



**CITY OF LODI  
COUNCIL COMMUNICATION**

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**AGENDA TITLE:** Approve Improvement Deferral Agreement for 214 Kelly Street

**MEETING DATE:** March 2, 2005

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** That the City Council approve the Improvement Deferral Agreement for 214 Kelly Street and authorize the City Manager and City Clerk to execute the agreement on behalf of the City.

**BACKGROUND INFORMATION:** The property owner, Beverly Ann Gross, Trustee of the Beverly Ann Gross Survivors Trust, established under the Gross Family Trust and Trustee of the D. Allen Gross Bypass Trust, established under the Gross Family Trust, has submitted a final parcel map to create six (6) parcels from one (1) parcel at 214 Kelly Street, as shown on Exhibit A. All the proposed parcels, except Parcel 2, are currently developed for industrial use.

The owner has requested filing of the map prior to the construction and completion of improvements to the shared private fire system required as a condition of tentative parcel map approval by the City of Lodi Fire Department in accordance with California Fire Code Sections 903.32, 903.3 and 903.4.2. The private fire system improvements include looping of the existing fire system by installing approximately 320 feet of 8-inch water line on Parcels 1, 4, 5 and 6, two (2) new fire hydrants on Parcels 5 and 6, and reduced pressure backflow assembly devices on Parcels 1 and 4, all as shown on the approved utility plan for Building Permit No. B13627 (Exhibit B) on file with the Building Division. The improvement deferral request has been reviewed by the Fire Department and approved subject to the conditions contained in the attached Improvement Deferral Agreement (Exhibit C).

The owner has executed the Improvement Deferral Agreement and paid the necessary fees. If approved, the agreement will be recorded concurrently with the final parcel map. Staff recommends approval of the agreement.

**FUNDING:** Not applicable.

Richard C. Prima, Jr.  
Public Works Director

Prepared by Sharon A. Welch, Senior Civil Engineer

RCP/SAW

Attachments

cc: Fire Marshal  
Beverly Ann Gross  
Phillip Smith  
Baumbach & Piazza

APPROVED: 3  
Blair King, City Manager





# EXHIBIT C

WHEN RECORDED, RETURN TO:

City Clerk  
City of Lodi  
221 West Pine Street  
Lodi, CA 95240

## IMPROVEMENT DEFERRAL AGREEMENT

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, hereinafter referred to as "City" and BEVERLY ANN GROSS, Trustee of the Beverly Ann Gross Survivors Trust, established under the Gross Family Trust, and BEVERLY ANN GROSS, Trustee of the D. Allen Gross Bypass Trust, established under the Gross Family Trust, hereinafter referred to as "Owner".

### RECITALS:

Owner is the owner of that certain real property situated in the City of Lodi, County of San Joaquin, and described as follows:

See EXHIBIT A

Owner has presented to City for approval a final parcel map, hereinafter called "map", to create six (6) parcels from one (1) parcel, with necessary street and easement dedications shown thereon.

Owner has requested filing of the map prior to the construction and completion of improvements to the shared private fire system required as a condition of tentative parcel map approval by the City of Lodi Fire Department in accordance with California Fire Code Sections 903.2, 903.3 and 903.4.2. Said required private fire system improvements include looping of the existing fire system by installing approximately 320 feet of 8-inch water line on Parcels 1, 4, 5 and 6, two (2) new fire hydrants on Parcels 5 and 6, and reduced pressure backflow assembly devices on Parcels 1 and 4, all as shown on the approved utility plan for Building Permit No. B13627 on file in the office of the City of Lodi Community Development Department, Building Division.

Council of the City will allow filing of the map prior to installation of the private fire system improvements on condition that Owner first enter into and execute this agreement with City; and

NOW THEREFORE, in order to insure satisfactory performance by Owner of Owner's obligations under said California Fire Code, the parties agree as follows:

1. Owner will pay for and complete the following improvements for the shared private fire system in conformance with City standards and specifications within the time period specified below:

