of sale of the Certificates required to be deposited therein pursuant to Section 2.07(e) hereof; and

(2) any other funds from time to time deposited with the Trustee to pay Delivery Costs.

(b) Disbursements. The Trustee shall disburse moneys in the Cost of Issuance Fund from time to time to pay for Delivery Costs directly or to reimburse the City for payment thereof upon receipt by the Trustee of a Written Request of the City substantially in the form of Exhibit C hereto. The Trustee shall not be responsible for the representations made in such Requisition and may conclusively rely thereon. The Trustee shall be absolutely protected in making any disbursement from the Cost of Issuance Fund in reliance upon a Written Request of the City.

SECTION 3.08. Transfers of Unexpended Proceeds. Upon written certification from the City that all Delivery Costs have been paid, the Trustee shall withdraw all remaining moneys in the Cost of Issuance Fund (other than any moneys retained therein to pay costs not then due and

payable as certified by the City Representative), and shall transfer such moneys to the Improvement Fund.

#### ARTICLE IV

#### PREPAYMENT OF CERTIFICATES

SECTION 4.01. Establishment of Prepayment Fund. The Trustee shall establish a special fund designated as the "City of Lodi Series 2002 Certificates Prepayment Fund." The Trustee shall keep such fund separate and apart from all other funds and moneys held by it; and shall administer such fund as herein provided. Moneys to be used for prepayment of the Certificates shall be deposited into the Prepayment Fund and used solely for the purpose of prepaying the Certificates in advance of their maturity on the date designated for prepayment and upon presentation and surrender of such Certificates.

SECTION 4.02. Prepayment. The Certificates are subject to prepayment on any Business Day, in whole or in part, from Net Proceeds of condemnation or any insurance award resulting from condemnation, damage or destruction of all or a portion of the Property which the Trustee shall transfer to the Prepayment Fund at least forty-five (45) days prior to such date of prepayment and credited towards the Prepayment made by the City pursuant to the Lease, at a prepayment price equal to the principal amount of Certificates prepaid, together with accrued interest to the date fixed for prepayment, without premium.

SECTION 4.03. Optional Prepayment. The Certificates maturing on or before January 1, 2009, are not subject to optional prepayment prior to their respective stated maturities. The Certificates maturing on or after \_\_\_\_\_, are subject to optional prepayment in whole or in part on any Certificate Payment Date on or after \_\_\_\_\_ from prepayments of the Lease Payments made at the option of the City under Section 10.2 of the Lease. Certificates shall be prepaid under this Section 4.03 at a prepayment price (expressed as percentages of the principal amount of Certificates or portions thereof to be prepaid) set forth in the following table, in each case with accrued interest represented thereby to the prepayment date:

<u>Prepayment Dates</u>	<u>Prepayment Price</u>
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SECTION 4.04. Selection of Certificates for Prepayment. Whenever provision is made in this Trust Agreement for the prepayment of Certificates and fewer than all Outstanding Certificates are called for prepayment, the Trustee shall select Certificates for prepayment from the Outstanding Certificates not previously called for prepayment pursuant to Section 4.02 or Section 4.03 hereof, among maturities selected by the City and designated in writing to the Trustee at least forty-five (45) days prior to the prepayment date and by lot within any maturity. The Trustee shall promptly notify the City and the Corporation in writing of the Certificates so selected for prepayment.

SECTION 4.05. Notice of Prepayment.

(a) Content. When prepayment is authorized or required pursuant to this Article IV, the Trustee, on behalf and at the expense of the City, shall give notice of the prepayment of the Certificates. Such notice shall specify: (a) that the Certificates or a designated portion thereof are to be prepaid; (b) the numbers of the Certificates (unless all Certificates or all Certificates of a specific maturity have been selected for prepayment) together with the CUSIP numbers to be prepaid (provided that none of the City, the Corporation or the Trustee shall be held liable for the accuracy of such CUSIP numbers); (c) the date of notice and the date of prepayment; (d) the place or places where the prepayment will be made; and (e) the interest rates and stated maturity dates of the Certificates to be prepaid. Such notice shall further state that on the specified prepayment date there shall become due and payable upon each Certificate or portion thereof to be prepaid, the portion of the principal amount represented by such Certificate to be prepaid, together with interest accrued to said date and prepayment premium, if any, and that from and after such date interest with respect thereto shall cease to accrue and be payable.

(b) Recipients; Timing. Notice of such prepayment shall be sent by registered or otherwise secure mail or delivery service, postage prepaid, or by facsimile transmission, confirmed by telephone, to at least one municipal Securities Depository (as defined below) and, by first-class mail, to the national Information Services (as defined below) that disseminate securities redemption notices, and by first class mail, postage prepaid, to the Corporation and the respective Owners of any Certificates designated for prepayment at their addresses appearing on the Certificate registration books, at least thirty (30) days but not more than forty-five (45) days prior to the prepayment date; provided, that neither failure to receive such notice nor any defect in any notice so mailed shall affect the sufficiency of the proceedings for the prepayment of such Certificates.

“Securities Depositories” includes The Depository Trust Company, 55 Water Street, 50th Floor, New York, New York 10041-0099, Attention: Call Notification Department, Fax (212) 855-7232; or, in accordance with the then current guidelines of the Securities and Exchange Commission to such other addresses and/or such other securities depositories or to no such depositories, as the City shall designate in writing to the Trustee.

“Information Services” include Financial Information, Inc.’s “Daily Called Bond Service,” 30 Montgomery Street, 10th Floor, Jersey City, New Jersey 07302, Attention: Editor; Fitch Inc.’s “\_\_\_\_\_”, One State Street Plaza, New York, New York, 10004, Kenny Information Services’ “Called Bond Service,” 65 Broadway, 16th Floor, New York, New York 10004; Moody’s Investors Service, “Municipal and Government,” 99 Church Street, 8th Floor, New York, New York 10007, Attention: Municipal News Reports; and Standard and Poor’s Ratings Group’s “Called Bond Record,” 25 Broadway, 3rd Floor, New York, New York 10004; or, in accordance with then current guidelines of the Securities and Exchange Commission, to such other addresses and/or such other services providing information with respect to called bonds, or to no such services, as the City shall designate in writing to the Trustee.

SECTION 4.06. Partial Prepayment of Certificates. Upon surrender by the Owner of a Certificate for partial prepayment at the Principal Office, payment of such partial prepayment of the principal amount represented by such Certificate will be made to such Owner by check

mailed by first class mail to the Owner at his or her address as it appears on the registration books of the Trustee. Upon surrender of any Certificate prepaid in part only, the Trustee shall execute and deliver to the Owner thereof, at the expense of the City, a new Certificate or Certificates that shall be of authorized denominations equal in aggregate principal amount to the unpaid portion of the Certificate surrendered and of the same interest rate and the same maturity. Such partial prepayment shall be valid upon payment of the amount thereby required to be paid to such Owner, and the City, the Corporation and the Trustee shall be released and discharged from all liability to the extent of such payment.

SECTION 4.07. Effect of Notice of Prepayment. Notice having been given as aforesaid, and the moneys for the prepayment (including the interest and prepayment premium, if any, to the applicable date of prepayment), having been set aside in the Prepayment Fund, the Certificates shall become due and payable on said date of prepayment, and, upon presentation and surrender thereof at the Principal Office, said Certificates shall be paid at the unpaid prepayment price with respect thereto, plus interest accrued and unpaid to said date of prepayment.

If, on said date of prepayment, moneys for the prepayment of all of the Certificates to be prepaid, together with interest to said date of prepayment, shall be held by the Trustee so as to be available therefor on such date of prepayment, and, if notice of prepayment thereof shall have been given as aforesaid, then, from and after said date of prepayment, interest with respect to the Certificates shall cease to accrue and become payable. All moneys held by or on behalf of the Trustee for the prepayment of Certificates shall be held in trust for the account of the Owners of the Certificates so to be prepaid without liability for interest thereon.

All Certificates paid at maturity or prepaid prior to maturity pursuant to the provisions of this Article shall be cancelled upon surrender thereof and destroyed.

SECTION 4.08. Surplus. The Trustee shall notify the City of any funds remaining in the Prepayment Fund after prepayment and payment of all Certificates Outstanding, including accrued interest, and payment of any applicable fees and expenses to the Trustee (including amounts due pursuant to Sections 9.06 and 9.07 hereof), or provision made therefor satisfactory to the Trustee and provision for any amounts required to be transferred to the Rebate Fund pursuant to Sections 8.07 hereof. All such funds shall be withdrawn by the Trustee and timely remitted to the City.

## ARTICLE V

### LEASE PAYMENTS; LEASE PAYMENT FUND

#### SECTION 5.01. Security Provisions.

(a) Assignment of Rights in Lease. The Corporation has, pursuant to the Assignment Agreement, assigned and set over to the Trustee certain of its rights in the Lease, including but not limited to all of the Corporation's rights to receive and collect all of the Lease Payments, the Prepayments and all other amounts required to be deposited in the Lease Payment Fund pursuant to the Lease or pursuant hereto. All Lease Payments, Prepayments and such other amounts to

which the Corporation may at any time be entitled shall be paid directly to the Trustee, and all of the Lease Payments and Prepayments collected or received by the Corporation shall be deemed to be held and to have been collected or received by the Corporation as the agent of the Trustee, and if received by the Corporation at any time shall be deposited by the Corporation with the Trustee within one Business Day after the receipt thereof, and all such Lease Payments, Prepayments and such other amounts shall be forthwith deposited by the Trustee upon the receipt thereof in the Lease Payment Fund.

(b) Security Interest in Moneys and Funds. The Corporation and the City, as their respective interests may appear, hereby grant to the Trustee for the benefit of the Owners a lien on and a security interest in all moneys in the funds held by the Trustee under this Trust Agreement (excepting only the Rebate Fund and any moneys required to be deposited into the Rebate Fund), including, without limitation, the Lease Payment Fund, the Reserve Fund, the Prepayment Fund and the Net Proceeds Fund, and all such moneys shall be held by the Trustee in trust and applied to the respective purposes specified herein and in the Lease.

(c) Pledge of Lease Payments. The Lease Payments are hereby irrevocably pledged to and shall be used for the punctual payment of the interest and principal represented by the Certificates, and the Lease Payments shall not be used for any other purpose while any of the Certificates remain Outstanding. This pledge shall constitute a first and exclusive lien on the Lease Payments in accordance with the terms hereof.

SECTION 5.02. Establishment of Lease Payment Fund. The Trustee shall establish a special fund designated as the “City of Lodi 2002 Certificates Lease Payment Fund.” All moneys at any time deposited by the Trustee in the Lease Payment Fund shall be held by the Trustee in trust for the benefit of the Owners of the Certificates subject to application as provided in this Trust Agreement. So long as any Certificates are Outstanding, neither the City nor the Corporation shall have any beneficial right or interest in the Lease Payment Fund or the moneys deposited therein, except only as provided in this Trust Agreement, and such moneys shall be used and applied by the Trustee as hereinafter set forth.

SECTION 5.03. Deposits. There shall be deposited in the Lease Payment Fund all Lease Payments received by the Trustee, including any moneys received by the Trustee for deposit therein pursuant to Section 6.03 hereof, Section 4.3 of the Lease (regarding Lease Payments), and any other moneys required to be deposited therein pursuant to the Lease or pursuant to this Trust Agreement, including pursuant to Section 5.1 of the Lease (regarding proceeds of rental interruption insurance). No later than five Business Days prior to each Lease Payment Date, the Trustee shall notify the City as to what amounts are on deposit in the Lease Payment Fund to be credited towards the Lease Payment due on such Lease Payment Date as provided in Section 4.3(b) of the Lease; provided, however, that any failure of the Trustee to send such notice shall not relieve the City of its obligation to make Lease Payments.

SECTION 5.04. Application of Moneys. All amounts in the Lease Payment Fund shall be used and withdrawn by the Trustee solely for the purpose of paying the principal and interest with respect to the Certificates as the same shall become due and payable, in accordance with the provisions of Article II and Article IV hereof, subject to the requirement that certain investment earnings thereon may be transferred to the Rebate Fund as provided in Sections 8.07 hereof and

subject to the requirement that any delinquent Lease Payments not required to pay past due principal of or interest on the Certificates shall be transferred to the Reserve Fund to the extent that any unreimbursed moneys have been transferred from the Reserve Fund to the Lease Payment Fund.

On or before each Certificate Payment Date, the Trustee shall first set aside an amount sufficient to pay the interest on the Certificates becoming due and payable on such date, and pay such amount to the Owners; and second, set aside an amount sufficient to pay the principal of the Certificates becoming due and payable on such Certificate Payment Date.

SECTION 5.05. Surplus. The Trustee shall notify the City of any funds remaining in the Lease Payment Fund after payment of all Certificates Outstanding, including accrued interest and payment of any applicable fees to the Trustee or other amounts due the Trustee pursuant to Sections 9.06 and 9.07 hereof, or provision made therefor satisfactory to the Trustee, and provision for any amounts required to be transferred to the Rebate Fund pursuant to Section 8.07 hereof. All such funds shall be withdrawn by the Trustee and timely remitted to the City.

SECTION 5.06. [Payments Under the Municipal Bond Insurance Policy.]

## ARTICLE VI

### RESERVE FUND

SECTION 6.01. Establishment of Reserve Fund. The Trustee shall establish a special fund designated as the "City of Lodi 2002 Certificates Reserve Fund." All moneys at any time on deposit in the Reserve Fund (which amounts may be in money, Permitted Investments, a line of credit, letter of credit, insurance policy or surety bond, or a combination thereof, equal to the Reserve Requirement) shall be held by the Trustee in trust for the benefit of the City and for the benefit of the Owners, as a reserve for the payment when due of all the Lease Payments and Prepayments to be paid pursuant to the Lease and of all payments on the Certificates and applied solely as provided herein.

[On the Closing Date, the City shall cause to be provided, through the Insurer, the Surety Bond in an amount equal to the Reserve Requirement. The City may substitute moneys for all or part of the amount available to be drawn under the Surety Bond so long as, at the time of such substitution, the amount on deposit in the Reserve Fund, together with the amount available under the Surety Bond (taking into account any reduction in the amount available under the Surety Bond to be made in connection with said substitution), shall be at least equal to the Reserve Requirement. The City may substitute a credit facility in lieu of the Surety Bond or all or any portion of moneys on deposit in the Reserve Fund if the City: (i) provides prior written notice to the Rating Agencies; (ii) either the unsecured obligations of the provider of such credit facility are rated not less than the rating of the Certificates by S&P or S&P indicates that such substitution, in and of itself, will not cause a reduction on withdrawal of the S&P rating then applicable to the Certificates; (iii) the term of the credit facility shall extend to the maturity of the Certificates; [and (iv) so long as the Insurer is not in default in its payment obligations under the Municipal Bond Insurance or the Surety Bond, the Insurer gives its prior written consent to such substitution.]

In the event any moneys are transferred from the Lease Payment Fund to the Reserve Fund pursuant to Section 5.04 hereof as a reimbursement of funds, such moneys may be applied to the reimbursement of the Surety Bond or any substitute therefor provided that upon such reimbursement, the amount credited to the Reserve Fund shall be at least equal to the Reserve Requirement, either as a result of the reinstatement of the Surety Bond or the substitute therefor or with moneys on deposit with Reserve Fund or combination thereof.

SECTION 6.02. [Demand Under the Surety Bond.]

SECTION 6.03. Transfers of Excess. The Trustee shall, on or before June 1 and January 1 of each year, provide written notice to the City of any moneys then on hand in the Reserve Fund in excess of the Reserve Requirement and on June 15 and January 15, the Trustee shall transfer such excess moneys to the Lease Payment Fund to be applied to the next Lease Payment due from the City.

SECTION 6.04. Application of Reserve Fund in Event of Deficiency in Lease Payment Fund. Whether or not Lease Payments are then in abatement, if one day immediately preceding any Certificate Payment Date, the moneys available in the Lease Payment Fund are less than the amount of the principal and interest with respect to the Certificates then coming due and payable, the Trustee first shall apply the moneys on hand in the Reserve Fund to make delinquent Lease Payments on behalf of the City by transferring the amount necessary for this purpose to the Lease Payment Fund from any cash on deposit. Under no circumstances shall moneys in the Reserve Fund be applied for any fees due to the Trustee under Article IX hereof or any other costs of the Trustee or their agents, attorneys and counsel incurred with respect to an Event of Default hereunder or otherwise. The Trustee shall notify the City of the amount of any deficiency in the Reserve Fund or any transfer of funds from the Reserve Fund pursuant to this Section.

SECTION 6.05. Transfer To Make All Lease Payments. If on any Certificate Payment Date, the moneys on deposit in the Reserve Fund and the Lease Payment Fund (excluding amounts required for payment of past due principal or interest with respect to Certificates not presented for payment) are sufficient to pay all Outstanding Certificates, including all principal, interest and prepayment premiums (if any), the Trustee shall, upon the written direction of the City Representative, transfer all amounts then on hand in the Reserve Fund to the Lease Payment Fund to be applied to the payment of the Lease Payments or prepayments on behalf of the City, and such moneys shall be distributed to the Owners of Certificates in accordance with Articles II and IV of this Trust Agreement. Any amounts remaining in the Reserve Fund upon payment in full of all Outstanding Certificates, or upon provision for such payment as provided in Section 14.01 hereof and provisions for any amounts required to be transferred to the Rebate Fund pursuant to Section 8.07 hereof, shall be withdrawn by the Trustee and paid to the City after payment of any amounts due the Trustee pursuant to Sections 9.06 and 9.07 hereof.

## ARTICLE VII

### NET PROCEEDS FUND

SECTION 7.01. Establishment of Net Proceeds Fund; Deposits. The Trustee is hereby authorized to and shall establish a special fund when needed designated as the "City of Lodi 2002 Certificates Net Proceeds Fund" to be maintained and held in trust for the benefit of the Owners, subject to disbursement therefrom as provided herein. The Trustee shall deposit Net Proceeds in the Net Proceeds Fund as provided in Section 6.1(a) of the Lease.

SECTION 7.02. Disbursements. The Trustee shall disburse Net Proceeds for replacement or repair of the Property as provided in Section 6.1(b) of the Lease only if it has received the certification and moneys, if any, required by Section 6.1(b)(1) of the Lease (and the Trustee shall be protected absolutely in making any disbursements from the Net Proceeds Fund in reliance upon the requisition described in Section 6.1(b)(2) of the Lease), or transfer such Net Proceeds to the Prepayment Fund upon notification by the City Representative as provided in Section 6.1(c) of the Lease. After all of the Certificates have been retired, the entire amount of principal and interest with respect to the Certificates has been paid in full, and payment of any amounts due to the Trustee pursuant to Sections 9.06 and 9.07 hereof, or provision is made therefor satisfactory to the Trustee, including provisions for all amounts required to be transferred to the Rebate Fund pursuant to Sections 8.07 hereof, the Trustee shall remit any remaining moneys in the Net Proceeds Fund to the City.

SECTION 7.03. Cooperation. The Corporation and the Trustee shall cooperate fully with the City at the expense of the City in filing any proof of loss with respect to any insurance policy maintained pursuant to Article V of the Lease and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Property or any item or portion thereof.

## ARTICLE VIII

### MONEYS IN FUNDS; INVESTMENT

SECTION 8.01. Held in Trust. The moneys and investments held by the Trustee under this Trust Agreement are irrevocably held in trust for the benefit of the Owners of the Certificates, except in the case of the Rebate Fund, for payment as required to the United States Treasury, and such moneys, and any income or interest earned thereon, shall be expended only as provided in this Trust Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of the Corporation, the Trustee or the City, or any of them. The Trustee shall be authorized to create such additional funds and accounts as necessary to accomplish the purposes of this Trust Agreement.

SECTION 8.02. Investments Authorized.

(a) Upon Direction of City. The City Representative shall by written order filed with the Trustee direct investment in specific Permitted Investments identified in such written order. In the absence of such written order, the Trustee shall make investments solely in those

Permitted Investments set forth in paragraph (4) of the definition thereof. The Trustee may conclusively rely upon such investment direction as a certification that such investment constitutes a Permitted Investment.

(b) Registration. Such investments, if registerable, shall be registered in the name of the Trustee for the benefit of the Owners and held by the Trustee. The Trustee or any of its affiliates may act as sponsor, advisor or provide administrative or management services in connection with any Permitted Investments.

(c) Trustee as Purchaser or Agent. The Trustee or an affiliate may purchase or sell to itself or any affiliate, as principal or agent, Permitted Investments and shall be entitled to its customary fee therefor. The Trustee may act as purchaser or agent in the making or disposing of any investment.

(d) Trustee Standard of Care. Except as otherwise provided in Section 9.05 hereof, the Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with this Section and upon the Written Request of the City.

SECTION 8.03. Investment Income. Any loss on the investment of moneys held by the Trustee hereunder shall be credited to the respective fund for which such moneys are held, except as otherwise provided herein. Any increase or profit on the investment of moneys held by the Trustee hereunder received on and prior to the submission of a requisition from the Improvement Fund indicating all costs of the 2002 Project have been paid shall be deposited in the Improvement Fund and thereafter in the Lease Payment Fund; provided that in all cases income on investments may be transferred to the Rebate Fund upon request of the City; and provided further that as of any time the amount in the Reserve Fund is less than the Reserve Requirement such increase or profit shall be deposited in the Reserve Fund.

SECTION 8.04. Accounting. The Trustee shall furnish to the City, not less frequently than monthly, an accounting of all investments made by the Trustee and all funds and amounts held by the Trustee hereunder. The Trustee shall keep accurate records in accordance with industry standards of all funds administered by it and of all Certificates paid and discharged. The Corporation and City acknowledge that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Corporation or the City the right to receive brokerage confirmations of security transactions as they occur, the Corporation and the City specifically waive receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Corporation and the City periodic cash transaction statements which include detail for all investment transactions made by the Trustee hereunder.

SECTION 8.05. Disposition of Investments. The Trustee shall sell, or present for prepayment, any Permitted Investment so purchased by the Trustee whenever it shall be necessary in order to provide moneys to meet any required payment, transfer, withdrawal or disbursement from the fund to which such Permitted Investment is credited.

SECTION 8.06. Commingling of Moneys in Funds. The Trustee may commingle any of the funds held by it pursuant to this Trust Agreement into a separate fund or funds for investment

purposes only; provided, however, that all funds or accounts held by the Trustee hereunder shall be accounted for separately notwithstanding any such commingling by the Trustee.

SECTION 8.07. Tax Covenants.

(a) General. The City hereby covenants with the Owners of the Certificates that, notwithstanding any other provisions of this Trust Agreement, it shall not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of interest on the Certificates under Section 103 of the Code. The City shall not, directly or indirectly, use or permit the use of proceeds of the Certificates or any of the property financed or refinanced with proceeds of the Certificates, or any portion thereof, by any person other than a governmental unit (as such term is used in Section 141 of the Code), in such manner or to such extent as would result in the loss of exclusion from gross income for federal income tax purposes of interest on the Certificates.

(b) Use of Proceeds. The City shall not take any action, or fail to take any action, if any such action or failure to take action would cause the Certificates to be “private activity bonds” within the meaning of Section 141 of the Code, and in furtherance thereof, shall not make any use of the proceeds of the Certificates or any of the property financed or refinanced with proceeds of the Certificates, or any portion thereof, or any other funds of the City, that would cause the Certificates to be “private activity bonds” within the meaning of Section 141 of the Code. To that end, so long as any Certificates are outstanding, the City, with respect to such proceeds and property and such other funds, will comply with applicable requirements of the Code and all regulations of the United States Department of the Treasury issued thereunder and under Section 103 of the Code, to the extent such requirements are, at the time, applicable and in effect. The City shall establish reasonable procedures necessary to ensure continued compliance with Section 141 of the Code and the continued qualification of the Certificates as “governmental bonds.”

(c) Arbitrage. The City shall not, directly or indirectly, use or permit the use of any proceeds of any Certificates, or of any property financed or refinanced thereby, or other funds of the City, or take or omit to take any action, that would cause the Certificates to be “arbitrage bonds” within the meaning of Section 148 of the Code. To that end, the City shall comply with all requirements of Section 148 of the Code and all regulations of the United States Department of the Treasury issued thereunder to the extent such requirements are, at the time, in effect and applicable to the Certificates.

(d) Federal Guarantee. The City shall not make any use of the proceeds of the Certificates or any other funds of the City, or take or omit to take any other action, that would cause the Certificates to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

(e) Compliance with Tax Certificate. In furtherance of the foregoing tax covenants of this Section 8.07, the City covenants that it will comply with the provisions of the Tax Certificate, which is incorporated herein as if fully set forth herein. These covenants shall survive payment in full or defeasance of the Certificates.

SECTION 8.08. Information Concerning Investments. The Trustee shall supply information regarding investments made under this Article VIII at the Written Request of the City, including: (i) purchase date; (ii) purchase price; (iii) any accrued interest paid; (iv) face amount; (v) coupon rate; (vi) periodicity of interest payments; (vii) disposition price; (viii) any accrued interest received; and (ix) disposition date.

SECTION 8.09. Notice Concerning Investments. The Trustee shall provide notice to the City of any investments made under this Article VIII in monthly account statements.

## ARTICLE IX

### THE TRUSTEE

SECTION 9.01. Appointment of Trustee.

(a) Appointment. BNY Western Trust Company is hereby appointed Trustee by the Corporation and the City.

(b) Qualifications. Any successor Trustee appointed pursuant to the provisions of this Section shall be a corporation, trust company or bank in good standing, located in or incorporated under the laws of the State, duly authorized to exercise trust powers and subject to examination by federal or State Corporation, and have a reported capital and surplus of not less than \$50,000,000. If such corporation, bank or trust company publishes a report of condition at least annually pursuant to law or to the requirements of any supervising or examining Corporation referred to above, then for the purpose of this Section the combined capital and surplus of such corporation, bank or trust company shall be deemed to be its combined capital and surplus as set forth in its most recent published report of condition.

(c) Removal. So long as there is no Event of Default or occurrence that with the passage of time will become an Event of Default, upon 30 days' written notice, the City may remove the Trustee initially appointed, and any successor thereto, and may appoint a successor or successors thereto. Subject to the provisions of Section 14.09 hereof, the Trustee may be removed at any time for any breach of trust hereunder.

(d) Resignation. The Trustee may resign by giving written notice to the City, the Corporation, [and the Insurer]; provided that such resignation shall not take effect until a successor Trustee is appointed as provided in this Section. Upon receiving such notice of resignation, the City[, with the prior approval of the Insurer,] shall promptly appoint a successor Trustee. In the event the City does not name a successor Trustee within 30 days of receipt of notice of the Trustee's resignation, then the Trustee may petition a court of suitable jurisdiction to seek the immediate appointment of a successor Trustee.

(e) Successor. Any successor Trustee shall be a corporation, commercial bank or trust company meeting the qualifications as set forth in Subsection (b), above[, and acceptable to the Insurer]. Any resignation or removal of the Trustee and appointment of a successor Trustee shall become effective upon acceptance of appointment by the successor Trustee. Upon such acceptance, the successor Trustee shall mail notice thereof to the Certificate Owners at their

respective addresses set forth on the Certificate registration books maintained pursuant to Section 2.12 hereof.

SECTION 9.02. Merger or Consolidation. Any banking corporation or national banking association into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any banking corporation or national banking association to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided that such banking corporation or national banking association shall be eligible under Section 9.01 hereof, shall be the successor to the Trustee without the execution or filing of any paper or further act, anything herein to the contrary notwithstanding. Prompt notice of such merger or consolidation shall be given to the City and the Corporation. All costs and expenses of such merger or consolidation shall be paid by the successor trustee and no additional charges shall be levied against the City.

SECTION 9.03. Protection of the Trustee.

(a) Reliance Upon Papers or Documents. The Trustee shall be protected and shall incur no liability in acting or proceeding in good faith upon any resolution, notice, telegram, facsimile, request, consent, waiver, certificate, statement, affidavit, voucher, bond, requisition or other paper or document which it shall in good faith believe to be genuine and to have been passed or signed by the proper board or person or to have been prepared and furnished pursuant to any of the provisions of this Trust Agreement, and the Trustee shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such instrument, but may, in the absence of bad faith on its part, accept and rely upon the same as conclusive evidence of the truth and accuracy of such statements and matters.

(b) Reliance Upon Opinions of Counsel. The Trustee may consult with counsel, who may be counsel to the City, with regard to legal questions, and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Trustee hereunder in good faith in accordance therewith. Before being required to take any action, the Trustee may require an opinion of Independent Counsel acceptable to the Trustee, which opinion shall be made available to the other parties hereto upon request, which counsel may be counsel to any of the parties hereto, or the Trustee may require a Certificate of the City or Certificate of the Corporation, in lieu of or in addition to such opinion, concerning the proposed action. If it does so in good faith, the Trustee shall be absolutely protected in relying on such opinion or such verified certificate.

(c) Reliance Upon Requested Certificates. Whenever in the administration of its duties under this Trust Agreement, the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed), in the absence of bad faith on the Trustee's part, shall be deemed to be conclusively proved and established by a Certificate of the City or the Corporation and such certificate shall be full warranty to the Trustee, in the absence of bad faith on its part, for any action taken or suffered under the provisions of this Trust Agreement upon the faith thereof, but in its discretion the Trustee may, in lieu thereof, accept

other evidence of such matter or may require such additional evidence as the Trustee may deem reasonable.

(d) Additional Protections. No provision in this Trust Agreement shall require the Trustee to risk or expend its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder if the Trustee shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not assured to it.

The Trustee shall not be accountable for the use or application by the City, the Corporation or any other party of any funds which the Trustee has released in accordance with the terms of this Trust Agreement.

The Trustee makes no representation or warranty, express or implied, as to the title, value, design, compliance with specifications or legal requirements, quality, durability, operation, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the City or the Corporation of the Property or the Site. In no event shall the Trustee be liable for incidental, indirect, special or consequential damages in connection with or arising from the Lease or this Trust Agreement for the existence, furnishing or use of the Property or the Site.

The Trustee undertakes to perform such duties, and only such duties as are specifically set forth in this Trust Agreement and no implied duties or obligations shall be read into this Trust Agreement against the Trustee.

In accepting the trust hereby created, the Trustee acts solely as Trustee for the Owners and not in its individual capacity, and all persons, including without limitation the Owners, the City and the Corporation, having any claim against the Trustee arising from this Trust Agreement shall look only to the funds and accounts held by the Trustee hereunder for payment except as otherwise provided herein. Under no circumstances shall the Trustee be liable in its individual capacity for the obligations evidenced by the Certificates.

Before taking any action under Article XIII of this Article at the request of the Owners [or the Insurer], the Trustee may require that a satisfactory indemnity bond be furnished by the Owners [or the Insurer] for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct in connection with any action so taken.

The Trustee shall have no responsibility, opinion or liability with respect to any information, statement or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the execution and delivery of the Certificates.

All indemnifications and releases from liability granted hereunder to the Trustee shall extend to its officers, directors, employees and agents.

SECTION 9.04. Rights of the Trustee.

(a) Ownership of Certificates. The Trustee may become the Owner of Certificates with the same rights that it would have if it were not Trustee; may acquire and dispose of other bonds or evidences of indebtedness of the City with the same rights that it would have if it were not the Trustee; and may act as a depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Owners of Certificates, whether or not such committee shall represent the Owners of the majority in principal amount of the Certificates then Outstanding.

(b) Attorneys, Agents, Receivers. The Trustee may execute any of the trusts or powers hereof and perform the duties required of it hereunder by or through attorneys, agents, or receivers, and shall be entitled to advice of counsel concerning all matters of trust and its duty hereunder.

SECTION 9.05. Standard of Care. The Trustee shall not be liable in connection with the performance of its duties hereunder or under the Assignment Agreement, except for its own negligence or willful misconduct. Upon the occurrence of an Event of Default, the Trustee shall exercise such care in performing its duties hereunder as a reasonable person would exercise in the conduct of his affairs.

SECTION 9.06. Compensation of the Trustee. As Additional Payments under Section 4.10 of the Lease, the City shall pay to the Trustee reasonable compensation for its services as shall be agreed upon between the Trustee and the City, and the City shall reimburse the Trustee for all of its advances and expenditures, including but not limited to advances to and fees and expenses of Independent Appraisers, accountants, consultants, counsel, agents and attorneys-at-law or other experts employed by the Trustee in the exercise and performance of its powers and duties hereunder, and the Trustee shall have a lien therefor on any and all funds at any time held by it under this Trust Agreement, which lien shall be prior and superior to the lien of the Certificate Owners. The City's obligation hereunder shall remain valid and binding notwithstanding maturity and payment of the Certificates.

SECTION 9.07. Indemnification of the Trustee. The City shall indemnify, to the extent permitted by law, and save the Trustee harmless from and against all claims, losses, costs, expenses, liability and damages, including legal fees and expenses, arising out of: (i) the use, maintenance, condition or management of, or from any work or thing done on or to, the Site or the Property by the City; (ii) any breach or default on the part of the City in the performance of any of its obligations under this Trust Agreement and any other agreement made and entered into for purposes of the Property; (iii) any act of negligence of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Property; (iv) any act of negligence of any assignee of, or purchaser from, the City or of any of its or their agents, contractors, servants, employees or licensees with respect to the Property; (v) acquisition or construction of the Property; (vi) the actions of any other party, including but not limited to the ownership, operation or use of the Property by the City; (vii) the Trustee's exercise and performance of its powers and duties hereunder or under any Related Document; (viii) any untrue statement or alleged untrue statement of any material fact or omission or alleged omission to state a material fact necessary to make the statements made, in light of the circumstances

under which they were made, not misleading in any official statement or other offering circular utilized in connection with the sale of the Certificates; or (ix) or related to the presence on, under or about, or release from the Property, or any portion thereof, of any substance, material or waste which is or becomes regulated or classified as toxic or hazardous under State, local or federal law, and the violation or noncompliance with, any such laws by the City or the Corporation. Such indemnification shall include the costs and expenses of defending against any claim or liability arising under this Trust Agreement. No indemnification will be made under this Section or elsewhere in this Trust Agreement for willful misconduct, negligence, or breach of duty under this Trust Agreement by the Trustee, its officers, agents, employees, successors or assigns. The City's obligations hereunder shall remain valid and binding notwithstanding maturity and payment of the Certificates or the resignation or removal of the Trustee. The City's obligations under Section 9.06 and under this Section 9.07 shall remain valid and binding notwithstanding the maturity and payment of the Certificates or resignation or removal of the Trustee.

SECTION 9.08. Co-Trustees.

(a) At any time, for the purpose of meeting the legal requirements of any applicable jurisdiction, the Trustee or the City shall have the power to appoint one or more persons to act as co-trustee under this Trust Agreement, with such powers as may be provided in the instrument of appointment, and to vest in such person or persons any property, title, right or power deemed necessary or desirable, subject to the remaining provisions of this Section.

(b) Each co-trustee shall, to the extent permitted by applicable law, be appointed subject to the following terms:

(1) The rights, powers, duties and obligations conferred or imposed upon any such co-trustee shall not be greater than those conferred or imposed upon the Trustee, and such rights and powers shall be exercisable only jointly with the Trustee, except to the extent that, under any law of any jurisdiction in which any particular act or acts are to be performed, the Trustee shall be incompetent or unqualified to perform such act or acts, in which event such rights and powers shall be exercised by such co-trustee subject to the provisions of Section 9.08(b)(4) hereof.

(2) The Trustee or the City may at any time, by an instrument in writing executed by it, accept the resignation of or remove any co-trustee appointed under this Section 9.08.

(3) No co-trustee under this Trust Agreement shall be liable by reason of any act or omission of any other co-trustee appointed under this Trust Agreement.

(4) No power given to such co-trustee shall be separately exercised hereunder by such co-trustee except with the consent in writing of the Trustee, anything herein contained to the contrary notwithstanding.

The provisions of Section 9.07 hereof shall extend to any co-trustee, its officers, employees, agents, successors and assigns appointed hereunder.

## ARTICLE X

### MODIFICATION OR AMENDMENT OF AGREEMENTS

#### SECTION 10.01. Amendments Permitted.

(a) With Consent. This Trust Agreement and the rights and obligations of the Owners, and the Lease and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental agreement that shall become effective when the written consents of [the Insurer and of] the Owners of a majority in aggregate principal amount of the Certificates then Outstanding, exclusive of Certificates disqualified as provided in Section 10.03 hereof, shall have been filed with the Trustee. No such modification or amendment shall:

(1) extend or have the effect of extending the fixed maturity of any Certificate or the time of payment of interest thereon, or reduce or have the effect of reducing the interest rate with respect to any Certificate, the amount of principal thereof or the amount of any premium payable upon the prepayment thereof, or

(2) reduce or have the effect of reducing the percentage of Certificates required for the affirmative vote or written consent to an amendment or modification of the Lease, or

(3) modify any of the rights or obligations of the Trustee without its written assent thereto.

Any such supplemental agreement shall become effective as provided in Section 10.02 hereof.

(b) Without Consent. This Trust Agreement and the rights and obligations of the Owners, and the Lease and the rights and obligations of the parties thereto, may be modified or amended at any time by a supplemental agreement, without the consent of any such Owners, but only to the extent permitted by law and only:

(1) to cure, correct or supplement any ambiguous or defective provision contained herein or therein;

(2) in regard to matters arising hereunder or thereunder, as the parties hereto or thereto may deem necessary or desirable and which (based upon opinions as provided in Section 9.03(b)), shall not adversely affect the interest of the Owners (notwithstanding any other provision of the Trust Agreement, in determining whether the rights of the Certificateholders will be adversely affected by any action taken pursuant to the terms and provisions of the Trust Agreement, the Trustee shall consider the effect on the Owners of the Certificates as if there were no Municipal Bond Insurance Policy); or

(3) to remove or substitute Property as provided by Section 3.3 of the Lease.

Any such supplemental agreement shall become effective upon execution and delivery by the parties hereto or thereto as the case may be.

SECTION 10.02. Procedure for Amendment with Written Consent of the Owners. This Trust Agreement or the Lease may be amended by supplemental agreement as provided in this Section in the event that the consent of the [Insurer and the] Owners is required pursuant to Section 10.01(a) hereof. A copy of such supplemental agreement, together with a request to the Owners for their consent thereto, shall be mailed by the Trustee by first-class mail, postage prepaid, to each Owner of a Certificate at his address as set forth in the Certificate registration books maintained pursuant to Section 2.12 hereof, but failure to receive copies of such supplemental agreement and request so mailed shall not affect the validity of the supplemental agreement when assented to as provided in this Section.

Such supplemental agreement shall not become effective unless there shall be filed with the Trustee the written consent of the Owners of at least a majority in aggregate principal amount of the Certificates then Outstanding (exclusive of Certificates disqualified as provided in Section 10.03 hereof) and notices shall have been mailed as hereinbefore provided in this Section. Each such consent shall be effective only if accompanied by proof of ownership of the Certificates for which such consent is given, which proof shall be such as is permitted by Section 2.11 hereof. Any such consent shall be binding upon the Owner of the Certificate giving such consent and on any subsequent Owner thereof (whether or not such subsequent Owner has notice thereof) unless such consent is revoked in writing by the Owner giving such consent or a subsequent Owner by filing such revocation with the Trustee prior to the date when the notice hereinafter in this Section provided for has been mailed.

After the Owners of the required percentage of Certificates shall have filed their consents to such supplemental agreement, the Trustee shall mail a notice to the Owners of the Certificates in the manner hereinbefore provided in this Section for the mailing of such supplemental agreement, stating in substance that such supplemental agreement has been consented to by the Owners of the required percentage of Certificates and will be effective as provided in this Section (but failure to mail copies of said notice shall not affect the validity of such supplemental agreement or consents thereto). A record, consisting of the papers required by this Section to be filed with the Trustee, shall be proof of the matters therein stated until the contrary is proved.

SECTION 10.03. Disqualified Certificates. Certificates owned or held by or for the account of the City or the Corporation or by any person directly or indirectly controlled or controlled by, or under direct or indirect common control with the City or the Corporation (except any Certificates held in any pension or retirement fund) shall not be deemed Outstanding for the purpose of any vote, consent, waiver or other action or any calculation of Outstanding Certificates provided for in this Trust Agreement, and shall not be entitled to vote upon, consent to, or take any other action provided for in this Trust Agreement.

The City or Trustee may adopt appropriate regulations to require each Owner, before his consent provided for in this Article X shall be deemed effective, to reveal if the Certificates as to which such consent is given are disqualified. Upon request of the Trustee, the City and the Corporation shall specify to the Trustee those Bonds disqualified pursuant to this Section and the Trustee may conclusively rely on such certificate.

SECTION 10.04. Effect of Supplemental Agreement. From and after the time that any supplemental agreement becomes effective pursuant to this Article X, this Trust Agreement, the

Site Lease or the Lease, as the case may be, shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and of all Owners of Certificates Outstanding, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all of the terms and conditions of any supplemental agreement shall be deemed to be part of the terms and conditions of this Trust Agreement or the Lease, as the case may be, for any and all purposes.

SECTION 10.05. Endorsement or Replacement of Certificates Delivered After Amendments. The Trustee may determine that Certificates delivered after the effective date of any action taken as provided in this Article X shall bear a notation, by endorsement, in form approved by the Trustee, as to such action. In that case, upon demand of the Owner of any Outstanding Certificate at such effective date and presentation of his Certificate for the purpose at the Principal Office, a suitable notation shall be made on such Certificate at the cost of the City. The Trustee may determine that replacement Certificates, so modified as in the opinion of the Trustee is necessary to conform to such Owners' action, shall be prepared, executed and delivered. In that case, upon demand of the Owner of any Certificate then Outstanding, such replacement Certificate shall be exchanged at the Principal Office without cost to such Owner, for a Certificate of the same character then Outstanding, upon surrender of such Certificate.

SECTION 10.06. Amendatory Endorsement of Certificates. Subject to the provisions of Section 10.01 hereof, the provisions of this Article X shall not prevent any Certificate Owner from accepting any amendment as to the particular Certificates held by him, provided that due notification thereof is made on such Certificates.

## ARTICLE XI

### COVENANTS; NOTICES

SECTION 11.01. Compliance With and Enforcement of the Lease. The City covenants and agrees with the Owners to perform all obligations and duties imposed on it under the Lease. The Corporation covenants and agrees with the Owners to perform all obligations and duties imposed on it under the Lease.

The City will not do or permit anything to be done, or omit or refrain from doing anything, in any case where any such act done or permitted to be done, or any such omission of or refraining from action, would or might be a ground for cancellation or termination of the Lease by the Corporation. The Corporation and the City, immediately upon receiving or giving any notice, communication or other document in any way relating to or affecting their respective estates, or the leasehold interests therein, which may or can in any manner affect such estate of the City, will deliver the same, or a copy thereof, to the Trustee.

SECTION 11.02. Payment of Taxes. The City shall pay all taxes relating to the Property and the Certificates as provided in Section 7.6(b) of the Lease.

SECTION 11.03. Observance of Laws and Regulations. The City will well and truly keep, observe and perform all valid and lawful obligations or regulations now or hereafter

imposed on it by contract, or prescribed by any law of the United States, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired by the City, including its right to exist and carry on business as a City, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

SECTION 11.04. Prosecution and Defense of Suits. The City shall promptly from time to time, and also upon request of the Trustee or any Owner, take such action as may be necessary or proper to remedy or cure any defect in or cloud upon the title to the Property, whether now existing or hereafter developing and shall prosecute all such suits, actions and other proceedings as may be appropriate for such purpose and shall indemnify, to the extent permitted by law, and save the Trustee and every Owner harmless from all loss, cost, damage and expense, including attorneys' fees, which they or any of them may incur by reason of any such defect, cloud, suit, action or proceeding.

SECTION 11.05. Further Assurances. The Corporation and the City will make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Trust Agreement, and for the better assuring and confirming unto the Owners the rights and benefits provided herein.

SECTION 11.06. Notice of Trustee. The Trustee shall provide the City and the Corporation with written notice within five days after a responsible officer of the Trustee acquires actual knowledge of an Event of Default, as defined in Section 9.1 of the Lease.

SECTION 11.07. Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Trust Agreement, failure of the City to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default hereunder; however, any Certificate Owner or Beneficial Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Section.

## ARTICLE XII

### LIMITATION OF LIABILITY

SECTION 12.01. Limited Liability of the City and Corporation. Except for the payment of Lease Payments, Additional Payments and Prepayments when due in accordance with the Lease and the performance of the other covenants and agreements of the City contained herein and in the Lease, the City shall have no obligation or liability to the Owners or to any of the other parties hereto with respect to this Trust Agreement or the terms, execution, delivery or transfer of the Certificates, or the distribution of Lease Payments to the Owners by the Trustee. The Corporation shall not have any obligation or liability to the Owners or to any of the other parties hereto with respect to this Trust Agreement or the terms, execution, delivery or transfer of the Certificates, or the payment when due of the Lease Payments or the Additional Payments by

the City or the distribution of the Lease Payments to the Owners by the Trustee, or the performance by the City of the other agreements and covenants required to be performed by the City contained in the Lease and this Trust Agreement.

SECTION 12.02. No Liability of the City or Corporation for Trustee Performance. Except as expressly provided herein, neither the City nor the Corporation shall have any obligation or liability to any of the other parties or to the Owners with respect to the performance by the Trustee of any duty imposed upon it under this Trust Agreement.

SECTION 12.03. Limited Liability of Trustee.

(a) No Investment Advice. The Trustee shall have no obligation or responsibility for providing information to the Owners concerning the investment character of the Certificates.

(b) Sufficiency of this Trust Agreement or Lease Payments. The Trustee makes no representations as to the validity or sufficiency of the Certificates, shall incur no responsibility in respect thereof, other than in connection with the duties or obligations herein or in the Certificates expressly assigned to or imposed upon it. The Trustee shall not be responsible for the sufficiency of the Lease. The Trustee shall not be liable for the sufficiency or collection of any Lease Payments or other moneys required to be paid to it under the Lease (except as provided in this Trust Agreement), its right to receive moneys pursuant to said Lease, or the value of the Property.

(c) Actions of Corporation and City. The Trustee shall have no obligation or liability to any of the other parties or the Owners with respect to this Trust Agreement or the failure or refusal of any other party to perform any covenant or agreement made by any of them under this Trust Agreement or the Lease, but shall be responsible solely for the performance of the duties and obligations expressly imposed upon it hereunder as provided in Section 9.05 hereof.

(d) Recitals and Agreements of Corporation and City. The Trustee assumes no responsibility for the correctness of the recitals of facts, covenants and agreements herein and contained in the Certificates of the City or the Corporation (as the case may be).

SECTION 12.04. Limitation of Rights of Parties and Certificate Owners. Nothing in this Trust Agreement or in the Certificates expressed or implied is intended or shall be construed to give any person other than the City, the Corporation, the Trustee, and the Owners any legal or equitable right, remedy or claim under or in respect of this Trust Agreement or any covenant, condition or provision hereof; and all such covenants, conditions and provisions are and shall be for the sole and exclusive benefit of the City, the Corporation, the Trustee, and the Owners.

