



# CITY OF LODI

## COUNCIL COMMUNICATION

AGENDA TITLE: Authorize City Manager to Execute Lease Amendment for Lodi Station North Annex with Cheryl Lafebre dba Lodi Greyhound and Western Union

MEETING DATE: November 20, 2002

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council authorize the City Manager to execute a lease amendment for Lodi Station North Annex with Cheryl Lafebre dba Lodi Greyhound and Western Union.

BACKGROUND INFORMATION: The City has leased a portion of the North Annex at Lodi Station to Cheryl Lafebre who has held the Greyhound agent franchise in Lodi since the building's completion in 2000. The building is also being used by the City for transit/Laidlaw offices. The rent being charged in the three-year lease started at \$800 per month with annual increases to \$825 and \$850. Greyhound business at the Station has been marginal, and Ms. Lafebre has had a difficult time making these payments. She has requested a rent reduction.

Based on the initial rent and calculated square footage of the lease space, the rent amounts to \$0.81 per square foot. However, half of this space consists of the lobby area, which is far larger than Greyhound needs and could be considered "common area" just as the bathroom and outside areas. (See Exhibit A of lease agreement.) Using that same price per square foot and reducing the area to the actual Greyhound office space would yield a rent of \$400 per month. An annual increase of 3% would mean second and third year rents of \$412 and \$424 respectively. Recalculating past rent based on the new rates and with actual payments made results in a balance due of approximately \$1,400. Staff proposes that this amount be prorated over the remaining term of the lease. Late fees, in conformance with those charged by the Finance Department on utility bills, will be charged as applicable for future payments. The proposed lease is attached.

Staff feels that the provision of Greyhound service at Lodi Station is an important part of making the Station a complete transit facility and is supportive of this request.

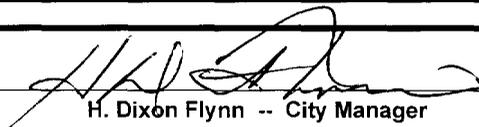
FUNDING: Not applicable.

  
Richard C. Prima, Jr.  
Public Works Director

RCP/TF/pmf  
Attachment

cc: Randy Hays, City Attorney  
Tiffani Fink, Transportation Manager  
Cheryl Lafebre, Lodi Greyhound Agent

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

  
H. Dixon Flynn -- City Manager

LEASE AGREEMENT  
22 South Sacramento Street

THIS AGREEMENT, made and entered into this 7th day of June, 2000, by and between the CITY OF LODI, a municipal corporation, hereinafter called Owner, and CHERYL LAFEBRE dba LODI GREYHOUND, hereinafter called Lessee.

WITNESSETH:

1. **PROPERTIES:** That for and in consideration of the rents to be paid, and the covenants to be faithfully kept and performed by Lessee, said Lessee does hereby take from Owner, a major portion of the Lodi Station North Annex designated as 22 South Sacramento Street, Lodi, California, for the operation of the Greyhound Bus Depot. See Exhibit A.
2. **TERM:** The term of this Agreement shall be a three-year lease.

This Lease shall supersede thereby voiding, the original contract terms made and entered into as of the 7<sup>th</sup> day of June 2000 by the Owner and the Lessee.

3. **PAYMENT:** In consideration of said Agreement, Lessee agrees to pay to Owner as payment for the lease of premises \$400.00 per month for the first twelve months, \$412.00 the second year, and \$424.00 the third year. Lease payments shall be made on or before the 5th day of each month and shall be directed to the Public Works Department, Attn: Transportation Manager, 221 West Pine Street, P. O. Box 3006, Lodi, California, 95241-1910, for processing and shall be paid without prior notice or demand.
4. **RENT SURCHARGE:** In consideration of said agreement, Lessee agrees to pay to Owner \$1400.00 in previously owed rent for prior years. Amortization of said rent shall be evenly dispersed over the remaining six (6) months of the contract term at a rate of \$233.33 per month making a total lease payment of \$657.33 for the final six (6) months of the third contract year.
5. **USE:** The property shall be used solely for the purpose of carrying on the business of Lodi Greyhound and Western Union. Sales of AMTRAK tickets will be allowed. During the term of this Agreement, and any extension thereof, it is understood and agreed by the parties that Lessee shall be responsible for the installation, maintenance and cost of all costs that are required to operate their business, at no cost to the Owner. It is further understood that Lessee shall be responsible for their own office supplies and other office equipment. Lessee may contract for one soda machine and one snack machine to be installed inside the building at Lessee's expense.

It is further understood and agreed by Lessee that Lessee must comply with all present and future laws, ordinances, rules, and regulations promulgated by any governmental authority of competent jurisdiction regulating this type of business during the tenancy and any extension thereof. Lessee shall use and occupy said premises in a quiet, lawful, and orderly manner.