- a) Looping of the existing on-site fire system as shown on the approved utility plan for the above referenced building permit, or as required by the Fire Department at the time of construction.
  - b) Installation of reduced pressure backflow device assemblies conforming to City of Lodi Standard Plan 413 on Parcels 1 and 4 in conformance with Lodi Municipal Code §13.10 Cross Connections, or as required by the Public Works Department at the time of construction.
  - c) Improvements listed above shall be installed at the time of any future development on Parcels 1, 4, 5 and 6; or, at the time of installation of any fences or other structures or facilities that impede access from any or all of those parcels to the existing fire hydrants; or, at the request of the City, whichever occurs first.
2. If Owner fails to complete the required improvements within the time period specified in Item #1 above, the Fire Chief or the City Council may serve written notice upon Owner for breach of this agreement and the default of Owner.
  3. In the event of any such notice of breach, Owner shall have the duty to complete the required improvements provided, however, that if the Owner, within five days after the serving of notice, does not give the City written notice of its intention to complete the improvements, and does not commence the required works within five days after its notice to City, the City is hereby authorized to complete the improvements for the account and the expense of Owner, and Owner shall be liable to City for any excess cost or damage occasioned City thereby.
  4. This agreement shall run with the land and be binding on the Owner, its heirs, successors or assigns.
  5. A copy of the Agreement shall be recorded in the office of the San Joaquin County Records, P. O. Box 1968, Stockton, California 95201-1968.
  6. All notices herein required shall be in writing, and delivered in person or sent by registered mail, postage prepaid.

Notices required to be given to City shall be addressed as follows:

Richard C. Prima, Jr.  
Public Works Director  
City of Lodi  
P. O. Box 3006  
Lodi, CA 95240-1910

Notices required to be given to Owner shall be addressed as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have set their hands the day, month and year appearing opposite their names.

OWNER

\_\_\_\_\_  
Date

\_\_\_\_\_  
Beverly Ann Gross, Trustee of the Beverly Ann Gross Survivors Trust, established under the Gross Family Trust

\_\_\_\_\_  
Date

\_\_\_\_\_  
Beverly Ann Gross, Trustee of the D. Allen Gross Bypass Trust, established under the Gross Family Trust

(CORPORATE SEAL)

CITY OF LODI, A MUNICIPAL CORPORATION

By: \_\_\_\_\_  
Blair King, City Manager

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Susan J. Blackston, City Clerk

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

\_\_\_\_\_  
D. Stephen Schwabauer, City Attorney

## EXHIBIT A

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

A portion of the South  $\frac{1}{2}$  of the Southwest  $\frac{1}{4}$  of Section 6, Township 3 North, Range 7 East, Mount Diablo Base and Meridian.

COMMENCING for the same at the Southeast corner of said quarter section; running thence West along the south line of said quarter section, 44.58 rods; thence North and parallel to the East line of said quarter section, 70.68 rods to the South line of what is known as Pine Street; thence Northeasterly along the south line of said Pine Street, to the East line of said quarter section; thence South along said quarter section line, 71.34 rods to the point of beginning.

EXCEPTING THEREFROM a portion of the Southwest quarter of Section 6, Township 3 North, Range 7 East, Mount Diablo Base and Meridian, City of Lodi, County of San Joaquin, State of California, and more particularly described as follows:

COMMENCING at the Southeast corner of Lot 2 as shown upon Map entitled, Lodi Industrial Park, filed for record March 25, 1958 in Volume 14 of Maps and Plats, at Page 139, San Joaquin County Records, said point also being the True Point of Beginning; thence North along the East line of said Lot 2, 188.16 feet; thence South 86 degrees, 11 minutes East, 340.22 feet; thence South 188.16 feet to the Easterly extension of the South line of said Lodi Industrial Park; thence North 86 degrees, 11 minutes West along said Easterly extension, 340.22 feet to the point of beginning.

ALSO EXCEPTING THEREFROM all that certain parcel of land situate in the Southwest quarter of Section 6, Township 3 North, Range 7 East, Mount Diablo Base and Meridian, San Joaquin County, California and more particularly described as follows:

BEGINNING at a point that is South 89 degrees, 00 minutes East, 30.00 feet and South 25.00 feet from the Northeast corner of Lodi Industrial Park, as recorded in Book of Maps, Volume 14, at Page 139, San Joaquin County Records; thence South 35.53 feet to the True Point of Beginning; thence continue South 101.34 feet; thence East, 339.47 feet; thence North 125.94 feet; thence North 89 degrees, 00 minutes West, 308.99 feet; thence Southwesterly along a curve concave to the Southeast having a radius of 30.00 feet, a central angle of 91 degrees, 00 minutes, an arc distance of 47.65 feet to the true point of beginning.