## ARTICLE XIII

### REMEDIES

SECTION 13.01. Assignment of Rights. The parties hereto acknowledge that, pursuant to the Assignment Agreement, the Corporation has transferred, assigned and set over to the Trustee for the benefit of the Owners certain of the Corporation's rights under the Lease.

SECTION 13.02. Remedies.

(a) Remedies. If an Event of Default shall happen, then, and in each and every such case during the continuance of such Event of Default, the Trustee may, after being indemnified to its satisfaction and subject to the provisions of this Trust Agreement, may exercise any and all remedies available pursuant to law or granted pursuant to the Lease; provided, however, that notwithstanding anything herein or in the Lease to the contrary, THERE SHALL BE NO RIGHT UNDER ANY CIRCUMSTANCES TO ACCELERATE THE MATURITIES OF THE CERTIFICATES OR OTHERWISE TO DECLARE ANY LEASE PAYMENTS NOT THEN DUE TO BE IMMEDIATELY DUE AND PAYABLE.

[Anything in the Lease to the contrary notwithstanding, upon the occurrence and continuance of an Event of Default, the Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to Certificateholders or the Trustee for the benefit of Certificateholders under the Lease or the Trust Agreement.]

(b) Actual Knowledge. The Trustee shall not be deemed to have knowledge of any Event of Default hereunder unless and until a responsible officer of the Trustee shall have actual knowledge thereof or shall have received written notice thereof at its Principal Office.

SECTION 13.03. Application of Funds. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article XIII or of Article IX of the Lease, shall be deposited into the Lease Payment Fund and shall be applied by the Trustee in the following order upon presentation and surrender of the several Certificates.

First, Costs and Expenses: to the payment of the costs and expenses of the Trustee and then of the Owners, including reasonable compensation to its or their agents, attorneys and counsel incurred in connection with the particular Event of Default and any sums owed to the Trustee pursuant to Sections 9.06 or 9.07 hereof (provided that no amounts transferred from the Reserve Fund to the Lease Payment Fund shall be applied for the foregoing purposes, but shall be applied only for the purposes in paragraphs second and third below);

Second, Interest: to the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installment, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Third, Principal: to the payment to the persons entitled thereto of the unpaid principal of any Certificates that shall have become due, whether at maturity or by call for prepayment, in the order of their due dates, with interest on the overdue principal and interest at a rate equal to the rate paid with respect to the Certificates and, if the amount available shall not be sufficient to pay in full all the amounts due with respect to the Certificates on any date, together with such interest, then to the payment thereof ratably, according to the amounts of principal due on such date to the persons entitled thereto, without any discrimination or preference.

SECTION 13.04. Institution of Legal Proceedings. If one or more Events of Default shall happen and be continuing, the Trustee in its discretion may, and upon the written request of the Owners of a majority in principal amount of the Certificates then Outstanding, and upon being indemnified to its satisfaction therefor, shall, proceed to protect or enforce its rights or the rights of the Owners by a suit in equity or action at law, either for the specific performance of any covenant or agreement contained herein or in the Lease, or in aid of the execution of any power herein granted, or by mandamus or other appropriate proceeding for the enforcement of any other legal or equitable remedy as the Trustee shall deem most effectual in support of any of its rights or duties hereunder.

SECTION 13.05. Non-Waiver. Nothing in this Article XIII or in any other provision of this Trust Agreement or in the Certificates shall affect or impair the obligation of the City, which, subject to the provisions of Section 4.9 of the Lease, is absolute and unconditional, to pay or prepay the Lease Payments as provided in the Lease. No delay or omission of the Trustee or of any Owner to exercise any right or power arising upon the happening of any Event of Default shall impair any such right or power or shall be construed to be a waiver of any such Event of Default or an acquiescence therein, and every power and remedy given by this Article XIII to the Trustee or to the Owners may be exercised from time to time and as often as shall be deemed expedient by the Trustee or the Owners.

SECTION 13.06. Remedies Not Exclusive. No remedy herein conferred upon or reserved to the Trustee or to the Owners is intended to be exclusive of any other remedy, and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise.

SECTION 13.07. Power of Trustee to Control Proceedings. In the event that the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of a majority in principal amount of the Certificates then Outstanding, it shall have full power, in the exercise of its discretion for the best interest of the Owners of the Certificates, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owners of at least a majority in principal amount of the Outstanding Certificates (along with continued indemnities to the Trustee's satisfaction) hereunder opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation.

SECTION 13.08. Limitation on Certificate Owners' Right to Sue. No Owner of any Certificate executed hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Trust Agreement, unless (a) such Owner shall have previously given to the Trustee written notice of the occurrence of an Event of Default under the Lease; (b) the Owners of a majority in aggregate principal amount of all of the Certificates then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Trustee reasonable indemnity against the costs, expenses

and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to comply with such request for a period of 60 days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of any remedy hereunder; it being understood and intended that no one or more Owners shall have any right in any manner whatever by his or their action to enforce any right under this Trust Agreement, except in the manner herein provided and for the equal benefit of all Owners of the Outstanding Certificates.

The right of any Owner of any Certificate to receive payment of said Owner's proportionate undivided interest in the Lease Payments as the same become due, or to institute suit for the enforcement of such payment, shall not be impaired or affected without the consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Trust Agreement.

SECTION 13.09. Agreement to Pay Attorneys' Fees and Expenses. In the event the City or Corporation should default under any of the provisions hereof and the nondefaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement or observance of any obligation or agreement on the part of the defaulting party contained herein, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party.

#### ARTICLE XIV

#### MISCELLANEOUS

##### SECTION 14.01. Defeasance.

(a) Methods. If and when any Outstanding Certificates shall be paid and discharged in any one or more of the following ways —

(1) Payment: by well and truly paying or causing to be paid the principal of and interest and prepayment premiums (if any) with respect to such Certificates, as and when the same become due and payable;

(2) Cash: by irrevocably depositing with the Trustee, in trust, at or before maturity or the date of prepayment, as applicable, an amount of cash which (together with cash then on deposit in the Lease Payment Fund and the Reserve Fund, in the event of payment or provision for payment of all Outstanding Certificates) is sufficient to pay such Certificates, including all principal and interest and premium, if any, as the same become due; provided, however, that if such Certificates are prepaid prior to their maturity dates, the Trustee shall have given, or shall receive irrevocable instructions to give, notice of such prepayment as provided in this Trust Agreement; or

(3) Defeasance Securities: by irrevocably depositing with the Trustee, in trust, at or before maturity or the date of prepayment, as applicable, noncallable Defeasance Securities together with cash, if required, in such amount as will, in the opinion of an independent certified public accountant delivered to the Trustee, together with interest to accrue thereon (and, in the event of payment or provision for payment of all Outstanding Certificates moneys then on deposit in the Lease Payment Fund and the Reserve Fund together with the interest to accrue thereon), be fully sufficient to pay such Certificates (including all principal and interest and prepayment premiums, if any), as the same became due; provided, however, that if such Certificates are prepaid prior to their maturity dates, the Trustee shall have given, or shall receive irrevocable instructions to give, notice of such prepayment as provided in this Trust Agreement; [provided that such deposit will result in the Certificates to be paid from such deposit being rated in the highest rating category by Fitch, Moody's and Standard & Poor's;

then, notwithstanding that any such Certificates shall not have been surrendered for payment, all obligations of the Corporation, the Trustee and the City with respect to such Certificates shall cease and terminate, except only the obligation of the Trustee to pay or cause to be paid, solely from funds deposited pursuant to paragraphs (1), (2) or (3) of this Section, as applicable, to the Owners of the Certificates not so surrendered and paid all sums due with respect thereto, and in the event of deposits pursuant to paragraphs (1), (2) and (3) of this Section, the Certificates shall continue to represent direct and proportionate undivided interests of the Owners thereof in Lease Payments under the Lease.

(b) Surplus Monies. The Trustee shall notify the City of any funds held by the Trustee at the time of payment or provision for payment of all Outstanding Certificates pursuant to one of the procedures described in paragraphs (1) through (3) of Section 14.01(a), which are not required for payment to be made to Owners shall, after the payment of all fees and expenses of the Trustee, including pursuant to Sections 9.06 and 9.07 hereof, be timely paid over to the City.

(c) Surviving Provisions. Notwithstanding the satisfaction and discharge hereof, the Trustee shall retain such rights, powers and privileges hereunder as may be necessary or convenient for the payment of the principal, interest and prepayment premium, if any, on the Certificates and for the registration, transfer and exchange of the Certificates.

SECTION 14.02. Non-Presentation of Certificates. In the event that any Certificate shall not be presented for payment when the principal with respect thereof becomes due, either at maturity or at the date fixed for prepayment thereof, if moneys sufficient to pay such Certificate shall have been deposited in the Lease Payment Fund, all liability of the City to the Owner thereof for payment of such Certificate shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such moneys, without liability for interest thereon, for the benefit of the Owner of such Certificate who shall thereafter be restricted exclusively to such moneys, for any claim of whatever nature on his part under this Trust Agreement or on, or with respect to, said Certificate.

Any moneys (including interest due with respect to the Certificates) so deposited with and held by the Trustee not so applied to the payment of Certificates within two (2) years after

the date on which the same shall have become due shall be paid by the Trustee to the City, free from the trusts created by this Trust Agreement. Thereafter, Owners shall be entitled to look only to the City for payment from such moneys, and then only to the extent of the amount so disbursed by the Trustee. The City shall not be liable for any interest on the sums paid to it pursuant to this Section and shall not be regarded as a trustee or trustees of such money.

SECTION 14.03. Records. The Trustee shall keep complete and accurate records of all moneys received and disbursed under this Trust Agreement, which shall be available upon prior written notice for inspection by the City, the Corporation and any Owner, or the agent of any of them, at any time during regular business hours.

SECTION 14.04. Notices. All written notices to be given under this Trust Agreement shall be given by mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as the party may provide to the other party in writing from time to time. Notice to the Trustee shall be effective upon receipt. Notice to the other parties shall be deemed to have been received upon delivery via facsimile transmission (followed by telephonic confirmation) or the earlier of actual receipt or five Business Days after deposit in the United States mail, in certified form, postage prepaid or, in the case of personal delivery, upon delivery to the address set forth below:

If to the City:	City of Lodi 221 West Pine Street Lodi, California 95241-1910 Attention: City Manager
If to the Corporation:	Lodi Public Improvement Corporation c/o City of Lodi 221 West Pine Street Lodi, California 95241-1910 Attention: City Clerk
If to the Trustee:	BNY Western Trust Company 550 Kearney Street, Suite 600 San Francisco, California 94108 Attention: Corporate Trust Administration

[If to the Insurer:]

If to the Rating Agencies:

If to Fitch: Fitch Inc.  
One State Street Plaza  
New York, New York 10004

If to Standard & Poor's: Standard & Poor's Ratings Services  
55 Water Street  
New York, New York 10041

SECTION 14.05. Governing Law. This Trust Agreement shall be construed and governed in accordance with the laws of the State.

SECTION 14.06. Binding Effect; Successors. This Trust Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Whenever in this Trust Agreement the Corporation, the City or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof and all the covenants and agreements in this Trust Agreement contained by or on behalf of the Corporation, the City or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

SECTION 14.07. Headings. The headings or titles of the several Articles and Sections hereof, and any table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Trust Agreement. All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Trust Agreement; and the words "herein," "hereof," "hereunder" and other words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section or subdivision hereof.

SECTION 14.08. Interested Parties.

(a) [To the extent that this Trust Agreement confers upon or gives or grants to the Insurer any right, remedy or claim under or by reason of this Trust Agreement, the Insurer is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right remedy or claim conferred, given or granted hereunder.]

(b) Nothing in this Trust Agreement expressed or implied is intended or shall be construed to confer upon, or to give or grant to, any person or entity, other than the City, the Corporation, the Trustee,[the Insurer] and the Owners of the Certificates, any right, remedy or claim under or by reason of this Trust Agreement or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Trust Agreement contained by and on behalf of the City or the Corporation shall be for the sole and exclusive benefit of the City, the Corporation, the Trustee and the Owners of the Certificates.

SECTION 14.09. Waiver of Notice. Whenever in this Trust Agreement the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 14.10. Severability of Invalid Provisions. In case any one or more of the provisions contained in this Trust Agreement or in the Certificates shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Trust Agreement, and this Trust Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The parties hereto hereby declare that they would have entered into this Trust Agreement and each and every other Section, paragraph, sentence, clause or phrase hereof and authorized the delivery of the Certificates pursuant thereto irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses or phrases of this Trust Agreement may be held illegal, invalid or unenforceable.

SECTION 14.11. [Certain Provisions for the Benefit of the Insurer.]

[Remainder of this page intentionally left blank]

SECTION 14.12. Execution in Counterparts. This Trust Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

IN WITNESS WHEREOF, the parties have executed this Trust Agreement as of the date and year first above written.

BNY WESTERN TRUST COMPANY, as Trustee

By: \_\_\_\_\_  
Authorized Signatory

LODI PUBLIC IMPROVEMENT  
CORPORATION

By: \_\_\_\_\_  
Executive Director

Attest:

\_\_\_\_\_  
Secretary for the Corporation

APPROVED:

\_\_\_\_\_  
Attorney for the Corporation

CITY OF LODI

By: \_\_\_\_\_  
City Manager

Attest:

\_\_\_\_\_  
City Clerk

APPROVED:

\_\_\_\_\_  
City Attorney

EXHIBIT A

[FORM OF CERTIFICATE OF PARTICIPATION]

CERTIFICATE OF PARTICIPATION  
(2002 Public Improvement Financing Project)

Evidencing the Proportionate Interest of  
the Owner Hereof In Lease Payments to be Made by the

City of Lodi  
(San Joaquin County, California)

Interest Rate	Maturity Date	Dated Date	CUSIP
%	___ 1, ___	[Date of Delivery]	

REGISTERED OWNER:

PRINCIPAL AMOUNT:

THIS IS TO CERTIFY THAT the registered owner named above, or registered assign, as the Owner of this Certificate of Participation (the "Certificate") is the owner of a proportionate interest in the right to receive certain Lease Payments and Prepayments thereof under and as defined in that certain Lease Agreement, dated as of January 1, 2002 (the "Lease"), by and between the Lodi Public Improvement Corporation (the "Corporation"), a nonprofit, public benefit corporation duly organized and existing under the laws of the State of California, and the City of Lodi (the "City"), a municipal corporation organized and existing under the Constitution and the laws of the State of California, which Lease Payments and Prepayments and certain other rights and interests under the Lease have been assigned to BNY Western Trust Company, as trustee (the "Trustee"), having a corporate trust office in San Francisco, California (said office being herein referred to as the "Principal Office").

The Owner of this Certificate is entitled to receive, subject to the terms of the Lease, on the maturity date specified above, the principal amount specified above, representing a portion of the Lease Payments designated as principal coming due during the preceding twelve months, and to receive on \_\_\_\_\_ 1, 2002, and semiannually thereafter on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year (the "Certificate Payment Dates") until payment in full of said portion of principal, the Owner's portion of the Lease Payments designated as interest coming due during the period immediately preceding each of the Certificate Payment Dates; provided that the interest with respect hereto shall be payable from the Certificate Payment Date next preceding the date of execution of this Certificate (unless (i) this Certificate is executed as of a Certificate Payment Date, in which event interest shall be payable from the date thereof, or (ii) this Certificate is executed after the close of business on the fifteenth day of the month preceding a Certificate Payment Date (the "Record Date"), and before the following Certificate Payment Date, in which event interest shall be payable from such following Certificate Payment Date, or (iii) this Certificate is executed prior to the close of business on \_\_\_\_\_, in which event interest shall be payable from this Certificate's date of delivery). The portion of the Lease

Payments designated as interest is computed on the basis of a 360-day year of twelve 30-day months and is the result of the multiplication of the aforesaid portion of the Lease Payments designated as principal by the rate per annum identified above. Said amounts are payable in lawful money of the United States of America. The amount representing principal payable at maturity or upon prepayment in whole or in part is payable to the Owner upon presentation and surrender of this Certificate at the Principal Office or such other place as designated by the Trustee. In the event that this Certificate is prepaid in part only, payment of such partial prepayment of principal represented by this Certificate will be by check mailed by first class mail upon presentation and surrender of this Certificate at the Principal Office or such other place as designated by the Trustee. Payment of interest with respect to any Certificate on any Certificate Payment Date or prepayment date shall be by check mailed on such Certificate Payment Date by first class mail by the Trustee to the Owner hereof as of the Record Date preceding the Certificate Payment Date at such Owner's address as it appears on the registration books of the Trustee. At the option of any Owner of at least \$1,000,000 aggregate principal amount of Certificates, interest with respect to Certificates may be payable by wire transfer to an account in the United States of America designated in writing to the Trustee no later than the applicable Record Date.

[The Certificates are insured by a municipal bond insurance policy issued by \_\_\_\_\_]

This Certificate has been executed and delivered by the Trustee pursuant to the terms of that certain Trust Agreement, dated as of January 1, 2002 (the "Trust Agreement"), by and among the City, the Corporation and the Trustee. The City is authorized to enter into the Lease and the Trust Agreement under the Constitution and the laws of the State of California. Reference is hereby made to the Lease and the Trust Agreement (copies of which are on file at the Principal Office) for a description of the terms on which the Certificates are delivered, the rights thereunder of the Owners of the Certificates, the rights, duties and immunities of the Trustee and the rights and obligations of the City under the Lease, to all of the provisions of which Lease and Trust Agreement the Owner of this Certificate, by acceptance hereof, assents and agrees. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Trust Agreement.

The City is obligated to make Lease Payments from any source of legally available funds, and the City has covenanted in the Lease to make the necessary annual appropriations therefor. The obligation of the City to make the Lease Payments does not constitute an obligation of the City for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to make Lease Payments does not constitute a debt of the City, the State of California or any of its political subdivisions, and does not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. The City's obligation to make Lease Payments may be abated during any period in which there is substantial interference with the use and right of possession by the City of the property which is the subject of the Lease. Failure of the City to make Lease Payments during any such period shall not constitute a default under the Lease, the Trust Agreement or this Certificate.

To the extent and in the manner permitted by the terms of the Trust Agreement, the provisions of the Trust Agreement may be amended by the parties thereto with the written

consent of the Owners of at least a majority in aggregate principal amount of the Certificates then Outstanding, and may be amended without such consent under certain circumstances. No such modification or amendment shall (1) extend or have the effect of extending the fixed maturity of any Certificate or the time of payment of interest thereon, or reduce or have the effect of reducing the interest rate with respect to any Certificate, the amount of principal thereof or the amount of any premium payable upon the prepayment thereof, without the express consent of the Owner of such Certificate, or (2) reduce or have the effect of reducing the percentage of Certificates required for the affirmative vote or written consent to an amendment or modification of the Lease, or (3) modify any of the rights or obligations of the Trustee without its written assent thereto.

This Certificate is transferable by the Owner hereof, in person or by such Owner's duly authorized attorney, at the Principal Office or such other place as designated by the Trustee, but only in the manner, subject to the limitations and upon payment of the charges provided in the Trust Agreement and upon surrender and cancellation of this Certificate. Upon such transfer a new Certificate or Certificates, of authorized denomination or denominations, for the same aggregate principal amount, maturity and interest rate, will be delivered to the transferee. The Trustee shall not be required to register the transfer or exchange of any Certificate (i) between the date which is 15 days immediately preceding the selection of Certificates for prepayment and the date of mailing notice of prepayment and (ii) selected for prepayment. This Certificate also may be exchanged for a like aggregate principal amount of Certificates of other authorized denominations as prescribed in the Trust Agreement. The City, the Corporation and the Trustee may treat the Owner hereof as the absolute owner hereof for all purposes whether or not this Certificate shall be overdue, and the City, the Corporation and the Trustee shall not be affected by any notice to the contrary.

The Certificates are subject to prepayment on any Business Day, in whole or in part, from Net Proceeds of condemnation or any insurance award resulting from condemnation, damage or destruction of all or a portion of the Property which the Trustee shall transfer to the Prepayment Fund at least forty-five (45) days prior to such date of prepayment and credited towards the Prepayment made by the City pursuant to the Lease, at a prepayment price equal to the principal amount of Certificates prepaid, together with accrued interest to the date fixed for prepayment, without premium.

The Certificates maturing on or before \_\_\_\_\_, are not subject to optional prepayment prior to their respective stated maturities. The Certificates maturing on or after \_\_\_\_\_, are subject to optional prepayment in whole or in part on any Certificate Payment Date on or after \_\_\_\_\_ from prepayments of the Lease Payments made at the option of the City under the Lease. Certificates shall be prepaid at a prepayment price (expressed as percentages of the principal amount of Certificates or portions thereof to be prepaid) set forth in the following table, in each case with accrued interest represented thereby to the prepayment date:

Whenever fewer than all Certificates are to be prepaid, the Trustee shall select Certificates called for prepayment from the Outstanding Certificates, among maturities selected by the City and by lot within any maturity.

As provided in the Trust Agreement, notice of prepayment shall be sent by first class mail, not less than 30 nor more than 60 days before the prepayment date, to the Owner of this Certificate, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for prepayment.

If this Certificate is called for prepayment and payment is duly provided therefor as specified in the Trust Agreement, interest shall cease to accrue with respect hereto from and after the date fixed for prepayment.

The Trustee has no obligation or liability to the Owners to make payments of principal of, premium, if any, or interest with respect to the Certificates except from Lease Payments paid to the Trustee and from the various funds and accounts established under the Trust Agreement.

The City has certified that all acts, conditions and things required by the Constitution and statutes of the State of California and the Trust Agreement to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of this Certificate do exist, have happened and have been performed in regular and due time, form and manner as required by law, and that the Trustee is duly authorized to execute and deliver this Certificate, and that the amount of this Certificate, together with all other Certificates executed and delivered under the Trust Agreement, is not in excess of the amount of Certificates authorized to be executed and delivered thereunder.

IN WITNESS WHEREOF, this Certificate has been executed and delivered by BNY Western Trust Company, as Trustee, acting pursuant to the Trust Agreement (as herein described).

BNY WESTERN TRUST COMPANY, as Trustee

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Authorized Officer

Date of Execution: \_\_\_\_\_

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
(Please print or typewrite name, address and social security or other identifying number of Transferee)

\_\_\_\_\_  
the within Certificate and all rights thereunder, and hereby irrevocably constitutes and appoints

\_\_\_\_\_  
to transfer the within Certificate on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed

\_\_\_\_\_  
NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution.

\_\_\_\_\_  
NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Certificate in every particular, without alteration or enlargement or any change whatsoever.

## STATEMENT OF INSURANCE

EXHIBIT B

FORM OF WRITTEN REQUISITION

BNY Western Trust Company, as Trustee  
550 Kearney Street, Suite 600  
San Francisco, California 94108  
Attention: Corporate Trust Administration

RE: Disbursement from the Improvement Fund pursuant to Section 3.03 the Trust Agreement, dated as of January 1, 2002, by and among BNY Western Trust Company, as trustee (the "Trustee"), Lodi Public Improvement Corporation (the "Corporation") and the City of Lodi (the "City")

REQUISITION NO. \_\_\_\_\_

Amount; Payee. You are hereby instructed to pay to: \_\_\_\_\_  
at \_\_\_\_\_ an amount equal to \$ \_\_\_\_\_ for costs incurred  
(describe expenditure):

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This cost has been properly incurred, is a proper charge against the Improvement Fund and has not been the basis of any previous disbursements.

\_\_\_\_\_ Check here if all Costs of the 2002 Project have been paid and the Trustee is directed to undertake transfers from the Improvement Fund pursuant to Article III, Section 3.04 of the Trust Agreement.

Very truly yours,

CITY OF LODI

By: \_\_\_\_\_  
City Representative

EXHIBIT C

FORM OF WRITTEN REQUISITION

BNY Western Trust Company, as Trustee  
550 Kearney Street, Suite 600  
San Francisco, California 94108  
Attention: Corporate Trust Administration

RE: Disbursement from the Cost of Issuance Fund pursuant to Section 3.03 the Trust Agreement, dated as of January 1, 2002, by and among BNY Western Trust Company, as trustee (the "Trustee"), Lodi Public Improvement Corporation (the "Corporation") and the City of Lodi (the "City")

REQUISITION NO. \_\_\_\_\_

Amount; Payee. You are hereby instructed to pay to: \_\_\_\_\_  
at \_\_\_\_\_ an amount equal to \$ \_\_\_\_\_ for costs incurred  
(describe expenditure):

\_\_\_\_\_ This cost has been properly incurred, is a proper charge against the Cost of Issuance Fund and has not been the basis of any previous disbursements.

\_\_\_\_\_ Check here if all Cost of Issuance have been paid and the Trustee is directed to undertake transfers from the Cost of Issuance Fund pursuant to Article III, Section 3.08 of the Trust Agreement.

Very truly yours,

CITY OF LODI

By: \_\_\_\_\_  
City Representative

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**ESCROW DEPOSIT AND TRUST AGREEMENT**

Between

**CITY OF LODI, CALIFORNIA**

and

**BNY WESTERN TRUST COMPANY, as successor Trustee**

Dated as of January 1, 2002

Relating to

**CERTIFICATES OF PARTICIPATION**  
**(1995 Public Improvement Financing Project)**  
Evidencing the Direct, Undivided Fractional Interests of the Owners  
Thereof in Lease Payments to be Made by the  
**CITY OF LODI**  
As the Rental for Certain Property Pursuant  
to a Lease Agreement with the  
Lodi Public Improvement Corporation

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## ESCROW DEPOSIT AND TRUST AGREEMENT

Relating to

**CERTIFICATES OF PARTICIPATION  
(1995 Public Improvement Financing Project)  
Evidencing the Direct, Undivided Fractional Interests of the Owners  
Thereof in Lease Payments to be Made by the  
CITY OF LODI  
As the Rental for Certain Property Pursuant  
to a Lease Agreement with the  
Lodi Public Improvement Corporation**

THIS ESCROW DEPOSIT AND TRUST AGREEMENT, dated as of January 1, 2002, by and between the City of Lodi, a municipal corporation duly organized and existing under and by virtue of the laws of the State of California (the "City") and BNY Western Trust Company, a banking corporation duly organized and existing under and by virtue of the laws of the State of California, as successor trustee (the "Trustee") under the Trust Agreement (the "Trust Agreement"), dated as of October 1, 1995, by and among the City, Bank of America National Trust and Savings Association and the Lodi Public Improvement Corporation,

### WITNESSETH:

WHEREAS, pursuant to the Lease Agreement (capitalized terms used herein and not otherwise defined shall have the meanings given such terms pursuant to Section 1 hereof) the City has leased the Property from the Corporation and has agreed to make the Lease Payments as the rental for the Property thereunder; and

WHEREAS, pursuant to the Trust Agreement, the Trustee has executed and delivered the Certificates evidencing the direct, undivided fractional interest of the Owners thereof in the Lease Payments and such Certificates remain Outstanding in the aggregate principal amount of \$3,985,000; and

WHEREAS, CITY has determined to provide a security deposit for the payment of the Lease Payments pursuant to Section 10.01 of the Lease Agreement and the defeasance of the Certificates pursuant to Section 14.01 of the Trust Agreement; and

WHEREAS, the Certificates are subject to redemption on the Redemption Date at the Redemption Price; and

WHEREAS, the City has determined to redeem the Certificates on the Redemption Date at the Redemption Price in accordance with the provisions of Section 9.01 of the Lease Agreement; and

WHEREAS, to provide for and to secure the payment of the Certificate Escrow Requirements, the City has caused certain moneys to be deposited in the Escrow Fund and has directed the Trustee to apply a portion of such moneys to purchase the Exhibit 1 Securities at the

prices and from the vendors set forth in said Exhibit 1 for deposit in and to the credit of the Escrow Fund; and

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the City and the Trustee agree as follows:

SECTION 1. Definitions. Unless otherwise defined herein, capitalized terms shall have the meanings herein given such terms in the Trust Agreement or if not defined in the Trust Agreement, shall have the meanings given such terms in the Lease Agreement.

In addition, the following terms shall, unless the context otherwise requires, have the meanings set forth below.

“Accountant’s Report” shall mean, as of any time, a written report of an Independent Certified Public Accountant to the effect that principal of and interest on the Defeasance Obligations held or to be held, as applicable, in the Escrow Fund, as paid when due, will provide, without any reinvestment, money which, together with the money on deposit in the Escrow Fund, will be sufficient to pay when due all Certificate Escrow Requirements then remaining to be paid pursuant to Section 4 hereof.

“Approving Opinion” shall mean, with respect to any action pursuant to this Agreement requiring such an opinion, an opinion of Bond Counsel to the effect that such action will not cause any portion of the Lease Payments designated as and comprising interest to be includable in gross income under the Code for federal income tax purposes.

“Bond Counsel” means any attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the federal tax exemption of interest on obligations of states and political subdivisions, selected by the City and duly admitted to practice law before the highest court of any state of the United States of America.

“Certificate Escrow Requirements” shall mean the the Redemption Price for the Certificates due on the Redemption Date.

“Escrow Fund” shall mean the fund established pursuant to Section 2(a) of this Agreement.

“Exhibit 1 Securities” shall mean the Defeasance Obligations described in Exhibit 1 to this Agreement.

“Defeasance Obligations” shall mean Defeasance Obligations which satisfy the following conditions:

1. Stripped direct obligations of the United States must have been stripped by the U.S. Treasury itself.

2. Stripped interest components of Resolution Funding Corporation obligations must have been stripped by request to the Federal Reserve Bank of New York in book-entry form.

“Independent Certified Public Accountant” means any certified public accountant or firm of such accountants duly licensed and entitled to practice and practicing as such under the laws of the State, appointed and paid by the City, and who, or each of whom:

(A) is in fact independent according to the Statement of Auditing Standards No. 1 and not under the domination of the City;

(B) does not have a substantial financial interest, direct or indirect, in the operations of the City; and

(C) is not connected with the City as a director, officer or employee of the City, but who may be regularly retained to audit the accounting records of and make reports thereon to the City.

“Redemption Date” shall mean [April 1, 2002].

“Redemption Price” shall mean an amount equal to one hundred percent (10%) of the principal component of the Lease Payments evidenced by the Certificates, plus accrued and unpaid interest evidenced and represented by the Certificates to the Redemption Date.

## SECTION 2. The Escrow Fund.

(a) There is hereby established with the Trustee a fund designated the “City of Lodi 1995 Certificates of Participation Escrow Fund” to be held in irrevocable escrow by the Trustee separate and apart from all other funds of the City and the Trustee and to be applied solely as provided in this Agreement.

Subject to the provisions of this Agreement, amounts in the Escrow Fund shall be applied solely to the payments of the Certificate Escrow Requirements. All Defeasance Obligations purchased with moneys in the Escrow Fund shall be held for the credit of the Escrow Fund and all payments, including without limitation, all principal and interest payments with respect to such Defeasance Obligations, shall be deposited upon receipt by the Trustee into the Escrow Fund. Pursuant to Section 14.01 of the Trust Agreement, all amounts in the Escrow Fund and all Defeasance Obligations purchased with moneys in the Escrow Fund shall be held in trust by the Trustee for the Owners of the Certificates to make the payments of the Certificate Escrow Requirements.

(b) The City has caused the sum of \$\_\_\_\_\_ to be deposited in the Escrow Fund.

(c) Of the moneys deposited in the Escrow Fund pursuant to subsection (b) above, \$\_\_\_\_\_ is sufficient to purchase, and shall be applied to the purchase of, the Exhibit 1 Securities from the vendor(s) and at the prices specified in Exhibit 1 hereto, leaving an

uninvested cash balance of \$\_\_\_\_\_. The principal, together with the interest due or to become due on the Exhibit 1 Securities and the uninvested cash then held by the Trustee in the Escrow Fund, will be sufficient to pay all the Certificate Escrow Requirements.

SECTION 3. Use and Investment of Moneys.

(a) The Trustee acknowledges receipt of the moneys described in Section 2(b) and agrees to apply \$\_\_\_\_\_ of such moneys on January \_\_\_, 2002 to the purchase of the Exhibit 1 Securities from the vendor(s) and at the prices set forth in Exhibit 1 hereto upon receipt of an Accountant's Report with respect to the sufficiency of the Exhibit 1 Securities and uninvested cash to pay the Certificate Escrow Requirements and an Approving Opinion with respect to the purchase of the Exhibit 1 Securities. Except as provided in Section 3(b) or Section 3(c) hereof, the balance of the moneys described in Section 2(b) or otherwise held by the Trustee under this Agreement shall be held uninvested in the Escrow Fund.

(b) Upon the written direction of the City, but subject to the conditions and limitations herein set forth, the Trustee shall purchase substitute Defeasance Obligations for the Defeasance Obligations then held in the Escrow Fund with the proceeds derived from the sale, transfer, redemption or other disposition of Defeasance Obligations then on deposit in the Escrow Fund, any uninvested money then held by the Trustee hereunder and any other moneys transferred to the Trustee for deposit in the Escrow Fund for such purpose. Such sale, transfer, redemption or other disposition of Defeasance Obligations then on deposit in the Escrow Fund and substitution of other Defeasance Obligations shall be effected by the Trustee upon the written direction of the City but only by a simultaneous transaction and only upon receipt by the Trustee of: (i) an Accountant's Report with respect to the sufficiency of the Defeasance Obligations and uninvested cash to be on deposit in the Escrow Fund upon such substitution to pay the remaining Certificate Escrow Requirements; and (ii) an Approving Opinion and uninvested cash with respect to such substitution.

(c) Upon the written direction of the City, but subject to the conditions and limitations herein set forth, the Trustee will apply any moneys received from the maturing principal of or interest on or other investment income from any Defeasance Obligations held in the Escrow Fund, or the proceeds from any sale, transfer, redemption or other disposition of Defeasance Obligations pursuant to Section 3(b) not required for the purposes of said Section, as follows: (i) to the extent such moneys will not be required at any time for the purpose of making a payment of Certificate Escrow Requirements, as certified by an Accountant's Report delivered to the Trustee, such moneys shall be paid over upon the direction of the City as received by the Trustee, free and clear of any trust, lien, pledge or assignment securing the Certificates or otherwise existing hereunder or under the Trust Agreement; and (ii) to the extent such moneys will be required for the purpose of making a payment of Certificate Escrow Requirements, shall, to the extent practicable, be invested or reinvested in Defeasance Obligations maturing on or before the date when such moneys will be required to make payments of Certificate Escrow Requirements; provided the Trustee shall have received an Accountant's Report with respect to such investment and reinvestment and an Approving Opinion with respect to such investment or reinvestment.

(d) Except as provided in this Section 3, the moneys or Defeasance Obligations deposited with the Trustee pursuant to this Agreement and the principal of, or payments of interest on or other investment income from, any such Defeasance Obligations shall not be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the Certificate Escrow Requirements.

(e) The Trustee shall hold all moneys and Defeasance Obligations in the Escrow Fund on behalf of the Owners of the Certificates until such moneys and Defeasance Obligations are used and applied as provided in this Agreement.

(f) The Trustee shall not be held liable for investment losses resulting from compliance with the provisions of this Agreement.

SECTION 4. Payment of Certificate Escrow Requirements. From the maturing principal of the Defeasance Obligations held in the Escrow Fund and the interest, investment income and other earnings thereon and any uninvested money then held in the Escrow Fund, the City hereby irrevocably instructs the Trustee to pay to the Owners entitled thereto pursuant to the Trust Agreement on the Redemption Date, the Redemption Price of the Certificates.

SECTION 5. Irrevocable Instructions to Mail Notices.

(a) The City hereby irrevocably instructs the Trustee to give the notices provided in Section 9.01 of the Trust Agreement that the deposit contemplated by said Section has been made. The form of the notice to be so given and mailed is attached hereto as Exhibit 2.

(b) The City hereby irrevocably designates the Certificates for prior redemption on the Redemption Date from moneys in the Escrow Fund. Pursuant to subsection (b) of Section 9.02 of the Trust Agreement, the Trustee is irrevocably directed to give notice of the redemption of the Certificates on the Redemption Date as provided in Section 2.07 of the Trust Agreement. The form of the notice required to be mailed pursuant to Section 2.07 of the Trust Agreement is attached hereto as Exhibit 3.

SECTION 6. Termination of Obligations. As provided in Section 9.01 of the Lease Agreement and Section 9.01 of the Trust Agreement, upon the purchase of the Exhibit 1 Securities as provided in Section 3 hereof, the delivery of an Accountant's Report with respect to the sufficiency of the Exhibit 1 Securities and an Approving Opinion with respect to the purchase of the Exhibit 1 Securities, and the giving of the irrevocable instructions to the Trustee to make the payments of the Certificate Escrow Requirements and to give notices as provided in Section 5 hereof, all obligations of the City under the Lease Agreement shall cease, terminate and become void and be completely discharged and satisfied (except for the right of the Trustee and the obligation of the City to have the money and Defeasance Obligations in the Escrow Fund applied to the payment of the Certificate Escrow Requirements as herein set forth), and the obligations created by the Trust Agreement shall cease, terminate and become void except for the right of the Owners to receive, and the obligation of the Trustee to apply, the moneys and Defeasance Obligations in the Escrow Fund to the payment of the Certificate Escrow Requirements as set forth in this Agreement, which moneys and Defeasance Obligations shall continue to be held by

the Trustee in trust for the benefit of the Owners and shall be applied by the Trustee to the payment, when due, of the Certificate Escrow Requirements, and after such payment, the Trust Agreement shall become void and satisfied.

Notwithstanding the provision for payment of the Lease Payments pursuant to Section 9.01 of the Lease Agreement, and the discharge of the obligations under the Trust Agreement as provided in Section 9.01 thereof, the provisions of the Trust Agreement relating to record dates, medium of payment, registration, transfer, exchange and replacement shall continue to apply to the Certificates.

SECTION 7. Unclaimed Moneys. Anything contained herein to the contrary notwithstanding, any money held by the Trustee hereunder for the payment and discharge of any of the Certificates which remains unclaimed for two (2) years after the Redemption Date, shall be repaid by the Trustee to the City as its absolute property free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Owners shall look only to the City for the payment of the Lease Payments evidenced by the Certificates; provided, however, that before being required to make any such payment to the City, the Trustee shall at the request of and at the expense of the City, cause to be mailed to all Owners and the Securities Depositories and the Information Services a notice that such money remains unclaimed and that, after a date named in such notice, which date shall not be less than thirty (30) days after the date of mailing such notice, the balance of such money then unclaimed will be returned to the City.

SECTION 8. Performance of Duties. The Trustee agrees to perform the duties set forth herein and agrees that the time of receipt of the irrevocable instructions to the Trustee herein provided, and the form thereof, are satisfactory to it.

SECTION 9. Trustee's Authority to Make Investments. The Trustee shall have no power or duty to invest any funds held under this Agreement except as provided in Section 3 hereof. The Trustee shall have no power or duty to transfer or otherwise dispose of the moneys held hereunder except as provided in this Agreement.

SECTION 10. Indemnity. The City hereby assumes liability for, and hereby agrees (whether or not any of the transactions contemplated hereby are consummated) to indemnify, protect, save and keep harmless the Trustee and its respective successors, assigns, agents, employees and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including reasonable legal fees and disbursements) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against, the Trustee at any time (whether or not also indemnified against the same by the City or any other person under any other agreement or instrument, but without double indemnity) in any way relating to or arising out of the execution, delivery and performance of this Agreement, the establishment hereunder of the Escrow Fund, the acceptance of the funds and securities deposited therein, the purchase of any securities to be purchased pursuant hereto, the retention of such securities or the proceeds thereof and any payment, transfer or other application of moneys or securities by the Trustee in accordance with the provisions of this Agreement; provided, however, that the City shall not be required to indemnify the Trustee against the Trustee's own negligence or willful misconduct or the negligence or willful

misconduct of the Trustee's respective successors, assigns, agents and employees or the material breach by the Trustee of the terms of this Agreement. In no event shall the City or the Trustee be liable to any person by reason of the transactions contemplated hereby other than to each other as set forth in this Section. The indemnities contained in this Section shall survive the termination of this Agreement.

SECTION 11. Responsibilities of Trustee. The Trustee and its respective successors, assigns, agents and servants shall not be held to any personal liability whatsoever, in tort, contract, or otherwise, in connection with the execution and delivery of this Agreement, the establishment of the Escrow Fund, the acceptance of the moneys or any securities deposited therein, the purchase of the securities to be purchased pursuant hereto, the retention of such securities or the proceeds thereof, the sufficiency of the securities or any uninvested moneys held hereunder to accomplish the defeasance of the Lease Payments, or any payment, transfer or other application of moneys or securities by the Trustee in accordance with the provisions of this Agreement or by reason of any non-negligent act, non-negligent omission or non-negligent error of the Trustee made in good faith in the conduct of its duties. The recitals of fact contained in the "Whereas" clauses herein shall be taken as the statements of the City, and the Trustee assumes no responsibility for the correctness thereof. The Trustee makes no representation as to the sufficiency of the securities to be purchased pursuant hereto and any uninvested moneys to accomplish the defeasance of the Lease Payments pursuant to the Lease Agreement or to the validity of this Agreement as to the City and, except as otherwise provided herein, the Trustee shall incur no liability in respect thereof. The Trustee shall not be liable in connection with the performance of its duties under this Agreement except for its own negligence, willful misconduct or default, and the duties and obligations of the Trustee shall be determined by the express provisions of this Agreement. The Trustee may consult with counsel, who may or may not be counsel to the City, and in reliance upon an Opinion of Counsel of such counsel shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering, or omitting any action under this Agreement, such matter (except the matters set forth herein as specifically requiring an Accountant's Report or an Approving Opinion) may be deemed to be conclusively established by a certificate signed by the City. Whenever the Trustee shall deem it necessary or desirable that a matter specifically requiring an Accountant's Report or an Approving Opinion be proved or established prior to taking, suffering, or omitting any such action, such matter may be established only by such an Accountant's Report or such Approving Opinion.

SECTION 12. Amendments. This Agreement is irrevocable and no promise hereby may be amended except as specifically set forth herein. The City and the Trustee may, without the consent of, or notice to, the Owners of the Certificates, amend this Agreement or enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of the Owners of the Certificates and as shall not be inconsistent with the terms and provisions of this Agreement, Section 9.01 of the Lease Agreement or Section 9.01 or Section 9.02 of the Trust Agreement, for any one or more of the following purposes: (i) to cure any ambiguity or formal defect or omission in this Agreement; (ii) to grant to, or confer upon, the Trustee for the benefit of the Owners of the Certificates any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such Owners or the Trustee; and (iii) to include under

this Agreement additional funds, securities or properties. The Trustee shall be entitled to rely conclusively upon an opinion of counsel with respect to compliance with this Section, including the extent, if any, to which any change, modification, addition or elimination affects the rights of the Owners of the Certificates or that any instrument executed hereunder complies with the conditions and provisions of this Section.

SECTION 13. Term. This Agreement shall commence upon its execution and delivery and shall terminate on the later to occur of either (i) the Redemption Date or (ii) the date upon which no unclaimed moneys remain on deposit with the Trustee pursuant to Section 7 of this Agreement.

SECTION 14. Compensation. The City agrees to pay the fees and expenses of the Trustee in performing its obligations hereunder as provided in a separate agreement between the City and the Trustee; provided, however, that under no circumstances shall the Trustee be entitled to any lien whatsoever on any moneys or Defeasance Obligations in the Escrow Fund for the payment of fees and expenses for services rendered or expenses incurred by the Trustee under this Agreement, under the Trust Agreement or otherwise.

SECTION 15. Severability. If any one or more of the covenants or agreements provided in this Agreement on the part of the City or the Trustee to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenants or agreements shall be null and void and shall be deemed separate from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement. The City shall send notice of any such determination to Moody's Investors Service.

SECTION 16. Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as an original but all of which shall constitute and be but one and the same instrument.

SECTION 17. Governing Law. This Agreement shall be construed under the laws of the State of California.

SECTION 18. Assignment. This Agreement shall not be assigned by the Trustee or any successor thereto without the prior written consent of the City.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

CITY OF LODI

By: \_\_\_\_\_  
H. Dixon Flynn  
City Manager

BNY WESTERN TRUST COMPANY,  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

**DEFEASANCE OBLIGATIONS  
TO BE INITIALLY CREDITED TO  
THE ESCROW FUND**

<u>Description</u>	<u>Principal Amount</u>	<u>Coupon</u>	<u>Purchase Price</u>	<u>Maturity</u>	<u>Vendor</u>
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**NOTICE OF ADVANCE DEFEASANCE**

**CERTIFICATES OF PARTICIPATION  
(1995 Public Improvement Financing Project)  
Evidencing the Direct, Undivided Fractional Interests of the Owners  
Thereof in Lease Payments to be Made by the  
CITY OF LODI  
As the Rental for Certain Property Pursuant  
to a Lease Agreement with the  
Lodi Public Improvement Corporation**

Bearing the following CUSIP Numbers\* :

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NOTICE IS HEREBY GIVEN to the owners of the Certificates of Participation (1995 Public Improvement Financing Project) (the "Certificates") evidencing the direct, undivided, fractional interests of the owners thereof in Lease Payments to be made by the City of Lodi, California, as the rental for certain property pursuant to a Lease Agreement, (the "Lease Agreement"), dated as of October 1, 1995 between the City and the Lodi Public Improvement Corporation (the "Corporation")

that the City has caused to be deposited with BNY Western Trust Company, San Francisco, California, the Trustee for said Certificates, cash and certain investments, the principal of and interest on which when due, will provide moneys sufficient to pay the redemption price of the Certificates on [April 1, 2002] equal to one hundred percent (100%) of the principal amount thereof, together with accrued interest unpaid with respect to the Certificates to such redemption date. As a result of such deposit, Lease Payments are deemed to have been paid in accordance with the applicable provisions of the Lease Agreement, the Certificates are deemed to have been paid in accordance with the applicable provisions of the Trust Agreement, dated as of October 1, 1995, between the City and BNY Western Trust Company, as successor Trustee, pursuant to which such Certificates have been delivered and that such Trust Agreement has been released in accordance with the provisions thereof.

On [April 1, 2002], there shall become due and payable upon presentation and surrender of the Certificates at the office of BNY Western Trust Company, located at \_\_\_\_\_, San Francisco, California, or its successor, the above-mentioned redemption price of the Certificates, together with the unpaid interest accrued on such Certificates to such date, and from and after the aforementioned redemption date, interest on the Certificates shall cease to accrue.

DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

CITY OF LODI

By BNY Western Trust Company,  
as successor Trustee

**NOTICE OF REDEMPTION**

CERTIFICATES OF PARTICIPATION  
(1995 Public Improvement Financing Project)  
Evidencing the Direct, Undivided Fractional Interests of the Owners  
Thereof in Lease Payments to be Made by the  
CITY OF LODI  
As the Rental for Certain Property Pursuant  
to a Lease Agreement with the  
Lodi Public Improvement Corporation

Bearing the following CUSIP Numbers\* :

NOTICE IS HEREBY GIVEN to the owners of the Certificates of Participation (1995 Public Improvement Financing Project) (the "Certificates") evidencing the direct, undivided, fractional interests of the owners thereof in Lease Payments to be made by the City of Lodi, California as the rental for certain property pursuant to a Lease Agreement (the "Lease Agreement"), dated as of October 1, 1995 between the City and the Lodi Public Improvement Corporation (the "Corporation")

that such Certificates have been called for redemption, prior to maturity, on [April 1, 2002] at a redemption price equal to one hundred percent (100%) of the principal amount thereof plus accrued and unpaid interest with respect thereto to such redemption date.

On the aforementioned redemption date, there shall become due and payable upon presentation and surrender of the Certificates at the office of BNY Western Trust Company, located at \_\_\_\_\_, San Francisco, California, or its successor, the above-mentioned redemption price of the Certificates, together with the unpaid interest accrued on the Certificates to such date, and from and after the aforementioned redemption date, interest on such Certificates shall cease to accrue.

DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

CITY OF LODI

By BNY Western Trust Company,  
as successor Trustee

Exhibit 3-1

**ESCROW DEPOSIT AND TRUST AGREEMENT**

Between

**CITY OF LODI, CALIFORNIA**

and

**BNY WESTERN TRUST COMPANY, as successor Trustee**

Dated as of January 1, 2002

Relating to

**CERTIFICATES OF PARTICIPATION  
(1996 Public Improvement Financing Project)  
Evidencing the Direct, Undivided Fractional Interests of the Owners  
Thereof in Lease Payments to be Made by the  
CITY OF LODI  
As the Rental for Certain Property Pursuant  
to a Lease Agreement with the  
Lodi Public Improvement Corporation**

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## **ESCROW DEPOSIT AND TRUST AGREEMENT**

**Relating to**

**CERTIFICATES OF PARTICIPATION  
(1996 Public Improvement Financing Project)  
Evidencing the Direct, Undivided Fractional Interests of the Owners  
Thereof in Lease Payments to be Made by the  
CITY OF LODI  
As the Rental for Certain Property Pursuant  
to a Lease Agreement with the  
Lodi Public Improvement Corporation**

THIS ESCROW DEPOSIT AND TRUST AGREEMENT, dated as of January 1, 2002, by and between the City of Lodi, a municipal corporation duly organized and existing under and by virtue of the laws of the State of California (the "City") and BNY Western Trust Company, a banking corporation duly organized and existing under and by virtue of the laws of the State of California, as successor trustee (the "Trustee") under the Trust Agreement (the "Trust Agreement"), dated as of August 1, 1996, by and among the City, First Trust of California, National Association and the Lodi Public Improvement Corporation,

### **WITNESSETH:**

WHEREAS, pursuant to the Lease Agreement (capitalized terms used herein and not otherwise defined shall have the meanings given such terms pursuant to Section 1 hereof) the City has leased the Property from the Corporation and has agreed to make the Lease Payments as the rental for the Property thereunder; and

WHEREAS, pursuant to the Trust Agreement, the Trustee has executed and delivered the Certificates evidencing the direct, undivided fractional interest of the Owners thereof in the Lease Payments and such Certificates remain Outstanding in the aggregate principal amount of \$8,440,000; and

WHEREAS, CITY has determined to provide a security deposit for the payment of the Lease Payments pursuant to Section 10.01 of the Lease Agreement and the defeasance of the Certificates pursuant to Section 14.01 of the Trust Agreement; and

WHEREAS, the Certificates maturing on and after October 1, 2007 are subject to redemption on the Redemption Date at the Redemption Price; and

WHEREAS, the City has determined to pay the Certificates maturing from October 1, 2002 to and including October 1, 2006 on their respective maturity dates and to prepay the Certificates maturing on and after October 1, 2007 on the Redemption Date at the Redemption Price in accordance with the provisions of Section 9.01 of the Lease Agreement; and

WHEREAS, to provide for and to secure the payment of the Certificate Escrow Requirements, the City has caused certain moneys to be deposited in the Escrow Fund and has

directed the Trustee to apply a portion of such moneys to purchase the Exhibit 1 Securities at the prices and from the vendors set forth in said Exhibit 1 for deposit in and to the credit of the Escrow Fund; and

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the City and the Trustee agree as follows:

SECTION 1. Definitions. Unless otherwise defined herein, capitalized terms shall have the meanings herein given such terms in the Trust Agreement or if not defined in the Trust Agreement, shall have the meanings given such terms in the Lease Agreement.

In addition, the following terms shall, unless the context otherwise requires, have the meanings set forth below.

“Accountant’s Report” shall mean, as of any time, a written report of an Independent Certified Public Accountant to the effect that principal of and interest on the Defeasance Obligations held or to be held, as applicable, in the Escrow Fund, as paid when due, will provide, without any reinvestment, money which, together with the money on deposit in the Escrow Fund, will be sufficient to pay when due all Certificate Escrow Requirements then remaining to be paid pursuant to Section 4 hereof.

“Approving Opinion” shall mean, with respect to any action pursuant to this Agreement requiring such an opinion, an opinion of Bond Counsel to the effect that such action will not cause any portion of the Lease Payments designated as and comprising interest to be includable in gross income under the Code for federal income tax purposes.

“Bond Counsel” means any attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the federal tax exemption of interest on obligations of states and political subdivisions, selected by the City and duly admitted to practice law before the highest court of any state of the United States of America.

“Certificate Escrow Requirements” shall mean the interest components of the Lease Payments payable on each interest payment date from April 1, 2002 to and including the Redemption Date, the principal component of the Lease Payments evidenced by the Certificates maturing from October 1, 2002 to and including October 1, 2006, and the Redemption Price for the Certificates maturing on and after October 1, 2007 due on the Redemption Date.

“Escrow Fund” shall mean the fund established pursuant to Section 2(a) of this Agreement.

“Exhibit 1 Securities” shall mean the Defeasance Obligations described in Exhibit 1 to this Agreement.

“Defeasance Obligations” shall mean Defeasance Obligations which satisfy the following conditions:

1. Stripped direct obligations of the United States must have been stripped by the U.S. Treasury itself.

2. Stripped interest components of Resolution Funding Corporation obligations must have been stripped by request to the Federal Reserve Bank of New York in book-entry form.

“Independent Certified Public Accountant” means any certified public accountant or firm of such accountants duly licensed and entitled to practice and practicing as such under the laws of the State, appointed and paid by the City, and who, or each of whom:

(A) is in fact independent according to the Statement of Auditing Standards No. 1 and not under the domination of the City;

(B) does not have a substantial financial interest, direct or indirect, in the operations of the City; and

(C) is not connected with the City as a director, officer or employee of the City, but who may be regularly retained to audit the accounting records of and make reports thereon to the City.

“Redemption Date” shall mean October 1, 2006.

“Redemption Price” shall mean an amount equal to one hundred two percent (102%) of the principal component of the Lease Payments evidenced by the Certificates maturing on and after October 1, 2007, plus accrued and unpaid interest evidenced and represented by the Certificates to the Redemption Date.

#### SECTION 2. The Escrow Fund.

(a) There is hereby established with the Trustee a fund designated the “City of Lodi 1996 Certificates of Participation Escrow Fund” to be held in irrevocable escrow by the Trustee separate and apart from all other funds of the City and the Trustee and to be applied solely as provided in this Agreement.

Subject to the provisions of this Agreement, amounts in the Escrow Fund shall be applied solely to the payments of the Certificate Escrow Requirements. All Defeasance Obligations purchased with moneys in the Escrow Fund shall be held for the credit of the Escrow Fund and all payments, including without limitation, all principal and interest payments with respect to such Defeasance Obligations, shall be deposited upon receipt by the Trustee into the Escrow Fund. Pursuant to Section 14.01 of the Trust Agreement, all amounts in the Escrow Fund and all Defeasance Obligations purchased with moneys in the Escrow Fund shall be held in trust by the Trustee for the Owners of the Certificates to make the payments of the Certificate Escrow Requirements.

(b) The City has caused the sum of \$ \_\_\_\_\_ to be deposited in the Escrow Fund.

(c) Of the moneys deposited in the Escrow Fund pursuant to subsection (b) above, \$\_\_\_\_\_ is sufficient to purchase, and shall be applied to the purchase of, the Exhibit 1 Securities from the vendor(s) and at the prices specified in Exhibit 1 hereto, leaving an uninvested cash balance of \$\_\_\_\_\_. The principal, together with the interest due or to become due on the Exhibit 1 Securities and the uninvested cash then held by the Trustee in the Escrow Fund, will be sufficient to pay all the Certificate Escrow Requirements.

SECTION 3. Use and Investment of Moneys.

(a) The Trustee acknowledges receipt of the moneys described in Section 2(b) and agrees to apply \$\_\_\_\_\_ of such moneys on January \_\_\_\_, 2002 to the purchase of the Exhibit 1 Securities from the vendor(s) and at the prices set forth in Exhibit 1 hereto upon receipt of an Accountant's Report with respect to the sufficiency of the Exhibit 1 Securities and uninvested cash to pay the Certificate Escrow Requirements and an Approving Opinion with respect to the purchase of the Exhibit 1 Securities. Except as provided in Section 3(b) or Section 3(c) hereof, the balance of the moneys described in Section 2(b) or otherwise held by the Trustee under this Agreement shall be held uninvested in the Escrow Fund.

(b) Upon the written direction of the City, but subject to the conditions and limitations herein set forth, the Trustee shall purchase substitute Defeasance Obligations for the Defeasance Obligations then held in the Escrow Fund with the proceeds derived from the sale, transfer, redemption or other disposition of Defeasance Obligations then on deposit in the Escrow Fund, any uninvested money then held by the Trustee hereunder and any other moneys transferred to the Trustee for deposit in the Escrow Fund for such purpose. Such sale, transfer, redemption or other disposition of Defeasance Obligations then on deposit in the Escrow Fund and substitution of other Defeasance Obligations shall be effected by the Trustee upon the written direction of the City but only by a simultaneous transaction and only upon receipt by the Trustee of: (i) an Accountant's Report with respect to the sufficiency of the Defeasance Obligations and uninvested cash to be on deposit in the Escrow Fund upon such substitution to pay the remaining Certificate Escrow Requirements; and (ii) an Approving Opinion and uninvested cash with respect to such substitution.

(c) Upon the written direction of the City, but subject to the conditions and limitations herein set forth, the Trustee will apply any moneys received from the maturing principal of or interest on or other investment income from any Defeasance Obligations held in the Escrow Fund, or the proceeds from any sale, transfer, redemption or other disposition of Defeasance Obligations pursuant to Section 3(b) not required for the purposes of said Section, as follows: (i) to the extent such moneys will not be required at any time for the purpose of making a payment of Certificate Escrow Requirements, as certified by an Accountant's Report delivered to the Trustee, such moneys shall be paid over upon the direction of the City as received by the Trustee, free and clear of any trust, lien, pledge or assignment securing the Certificates or otherwise existing hereunder or under the Trust Agreement; and (ii) to the extent such moneys will be required for the purpose of making a payment of Certificate Escrow Requirements, shall, to the extent practicable, be invested or reinvested in Defeasance Obligations maturing on or before the date when such moneys will be required to make payments of Certificate Escrow Requirements; provided the Trustee shall have received an Accountant's Report with respect to

such investment and reinvestment and an Approving Opinion with respect to such investment or reinvestment.

(d) Except as provided in this Section 3, the moneys or Defeasance Obligations deposited with the Trustee pursuant to this Agreement and the principal of, or payments of interest on or other investment income from, any such Defeasance Obligations shall not be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the Certificate Escrow Requirements.

(e) The Trustee shall hold all moneys and Defeasance Obligations in the Escrow Fund on behalf of the Owners of the Certificates until such moneys and Defeasance Obligations are used and applied as provided in this Agreement.

(f) The Trustee shall not be held liable for investment losses resulting from compliance with the provisions of this Agreement.

SECTION 4. Payment of Certificate Escrow Requirements. From the maturing principal of the Defeasance Obligations held in the Escrow Fund and the interest, investment income and other earnings thereon and any uninvested money then held in the Escrow Fund, the City hereby irrevocably instructs the Trustee to pay to the Owners entitled thereto pursuant to the Trust Agreement: (i) on each April 1 and October 1 from April 1, 2002 to and including the Redemption Date, the interest due on the Certificates on such date; on each October 1 from October 1, 2002 to and including October 1, 2006, the principal component of the Lease Payments evidenced by the Certificates maturing on such date; and (iii) on the Redemption Date, the Redemption Price of the Certificates maturing on and after October 1, 2007.

SECTION 5. Irrevocable Instructions to Mail Notices.

(a) The City hereby irrevocably instructs the Trustee to give the notices provided in Section 9.01 of the Trust Agreement that the deposit contemplated by said Section has been made. The form of the notice to be so given and mailed is attached hereto as Exhibit 2.

(b) The City hereby irrevocably designates the Certificates maturing on and after October 1, 2007 for prior redemption on the Redemption Date from moneys in the Escrow Fund. Pursuant to subsection (b) of Section 9.02 of the Trust Agreement, the Trustee is irrevocably directed to give notice of the redemption of such Certificates on the Redemption Date as provided in Section 2.07 of the Trust Agreement. The form of the notice required to be mailed pursuant to Section 2.07 of the Trust Agreement is attached hereto as Exhibit 3.

SECTION 6. Termination of Obligations. As provided in Section 9.01 of the Lease Agreement and Section 9.01 of the Trust Agreement, upon the purchase of the Exhibit 1 Securities as provided in Section 3 hereof, the delivery of an Accountant's Report with respect to the sufficiency of the Exhibit 1 Securities and an Approving Opinion with respect to the purchase of the Exhibit 1 Securities, and the giving of the irrevocable instructions to the Trustee to make the payments of the Certificate Escrow Requirements and to give notices as provided in Section 5 hereof, all obligations of the City under the Lease Agreement shall cease, terminate and become

void and be completely discharged and satisfied (except for the right of the Trustee and the obligation of the City to have the money and Defeasance Obligations in the Escrow Fund applied to the payment of the Certificate Escrow Requirements as herein set forth), and the obligations created by the Trust Agreement shall cease, terminate and become void except for the right of the Owners to receive, and the obligation of the Trustee to apply, the moneys and Defeasance Obligations in the Escrow Fund to the payment of the Certificate Escrow Requirements as set forth in this Agreement, which moneys and Defeasance Obligations shall continue to be held by the Trustee in trust for the benefit of the Owners and shall be applied by the Trustee to the payment, when due, of the Certificate Escrow Requirements, and after such payment, the Trust Agreement shall become void and satisfied.

Notwithstanding the provision for payment of the Lease Payments pursuant to Section 9.01 of the Lease Agreement, and the discharge of the obligations under the Trust Agreement as provided in Section 9.01 thereof, the provisions of the Trust Agreement relating to record dates, medium of payment, registration, transfer, exchange and replacement shall continue to apply to the Certificates.

SECTION 7. Unclaimed Moneys. Anything contained herein to the contrary notwithstanding, any money held by the Trustee hereunder for the payment and discharge of any of the Certificates which remains unclaimed for two (2) years after the Redemption Date, shall be repaid by the Trustee to the City as its absolute property free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Owners shall look only to the City for the payment of the Lease Payments evidenced by the Certificates; provided, however, that before being required to make any such payment to the City, the Trustee shall at the request of and at the expense of the City, cause to be mailed to all Owners and the Securities Depositories and the Information Services a notice that such money remains unclaimed and that, after a date named in such notice, which date shall not be less than thirty (30) days after the date of mailing such notice, the balance of such money then unclaimed will be returned to the City.

SECTION 8. Performance of Duties. The Trustee agrees to perform the duties set forth herein and agrees that the time of receipt of the irrevocable instructions to the Trustee herein provided, and the form thereof, are satisfactory to it.

SECTION 9. Trustee's Authority to Make Investments. The Trustee shall have no power or duty to invest any funds held under this Agreement except as provided in Section 3 hereof. The Trustee shall have no power or duty to transfer or otherwise dispose of the moneys held hereunder except as provided in this Agreement.

SECTION 10. Indemnity. The City hereby assumes liability for, and hereby agrees (whether or not any of the transactions contemplated hereby are consummated) to indemnify, protect, save and keep harmless the Trustee and its respective successors, assigns, agents, employees and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including reasonable legal fees and disbursements) of whatsoever kind and nature which may be imposed on, incurred by, or asserted against, the Trustee at any time (whether or not also indemnified against the same by the City or any other person under any other agreement or instrument, but

without double indemnity) in any way relating to or arising out of the execution, delivery and performance of this Agreement, the establishment hereunder of the Escrow Fund, the acceptance of the funds and securities deposited therein, the purchase of any securities to be purchased pursuant hereto, the retention of such securities or the proceeds thereof and any payment, transfer or other application of moneys or securities by the Trustee in accordance with the provisions of this Agreement; provided, however, that the City shall not be required to indemnify the Trustee against the Trustee's own negligence or willful misconduct or the negligence or willful misconduct of the Trustee's respective successors, assigns, agents and employees or the material breach by the Trustee of the terms of this Agreement. In no event shall the City or the Trustee be liable to any person by reason of the transactions contemplated hereby other than to each other as set forth in this Section. The indemnities contained in this Section shall survive the termination of this Agreement.

SECTION 11. Responsibilities of Trustee. The Trustee and its respective successors, assigns, agents and servants shall not be held to any personal liability whatsoever, in tort, contract, or otherwise, in connection with the execution and delivery of this Agreement, the establishment of the Escrow Fund, the acceptance of the moneys or any securities deposited therein, the purchase of the securities to be purchased pursuant hereto, the retention of such securities or the proceeds thereof, the sufficiency of the securities or any uninvested moneys held hereunder to accomplish the defeasance of the Lease Payments, or any payment, transfer or other application of moneys or securities by the Trustee in accordance with the provisions of this Agreement or by reason of any non-negligent act, non-negligent omission or non-negligent error of the Trustee made in good faith in the conduct of its duties. The recitals of fact contained in the "Whereas" clauses herein shall be taken as the statements of the City, and the Trustee assumes no responsibility for the correctness thereof. The Trustee makes no representation as to the sufficiency of the securities to be purchased pursuant hereto and any uninvested moneys to accomplish the defeasance of the Lease Payments pursuant to the Lease Agreement or to the validity of this Agreement as to the City and, except as otherwise provided herein, the Trustee shall incur no liability in respect thereof. The Trustee shall not be liable in connection with the performance of its duties under this Agreement except for its own negligence, willful misconduct or default, and the duties and obligations of the Trustee shall be determined by the express provisions of this Agreement. The Trustee may consult with counsel, who may or may not be counsel to the City, and in reliance upon an Opinion of Counsel of such counsel shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering, or omitting any action under this Agreement, such matter (except the matters set forth herein as specifically requiring an Accountant's Report or an Approving Opinion) may be deemed to be conclusively established by a certificate signed by the City. Whenever the Trustee shall deem it necessary or desirable that a matter specifically requiring an Accountant's Report or an Approving Opinion be proved or established prior to taking, suffering, or omitting any such action, such matter may be established only by such an Accountant's Report or such Approving Opinion.

SECTION 12. Amendments. This Agreement is irrevocable and no promise hereby may be amended except as specifically set forth herein. The City and the Trustee may, without the consent of, or notice to, the Owners of the Certificates, amend this Agreement or

enter into such agreements supplemental to this Agreement as shall not adversely affect the rights of the Owners of the Certificates and as shall not be inconsistent with the terms and provisions of this Agreement, Section 9.01 of the Lease Agreement or Section 9.01 or Section 9.02 of the Trust Agreement, for any one or more of the following purposes: (i) to cure any ambiguity or formal defect or omission in this Agreement; (ii) to grant to, or confer upon, the Trustee for the benefit of the Owners of the Certificates any additional rights, remedies, powers or authority that may lawfully be granted to, or conferred upon, such Owners or the Trustee; and (iii) to include under this Agreement additional funds, securities or properties. The Trustee shall be entitled to rely conclusively upon an opinion of counsel with respect to compliance with this Section, including the extent, if any, to which any change, modification, addition or elimination affects the rights of the Owners of the Certificates or that any instrument executed hereunder complies with the conditions and provisions of this Section.

SECTION 13. Term. This Agreement shall commence upon its execution and delivery and shall terminate on the later to occur of either (i) the Redemption Date or (ii) the date upon which no unclaimed moneys remain on deposit with the Trustee pursuant to Section 7 of this Agreement.

SECTION 14. Compensation. The City agrees to pay the fees and expenses of the Trustee in performing its obligations hereunder as provided in a separate agreement between the City and the Trustee; provided, however, that under no circumstances shall the Trustee be entitled to any lien whatsoever on any moneys or Defeasance Obligations in the Escrow Fund for the payment of fees and expenses for services rendered or expenses incurred by the Trustee under this Agreement, under the Trust Agreement or otherwise.

SECTION 15. Severability. If any one or more of the covenants or agreements provided in this Agreement on the part of the City or the Trustee to be performed should be determined by a court of competent jurisdiction to be contrary to law, such covenants or agreements shall be null and void and shall be deemed separate from the remaining covenants and agreements herein contained and shall in no way affect the validity of the remaining provisions of this Agreement. The City shall send notice of any such determination to Moody's Investors Service.

SECTION 16. Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as an original but all of which shall constitute and be but one and the same instrument.

SECTION 17. Governing Law. This Agreement shall be construed under the laws of the State of California.

SECTION 18. Assignment. This Agreement shall not be assigned by the Trustee or any successor thereto without the prior written consent of the City.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date first above written.

CITY OF LODI

By: \_\_\_\_\_  
H. Dixon Flynn  
City Manager

BNY WESTERN TRUST COMPANY,  
as Trustee

By: \_\_\_\_\_  
Authorized Signatory

**DEFEASANCE OBLIGATIONS  
TO BE INITIALLY CREDITED TO  
THE ESCROW FUND**

<u>Description</u>	<u>Principal Amount</u>	<u>Coupon</u>	<u>Purchase Price</u>	<u>Maturity</u>	<u>Vendor</u>
--------------------	-----------------------------	---------------	---------------------------	-----------------	---------------

**NOTICE OF ADVANCE DEFEASANCE**

**CERTIFICATES OF PARTICIPATION**  
**(1996 Public Improvement Financing Project)**  
**Maturing on and after October 1, 2007**  
**Evidencing the Direct, Undivided Fractional Interests of the Owners**  
**Thereof in Lease Payments to be Made by the**  
**CITY OF LODI**  
**As the Rental for Certain Property Pursuant**  
**to a Lease Agreement with the**  
**Lodi Public Improvement Corporation**

Bearing the following CUSIP Numbers\* :

---

NOTICE IS HEREBY GIVEN to the owners of the Certificates of Participation (1996 Public Improvement Financing Project) (the "Certificates") evidencing the direct, undivided, fractional interests of the owners thereof in Lease Payments to be made by the City of Lodi, California, as the rental for certain property pursuant to a Lease Agreement, (the "Lease Agreement"), dated as of August 1, 1996 between the City and the Lodi Public Improvement Corporation (the "Corporation")

that the City has caused to be deposited with BNY Western Trust Company, San Francisco, California, the Trustee for said Certificates, cash and certain investments, the principal of and interest on which when due, will provide moneys sufficient to pay: (i) the principal component of the Lease Payments evidenced by the Certificates maturing from October 1, 2002 to and including October 1, 2006; (ii) on October 1, 2006 the redemption price of the Certificates maturing on and after October 1, 2007 equal to one hundred two percent (102%) of the principal amount thereof; and (iii) the interest due on the Certificates on each interest payment date from April 1, 2002 to and including October 1, 2006. As a result of such deposit, Lease Payments are deemed to have been paid in accordance with the applicable provisions of the Lease Agreement, the Certificates are deemed to have been paid in accordance with the applicable provisions of the Trust Agreement, dated as of August 1, 1996, between the City and BNY Western Trust Company, as successor Trustee, pursuant to which such Certificates have been delivered and that such Trust Agreement has been released in accordance with the provisions thereof.

On October 1, 2006, there shall become due and payable upon presentation and surrender of the Certificates maturing on and after October 1, 2007 at the office of BNY Western Trust Company, located at \_\_\_\_\_, San Francisco, California, or its successor, the above-mentioned redemption price of such Certificates, together with the unpaid interest accrued on such Certificates to such date, and from and after the aforementioned redemption date, interest on such Certificates shall cease to accrue.

DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

CITY OF LODI

By BNY Western Trust Company,  
as successor Trustee

Exhibit 2-2

**NOTICE OF REDEMPTION**

CERTIFICATES OF PARTICIPATION  
(1996 Public Improvement Financing Project)  
Maturing On and After October 1, 2007  
Evidencing the Direct, Undivided Fractional Interests of the Owners  
Thereof in Lease Payments to be Made by the  
CITY OF LODI  
As the Rental for Certain Property Pursuant  
to a Lease Agreement with the  
Lodi Public Improvement Corporation

Bearing the following CUSIP Numbers\* :

—————  
NOTICE IS HEREBY GIVEN to the owners of the Certificates of Participation (1996 Public Improvement Financing Project) (the "Certificates") evidencing the direct, undivided, fractional interests of the owners thereof in Lease Payments to be made by the City of Lodi, California as the rental for certain property pursuant to a Lease Agreement (the "Lease Agreement"), dated as of August 1, 1996 between the City and the Lodi Public Improvement Corporation (the "Corporation")

that such Certificates have been called for redemption, prior to maturity, on October 1, 2006 at a redemption price equal to one hundred two percent (102%) of the principal amount thereof plus accrued and unpaid interest with respect thereto to October 1, 2006.

On the aforementioned redemption date, there shall become due and payable upon presentation and surrender of such Certificates at the office of BNY Western Trust Company, located at \_\_\_\_\_, San Francisco, California, or its successor, the above-mentioned redemption price of such Certificates, together with the unpaid interest accrued on the Certificates to such date, and from and after the aforementioned redemption date, interest on such Certificates shall cease to accrue.

DATED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

CITY OF LODI

By BNY Western Trust Company,  
as successor Trustee

Exhibit 3-1

Recording Requested By: )  
City of Lodi )  
)  
)  
When Recorded Mail To: )  
Orrick, Herrington & Sutcliffe LLP )  
777 South Figueroa Street, Suite 3200 )  
Los Angeles, California 90017 )  
Attn.: Eugene J. Carron, Esq. )

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This document is recorded for the benefit of the City of Lodi, and recording is fee exempt under §27383 of the Government Code.

ASSIGNMENT AGREEMENT

by and between the

LODI PUBLIC IMPROVEMENT CORPORATION

and

BNY WESTERN TRUST COMPANY, as Trustee

Dated as of January 1, 2002

---

## ASSIGNMENT AGREEMENT

This ASSIGNMENT AGREEMENT, executed and entered into as of January 1, 2002, by the Lodi Public Improvement Corporation (the "Corporation"), a nonprofit, public benefit corporation duly organized and existing under and by virtue of the laws of the State of California and accepted by BNY Western Trust Company, a banking corporation duly organized and existing under the laws of the State of California, as trustee (the "Trustee") under that certain Trust Agreement (the "Trust Agreement"), by and among the City of Lodi (the "City"), a municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the State of California, the Corporation and the Trustee, dated as of the date hereof;

### W I T N E S S E T H :

WHEREAS, the Corporation and the City have executed and entered into a Lease Agreement (the "Lease"), dated as of the date hereof and recorded concurrently herewith, whereby the Corporation has agreed to lease certain real property, together with improvements thereon (as more fully described in Exhibit A hereto, the "Property"), to the City as provided therein; and

WHEREAS, under and pursuant to the Lease, the City is obligated to make Lease Payments, as defined therein, to the Corporation for the lease of the Property; and

WHEREAS, the Corporation desires to assign without recourse all of its rights to receive the Lease Payments scheduled to be paid by the Lessee under and pursuant to the Lease, and certain other rights and interests of the Corporation, to the Trustee as provided herein; and

WHEREAS, in consideration of such assignment and the execution and entering into of the Trust Agreement, the Trustee has agreed to execute and deliver Certificates of Participation (2002 Public Improvement Financing Project) evidencing proportionate interests of the owners thereof in the Lease Payments to be made by the City under the Lease (the "Certificates") in an aggregate principal amount equal to the aggregate principal components of the Lease Payments; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Assignment Agreement do exist, have happened and have been performed in regular and due time, form and manner as required by law and the Corporation is now duly authorized to execute and enter into, and the Trustee is duly authorized to accept this Assignment Agreement;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

#### SECTION 1. Definitions.

Unless the context otherwise requires, capitalized terms used herein shall have the meanings specified in the Trust Agreement.

SECTION 2. Assignment.

(a) Lease. The Corporation, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby unconditionally grant, transfer and assign to the Trustee, for the benefit of the Owners of the Certificates, without recourse (i) all its right, title and interest in and to the Lease, including its right to receive the Lease Payments and Additional Payments scheduled to be paid by the City under and pursuant to the Lease, (ii) all rents, profits, products and proceeds from the Property to which the Corporation has any right or claim whatsoever under the Lease, (iii) the right to take all actions, enforce all rights of the Corporation and obligations of the City under the Lease and give all consents under the Lease, (iv) any right of access more particularly described in the Lease, (v) all other right, title, and interest of the Corporation in the Lease, (vi) all right, title, and interest of the Corporation in the Site Lease and (vii) all right, title, and interest of the Corporation in the funds and accounts (and the money and other property held therein) established pursuant to the Trust Agreement or the Lease; provided, however, that nothing contained in this Section shall abrogate the Corporation's rights to receive Additional Payments with respect to fees of auditors, attorneys, engineers and all other administrative costs payable to the Corporation pursuant to the Lease or to be indemnified as provided in the Site Lease or Lease.

(b) Assignment for Owners of Certificates. All rights assigned by the Corporation pursuant to this Assignment Agreement shall be administered by the Trustee as assignee thereof according to the provisions of the Trust Agreement and for the equal and proportionate benefits of the Owners of Certificates.

SECTION 3. Acceptance.

The Trustee hereby accepts the foregoing assignment for the benefit of the Owners of Certificates, subject to the conditions and terms of the Trust Agreement, and all such Lease Payments and Additional Payments shall be applied, and all such rights so assigned shall be exercised by the Trustee, under and pursuant to the Trust Agreement.

SECTION 4. Conditions.

This Assignment Agreement shall confer no rights and shall impose no obligations upon the Trustee beyond those expressly provided in the Trust Agreement. The Trustee does not warrant the accuracy of the recitals hereto.

SECTION 5. No Other Claims.

The Corporation hereby represents and warrants that there are no present and outstanding claims on Lease Payments or any other moneys assigned by the Corporation to the Trustee hereunder.

SECTION 6. Rights In Property.

The Corporation acknowledges that upon the execution and delivery of this Assignment Agreement, it shall have no right, title, or interest in or to the Lease Payments, the Lease or the Site Lease other than its rights to indemnification under the Lease and the Site Lease.

SECTION 7. California Law.

This Assignment Agreement shall be governed by and construed and interpreted in accordance with the laws of the State of California.

SECTION 8. Severability.

If any agreement, condition, covenant or term hereof or any application hereof should be held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, all agreements, conditions, covenants and terms hereof and all applications thereof not held invalid, void or unenforceable shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

[Remainder of this page intentionally left blank]

SECTION 9. Execution In Counterparts.

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

IN WITNESS WHEREOF, the parties hereto have executed and entered into this Assignment Agreement by their officers thereunto duly authorized as of the day and year first above written.

LODI PUBLIC IMPROVEMENT  
CORPORATION

By: \_\_\_\_\_  
Executive Director

Attest:

\_\_\_\_\_  
Secretary for the Corporation

APPROVED:

\_\_\_\_\_  
Attorney for the Corporation

BNY WESTERN TRUST COMPANY, as Trustee

By: \_\_\_\_\_  
Authorized Signatory





EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

All that real property situated in the City of Lodi and County of San Joaquin, State of California, described as follows:

[TO COME]

Recording Requested By: )  
City of Lodi )  
)  
)  
When Recorded Mail To: )  
Orrick, Herrington & Sutcliffe LLP )  
777 South Figueroa Street, Suite 3200 )  
Los Angeles, California 90017 )  
Attn.: Eugene J. Carron, Esq. )

---

This document is recorded for the benefit of the City of Lodi, and recording is fee exempt under §27383 of the Government Code.

SITE AND FACILITIES LEASE

between the

CITY OF LODI

and the

LODI PUBLIC IMPROVEMENT CORPORATION

Dated as of January 1, 2002

\$ \_\_\_\_\_  
Certificates of Participation  
(2002 Public Improvement Financing Project)

---

## SITE AND FACILITIES LEASE

This Site and Facilities Lease, dated as of January 1, 2002, by and between the City of Lodi (the "City"), a municipal corporation duly organized and existing by virtue of the Constitution and the laws of the State of California, as lessor hereunder, and the Lodi Public Improvement Corporation, a nonprofit, public benefit corporation duly organized and existing under the laws of the State of California (the "Corporation"), as lessee hereunder

### W I T N E S S E T H :

WHEREAS, the City and the Corporation have entered into the Prior Leases (capitalized terms used herein and not otherwise defined shall have the meaning given such terms pursuant to Section 1 hereof) whereby the Corporation leased certain land, buildings, improvements and other real property to the City; and

WHEREAS, the City has determined that it is necessary and in the best interests of the City to provide for the acquisition, construction and installation of the 2002 Project; and

WHEREAS, for the purpose of providing for all of the City's lease payment obligations under the Prior Leases and to provide for the acquisition, construction and installation of the 2002 Project, the City has determined to lease the Property described in Exhibit A hereto (the "Property") to the Corporation on the terms and conditions set forth in this Site and Facility Lease; and

WHEREAS, the City intends to lease back the Property from the Corporation pursuant to the terms of the Lease Agreement, dated as of January 1, 2002, between the City and the Corporation which is being recorded concurrently herewith; and

WHEREAS, the Corporation intends to assign certain of its rights under and interests in the Lease and this Site and Facility Lease under and pursuant to the Assignment Agreement from the Corporation to the Trustee;

WHEREAS, the City and the Corporation intend to enter into that certain Trust Agreement, dated as of January 1, 2002, with BNY Western Trust Company, as Trustee, to provide for the execution and delivery of the Certificates of Participation (2002 Public Improvement Financing Project) evidencing proportionate interests of the owners thereof in the Lease Payments to be made by the City under the Lease; and

WHEREAS, pursuant to the Trust Agreement, the proceeds of the sale of the Certificates are to be applied, among other purposes, to the funding of an escrow to provide for all of the City's obligations under the Prior Leases and to provide funds to pay the Costs of the 2002 Project;

NOW, THEREFORE, it is hereby mutually agreed as follows:

SECTION 1. Definitions. Unless the context otherwise requires, capitalized terms not otherwise defined herein shall have the meanings specified in the Trust Agreement.

SECTION 2. Demised Premises. The City hereby leases the Property to the Corporation, subject to the terms hereof and subject to any conditions, reservations, exceptions and rights of way which are of record.

SECTION 3. Ownership. The City is the owner of and holds title in fee simple to the Property. The City is conveying an estate for a term of years in the Property to the Corporation pursuant to this Site and Facility Lease. [In the event of a title defect that impairs the right to use and possession of all or a portion of the Property, the City covenants that it will inform the Trustee of such title defect and will, at the City's option, either: (i) exercise its condemnation powers to the extent permitted by law to obtain the necessary rights in all or a portion of the Property to cure such defect and limitation of the right to use and possession or institute a quiet title action to clarify the City's title and will diligently pursue such action to completion or (ii) substitute property in accordance with Section 3.3 of the Lease for the portion of the Property as to which the right to use and possession is affected.]

SECTION 4. Term. The term of this Site and Facility Lease shall commence as of the date hereof and shall remain in effect until the date of termination of the Lease, provided, however, that if Lease Payments (as defined therein) due under the Lease are unpaid at such termination of the Lease, then this Site and Facility Lease shall not terminate until the earlier of (i) ten (10) years after the final scheduled maturity date of the Certificates or (ii) the date on which the Certificates have been paid in full or provision is made for the payment thereof in accordance with the Trust Agreement (plus a recovery of the cost and expenses of the Trustee as assignee of the Corporation).

The leasing by the Corporation to the City of the Property pursuant to the Lease shall not effect or result in a merger of the City's fee estate and its leasehold estate under the Lease. The Corporation shall continue to have and hold a leasehold estate in the Property pursuant to this Site and Facility Lease throughout the term hereof.

SECTION 5. Rental. The Corporation shall pay to the City, as and for rental hereunder for the full term hereof, the sum of \$1.00. The City hereby acknowledges the sufficiency and receipt of such rental.

SECTION 6. Assignments. The City acknowledges and affirms the assignment by the Corporation of all of its right, title and interest in this Site and Facility Lease to the Trustee, for the benefit of the Owners of the Certificates, under the terms of the Assignment Agreement.

SECTION 7. Termination. Upon the termination of this Site and Facility Lease, the Corporation agrees to quit and surrender the Property without warranty as to condition, reasonable wear and tear excepted, and agrees that any permanent improvements and structures existing upon the Property at the time of the termination of this Site and Facility Lease shall remain thereon and title thereto shall vest in the City.

SECTION 8. Quiet Enjoyment. At all times during the term of this Site and Facility Lease the Corporation shall peaceably and quietly have, hold and enjoy all of the Property.

SECTION 9. Default. In the event that the Corporation shall be in default in the performance of any obligation on its part to be performed under the terms of this Site and Facility Lease, which default continues for 30 days following written notice to and demand for correction

thereof, the City, with the consent of the Trustee, may exercise any and all remedies granted by law providing for specific performance of the Corporation's obligations hereunder which do not adversely affect the Corporation's leasehold estate in the Property pursuant to this Site and Facility Lease or the interests of the Owners of the Certificates. It is specifically agreed, notwithstanding the default of the Corporation of any or all of its obligations hereunder, that the City may not terminate this Site and Facility Lease nor the Corporation's right to the use and possession of the Property and that so long as any of the Certificates are Outstanding and unpaid in accordance with the terms thereof, the Lease Payments assigned by the Corporation to the Trustee under the Assignment Agreement shall continue to be paid to the Trustee as required by the Lease.

SECTION 10. Taxes. Pursuant to the Lease, the City covenants and agrees to pay any and all assessments of any kind or character with respect to the Property and also all taxes, including possessory interest taxes, levied or assessed upon the Property.

SECTION 11. Eminent Domain. In the event that the whole or any part of the Property is taken by eminent domain proceedings, the interest of the Corporation shall be recognized and is hereby determined to be the amount of unpaid Lease Payments and Additional Payments payable to the Corporation under the Lease.

SECTION 12. Severability. If any one or more of the terms, provisions, covenants or conditions of this Site and Facility Lease shall to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a final finding, decree or order of a court of competent jurisdiction, none of the remaining terms, provisions, covenants and conditions of this Site and Facility Lease shall be affected thereby, and each provision of this Site and Facility Lease shall be valid and enforceable to the fullest extent permitted by law.

SECTION 13. Compliance with Law, Regulations, Etc. The City has, after due inquiry, no knowledge and has not given or received any written notice indicating that the Property or the past or present use thereof or any practice, procedure or policy employed by it in the conduct of its business materially violates any applicable law, regulation, code, order, rule, judgment or consent agreement, including, without limitation, those relating to zoning, building, use and occupancy, fire safety, health, sanitation, air pollution, ecological matters, environmental protection, hazardous or toxic materials, substances or wastes, conservation, parking, architectural barriers to the handicapped, or restrictive covenants or other agreements affecting title to the Property.

SECTION 14. Applicable Law. This Site and Facility Lease shall be governed by and construed in accordance with the laws of the State of California.

SECTION 15. Representatives. Whenever under the provisions of this Site and Facility Lease the approval of the Corporation or the City is required, or the Corporation or the City is required to take some action at the request of the other, such approval or such request shall be given for the Corporation by a Corporation Representative and for the City by a City Representative, and any party hereto shall be authorized to rely upon any such approval or request.

SECTION 16. Notices. All notices or other communications hereunder shall be given in the same manner as provided under the Lease.

SECTION 17. Captions. The captions or headings in this Site and Facility Lease are for convenience only and in no way define, limit or describe the scope or intent of any provision or Section of this Site and Facility Lease.

SECTION 18. Amendment. [With the prior written consent of the Insurer,] this Site and Facility Lease may be amended to provide for the substitution of real property of all or any of the real property described in Exhibit A hereto, provided that the Lease is correspondingly amended as provided in Section 3.4 thereof.

SECTION 19. Warranties of the City. The City covenants and warrants to the Corporation that:

(1) the City has good and marketable title to the Property and will cause this Site and Facility Lease to be recorded in the Recorder's Office for the County of San Joaquin;

(2) except for Permitted Encumbrances, the Property is not currently subject to any dedication, easement, right of way, reservation in patent, covenant, condition, restriction, lien or encumbrance which would prohibit or materially interfere with the financing as contemplated by the Lease;

(3) all taxes, assessments, or impositions of any kind with respect to the Property, except current taxes, have been paid in full; and

(4) the Property is properly zoned for its intended purposes.

SECTION 20. Warranties of the Corporation. The Corporation covenants and warrants to the City that the Corporation has the power and authority to enter into, execute and deliver this Site and Facility Lease, and to perform all of its duties and obligations thereunder, and has duly authorized the execution and delivery thereof.

SECTION 21. Indemnification and Hold Harmless Agreement. To the extent permitted by law, the City hereby agrees to defend, indemnify, protect, save, and keep harmless the Corporation and its officers, directors, employees, representatives, agents and affiliates and each of their respective successors and assigns from and against, any and all liabilities, obligations, losses, damages (including, without limitation, any and all consequential damages), taxes, impositions, penalties, fines, claims, actions, suits, costs, expenses, and disbursements (including, without limitation, any and all legal fees and expenses) of whatsoever kind and nature imposed on, asserted against, incurred by, or suffered by the Corporation or its directors, officers, employees, representatives, agents or affiliates or their respective successors and assigns in any way relating to or arising out of this Site and Facility Lease or the Lease.

[Remainder of this page intentionally left blank]

SECTION 22. Execution in Counterparts. This Site and Facility Lease may be executed in any number of counterparts, each of which shall be deemed to be an original, and which together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have caused this Site and Facility Lease to be executed by their duly authorized officers as of the date and year first above written.

CITY OF LODI

By: \_\_\_\_\_  
City Manager

Attest

\_\_\_\_\_  
City Clerk

APPROVED:

\_\_\_\_\_  
City Attorney

LODI PUBLIC IMPROVEMENT  
CORPORATION

By: \_\_\_\_\_  
Executive Director

Attest:

\_\_\_\_\_  
Secretary for the Corporation

APPROVED:

\_\_\_\_\_  
Attorney for the Corporation





EXHIBIT A  
LEGAL DESCRIPTION OF THE PROPERTY

All that real property situated in the City of Lodi and County of San Joaquin, State of California, described as follows:

[TO COME]

Recording Requested By: )  
City of Lodi )  
When Recorded Mail To: )  
 )  
Orrick, Herrington & Sutcliffe LLP )  
777 South Figueroa Street, Suite 3200 )  
Los Angeles, California 90017 )  
Attn: Eugene J. Carron, Esq. )  
 )

---

This document is recorded for the benefit of the City of Lodi, and recording is fee-exempt under §27383 of the Government Code.

LEASE AGREEMENT

Dated as of January 1, 2002

between the

LODI PUBLIC IMPROVEMENT CORPORATION,  
as Lessor

and the

CITY OF LODI,  
as Lessee

\$ \_\_\_\_\_

Certificates of Participation  
(2002 Public Improvement Financing Project)

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## LEASE AGREEMENT

THIS LEASE AGREEMENT, dated as of January 1, 2002, by and between the Lodi Public Improvement Corporation, a nonprofit, public benefit corporation duly organized and existing under the laws of the State of California, as lessor (the "Corporation"), and the City of Lodi, a municipal corporation duly organized and existing under the Constitution and laws of the State of California, as lessee (the "City");

### W I T N E S S E T H:

WHEREAS, the City and the Corporation have entered into the Prior Leases (capitalized terms used herein and not otherwise defined shall have the meaning given such terms pursuant to Section 1.1 hereof) whereby the Corporation leased certain land, buildings, improvements and other real property to the City; and

WHEREAS, the City has determined that it is necessary and in the best interests of the City to provide for the acquisition, construction and installation of the 2002 Project as provided in this Lease; and

WHEREAS, for the purpose of providing for all of the City's lease payment obligations under the Prior Leases and to provide for the acquisition, construction and installation of the 2002 Project, the City has leased the Property to the Corporation on the terms and conditions set forth in the Site Lease; and

WHEREAS, the City has determined to lease back the Property from the Corporation pursuant to the terms of this Lease; and

WHEREAS, the Corporation intends to assign certain of its rights under and interests in this Lease and the Site Lease under and pursuant to the Assignment Agreement from the Corporation to the Trustee; and

WHEREAS, the City and the Corporation intend to enter into the Trust Agreement to provide for the execution and delivery of the Certificates of Participation (2002 Public Improvement Financing Project) evidencing proportionate interests of the Owners thereof in the Lease Payments to be made by the City under this Lease; and

WHEREAS, pursuant to the Trust Agreement, the proceeds of the sale of the Certificates are to be applied, among other purposes, to the funding of an escrow to provide for all of the City's obligations under the Prior Leases and to provide funds to pay the Costs of the 2002 Project;

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

SECTION 1.1. Definitions and Rules of Construction. Unless the context otherwise requires, the capitalized terms used herein shall, for all purposes of this Lease, have the meanings specified in the Trust Agreement, dated as of the date hereof, by and among BNY Western Trust Company, as trustee thereunder, the Corporation and the City, together with any amendments thereof or supplements thereto permitted to be made thereunder. Words of the masculine gender used in this Lease shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa. The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this Lease, refer to this Lease as a whole.

SECTION 1.2. Exhibits. The following Exhibits are attached to, and by reference made a part of, this Lease:

Exhibit A: Schedule of Lease Payments to be paid by the City to the Corporation, showing the Lease Payment Date and the total amount and principal and interest components of each Lease Payment.

Exhibit B: Legal Description of the Property.

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

SECTION 2.1. Representations, Covenants and Warranties of the City. The City represents, covenants and warrants to the Corporation as follows:

(a) Due Organization and Existence. The City is a municipal corporation duly organized and existing under the Constitution and laws of the State.

(b) Authorization; Enforceability. The Constitution and laws of the State authorize the City to enter into this Lease, the Site Lease and the Trust Agreement and to enter into the transactions contemplated by and to carry out the City’s obligations under all of the aforesaid agreements, and the City has duly authorized and executed all of the aforesaid agreements. This Lease, the Site Lease and the Trust Agreement constitute the legal, valid and binding obligations of the City enforceable in accordance with their respective terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting the rights of creditors generally.