6. **SIGNS:** It is agreed that Lessee will post "Hours of Operation" signs on the doors of the North Annex. All signs and locations of signs must be approved by the

Transportation Manager and Community Development Department. All costs associated with the purchase and installation of signs shall be the responsibility of Lessee.

7. **STAFFING:** Lessee will staff the service window during the posted hours. Lessee shall be responsible for delivery and pick up of baggage.
8. **REMEDIES ON DEFAULT:** Should Lessee fail to pay any part of the payment herein specified at the times or in the manner herein provided, or fail to comply with or perform any other of the terms and provisions of this Agreement on the part of Lessee to be performed or complied with, then, and in that event, Owner may exercise any and all remedies provided by law or equity by reason of such default, including the right, at Owner's option, of terminating this Agreement. Late fees, in accordance with those charged by the Finance Department on utility bills will be charged as applicable for future payments. In any of such events, Owner shall be entitled to the immediate possession of said premises, and, at its option, may enter into and upon said premises without notice to Lessee and exclude Lessee and all persons and all property therefrom, and by process of law or otherwise take and resume possession of said premises. Each and all of Owner's remedies shall be construed as cumulative and no one of them as exclusive of the other or as exclusive of any remedy provided by law or equity.
9. **RELATIONSHIP OF PARTIES:** It is understood and agreed that the relationship between the parties is that of landlord and Lessee and not as a party or agent of Owner. Lessee shall carry Worker's Compensation Insurance and observe all laws and regulations applicable to employers.
10. **BUILDING MAINTENANCE:** Building maintenance shall be performed by Owner on the building HVAC, plumbing, other major systems, and perimeter of building and transit office. Lessee will be responsible for janitorial service and minor building maintenance of the leased space and common area (see Exhibit A). Minor building maintenance shall consist of light bulb replacements, faucet leak repairs, and similar.
11. **ASSIGNMENT AND SUBLETTING:** Lessee shall not assign, encumber, convey, or otherwise hypothecate this Agreement, in whole or any part, without first obtaining the written consent of Owner. Lessee shall not be permitted to sublet the properties.
12. **CONTRACT TERMINATION:** Should Lessee cease to be authorized to act as an agent for Greyhound Lines, Inc., this agreement shall terminate. Lessee shall notify Owner of any loss of authorization to act as an agent of Greyhound Lines, Inc. Lessee shall vacate premises within 10 days of the loss of the referenced authorization.
13. **ENTRY BY OWNER:** Owner shall have the right at all reasonable times during the term of this Agreement to enter said premises for the purpose of examining or inspecting the same.
14. **REPAIRS, ALTERATIONS OR ADDITIONS:** No repairs, alterations or additions to the building shall be performed by Lessee. Any concerns shall be submitted in writing to the Transportation Manager, City of Lodi, P. O. Box 3006, Lodi, CA 95241-1910.

15. SURRENDER OF PREMISES: Lessee shall, at the termination of the Agreement hereby created, or upon the earlier termination hereof for any reason, or upon the extension of the term herein set forth, quit and surrender said premises in good order, condition, and repair, reasonable wear and tear and acts of God or fire excepted.
16. FEES: Lessee shall pay all license fees, or other fees or taxes, levied by any governmental agency which may be imposed upon the business of Lessee or its subLessee conducted upon the premises.

If any of the above charges are assessed against the real property, and because of said assessment, the Owner pays the same, which Owner will have the right to do regardless of the validity of any such levy, the Lessee, upon demand, will repay to Owner all taxes and other assessments so levied against Owner which are due by the Lessee.

17. UTILITIES: Owner agrees to pay water, sewer, garbage and electricity utilities used upon said premises during the term hereof. An allotment of 13,200 kilowatt hours per year is included in lease payment. Lease payment may be adjusted if the allotment in a one-year period is exceeded.
18. MECHANIC'S LIEN: Lessee agrees to keep said premises free from all liens and claims of mechanics, laborers, material suppliers, and others for work done, and material furnished, and Lessee shall not create, or suffer to be created, any lien or encumbrance on said premises.
19. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE: Lessee agrees to indemnify and save harmless Owner, its officers, agents and employees from and against all claims of whatever nature arising from any act, omission, or negligence of Lessee or Lessee's contractors, licensees, agents, servants, or employees, or arising from any accident, injury, or damage whatsoever caused any person, or to the property of any person, occurring during the term thereof, in or about the demised premises where such accident, damage, or injury, including death, results, or is claimed to have resulted, from any act or omission on the part of Lessee or Lessee's agents or employees. This indemnity and hold harmless agreement shall include indemnity against all costs and expenses, including attorney's fees incurred in or in connection with any such claim or proceeding brought thereon and the defense thereof.

