CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Request to Join in Amicus Brief in the case of *Eastburn v. Regional Fire Protection Authority*, California Supreme Court No. S107792

MEETING DATE: August 21, 2002

PREPARED BY: Randall A. Hays, City Attorney

RECOMMENDATION: That the City join the Amicus Brief in the case of *Eastburn v. Regional Fire Protection Authority.*

BACKGROUND: Amicus Briefs are filed in various actions, which involves matters of wide-ranging concern to provide information and additional argument to the Court in order to assist the Court in understanding all of the issues and arrive at a conclusion.

This case seeks to impose liability on the Regional Fire Protection Authority based upon an allegation that the Authority's 911 dispatcher delayed in sending emergency services to the scene thereby exacerbating the plaintiff's injuries. The Authority as well as the City of Victorville are defendants in this case.

At the trial court level this case was decided in favor of the Authority and the City of Victorville on the filing of a Demurrer by those parties. The Appellate Court found that the trial court action was appropriate. Both of the lower court decisions were based upon a provision of the Health & Safety Code which immunizes emergency personnel from liability unless they are grossly negligent or act in bad faith. The Court's found that this standard applied to 911 operators.

This case if it is reversed will very likely affect the liability of all public entities that provide or participate in 911 dispatch services. Clearly 911 is designed to provide the appropriate response based upon a call that is received. The Health & Safety Code provisions cited above which has been relied upon by the Court's to this point in time, deserves to be sustained since it is a standard that is established by the State Legislature and should be given great deference by the Court. The reason for this matter being before the California Supreme Court is that there is a split in authority in this State as another State Appellate Court has found differently than the Appellate Court in this matter has found.

Funding: Not applicable.

Respectfully submitted,

Randall A. Hays

Randall A. Hays, City Attorney

APPROVED: H. Dixon Flynn -- City Manager