(c) No Conflicts or Default; No Liens or Encumbrances. Neither the execution and delivery of this Lease, the Site Lease or the Trust Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the

consummation of the transactions contemplated hereby or thereby, (a) conflicts with or results in a breach of the terms, conditions or provisions of any restriction, agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any such restriction, agreement or instrument, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the City, or upon the Property except for as provided in this Lease, the Site and Facility Lease, the Assignment Agreement and the Trust Agreement and except for Permitted Encumbrances or (ii) results in an abatement of the City's obligations hereunder.

(d) Execution and Delivery. The City has duly authorized and executed this Lease in accordance with the Constitution and laws of the State.

(e) Indemnification of Corporation. To the extent permitted by law, the City covenants to defend, indemnify and hold harmless the Corporation and its directors, employees and assigns (collectively, the "Indemnified Party") against any and all losses, claims, damages or liabilities, joint or several, including fees and expenses incurred in connection therewith, to which such Indemnified Party may become subject under any statute or at law or in equity or otherwise in connection with the transactions contemplated by this Lease, and shall reimburse any such Indemnified Party for any legal or other expenses incurred by it in connection with investigating any claims against it and defending any actions, insofar as such losses, claims, damages, liabilities or actions arise out of the transactions contemplated by this Lease. In particular, without limitation, the City shall and hereby agrees to indemnify and save the Indemnified Party harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of (i) the use, maintenance, condition or management of the Property, or from any work or thing done on the Property by the City, (ii) any breach or default on the part of the City in the performance of any of its obligations under this Lease, the Site Lease, or the Trust Agreement, (iii) any act or negligence of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Property, or (iv) any act or negligence of any assignee or sublessee of the City with respect to the Property.

(f) Tax Covenants.

(1) General. The City hereby covenants for the benefit of the Owners of the Certificates that, notwithstanding any other provisions of this Lease, it shall not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of interest with respect to the Certificates under Section 103 of the Code. The City shall not, directly or indirectly, use or permit the use of proceeds of the Certificates or any of the property financed or refinanced with proceeds of the Certificates, or any portion thereof, by any person other than a governmental unit (as such term is used in Section 141 of the Code), in such manner or to such extent as would result in the loss of exclusion from gross income for federal income tax purposes of interest with respect to the Certificates.

(2) Use of Proceeds. The City shall not take any action, or fail to take any action, if any such action or failure to take action would cause the Certificates to be “private activity bonds” within the meaning of Section 141 of the Code, and in furtherance thereof, shall not make any use of the proceeds of the Certificates or any of the property financed or refinanced with proceeds of the Certificates, or any portion thereof, or any other funds of the City, that would cause the Certificates to be “private activity bonds” within the meaning of Section 141 of the Code. To that end, so long as any Certificates are Outstanding, the City, with respect to such proceeds and property and such other funds, will comply with applicable requirements of the Code and all regulations of the United States Department of the Treasury issued thereunder and under Section 103 of the Code, to the extent such requirements are, at the time, applicable and in effect. The City shall establish reasonable procedures necessary to ensure continued compliance with Section 141 of the Code and the continued qualification of the Certificates as “governmental bonds.”

(3) Arbitrage. The City shall not, directly or indirectly, use or permit the use of any proceeds of any Certificates, or of any property financed or refinanced thereby, or other funds of the City, or take or omit to take any action, that would cause the Certificates to be “arbitrage bonds” within the meaning of Section 148 of the Code. To that end, the City shall comply with all requirements of Section 148 of the Code and all regulations of the United States Department of the Treasury issued thereunder to the extent such requirements are, at the time, in effect and applicable to the Certificates.

(4) Federal Guarantee. The City shall not make any use of the proceeds of the Certificates or any other funds of the City, or take or omit to take any other action, that would cause the Certificates to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

(5) Compliance with Tax Certificate. In furtherance of the foregoing tax covenants of this Section 2.1(f), the City covenants that it will comply with the provisions of the Tax Certificate, which is incorporated herein as if fully set forth herein.

(6) The covenants contained in this subsection (f) shall survive payment in full and defeasance of the Certificates.

SECTION 2.2. Representations, Covenants and Warranties of the Corporation. The Corporation represents, covenants and warrants to the City as follows:

(a) Due Organization and Existence; Enforceability. The Corporation is a nonprofit, public benefit corporation duly organized, existing and in good standing under and by virtue of the laws of the State, including, and has the power to enter into this Lease, the Assignment Agreement, the Site Lease and the Trust Agreement; is possessed of full power to own and hold real and personal property, and to lease and sell the same; and has duly authorized the execution and delivery of all of the foregoing agreements. This Lease, the Assignment Agreement, the Site Lease and the Trust Agreement constitute the legal, valid and binding obligations of the Corporation enforceable in

accordance with their respective terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles affecting the rights of creditors generally.

(b) No Conflicts or Defaults; No Liens or Encumbrances. Neither the execution and delivery of this Lease, the Assignment Agreement, the Site Lease or the Trust Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of the Articles of Incorporation or Bylaws of the Corporation or any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any such restriction, agreement or instrument, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Corporation, or upon the Property except as provided in this Lease, the Site and Facility Lease, the Trust Agreement and the Assignment Agreement and except for Permitted Encumbrances.

(c) Execution and Delivery. The Corporation has duly authorized and executed this Lease in accordance with the Articles of Incorporation or Bylaws of the Corporation and the laws of the State.

(d) General Tax and Arbitrage Covenant. The Corporation covenants that, notwithstanding any other provision of this Lease, the Corporation will make no use of the proceeds of the Certificates or of any other amounts or property, regardless of the source, or take any action or refrain from taking any action that may cause the obligations of the City under this Lease to be “arbitrage bonds” subject to federal income taxation by reason of Section 148 of the Code.

In addition, the Corporation covenants that it will not make any use of the proceeds of the obligations provided herein or in the Trust Agreement or any other funds of the City or take or omit to take any other action that would cause such obligations to be a “private activity bond” within the meaning of Section 141 of the Code or “federally guaranteed” within the meaning of Section 149(b) of the Code. To that end, the Corporation, with respect to such proceeds and such other funds, will comply with all requirements of such Code sections and all regulations of the United States Department of the Treasury issued thereunder and under Section 103 of the Code, to the extent that such requirements are, at the time, applicable and in effect.

The Corporation will not use or permit the use of the proceeds of the obligations provided herein and the Property or any portion thereof by any person other than a “governmental unit” as such term is used in Section 141 of the Code, in such manner or to such extent as would result in the loss of exclusion from gross income for federal income tax purposes of the interest paid with respect to the obligations provided herein. In furtherance of the foregoing tax covenants of this Section, the Corporation covenants that it will comply with the instructions and requirements of the Tax Certificate, which is incorporated herein as if fully set forth herein.

The covenants contained in this subsection (d) shall survive the payment in full and defeasance of the Certificates.

### ARTICLE III

#### THE PROPERTY

SECTION 3.1. Deposit of Certificate Proceeds. On the Closing Date, the Corporation agrees to cause moneys to be deposited with the Trustee on behalf of the City as provided in Section 2.07 of the Trust Agreement.

SECTION 3.2. Certificate Proceeds. Provision for the payment of the City obligations under the Prior Leases shall be made by the deposit of Certificate proceeds as provided in Section 2.07 of the Trust Agreement. Payment of the Costs of the 2002 Project shall be made from moneys in the Improvement Fund which shall be disbursed in accordance and upon compliance with Section 3.03 of the Trust Agreement. Payment of Delivery Costs shall be made from the moneys deposited with the Trustee in the Cost of Issuance Fund as provided in Section 3.1 hereof and Section 2.07 of the Trust Agreement, which shall be disbursed in accordance and upon compliance with Section 3.07 of the Trust Agreement.

SECTION 3.3. Substitution and Removal of the Property.

(a) [Subject to approval by the Insurer,] the City may amend this Lease and the Site Lease to substitute real property, improvements and/or equipment (the "Substituted Property") for all or a portion of the Property, or to remove real property, improvements and/or equipment from the definition of Property, upon compliance with all of the conditions set forth in subsection (b) of this Section. After a substitution or removal, the part of the Property for which the substitution or removal has been affected shall be released from the leasehold hereunder and under the Site Lease.

(b) No substitution or removal shall take place hereunder until the City delivers to the [Insurer,] the Corporation and the Trustee the following:

(1) A certificate of the City containing a description of all or part of the Property to be released, and in the event of a substitution, a description of the Substituted Property to be substituted in its place;

(2) A certificate of the City stating that the annual fair rental value of the Property after a substitution or removal, in each year during the remaining term of this Lease is at least equal to the Lease Payments for such year, all as determined by the City either on the basis of (i) an appraisal of the Property, prepared by an MAI Independent Appraiser, or (ii) the acquisition costs of the Property to be leased under the Lease after a substitution.

(3) A certificate of the City stating that the useful life of the Property after a substitution or removal is equal to at least the remaining term of the Lease.

(4) In the event of a substitution only, a certificate of City the stating that the essentiality of the Substituted Property is comparable to that of the property being substituted.

(5) An opinion of Special Counsel that the substitution or removal complies with the terms of this Lease and that the substitution or removal will not adversely affect the exclusion from gross income for federal income tax purposes or the State tax-exempt status of interest with respect to the Certificates, and that following the substitution or removal, this Lease will remain the legal, binding and enforceable obligation of the City;

(6) In the event of a substitution only, evidence that the Substituted Property is not subject to any prior liens.

(7) Evidence that the City has delivered to each rating agency then rating the Certificates copies of the certificates and any MAI appraisal or acquisition costs described in clauses (1) and (2) above.

(8) Title insurance for any Substituted Property and prior to release of any leased property, evidence that the existing title insurance policy is not affected with respect to the remaining property.

(9) In the event of a substitution only, evidence that the City has caused the insurance required by Section 5.1 of this Lease, as appropriate, to be updated to reflect the addition of the Substituted Property.

(10) Evidence that there will be no downgrade in the ratings of the Certificates as a result of such substitution or removal.

SECTION 3.4. Further Assurances and Corrective Instruments. The Corporation and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Property for carrying out the expressed intention of this Lease.

#### ARTICLE IV

#### AGREEMENT TO LEASE; TERM OF LEASE; LEASE PAYMENTS

SECTION 4.1. Lease. The Corporation hereby leases the Property to the City, and the City hereby leases the Property from the Corporation, upon the terms and conditions set forth herein. During the Term of this Lease, fee title to the Property and any and all additions, replacements or modifications thereto will be retained by the City and a leasehold interest in the Property will be retained by the Corporation. Upon the termination of this Lease pursuant to Section 4.2 hereof, all right, title and interest in the Property, and any and all improvements or

additions thereto, shall vest in the City in accordance with this Lease and the Site Lease. Additionally, if necessary, the Trustee or the Corporation, as applicable, shall authorize, execute and deliver to the City such bills of sale, releases or other documents of title in order to terminate this Lease and consummate such vesting of title. The lease by the Corporation to the City of the Property pursuant to this Lease shall not effect or result in a merger of the City's leasehold estate pursuant hereto and its fee estate. The Corporation shall continue to have and hold a leasehold estate in the Property pursuant to the Site Lease throughout the term thereof.

SECTION 4.2. Term.

(a) The Term of this Lease shall commence on the date hereof and, subject to (b) below and the provisions of Section 2.1(f) and Section 2.2(d) hereof, shall terminate on final maturity date of the Certificates unless terminated prior thereto upon the earliest of any of the following events:

(i) Default and Termination. A default hereunder by the City resulting in the termination of this Lease;

(ii) Payment of All Lease Payments. The payment by the City of all Lease Payments required under Section 4.3 hereof and any Additional Payments required under Section 4.10 hereof when due and payable or upon Prepayment of all Lease Payments as provided in Article X hereof and the provision for payment of all Outstanding Certificates as provided by Article XIV of the Trust Agreement.

(b) If on the final maturity date of the Certificates, the Certificates shall not be fully paid, or if the Lease Payments hereunder shall have been abated at any time and for any reason, or if Lease Payments shall have otherwise not been paid in full in accordance with this Lease, then the Term shall be extended for one year increments until all Certificates shall be fully paid except that the Term shall in no event be extended beyond the final maturity date of the Certificates plus 10 years.

SECTION 4.3. Lease Payments.

(a) Time and Amount. During the Term of this Lease, subject to the provisions of Section 4.9 (regarding abatement in event of loss of use or possession of all or any portion of the Property) and Article X (regarding Prepayment of Lease Payments), the City agrees to pay to the Corporation, its successors and assigns, without deduction or offset of any kind, as rental for the use and occupancy of the Property, the Lease Payments (denominated into components of principal and interest), in the semiannual rental payments specified in Exhibit A, to be due and payable on the twenty-fifth day of each month (or if such day is not a Business Day, the next succeeding Business Day) immediately preceding each Certificate Payment Date set forth in Exhibit A hereto (the "Lease Payment Dates") in the amount set forth in Exhibit A for such Certificate Payment Date.

In the event that the City does not pay Lease Payments on any such Lease Payment Date, the Corporation shall provide prompt written notice to the City of such failure to pay and, if

unpaid, that failure to make Lease Payments shall become an event of default in accordance with Section 9.1(a) hereof; provided, however, that failure to give such notice shall not excuse any Event of Default under such Section 9.1.

If the Term of this Lease shall have been extended pursuant to Section 4.2(b) hereof, Lease Payment installments shall continue to be made by the City in each year of such extension of the Term hereof on each day of such year which is a Lease Payment Date in the final year specified in Exhibit A hereto and in the respective amount on each such date as is provided for the final year set forth in Exhibit A hereto.

(b) Credits. Pursuant to Section 5.03 of the Trust Agreement, no later than ten Business Days prior to each Lease Payment Date, the Trustee shall notify the City of amounts on deposit in the Lease Payment Fund (other than amounts required for the payment of past due principal or interest with respect to any Certificates not presented for payment) to be credited to the payment of Lease Payments due and payable on such Lease Payment Date.

(c) Rate on Overdue Payments. In the event that the City should fail to make any of the Lease Payments required by this Section, the Lease Payment in default shall continue as an obligation of the City until the amount in default shall have been fully paid and, to the extent permitted by law, shall bear simple interest at the rate of ten percent per annum from the date the same is due hereunder until the same shall be paid.

(d) Payment. Each installment of Lease Payments payable hereunder shall be paid in lawful money of the United States of America to or upon the order of the Corporation at the principal corporate trust office of the Trustee in San Francisco, California, or such other place as the Trustee shall designate. All payments by the City hereunder shall first be applied to Lease Payments and then to Additional Payments.

SECTION 4.4. No Withholding. Notwithstanding any dispute between the Corporation and the City, including a dispute as to the failure of any portion of the Property in use by or in possession of the City to perform the task for which it is leased, the City shall make all Lease Payments and Additional Payments when due and shall not withhold any Lease Payments or Additional Payments pending the final resolution of such dispute.

SECTION 4.5. Fair Rental Value. The Lease Payments and Additional Payments shall be paid by the City in consideration of the right of possession of, and the continued quiet use and enjoyment of, the Property during each such period for which said rental is to be paid. The parties hereto have agreed and determined that such total rental is not in excess of the fair rental value of the Property. In making such determination, consideration has been given to the fair market value of the Property, other obligations of the parties under this Lease (including but not limited to costs of maintenance, taxes and insurance), the uses and purposes which may be served by the Property and the benefits therefrom which will accrue to the City and to the general public, the ability of the City to make additions, modifications, redevelopment, renovations and improvements to the Property as provided in Section 7.7 hereof and to substitute or remove Property as provided in Section 3.3 hereof.

SECTION 4.6. Covenant to Budget. Subject to the provisions of Section 4.9 hereof, the City covenants to take such action as may be necessary to include all Lease Payments and Additional Payments due hereunder in each Fiscal Year during the Term hereof in the City's annual budget for such Fiscal Year (but, with respect to Additional Payments, only to the extent the amounts of such Additional Payments are known to the City at the time its annual budget is proposed), to maintain such amounts to the extent unpaid in that Fiscal Year in its budget throughout such Fiscal Year, and to make the necessary annual appropriations therefor. To the extent that any Additional Payments are not included in the City's budget because the amounts thereof were not known, to the extent permitted by law, such amounts shall be included and maintained in amendments to the City's budget as soon as such amounts become known.

The covenants on the part of the City herein contained shall be deemed to be and shall be construed to be ministerial duties imposed by law and it shall be the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Lease agreed to be carried out and performed by the City.

The Corporation and the City understand and intend that the obligation of the City to pay Lease Payments and Additional Payments hereunder shall constitute a current expense of the City and shall not in any way be construed to be a debt of the City in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by the City, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of the City. Lease Payments and Additional Payments due hereunder shall be payable only from current funds which are budgeted and appropriated or otherwise legally available for the purpose of paying Lease Payments and Additional Payments or other payments due hereunder as consideration for the right to use and possession of the Property. The City has not pledged the full faith and credit of the City or any agency or department thereof to the payment of the Lease Payments and Additional Payments or any other payments due hereunder.

THE OBLIGATION OF THE CITY OF LODI TO MAKE LEASE PAYMENT AND ADDITIONAL PAYMENTS DOES NOT CONSTITUTE AN OBLIGATION OF THE CITY FOR WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR PLEDGED ANY FORM OF TAXATION. NEITHER THE CERTIFICATES NOR THE OBLIGATION TO MAKE LEASE PAYMENTS AND ADDITIONAL PAYMENTS CONSTITUTES AN INDEBTEDNESS OF THE CITY, THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION.

SECTION 4.7. Assignment of Lease Payments. Certain of the Corporation's rights under this Lease, including the right to receive and enforce payment of the Lease Payments, certain Additional Payments and Prepayments to be made by the City hereunder, have been assigned to the Trustee, subject to certain exceptions, pursuant to the Assignment Agreement, to which assignment the City hereby consents. The Corporation hereby directs the City, and the City hereby agrees to pay to the Trustee at the Trustee's Principal Office, or to the Trustee at

such other place as the Trustee shall direct in writing, all Lease Payments or Prepayments thereof and Additional Payments (unless otherwise directed by the Corporation) payable by the City hereunder. The Corporation will not assign or pledge the Lease Payments and its other rights under this Lease except as provided under the terms of this Lease, or its duties and obligations except as provided under the Assignment Agreement and the Trust Agreement.

SECTION 4.8. Use and Possession. The total Lease Payments due in any Fiscal Year shall be paid or payable by the City for and in consideration of the right of use and possession of the Property for such Fiscal Year.

SECTION 4.9. Rental Abatement. Except to the extent of (a) amounts held by the Trustee in the Lease Payment Fund or the Reserve Fund, (b) amounts received in respect of use and occupancy or rental interruption insurance, and (c) amounts, if any, otherwise legally available to the Trustee for payments in respect of the Certificates, during any period in which, by reason of material damage, destruction, title defect or condemnation there is substantial interference with the use and possession by the City of any portion of the Property, rental payments due hereunder with respect to the Property shall be abated to the extent that the annual fair rental value of the portion of the Property in respect of which there is no substantial interference is less than the annual Lease Payments and Additional Rental, in which case rental payments shall be abated only by an amount equal to the difference. Any abatement of rental payments pursuant to this Section shall not be considered an Event of Default as defined in Article X hereof. The City waives the benefits of Civil Code Sections 1932(2) and 1933(4) and any and all other rights to terminate this Lease by virtue of any such interference and this Lease shall continue in full force and effect. Such abatement shall continue for the period commencing with the date of such damage, destruction, title defect or condemnation and ending with the substantial completion of the work of repair or replacement of the portions of the Property so damaged, destroyed, defective or condemned.

In the event that rental is abated, in whole or in part, pursuant to this Section due to damage, destruction, title defect or condemnation of any part of the Property and the City is unable to repair, replace or rebuild the Property from the Net Proceeds, if any, the City agrees to apply for and to use its best efforts to obtain any appropriate state and/or federal disaster relief in order to obtain funds to repair, replace or rebuild the Property.

SECTION 4.10. Additional Payments. In addition to the Lease Payments, the City shall also pay such amounts ("Additional Payments") as shall be required for the payment of all administrative costs relating to the Property or the Certificates, including without limitation, all expenses, compensation and indemnification of the Trustee payable by the City under the Trust Agreement, fees of auditors, accountants, attorneys or engineers, and all other necessary administrative costs of the Corporation or charges required to be paid by the Corporation in order to maintain its existence or to comply with the terms of the Certificates or of the Trust Agreement, including premiums on insurance maintained pursuant to Article V hereof or to indemnify the Corporation and its officers and directors.

SECTION 4.11. Net-Net-Net Lease. This Lease shall be deemed and construed to be a "net-net-net lease" and the City hereby agrees that the Lease Payments shall be an absolute net

return to the Corporation, free and clear of any expenses, charges or set-offs whatsoever, except as expressly provided herein.

## ARTICLE V

### INSURANCE

SECTION 5.1. Insurance. The City shall maintain or cause to be maintained, during the term hereof, with insurers of recognized responsibility or through a program of self-insurance, all coverage required by this Section 5.1. With respect to the Property identified on Exhibit B hereto, including any improvements located thereon, and any property hereafter substituted for all or any portion thereof, such insurance shall consist of:

(a) Comprehensive general insurance in protection of the City, its council members, directors, agents and employees. Said insurance shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the construction, acquisition, delivery, installation, operation or use of such property. Limits of liability on such insurance shall be a minimum combined single limit of \$3,000,000. A self-insured retention of \$5,000,000 per occurrence for all City liability on all its property and operations is acceptable;

(b) Worker's compensation insurance in compliance with the labor code of the State of California. A self-insured retention of \$500,000 is acceptable;

(c) All risk property damage insurance on a replacement cost basis, including fire, lightning and extended coverage (theft, vandalism, malicious mischief, explosion, windstorm, riot, aircraft, vehicle damage, smoke) and other perils typically covered by all risk insurance. Deductibles shall be in an amount no greater than maintained by City on other of its similar properties;

(d) Boiler and machinery coverage on a replacement cost basis to protect against explosion of steam boilers, pressure vessels and similar apparatus now or hereafter installed on any portion of the Property, subject to a \$50,000,000 limit City-wide and various sub-limits

(e) Earthquake and flood insurance, provided that, such insurance is available at a reasonable premiums from reputable insurers, as determined by City purchased on similar City properties;

(f) As supplemental coverage to sub-parts (c), (d) and (e) above, rental interruption insurance in an amount equal to twenty-four (24) months of Lease Payments (calculated assuming that the annual Lease Payment amount consists of twelve equal monthly deposits); and

(g) a CLTA leasehold owner's policy or policies of title insurance in an amount not less than the aggregate of the principal components of the Lease Payments. Such policy or policies, when issued, shall name the Trustee as the insured and shall insure the leasehold estate of the City in the Property, subject only to Permitted Encumbrances;

The City shall pay or cause to be paid when due the premiums, if any, for all insurance policies or self-insurance program funding maintained by it pursuant to this Lease. The Trustee and the Corporation shall not be responsible for the sufficiency of any insurance herein purchased and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss.

The City shall annually on or before December 31 cause to be delivered to the Trustee a certificate of the City Representative listing the insurance coverage required by this Lease and stating whether such coverage is currently maintained by the City (and if such coverage is maintained through insurance policies, whether each such policy is in full force and effect). Receipt of such certificate without further inquiry or review by the Trustee or the Corporation shall be sufficient evidence to them of satisfaction of the requirements of this Section 5.1.

Except to the extent the insurance required by this Section 5.1 is provided under a program of self-insurance, the insurance required by such subsections shall be provided by insurance carriers rated at least "B+" by A.M. Best Company (a "Qualified Insurer"). If the rating of such an insurer, other than the City under a program of self-insurance, falls below "B-", such insurer shall be replaced with a Qualified Insurer.

If the City maintains the insurance required to be maintained by it pursuant to this Section 5.1 through a program of self-insurance, the City shall annually on or before December 31, file with the Trustee a statement, verified by a risk manager of the City or an independent financial consultant, which specifies the amounts of coverage available through such self-insurance program. If it shall appear to such risk manager or financial consultant that the amounts available pursuant to such self-insurance program are insufficient, taking into account the loss history of the City and the requirements of this Lease, then (i) such report shall so state and (ii) the City shall obtain commercial insurance or increase the amounts available under such self-insurance program to an actuarially sound level.

The City shall not maintain the insurance required by subsection 5.1(c), 5.1(d) or 5.1(f) through a program of self-insurance, and evidence of such insurance shall be delivered on or before the delivery date of the Certificates. The obligation of the City to maintain the insurance required by subsection 5.1(c), 5.1(d) and 5.1(f) shall be absolute.

SECTION 5.2. Insurance Net Proceeds; Form of Policies. The policies of insurance required by Section 5.1 hereof shall provide that all proceeds thereunder shall be payable to the Trustee pursuant to a lender's loss payable endorsement substantially in accordance with the form approved by the Insurance Services Office and the California Bankers Association and must require at least thirty (30) days prior written notice to the Trustee before expiration, cancellation or reduction of the coverage afforded thereby. Any Net Proceeds shall be paid to the Trustee for deposit into the Net Proceeds Fund pursuant to Section 6.1 hereof. Rental interruption insurance proceeds shall be deposited into the Lease Payment Fund established under Section 5.02 of the Trust Agreement.

SECTION 5.3. Cooperation. The Corporation shall cooperate fully with the City at the expense of the City in filing any proof of loss with respect to any insurance policy maintained

pursuant to this Article and in the prosecution or defense of any prospective or pending condemnation proceeding with respect to the Property or any portion thereof.

## ARTICLE VI

### DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS

#### SECTION 6.1. Application of Net Proceeds.

(a) Deposit in Net Proceeds Fund. The City and the Corporation shall each remit promptly any Net Proceeds received by such party to the Trustee for deposit in the Net Proceeds Fund pursuant to Section 7.01 of the Trust Agreement.

(b) Disbursement for Replacement or Repair of the Property. If the City determines to repair or replace with Net Proceeds any portion of the Property damaged, destroyed or taken by eminent domain, upon receipt of the certification described in paragraph (1) below and the requisition described in paragraph (2) below, the Trustee shall disburse moneys in the Net Proceeds Fund to the person, firm or corporation named in such requisition as provided in Section 7.02 of the Trust Agreement.

(1) Certification. The City Representative must certify to the Corporation and the Trustee that:

(i) Sufficiency of Net Proceeds. The Net Proceeds available for such purpose, together with any other funds supplied by the City to the Trustee and held in the Net Proceeds Fund for such purpose, are expected to equal at least 110% of the projected costs of replacement or repair of the Property or any portion thereof, as demonstrated in an attached requisition budget; and

(ii) Timely Completion. In the event that damage, destruction or taking results or is expected to result in an abatement of Lease Payments, such replacement or repair can be fully completed within a period not in excess of the period in which rental interruption insurance proceeds as described in Section 5.1 hereof, together with other identified available moneys, will be available to pay in full all abated Lease Payments coming due during such period as demonstrated in an attached requisition schedule; and

(iii) No Unauthorized Encumbrances. There are no encumbrances on the Property other than Permitted Encumbrances.

(2) Requisition. The City Representative must state with respect to each payment to be made: (i) the requisition number; (ii) the name and address of the person, firm or corporation to whom payment is due; (iii) the amount to be paid; (iv) that each obligation mentioned therein has been properly incurred, is a proper charge against the

Net Proceeds Fund and has not been the basis of any previous withdrawal; and (v) in reasonable detail, the nature of the payment obligation.

Subject to the requirements of Section 7.02 of the Trust Agreement, any balance of the Net Proceeds remaining after such replacement or repair of all of the Property which has been damaged, destroyed or taken by eminent domain has been completed shall be paid to the City.

(c) Disbursement for Prepayment. If the City shall not have determined to repair or replace the Property, as provided above, the Trustee shall promptly transfer the Net Proceeds to the Prepayment Fund as provided in Section 4.02 of the Trust Agreement and apply them to prepayment of Lease Payments, as provided in Section 10.1 hereof and prepayment of the corresponding amount of principal evidenced by the Certificates as provided in Section 4.02 of the Trust Agreement, upon the earlier of the following events:

- (1) Written determination of the City Representative that the certification provided in Section 6.1(b)(1) cannot be made and that replacement or repair of any item or portion of the Property, is not economically feasible or in the best interest of the City; or
- (2) One year after the receipt of Net Proceeds.

## ARTICLE VII

### COVENANTS WITH RESPECT TO THE PROPERTY

SECTION 7.1. Use of the Property. The City represents and warrants that (i) it has an immediate use for, and expects to make immediate use of, all of the Property, which need is not temporary or expected to diminish in the foreseeable future and (ii) the Property is essential to the operations of the City. The City shall have full access to the Property throughout the term of this Lease.

#### SECTION 7.2. Interest in the Property.

(a) Corporation Holds Interest During Term. During the Term of this Lease, the Corporation shall hold a leasehold interest in the Property. The City shall take any and all actions reasonably required, including but not limited to executing and filing any and all documents reasonably required to maintain and evidence the Corporation's leasehold interest in the Property at all times during the Term hereof.

(b) Interest Transferred to City at End of Term. Upon expiration of the Term as provided in Section 4.2 hereof, all of the right, title and interest of the Corporation in and to the Property shall be transferred to and vest in the City, without the necessity of any additional document of transfer.

SECTION 7.3. Quiet Enjoyment. During the Term, the Corporation shall provide the City with quiet use and enjoyment of the Property, and the City shall during such Term

peaceably and quietly have and hold and enjoy the Property, without suit, trouble or hindrance from the Corporation, or any person or entity claiming under or through the Corporation except as expressly set forth in this Lease or the Trust Agreement. At the request and expense of the City, the Corporation will join in any legal action in which the City asserts its right to such possession and enjoyment to the extent that the Corporation may lawfully do so. Notwithstanding the foregoing, the Corporation shall have the right to inspect the Property as provided in Section 7.5 hereof.

SECTION 7.4. Installation of City's Personal Property. The City may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed items of equipment or other personal property in or upon any portion of the Property. All such items shall remain the sole personal property of the City, regardless of the manner in which the same may be affixed to such portion of the Property, in which neither the Corporation nor the Trustee shall have any interest, and any such items may be modified or removed by the City at any time; provided that the City shall repair and restore any and all damage to such portion of the Property resulting from the installation, modification or removal of any such items of equipment. Nothing in this Lease shall prevent the City from purchasing items to be installed pursuant to this Section, provided that no lien or security interest attaching to such items shall attach to any part of the Property.

SECTION 7.5. Access to the Property. The City agrees that the Corporation, any Corporation Representative and the Corporation's successors or assigns shall have the right at all reasonable times to enter upon the Property or any portion thereof to examine and inspect the Property. The City further agrees that the Corporation, any Corporation Representative and the Corporation's successors or assigns shall have such rights of access to the Property as may be reasonably necessary to cause the proper maintenance of the Property in the event of failure by the City to perform its obligations hereunder.

SECTION 7.6. Maintenance, Utilities, Taxes and Assessments.

(a) Maintenance; Repair and Replacement. Throughout the Term of this Lease, as part of the consideration for the rental of the Property, all repair and maintenance of the Property shall be the responsibility of the City, and the City shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of any portion of the Property resulting from ordinary wear and tear or want of care on the part of the City or any sublessee thereof. In exchange for the Lease Payments herein provided, the Corporation agrees to provide only the Property, as hereinbefore more specifically set forth. The City waives the benefits of subsections 1 and 2 of Section 1932 of the California Civil Code, but such waiver shall not limit any of the rights of the City under the terms of this Lease.

(b) Tax and Assessments; Utility Charges. The City shall also pay or cause to be paid all taxes and assessments, including but not limited to utility charges of any type or nature charged to the Corporation or the City or levied, assessed or charged against any portion of the Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a

period of years, the City shall be obligated to pay only such installments as are required to be paid during the Term of this Lease as and when the same become due.

(c) Contests. At the City's expense and in its name, the City in good faith may contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom; provided that prior to any such nonpayment, the City shall furnish the Corporation and the Trustee with the opinion of an Independent Counsel, to the effect that, by nonpayment of any such items, the interest of the Corporation in such portion of the Property will not be materially endangered and that the Property will not thereby become subject to loss or forfeiture. Otherwise, the City shall promptly pay such taxes, assessments or charges or make provisions for the payment thereof in form satisfactory to the Corporation. The Corporation will cooperate fully in such contest upon the request and at the expense of the City.

#### SECTION 7.7. Modification of the Property.

(a) Additions, Modifications and Improvements. The City shall, at its own expense, have the right to make additions, modifications, and improvements to any portion of the Property if such additions, modifications or improvements are necessary or beneficial for the use of such portion of the Property. All such additions, modifications and improvements shall thereafter comprise part of the Property and be subject to the provisions of this Lease. Such additions, modifications and improvements shall not in any way damage any portion of the Property or cause it to be used for purposes other than those authorized under the provisions of state and federal law or in any way which would impair the federal income tax exclusion or the State tax-exempt status of the interest components of the Lease Payments or diminish the fair rental value of the Property; and the Property, upon completion of any additions, modifications and improvements made pursuant to this Section, shall be of a value and shall have a useful life which is not substantially less than the value and useful life of the Property immediately prior to the making of such additions, modifications and improvements.

(b) No Liens. Except for Permitted Encumbrances, the City will not permit any mechanic's or other lien to be established or remain against the Property for labor or materials furnished in connection with any additions, modifications or improvements made by the City pursuant to this Section; *provided* that if any such lien is established and the City shall first notify or cause to be notified the Corporation of the City's intention to do so, the City may in good faith contest any lien filed or established against the Property, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and shall provide the Corporation with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Trustee as assignee of the Corporation. The Corporation will cooperate fully in any such contest, upon the request and at the expense of the City.

SECTION 7.8. Liens. Except as provided in this Article VII (including without limitation this Section 7.8), the City shall not, directly or indirectly, create, incur, assume or suffer to exist any pledge, lien, charge, encumbrance or claim, as applicable, on or with respect

to the Property, other than as provided in the Site and Facility Lease, the Assignment Agreement, the Trust Agreement and this Lease and except for Permitted Encumbrances. Except as expressly provided in this Article VII, the City shall promptly take such action as may be necessary to duly discharge or remove any such pledge, lien, charge, encumbrance or claim for which the City is responsible, at its own expense, if the same shall arise at any time; provided that the City may contest any such lien if it desires to do so. The City shall reimburse the Corporation for any expense incurred by the Corporation in order to discharge or remove any such pledge, lien, change, encumbrance or claim.

SECTION 7.9. Corporation's Disclaimer of Warranties. THE CORPORATION MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE PROPERTY OR ANY ITEM OR PORTION THEREOF. THE CITY ACKNOWLEDGES THAT THE CORPORATION IS NOT A MANUFACTURER OF ITEMS OR PORTIONS OF THE PROPERTY OR A DEALER THEREIN, AND THAT THE CITY IS LEASING THE ITEMS OR PORTIONS OF THE PROPERTY AS IS. In no event shall the Corporation be liable for incidental, indirect, special or consequential damages in connection with or arising out of the Site and Facility Lease, the Assignment Agreement or the Trust Agreement for the existence, furnishing, functioning of the Property or City's use and possession of the Property.

SECTION 7.10. City's Right to Enforce Warranties of Vendors or Contractors. The Corporation hereby irrevocably appoints the City its agent and attorney-in-fact during the Term of this Lease, so long as the City shall not be in default hereunder, to assert from time to time whatever claims and rights, including without limitation, warranty claims, claims for indemnification and claims for breach of any representations, respecting the Property which the Corporation may have against any vendor or contractor. The City's sole remedy for the breach of any such warranty, indemnification or representation shall be against the vendor or contractor with respect thereto, and not against the Corporation, nor shall such matter have any effect whatsoever on the rights and obligations of the Corporation with respect to this Lease, including the right to receive full and timely Lease Payments and all other payments due hereunder. The City shall be entitled to retain any and all amounts recovered as a result of the assertion of any such claims and rights. The Corporation shall, upon the City's request and at the City's expense, do all things and take all such actions as the City may request in connection with the assertion of any such claims and rights.

## ARTICLE VIII

### ASSIGNMENT, SUBLEASING AND AMENDMENT

SECTION 8.1. Assignment by the Corporation. Except as provided herein, in the Trust Agreement and in the Assignment Agreement, the Corporation will not assign this Lease to any other person, firm or corporation unless the Corporation has delivered a Certificate of the Corporation that such assignment will not impair or violate the representations, covenants and warranties contained in Section 2.2 hereof.

SECTION 8.2. Assignment and Subleasing by the City.

(a) Assignment. The rights under this Lease may not be assigned by the City unless the City receives an opinion of Special Counsel stating that such assignment does not adversely affect the federal income tax exclusion or the State tax-exempt status of the interest components of the Lease Payments or affect the validity of this Lease. In the event that the rights under this Lease are assigned by the City, the obligation to make Lease Payments hereunder shall remain the obligation of the City.

(b) Sublease. The City may sublease any portion of the Property, with the written consent of [the Insurer and of] the Trustee, as assignee of the Corporation, subject to all of the following conditions:

(i) This Lease and the obligation of the City to make Lease Payments hereunder shall remain obligations of the City;

(ii) The City shall, within 30 days after the delivery thereof, furnish or cause to be furnished to the Corporation and the Trustee a true and complete copy of such sublease; and

(iii) No sublease by the City shall cause the Property to be used for a purpose other than a governmental or proprietary function authorized under the provisions of the laws of the State; and

(iv) No sublease shall affect the validity of this Lease or shall cause the interest component of the Lease Payments due with respect to the Property to become includable in gross income for federal income tax purposes or subject to State of California personal income taxes, in the opinion of Special Counsel addressed to the Trustee, the Corporation and the City.

The consent of the Trustee may be given hereunder when the Trustee shall have first received opinions of counsel with respect to the matters set forth in clauses (i), (iii) and (iv) above.

SECTION 8.3. Amendments and Modifications. This Lease may be amended or any of its terms modified with the written consent of the City and the Trustee, as assignee of the Corporation, in accordance with the Trust Agreement.

ARTICLE IX

EVENTS OF DEFAULT AND REMEDIES

SECTION 9.1. Events of Default Defined. The following shall be "Events of Default" under this Lease and the terms "events of default" and "default" shall mean, whenever they are used in this Lease, any one or more of the following events:

(a) Payment Default. Failure by the City to pay any Lease Payment required to be paid hereunder by the second day (or if such day is not a Business Day, the next

succeeding Business Day) following the Lease Payment Date such Lease Payment was payable by the City pursuant to Section 4.3(a) hereof.

(b) Covenant Default. Failure by the City to observe and perform any warranty, covenant, condition or agreement in this Lease or in the Trust Agreement to be observed or performed by the City, other than as referred to in clause (a) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Corporation, the Trustee or the Owners of not less than twenty-five percent (25%) in aggregate principal amount of Certificates then Outstanding; provided, however, that if the failure stated in the notice cannot be corrected within the applicable period, the Trustee as assignee of the Corporation or such Owners, as the case may be, shall not unreasonably withhold consent to an extension of such time if corrective action is instituted by the City within the applicable period and diligently pursued until the default is corrected. [Any such extension for a period of over 60 days shall require the prior written consent of the Insurer.]

(c) Bankruptcy, Insolvency and Abandonment. If (1) the City's interest in this Lease or any part thereof shall be assigned or transferred, either voluntarily or by operation of law or otherwise, without the written consent of the Corporation [and the Insurer], as hereinafter provided for, or (2) the City or any assignee shall file any petition or institute any proceeding under any act or acts, state or federal, dealing with or relating to the subject or subjects of bankruptcy or insolvency, or under any amendment of such act or acts, either as a bankrupt or as an insolvent, or as a debtor, or in any similar capacity, wherein or whereby the City asks or seeks or prays to be adjudicated a bankrupt, or is to be discharged from any or all of the City's debts or obligations, or offers to the City's creditors to effect a composition or extension of time to pay the City's debts or asks, seeks or prays for reorganization or to effect a plan of reorganization, or for a readjustment of the City's debts, or for any other similar relief, or if any such petition or any such proceedings of the same or similar kind or character be filed or be instituted or taken against the City, or if a receiver of the business or of the property or assets of the City shall be appointed by any court, except a receiver appointed at the instance or request of the Corporation, or if the City shall make a general assignment for the benefit of the City's creditors, or if (3) the City shall abandon or vacate the Property.

SECTION 9.2. Remedies on Default. Whenever any Event of Default referred to in Section 9.1 hereof shall have happened and be continuing, it shall be lawful for the Corporation to exercise any and all remedies available pursuant to law (other than any rights with respect to the acceleration of the unpaid Lease Payments) or granted pursuant to this Lease. [In determining whether a default has occurred under Section 9.1(a), no effect shall be given to payments made under the Municipal Bond Insurance Policy.] Upon any such event of default, the Corporation, in addition to the other rights and remedies it may have at law specified above, shall have the option to do any of the following:

(a) To terminate this Lease in the manner hereinafter provided on account of default by the City, notwithstanding any retaking of possession or re-letting of the

Property as hereinafter provided for in subsection (b) of this Section, and to retake possession of the Property. In the event of such termination, the City agrees to surrender immediately possession of the Property, without let or hindrance, and to pay the Corporation or its assignee all damages recoverable at law that the Corporation or its assignee may incur by reason of default by the City, including, without limitation, any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such retaking possession of the Property. Neither notice to pay rent nor to deliver up possession of the Property given pursuant to law nor any proceeding in unlawful detainer, or otherwise, brought by the Corporation or its assignee for the purpose of obtaining possession of the Property nor the appointment of a receiver upon initiative of the Corporation or its assignee to protect the Corporation's or its assignee's interest under this Lease shall of itself operate to terminate this Lease, and no termination of this Lease on account of default by the City shall be or become effective by operation of law or acts of the parties hereto, unless and until the Corporation or its assignee shall have given written notice to the City of the election on the part of the Corporation or its assignee to terminate this Lease. The City covenants and agrees that no surrender of the Property for the remainder of the term of the Lease or any termination of this Lease shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Corporation by such written notice. No such termination shall be effected either by operation of law or act of the parties hereto, except only in the manner herein expressly provided.

The Corporation and City hereby agree that Section 1951.2 of the California Civil Code shall not apply to this Lease.

(b) Without terminating this Lease, (i) to collect each installment of rent as it becomes due and enforce any other terms or provision hereof to be kept or performed by the City, regardless of whether or not the City has abandoned the Property or (ii) to exercise any and all rights of entry and re-entry upon the Property. In the event the Corporation does not elect to terminate this Lease in the manner provided for in subparagraph (a) hereof, the City shall remain liable and agrees to keep or perform all covenants and conditions herein contained to be kept or performed by the City and, if the Property is not re-let, to pay the full amount of the rent to the end of the term of this Lease or, in the event that the Property is re-let, to pay any deficiency in rent that results therefrom; and further agrees to pay said rent and/or rent deficiency punctually at the same time and in the same manner as hereinabove provided for the payment of rent hereunder, notwithstanding the fact that the Corporation may have received in previous years or may receive thereafter in subsequent years rental in excess of the rental herein specified, and notwithstanding any entry or re-entry by the Corporation or suit in unlawful detainer, or otherwise, brought by the Corporation for the purpose of effecting such re-entry or obtaining possession of the Property. Should the Corporation elect to re-enter as herein provided, the City hereby irrevocably appoints the Corporation as the agent and attorney-in-fact of the City to re-let the Property, or any part thereof, from time to time, either in the Corporation's name or otherwise, upon such terms and conditions and for such use and period as the Corporation may deem advisable and to remove all persons in possession thereof and all personal property whatsoever situated upon the

Property and to place such personal property in storage in any warehouse or other suitable place located within the geographical boundaries of the City, for the account of and at the expense of the City, and the City hereby exempts and agrees to save harmless the Corporation from any costs, loss or damage whatsoever arising out of, in connection with, or incident to any such re-entry upon and re-letting of the Property and removal and storage of such property by the Corporation or its duly authorized agents in accordance with the provisions herein contained. The City agrees that the terms of this Lease constitute full and sufficient notice of the right of the Corporation to re-let the Property in the event of such re-entry without effecting a surrender of this Lease, and further agrees that no acts of the Corporation in effecting such re-letting shall constitute a surrender or termination of this Lease irrespective of the use or the term (subject to the preceding sentence) for which such re-letting is made or the terms and conditions of such re-letting, or otherwise, but that, on the contrary, in the event of such default by the City the right to terminate this Lease shall vest in the Corporation to be effected in the sole and exclusive manner provided for in sub-paragraph (a) hereof. The City further waives the right to any rental obtained by the Corporation in excess of the rental herein specified and hereby conveys and releases such excess to the Corporation as compensation to the Corporation for its services in re-letting the Property. The City further agrees to pay the Corporation the cost of any alterations or additions to the Property necessary to place the Property in condition for re-letting immediately upon notice to the City of the completion and installation of such additions or alterations.

The City hereby waives any and all claims for damages caused or which may be caused by the Corporation in re-entering and taking possession of the Property as herein provided and all claims for damages that may result from the destruction of or injury to the Property and all claims for damages to or loss of any property belonging to the City, or any other person, that may be in or upon the Property.

(c) In addition to the other remedies set forth in this Section 9.2, upon the occurrence of an event of default as described in Section 9.1, the Corporation and its assignee shall be entitled to proceed to protect and enforce the rights vested in the Corporation and its assignee by this Lease or by law; provided, however, that, notwithstanding anything herein or in the Trust Agreement to the contrary, THERE SHALL BE NO RIGHT UNDER ANY CIRCUMSTANCES TO ACCELERATE THE LEASE PAYMENTS OR THE ADDITIONAL PAYMENTS OR OTHERWISE DECLARE ANY LEASE PAYMENTS OR ADDITIONAL PAYMENTS NOT THEN IN DEFAULT TO BE IMMEDIATELY DUE AND PAYABLE. The provisions of this Lease and the duties of the City and of its city council, officers or employees shall be enforceable by the Corporation or its assignee by suit, action or proceeding in any court of competent jurisdiction. Without limiting the generality of the foregoing, the Corporation and its assignee shall have the right to bring the following actions:

(1) Accounting. By action or suit in equity to require the City and its city council, officers and employees and its assigns to account as the trustee of an express trust.

(2) Injunction. By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the Corporation or its assignee.

(3) Enforcement. By suit, action or proceeding at law or in equity to enforce the Corporation's or its assignee's rights against the City (and its city council, officers and employees) and to compel the City to perform and carry out its duties and obligations under the law and its covenants and agreements with the Corporation as provided herein.