- a. Lessee agrees to maintain in full force during the term hereof a policy of public liability insurance under which Lessee is named as insured, and containing an additional named insured endorsement naming Owner, its officers, agents and employees as an additional insured, and under which the insurer agrees to indemnify and hold Lessee and Owner, its officers, agents and employees harmless from and against all costs, expenses, and liability arising out of, or based upon, any and all property damage, or damages for personal injuries, including death, sustained in accidents occurring in or about the premises, where such accident, damage, or injury, including death, results, or is claimed to have resulted, from any act or omission on the part of Lessee, or Lessee's agents or employees. The minimum limits of such insurance shall be \$1,000,000.00 (One Million Dollars). In addition to the additional named insured endorsement on Lessee's policy of insurance, said insurance policy shall be endorsed to include the following language:

- b. "Insurance as is afforded by the endorsement for additional insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and employees shall be excess only and not contributing with the coinsurance afforded by this endorsement."

A duplicate or certificate of said public liability and property damage insurance policy containing the above-stated required endorsements shall be delivered to Owner within ten (10) days after the issuance and each renewal of said policy. This paragraph, and all other provisions of this Agreement, shall apply and be construed as applying to any subLessee of Lessee.

20. **BANKRUPTCY, RECEIVERSHIP, AND INSOLVENCY:** If Lessee should make a general assignment for the benefit of creditors, or file a voluntary petition in bankruptcy, or be adjudicated bankrupt or insolvent, or permit a receiver to be appointed to take possession of a substantial portion of its assets or of the premises, and such bankruptcy, insolvency, or receivership proceeding shall not be dismissed within ninety (90) days, then Owner may, without notice or demand, terminate this Agreement and forthwith reenter and repossess the properties, and remove all persons therefrom, and under no circumstances shall this Agreement be assignable or transferable by operation of law.
21. **ATTORNEY'S FEES:** In each suit brought for the recovery of any rent due hereunder, or for the recovery of the possession of said demised premises, or for the breach, or to restrain the breach, of any of the terms, conditions, or covenants of this Agreement, the prevailing party shall be entitled to a reasonable sum as and for attorney's fees therein, the amount of which shall be determined by the court in such suit and added to and become a part of the judgment therein.
22. **WAIVER:** Failure of Owner to insist upon performance of any of the terms or conditions of this Agreement in any one or more instances shall in no event be construed as a waiver or a relinquishment of its right to future performance thereof, and Lessee's obligations to such future performance shall continue in full force and effect. The receipt by Owner of rent, with the knowledge of the breach of any agreement or condition hereof, shall not be determined to be a waiver of any such breach.
23. **ACCEPTANCE OF PREMISES:** Lessee has examined the premises, knows the conditions thereof, and accepts possession thereof in their condition.
24. **CONTRACT:** This written agreement constitutes the entire contract between the Lessee and Owner, and no representation or agreement, unless expressed herein, shall be binding on the Lessee or Owner.

IN WITNESS WHEREOF, Owner and Lessee have executed this Agreement on the date and year first above written.

CITY OF LODI, a municipal corporation  
hereinabove called "Owner"

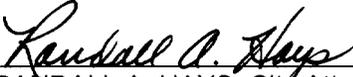
LODI GREYHOUND  
hereinabove called "Lessee"

By: \_\_\_\_\_  
H. DIXON FLYNN, City Manager

By: \_\_\_\_\_  
CHERYL LAFEBRE  
9090 Montero Road  
Valley Springs, CA 95252

Attest:

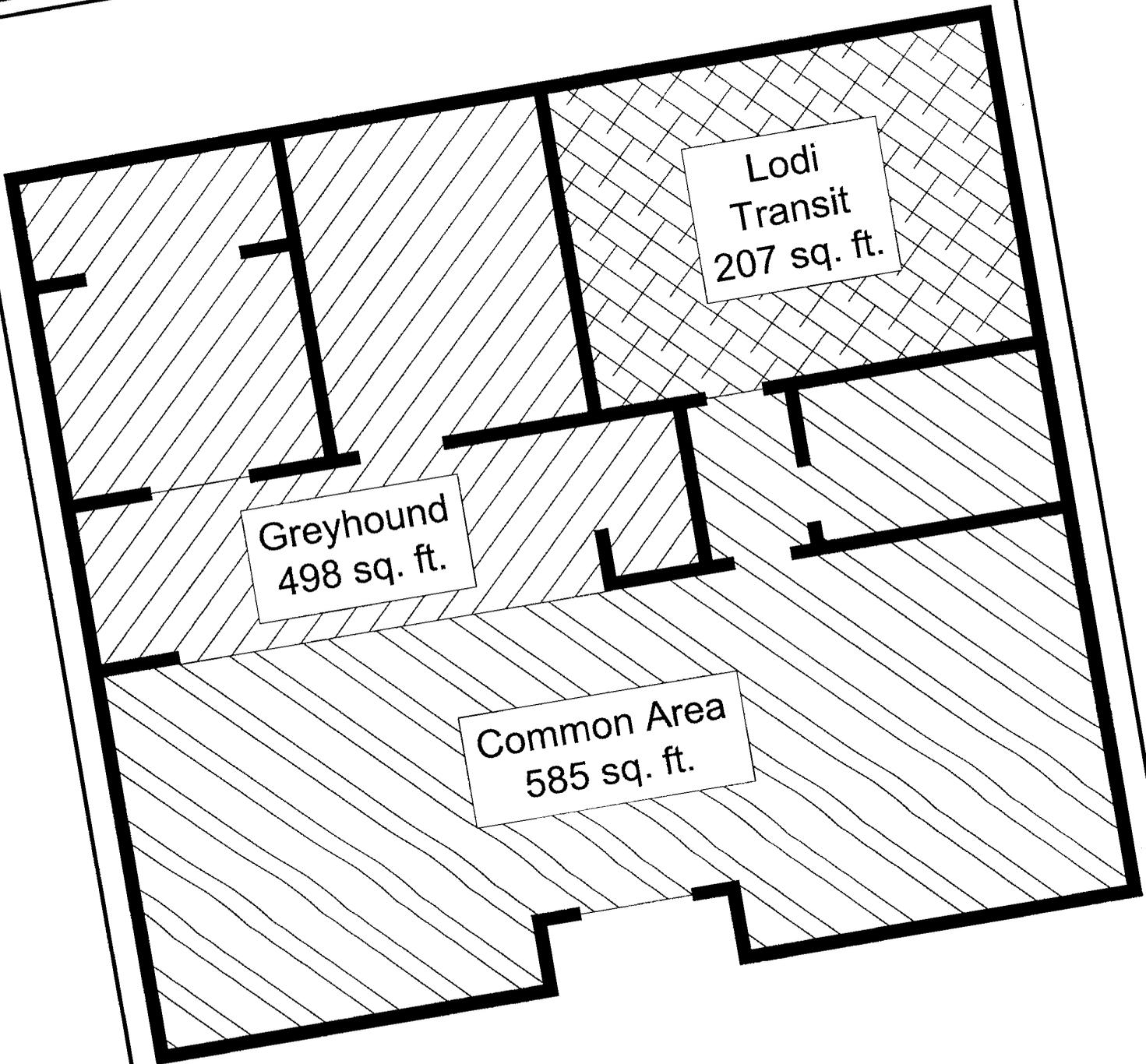
\_\_\_\_\_  
SUSAN J. BLACKSTON, City Clerk

Approved as to Form:  \_\_\_\_\_  
RANDALL A. HAYS, City Attorney



**CITY OF LODI**  
PUBLIC WORKS DEPARTMENT

Exhibit A  
North Annex  
Square Footage 1290



CITY COUNCIL

PHILLIP A. PENNINO, Mayor  
SUSAN HITCHCOCK  
Mayor Pro Tempore  
EMILY HOWARD  
KEITH LAND  
ALAN S. NAKANISHI

CITY OF LODI  
PUBLIC WORKS DEPARTMENT

CITY HALL, 221 WEST PINE STREET  
P.O. BOX 3006  
LODI, CALIFORNIA 95241-1910  
(209) 333-6706  
FAX (209) 333-6710  
EMAIL pwdept@lodi.gov  
http://www.lodi.gov

H. DIXON FLYNN  
City Manager  
SUSAN J. BLACKSTON  
City Clerk  
RANDALL A. HAYS  
City Attorney  
RICHARD C. PRIMA, JR.  
Public Works Director

November 14, 2002

Cheryl Lafebre  
Lodi Greyhound/Western Union  
22 S. Sacramento Street  
Lodi, CA 95240

SUBJECT: Authorize City Manager to Execute Lease Amendment for Lodi Station  
North Annex with Cheryl Lafebre dba Lodi Greyhound and Western Union

Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, November 20, 2002. The meeting will be held at 7 p.m. in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the consent calendar and is usually not discussed unless a Council Member requests discussion. The public is given an opportunity to address items on the consent calendar at the appropriate time.

If you wish to write to the City Council, please address your letter to City Council, City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council Meeting, be sure to fill out a speaker's card (available at the Carnegie Forum immediately prior to the start of the meeting) and give it to the City Clerk. If you have any questions about communicating with the Council, please contact Susan Blackston, City Clerk, at (209) 333-6702.

If you have any questions about the item itself, please call Tiffani Fink, Transportation Manager, at 333-6800, extension 2678.



for :

Richard C. Prima, Jr.  
Public Works Director

RCP/pmf

Enclosure

cc: City Clerk