Each and all of the remedies given to the Corporation and its assignee hereunder or by any law now or hereafter enacted are cumulative and the single or partial exercise of any right, power or privilege hereunder shall not impair the right of the Corporation to other or further exercise thereof or the exercise of any or all other rights, powers or privileges. The term "re-let" or "re-letting" as used in this Section 9.2 shall include, but not be limited to, re-letting by means of the operation by the Corporation of the Property. If any statute or rule of law validly shall limit the remedies given to the Corporation hereunder, the Corporation nevertheless shall be entitled to whatever remedies are allowable under any statute or rule of law.

[Notwithstanding anything to the contrary contained in this Lease, so long as the Insurer is not in default in its payment obligations under the Municipal Bond Insurance Policy, no remedy shall be exercised hereunder without the prior written consent of the Insurer and the Insurer shall have the right to direct the exercise of any remedy hereunder.]

(E) Notwithstanding anything herein to the contrary, the termination of this Lease by the Corporation and its assignee on account of a default by the City under this Section 9.2 shall not effect or result in a termination of the lease of the Property by the City to the Corporation pursuant to the Site Lease.

SECTION 9.3. No Remedy Exclusive. No remedy conferred herein upon or reserved to the Corporation is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Corporation to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice, other than such notice as may be required in this Article or by law.

SECTION 9.4. Agreement to Pay Attorneys' Fees and Expenses. In the event that either party to this Lease should default under any of the provisions hereof and the nondefaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party contained herein, the defaulting party agrees that it will pay on demand to the nondefaulting party the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party.

SECTION 9.5. No Additional Waiver Implied by One Waiver. In the event that any agreement contained in this Lease should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

SECTION 9.6. Application of the Proceeds from Remedies in the Event of a Default. All amounts received by the Corporation under this Article IX shall be deposited by the Trustee in the Lease Payment Fund and credited towards the Lease Payments in order of Lease Payment Date, but only after the payment of all fees and expenses of the Trustee, including any fees and expenses of its attorneys incurred as a consequence of an event of default.

SECTION 9.7. Trustee and Certificate Owners to Exercise Rights. Such rights and remedies as are given to the Corporation under this Article IX have been assigned by the Corporation to the Trustee under the Assignment Agreement, to which assignment the City hereby consents. Such rights and remedies shall be exercised by the Trustee and the Owners as provided in the Trust Agreement.

## ARTICLE X

### PREPAYMENT OF LEASE PAYMENTS

SECTION 10.1. Mandatory Prepayment From Net Proceeds or Other Moneys. The City shall be obligated to prepay the Lease Payments in whole or in part on any Lease Payment Date, from and to the extent of any Net Proceeds or certain other moneys theretofore deposited in the Prepayment Fund pursuant to Section 4.02 of the Trust Agreement. The City and the Corporation hereby agree that such Net Proceeds or certain other moneys shall be credited towards the City's obligations hereunder (except in the case of such Prepayment of the Lease Payments in whole) as directed by the City.

SECTION 10.2. Optional Prepayment. The City, at its option, may prepay the principal component of Lease Payments in any amount, plus any applicable premium, as provided in Section 4.03 of the Trust Agreement. Any prepayment of the Lease Payments must be made by the City to the Trustee at least 120 days prior to the date scheduled for prepayment of the Certificates, and on the date of such prepayment of Lease Payments, the City shall give written notice to the Trustee of the principal amount to be optionally prepaid on the applicable Interest Payment Date.

SECTION 10.3. Credit for Amounts on Deposit. In the event of Prepayment of the Lease Payments in full under this Article X and the payment of all Additional Payments such that the Trust Agreement shall be discharged by its terms as a result of such Prepayment, all amounts then on deposit in the Lease Payment Fund, the Cost of Issuance Fund and the Reserve Fund shall be credited toward the amounts then required to be so prepaid.

SECTION 10.4. Effect of Prepayment.

(a) In Whole. In the event that the City prepays all remaining Lease Payments pursuant to Section 10.1 or Section 10.2 hereof from Net Proceeds or other moneys and all amounts owing the Trustee pursuant to Section 4.10 hereof, then the City's obligations under this Lease shall thereupon cease and terminate, including but not limited to the City's obligation to continue to pay Lease Payments under this Article X.

(b) In Part. In the event that the City prepays less than all of the remaining principal components of the Lease Payments either pursuant to Section 10.1 or Section 10.2 hereof from Net Proceeds or from other moneys, the amount of such Prepayment shall be applied to reduce the principal components of the remaining Lease Payments, corresponding to the resulting prepayment of principal with respect to the Certificates pursuant to Section 4.04 of the Trust Agreement.

ARTICLE XI

MISCELLANEOUS

SECTION 11.1. Notices. All notices, certificates or other communications hereunder to any of the following shall be in writing and shall be sufficiently given to such party if personally delivered or mailed, by United States registered mail, return receipt requested, postage prepaid, to the following addresses:

If to the City:	City of Lodi 221 West Pine Street Lodi, California 95241-1910 Attention: City Manager
If to the Corporation:	Lodi Public Improvement Corporation c/o City of Lodi 221 West Pine Street Lodi, California 95241-1910 Attention: City Clerk
If to the Trustee:	BNY Western Trust Company 550 Kearney Street, Suite 600 San Francisco, California 94108 Attention: Corporate Trust Administration

[If to the Certificate  
Insurer:

MBIA Insurance Corporation  
113 King Street  
Armonk, New York 10504  
Attention: Surveillance]

If to Fitch Inc.:

Fitch Inc.  
One State Street Plaza  
New York, New York 10004  
Attention: \_\_\_\_\_

If to Standard & Poor's:

Standard & Poor's Rating Services  
55 Water Street  
New York, New York 10041  
Attention: \_\_\_\_\_

Any of the parties noted above, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

SECTION 11.2. Amendment or Termination. The City and the Corporation may at any time agree to the amendment or termination of this Lease; provided, however, that the City and the Corporation agree and recognize that this Lease is entered into in accordance with the terms of the Trust Agreement and accordingly, that any such amendment or termination shall only be made or effected in accordance with and subject to the terms of the Trust Agreement.

SECTION 11.3. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon the Corporation and the City and their respective successors and assigns.

SECTION 11.4. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 11.5. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

SECTION 11.6. Execution in Counterparts. This Lease may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Corporation has caused this Lease to be executed in its corporate name by its duly authorized officers, and the City has caused this Lease to be executed in its name by its duly authorized officers, as of the date first above written.

LODI PUBLIC IMPROVEMENT  
CORPORATION, as Corporation

By: \_\_\_\_\_  
Executive Director

Attest:

\_\_\_\_\_  
Secretary for the Corporation

APPROVED:

By: \_\_\_\_\_  
Attorney for the Corporation

CITY OF LODI, as City

By: \_\_\_\_\_  
City Manager

Attest:

\_\_\_\_\_  
City Clerk

APPROVED:

By: \_\_\_\_\_  
City Attorney

State of California            )  
  ) SS  
County of San Joaquin        )

On \_\_\_\_\_ before me, \_\_\_\_\_

personally appeared \_\_\_\_\_

/ / personally known to me, or

/ / proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

[Seal]

State of California            )  
  ) SS  
County of San Joaquin        )

On \_\_\_\_\_ before me, \_\_\_\_\_

personally appeared \_\_\_\_\_

/ / personally known to me, or

/ / proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

[Seal]

EXHIBIT A

SCHEDULE OF LEASE PAYMENTS

<u>Certificate Payment Dates(1)</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Total</u>

[To Come]

(1) Lease Payments due on twenty-fifth day of prior month.

EXHIBIT B

LEGAL DESCRIPTION OF THE PROPERTY

All that real property situated in the State of California, City of Lodi and County of San Joaquin, described as follows:

[TO COME]

PRELIMINARY OFFICIAL STATEMENT DATED \_\_\_\_\_, 2002

NEW ISSUE – BOOK-ENTRY ONLY

RATINGS: Fitch: \_\_\_  
Standard & Poor's: \_\_\_  
(See "RATINGS" herein)

\$ \_\_\_\_\_ \*  
**CERTIFICATES OF PARTICIPATION**  
**(2002 Public Improvement Financing Project)**  
**Evidencing Proportionate Interests of the Owners**  
**Thereof in Lease Payments to be Made by the**  
**CITY OF LODI, CALIFORNIA**

**Dated: January 1, 2002**

**Due: \_\_\_\_\_ 1, as shown on the inside cover**

*This cover page contains certain information for general reference only. It is not intended to be a summary of the security or terms of this issue. Investors are advised to read the entire Official Statement to obtain information essential to the making of an informed investment decision. Capitalized terms used on this cover page not otherwise defined shall have the meanings set forth herein.*

The Certificates are being executed and delivered pursuant to a Trust Agreement, dated as of January 1, 2002, by and among the City of Lodi, California (the "City"), the Lodi Public Improvement Corporation (the "Corporation") and BNY Western Trust Company, as trustee (the "Trustee"), to provide funds (i) to finance the costs of constructing, furnishing and equipping a new police building and jail for the City, the remodeling of the current City public safety building, and the constructing of a parking garage, (ii) to finance the costs of development of a community park, (iii) to refund the City's \$ \_\_\_\_\_ aggregate principal amount of outstanding Certificates of Participation (1995 Public Improvement Financing Project) and \$ \_\_\_\_\_ aggregate principal amount of outstanding Certificates of Participation (1996 Public Improvement Financing Project) (collectively, the "Refunded Certificates"), (iv) to fund a reserve fund for the Certificates, and (v) to pay costs of delivery of the Certificates, as more fully described herein. See "PLAN OF FINANCE" herein.

The City will lease certain real property and facilities (the "Property") to the Corporation pursuant to a Site and Facilities Lease, dated as of January 1, 2002 (the "Site Lease"), by and between the City and the Corporation, and will lease the Property back from the Corporation pursuant to a Lease Agreement, dated as of January 1, 2002 (the "Lease"), by and between the City and the Corporation. The Certificates evidence proportionate interests in lease payments (the "Lease Payments") to be made by the City as lessee under the Lease for the use and possession of the Property. The City's obligation to make Lease Payments is subject to abatement in the event of substantial interference with the use and possession of all or part of the Property. See "RISK FACTORS – Abatement" herein. The City has covenanted under the Lease that, so long as the Property is available for the City's use, it will take such action as may be necessary to include all Lease Payments and Additional Payments (as defined herein) in its annual budgets, and to make the necessary annual appropriations therefor. See "SECURITY AND SOURCES OF PAYMENT FOR THE CERTIFICATES" herein.

The Certificates are being delivered as fully registered certificates and, when delivered will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository for the Certificates. Individual purchases of the Certificates will be made in book-entry form only, as described herein. Interest with respect to the Certificates is payable on \_\_\_\_\_, 2002 and semiannually thereafter on \_\_\_\_\_ and \_\_\_\_\_ of each year. Payments of principal, premium, if any, and interest with respect to the Certificates will be paid by the Trustee to DTC, which is obligated in turn to remit such principal, premium, if any, and interest to its DTC Participants for subsequent disbursement to the beneficial owners of the Certificates.

[The scheduled payment of the principal and interest with respect to the Certificates, when due, will be guaranteed under a municipal bond insurance policy to be issued concurrently with the delivery of the Certificates by \_\_\_\_\_.]

**The Certificates are subject to prepayment prior to their stated maturities as described herein.**

THE OBLIGATION OF THE CITY TO MAKE THE LEASE PAYMENTS DOES NOT CONSTITUTE AN OBLIGATION FOR WHICH THE CITY IS OBLIGATED TO LEVY OR PLEDGE ANY FORM OF TAXATION OR FOR WHICH THE CITY HAS LEVIED OR PLEDGED ANY FORM OF TAXATION. THE OBLIGATION OF THE CITY TO MAKE LEASE PAYMENTS DOES NOT CONSTITUTE A DEBT OF THE CITY, THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION.

*In the opinion of Orrick, Herrington & Sutcliffe LLP, Los Angeles, California, Special Counsel, based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other things, compliance with certain covenants, interest evidenced by the Certificates and received by the Owners thereof is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 and is exempt from State of California personal income taxes. In the further opinion of Special Counsel, interest evidenced by the Certificates and received by the Owners thereof is not a specific preference item for purposes of the federal individual and corporate alternative minimum taxes, although Special Counsel observes that such interest is included in adjusted current earnings in calculating federal corporate alternative minimum taxable income. Special Counsel expresses no opinion regarding any other tax consequences related to the ownership or disposition of, or the accrual or receipt of interest evidenced and represented by, the Certificates. See "TAX MATTERS" herein.*

**MATURITY SCHEDULE\***  
**(See Inside Cover)**

*The Certificates are offered when, as and if delivered and received by the Underwriter, subject to approval as to legality by Orrick, Herrington & Sutcliffe LLP, Los Angeles, California, Special Counsel. Certain legal matters will be passed upon for the City and the Corporation by the City Attorney of the City of Lodi and for the Underwriter by Sidley Austin Brown & Wood LLP, Los Angeles, California. It is expected that the Certificates will be available through the facilities of DTC in New York, New York, on or about \_\_\_\_\_, 2002.*

\_\_\_\_\_, 2002

\* Preliminary, subject to change.

**Salomon Smith Barney**

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

**MATURITY SCHEDULE\***

<b>Maturity Date</b> <b>1</b>	<b>Principal</b> <b>Amount</b>	<b>Interest Rate</b>	<b>Price or Yield</b>	<b>CUSIP</b>
----------------------------------	-----------------------------------	----------------------	-----------------------	--------------

\* Preliminary, subject to change.

No dealer, broker, salesperson or other person has been authorized by the City or the Underwriter to give any information or to make any representations other than those contained herein and, if given or made, such other information or representation must not be relied upon as having been authorized by either of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Certificates by a person in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

Statements contained in this Official Statement that include forecasts, estimates or matters of opinion, whether or not expressly stated as such, are intended solely as such and are not to be construed as representations of fact. The information set forth herein has been furnished by the City and by other sources that are believed to be reliable, but is not guaranteed as to accuracy or completeness, and is not to be construed as representations by the Underwriter. The information and expressions of opinions herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall create, under any circumstances, any implication that there has been no change in affairs of the City since the date hereof. This Official Statement, including any supplement or amendment hereto, is intended to be deposited with one or more repositories.

The Underwriter has provided the following sentence for inclusion in this Official Statement: The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.

**IN CONNECTION WITH THE OFFERING OF THE CERTIFICATES, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS THAT MAY STABILIZE OR MAINTAIN THE MARKET PRICE OF THE CERTIFICATES AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.**

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CAUTIONARY STATEMENTS REGARDING  
FORWARD-LOOKING STATEMENTS IN  
THIS OFFICIAL STATEMENT

Certain statements included or incorporated by reference in this Official Statement constitute “forward-looking statements.” Such statements are generally identifiable by the terminology used such as “plan,” “expect,” “estimate,” “budget” or other similar words. Such forward-looking statements include, but are not limited to, certain statements contained in the information under the caption “APPENDIX A – THE CITY OF LODI” in this Official Statement.

The achievement of certain results or other expectations contained in such forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. The City does not plan to issue any updates or revisions to those forward-looking statements if or when its expectations or events, conditions or circumstances on which such statements are based occur.

**CITY OF LODI, CALIFORNIA**

**City Council**

Phil Pennino, Mayor  
Susan Hitchcock, Mayor Pro Tem  
Alan Nakanishi, Councilmember  
Emily Howard, Councilmember  
Keith Land, Councilmember

**City Officials**

H. Dixon Flynn, City Manager  
Janet Keeter, Deputy City Manager  
Susan J. Blackston, City Clerk  
Randall A. Hays, City Attorney  
Vicky McAthie, Finance Director/Treasurer

**LODI PUBLIC IMPROVEMENT CORPORATION**

**Board of Directors**

Phil Pennino  
Susan Hitchcock  
Alan Nakanishi  
Emily Howard  
Keith Land

**SPECIAL SERVICES**

Orrick, Herrington & Sutcliffe LLP  
Los Angeles, California  
**Special Counsel**

BNY Western Trust Company  
San Francisco, California  
**Trustee**

Public Financial Management, Inc.  
San Francisco, California  
**Financial Advisor**

\_\_\_\_\_  
\_\_\_\_\_  
**Verification Agent**

KPMG Peat Marwick LLP  
Sacramento, California  
**Independent Auditors**

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## OFFICIAL STATEMENT

§ \_\_\_\_\_ \*

**CERTIFICATES OF PARTICIPATION  
(2002 Public Improvement Financing Project)  
Evidencing Proportionate Interests of the Owners Thereof  
in Lease Payments to Be Made by the  
CITY OF LODI, CALIFORNIA**

### INTRODUCTION

*This Introduction is qualified in its entirety by reference to the more detailed information included and referred to elsewhere in this Official Statement. The offering of the Certificates to potential investors is made only by means of the entire Official Statement. Terms used in this Introduction and not otherwise defined shall have the respective meanings assigned to them elsewhere in this Official Statement. For the definition of certain terms used herein, see "APPENDIX D—SUMMARY OF PRINCIPAL LEGAL DOCUMENTS—TRUST AGREEMENT—DEFINITIONS" herein.*

#### **Purpose**

The purpose of this Official Statement (which includes the cover page and the appendices attached hereto) is to provide certain information concerning the sale and delivery of the City of Lodi Certificates of Participation (2002 Public Improvement Financing Project) (the "Certificates"), in the aggregate principal amount of \$ \_\_\_\_\_\*. The Certificates evidence proportionate interests of the registered owners thereof (the "Owners") in lease payments (the "Lease Payments") to be made by the City of Lodi, California (the "City"), pursuant to a Lease Agreement, dated as of January 1, 2002 (the "Lease"), between the Lodi Public Improvement Corporation, as lessor (the "Corporation"), and the City, as lessee, for the use and occupancy of certain real property located within the City (the "Property").

The Certificates are being executed and delivered pursuant to a Trust Agreement, dated as of January 1, 2002 (the "Trust Agreement"), by and among the City, the Corporation and BNY Western Trust Company, as trustee (the "Trustee"). The Certificates are being sold to provide funds (i) to finance the costs of constructing, furnishing and equipping a new police building and jail for the City, the remodeling of the current City public safety building and the constructing of a parking garage (the "Public Safety Project"), (ii) to finance the costs of development of a community park (the "Parks and Recreation Project", and collectively with the Public Safety Project, the "2002 Project"), (iii) to refund the City's \$ \_\_\_\_\_ aggregate principal amount of outstanding Certificates of Participation (1995 Public Improvement Financing Project) (the "1995 Certificates") and \$ \_\_\_\_\_ aggregate principal amount of outstanding Certificates of Participation (1996 Public Improvement Financing Project) (the "1996 Certificates", and collectively with the 1995 Certificates, the "Refunded Certificates"), (iv) to fund a reserve fund for the Certificates, and (v) to pay costs of delivery of the Certificates. See "PLAN OF FINANCE" herein.

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\* Preliminary, subject to change.

## **General**

The Certificates evidence proportionate interests in the Lease Payments. Pursuant to a Site and Facilities Lease, dated as of January 1, 2002 (the "Site Lease"), between the City, as lessor, and the Corporation, as lessee, the City will lease the Property to the Corporation. Pursuant to the Lease, the City will lease the Property back from the Corporation.

Pursuant to an Assignment Agreement, dated as of January 1, 2002 (the "Assignment Agreement"), from the Corporation to the Trustee, the Corporation will assign to the Trustee, for the benefit of the Owners of the Certificates, substantially all of its rights under the Lease, including its rights to receive and collect the Lease Payments. All rights assigned by the Corporation pursuant to the Assignment Agreement shall be administered by the Trustee in accordance with the provisions of the Trust Agreement for the equal and proportionate benefit of all Certificate Owners.

## **Security and Sources of Payment of the Certificates**

In general, the City is required under the Lease to pay to the Trustee, as assignee of the Corporation, Lease Payments which are equal to the principal and interest payable with respect to the Certificates, and to pay additional payments (the "Additional Payments") consisting of any taxes and assessments levied upon the Property or the interest of the City, the Trustee or the Owners in the Property or the Lease, insurance premiums and other fees, expenses and costs provided for in the Lease. The City is also required to pay the cost of maintenance and repair of the Project (See "APPENDIX D – SUMMARY OF THE PRINCIPAL LEGAL DOCUMENTS – The Lease" herein). The Lease Payments to be paid by the City pursuant to the Lease are payable by the City from its General Fund as rent for the use and occupancy by the City of the Property. The City has covenanted in the Lease to pay all Lease Payments and Additional Payments provided for therein, subject to abatement of Lease Payments in the event of substantial interference with the use or right of possession by the City of the Property or any portion thereof. In the Lease, the City covenants to take such action as may be necessary to include all Lease Payments and Additional Payments under the Lease in its annual budget and make the necessary annual appropriations therefor.

**The obligation of the City to make the Lease Payments does not constitute an obligation for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to make Lease Payments does not constitute a debt of the City, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.**

## **Reserve Fund**

A reserve fund (the "Reserve Fund") will be established under the Trust Agreement and funded from proceeds of the Certificates in an amount equal to the Reserve Requirement as of the date of delivery of the Certificates. Amounts in the Reserve Fund are to be used to make delinquent Lease Payments. The City may, at any time, substitute moneys on deposit in the Reserve Fund with Permitted Investments, a line of credit, letter of credit, insurance policy, surety bond, or any combination thereof, equal to the Reserve Requirement. See "SECURITY AND SOURCES OF PAYMENT FOR THE CERTIFICATES – Reserve Fund" herein.

## **Certificate Insurance**

The scheduled payment of the principal and interest with respect to the Certificates, when due, will be guaranteed under a municipal bond insurance policy (the "Policy") to be issued concurrently with

the delivery of the Certificates by \_\_\_\_\_ (the “Insurer”). See “CERTIFICATE INSURANCE” herein.

**Other Matters**

This Official Statement speaks only as of its date, and the information and expressions of opinions contained herein are subject to change without notice. Neither delivery of this Official Statement nor any sale made hereunder, under any circumstances, shall create any implication that there has been no change in the affairs of the City since the date hereof. This Official Statement, including any supplement or amendment hereto, is intended to be deposited with one or more repositories. Forward looking statements in this Official Statement are subject to risks and uncertainties, including particularly those relating to the economy of the City.

The summaries of and references to documents, statutes, reports and other instruments referred to herein do not purport to be complete, comprehensive or definitive, and each such summary and reference is qualified in its entirety by reference to each document, statute, report, or instrument. The capitalization of any word not conventionally capitalized or otherwise defined herein indicates that such word is defined in a particular agreement or other document and, as used herein, has the meaning given it in such agreement or document. See “APPENDIX D — SUMMARY OF PRINCIPAL LEGAL DOCUMENTS — TRUST AGREEMENT — Definitions” herein.

Copies of the Trust Agreement, the Lease, the Site Lease, the Assignment Agreement, the Escrow Agreement and the Continuing Disclosure Agreement are available for inspection at the offices of the City Clerk in Lodi, California, and will be available from the Trustee upon request and payment of duplication costs.

**ESTIMATED SOURCES AND USES OF FUNDS**

The estimated sources and uses of funds with respect to the Certificates are as follows:

**SOURCES OF FUNDS:**

Principal Amount of Certificates	\$	
Transfer From Refunded Certificates Funds and Accounts		_____
Total Sources:	\$	<u>_____</u>

**USES OF FUNDS:**

Deposit to Improvement Fund	\$	
Deposit to Escrow Fund		
Deposit to Reserve Fund <sup>(1)</sup>		
Underwriter’s Discount		
Costs of Delivery <sup>(2)</sup>		_____
Total Uses:	\$	<u>_____</u>

---

<sup>(1)</sup> Represents an amount equal to the Reserve Fund Requirement.  
<sup>(2)</sup> Includes legal, financing and consulting fees, fees of Special Counsel, Trustee’s and Escrow Agent’s fees, printing costs, rating agency fees, [bond insurance premium] and other miscellaneous expenses.

## PLAN OF FINANCE

The Certificates are being executed and delivered to provide funds (i) to finance the costs of the 2002 Project, (ii) to refund the Refunded Certificates, (iii) to fund a reserve fund for the Certificates, (iv) to fund capitalized interest with respect to the Certificates, and (v) to pay costs of delivery of the Certificates.

### **The 2002 Project**

***The Public Safety Project.*** A portion of the proceeds of the Certificates will be applied to finance the costs of constructing, furnishing and equipping a new police building and jail for the City, the remodeling of the current public safety building, and the constructing a parking garage for use by employees and the public (as defined herein, the "Public Safety Project").

The new police building is designed to be a 54,000 square foot, two-story building to house City Police Department operations, including staff offices and work spaces, property and evidence handling areas, and storage and mechanical rooms. The facility also includes a 5,600 square foot Type 1 jail, 1,000 square foot dispatch center, and 10,000 square feet of expansion shell space for future department growth. The site also includes approximately 100 secure parking spaces for police vehicles, a sally port for prisoner transportation and a shelter for police motorcycles. Trash enclosures and an emergency generator will also be installed on the site.

The project site is located on the north side of Elm Street across from the City's existing public safety building and is approximately 425 feet by 185 feet (1.8 acres). The site consists of City-owned parcels and one street (Pleasant Street) which has been approved for abandonment. One remaining privately owned parcel is being acquired.

The plans for the new police building have been developed by the City with the architectural firm of George Meirs & Associates and were submitted to the City's Building Department in November 2001 for a building permit. Bids for the project are anticipated to be received in February 2002 and construction is scheduled to start in April 2002. The budget for the police building is \$12,000,000.

As part of the Public Safety Project, the City plans to renovate the existing City public safety building. The remodel project is in the concept phase since construction cannot take place until after completion of the new police building. The remodeled building will house Fire Station No. 1, Fire Administration, storage and other government offices. The budget for the remodel project is \$2,500,000.

The City has received a grant from the State of California for \$4.2 million towards the Public Safety Project. Approximately \$ \_\_\_\_\_ million of the total costs of the Public Safety Project are expected to be financed with the proceeds of the Certificates.

***The Parks and Recreation Project.*** The City's Parks and Recreation Department serves an official population of 57,900 with 28 active and passive parks facilities. A portion of the proceeds of the Certificates are expected to be applied to finance a portion of the costs of development of a community park, known as DeBenedetti Park, and certain other improvements for the City's Parks and Recreation Department.

A preliminary concept plan was prepared for DeBenedetti Park in 1993 and the City acquired the park site in \_\_\_\_\_. The site is located in the southwest corner of the City and is bordered by Lower Sacramento Road and Century Boulevard. DeBenedetti Park consists of an undeveloped area of 49 acres in the southwest corner of the City. The City desires to develop the acreage into a lighted multi-use

outdoor sports facility for baseball, soccer, and miscellaneous active recreation. The City has also acquired the site for use as a drainage basin. Design is needed to develop the area into a dual use facility for parks and recreation and a drainage basin. The drainage basin receives runoff from approximately 800 acres of developed land and will be emptied after a storm by gravity and pumping. The estimated cost of development of DeBenedetti Park is \$6,760,000, of which approximately \$3.5 million will be financed from the proceeds of the Certificates.

**Parking and Other Projects.** The 2002 Project also includes the construction of a new parking garage for use by employees and the public. The parking garage is in the preliminary design phase. The structure will be located on existing surface parking lots on the east end of the Civic Center along Church Street. The structure will provide approximately 250 additional parking stalls for Civic Center employees, visitors and the general public. The project includes modifications to the apparatus bay of Fire Station No. 1, located in the adjacent police building. Construction is anticipated to begin in late 2002. The budget for the parking garage is \$5,500,000.

Pursuant to the Trust Agreement, the City may determine to undertake other capital projects as the 2002 Project in substitution for the projects described above in its sole discretion.

### **Refunding of the Refunded Certificates**

Pursuant to an Escrow Agreement, dated as of January 1, 2002 (the "Escrow Agreement"), by and between the City and the Trustee, a portion of the proceeds of the Certificates, together with other available moneys, will be deposited into an escrow fund and applied to the purchase of certain federal securities, the principal of and interest on which will be sufficient (i) to prepay on April 1, 2002 the 1995 Certificates at a prepayment price equal to the principal amount with respect thereto, together with accrued interest unpaid with respect thereto to the date fixed for prepayment, and (ii) to pay principal and interest due with respect to the 1996 Certificates to and including October 1, 2006 and to prepay on October 1, 2006 the outstanding 1996 Certificates at a prepayment price equal to 102% of the principal amount with respect thereto, together with accrued interest unpaid with respect thereto to the date fixed for prepayment. Upon such deposit, the Refunded Certificates will no longer be deemed to be outstanding except as to the rights of the owners of such Refunded Certificates to receive payment from amounts on deposit in the escrow fund therefor.

## **THE CERTIFICATES**

### **General**

The Certificates will be executed and delivered in the aggregate principal amount of \$ \_\_\_\_\_\*. The Certificates will be delivered in fully registered form in minimum denominations of \$5,000 or any integral multiple thereof. Interest with respect to the Certificates will be payable on \_\_\_\_\_, 2002 and semiannually thereafter on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year. Interest with respect to the Certificates will be computed on the basis of a 360-day year of twelve 30-day months. The Certificates will be dated January 1, 2002, will evidence interest from such date at the respective rates per annum, and will evidence principal payable on \_\_\_\_\_ 1 in each of the designated years, in the respective amounts, as set forth on the cover page hereof.

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\* Preliminary, subject to change.

The Certificates will be prepared as one fully registered Certificate for each maturity and will be registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository for the Certificates. Principal, prepayment premium, if any, and interest represented by the Certificates are payable by the Trustee to DTC, which is obligated in turn to remit such principal, premium, if any, and interest to its DTC Participants for subsequent disbursement to the beneficial owners of the Certificates. See "APPENDIX C—BOOK-ENTRY ONLY SYSTEM" herein.

**Prepayment**

**Optional Prepayment.** The Certificates maturing on or before \_\_\_\_\_ 1, 20\_\_, are not subject to optional prepayment prior to their respective stated maturities. The Certificates maturing on or after \_\_\_\_\_ 1, 20\_\_ are subject to optional prepayment in whole or in part on any date on or after \_\_\_\_\_ 1, 20\_\_ from prepayments of the Lease Payments, at a prepayment price (expressed as percentages of the principal amount of Certificates or portions thereof to be prepaid) as set forth below plus accrued interest with respect thereto:

<u>Prepayment Dates</u>	<u>Prepayment Price</u>
_____ 1, 20__ through _____, 20__	_____ %
_____ 1, 20__ and thereafter	_____

**Mandatory Prepayment.** The Certificates maturing on \_\_\_\_\_ 1, \_\_\_\_ are subject to mandatory prepayment price to maturity, in part by lot, commencing on \_\_\_\_\_ 1 and on each \_\_\_\_\_ 1 thereafter to and including \_\_\_\_\_ 1, from scheduled Lease Payments made by the City on such dates, at a prepayment price equal to the principal amount of the Certificates to be prepaid, plus accrued interest thereon to the date fixed by prepayment, according to the following schedule (subject to modification in the event of optional prepayment as described above as extraordinary prepayment as described below):

**Certificates due on \_\_\_\_\_ 1, \_\_\_\_**

Prepayment Date (_____ 1)	Principal <u>Amount</u>
	\$

†

† Final maturity.

**Extraordinary Prepayment.** The Certificates are subject to prepayment on any Business Day, in whole or in part, from Net Proceeds of condemnation or any insurance award resulting from condemnation, damage or destruction of all or a portion of the Property which the Trustee shall transfer to the Prepayment Fund at least forty-five (45) days prior to such date of prepayment and credited towards the Prepayment made by the City pursuant to the Lease, at a prepayment price equal to the principal amount of Certificates prepaid, together with accrued interest with respect thereto to the date fixed for prepayment, without premium.

***Selection of Certificates for Prepayment.*** Whenever provision is made in the Trust Agreement for the prepayment of Certificates and fewer than all Outstanding Certificates are called for prepayment, the Trustee shall select Certificates for prepayment from the Outstanding Certificates not previously called for prepayment pursuant to the Trust Agreement, among maturities and in the principal amount of each such maturity selected by the City and designated in writing to the Trustee at least forty-five (45) days prior to the prepayment date, and by lot within any maturity.

***Notice of Prepayment.*** When prepayment is authorized or required pursuant to the Trust Agreement, the Trustee shall give notice on behalf and at the expense of the City of the prepayment of the Certificates. Such notice shall specify: (i) that the Certificates or a designated portion thereof are to be prepaid; (ii) the numbers of the Certificates (unless all Certificates or all Certificates of a specific maturities have been selected for prepayment) together with the CUSIP numbers to be prepaid (provided that none of the City, the Corporation or the Trustee shall be held liable for the accuracy of such CUSIP numbers); (iii) the date of notice and the date of prepayment; (iv) the place or places where the prepayment will be made; and (v) the interest rates and stated maturity dates of the Certificates to be prepaid. Such notice shall further state that on the specified prepayment date, there shall become due and payable upon each Certificate or portion thereof to be prepaid, the portion of the principal amount of such Certificate to be prepaid, together with interest accrued with respect thereto said date and prepayment premium, if any, and that from and after such date interest with respect thereto shall cease to accrue and be payable.

Notice of such prepayment shall be sent by registered or otherwise secure mail or delivery service, postage prepaid, or by facsimile transmission, confirmed by telephone, to at least one municipal securities depository, and by first class mail, postage prepaid, to the national information services that disseminate securities redemption notices, and to the respective Owners of any Certificates designated for prepayment at their addresses appearing on the Certificate registration books, at least thirty (30) days but not more than sixty (60) days prior to the prepayment date; provided, that neither failure to receive such notice nor any defect in any notice so mailed shall affect the sufficiency of the proceedings for the prepayment of such Certificates. So long as DTC is acting as the securities depository for the Certificates, notice of prepayment will be mailed to DTC, not to the beneficial owners of the Certificates.

***Effect of Prepayment.*** Notice having been given as provided in the Trust Agreement, and the moneys for the prepayment (including the interest and prepayment premium, if any, to the applicable date of prepayment), having been set aside in the Prepayment Fund, the Certificates shall become due and payable on said date of prepayment, and, upon presentation and surrender of such Certificates at the Principal Office, said Certificates shall be paid at the applicable prepayment price, plus interest accrued to said date of prepayment. If, on said date of prepayment, moneys for the prepayment of all of the Certificates to be prepaid, together with interest accrued thereon to said prepayment date, shall be held by the Trustee so as to be available therefor on such prepayment date, and, if notice of prepayment thereof shall have been given as aforesaid, then, from and after said prepayment date, interest with respect to the Certificates shall cease to accrue and become payable. All moneys held by or on behalf of the Trustee for the prepayment of Certificates shall be held in trust for the account of the Owners of the Certificates to be prepaid without liability for interest thereon.

## **THE PROPERTY**

### **Description**

The Property being leased under the Lease includes (i) the real property and facilities comprising the Lodi City Hall and Carnegie Forum, (ii) the real property and the facilities comprising the City's

existing public safety building, (iii) the real property and facilities comprising the City's Hutchins Street Square, and (iv) the real property and facilities comprising the City's Fire Stations Nos. 2 and 3.

**City Hall/Carnegie Forum.** The existing City Hall consists of one 1927 brick building, containing 18,425 square feet of space which was reinforced and modernized in 1996. The City Hall building houses the City Administration, City Clerk, City Attorney, Personnel, Risk Management, Public Works Administration and Engineering, and Community Development departments.

Carnegie Forum, located adjacent to the City Hall building houses the Lodi City Council Chambers, conference rooms and, in the basement, Police detectives. The brick building was originally built as a library in 1909 and was extensively remodeled to its current use in 1989. The 1.9 acre City Hall/Carnegie Forum sites front Pine Street at the edge of the City newly revitalized downtown. The total value of the site and buildings comprising City Hall and Carnegie Forum is approximately \$7,430,000.

**Existing Public Safety Building.** The City's existing public safety building site is located at 230 West Elm, and was constructed in 1967. The building is a two-story building of approximately 40,000 square feet with a basement of concrete and brick construction. The City's existing public safety building houses the City Police Department, Fire Department and Court.

The public safety building site, located on the north half of the Civic Center, contains 2.5 acres including adjacent parking lots. The total estimated value of the site and building comprising the existing public safety building is approximately \$6,710,000.

**Hutchins Street Square.** The Hutchins Street Square is the site of the original Lodi High School located four blocks from downtown Lodi, acquired by the City in 1975. The Hutchins Street Square houses a community center, Senior Complex, pool, small Fine Arts center and 800 seat performing arts theatre. A portion of the proceeds of the 1995 Certificates and the 1996 Certificates were applied to finance the cost of improvements to Hutchins Street Square.

The 10-acre site is fully improved and has become a local landmark and important community facility, hosting both public and private events ranging from weddings and parties to major community gatherings and performances. The total estimated value of the site and buildings comprising Hutchins Street Square is approximately \$16,845,000.

**Fire Stations Nos. 2 and 3.** Fire Station No. 2 is a 6,200 square foot metal building located on a one-level site at 705 E. Lodi Avenue, adjacent to Highway 99. The station is the City's only fire station located east of the Union Pacific Railroad tracks and is the primary response facility in that area. The location is critical given fairly frequent blocking of east-west streets by train traffic. Construction of Fire Station No. 2 was completed in 1980, and while serviceable, is in need of certain improvements to accommodate firefighters of both genders. The City expects to undertake such improvements during \_\_\_\_\_. The total estimated value of the site and buildings comprising Fire Station No. 2 is approximately \$710,000.

Fire Station No. 3 is a 5,300 square foot concrete block and wood building located at 2141 S. Ham Lane, at a corner of the 16.6 acre Beckman Park site. Fire Station No. 3 serves the southwestern portion of the City and was constructed in 1973. The City has recently completed roof and HVAC improvements at this facility. The total estimated value of the site and buildings comprising Fire Station No. 3 is approximately \$515,000.

**Valuation of Leased Property**

The estimated value of the Property identified above to be leased pursuant to the Lease is as determined by the City. In connection with the delivery of the Certificates, the City identified certain assets of the City that could potentially be included in the Property being leased pursuant to the Lease. In order to establish a valuation for the Property, the City retained \_\_\_\_\_, a [real estate advisory and consulting firm], to establish an estimated valuation of such Property as of \_\_\_\_\_ 2001.

**SECURITY AND SOURCES OF PAYMENT FOR THE CERTIFICATES**

**General**

Each Certificate evidences a proportionate interest in the Lease Payments to be made by the City under the Lease. The Corporation, pursuant to the Assignment Agreement, has assigned to the Trustee for the benefit of the Owners (i) all its right, title and interest in and to the Lease, including its right to receive the Lease Payments and Additional Payments scheduled to be paid by the City under and pursuant to the Lease, (ii) all rents, profits, products and proceeds from the Property to which the Corporation has any right or claim whatsoever under the Lease, (iii) the right to take all actions, enforce all rights of the Corporation and obligations of the City under the Lease and give all consents under the Lease, (iv) any right of access more particularly described in the Lease, (v) all other right, title, and interest of the Corporation in the Lease, (vi) all right, title, and interest of the Corporation in the Site Lease, and (vii) all right, title, and interest of the Corporation in the funds and accounts (and the money and other property held therein) established pursuant to the Trust Agreement or the Lease; provided, however, that nothing contained in the Assignment Agreement shall abrogate the Corporation's rights to receive Additional Payments with respect to fees of auditors, attorneys, engineers, and all administrative costs payable to the Corporation pursuant to the Lease or to be indemnified as provided in the Site Lease or Lease. The City will pay Lease Payments directly to the Trustee, as assignee of the Corporation. The Lease Payments are designed to be sufficient, in both time and amount, to pay, when due, the principal and interest components due with respect to the Certificates.

**Lease Payments**

The City has covenanted under the Lease to make Lease Payments and Additional Payments for the right of use and possession of the Property and to take such action as may be necessary to include all Lease Payments and Additional Payments in its annual budget in each Fiscal Year during the term of the Lease (but, with respect to Additional Payments, only to the extent the amounts of such Additional Payments are known to the City at the time its annual budget is proposed) and to make the necessary annual appropriations therefor. The City's obligation to pay the Lease payments is subject to abatement as described below. See "RISK FACTORS - Abatement" below.

Subject to the provisions of the Lease regarding abatement in the event of material loss of use of any portion of the Property (see "RISK FACTORS -- Abatement" herein) and prepayment of Lease Payments (see the provisions under "THE CERTIFICATES -- Prepayment" herein), the City agrees to pay to the Corporation, its successors and assigns, as annual rental for the use and possession of the Property, the Lease Payments (denominated into components of principal and interest) to be due and payable on the 25th day of each month (or if such day is not a Business Day, the next succeeding Business Day) immediately preceding the respective Certificate Payment Dates (the "Lease Payment Dates") which are sufficient in both time and amount to pay when due the annual principal and semiannual interest evidenced by the Certificates.

All Lease Payments received by the Trustee shall be deposited into the Lease Payment Fund and held by the Trustee in trust for the benefit of the Owners of the Certificates. Any amount held in the Lease Payment Fund on any Lease Payment Date (other than proceeds of Certificates deposited therein pursuant to the Trust Agreement representing advance rental not yet payable with respect to the Certificates and amounts resulting from the prepayment of the Lease Payments in part but not in whole pursuant to the Lease and other amounts required for payment of past due principal or interest with respect to any Certificates not presented for payment) shall be credited towards the Lease Payment then due and payable. No payment need be made by the City to the Trustee on any Lease Payment Date if the available amounts then held in the Lease Payment Fund are at least equal to make the Lease Payment then required to be paid.

On each Certificate Payment Date, the Trustee will withdraw from the Lease Payment Fund the aggregate amount of such Lease Payments and will apply such amounts to make principal and interest payments with respect to the Certificates. See "APPENDIX H-LEASE PAYMENT SCHEDULE" herein.

**The obligation of the City to make the Lease Payments does not constitute an obligation for which the City is obligated to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. The obligation of the City to make Lease Payments does not constitute a debt of the City, the State of California or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction.**

#### **Additional Payments**

In addition to the Lease Payments, the City shall pay such Additional Payments required for the payment of all administrative costs relating to the Property or the Certificates, including without limitation all expenses, compensation and indemnification of the Trustee payable by the City under the Trust Agreement, fees of auditors, accountants, attorneys or engineers and all other necessary administrative costs of the Corporation or charges required to be paid by it in order to maintain its existence or to comply with the terms of the Certificates or of the Trust Agreement or to indemnify the Corporation and its officers and directors. All such Additional Payments to be paid shall be paid when due directly by the City to the respective parties to whom such Additional Payments are owing.

#### **Reserve Fund**

The Reserve Fund will be established under the Trust Agreement and funded from proceeds of the Certificates in an amount equal to the Reserve Requirement as of the date of delivery of the Certificates to be used to make delinquent Lease Payments. "Reserve Requirement" means as of the date of calculation the least of (a) maximum aggregate annual Lease Payments payable under the Lease during the then-current and all remaining Certificate Years the Certificates are to remain Outstanding, (b) 125% of the average annual aggregate Lease Payments payable under the Lease for the then-current and any remaining Certificate Year the Certificates are to remain Outstanding calculated based on a Certificate Year, or (c) 10% of the net proceeds derived from the sale of the Certificates. The City may, at any time, substitute moneys on deposit in the Reserve Fund with Permitted Investments, a line of credit, letter of credit, insurance policy, surety bond, or any combination thereof, equal to the Reserve Requirement.

#### **Insurance by the City**

Pursuant to the Lease, the City will obtain one or more CLTA leasehold title policies insuring the City's leasehold estate in the Property. The Lease requires that the City must maintain rental interruption insurance to insure against loss, total or partial, of rental income from any portion of the Property in an

amount equal to 24 months of Lease Payments. The City is obligated to obtain a standard comprehensive general public liability and property damage insurance policy, theft insurance, insurance against fire, lightning and other perils and extended coverage (theft, vandalism, malicious mischief, explosions, windstorm, riot, aircraft, vehicle damage, smoke) and other perils and boiler and machinery coverage against loss or damage by explosion of steam boilers, and workers' compensation insurance. The City may also maintain such insurance (except rental interruption and title insurance) through a program of self-insurance under certain conditions. See "APPENDIX D – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS – The Lease – Insurance" herein.

The proceeds of any rental interruption insurance will be deposited in the Lease Payment Fund to be credited towards the payment of the Lease Payments. The Lease requires the City promptly to remit to the Trustee the Net Proceeds of any insurance award either to replace or repair the Property or to prepay Certificates, for deposit by the Trustee into the Net Proceeds Fund. The amount of Lease Payments and Additional Payments due under the Lease may be reduced during any period in which there is substantial interference with the City's use and possession of all or a part of the Property. See "RISK FACTORS - Abatement" herein.

The City is not required to purchase earthquake insurance pursuant to the Lease; however, the City may purchase earthquake insurance to cover casualties or other losses with respect to the Property, provided that such earthquake insurance is commercially available from a reputable insurer at a reasonable cost.

### **Substitution and Removal of Property**

The City, [subject to the approval by the Insurer] may amend the Lease and the Site Lease to substitute real property, improvements and/or equipment for all or a portion of the Property ("Substituted Property"), or to remove real property, improvements and/or equipment from the Property. No substitution or removal is permitted until the City delivers to the [Insurer], the Corporation and the Trustee certificates and/or evidence of the following: (1) description of the affected Property; (2) the fair rental value of the Property, after such substitution or removal, in each year during the remaining term of the Lease is at least equal to the Lease Payments for such year, all as determined by the City either on the basis of (i) an appraisal of the Property prepared by an MAI Independent Appraiser or (ii) the acquisition costs of the Property to be leased under the Lease after a substitution; (3) the useful life of the Property after a substitution or removal is equal to at least the remaining term of the Lease; (4) the essentiality of the Substituted Property is comparable to that of the Property being substituted; (5) the Substituted Property is not subject to prior liens; (6) City has delivered to the rating agencies then rating the Certificates copies of the certificates referred to herein and any MAI appraisal or acquisition costs and that there is no downgrade of the ratings on the Certificates as a result of the substitution or removal; (7) title insurance for the Property and/or the Substituted Property; (8) insurance on the Property and/or Substituted Property; and (9) an opinion of Special Counsel that the substitution or removal complies with the terms of the Lease and that the substitution or removal will not adversely affect the exclusion from gross income for federal income tax purposes or the State of California (the "State") tax-exempt status, of interest with respect to the Certificates, and that following such substitution or removal, the Lease will remain a legal, binding and enforceable obligation of the City.

### **[CERTIFICATE INSURANCE]**

*[The following information has been furnished by the Insurer for use in this Official Statement. Such information has not been independently confirmed or verified by the City, the Corporation or the Underwriter. No representation is made herein by the City, the Corporation or the Underwriter as to the accuracy or adequacy of such information or that the information contained and incorporated herein by*

*reference is correct. Reference is made to APPENDIX G for a specimen of the Municipal Bond Insurance Policy.]*

[To Come]

## **RISK FACTORS**

*The following factors, which represent material risk factors that have been identified at this time, should be considered along with all other information in this Official Statement by potential investors in evaluating the Certificates. There can be no assurance made that other risk factors will not become evident at any future time.*

### **General Considerations -- Security for the Certificates; No City Funds Pledged for Lease Payments**

The obligation of the City to make Additional Payments or to make the Lease Payments does not constitute an obligation of the City to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation. Neither the Certificates nor the obligation of the City to make Lease Payments under the Lease constitutes a debt of the City, the State, or any of their respective political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction. The obligation of the City to make Lease Payments and Additional Payments is in consideration of the right of the City to the use and possession of the Property.

Although the Lease does not create a pledge, lien or encumbrance upon the funds of the City, the City is obligated under the Lease to pay the Lease Payments and Additional Payments from any source of legally available funds and the City covenants in the Lease that, for so long as the Property is available for its use, it will make the necessary annual appropriations within its budgets for Lease Payments and Additional Payments. The City is currently liable and may become liable on other obligations payable from general revenues, such as employee salaries and benefits and repayment of tax and revenue anticipation notes, some of which may have a priority over the Lease Payments and Additional Payments.

The City has the capacity to enter into other obligations which may constitute additional charges against its revenues. To the extent that additional obligations are incurred by the City, the funds available to make Lease Payments and Additional Payments may be decreased. In the event the City's revenue sources are less than its total obligations, the City could choose to fund other activities before making Lease Payments and Additional Payments and other payments due under the Lease.

### **Abatement**

**General.** The City has determined that the present annual fair rental value of the Property at least equals the annual Lease Payments. Except to the extent of (a) amounts held by the Trustee in the Lease Payment Fund or the Reserve Fund, (b) amounts recovered in respect of use and occupancy or rental interruption insurance, and (c) amounts, if any, otherwise legally available to the Trustee for payment in respect of the Certificates. During any period in which there is substantial interference with the use and possession of any portion of the Property, the obligation of the City to pay Lease Payments will be abated. The amount of any such abatement is determined by the City such that the resulting Lease Payments represent fair rental value for the use and possession of the items or portion of the property not damaged, destroyed or taken. Such abatement will commence with such damage, destruction or taking and end with the substantial completion of the replacement or repair.

During abatement, available moneys on deposit in the Reserve Fund and the Lease Payment Fund and any other legally available sources of money, including without limitation proceeds of rental interruption insurance (but excluding moneys in the City's General Fund), will be applied to pay the Lease Payments. Notwithstanding the foregoing, the resulting Lease Payments may not be sufficient to pay the remaining principal and interest with respect to the Certificates.

In the event fair rental value at the time of any cessation of such abatement is greater than the fair rental value represented by the Lease Payments, the Lease Payments will be increased to reflect such incremental value so that all amounts abated will, to the extent permissible by law, be recouped during the remaining term of the Lease. The City will also maintain or cause to be maintained, from the date of delivery of the Certificates, rental interruption insurance to cover loss of use of any portion of the Property as a result of covered risks in an amount adequate to cover 24 months of Lease Payments (calculated assuming that the accrued Lease Payment amount consists of twelve equal monthly deposits).

### **Seismic Risks; Earthquake Insurance**

The City is not required to maintain earthquake insurance with respect to the Property. In the event that the City does not maintain earthquake insurance and the Property is damaged or destroyed by earthquake, the City's obligation to make Lease Payments would be abated, subject to the availability of rental interruption insurance. In the event of a serious earthquake affecting the City, it is possible that the Federal Emergency Management Agency ("FEMA") would provide financing to aid the City in rebuilding the Property; however, there can be no assurance that FEMA would provide such aid or that, if provided, it would cover one hundred percent of the cost of reconstruction.

### **Hazardous Substances**

Owners and operators of real property may be required by law to remedy conditions of the property relating to releases or threatened releases of hazardous substances. The federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, sometimes referred to as "CERCLA" or the "Superfund Act," is the most well known and widely applicable of these laws, but California laws with regard to hazardous substances are similar and in certain respects more stringent. Under many of these laws, the owner (or operator) is obligated to remedy a hazardous substance environment whether or not the owner (or operator) has anything to do with creating or handling the hazardous substance. Further, such liabilities may arise not simply from the existence of a hazardous substance but from the method of handling it. All of these possibilities could significantly and adversely affect the operations and finances of the City.

The City knows of no existing hazardous substances which require remedial action on or near the Property. However, it is possible that such substances do currently or potentially exist and that the City is not aware of them and may trigger an abatement of the Lease Payments.

### **Self-Insurance**

The City may self-insure for all insurance with the exception of title insurance and rental interruption insurance. Should the City self-insure, no assurance can be given that such self-insurance at the time of any casualty or loss will be adequate to cover any claims that may arise. For a discussion of (i) the insurance requirements for the Property, and (ii) the conditions under which the City is permitted to self-insure, see "APPENDIX D – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS - The Lease -- Insurance" herein. For a general description of the City's insurance and risk management programs, see also "APPENDIX B - AUDITED FINANCIAL STATEMENTS FOR THE CITY FOR THE FISCAL YEAR ENDED JUNE 30, 2001" herein.

### **No Acceleration Upon Default**

In the event of a default, there is no available remedy of acceleration of the total Lease Payments due over the term of the Lease. The City will only be liable for Lease Payments and Additional Payments on an annual basis, and the Trustee would be required to seek a separate judgment in each fiscal year for such fiscal year's Lease Payments and Additional Payments. THE TRUSTEE MAY NOT DECLARE THE CERTIFICATES TO BE DUE AND PAYABLE AND ACCELERATE PAYMENT OF THE CERTIFICATES.

### **Limited Recourse on Default**

The enforcement of any remedies provided in the Lease and Trust Agreement could prove both expensive and time-consuming. Although the Lease provides that, if the City defaults the Trustee may repossess the Property and relet it, portions of the Property may not be easily recoverable, and even if recovered, could be of little value to others. Additionally, the Trustee may have limited ability to relet the Property to provide a source of rental payments sufficient to pay the amounts evidenced by the Certificates. The Trustee is not empowered to sell the Property for the benefit of the Owners. In addition, due to the essential government functions of the Property, it is not certain whether a court would permit the exercise of the remedies of repossession and re-letting with respect thereto.

### **Limitation of Remedies**

The rights of the owners of the Certificates are subject to the limitations on legal remedies against cities in the State, including applicable bankruptcy, insolvency, reorganization, laws affecting the enforcement of creditors' rights generally, or moratorium or similar laws now or hereafter in effect, and to the application of general principles of equity, including without limitation, concepts of materiality, reasonableness, good faith and fair dealing, and the possible unavailability of specific performance of injunctive relief, regardless of whether considered in a proceeding in equity or in law. Bankruptcy proceedings, if initiated, could subject the owners of the Certificates to judicial discretion and interruption of their rights in bankruptcy proceedings or otherwise, and consequently may entail risks of delay, limitation or modification of their rights.

### **No Liability by the Corporation to the Owners**

Except as expressly provided in the Trust Agreement, the Corporation shall not have any obligation or liability to the Owners of the Certificates with respect to the payment when due of the Lease Payments by the City, or with respect to the performance by the City of other agreements and covenants required to be performed by it contained in the Lease or the Trust Agreement, or with respect to the performance by the Trustee of any right or obligation required to be performed by it contained in the Trust Agreement.

### **State Law Limitations on Appropriations**

Article XIII B of the California Constitution limits the amount that local governments can appropriate annually. The City's ability to make Lease Payments may be affected if the City should reach its appropriations limit. The City does not anticipate reaching said limit in the foreseeable future. See "APPENDIX A – THE CITY OF LODI – Constitutional and Statutory Limitations on Taxes and Appropriations" herein.

## **CONTINUING DISCLOSURE**

The City will covenant pursuant to a Continuing Disclosure Agreement, dated as of January 1, 2002 (the "Continuing Disclosure Agreement"), by and between the City and the Trustee, to provide certain financial information and operating data relating to the City by not later than six months following the end of the City's Fiscal Year, which Fiscal Year presently ends June 30 (the "Annual Report"), commencing with the Annual Report for the 2001-02 Fiscal Year, and to provide notices of the occurrence of certain enumerated events, if material, under federal securities law. The Annual Report will be filed by the City with each nationally recognized municipal securities information repository and with the appropriate State repository, if any (collectively, the "Repositories"). The notices of material events will be filed by the City with the Municipal Securities Rulemaking Board and the Repositories. The specific nature of the information to be contained in the Annual Report and the notices of material events is set forth in "APPENDIX F – PROPOSED FORM OF CONTINUING DISCLOSURE AGREEMENT" herein. These covenants have been made to assist the Underwriter in complying with Rule 15c2-12 of the Securities and Exchange Commission (the "Rule"). As of the date hereof, the City has never failed to comply in any material respect with any previous undertakings with regard to the provision of annual reports or material events notices as required by the Rule.

## **THE CORPORATION**

The Corporation was incorporated under the Nonprofit Public Benefit Corporation Law of the State of California. The Corporation was organized as a nonprofit corporation for the purpose, among others, of assisting the City in the acquisition, construction and financing of public improvements which are of public benefit to the City. Members of the City Council serve on the Board of Directors of the Corporation.

## **TAX MATTERS**

In the opinion of Orrick, Herrington & Sutcliffe LLP ("Special Counsel"), based upon an analysis of existing laws, regulations, rulings and court decisions, and assuming, among other matters, compliance with certain covenants, interest evidenced by the Certificates and received by the Owners thereof is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986 (the "Code") and is exempt from State of California personal income taxes. Special Counsel is of the further opinion that interest evidenced by the Certificates is not a specific preference item for purposes of the federal individual or corporate alternative minimum taxes, although Special Counsel observes that such interest is included in adjusted current earnings in calculating federal corporate alternative minimum taxable income. A complete copy of the proposed form of opinion of Special Counsel is set forth in Appendix E hereto.

The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the interest evidenced by the Certificates. The City has covenanted to comply with certain restrictions designed to insure that interest evidenced by the Certificates will not be included in federal gross income. Failure to comply with these covenants may result in interest evidenced and represented by the Certificates being included in gross income for federal income tax purposes, possibly from the date of original execution and delivery of the Certificates. The opinion of Special Counsel assumes compliance with these covenants. Special Counsel has not undertaken to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of execution and delivery of the Certificates may adversely affect the value of, or the tax status of interest evidenced by, the Certificates. Certain requirements and procedures contained or referred to in the Trust Agreement, the Lease, the Tax Certificate, and other relevant documents may be changed and certain actions (including, without

limitation, defeasance of Certificates) may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents. Special Counsel expresses no opinion as to any Certificates or the interest evidenced thereby if any such change occurs or action is taken or omitted upon the advice or approval of counsel other than Orrick, Herrington & Sutcliffe LLP.

Although Special Counsel is of the opinion that interest evidenced by the Certificates is excluded from gross income for federal income tax purposes and is exempt from State of California personal income taxes, the ownership or disposition of, or the accrual or receipt of interest evidenced by, the Certificates may otherwise affect a Certificate Owner's federal or state tax liability. The nature and extent of these other tax consequences will depend upon the particular tax status of the Certificate Owner or the Certificate Owner's other items of income or deduction. Special Counsel expresses no opinion regarding any such other tax consequences.

In addition, no assurance can be given that any future legislation, including amendments to the Code, if enacted into law, or changes in interpretation of the Code, will not cause interest evidenced by the Certificates to be subject, directly or indirectly, to federal income taxation, or otherwise prevent beneficial owners from realizing the full current benefit of the tax status of such interest. Prospective purchasers of the Certificates should consult their own tax advisors regarding any pending or proposed federal tax legislation. Further, no assurance can be given that the introduction or enactment of any such future legislation, or any action of the Internal Revenue Service ("IRS"), including but not limited to regulation, ruling, or selection of the Certificates for audit examination, or the course or result of any IRS examination of the Certificates, or obligations which present similar tax issues, will not affect the market price for the Certificates. The IRS has initiated a program of expanded audits to tax-exempt bonds, which include bonds randomly selected for audit as well as bonds specifically selected by the IRS. If an audit is commenced, an Owner of a Certificate has no right to participate in such examination.

#### **ABSENCE OF LITIGATION**

To the knowledge of the City, there is no controversy or litigation of any nature now pending or threatened restraining or enjoining the execution and delivery of the Certificates or in any way contesting or affecting the validity of the Certificates or any proceedings of the City or the Corporation taken with respect to the execution and delivery thereof.

At any given time, including the present, there are certain other claims and disputes, including those currently in litigation, that arise in the normal course of the City's activities. Such matters could, if determined adversely to the City, affect expenditures by the City, and in some cases, its revenues. The City's management and the City Attorney are of the opinion that no pending actions are likely to have a material adverse effect on the City's ability to pay the Lease Payments evidenced and represented by the Certificates when due.

#### **APPROVAL OF LEGALITY**

The execution and delivery of the Certificates is subject to the approving opinion of Orrick, Herrington & Sutcliffe LLP, Los Angeles, California, Special Counsel, substantially in the form set forth as Appendix E. Certain legal matters will be passed upon for the Underwriter by Sidley Austin Brown & Wood LLP, Los Angeles, California and for the City and the Corporation by the City Attorney of the City.

## RATINGS

Fitch, Inc. and Standard & Poor's have assigned the Certificates the long-term ratings of "\_\_\_\_\_" and "\_\_\_\_\_" respectively, [with the understanding that, upon the delivery of the Certificates, a policy insuring the payment of the principal and interest evidenced by the Certificates when due will be issued by \_\_\_\_\_]. The ratings reflect only the respective views of the rating agencies, and any explanation of the significance of such ratings may be obtained only from such rating agencies as follows: Fitch, Inc., One State Street Plaza, New York, New York 10004; and Standard & Poor's, 55 Water Street, New York, New York 10041. The City furnished to the rating agencies certain information and materials concerning the Certificates and the City. Generally, rating agencies base their ratings on information and materials furnished to them and on investigations, studies and assumptions by the rating agencies. There is no assurance that the ratings will remain in effect for any given period of time or that they will not be revised downward or withdrawn entirely by such rating agencies, or any of them, if, in their respective judgments, circumstances so warrant. The City undertakes no responsibility to oppose any such revisions or withdrawal. Any downward revision or withdrawal of any rating may have an adverse effect on the market price of the Certificates.

## FINANCIAL ADVISOR

Public Financial Management Inc. (the "Financial Advisor") has assisted the City with various matters relating to the planning, structuring and delivery of the Certificates. The Financial Advisor is a financial advisory firm and is not engaged in the business of underwriting or distributing municipal securities or other public securities. The Financial Advisor assumes no responsibility for the accuracy, completeness or fairness of this Official Statement. The Financial Advisor will receive compensation from the City contingent upon the sale and delivery of the Certificates.

## UNDERWRITING

The Certificates are being purchased by Salomon Smith Barney Inc., the Underwriter. The Underwriter has agreed, subject to certain conditions, to purchase the Certificates at a purchase price of \$\_\_\_\_\_, reflecting the principal amount of the Certificates, [plus/less net original issue premium/discount of \$\_\_\_\_\_,] less an Underwriter's discount in the aggregate amount of \$\_\_\_\_\_. The purchase contract relating to the Certificates provides that the Underwriter will purchase all of the Certificates if any are purchased, the obligation to make such purchase being subject to certain terms and conditions set forth in the purchase contract, the approval of certain legal matters by counsel and certain other conditions.

The Underwriter may offer and sell the Certificates to certain dealers and others at prices lower than the offering price stated on the inside cover page. The offering prices may be changed from time to time by the Underwriter.

## VERIFICATION

Upon delivery of the Certificates, \_\_\_\_\_, independent accountants, will deliver a report on the mathematical accuracy of certain computations contained in schedules provided to them relating to the adequacy of the maturing principal amounts of the federal securities held in the escrow fund established with respect to the Refunded Certificates, interest earned thereon and certain other moneys on deposit in said fund for payment of the principal or accreted value of, premium, if any, and interest with respect to the Refunded Certificates as such principal or accreted value of, premium, if any, and interest becomes due and payable upon prepayment. The report of \_\_\_\_\_ will include the statement that the scope of their engagement is limited to verifying the mathematical accuracy of the

computations contained in such schedules provided to them and that they have no obligation to update their report because of any event occurring, or data or information coming to their attention, subsequent to the date of their report.

**GENERAL PURPOSE FINANCIAL STATEMENTS**

The audited General Purpose Financial Statements of the City, as of June 30, 2001, are included in Appendix B to this Official Statement. A complete copy of the City's Comprehensive Annual Financial Report for the Fiscal Year then ended may be obtained from the City. The General Purpose Financial Statements have been audited by KPMG Peat Marwick LLP, Sacramento, California, independent accountants (the "Independent Accountants") as stated in their report appearing in Appendix B. No review or investigation with respect to subsequent events has been undertaken in connection with such General Purpose Financial Statements by the Independent Accountants.

**EXECUTION AND DELIVERY**

The execution and delivery of this Official Statement has been duly authorized by the City.

**CITY OF LODI, CALIFORNIA**

By: \_\_\_\_\_  
City Manager

## APPENDIX A

### THE CITY OF LODI

#### General

The City of Lodi, California ("Lodi" or the "City") was incorporated as a General Law city on December 6, 1906. The City is located in the San Joaquin Valley between Stockton, 2 miles to the south, and Sacramento, 35 miles to the north, and adjacent to U.S. Highway 99. The City is located on the main line of the Southern Pacific Railroad and is within five miles of Interstate 5. The City population is approximately 58,950 (as of January 1, 2001) and is contained in an area of 12 square miles. The City has grown steadily since incorporation in 1906 and is projected to grow to 70,500 people by the year 2007. The City's growth is provided for in both the general plan and the City's growth control ordinance that allows an increase in population of 2% per year until the growth limits are reached.

The City provides a wide range of municipal services, including public safety (police, fire and graffiti abatement), public utilities services (electric, water and sewer), transportation services (streets, flood control and transit), leisure, cultural and social services (parks and recreation, library, and community center), and general government services (management, human resources administration, financial administration, building maintenance and equipment maintenance).

Lodi is built on a strong and broad based agricultural industry with national and industrial markets for its commodities and products. Wines, processed foods, nuts, fruit and milk are major commodities of the Lodi area and provide the basic material for food processing and packaging. These commodities support the operations of General Mills, Guild Winery and Pacific Coast Producers, three companies in the business of processing local agricultural commodities.

In addition, Lodi has a wide range of small, financially sound businesses. These companies range in size from 10 to 150 employees and produce a wide variety of products, services and commodities.

Recently, there has been an increase in industrial and residential development within the City. This new development, combined with the growing strength of the wine/grape industry, is a positive economic indicator for Lodi. Recently, several industries moved to Lodi, which industries collectively created 325 to 400 new jobs.

#### Municipal Government

**City Council.** All powers of the City are vested in the City Council which is empowered to perform all duties of and obligations of the City as imposed by State law. The City has a five-member City Council comprised of members elected at large. Each council member is elected for four years with staggering terms.

Biographies of the members of the City Council are set forth below:

PHILLIP PENNINO, Mayor, was elected to the Lodi City Council in 1990 and has previously served as Mayor and Mayor Pro Tempore of the City. He received an Associate of Arts degree from San Joaquin Delta College in 1982, a Bachelor of Science degree in Organizational Behavior from the University of San Francisco in 1989, and a Certificate in Economic Development from the University of Oklahoma in 1991. He has been employed by Pacific Gas and Electric Company for the last twenty-two years and is currently serving as a Major Account Representative. He also serves on the San Joaquin Partnership, Rail Commission, and Council of Governments.

SUSAN Y. HITCHCOCK, Mayor Pro Tem, was elected to the Lodi City Council in November of 1998 and has served as Mayor Pro Tempore since December 2001. Ms. Hitchcock received a Bachelor of Science in Business Administration from California State University at Sacramento in 1979 and a teaching credential in 1991. She also

received a Masters of Arts in School Administration and an Administrative Services credential from University of the Pacific in 1997. Ms. Hitchcock worked as a commercial loan officer for eight years before becoming involved in volunteer activities and local government. She spent a year in the San Joaquin County grand jury and received an appointment to the City of Lodi Planning Commission in 1982, where she served until 1995. She has been employed by Lodi Unified School District since 1991 and is currently the Principal of Clairmont Elementary School.

ALAN NAKANISHI, M.D., Council Member, was elected to the Lodi City Council in 1998 and has previously served as Mayor of the City. He graduated with a Bachelor of Arts degree in chemistry from Pacific Union College in 1961 and an M.D. degree from Loma Linda University in 1965. In 1991, he received a Masters of Health Administration from the Virginia Commonwealth University/Medical College of Virginia. Following his internship and residency at the Los Angeles County/USC Medical Center he served two years as a major in the U.S. Army, where he was a department head at MacDonald Army Hospital, Fort Eustis, Virginia. Dr. Nakanishi has practiced in Stockton and had a home in Lodi since 1971. He is currently President of Delta Eye Medical Group and President of Dameron IPA, a 300-physician group and serves as by-laws chairman of a local hospital.

KEITH LAND, Council Member, was elected to the Lodi City Council in 1996 and previously served as Mayor and Mayor Pro Tempore of the City. He enlisted in the U.S. Air Force in 1969 and received an honorable Discharge in 1973. Mr. Land received an Associate of Arts degree from Delta College in 1975 and graduated from LUTC in 1977. Mr. Land owned and operated Land Insurance Services for 25 years in Lodi. Mr. Land serves as Chairman of the San Joaquin County Parks and Recreation Commission, Vice Chair of the San Joaquin County Housing Authority, Commission Member for the Local Area Formation Commission and the Northern California Power Agency. Mr. Land is currently employed as the Community Development Officer for Farmers and Merchants Bank.

EMILY HOWARD, Council Member, was elected to the Lodi City Council in November of 2000. Mrs. Howard received a Bachelor of Arts in Sports Medicine from the University of the Pacific in 1992. In 1996 she completed the Physical Therapist Assistant AA program at De Anza College and passed the California State Licensing Examination. Mrs. Howard worked with Lodi Memorial Hospital for over five years, specializing in the Rehabilitation Services Department.

***City Staff.*** Biographies of senior management of the City follows:

H. DIXON FLYNN, City Manager of the City of Lodi, was appointed in August 1995. From June 1991 to August 1995, he served as the Finance Director for the City of Lodi. Prior to this, Mr. Flynn was the Finance Systems Manager for the City of San Luis Obispo (October 1985 to June 1991) and a Finance Officer in the United States Army (June 1964 to September 1985) in which he served in a number of locations and positions. Mr. Flynn received his Bachelor of Science Degree in Accounting from New Mexico State University in 1964 and his Master of Science Degree in Industrial Engineering from the University of Arkansas in 1976.

JANET S. KEETER, Deputy City Manager, has served the City of Lodi in a number of capacities over the course of the last eight years. Various job titles have included Economic Development Coordinator and Administrative Assistant to the City Manager. Ms. Keeter previously worked for the City of Tracy as the Economic Development Manager and for San Joaquin County as the Office of Emergency Services' Assistant Coordinator. Ms. Keeter earned her Master's degree in Public Administration from California State University, Stanislaus and her Bachelor's degree from the University of California, Davis.

SUSAN BLACKSTON, City Clerk of the City of Lodi, was appointed in July 2000. Ms. Blackston previously worked for the City of Stockton as the Deputy City Clerk. She has attained the status of Certified Municipal Clerk through a course of studies prescribed and regulated by the International Institute of Municipal Clerks. Ms. Blackston received her Associate of Arts Degree in Social Science from San Joaquin Delta College in 1993, and will attain her Bachelor's Degree in Public Administration from the University of San Francisco in 2003.

RANDALL A. HAYS, City Attorney of the City of Lodi, received his Bachelor's Degree from the California State University, San Jose in 1966. This was followed by a Juris Doctor Degree from the University of Santa Clara in 1969. Lodi is the third city Mr. Hays has served as City Attorney. He served the City of Ukiah, California for 10 years and the City of Redding for 15 years prior to coming to Lodi in October of 1995. For several

years while in Redding, Mr. Hays was the Chairperson of the Northern California Power Agency Legal Committee. Additionally, he served as Assistant Secretary to the M-S-R Public Power Agency upon its formation in 1980. Subsequent to that, Mr. Hays was appointed M-S-R's General Counsel (1985) and Secretary (1987), serving in those capacities through 1994. He also provided service to the California Municipal Utilities Association acting as its General Counsel and Legislative Committee Chairperson for the years 1991 through 1994.

VICKY McATHIE, Finance Director/Treasurer of the City of Lodi, was appointed in November 1995. From January 1991 to November 1995, she was the Accounting Manager for the City. Prior to this, Mrs. McAthie worked for the City of Stockton from June 1974 to December 1990, starting as an Account Clerk and ending as an Accountant II. Mrs. McAthie received her Bachelor of Science Degree in Business Administration, Accounting in 1991 and her Master of Public Administration in 1994 from the California State University, Stanislaus. Mrs. McAthie is a Certified California Municipal Treasurer, a Certified Government Financial Manager, a Certified Municipal Finance Administrator, and a Certified Cash Handler. In addition, Mrs. McAthie is a budget reviewer for both the Government Finance Officers Association and the California Society of Municipal Finance Officers. Mrs. McAthie is currently the Vice President of the California Municipal Treasurers Association as well as being a member of their education committee.

**Labor Relations**

City employees are represented by various associations, and labor relations have been generally amicable in that there have been no major strikes, work stoppages or other similar incidents. The following table provides a list of employee organizations in the City and the number of employees these represent as of June 30, 2001.

**CITY OF LODI  
Employee Organizations**

<u>Organization</u>	<u>Number of Employees Represented</u>
Confidential.....	6
Dispatchers.....	22
Electrical Utility.....	32
Executive.....	15
Fire.....	44
General Services Employees.....	94
Maintenance & Operations.....	90
Mid-Management.....	68
Police.....	<u>58</u>
Total.....	<u>429</u>

**Retirement System**

Substantially all of the employees of the City are members of the California Public Employees Retirement System ("PERS"). As of June 30, 2001, PERS had separate contracts with the State of California and local public agencies, including coverage for school and community college districts. Membership includes safety, state industrial, and miscellaneous groups. Each group has somewhat differing programs and amounts of actuarial liabilities.

Employee contributions to PERS are accomplished through automatic paycheck deductions. The City's contribution rate is determined by periodic actuarial valuations based on the benefit formula and the number of employees and their respective salary schedules. The combined contribution (the City's share and each employee's share, which is made by the City on the employee's behalf) during the fiscal year ended June 30, 2001, the amount was approximately \$542,539. As of June 30, 2001, the City had no unfunded pension benefit obligation.

## City Financial Information

***Budgetary Processes.*** The fiscal year of the City begins on the first day of July of each year and ends on the thirtieth day of June of the following year. The following procedures are used by the City in establishing the two-year budgetary data reflected in the financial plan and financial statements:

1. Prior to June 1, the City Manager submits to the City Council a proposed operating budget for the fiscal year commencing the following July 1. The operating budget includes proposed expenditures and the means of financing them.
2. Public hearings are conducted to obtain taxpayer comments.
3. Prior to July 1, the budget is legally enacted through passage of a resolution.
4. Expenditures may not legally exceed appropriations at the department level, for each legally adopted annual operating budget. The City Manager is authorized to transfer budgeted amounts between departments within any fund; however, any revisions that alter the total appropriations of any fund must be approved by the City Council.
5. Formal budgetary integration is employed as a management control device during the year for the General Fund, Special Revenue Funds and Capital Projects Funds.
6. Budgeted amounts are as originally adopted by June 30, or as amended by the City Council. Individual amendments were not material in relation to the original appropriations.
7. Under a one-year budget, appropriations lapse at year-end unless they are encumbered by contract or purchase order. The two-year budget allows for the unexpended operating budget balances to be carried forward to the second year of the financial plan. To ensure fund balance projections remain on target, any unexpended operating balances are reduced if the actual revenue received is materially less than the estimated revenue projected in the financial plan.

The City's 2001-03 Financial Plan and Budget was approved by the City Council on June 27, 2001. The following table sets forth the approved budget for fiscal years 2000-01, 2001-02 and 2002-03, and the actual resources and expenditures for 2000-01.

**CITY OF LODI**  
**General Fund**  
**Approved Budget for Fiscal Years 2001-2003**  
**and Actual Results for Fiscal Year 2000-01**

	<u>2000-01 Approved Budget</u>	<u>2000-01 Actual</u>	<u>Variance</u>	<u>2001-02 Approved Budget</u>	<u>2002-03 Approved Budget</u>
<b>Revenues</b>					
Tax Revenues.....	\$18,101,694	\$19,051,180	\$ 949,486	\$18,486,570	\$18,830,080
Licenses and Permits.....	734,901	855,925	121,024	1,484,670	1,502,445
Fines and Forfeits.....	228,192	248,565	20,373	702,245	749,310
Investment/Property Revenues.....	417,364	534,755	117,391	402,390	402,666
Revenue from Others .....	3,816,057	3,806,630	(9,427)	3,759,290	4,666,451
Service Charges.....	2,345,006	2,158,593	(186,413)	1,852,765	1,795,625
Miscellaneous Revenue.....	192,416	200,008	7,592	44,035	44,220
<b>Total Revenue .....</b>	<b>\$25,835,630</b>	<b>\$26,855,656</b>	<b>\$1,020,026</b>	<b>\$26,731,965</b>	<b>\$27,990,797</b>
<b>Expenditures</b>					
<b>Operating Programs</b>					
Public Safety .....	\$12,909,336	\$12,843,103	\$ 66,233	\$12,918,125	\$13,480,725
Transportation .....	2,028,863	2,006,558	22,305	1,992,664	2,214,010
Leisure, Cultural and Social Services.....	4,086,881	3,870,639	216,242	3,902,660	3,946,930
Community and Economic Development .....	3,047,889	2,943,478	104,411	3,261,635	3,255,215
General Government .....	8,697,887	8,108,314	594,573	8,034,515	8,208,170
<b>Total Operating Programs .....</b>	<b>\$30,770,856</b>	<b>\$29,767,092</b>	<b>\$1,003,764</b>	<b>\$30,109,599</b>	<b>\$31,105,050</b>
Revenues/Expenditures (Over/Under) .....	(\$4,935,226)	(\$2,911,436)	(\$2,023,790)	(\$3,377,634)	(\$3,114,253)
<b>Other Sources (Uses)</b>					
Operating Transfers In .....	\$4,188,561	\$4,188,561	\$ 0	5,058,295	5,008,295
Operating Transfers Out.....	(2,279,905)	(2,279,905)	0	(2,809,995)	(2,809,977)
Other Sources (Uses) .....	0	0	0	1,129,334	960,080
<b>Total Other Sources (Uses) .....</b>	<b>1,908,656</b>	<b>1,908,656</b>	<b>0</b>	<b>3,377,634</b>	<b>3,158,398</b>
Fund Balance Beginning of the Year .....	\$4,632,003	\$4,632,003	\$ 0	\$3,629,233	\$3,629,233
Fund Balance End of the Year	1,605,433	3,629,223	2,023,790	3,629,233	3,673,358
Designated Reserve.....	--	--	--	--	--
Unreserved.....	1,605,433	3,629,223	2,023,223	3,629,233	3,673,358
<b>Total Fund Balance</b>	<b>\$1,605,433</b>	<b>\$3,629,233</b>	<b>\$2,023,223</b>	<b>\$3,629,233</b>	<b>\$3,673,358</b>

**Potential Impact of Current State Economic Conditions on the City.** In November 2001, the State Legislative Analyst's Office released projections of the State's fiscal position for Fiscal Years 2001-02 through 2006-07. The report projected that the State will end Fiscal Year 2001-02 with a deficit of \$4.5 billion, compared to the \$2.6 billion reserve assumed in the 2001-02 State Budget Act. The projected deficit for Fiscal Year 2002-03 was set at \$12.4 billion or higher. The State Department of Finance has issued a set of recommended spending cuts (totaling approximately \$2.3 billion) to the 2001-02 budget plan in an effort to address the projected deficit. The recommended budget cuts include a number of program of interest to local governments, such as the City. Among the proposed reductions are: (i) the elimination of the Jobs/Housing Balance program, (ii) a \$30 million reduction in funding for local district projects, (iii) a \$44 million reduction in Parks and Recreation spending, and (iv) \$843.5 million in reversions from education programs. In addition, it has been reported that potential reductions in vehicle license fee revenues to local governments are being considered. Implementation of any of the proposed reductions will require legislative action. The City is unable to predict at this time what actions the State will ultimately take to balance the State budget or the magnitude of any reductions in State funding received by the City; however, at this time, the City does not expect any of the proposed actions will have a material adverse impact on the City's finances.

**General Fund Financial Summary.** All governmental funds are accounted for using the modified accrual basis of accounting. The City's revenues are recognized when they become measurable and available as net current assets.

Expenditures are generally recognized under the modified accrual basis of accounting when the related fund liability is incurred. The exception to this general rule is principal and interest on general long-term debt, which is recognized when due. Some debts and obligations may be payable from self-supporting enterprises or revenue sources other than property taxation. Special assessment bonds are not included in the tabulation; lease revenue obligations payable from the General Fund or equivalent sources are included.

All proprietary funds are accounted for using the accrual basis for accounting. Revenues are recognized when they are earned, and expenses are recognized when they are incurred. Receivables are recorded and determined at the time of consumption, and unbilled receivables are not recorded.

The following five-year summary of the City's General Fund has been prepared by the City of Lodi Finance Department from audited financial statements. The City's audited financial statements for the fiscal year ended June 30, 2001 are attached hereto as Appendix B. The City has retained the firm of KPMG Peat Marwick LLP, Sacramento, California to prepare the audit report for the fiscal year ended June 30, 2001.

**CITY OF LODI  
GENERAL FUND  
COMPARATIVE STATEMENTS OF REVENUES, EXPENDITURES  
AND CHANGES IN FUND BALANCE  
Fiscal Years ended June 30, 1997 through 2001**

	1997	1998	1999	2000	2001
<b>REVENUES</b>					
Taxes.....	\$15,248,107	\$15,934,102	\$16,633,299	\$17,573,705	\$19,379,363
License and permits .....	1,012,418	1,182,610	1,266,630	1,405,935	1,592,227
Intergovernmental revenues.....	3,067,280	2,773,240	2,714,356	3,748,649	4,025,225
Changes for services .....	1,039,313	1,253,326	1,307,379	1,411,163	1,642,660
Fines, forfeits and penalties.....	452,717	661,783	878,245	714,051	765,223
Interest and rental income .....	204,152	331,713	644,532	572,239	745,405
Miscellaneous revenue.....	78,102	112,924	71,301	161,996	76,520
Total revenues.....	<u>\$21,102,089</u>	<u>\$22,249,698</u>	<u>\$23,515,742</u>	<u>\$25,587,738</u>	<u>\$28,226,623</u>
<b>EXPENDITURES</b>					
Current					
General government.....	\$ 5,881,669	\$ 7,068,021	\$ 7,238,903	\$ 7,774,589	\$ 8,862,277
Public protection .....	10,962,385	10,741,898	11,096,702	11,353,514	12,804,032
Public works.....	4,976,682	4,482,728	4,544,180	4,493,714	5,298,598
Library .....	1,012,109	965,606	1,029,669	1,039,971	1,183,449
Parks and Recreation.....	2,312,379	2,173,645	2,230,233	2,669,872	2,802,186
Capital Outlay.....	--	695,395	--	--	--
Total expenditures.....	<u>\$25,145,224</u>	<u>\$26,127,293</u>	<u>\$26,139,687</u>	<u>\$27,331,660</u>	<u>\$31,620,314</u>
<b>DEFICIENCY OF REVENUES UNDER EXPENDITURES.....</b>					
	(\$4,043,135)	(\$3,877,595)	(\$2,623,945)	(\$1,743,922)	(\$3,393,691)
<b>OTHER FINANCING SOURCES (USES)</b>					
Operating transfers in.....	4,519,310	4,663,490	4,245,037	3,995,011	(3,393,691)
Operating transfers out.....	(1,337,846)	(1,730,100)	(1,182,005)	(1,173,745)	(2,329,905)
Residual equity transfer	--	--	10,313	--	--
Capital lease proceeds	--	695,395	--	--	(699,772)
Total other financing sources.....	<u>\$3,181,464</u>	<u>\$3,628,785</u>	<u>\$3,073,345</u>	<u>\$2,821,266</u>	<u>\$2,528,428</u>
<b>EXCESS (DEFICIENCY) OF REVENUES AND OTHER FINANCING SOURCES OVER (UNDER) EXPENDITURES.....</b>					
	(\$861,671)	(\$248,810)	\$ 449,400	\$1,077,344	(\$865,263)
<b>FUND BALANCE, BEGINNING OF YEAR .....</b>					
	\$3,371,957	\$2,510,286	\$2,261,476	\$2,710,876	\$3,788,220
Adjustments to fund balance					
	--	--	--	--	1,022,721
Fund Balance, June 30, 2000, as restated <sup>(1)</sup> .....	<u>\$3,371,957</u>	<u>\$2,510,286</u>	<u>\$2,261,476</u>	<u>\$2,710,876</u>	<u>\$4,810,941</u>
<b>FUND BALANCE END OF YEAR .....</b>	<u>\$2,510,286</u>	<u>\$2,261,476</u>	<u>\$2,710,876</u>	<u>\$3,788,220</u>	<u>\$3,945,678</u>

Source: City of Lodi Finance Department.

**Recent Financial Performance.** The City of Lodi ended Fiscal Year 2000-01 with a combined General Fund/Reserved and Unreserved balance of \$3,945,678.

One reason for Lodi's sound financial situation is a diversified revenue base that underscores the City's strong belief in avoiding dependence on just one industry or major retailer. In fact, Lodi's top 15 sales tax producers include automobile dealerships, membership warehouse department stores, building materials stores, grocery stores, service stations and light industries.

The following table illustrates the City's primary General Fund sources (those over \$1 million) over the last five years;

<b>Fiscal Year Ended June 30,</b>					
<b>Revenue Source</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
Sales Tax .....	\$ 5,950,307	\$ 6,204,986	\$ 6,623,512	\$ 7,095,460	\$ 8,028,226
Property Tax .....	4,224,610	4,374,429	4,516,856	4,931,835	5,322,426
Utility Users Tax .....	<u>5,347,500</u>	<u>5,545,549</u>	<u>5,626,699</u>	<u>5,721,000</u>	<u>6,015,207</u>
Total .....	\$15,522,417	\$16,124,964	\$16,767,067	\$17,748,295	\$19,365,899

\* Unaudited.

**City Investments.** The funds of the City are invested by the City Treasurer. The cash balances of all operating funds of the City of Lodi, including the General Fund, enterprise funds, and other related entities, are invested in accordance with the investment guidelines of the California Government Code (Sections 53601 and 53635) and the City's Investment Policy, which is presented annually to the City Council for approval. The referenced sections of the Government Code and the Investment Policy provide the approved credit standards, investment objectives, and specific constraints of authorized investments. On a monthly basis, City investments are reviewed and included in the City's Executive Report to allow the City Council members to review transactions and overall compliance with the Government Code and Investment Policy. On a quarterly basis, the City Treasurer prepares an investment activity and positions report for review by the City Council.

The primary investment strategy for the City is to provide adequate liquidity. This is achieved by covering the expected cash disbursements with revenues and maturities for the next rolling six-month period. After satisfying liquidity, any idle cash is used to prudently maximize yield. Longer-term strategies are developed and followed after considering long-term cash flow needs, current projected economic conditions and the prudent diversification of maturities.

As of June 30, 2001, the market value of investments was \$23,710,079.75 with an original cost of \$23,627,373.10. The portfolio's average life was 409 days with an average weighted purchase yield of 5.774%.

**Interfund Borrowing and Cash Flows.** General Fund expenditures tend to occur in level amounts throughout the Fiscal Year. Conversely, General Fund receipts have followed an uneven pattern primarily as a result of secured property tax installment payment due dates in April and December and as a result of delays in payments from other governmental agencies, which represent the largest sources of City revenues. As a result, General Fund cash balances have typically declined or been negative for part of the Fiscal Year and, if negative, have been covered by interfund borrowings pursuant to Section 6 of Article XVI of the California Constitution or Tax and Revenue Anticipation Notes. The State Constitution prohibits interfund borrowings by cities after the last Monday of April of each Fiscal Year of amounts that exceed 85% of taxes accrued.

**General Fund Obligation Debt Service.** Upon the delivery of the Certificates and the defeasance of the Refunded Certificates (see "PLAN OF FINANCE – Refunding of Refunded Certificates" in the forepart of this Official Statement), the City will have no outstanding long-term General Fund obligations other than the Certificates. See "APPENDIX I- LEASE PAYMENT SCHEDULE" for a schedule of the debt service payments for the Certificates.

**Assessed Valuation and Tax Collections.** Taxes are levied for each Fiscal Year on taxable real and personal property which is situated in the City as of the preceding March 1. For assessment and collection purposes, property is classified either as “secured” or “unsecured” and is listed accordingly on separate parts of the assessment roll. The “secured roll” is that part of the assessment roll containing State-assessed property and real property having a tax lien that is sufficient, in the opinion of the County Assessor, to secure payment of the taxes. Other property is assessed on the “unsecured roll.”

Property taxes on the secured roll are due as of the March 1 lien date and become delinquent, if unpaid, on August 31. A 10% penalty attaches to delinquent taxes on property of the unsecured roll, and an additional penalty of 1.5% per month begins to accrue commencing on November 1 of the Fiscal Year. Collection of delinquent unsecured taxes is the responsibility of the County of San Joaquin using the several means legally available to it.

In 1993, the City made an agreement with San Joaquin County to participate the Teeter Plan pursuant to provisions of Sections 4701-4717 of the California Revenue and Taxation Code. The Teeter Plan is an alternative method of apportioning property tax money. Pursuant to those sections the accounts of all political subdivisions that levy taxes on the County tax rolls are credited with 100% of their respective tax levies regardless of actual payments and delinquencies. The cities covered under the plan receive 95% of the property taxes in advance from the County and the 5% remaining after reconciling the cities’ balances at June 30. As part of the agreement, the County keeps the penalties and interest on the delinquent taxes.

**CITY OF LODI  
ASSESSSED VALUATIONS  
For Fiscal Years 1997 through 2001  
(In thousands)**

Fiscal Year	Land	Improvements	Personal Property	Total	Less Exemptions	Net Assessed Value
1996-97	\$709,296	\$1,673,877	\$209,827	\$2,593,000	\$172,945	\$2,420,055
1997-98	728,900	1,705,635	214,038	2,648,573	176,500	2,472,073
1998-99	756,166	1,748,387	220,240	2,724,793	179,835	2,544,958
1999-00	787,249	1,847,800	239,118	2,874,167	183,294	2,690,873
2000-01	832,788	1,982,668	245,269	3,060,725	185,473	2,875,252

Source: City of Lodi audited financial statements.

The following table shows the City's secured property tax charges and delinquencies.

**CITY OF LODI  
SECURED PROPERTY TAX COLLECTIONS  
For Fiscal Years 1991 through 2001  
(\$ in thousands)**

Fiscal Year	Total Tax Levy	Current Year's Tax Collections	Percent of Collections to Tax Levy	Delinquent Tax Collections	Total Tax Collections	Percent of Total Collections to Tax Levy
1991	\$4,286	\$3,847	89.8%	\$351	\$4,198	97.9%
1992	4,175	4,105	98.3	169	4,274	102.4
1993	4,375	3,809	87.1	90	3,899	89.1
1994	3,639	3,461	95.1	624	4,085	112.3
1995	3,670	3,516	95.8	9	3,525	96.0
1996	3,781	3,615	95.6	-	3,615	95.6
1997	3,827	3,682	96.2	-	3,682	96.2
1998	4,444	4,433	99.8	-	4,433	99.8
1999	4,653	4,578	98.4	-	4,578	98.4
2000	5,056	4,917	97.3	-	4,917	97.3
2001	5,182	5,118	98.8	-	5,118	98.8

Source: City of Lodi audited financial statements.

**Ten Largest Locally Secured Taxpayers**

The following table shows the ten largest locally secured taxpayers of the City for the Fiscal Year ended June 30, 2001, the most recent year for which such information is available.

**CITY OF LODI  
TEN LARGEST LOCALLY SECURED TAXPAYERS  
Fiscal Year Ended June 30, 2001**

Name	Assessed Valuation
1. General Mills, Inc.	\$175,048,560
2. Pacific Coast Producers	44,686,153
3. Dayton Hudson Corp.	15,623,172
4. California Waste Removal System	14,353,902
5. GFLIP Limited Partners	12,941,356
6. Dart Container Corporation	12,885,034
7. Wells Fargo Bank	11,774,891
8. First Lodi Plaza Associates	11,620,333
9. Wallace Computer Service	10,737,902
10. Edmund N. Richmond	10,455,000
<b>TOTAL</b>	<b>\$320,126,303</b>

Source: City of Lodi audited financial statements; San Joaquin County Assessor's Office.

These ten largest locally secured taxpayers represent 11.82% of the City's assessed valuation.

**Estimated Direct and Overlapping Bonded Debt.** The estimated direct and overlapping bonded debt of the City as of January 1, 2002 is set forth below.

**CITY OF LODI  
ESTIMATED DIRECT AND OVERLAPPING BONDED DEBT  
as of January 1, 2002**

2001-02 Assessed Valuation: \$3,177,318,291

<u>OVERLAPPING TAX AND ASSESSMENT DEBT:</u>	<u>% Applicable</u>	<u>Debt 1/1/02</u>
City of Lodi 1915 Act Bonds	100.	<u>\$1,420,000</u>
<b>TOTAL OVERLAPPING TAX AND ASSESSMENT DEBT</b>		<b>\$1,420,000</b>
<u>DIRECT AND OVERLAPPING GENERAL FUND OBLIGATION DEBT:</u>		
San Joaquin County Certificates of Participation	10.628%	\$17,436,828
San Joaquin Delta Community College District Certificates of Participation	10.192	638,529
Lodi Unified School District Certificates of Participation	42.082	3,755,819
<b>City of Lodi Certificates of Participation</b>	<b>100.</b>	<b><u>8,440,000</u><sup>(1)</sup></b>
<b>TOTAL DIRECT AND OVERLAPPING GENERAL FUND OBLIGATION DEBT</b>		<b>\$30,271,176</b>
<b>COMBINED TOTAL DEBT</b>		<b>\$31,691,176<sup>(2)</sup></b>

- (1) Excludes certificates of participation to be sold.
- (2) Excludes tax and revenue anticipation notes, revenue, mortgage revenue and tax allocation bonds and non-bonded capital lease obligations.

Ratios to Assessed Valuation:

<b>Combined Direct Debt (\$8,440,000)</b> .....	<b>0.27%</b>
Total Overlapping Tax and Assessment Debt.....	0.04%
Combined Total Debt.....	1.00%

STATE SCHOOL BUILDING AID REPAYABLE AS OF 6/30/01: \$21,308

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Source: California Municipal Statistics, Inc.

## Limitations on Taxes and Appropriations

**Article XIII A Proposition 13.** Article XIII A of the California Constitution limits the amount of *ad valorem* taxes on real property to 1% of “full cash value” as determined by the County Assessor. Article XIII A defines “full cash value” to mean the County Assessor’s valuation of real property as shown on the 1975-76 tax bill under full cash value, or thereafter, the appraised value of real property when purchased, newly constructed, or when a change in ownership has occurred after the 1975 assessment period. “Changes in ownership” does not include purchases or transfers when the person acquiring the property was displaced by eminent domain, inverse condemnation, or acquisition of property by a government entity, or certain transfers between spouses or parents or children. “Newly constructed” does not include real property constructed after a disaster where the property reconstructed is comparable in value to that destroyed. Furthermore, all real property valuation may be increased to reflect the inflationary rate, as shown by the consumer price index, not to exceed 2% per year, or may be reduced. Article XIII A exempts from the 1% limitation any taxes to repay indebtedness approved by the voters prior to July 1, 1978, and requires approval by two-thirds of the qualified electorate to impose special taxes, while generally precluding the imposition of additional *ad valorem*, sales or transaction tax on real property. In addition, Article XIII A requires the approval of two-thirds of all members of the State legislature to change any State tax laws resulting in increased tax revenues.

On June 3, 1986, California voters approved Proposition 46, which added an additional exemption to the 1% tax limitation imposed by Article XIII A. Under this amendment to Article XIII A, local governments and school districts may increase the property tax rate above 1% for the period necessary to retire new general obligation bonds, if two-thirds of those voting in a local election approve the issuance of such bonds and the money raised through the sale of the bonds is used exclusively to acquire or improve real property.

On June 18, 1992, the United States Supreme Court upheld the constitutionality of certain challenged provisions of Article XIII A in connection with its review of the *Nordlinger v. Hahn* case.

**Article XIII B Gann Limit.** On November 6, 1979, California voters approved Proposition 4, the so-called Gann Initiative, which added Article XIII B to the California Constitution. In June 1990, Article XIII B was amended by the voters through their approval of Proposition 111. Article XIII B of the California Constitution limits the annual appropriations of the State and any city, county, school district, authority or other political subdivision of the State to the level of appropriations for the prior Fiscal Year (which begins on July 1 and ends on June 30), as adjusted annually for changes in the cost of living, population and services rendered by the governmental entity. The “base year” for establishing such appropriation limit used to be the 1978-79 Fiscal Year, but is now the 1986-87 Fiscal Year as a result of Proposition 111. Increases in appropriation by a governmental entity are also permitted (i) if financial responsibility for providing services is transferred to the governmental entity, or (ii) for emergencies so long as the appropriations limits for the three years following the emergency are reduced to prevent any aggregate increase above the Constitutional limit. Decreases are required where responsibility for providing services is transferred from the governmental entity.

Appropriations subject to Article XIII B include generally any authorization to expend during the Fiscal Year the proceeds of taxes levied by the State or other entity of local government, exclusive of certain State subventions, refunds of taxes, benefit payments from retirement, unemployment insurance and disability insurance funds. Appropriations subject to limitation pursuant to Article XIII B do not include debt service on indebtedness existing or legally authorized as of January 1, 1979, on bonded indebtedness thereafter approved according to law by a vote of the electors of the issuing entity voting in an election for such purpose, appropriations required to comply with mandates of courts or the federal government, appropriations for qualified capital outlay projects, and appropriations by the State of revenues derived from any increase in gasoline taxes and motor vehicle weight fees above January 1, 1990 levels. “Proceeds of taxes” include, but are not limited to, all tax revenues and the proceeds to any entity of government from (1) regulatory licenses, user charges, and user fees to the extent such proceeds exceed the cost of providing the service or regulation, (2) the investment of tax revenues and (3) certain State subventions received by local governments. Article XIII B includes a requirement that if any entity’s revenues in any year exceed the amount permitted to be spent, the excess would have to be returned by revising tax rates or fee schedules over the subsequent two Fiscal Years. For the Fiscal Year ended June 30, 2001, the City’s appropriations

limit is estimated to be \$51,843,597, with appropriations subject to the limit estimated to be approximately 3.37% of the appropriations limit.

**Proposition 62.** A statutory initiative (“Proposition 62”) was adopted by the voters voting in the State at the November 4, 1986 General Election which (1) requires that any tax for general governmental purposes imposed by local governmental entities be approved by resolution or ordinance adopted by two-thirds vote of the governmental agency’s legislative body and by a majority of the electorate of the governmental entity, (2) requires that any special tax (defined as taxes levied for other than general governmental purposes) imposed by a local governmental entity be approved by a two-thirds vote of the voters within that jurisdiction, (3) restricts the use of revenues from a special tax to the purposes or for the service for which the special tax was imposed, (4) prohibits the imposition of *ad valorem* taxes on real property by local governmental entities except as permitted by Article XIII A, (5) prohibits the imposition of transaction taxes and sales taxes on the sale of real property by local governmental entities and (6) requires that any tax imposed by a local governmental entity on or after March 1, 1985 be ratified by a majority vote of the electorate within two years of the adoption of the initiative or be terminated by November 15, 1988.

Following its adoption by the voters, various provisions of Proposition 62 were declared unconstitutional at the appellate court level. On September 28, 1995, however, the California Supreme Court, in *Santa Clara County Local Transportation Authority v. Guardino* (“*Guardino*”), upheld the constitutionality of the portion of Proposition 62 requiring a two-thirds vote in order for a local government or district to impose a special tax, and, by implication, upheld a parallel provision requiring a majority vote in order for a local government or district to impose any general tax. The *Guardino* decision did not address the question of whether or not it should be applied retroactively.

Disapproving a December 15, 1997 holding in *McBrearty v. City of Brawley* in which the State Court of Appeals concluded that the three-year statute of limitations applicable to taxes subject to Proposition 62 requirements ran from the date of the *Guardino* decision, the California Supreme Court, on June 4, 2001 in *Howard Jarvis Taxpayers Association v. City of La Habra*, held that a local governmental entity’s continued imposition of and collection of a tax without voter approval was an ongoing or continuous violation of Proposition 62 and that the validity of a tax measure may be challenged within the statutory period after any collection of the tax, regardless of whether more than three years had passed since the tax measure was adopted.

As a result of this ruling, absent the application of a different statute of limitations, a tax originally imposed in violation of Proposition 62 requirements is potentially subject to court challenge within three years of its collection. The City has business license taxes which may be subject to Proposition 62. The taxes generate approximately \$736,000 per year.

Proposition 62 provides that if a jurisdiction imposes a tax in violation of its requirements, the portion of the 1% general *ad valorem* property tax levy allocated to that jurisdiction is reduced by \$1 for every \$1 in revenue attributable to the improperly imposed tax for each year that such tax is collected. The practical applicability of this provision has not been determined. Future litigation and legislation may resolve some or all of the issues raised by the *Guardino* and *City of La Habra* decisions.

**Proposition 218.** On November 5, 1996, the voters of the State approved Proposition 218, known as the “Right to Vote on Taxes Act.” Proposition 218 adds Articles XIII C and XIII D to the California Constitution and contains a number of interrelated provisions affecting the ability of the City to levy and collect both existing and future taxes, assessments, fees and charges. The interpretation and application of Proposition 218 will ultimately be determined by the courts with respect to a number of the matters discussed below, and it is not possible at this time to predict with certainty the outcome of such determination.

Article XIII C requires that all new local taxes be submitted to the electorate before they become effective. Taxes for general governmental purposes of the City require a majority vote and taxes for specific purposes, even if deposited in the City’s General Fund, require a two-thirds vote. Further, any general purpose tax which the City imposed, extended or increased without voter approval after December 31, 1994 may continue to be imposed only if approved by a majority vote in an election which must be held within two years of November 5, 1996. The voter approval requirements of Article XIII C reduce the flexibility of the City to raise revenues for the General Fund, and

no assurance can be given that the City will be able to impose, extend or increase such taxes in the future to meet increased expenditure needs.

The City currently imposes the following general taxes: property tax, sales and use tax, documentary transfer tax. Since all of these taxes were imposed prior to January 1, 1995 and have not been extended or increased since such date, such taxes should be exempt from the requirements of Article XIII C. Any future increases in these taxes, however, would be subject to the voter requirement of Article XIII C.

Article XIII D also adds several provisions making it generally more difficult for local agencies to levy and maintain fees, charges, and assessments for municipal services and programs. These provisions include, among other things, (i) a prohibition against assessments which exceed the reasonable cost of the proportional special benefit conferred on a parcel, (ii) a requirement that assessments must confer a "special benefit," as defined in Article XIII D, over and above any general benefits conferred, (iii) a majority protest procedure for assessments which involves the mailing of notice and a ballot to the record owner of each affected parcel, a public hearing and the tabulation of ballots weighted according to the proportional financial obligation of the affected party, and (iv) a prohibition against fees and charges which are used for general governmental services, including police, fire or library services, where the service is available to the public at large in substantially the same manner as it is to property owners.

The City also levies assessments for the downtown improvement districts under the California improvement district acts, which assessments total \$202,925 annually. Each of such assessments (which the City believes are otherwise exempt from the procedures and approval process under Article XIII D) secure bonded indebtedness payable from such assessments and have no claim on the City's General Fund.

Article XIII C also removes limitations on the initiative power in matters of reducing or repealing local taxes, assessments, fees or charges. No assurance can be given that the voters of the City will not, in the future, approve an initiative or initiatives which reduce or repeal local taxes, assessments, fees or charges currently comprising a substantial part of the City's General Fund. If such repeal or reduction occurs, the City's operations could be adversely affected.

**Future Initiatives.** Article XIII A, Article XIII B, Article XIII C, Article XIII D, Proposition 62 and certain other propositions affecting property tax levies or sales taxes were adopted as measures that qualified for the ballot pursuant to California's initiative process. From time to time other initiative measures could be adopted by California voters. The future adoption of any such initiatives might place limitations on the ability of the City to increase revenues or to increase appropriations.

## **City Economic and Demographic Information**

**Population.** The following chart indicates the growth in the population of the City since 1992.

**CITY OF LODI  
POPULATION  
For Years 1992 through 2001**

Year (as of January 1)	Population
1992	52,940
1993	52,936
1994	53,042
1995	53,575
1996	54,432
1997	55,042
1998	55,681
1999	56,926
2000	58,600
2001	58,953

Source: State of California, Department of Finance.

**Employment.** Employment in the City was 25,890 in 1996 and 28,680 in 2000, representing a 10.8% increase over the five-year period. The unemployment rate ranged from 8.2% in 1996 to 6.5% in 2000. Statewide unemployment rates were 7.2% in 1996 and 4.9% in 2000.

**CITY OF LODI  
EMPLOYMENT, UNEMPLOYMENT AND LABOR FORCE  
Averages for each of the Calendar Years 1996-2000**

	1996	1997	1998	1999	2000
Employment	25,890	26,540	29,300	27,720	28,680
Unemployment	2,390	2,270	2,280	1,920	1,990
Civilian Labor Force	28,230	28,810	27,020	29,640	30,670
Unemployment Rate	8.2%	7.9%	7.8%	6.5%	6.5%
State Unemployment Rate	7.2%	6.3%	5.9%	5.2%	4.9%

Source: State of California, Employment Development Department.

**Major Employers.** There are several manufacturing plants in the community area with a wide variety of products: cereals, food mixes, wines, rubber products, steel framing and industrial shelving, foundry items, recreational vehicle components, electronic substrates, and plastic piping and injection molded products. In addition, Lodi has a number of small businesses located within the City. The main businesses in Lodi, however, are food processes and plastics.

The largest employers in Lodi as of June 30, 2001 are as follows:

**CITY OF LODI  
LARGEST EMPLOYERS**

Employer	Business	Number of Employees
Lodi Unified School District	Education	2,247
Lodi Memorial Hospital	Health Care	650
General Mills	Cereals and Food Mixes	575
Pacific Coast Producers	Can Manufacture and Cannery	530
City of Lodi	Government	387
Wal-Mart	General Merchant	226
Target	General Merchant	200
Lodi Fab Industries, Inc.	Industrial Storage Racks	200
Valley Industries	Trailer Hitches	191
Farmers and Merchants	Banking	183

Source: City of Lodi audited financial statements.

**Building Permit Activity.** The following table shows the value of building permits issued in the City between 1996 and 2000.

**CITY OF LODI  
BUILDING PERMIT VALUATION  
for Calendar Years 1996 through 2000**

	1996	1997	1998	1999	2000
Residential Valuation (in thousands)					
Single Family	\$22,343	\$19,530	\$37,313	\$36,972	\$46,499
Multifamily	<u>327</u>	<u>10,447</u>	<u>583</u>	<u>1,179</u>	<u>308</u>
TOTAL	\$22,671	\$29,977	\$37,896	\$38,151	\$46,808
New Dwelling Units					
Single Family	166	131	234	239	300
Multiple Family	<u>4</u>	<u>198</u>	<u>6</u>	<u>8</u>	<u>2</u>
TOTAL	170	329	240	247	302

Source: Economic Sciences Corporation.

**Taxable Sales.** The following table indicates taxable transactions in the City by type of business during the calendar years 1996 through 2000.

**CITY OF LODI**  
**TAXABLE TRANSACTIONS BY TYPE OF BUSINESS<sup>(1)</sup>**  
**for Calendar Years 1996 through 2000**  
**(in Thousands of Dollars)**

	1996	1997	1998	1999	2000 <sup>(4)</sup>
Apparel Stores	\$ 5,651	\$ 5,633	\$ 5,020	\$ 4,778	\$ 3,349
General Merchandise	84,977	105,423	111,930	120,952	88,923
Drug Stores <sup>(2)</sup>	13,411	--	--	--	--
Food Stores	34,029	34,247	34,344	37,328	31,494
Packaged Liquor Stores <sup>(3)</sup>	6,150	--	--	--	--
Eating & Drinking Places	44,598	45,349	46,316	49,803	39,156
Home Furn. & Appliances	12,808	12,136	17,319	22,254	13,804
Bldg. Mat. & Farm Impl.	31,858	29,865	32,424	39,369	34,912
Auto Dirs. & Auto Suppl.	102,788	101,933	106,531	123,667	104,497
Service Stations	35,095	35,746	29,203	36,491	34,034
Other Retail Stores	<u>30,502</u>	<u>39,759</u>	<u>45,689</u>	<u>47,022</u>	<u>36,589</u>
Retail Stores Total	401,867	410,091	428,856	481,664	386,758
All Other Outlets	<u>116,000</u>	<u>130,660</u>	<u>133,453</u>	<u>143,207</u>	<u>114,041</u>
TOTAL ALL OUTLETS	\$517,867	\$540,751	\$562,309	\$624,871	\$500,799

<sup>(1)</sup> Totals may not add due to independent rounding.

<sup>(2)</sup> Incorporated in General Merchandise in 1997.

<sup>(3)</sup> Incorporated in Food Stores in 1997.

<sup>(4)</sup> First three quarters.

Source: California State Board of Equalization

**Income.** The following table, based on data reported in the annual publication "Survey of Buying Power" published by Sales and Marketing Management, summarizes the total EBI and the median household EBI for the City, the County, the State and the nation for the years 1996 through 2000.

**TOTAL EFFECTIVE BUYING INCOME**  
**(in Thousands)**

Year	City of Lodi	County of San Joaquin	State of California	United States
1996	\$731,388	\$6,653,605	\$492,516,991	\$4,161,512,384
1997	815,078	6,961,426	524,439,600	4,399,998,035
1998	855,257	7,245,919	551,999,317	4,621,491,730
1999	915,963	7,767,125	590,376,663	4,877,786,658
2000	928,686	8,486,929	652,190,282	5,230,824,904

Source: "Survey of Buying Power," Sales & Marketing Management.

The following table compares the median household effective buying income for the City, the County, the State and the nation.

**MEDIAN HOUSEHOLD EFFECTIVE BUYING INCOME**

<u>Year</u>	<u>City of Lodi</u>	<u>County of San Joaquin</u>	<u>State of California</u>	<u>United States</u>
1996	\$31,492	\$31,329	\$35,216	\$33,482
1997	32,566	32,526	36,483	34,618
1998	32,807	32,720	37,091	35,377
1999	33,548	34,431	39,492	37,233
2000	35,391	37,496	44,464	39,129

Source: "Survey of Buying Power," Sales & Marketing Management.

**Agriculture.** Lodi is a worldwide agricultural shipping center for the San Joaquin Valley. The surrounding prime agricultural land is a major producer of wine grapes. The following table shows agriculture production in the County from 1996 through 2000.

**COUNTY OF SAN JOAQUIN  
AGRICULTURAL PRODUCTION  
1996 to 2000**

	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>
Field Crops	\$ 183,323,000	\$ 192,474,000	\$ 149,688,000	\$140,272,000	\$134,310,000
Seed Crops	4,604,000	8,918,000	9,584,000	11,668,000	7,662,000
Fruit and Nut Crops	544,330,000	659,518,000	500,049,000	576,830,000	596,311,000
Vegetable Crops	235,882,000	222,192,000	240,119,000	230,392,000	226,708,000
Nursery Products	97,930,000	97,059,000	74,115,000	81,937,000	88,257,000
Apiary Products	4,676,000	5,090,000	5,049,000	6,354,000	7,210,000
Livestock and Poultry	29,855,000	47,676,000	37,499,000	36,976,000	41,578,000
Livestock and Poultry Products	250,963,000	253,110,000	294,985,000	269,780,000	246,593,000
Total	\$1,351,363,000	\$1,486,037,000	\$1,311,088,000	\$1,354,209,000	\$1,348,629,000

Source: San Joaquin Office of the Agricultural Commissioner.

**Community Facilities.** The City has a central library, one community center, 25 parks and five specific use facilities, covering 263 developed areas and 110 undeveloped areas, and 16 playgrounds. Lodi Lake Park is connected to the Mokelumne River and features boating, fishing, beach swimming, boat rentals, nature walks, group picnic sites, an RV park and the Discovery Nature Center. Micke Grove Park is located between Lodi and Stockton. The park is home to a Japanese garden, the San Joaquin Historical Museum, rides, picnic areas, and a five-acre zoo featuring mammals, birds, reptiles and vertebrates.

Community recreation programs cover a wide range of interests and activities including youth and adult sports and special interest classes, youth-at-risk programs, aquatics, special events, camps/clinics and tournaments.

Lodi Memorial Hospital offers a 181-bed, non-profit, independent, acute-care hospital to the residents of Lodi. Its mission is to provide quality medical care, education and support services to the community. Two hospital campuses and six satellite clinics are used to provide a variety of inpatient, outpatient, urgent, emergency and primary care services.

**Housing.** The City of Lodi housing market offers both older neighborhoods and newer executive developments. The average list price for residential property is \$174,600, and the median price is \$148,500.

**Education.** The Lodi Unified School District provides K-12 and special education programs. The area also is served by several private and parochial schools. The University of the Pacific, San Joaquin Delta Community College, California State University-Stanislaus/Turlock/Stockton Center, and the University of San Francisco satellite center are all within a 20-minute drive of Lodi. The University of California-Davis, California State University-Sacramento and the University of Southern California satellite center are within an hour's drive from Lodi.

**Transportation.** Lodi is served by interstate highway 5 and state highways 12 and 99 and is located on the main line of the Southern Pacific Railroad. A deep-water seaport and an airport are located approximately 15 miles south. Air service is available at the Stockton Metropolitan Airport just south of Lodi.

**APPENDIX B**  
**AUDITED FINANCIAL STATEMENTS**  
**OF THE CITY FOR THE FISCAL YEAR ENDED JUNE 30, 2001**

## APPENDIX C

### BOOK-ENTRY ONLY SYSTEM

#### General

The Certificates will be delivered in book-entry only form. DTC will act as securities depository for the Certificates. The Certificates will be issued as fully-registered certificates registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Certificate will be delivered for each maturity of the Certificates, in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended. DTC holds securities that its participants (the "Participants") deposit with DTC. DTC also facilitates the settlement among Participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in Participants' accounts, thereby eliminating the need for physical movement of securities certificates. Direct Participants include securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations ("Direct Participants"). DTC is owned by a number of its Direct Participants and by the New York Stock Exchange, Inc., the American Stock Exchange, LLC and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as securities brokers and dealers, banks, and trust companies that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). The Rules applicable to DTC and its Direct and Indirect Participants (collectively, "Participants") are on file with the Securities and Exchange Commission.

Purchases of the Certificates under the DTC system must be made by or through Direct Participants, which will receive a credit for the Certificates on DTC's records. The ownership interest of each actual purchaser of each Certificate ("Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase, but Beneficial Owners are expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Certificates are to be accomplished by entries made on the books of Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Certificates, except in the event that use of the book-entry system for the Certificates is discontinued.

To facilitate subsequent transfers, all Certificates deposited by Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co, or such other name as may be requested by an authorized representatives of DTC. The deposit of Certificates with DTC and their registration in the name of Cede & Co. effect no change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Certificates; DTC's records reflect only the identity of the Direct Participants to whose accounts such securities are credited, which may or may not be the Beneficial Owners. The Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. **The City, the Corporation and the Trustee will not have any responsibility or obligation to such DTC Participants or the persons for whom they act as nominees with respect to the Certificates.**

While the Certificates are in the book-entry-only system, prepayment and tender notices shall be sent to Cede & Co. If less than all of the Certificates are being prepaid, DTC's practice is to determine by lot the amount of the interest of each Direct DTC Participant in such issue to be prepaid.

Neither DTC nor Cede & Co. (nor such other DTC nominee) will consent or vote with respect to the Certificates. Under its usual procedures, DTC will mail an Omnibus Proxy to the City as soon as possible after the record date. The Omnibus Proxy assigns Cede Co.'s consenting or voting rights to those Direct Participants to whose accounts the Certificates are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, premium, if any, and interest payments with respect to the Certificates will be made to DTC or its nominee. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the City or the Trustee, on each payment date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payment on the date payable. Payments by Participants to Beneficial Owner will be governed by standing instructions and customer practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such participant and not of DTC, the Trustee, the Corporation or the City, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest to DTC is the responsibility of the City or the Trustee, disbursement of such payments to Direct Participants shall be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners shall be responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the Certificates at any time by giving reasonable notice to the City or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, Certificates are required to be printed and delivered as described in the Trust Agreement.

**The City, the Corporation and the Trustee cannot and do not give any assurance that DTC, DTC Participants or others will distribute payments of principal, interest or any premium with respect to the Certificates paid to DTC or its nominee as the registered owner, or any prepayment or other notices, to the Beneficial Owner, or that they will do so on a timely basis or will serve and act in the manner described in this Official Statement. The City, the Corporation and the Trustee are not responsible or liable for the failure of DTC or any DTC Participant to make any payment or give any notice to a Beneficial Owner with respect to the Certificates or any error or delay relating thereto.**

The foregoing description of the procedures and record-keeping with respect to beneficial ownership interest in the Certificates, payment of principal, premium, if any, interest and other payments on the Certificates to DTC Participants or Beneficial Owners, confirmation and transfer of beneficial ownership interests in such Certificates and other related transactions by and between DTC, the DTC Participants and the Beneficial Owners is based solely on information provided by DTC. Accordingly, no representations can be made concerning these matters and neither the DTC Participants nor the Beneficial

Owners should rely on the foregoing information with respect to such matters, but should instead confirm the same with DTC or the DTC Participants, as the case may be.

### **Discontinuance of DTC Services**

In the event that (a) DTC determines not to continue to act as securities depository for the Certificates or (b) the City determines to remove DTC from its functions as a depository, DTC's role as securities depository for the Certificates and use of the book-entry system will be discontinued. If the City fails to select a qualified securities depository to replace DTC, the City will cause the Trustee to execute and deliver new Certificates in fully registered form in such denominations and numbered in the manner determined by the Trustee and registered in the names of such persons as are requested in a written request of the City. The Trustee shall not be required to deliver such new Certificates within a period of less than 60 days from the date of receipt of such written request of the City. Upon such registration, such persons in whose names the Certificates are registered will become the registered owners of the Certificates for all purposes.

In the event that the book-entry system is discontinued, the following provisions would also apply: (a) Certificates may be presented for exchange at the Principal Office of the Trustee for the same aggregate principal amount of Certificates of other authorized denominations and of the same maturity and interest rate; (b) the Certificates may be transferred on the books required maintained by the Trustee under the Trust Agreement by the person in whose name it is registered, in person or by his duly authorized attorney, upon surrender of such Certificate for cancellation at the Principal Office of the Trustee, accompanied by a duly executed written instrument of transfer in a form acceptable to the Trustee; (c) for every exchange or transfer of Certificates, the Trustee may require the payment by any Owner requesting such transfer or exchange of any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer; (d) no transfer or exchange of Certificates shall be required to be made (i) between the date which is 15 days immediately preceding the selection of Certificates for prepayment and the date that notice of such prepayment is mailed, and (ii) as to any Certificate selected for prepayment; (e) all interest payments on the Certificates will be made on the payment dates therefor to the person appearing on the registration books maintained by the Trustee, such interest to be paid by check mailed by first-class mail to such Owner; provided that, at the option of any Owner of at least \$1,000,000 aggregate principal amount of Certificates, such interest may be transmitted by wire transfer to a bank account located in the United States of America; and (f) all payments of principal and premium on the Certificates will be made by check upon service thereof at the Principal Office of the Trustee.

**APPENDIX D**  
**SUMMARY OF PRINCIPAL LEGAL DOCUMENTS**

**APPENDIX E**  
**PROPOSED FORM OF OPINION OF SPECIAL COUNSEL**

**APPENDIX F**  
**PROPOSED FORM OF CONTINUING DISCLOSURE AGREEMENT**  
[TO COME]

**APPENDIX G**  
**SPECIMEN MUNICIPAL BOND INSURANCE POLICY**

**APPENDIX H**  
**LEASE PAYMENT SCHEDULE**

§ \_\_\_\_\_  
**CERTIFICATES OF PARTICIPATION**  
**(2002 Public Improvement Financing Project)**

**Evidencing Proportionate Interests of the Owners Thereof**  
**in Lease Payments to be made by the**  
**CITY OF LODI, CALIFORNIA**

\_\_\_\_\_  
CERTIFICATE PURCHASE CONTRACT  
\_\_\_\_\_

\_\_\_\_\_, 2002

City of Lodi  
Lodi, California

Ladies and Gentlemen:

The undersigned, Salomon Smith Barney Inc., as underwriter (the "Underwriter") hereby offers to enter into this Certificate Purchase Contract (the "Purchase Contract") with you, the City of Lodi, California (the "City") which, upon the City's acceptance of this offer, will be binding upon the City and upon the Underwriter. This offer is made subject to the City's written acceptance hereof on or before 11:00 P.M., San Francisco time, on the date hereof or such other time as the parties hereto mutually agree upon and, if not so accepted, will be subject to withdrawal by the Underwriter upon written notice (by telegraph or otherwise) delivered to the City at any time prior to the acceptance hereof by the City. Capitalized terms used herein not otherwise defined should have meanings ascribed to such terms in the hereinafter referenced Trust Agreement or the Lease.

1. Purchase, Sale and Delivery of the Series 2002 Certificates.

(a) Subject to the terms and conditions and in reliance upon the representations, warranties and agreements set forth herein, the Underwriter hereby agrees to purchase and the City agrees to sell to the Underwriter all (but not less than all) of the \$\_\_\_\_\_ aggregate principal amount of Certificates of Participation (2002 Public Improvement Financing Project) (the "Certificates"), evidencing proportionate interests of the owners thereof in certain lease payments to be made by the City under the terms of a Lease Agreement, dated as of January 1, 2002 (the "Lease"), between the City and the Lodi Public Improvement Corporation (the "Corporation"). The Certificates shall be executed and delivered pursuant to a Trust Agreement, dated as of January 1, 2002 (the "Trust Agreement"), by and among the City, the Corporation and BNY Western Trust Company, as trustee (the "Trustee").

The Certificates shall be substantially in the form described in, and shall be issued and secured under and pursuant to, and shall be payable and subject to prepayment as provided in the Trust Agreement. The Certificates shall have the maturities and shall bear interest at the rates per annum shown on Exhibit A hereto.

The Certificates are being executed and delivered to provide funds (i) to finance the costs of acquisition and construction of a new public safety building and parking garage for the City, (ii) to finance the costs of renovation of the City's existing public safety building, (iii) to finance the costs of development of a community park, (iv) to refund the City's \$\_\_\_\_\_ aggregate principal amount of outstanding Certificates of Participation (1995 Public Improvement Financing Project) (the "1995 Certificates") and the City's \$\_\_\_\_\_ aggregate principal amount of outstanding Certificates of Participation (1996 Public Improvement Financing Project) (the "1996 Certificates," and collectively with the 1995 Certificates, the "Refunded Certificates"), (v) to fund a reserve fund for the Certificates, (vi) to fund capitalized interest with respect to the Certificates, and (vii) to pay costs of delivery of the Certificates.

Pursuant to an Escrow Agreement, dated as of January 1, 2002 (the "Escrow Agreement"), by and between the City and BNY Western Trust Company, as escrow agent (the "Escrow Agent"), a portion of the proceeds of the Certificates, together with other available moneys, will be deposited into an escrow fund and applied to the purchase of certain federal securities, the principal of and interest on which will be sufficient (i) to pay on April 1, 2002 the outstanding 1995 Certificates at prepayment prices of 100% of the principal amount thereof plus accrued interest unpaid with respect thereto and (ii) to pay the principal and interest due with respect to the 1996 Certificates to and including October 1, 2006 and to redeem on October 1, 2006 the 1996 Certificates at a redemption price of 102% of the principal amount thereof plus accrued interest unpaid with respect thereto. Upon such deposit, the Refunded Certificates will no longer be deemed to be outstanding except as to the rights of the owners of such Refunded Certificates to receive payment from the amounts on deposit in the escrow fund therefor.

The Lease Payments to be made by the City pursuant to the Lease are payable by the City from its General Fund to the Corporation for the right to use and possession by the City of (i) the real property and facilities comprising the Lodi City Hall and Carnegie Forum, (ii) the real property and facilities comprising the City's existing Public Safety Building, (iii) the real property and facilities comprising the City's Hutchins Street Square, and (iv) the real property and facilities comprising the City's Fire Stations Nos. 2 and 3 (collectively, the "Property"). The County has covenanted under the Lease that it will take such action as may be necessary to include the Lease Payments in its annual budgets and to make the necessary annual appropriations therefor.

Pursuant to a Site and Facilities Lease, dated as of January 1, 2002 (the "Site Lease") by and between the City, as lessor, and the Corporation, as lessee, the City will lease to the Corporation certain of the real property upon which the Property is, or will be, located.

Pursuant to an Assignment Agreement, dated as of January 1, 2002 (the "Assignment Agreement") by and between the Corporation and the Trustee, the Corporation will assign to the Trustee, for the benefit of the Owners of the Certificates, substantially all of its rights under the Lease, including its rights to receive and collect the Lease payments to be paid by the City under and pursuant to the Lease.

The City will undertake, pursuant to a Continuing Disclosure Agreement (the "Continuing Disclosure Agreement"), by and between the City and the Trustee, to provide certain annual financial information and notices of the occurrence of certain events, if material. A form of the Continuing Disclosure Agreement is set forth in the Preliminary Official Statement and will also be set forth in the Official Statement.

The Trust Agreement, the Lease, the Site Lease, the Assignment Agreement, the Escrow Agreement and the Continuing Disclosure Agreement shall be collectively referred to herein as the "Financing Documents."

[The scheduled payment of principal of and interest with respect to the Certificates when due will be guaranteed under an insurance policy (the "Policy") to be issued concurrently with the delivery of the Certificates by \_\_\_\_\_ (the "Issuer").]

(b) The Underwriter shall pay to the City as the purchase price for the Certificates \$ \_\_\_\_\_ (which reflects an underwriting discount of \$ \_\_\_\_\_ and a net original issue discount of \$ \_\_\_\_\_), plus accrued interest to the Closing Date (as hereinafter defined).

2. Closing. At 8:00 A.M., California time, on January \_\_, 2002 or on such other date as may be mutually agreed upon by the City and the Underwriter (the "Closing Date"), the City, subject to the terms and conditions hereof, will cause the sale and delivery of the Certificates to the Underwriter, duly executed, together with the other documents hereinafter mentioned, and, subject to the terms and conditions hereof, the Underwriter will accept such delivery and pay the purchase price of the Certificates as set forth in Section 1 hereof in immediately available funds (such delivery and payment being herein referred to as the "Closing"). Sale, delivery and payment as aforesaid shall be made at the offices of Orrick, Herrington & Sutcliffe LLP, 777 South Figueroa Street, Suite 3200, Los Angeles, California 90017 or at such other place as shall have been mutually agreed upon by the City and the Underwriter, except that the Certificates shall be delivered in New York, New York, at such place and in such manner as shall have been mutually agreed upon by the City and the Underwriter. The Certificates shall be delivered to the Underwriter through the book-entry system of The Depository Trust Company.

3. Offering. It shall be a condition to the City's obligation to cause the sale and delivery of the Certificates to the Underwriter and to the Underwriter's obligation to purchase, accept delivery of and pay for the Certificates that the entire \$ \_\_\_\_\_ aggregate principal amount of the 2002 Certificates shall be executed, sold and delivered by the Trustee and purchased, accepted and paid for by the Underwriter at the Closing. The Underwriter agrees to make a bona fide public offering of all of the 2002 Certificates at not in excess of the initial public offering prices set forth on the inside cover page of the Official Statement. The Underwriter reserves the right to change, subsequent to the initial public offering, such initial offering prices as the Underwriter shall deem necessary in connection with the marketing of the Certificates.

4. Use and Preparation of Documents. The City hereby ratifies, confirms and approves the use and distribution by the Underwriter prior to the date hereof of the Preliminary Official Statement dated \_\_\_\_\_, 200\_ relating to the Certificates (which, together with the cover page and all appendices thereto, is referred to herein as the "Preliminary Official Statement"). The City has deemed final the Preliminary Official Statement as of its date for

purposes of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 (“Rule 15c2-12”), except for information permitted to be omitted therefrom by Rule 15c2-12. The City hereby acknowledges that the Preliminary Official Statement has been made available to investors on the Internet at [http://www.\\_\\_\\_\\_\\_](http://www._____). The City hereby agrees to deliver or cause to be delivered to the Underwriter, within seven business days of the date hereof, copies of the final official statement (including all information permitted to be omitted by Rule 15c2-12 and any amendments or supplements to such official statement as have been approved by City and the Underwriter) (the “Official Statement”) in sufficient quantity to enable the Underwriter to comply with the rules of the Securities and Exchange Commission and the Municipal Securities Rulemaking Board. The City hereby approves of the use and distribution by the Underwriter of the Official Statement in connection with the offer and sale of the Certificates. At the time of or prior to the Closing Date (as hereinafter defined), the Underwriter shall file a copy of the Official Statement with the Municipal Securities Rulemaking Board and with a nationally recognized securities information repository.

5. Representations, Warranties and Agreements of the City. The City hereby represents, warrants and agrees with the Underwriter as follows:

(a) The City has and on the Closing Date will have full legal right, power and authority to (i) enter into this Purchase Contract and the Financing Documents to be executed by it, (ii) cause the sale, execution and delivery of the Certificates to the Underwriter as provided herein, (iii) carry out and consummate the transactions contemplated by this Purchase Contract, and the Official Statement, and (iv) execute and deliver the Official Statement;

(b) By all necessary official action of the City prior to or concurrently with the acceptance hereof, the City has duly authorized, approved, ratified and confirmed the preparation and distribution of the Preliminary Official Statement and the execution, delivery and distribution of the Official Statement and has duly authorized and approved the execution, delivery and performance by the City of the obligations in connection with the execution and delivery of the Certificates on its part contained in this Purchase Contract, the Financing Documents and the consummation by the City of all other transactions contemplated by this Purchase Contract and the Financing Documents in connection with the execution and delivery of the Certificates; the City has complied or will at the Closing be in compliance in all material respects with the obligations in connection with the execution and delivery of the Certificates contained in this Purchase Contract and the Financing Documents to be executed by it;

(c) The City is not in any material respect in breach of or default under any applicable constitutional provision, law or administrative regulation to which it is subject or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement (including, without limitation, the Lease) or other instrument to which the City is a party or to which the City or any of its property or assets is otherwise subject, and, to the City’s knowledge, no event has occurred and is continuing that, with the passage of time or the giving of notice or both, would constitute such a default or event of default under any such instrument; and the execution and delivery of the Certificates, this Purchase Contract, the Financing Documents to be executed by it and compliance with the provisions on the City’s part contained therein will not conflict with or constitute a breach of or a default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, bond,

note, resolution, agreement or other instrument to which the City is a party or to which the City or any of its property or assets otherwise is subject, nor will any such execution, delivery or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the City or under the terms of any such constitutional provision, law, regulation or instrument, except as provided in the Trust Agreement, the Lease, the Site Lease and the Escrow Agreement;

(d) All authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter that are required for the due authorization by or that would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by the City of its obligations in connection with the execution and delivery of the Certificates under the Trust Agreement have been duly obtained, except for such approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in connection with the offering and sale of the Certificates; and, except as described in or contemplated by the Official Statement, all authorizations, approvals, licenses, permits, consents and orders of any governmental authority, board, agency or commission having jurisdiction of the matter that are required for the due authorization by or that would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by the City of its obligations under the Financing Documents to be executed by it or this Purchase Contract have been duly obtained;

(e) Between the date of this Purchase Contract and the date of the Closing, the City will not, without the prior written consent of the Underwriter, offer or issue any bonds, notes or other obligations for borrowed money or incur any material liabilities, direct or contingent, nor does the City reasonably anticipate that there will there be any adverse change of a material nature in the financial position, or condition, financial or otherwise, of the City;

(f) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or, to the best knowledge of the City, threatened against the City, affecting the existence of the City or the titles of its officers to their respective offices, or affecting or seeking to prohibit, restrain or enjoin the sale, execution or delivery of the Certificates or the payment of the Lease Payments or contesting or affecting, as to the City, the validity or enforceability of the Certificates, this Purchase Contract, the Financing Documents to be executed by it or contesting the tax-exempt status of interest represented by the Certificates, or contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or contesting the powers of the City or any authority for the execution and delivery of the Certificates, or in any way contesting or challenging the consummation of the transactions contemplated hereby, or that might result in a material adverse change in the financial condition of the City or that might materially adversely affect the payment of the Lease Payments by the City; nor is there any known basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the authorization, execution, delivery or performance by the City of the Financing Documents to be executed by it or this Purchase Contract or the execution by the Trustee of the Certificates;

(g) The City will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order to qualify the Certificates for offer and sale under the blue sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate and will use its best efforts to continue such qualification in effect so long as required for distribution of the Certificates; provided, however, that in no event shall the City be required to take any action which would subject it to general or unlimited service of process in any jurisdiction in which it is not now so subject;

(h) As of the date thereof, the Preliminary Official Statement (excluding therefrom information relating to DTC and the book-entry system and [the Insurer and the Policy] as to which no representation is made) did not, except as revised by the Official Statement, contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading in any material respect;

(i) As of the date thereof and at all times subsequent thereto to and including the date which is 25 days following the End of the Underwriting Period (as such term is hereinafter defined) for the Certificates, the Official Statement (excluding therefrom information relating to DTC and the book-entry system [and the Insurer and the Policy] as to which no representation is made) did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(j) If between the date hereof and the date which is 25 days after the End of the Underwriting Period for the Certificates, an event occurs which might or would cause the information contained in the Official Statement (excluding therefrom information relating to DTC and the book-entry system and [the Insurer and the Policy] as to which no representation is made), as then supplemented or amended, to contain any untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make such information therein, in the light of the circumstances under which it was presented, not misleading, the City will notify the Underwriter, and, if in the opinion of the Underwriter, the City or their respective counsel, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the City will forthwith prepare and furnish to the Underwriter (at the expense of the City) a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to counsel for the Underwriter) which will amend or supplement the Official Statement so that it will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing at the time the Official Statement is delivered to prospective purchasers, not misleading. For the purposes of this subsection, between the date hereof and the date which is 25 days after the End of the Underwriting Period for the Certificates, the City will furnish such information with respect to itself as the Underwriter may from time to time reasonably request;

(k) If the information contained in the Official Statement is amended or supplemented pursuant to paragraph (j) hereof, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such subparagraph)

at all times subsequent thereto up to and including the date which is 25 days after the End of the Underwriting Period for the Certificates, the portions of the Official Statement (excluding therefrom information relating to DTC and the book-entry system and [the Insurer and the Policy] as to which no representation is made) so supplemented or amended (including any financial and statistical data contained therein) will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make such information therein, in the light of the circumstances under which it was presented, not misleading;

(l) After the Closing until the date which is 25 days after the End of the Underwriting Period for the Certificates, the City will not participate in the issuance of any amendment of or supplement to the Official Statement to which, after being furnished with a copy, the Underwriter shall reasonably object in writing or which shall be disapproved by counsel for the Underwriter;

(m) As used herein and for the purposes of the foregoing, the term "End of the Underwriting Period" for the Certificates shall mean the earlier of (i) the Closing Date or (ii) the date on which the End of the Underwriting Period for the Certificates has occurred under Rule 15c2-12, as specified as such in a notice from the Underwriter stating the date which is the End of the Underwriting Period; and

6. Conditions to the Obligations of the Underwriter.

The Underwriter hereby enters into this Purchase Contract in reliance upon the representations and warranties of the City contained herein and the representations and warranties of the City to be contained in the documents and instruments to be delivered at the Closing and upon the performance by and the City of its obligations both on and as of the date hereof and as of the Closing Date. Accordingly, the Underwriter's obligations under this Purchase Contract to purchase, to accept delivery of and to pay for the Certificates shall be subject, at the option of the Underwriter, to the accuracy in all material respects of the representations and warranties of the City contained herein as of the date hereof and as of the Closing Date, to the accuracy in all material respects of the statements of the officers and other officials of the City made in any certificate or other document furnished pursuant to the provisions hereof, to the performance by the City of its obligations to be performed hereunder and under the Financing Documents at or prior to the Closing Date, and also shall be subject to the following additional conditions:

(a) Prior to or simultaneously with the execution of this Purchase Contract, the Underwriter shall have received from the City a letter, dated the date of the Preliminary Official Statement, addressed to the Underwriter, consenting to the posting of the Preliminary Official Statement on the \_\_\_\_\_ website, substantially in the form of Exhibit G hereto;

(b) The Underwriter shall receive, within seven business days of the date hereof, copies of the Official Statement (including all information previously permitted to have been omitted by Rule 15c2-12 and any amendments or supplements as have been approved by the Underwriter), in such reasonable quantity as the Underwriter shall have requested;

(c) At the Closing, the Financing Documents shall have been duly authorized, executed and delivered by the respective parties thereto, and the Official Statement shall have been duly authorized, executed and delivered by the Corporation and the City, all in substantially the forms heretofore submitted to the Underwriter, with only such changes as shall have been agreed to in writing by the Underwriter, and shall be in full force and effect; and there shall be in full force and effect such resolution or resolutions of the Board of Directors of the Corporation and the City Council of the City as, in the opinion of Orrick, Herrington & Sutcliffe LLP (“Special Counsel”), and Sidley Austin Brown & Wood LLP, counsel to the Underwriter (“Underwriter’s Counsel”) shall be necessary or appropriate in connection with the transactions contemplated hereby;

(d) Between the date hereof and the Closing Date, the market price or marketability, at the initial offering price set forth in the Official Statement, of the Certificates shall not have been materially adversely affected, in the reasonable judgment of the Underwriter (evidenced by a written notice to the City terminating the obligation of the Underwriter to accept delivery of and make any payment for the Certificates), by reason of any of the following:

(1) legislation enacted (or resolution passed) by or introduced or pending legislation amended in the Congress or recommended for passage by the President of the United States, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Chairman or ranking minority member of the Committee on Ways and Means of the House of Representatives or the Chairman or ranking minority member of the Committee on Finance of the Senate, or a decision rendered by a court established under Article III of the Constitution of the United States or by the Tax Court of the United States, or an order, ruling, regulation (final, temporary or proposed) or press release issued or made by or on behalf of the Treasury Department of the United States or the Internal Revenue Service, with the purpose or effect, directly or indirectly, of imposing federal income taxation upon moneys that would be received by the City or Lease Payments that would be received by the Trustee under the Trust Agreement or upon interest with respect to the Certificates that would be received by the Owners of the Certificates;

(2) legislation enacted (or resolution passed) by or introduced or pending legislation amended in the Congress or recommended for passage by the President of the United States, or an order, decree or injunction issued by any court of competent jurisdiction, or an order, ruling, regulation (final, temporary or proposed) or press release issued or made by or on behalf of the Securities and Exchange Commission, or any other governmental agency having jurisdiction of the subject matter, to the effect that obligations of the general character of the Certificates, or the Certificates, including any or all underlying arrangements, are not exempt from registration under the Securities Act of 1933, as amended, or that the Trust Agreement is not exempt from qualification under the Trust Indenture Act of 1939, as amended, or that the execution, offering or sale of obligations of the general character of the Certificates, or of the Certificates, including any or all underlying arrangements, as contemplated hereby or by the Official Statement,

otherwise is or would be in violation of the federal securities laws as amended and then in effect;

(3) the declaration of war or engagement in major military hostilities by the United States or the occurrence of any other national emergency or calamity relating to the effective operation of the government of or the financial community in the United States;

(4) the declaration of a general banking moratorium by federal, New York or California authorities, or the general suspension of trading on any national securities exchange;

(5) the imposition by the New York Stock Exchange or other national securities exchange, or any governmental authority, of any material restrictions not now in force with respect to the Certificates or obligations of the general character of the Certificates or securities generally, or the material increase of any such restrictions now in force, including those relating to the extension of credit by, or the charge to the net capital requirements of, the Underwriter;

(6) the withdrawal or downgrading of any rating of the Certificates by a national rating agency or the placing of the Certificates on credit watch or under review of any such rating agency that has assigned a rating to the Certificates; or

(7) any event occurring, or information becoming known which, in the judgment of the Underwriter, makes untrue in any material respect any statement or information contained in the Official Statement, or has the effect of causing the Official Statement to contain any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and

(e) At or prior to the Closing Date, the Underwriter shall have received the following documents, in each case satisfactory in form and substance to the Underwriter:

(1) The Official Statement and each supplement or amendment, if any, thereto executed on behalf of the City by a duly authorized officer of the City;

(2) Two copies of the Financing Documents, each duly executed and delivered by the respective parties thereto;

(3) The approving opinion of Special Counsel, dated the Closing Date and addressed to the City, in substantially the form attached to the Official Statement as Appendix E thereto;

(4) The supplemental opinion of Special Counsel, dated the Closing Date and addressed to the Underwriter, in substantially the form attached hereto as Exhibit B;

(5) The opinion of Special Counsel, dated the Closing Date and addressed to the City, the Underwriter and the Trustee, to the effect that upon the execution and delivery of the Certificates and the application of the proceeds thereof in accordance with the Trust Agreement, the Refunded Certificates will be deemed to have been paid within the meaning of the respective trust agreement pursuant to which such Refunded Certificates were delivered;

(6) An opinion of counsel to the Corporation, dated the Closing Date and addressed to the City and Underwriter, in substantially the form attached hereto as Exhibit C;

(7) An opinion of the City Attorney of the City, dated the Closing Date and addressed to the Underwriter, in substantially the form attached hereto as Exhibit D;

(8) An opinion of Underwriter's Counsel, dated the Closing Date and addressed to the Underwriter, to the effect that (a) the Certificates are exempt from registration under the Securities Act of 1933, as amended, and the Trust Agreement is exempt from qualification under the Trust Indenture Act of 1939, as amended; and (b) based upon their participation, as Underwriter's Counsel, in the preparation of the Official Statement and without having undertaken to determine independently the accuracy, completeness or fairness of the statements contained in the Official Statement, nothing has come to the attention of such counsel that would cause them to believe that the Official Statement (excluding therefrom the financial or statistical data or forecasts, the information concerning the [Insurer and the Policy,] The Depository Trust Company and the book-entry system, and Appendices B through H included in the Official Statement, as to which no opinion need be expressed), as of its date and the Closing Date, contained any untrue statement of a material fact or omitted to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(9) A signature and incumbency certificate of the Corporation and a certificate, dated the Closing Date and signed by an authorized officer of the Corporation, in substantially the form attached hereto as Exhibit E;

(10) A signature and incumbency certificate of the City and a certificate, dated the Closing Date and signed by an authorized officer of the City, in substantially the form attached hereto as Exhibit F;

(11) A certified copy of the general resolution of the Trustee and Escrow Agent authorizing the execution and delivery of the Trust Agreement, the Assignment Agreement, the Escrow Agreement and the Certificates, together with a certificate to the effect that:

(i) The Trustee and Escrow Agent is a state banking corporation existing under the laws of the State of California;

(ii) The Trustee has full corporate trust powers and authority to serve as Trustee under the Trust Agreement and the Escrow Agent has full powers and authority to serve as Escrow Agent under the Escrow Agreement; and

(iii) The Trustee's and the Escrow Agent's actions in executing and delivering the Trust Agreement, the Assignment Agreement and the Escrow Agreement, respectively, is in full compliance with and does not conflict with any applicable law or governmental regulation currently in effect and does not conflict with or violate any contract to which the Trustee or the Escrow Agent is a party or any administrative or judicial decision by which the Trustee or the Escrow Agent is bound;

(12) An opinion of counsel to the Trustee and the Escrow Agent, dated the Closing Date and addressed to the City and the Underwriter, to the effect that:

(i) The Trust Agreement, the Assignment Agreement and the Escrow Agreement, have been duly authorized, executed and delivered by the Trustee and the Escrow Agent, as applicable, and, assuming due authorization, execution and delivery by the other parties thereto, the Trust Agreement, the Assignment Agreement and the Escrow Agreement each constitutes a legal, valid and binding obligation of the Trustee and the Escrow Agent, as applicable, enforceable in accordance with its terms, except that the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and other laws in effect from time to time affecting the rights of creditors generally and except to the extent that the enforceability thereof may be limited by the application of general principles of equity; and

(ii) The Certificates have been duly executed and delivered by the Trustee;

(13) A certified copy of the resolution of the Corporation authorizing the execution and delivery of the Financing Documents to which it is a party;

(14) A certified copy of the resolution of the City authorizing the execution and delivery of the Financing Documents to which it is a party and this Purchase Contract;

(15) Evidence that any ratings on the Certificates are in full force and effect as of the Closing Date;

(16) A copy of any Preliminary Blue Sky Survey and Legal Investment Survey with respect to the Certificates, prepared by Underwriter's Counsel;

(17) A copy of the audited financial statements of the City included as Appendix B to the Official Statement;

(18) [The Policy, duly executed and issued by the Insurer;

(19) An opinion of counsel to the Insurer, dated the Closing Date and addressed to the Underwriter and the City, in form and substance satisfactory to the Underwriter, together with a certificate of the Insurer in the form and substance satisfactory to the Underwriter;]

(20) Evidence of title to the Property satisfactory to the Underwriter;  
and

(21) Such additional legal opinions, certificates, proceedings, instruments, title insurance, other insurance policies or evidences thereof and other documents as the Underwriter, Underwriter's Counsel or Special Counsel may reasonably request to evidence the truth and accuracy, as of the date hereof and as of the Closing Date, of the representations of the City herein and of the statements and information contained in the Official Statement, and the due performance or satisfaction by the Trustee, the City at or prior to the Closing of all agreements then to be performed and all conditions then to be satisfied by any of them in connection with the transactions contemplated hereby and by the Financing Documents.

If the City shall be unable to satisfy the conditions to the Underwriter's obligations contained in this Purchase Contract or if the Underwriter's obligations shall be terminated for any reason permitted herein, all obligations of the Underwriter hereunder may be terminated by the Underwriter at, or at any time prior to, the Closing Date by written notice to the City and neither the Underwriter nor the City shall have any further obligations hereunder. In the event that the Underwriter fails (other than for a reason permitted by this Purchase Contract) to accept and pay for the Certificates at the Closing, the amount of one percent (1%) of the aggregate principal amount of the Certificates shall be payable by the Underwriter as and for full liquidated damages for such failure and for any and all defaults hereunder on the part of the Underwriter and the acceptance of such amount shall constitute a full release and discharge of all claims and rights of the City against the Underwriter.

7. Expenses.

(a) The Underwriter shall be under no obligation to pay, and the City shall pay, any expenses incident to the performance of the City's obligations hereunder, including but not limited to: (i) the cost of preparation, printing and distribution of the Financing Documents, the Preliminary Official Statement, the Official Statement and any supplements or amendments thereto (including the word processing costs of Underwriter's Counsel in preparing the Preliminary Official Statement and the Official Statement); (ii) the cost of preparing and printing the Certificates; (iii) the fees and disbursements of Special Counsel and the fees and expenses of counsel to the City; (iv) the fees and disbursements of any engineers, accountants and other experts, consultants or advisors retained by the City; (v) fees for bond ratings (which include fees of rating agencies and travel expenses of the City); and (vi) any premium for bond insurance, if any.

(b) The Underwriter shall pay: (i) the cost of preparation and printing of this Purchase Contract, the Preliminary Blue Sky Survey and the Legal Investment Survey; (ii) all advertising expenses and Blue Sky filing fees in connection with the public offering of the Certificates; (iii) fees, if any, payable to the California Debt Investment and Advisory Commission in connection with the execution and delivery of the Certificates; and (iv) all other expenses incurred by the Underwriter in connection with the public offering of the Certificates, including the fees and disbursements of Underwriter's Counsel (except as provided above).

8. Notices. Any notice or other communication to be given to the City under this Purchase Contract may be given by delivering the same in writing to: City of Lodi, 221 West Pine Street, Lodi, California 95240, Attention: City Manager, and any notice or other communication to be given to the Underwriter under this Purchase Contract may given by delivering the same in writing to: Salomon Smith Barney Inc., 350 California Street, 21<sup>st</sup> Floor, San Francisco, California 94104.

9. Parties in Interest. This Purchase Contract is made solely for the benefit of the City and the Underwriter (including the successors or assigns of the Underwriter), and no other person shall acquire or have any right hereunder or by virtue hereof. All of the City's representations, warranties and agreements contained in this Purchase Contract shall remain operative and in full force and effect, regardless of: (i) any investigations made by or on behalf of the Underwriter; (ii) delivery of and payment for the Certificates pursuant to this Purchase Contract; and (iii) any termination of this Purchase Contract.

10. Effectiveness and Counterpart Signatures. This Purchase Contract shall become effective upon the execution of the acceptance hereof by an authorized officer of the City and shall be valid and enforceable at the time of such acceptance. This Purchase Contract may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts together shall constitute but one and the same instrument.

11. Headings. The headings of the sections of this Purchase Contract are inserted for convenience only and shall not be deemed to be a part hereof.

12. Governing Law. This Purchase Contract shall be construed in accordance with the laws of the State of California.

Very truly yours,

SALOMON SMITH BARNEY INC.

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

Accepted:

CITY OF LODI

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

EXHIBIT A

MATURITY SCHEDULE

<u>Payment Dates (_____)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Price or Yield</u>
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FORM OF SUPPLEMENTAL OPINION  
OF ORRICK, HERRINGTON & SUTCLIFFE LLP

[Closing Date]

Salomon Smith Barney Inc.  
San Francisco, California

Certificates of Participation,  
(2002 Public Improvement Financing Project)  
Evidencing Proportionate Interests of the Owners Thereof  
in Lease Payments to be made by the  
City of Lodi, California  
\_\_\_\_\_  
(Supplemental Opinion)

Ladies and Gentlemen:

This opinion is addressed to you, as the Underwriter, pursuant to Section 6(e)(4) of the Certificate Purchase Contract, dated January 1, 2002 (the "Purchase Contract"), between the City of Lodi, California (the "City") and you, providing for the purchase of \$ \_\_\_\_\_ aggregate principal amount of Certificates of Participation (2002 Public Improvement Financing Project) (the "Certificates"). The Certificates are being executed and delivered pursuant to a Trust Agreement, dated as of January 1, 2002 (the "Trust Agreement"), by and between the Lodi Public Improvement Corporation (the "Corporation") and BNY Western Trust Company, as trustee (the "Trustee"). Capitalized terms not otherwise defined herein shall have the respective meanings ascribed thereto in the Trust Agreement or, if not defined in the Trust Agreement, in the Purchase Contract.

In addition to the opinions set forth in our final legal opinion concerning the validity of the Certificates and certain other matters, dated the date hereof and addressed to the City (but which may be relied upon by yourselves to the same extent as if such opinion were addressed to you), and based on and subject to the matters referred to in the second through fifth paragraphs of such final legal opinion (which are hereby incorporated herein by reference), and in reliance thereon, as of the date hereof, we are of the following opinions or conclusions:

1. The Purchase Contract, the Escrow Agreement, and the Official Statement have been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by and validity against the other parties thereto, are valid and binding agreements of the City, except as enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium, arrangement and other laws affecting creditors' rights, by the application of equitable principles and the exercise of judicial discretion in appropriate cases, and

by the limitations on legal remedies against municipal corporations in the State of California. We express no opinion with respect to any indemnification, contribution, choice of law, choice of forum or waiver provisions contained therein.

2. The Certificates are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Trust Agreement is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended.

3. The statements contained in the Official Statement under the captions "INTRODUCTION," "THE CERTIFICATES," "SECURITY AND SOURCES OF PAYMENT FOR THE CERTIFICATES," "TAX MATTERS," "APPENDIX D – SUMMARY OF PRINCIPAL LEGAL DOCUMENTS," "APPENDIX E – PROPOSED FORM OF OPINION OF SPECIAL COUNSEL," and "APPENDIX F – PROPOSED FORM OF CONTINUING DISCLOSURE AGREEMENT" insofar as such statements purport to summarize certain provisions of the Certificates, the Trust Agreement, the Lease, the Site Lease, the Assignment Agreement, the Escrow Agreement, the Continuing Disclosure Agreement and our opinion concerning certain federal tax matters relating to the Certificates, are accurate in all material respects.

This letter is furnished by us as special counsel. No attorney-client relationship has existed or exists between our firm and you in connection with the Certificates or by virtue of this letter. We disclaim any obligation to update this letter. This letter is delivered to you as Underwriter of the Certificates and is solely for your benefit as such Underwriter and is not to be used, circulated, quoted or otherwise referred to or relied upon for any other purpose or by any other person. This letter is not intended to and may not be relied upon by owners of the Certificates.

Very truly yours,

ORRICK, HERRINGTON & SUTCLIFFE LLP

FORM OF OPINION OF COUNSEL TO THE CORPORATION

[Closing Date]

Salomon Smith Barney Inc.  
San Francisco, California

Certificates of Participation,  
(2002 Public Improvement Financing Project)  
Evidencing Proportionate Interests of the Owners Thereof  
in Lease Payments to be made by the  
City of Lodi, California

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Ladies and Gentlemen:

I have acted as counsel to the Lodi Public Improvement Corporation, a California nonprofit public benefit corporation (the "Corporation"), in connection with the execution and delivery of that certain Lease Agreement, dated as of January 1, 2002 (the "Lease"), by and between the Corporation and the City of Lodi (the "City"), that certain Site and Facilities Lease, dated as of January 1, 2002 (the "Site Lease"), by and between the City and the Corporation, that certain Trust Agreement, dated as of January 1, 2002 (the "Trust Agreement"), by and among the Corporation, the City and BNY Western Trust Company, as trustee thereunder (the "Trustee") and that certain Assignment Agreement, dated as of January 1, 2002 (the "Assignment Agreement"), by and between the Corporation and the Trustee. Unless otherwise defined herein, the terms defined in the Trust Agreement and the Lease have the same meanings when used in this opinion.

In connection with the foregoing, I have examined originals or copies certified or otherwise identified to my satisfaction of such documents, corporate records and other instruments as I have deemed necessary or appropriate for the purposes of this opinion, including (a) the Lease, (b) Site Lease, (c) the Trust Agreement, (d) the Assignment Agreement (collectively, the "Agreements") and (e) the Articles of Incorporation and Bylaws of the Corporation.

Based upon such examination, I am of the opinion that:

1. The Corporation is duly organized and validly existing under the laws of the State of California; and

2. The Corporation has full corporate power and authority to execute and deliver the Agreements, and the Agreements each have been duly authorized and delivered by the Corporation, and each constitutes a legally valid and binding obligation of the Corporation enforceable against the Corporation in accordance with its respective terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws or equitable principles relating to or affecting the enforcement of creditors' rights generally and by the application of equitable principles if equitable remedies are sought.

Respectfully submitted,

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Randall A. Hays, Esq.  
Counsel to the Corporation

FORM OF OPINION OF CITY ATTORNEY

[Closing Date]

Salomon Smith Barney Inc.  
San Francisco, California

Certificates of Participation,  
(2002 Public Improvement Financing Project)  
Evidencing Proportionate Interests of the Owners Thereof  
in Lease Payments to be made by the  
City of Lodi, California

---

Ladies and Gentlemen:

I have served as counsel to the City of Lodi (the "City") in connection with the execution, delivery and sale of the \$ \_\_\_\_\_ aggregate principal amount of Certificates of Participation (2002 Public Improvement Financing Project) (the "Certificates"). As such counsel, I have examined and am familiar with (i) those documents relating to the existence, organization and operation of the City, (ii) all necessary documentation of the City relating to the authorization, execution and delivery of (a) the Lease Agreement, dated as of January 1, 2002 (the "Lease"), by and between the Lodi Public Improvement Corporation (the "Corporation") and the City, (b) the Site and Facilities Lease, dated as of January 1, 2002 (the "Site Lease"), by and between the Corporation and the City, (c) the Trust Agreement, dated as of January 1, 2002 (the "Trust Agreement"), by and among the City, Corporation and BNY Western Trust Company, as trustee thereunder (the "Trustee"), (d) the Escrow Agreement, dated as of January 1, 2002 (the "Escrow Agreement"), by and between the City and BNY Western Trust Company, as escrow agent, and (e) the Continuing Disclosure Agreement, dated as of January 1, 2002 (the "Continuing Disclosure Agreement"), by and between the City and the Trustee, and (iii) an Official Statement of the City, dated \_\_\_\_\_, 200\_ (the "Official Statement"), relating to the Certificates. Terms used herein that are defined in the Official Statement shall have the meanings specified therein.

I am of the opinion that:

1. The City is a general law city, duly created, organized and existing under the Constitution and laws of the State of California.

2. The City has the authority and right to execute, deliver and perform the Lease, the Site Lease, the Trust Agreement, the Escrow Agreement, the Continuing Disclosure Agreement and the Purchase Contract, and the City has complied with the provisions of applicable law in all matters relating to the transactions contemplated by the Lease, the Site Lease, the Trust Agreement, the Escrow Agreement, the Continuing Disclosure Agreement and the Purchase Contract.

3. The Lease, the Site Lease, the Trust Agreement, the Escrow Agreement, the Continuing Disclosure Agreement and the Purchase Contract have been duly authorized, executed and delivered by the City, are in full force and effect and, assuming that the Lease, the Site Lease, the Trust Agreement, the Escrow Agreement, the Continuing Disclosure Agreement and the Purchase Contract constitute the legal, valid and binding agreements of the other respective parties thereto, constitute the legal, valid and binding agreements of the City enforceable against it in accordance with their terms, except, in each case, as enforceability may be limited by laws relating to bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and by the application of equitable principles if equitable remedies are sought.

4. No approval, consent or authorization of any governmental or public agency, authority or person is required for the execution and delivery by the City of the Lease, the Site Lease, the Trust Agreement, the Escrow Agreement, the Continuing Disclosure Agreement or the Purchase Contract, or the performance by the City of its obligations thereunder or the execution and delivery, on the part of the City, of the Certificates.

5. The execution and delivery of the Lease, the Site Lease, the Trust Agreement, the Escrow Agreement, the Continuing Disclosure Agreement and the Purchase Contract by the City and compliance with the provisions thereof will not conflict with or constitute a breach of or default under any instrument relating to the organization, existence or operation of the City, or commitment, agreement or other instrument to which the City is a party or by which it or its property is bound or affected, or any ruling, regulation, ordinance, judgment, order or decree to which the City or any of its officers in their respective capacities as such are subject or any provision of the laws of the State of California relating to the City and its affairs.

6. Based upon my participation in the preparation of the Official Statement and without having undertaken to determine independently the accuracy, completeness or fairness of the statements contained in the Official Statement, nothing has come to my attention that would lead me to believe that the Official Statement (excluding therefrom the financial statements, the statistical data and the information concerning The Depository Trust Company and the book-entry system, [the Insurer and the Policy] included therein and in Appendices B through H thereto, as to which no opinion is expressed), as of its date and the date hereof, contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

7. There is no action, suit, proceeding, inquiry or investigation at law or in equity, or before any court, public board or body, pending or, to the best of my knowledge, threatened against or affecting the City or any entity affiliated with the City or any of its officers in their

respective capacities as such (nor to the best of my knowledge, is there any basis therefor) that questions the powers of the City referred to in paragraph 2 above or in connection with the transactions contemplated by the Official Statement, or the validity of the proceedings taken by the City in connection with the authorization, execution or delivery of the Lease, the Site Lease, the Trust Agreement, the Escrow Agreement, the Continuing Disclosure Agreement or the Purchase Contract, or wherein any unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Lease, the Site Lease, the Trust Agreement, the Escrow Agreement, the Continuing Disclosure Agreement, the Purchase Contract or the Official Statement, or that, in any way, would adversely affect the validity or enforceability of the Lease, the Site Lease, the Trust Agreement, the Escrow Agreement, the Continuing Disclosure Agreement or the Purchase Contract or, in any material respect, the ability of the City to perform its obligations under the Lease, the Site Lease, the Trust Agreement, the Escrow Agreement, the Continuing Disclosure Agreement or the Purchase Contract.

Respectfully submitted,

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Randall A. Hays, Esq.  
City Attorney

FORM OF CERTIFICATE OF THE CORPORATION

I, \_\_\_\_\_, the President of the Lodi Public Improvement Corporation (the "Corporation"), hereby certify as follows:

1. The Corporation has full legal right, power and authority to (i) enter into the Trust Agreement, the Lease, the Site Lease and the Assignment Agreement and (ii) carry out and consummate the transactions contemplated by the Trust Agreement, the Lease, the Site Lease and the Assignment Agreement;

2. By all necessary corporate action of the Corporation prior to or concurrently herewith, the Corporation has duly authorized and approved the execution and delivery and the performance by the Corporation of the obligations in connection with the execution and delivery of the Certificates on its part contained in the Trust Agreement, the Lease, the Site Lease and the Assignment Agreement, and the consummation by it of all other transactions contemplated by the Trust Agreement, the Lease, the Site Lease and the Assignment Agreement, in connection with the execution and delivery of the Certificates; the Corporation has complied in all material respects with the obligations in connection with the execution and delivery of the Certificates on its part contained in the Trust Agreement, the Lease, the Site Lease and the Assignment Agreement.;

3. The Corporation is not in any material respect in breach of or default under any applicable law or administrative regulation to which it is subject or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement (including, without limitation, the Trust Agreement) or other instrument to which the Corporation is a party or to which the Corporation or any of its property or assets is otherwise subject, and no event has occurred and is continuing that, with the passage of time or the giving of notice or both, would constitute such a default or event of default under any such instrument; and the execution and delivery of the Trust Agreement, the Lease, the Site Lease and the Assignment Agreement and compliance with the provisions on the Corporation's part contained therein will not conflict with or constitute a breach of or a default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Corporation is a party or to which the Corporation or any of its property or assets is otherwise subject, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Corporation or under the terms of any such provision, law, regulation or instrument, except as provided in the Trust Agreement, the Lease, the Site Lease and the Assignment Agreement;

4. There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court, government agency, public board or body, pending or, to the best knowledge of the Corporation, threatened against the Corporation, affecting the existence of the Corporation or the titles of its officers to their respective offices, or contesting or affecting, as to the Corporation, the validity or enforceability of the Trust Agreement, the Lease, the Site Lease

or the Assignment Agreement; nor to my knowledge is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the authorization, execution, delivery or performance by the Corporation of the Trust Agreement, the Lease, the Site Lease or the Assignment Agreement;

5. The information contained under the caption "THE CORPORATION" in the Official Statement does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading in any material respect.

6. This certificate is provided pursuant to Section 6(e)(4) of that certain Certificate Purchase Contract, by and between the City of Lodi, California (the "City"), and Salomon Smith Barney Inc. All capitalized terms used herein that otherwise are not defined shall have the same meanings as in such Certificate Purchase Contract.

Dated: \_\_\_\_\_, 2002

LODI PUBLIC IMPROVEMENT CORPORATION

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

FORM OF CERTIFICATE OF THE CITY

I, H. Dixon Flynn, the City Manager, of the City of Lodi, California (the "City"), hereby certify as follows:

1. The representations and warranties of the City contained in the Certificate Purchase Contract, dated \_\_\_\_\_, 200\_ (the "Purchase Contract"), by and between the City and Salomon Smith Barney Inc. with respect to the sale by the City of \$00,000,000 aggregate principal amount of Certificates of Participation (2002 Public Improvement Financing Project) (the "Certificates"), are true and correct in all material respects on and as of the date hereof as if made on this date.

2. There is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court, government agency, public board or body, pending or, to the best of my knowledge, threatened against the City affecting the existence of the City or the titles of its officers to their respective offices, or affecting or seeking to prohibit, restrain or enjoin the sale, execution or delivery of the Certificates or the payment of Lease Payments to be used to pay the principal and interest represented by the Certificates, or contesting the tax-exempt status of interest represented by the Certificates, or contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement or any supplement or amendment thereto, or contesting the powers of the Trustee for the execution of the Certificates; nor to my knowledge is there any basis for any such action, suit, proceeding, inquiry or investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the authorization, execution, delivery or performance by the City of the Lease, the Site Lease, the Trust Agreement, the Continuing Disclosure Agreement, the Escrow Agreement or the Purchase Contract.

3. To the best of my knowledge, no event affecting the City has occurred since the date of the Official Statement that should be disclosed in the Official Statement so that the Official Statement will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading and that has not been disclosed in a supplement or amendment to the Official Statement.

4. The City has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied at or prior to the date hereof pursuant to the Purchase Contract with respect to the execution and delivery of the Certificates.

5. Between the date of the Purchase Contract and the date hereof, the City has not offered or issued any bonds, notes or other obligations for borrowed money, or incurred any material liabilities, direct or contingent, other than with the written consent of Salomon Smith Barney Inc., nor has there been any adverse change of a material nature in the financial position, or condition, financial or otherwise, of the City.

6. All capitalized terms used herein that otherwise are not defined shall have the same meanings as in the Purchase Contract.

Dated: \_\_\_\_\_, 2002.

CITY OF LODI

By: \_\_\_\_\_  
City Manager

## CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the "Disclosure Agreement") is executed and delivered by the City of Lodi, California (the "City") and BNY Western Trust Company, as trustee (the "Trustee"), in connection with the execution and delivery of the City of Lodi Certificates of Participation (2002 Public Improvement Financing Project) in the aggregate principal amount of \$00,000,000 (the "2002 Certificates"). The 2002 Certificates are being issued pursuant to a Trust Agreement dated as of January 1, 2002 (the "Trust Agreement"), by and among the City, the Lodi Public Improvement Corporation (the "Corporation") and the Trustee. The City and the Trustee hereby covenant and agree as follows:

**SECTION 1. Purpose of the Disclosure Agreement.** This Disclosure Agreement is being executed and delivered by the City and the Trustee for the benefit of the Owners and Beneficial Owners of the 2002 Certificates and in order to assist the Participating Underwriter in complying with S.E.C. Rule 15c2-12(b)(5).

**SECTION 2. Definitions.** In addition to the definitions set forth in the Trust Agreement, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section 2, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

"Beneficial Owner" shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of any 2002 Certificates (including persons holding 2002 Certificates through nominees, depositories or other intermediaries), or (b) is treated as the owner of any 2002 Certificates for federal income tax purposes.

"Dissemination Agent" shall mean the Trustee, acting in its capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the City and which has filed with the Trustee a written acceptance of such designation.

"Fiscal Year" shall mean the period beginning on July 1 of each year and ending on the next succeeding June 30, or any twelve-month or fifty-two week period hereafter selected by the City, with notice of such selection or change in fiscal year to be provided as set forth herein.

"Owner" shall mean either the registered owners of the 2002 Certificates, or, if the 2002 Certificates are registered in the name of The Depository Trust Company or another recognized depository, any applicable participant in such depository system.

"Listed Events" shall mean any of the events listed in Section 5(a) of this Disclosure Agreement.

"National Repository" shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule. The National Repositories currently approved by the Securities and Exchange Commission are set forth in Exhibit A attached hereto.

“Participating Underwriter” shall mean any of the original underwriters of the 2002 Certificates required to comply with the Rule in connection with offering of the 2002 Certificates.

“Repository” shall mean each National Repository and each State Repository, if any.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State” shall mean the State of California.

“State Repository” shall mean any public or private repository or entity designated by the State as a state repository for the purpose of the Rule and recognized as such by the Securities and Exchange Commission. As of the date of this Disclosure Agreement, there is no State Repository.

### SECTION 3. Provision of Annual Reports.

(a) The City shall, or shall cause the Dissemination Agent to, not later than 180 days after the end of the City’s Fiscal Year, commencing with the report for the 2001-02 Fiscal Year, provide to each Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Agreement. The Annual Report may be submitted as a single document or as separate documents comprising a package and may include by reference other information as provided in Section 4 of this Disclosure Agreement; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date. If the Fiscal Year changes for the City, the City shall give notice of such change in the manner provided under Section 5 hereof.

(b) Not later than fifteen (15) Business Days prior to the date specified in subsection (a) for providing the Annual Report to Repositories, the City shall provide its Annual Report to the Dissemination Agent. If by fifteen (15) Business Days prior to such date, the Dissemination Agent has not received a copy of the Annual Report from the City, the Dissemination Agent shall notify the City of such failure to receive the Annual Report. The City shall provide a written certification with each Annual Report furnished to the Dissemination Agent to the effect that such Annual Report constitutes the Annual Report required to be furnished by it hereunder. The Dissemination Agent and Trustee may conclusively rely upon such certification of the City and shall have no duty or obligation to review such Annual Report.

(c) If the Dissemination Agent is unable to verify that an Annual Report of the City has been provided to Repositories by the date required in subsection (a), the Dissemination Agent shall send a notice to each Repository and the Municipal Securities Rulemaking Board in substantially the form attached hereto as Exhibit B.

(d) The Dissemination Agent shall:

(i) determine prior to the date for providing the Annual Report for such year the name and address of each National Repository and each State Repository, if any; and

(ii) file a report with the City (and if the Dissemination Agent is not the Trustee, the Trustee) certifying, to the extent it can confirm the same, that the Annual Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided and listing all the Repositories to which it was provided. The Dissemination Agent shall have no responsibility for the content of any Annual Report.

SECTION 4. Content of Annual Reports.

(a) The City's Annual Report shall contain or include by reference the following:

(i) The audited financial statements of the City for the most recently completed Fiscal Year, prepared in accordance with generally accepted accounting principles as promulgated to apply to governmental entities from time to time by the Governmental Accounting Standards Board;

(ii) Updated information comparable to the information in the chart entitled "City of Lodi General Fund Approved Budget for Fiscal Years 2001-2003 and Actual Results for Fiscal Year 2000-01" as it appears on page A-\_\_ in the Official Statement, dated \_\_\_\_\_, 2002, relating to the 2002 Certificates (the "Official Statement");

(iii) Updated information comparable to the information in the chart entitled "City of Lodi General Fund Comparative Statements of Revenues, Expenditures and Changes in Fund Balance" as it appears on page A-\_\_ in the Official Statement;

(iv) Updated information comparable to the information in the chart entitled "City of Lodi Assessed Valuations as it appears on page A-\_\_ in the Official Statement;

(v) Updated information comparable to the information in the chart entitled "City of Lodi Secured Property Tax Collections" as it appears on page A-\_\_ in the Official Statement; and

(vi) Updated information comparable to the information in the chart entitled "City of Lodi Ten Largest Locally Secured Taxpayers" as it appears on page A-\_\_ in the Official Statement.

(b) Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the City or public entities related thereto, which have been submitted to each of the Repositories or the Securities and Exchange Commission. If the document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The City shall clearly identify each such other document so included by reference.

SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the City shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the 2002 Certificates, if material:

- (i) principal and interest payment delinquencies;
- (ii) non-payment related defaults;
- (iii) modifications to rights of 2002 Certificateholders;
- (iv) optional, contingent or unscheduled 2002 Certificate prepayments;
- (v) defeasances;
- (vi) rating changes;
- (vii) adverse tax opinions or events affecting the tax-exempt status of the 2002 Certificates;
- (viii) unscheduled draws on the debt service reserves reflecting financial difficulties;
- (ix) unscheduled draws on the credit enhancements reflecting financial difficulties;
- (x) substitution of the credit or liquidity providers or their failure to perform; or
- (xi) release, substitution or sale of property securing repayment of the 2002 Certificates.

(b) Whenever the City obtains knowledge of the occurrence of a Listed Event, the City shall as soon as possible determine if such event would be material under applicable federal securities laws.

(c) If the City has determined that knowledge of the occurrence of a Listed Event would be material under applicable federal securities laws, the City shall promptly notify the Dissemination Agent in writing. Such notice shall instruct the Dissemination Agent to report the occurrence pursuant to subsection (e).

(d) If the City determines that the Listed Event would not be material under applicable federal securities laws, the City shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (e).

(e) If the Dissemination Agent has been instructed by the City to report the occurrence of a Listed Event, the Dissemination Agent shall file a notice of such occurrence with the Municipal Securities Rulemaking Board or the National Repositories and to the State

Repository, if any. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(4) and (5) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to Owners of affected 2002 Certificates pursuant to the Trust Agreement.

SECTION 6. Termination of Reporting Obligation. The obligations of the City and the Trustee under this Disclosure Agreement shall terminate upon the legal defeasance, prior redemption or payment in full of all of the 2002 Certificates.

SECTION 7. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be BNY Western Trust Company. The Dissemination Agent may resign by providing thirty days' written notice to the City. If at any time there is no designated Dissemination Agent appointed by the City or if the Dissemination Agent so appointed is unwilling or unable to perform the duties of Dissemination Agent hereunder, the City shall be the Dissemination Agent and shall undertake or assume its obligations hereunder. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the City pursuant to this Disclosure Agreement.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Agreement, the City and the Trustee may amend this Disclosure Agreement (and the Trustee shall agree to any amendment so requested by the City which does not impose any greater duties nor any greater risk of liability on the Trustee), and any provision of this Disclosure Agreement may be waived, provided that the following conditions are satisfied:

(a) If the amendment or waiver relates to the provisions of Sections 3(a) or 4, it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the 2002 Certificates, or the type of business conducted;

(b) The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the 2002 Certificates, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

(c) The amendment or waiver either (i) is approved by the Owners of the 2002 Certificates in the same manner as provided in the Trust Agreement with respect to amendments to the Trust Agreement which require the consent of Owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Owners or Beneficial Owners of the 2002 Certificates.

In the event of any amendment or waiver of a provision of this Disclosure Agreement, the City shall describe such amendment in its next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the City. In addition, if the amendment relates to the

accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the manner as provided under Section 5, and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report, in addition to that which is required by this Disclosure Agreement. If the City chooses to include any information in any Annual Report in addition to that which is specifically required by this Disclosure Agreement, the City shall have no obligation under this Disclosure Agreement to update such information or include it in any future Annual Report.

SECTION 10. Default. In the event of a failure of the City or the Trustee to comply with any provision of this Disclosure Agreement, the Trustee may (and, at the request of any Participating Underwriter or the Owners of at least 25% aggregate principal amount of outstanding 2002 Certificates, shall), but only to the extent funds in an amount satisfactory to the Dissemination Agent have been provided to it or it has been otherwise indemnified to its satisfaction from any cost, liability, expense or additional charges and fees of the Dissemination Agent whatsoever, including, without limitation, fees and expenses of its attorneys, or any Owner or Beneficial Owner of the 2002 Certificates may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City or the Trustee, as the case may be, to comply with its obligations under this Disclosure Agreement. The sole remedy under this Disclosure Agreement in the event of any failure of the City or the Trustee to comply with this Disclosure Agreement shall be an action to compel performance.

SECTION 11. Duties, Immunities and Liabilities of Trustee and Dissemination Agent. Section 5.02 of the Trust Agreement is hereby made applicable to this Disclosure Agreement as if this Disclosure Agreement were (solely for this purpose) contained in the Trust Agreement. The Dissemination Agent shall be entitled to the protections, limitations from liability and indemnities afforded to the Trustee thereunder. The Dissemination Agent (if other than the Trustee or the Trustee in its capacity as Dissemination Agent) shall have only such duties as are specifically set forth in this Disclosure Agreement, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the 2002 Certificates. If the Trustee performs the duties assigned to it hereunder, the Trustee shall not be responsible to any person for any failure by the City or the Dissemination Agent (if other than the Trustee) to perform duties or obligations imposed hereby. The Dissemination Agent shall be paid compensation by the City for its services provided hereunder in accordance with its schedule of fees as agreed to between the Dissemination Agent and the City from time to time and all



SECTION 14. Counterparts. This Disclosure Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Dated: \_\_\_\_\_, 2002

CITY OF LODI

By: \_\_\_\_\_  
H. Dixon Flynn  
City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Randall A. Hays  
City Attorney

ATTEST:

\_\_\_\_\_  
Susan J. Blackston  
City Clerk

BNY WESTERN TRUST COMPANY,  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

## EXHIBIT A

Nationally Recognized Municipal Securities Information Repositories approved by the Securities and Exchange Commission as of \_\_\_\_\_, 2002:

### **Bloomberg Municipal Repository**

100 Business Park Drive  
Skillman, NJ 08558  
E-MAIL: [Munis@Bloomberg.com](mailto:Munis@Bloomberg.com)  
PHONE (609) 279-3225  
FAX (609) 279-5962

### **FT Interactive Data**

Attn: NRMSIR  
100 Williams Street  
New York, NY 10038  
E-MAIL: [NRMSIR@FTID.com](mailto:NRMSIR@FTID.com)  
PHONE (212) 771-6999  
FAX (212) 771-7390 (Secondary Market  
Information)  
(212) 771-7391 (Primary Market  
Information)

### **Standard & Poor's J.J. Kenny Repository**

55 Water Street, 45<sup>th</sup> Floor  
New York, NY 10041  
E-MAIL: [nrmsir\\_repository@sandp.com](mailto:nrmsir_repository@sandp.com)  
PHONE (212) 438-4595  
FAX (212) 438-3975

### **DPC Data Inc.**

One Executive Drive  
Fort Lee, NJ 07024  
E-MAIL: [nrmsir@dpcdata.com](mailto:nrmsir@dpcdata.com)  
PHONE (201) 346-0701  
FAX (201) 947-0107

**EXHIBIT B**

**NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT**

Name of Issuer: CITY OF LODI, CALIFORNIA

Name of Issue: CERTIFICATES OF PARTICIPATION  
(2002 PUBLIC IMPROVEMENT FINANCING PROJECT)

Date of Issuance: \_\_\_\_\_, 2002

NOTICE IS HEREBY GIVEN that the City of Lodi, California (the "City") has not provided an Annual Report with respect to the above-named Certificates as required by the Continuing Disclosure Agreement, dated \_\_\_\_\_, 2002, between the City and BNY Western Trust Company, as trustee. The City anticipates that the Annual Report will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

BNY WESTERN TRUST COMPANY,  
as trustee, on behalf of the City of Lodi

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

cc: City of Lodi

# Outline of Projects – General Fund



Sources of Funds (\$000):

Par Amount of Bonds	\$27,337
Cash Contribution	\$3,000
<u>State Grants</u>	<u>\$4,000</u>
<u>Total Sources of Funds</u>	<u>\$34,337</u>

Uses of Funds (\$000):

Public Safety Complex	
New Public Safety Building	\$12,000
Fire Station	\$1,000
<u>Design Work</u>	<u>\$5,000</u>
Total Projects	\$18,000
Refunding Escrow Deposits	\$13,262
Debt Service Reserve Funds	\$2,299
Cost of Issuance	\$776
<u>Total Uses of Funds</u>	<u>\$34,337</u>



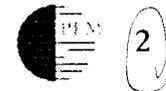
\$1,209,100.00  
 (2000 - 2002)  
 (2000 - 2002)

# Summary of General Fund Alternatives



Fiscal Year Ending	Outstanding General Fund Net Debt Service	Scenario C Level Aggregate		Scenario D Level New Money		Scenario E <sup>(4)</sup> Level Aggregate		Scenario F <sup>(4)</sup> Level New Money	
		PSB <sup>(1)</sup> + \$8.5 mm Add. Proceeds		PSB <sup>(1)</sup> + \$8.5 mm Add. Proceeds		New PSB Only + \$6.0 mm Add. Proceeds		New PSB Only + \$6.0 mm Add. Proceeds	
		Aggregate Net Debt Service <sup>(2)</sup>	Net Cost of Financing <sup>(3)</sup>	Aggregate Net Debt Service <sup>(2)</sup>	Net Cost of Financing <sup>(3)</sup>	Aggregate Net Debt Service <sup>(2)</sup>	Net Cost of Financing <sup>(3)</sup>	Aggregate Net Debt Service <sup>(2)</sup>	Net Cost of Financing <sup>(3)</sup>
6/30/2002	\$1,275,208	\$262,671	(\$90,819)	\$241,255	(\$112,235)	\$226,008	(\$127,481)	\$204,563	(\$148,926)
6/30/2003	1,267,891	1,883,422	615,530	2,262,855	994,964	\$1,620,334	\$352,443	\$1,999,613	\$731,722
6/30/2004	1,268,679	1,883,831	615,152	2,258,745	990,067	\$1,622,756	\$354,077	\$1,997,516	\$728,837
6/30/2005	1,267,361	1,883,809	616,448	2,258,845	991,484	\$1,619,819	\$352,457	\$1,994,700	\$727,339
6/30/2006	1,268,691	1,887,597	618,905	2,261,649	992,957	\$1,620,934	\$352,243	\$1,994,832	\$726,140
6/30/2007	1,267,411	1,879,553	612,142	2,255,717	988,306	\$1,620,406	\$352,995	\$1,996,416	\$729,005
6/30/2008	1,268,239	1,884,134	615,895	2,264,880	996,641	\$1,617,847	\$349,608	\$1,998,438	\$730,199
6/30/2009	1,261,154	1,881,519	620,365	2,254,746	993,592	\$1,618,462	\$357,308	\$1,991,534	\$730,380
6/30/2010	1,265,914	1,887,173	621,259	2,261,350	995,436	\$1,622,552	\$356,638	\$1,996,574	\$730,660
6/30/2011	1,262,151	1,880,963	618,812	2,254,234	992,083	\$1,619,999	\$357,847	\$1,993,115	\$730,963
6/30/2012	1,254,479	1,883,326	628,847	2,244,475	989,995	\$1,621,177	\$366,697	\$1,982,171	\$727,692
6/30/2013	1,252,487	1,883,110	630,623	2,240,019	987,532	\$1,620,170	\$367,684	\$1,976,924	\$724,437
6/30/2014	1,256,394	1,885,148	628,754	2,250,106	993,712	\$1,621,820	\$365,427	\$1,986,624	\$730,230
6/30/2015	1,251,506	1,880,235	628,729	2,241,194	989,687	\$1,616,814	\$365,308	\$1,977,618	\$726,112
6/30/2016	1,247,824	1,883,235	635,411	2,238,350	990,525	\$1,620,017	\$372,193	\$1,974,977	\$727,153
6/30/2017	828,748	1,878,967	1,050,219	1,820,404	991,657	\$1,616,258	\$787,510	\$1,557,320	\$728,573
6/30/2018		1,882,285	1,882,285	996,035	996,035	\$1,620,395	\$1,620,395	\$733,549	\$733,549
6/30/2019		1,878,585	1,878,585	992,998	992,998	\$1,617,752	\$1,617,752	\$731,568	\$731,568
6/30/2020		1,881,510	1,881,510	993,242	993,242	\$1,622,139	\$1,622,139	\$733,274	\$733,274
6/30/2021		1,885,635	1,885,635	996,492	996,492	\$1,623,264	\$1,623,264	\$733,524	\$733,524
6/30/2022		1,882,135	1,882,135	993,367	993,367	\$1,622,139	\$1,622,139	\$732,774	\$732,774
6/30/2023		1,881,010	1,881,010	993,867	993,867	\$1,618,764	\$1,618,764	\$731,024	\$731,024
6/30/2024		1,882,010	1,882,010	997,742	997,742	\$1,622,889	\$1,622,889	\$733,149	\$733,149
6/30/2025		1,880,010	1,880,010	994,992	994,992	\$1,614,514	\$1,614,514	\$729,149	\$729,149
6/30/2026		1,884,760	1,884,760	995,617	995,617	\$1,618,514	\$1,618,514	\$729,024	\$729,024
6/30/2027		1,879,379	1,879,379	993,567	993,567	\$1,618,002	\$1,618,002	\$731,843	\$731,843
6/30/2028		1,883,517	1,883,517	993,667	993,667	\$1,622,639	\$1,622,639	\$732,443	\$732,443
6/30/2029		1,883,454	1,883,454	996,535	996,535	\$1,618,733	\$1,618,733	\$731,468	\$731,468
6/30/2030		1,884,060	1,884,060	997,042	997,042	\$1,621,152	\$1,621,152	\$733,786	\$733,786
6/30/2031		1,880,204	1,880,204	995,185	995,185	\$1,614,764	\$1,614,764	\$729,399	\$729,399
6/30/2032		1,877,859	1,877,859	995,266	995,266	\$1,613,860	\$1,613,860	\$731,532	\$731,532
<b>Total</b>	<b>\$19,764,137</b>	<b>\$56,735,109</b>	<b>\$37,892,690</b>	<b>\$48,534,434</b>	<b>\$29,692,015</b>	<b>\$48,814,894</b>	<b>\$29,972,475</b>	<b>\$40,600,437</b>	<b>\$21,758,018</b>

(1) Includes old public safety building remodeling cost of \$3 mm  
 (2) Debt Service net of Capitalized Interest and Debt Service Reserve Fund Receipts  
 (3) Refunded Prior Debt Service in 2002 equals \$353,489  
 (4) Cash Contribution reduced from \$4.5 mm to \$3 mm



Handwritten notes: "Add 1-2-02" and "CIP Plan" written vertically.

<b>Project</b>	<b>Budget</b>	<b>Impact Fee Portion</b>	<b>Cash Available in Fund</b>	
Police Bldg./PSB Remodel	\$ 15m	\$ 3.458m	\$ 0.46m	Police
		\$ 1.515m	\$ 0.94m	Gen. City Facilities
Parking Structure	\$ 5m	\$ 2.535m	Incl. above	Gen. City Facilities
DeBenedetti Park/G Basin	\$ 6.2m	\$ 4.821m	<sup>1)</sup> \$ 0.66m	Storm Drainage
		\$ 2.646m	\$ 0.89m	Parks & Recreation
Indoor Sports Facility	\$ 5.9m	\$ 6.362m	<sup>2)</sup> Incl. above	Parks & Recreation
Aquatics Center	\$ 3m	\$ 1.908m	Incl. above	Parks & Recreation
Animal Shelter	\$ 2.5m	not in program		

Notes:

1) G-basin IMF amounts include land purchase made in 2000.

2) Indoor Sports Facility IMF amount includes future community buildings

*(Handwritten notes)*  
 (5-11-02) (Ivan F...)  
 ...

**COPY**

1-5

**Jennifer Perrin**

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**From:** Dixon Flynn  
**Sent:** Monday, December 31, 2001 5:15 PM  
**To:** Alan Nakanishi  
**Subject:** FW: Financing package

-----Original Message-----

**From:** John E. Johnson, CFA [mailto:john@johnejohnson.com]  
**Sent:** Monday, December 31, 2001 1:52 PM  
**To:** Susan Hitchcock; Phil Pennino; Keith Land; Janet Keeter; Emily Howard; Dixon Flynn; Dixon Flynn  
**Cc:** Roger Baltz; Bob Johnson  
**Subject:** Financing package

Since it is unlikely that I will be unable to attend the next Council meeting, I wanted to let you know that the Lodi Sports Foundation urges you to approve the financing package so that the designs for the various Parks and Recreation projects, including the indoor sports center, the aquatics facility and DeBenedetti Park, can move forward. As I have told you on many occasions, the children of Lodi have waited long enough for these projects to move forward. The Parks and Recreation Commission has held public meetings, presentations have been made before you, a feasibility study has been done for the indoor sports center and members of the public have spoken in support of these projects. If you do not vote to approve the funding for the design of these projects, you will again be telling the supports that their voices were not heard.

We have reached a near crisis for indoor space in this town. Games and practices are going to held in Galt at Breakaway Sports because the City cannot provide facilities. Who would have ever thought that children from Lodi would be required to travel to Galt to practice and play games that are sponsored by the City of Lodi?

The kids that "play" basketball in the 4th through 6th grades have no practice facilities and their "league" is limited to six games. The City program is not helping kids. They cannot develop basketball skills and probably more importantly, they are not learning the skills that come from competition such as sportsmanship, perseverance and teamwork. They cannot learn these things because they do not have a chance because we cannot provide them with a place to play.

I hope you will come through for the kids of Lodi. They have waited long enough.

Happy New Year.

John E. Johnson  
Chairman  
Lodi Sports Foundation