ALSO EXCEPTING THEREFROM a portion of the Southwest quarter of Section 6, Township 3 North, Range 7 East, Mount Diablo Base and Meridian, and more particularly described as follows:

## EXHIBIT A (continued)

COMMENCING at the Northeast corner of Lodi Industrial Park, filed for record in Volume 14, at Page 139, Maps, San Joaquin County Records, said point also being the True Point of Beginning; thence South 164.23 feet; thence East 30.0 feet; thence North 98.18 feet; thence along a curve to the right, said curve having a radius of 30.00 feet, a central angle of 89 degrees, 24 minutes, 28 seconds, and an arc length of 46.81 feet; thence North 89 degrees, 24 minutes, 28 seconds East, 180.28 feet; thence South 89 degrees, 00 minutes East, 129.52 feet; thence North 30.00 feet to the center line of that certain street known as Pine Street in the City of Lodi, California; thence North 89 degrees, 00 minutes West, along said center line, 369.52 feet to the point of beginning.

ALSO EXCEPTING THEREFROM, beginning at the Northeast corner of Lodi Industrial Park, as per Map filed for record March 25, 1958 in Volume 14 of Maps and Plats, Page 139, San Joaquin County Records; thence South 89 degrees, 00 minutes East, 61.14 feet; thence South 1 degree, 00 minutes West, 35.00 feet; thence southwesterly 47.65 feet, along a curve to the left having a radius of 30.00 feet, a central angle of 91 degrees, 00 minutes and a long chord which bears South 45 degrees, 30 minutes West; thence South and parallel to the East line of said Lodi Industrial Park, 1013.60 feet; thence Southeasterly 45.13 feet along a curve to the left having a radius of 30.00 feet, a central angle of 86 degrees, 11 minutes and long chord which bears South 43 degrees, 05 minutes, 30 seconds East; thence North 86 degrees, 11 minutes West, 58.14 feet to a point in the East line of said Lodi Industrial Park; thence North along said East line, 1105.72 feet to the point of beginning.

ALSO EXCEPTING THEREFROM that portion as described in Deed to the City of Lodi, filed for record June 11, 1959 in Volume 2188, Page 191, San Joaquin County Records.

ALSO EXCEPT THEREFROM that portion conveyed to Tradewell Stores, Inc., by Deed recorded August 10, 1973 in Book of Official Records, Vol. 3792, Page 582 and more particularly described as follows:

COMMENCING at the Northeast corner of "Lodi Industrial Park" as shown on the Map filed in Book 14 of Maps and Plats, Page 139, San Joaquin County Records; thence South along the center line of Kelly Street, 162.39 feet; thence East 30.0 feet to a point on the East line of Kelly Street, said point being the True Point of Beginning; thence East 339.47 feet; thence South 130.00 feet; thence West 339.47 feet to the East line of Kelly Street; thence North 130.00 feet to the point of beginning.

ALSO EXCEPT that portion conveyed to Elmer F. Kludt et ux, by Deed recorded October 18, 1979, Recorder's Instrument No. 79078584 and more particularly described as follows:

Parcel A, as shown on Parcel Map filed in Book 8 of Parcel Maps, Page 35, San Joaquin County Records.

### **EXHIBIT A (continued)**

ALSO EXCEPT THEREFROM that portion conveyed to the City of Lodi, by Deed recorded October 20, 1980, Recorder's Instrument No. 80070391 and more particularly described as follows:

COMMENCING at the Southeast corner of Lodi Industrial Park, as shown on Map filed for record March 25, 1958 in Volume 14 of Maps and Plats, Page 139, San Joaquin County Records; thence North along the East line of said Lodi Industrial Park, 60.13 feet; thence South 86 degrees, 11 minutes East, 340.22 feet to the True Point of Beginning; thence continuing South 86 degrees, 11 minutes East parallel to and 60.00 feet North of, as measured perpendicular to the South line of said Southwest quarter, 370.29 feet; thence North 47.57 feet; thence West 7.00 feet; thence 49.12 feet along a curve to the right, said curve having a radius of 30.00 feet, a central angle of 93 degrees, 49 minutes and a long chord which bears South 46 degrees, 54 minutes, 30 seconds West; thence North 86 degrees, 11 minutes West, 331.21 feet; thence South 15.03 feet to the true point of beginning.

ALSO EXCEPTING THEREFROM that portion conveyed to the City of Lodi by Deed recorded August 19, 1982, Recorder's Instrument No. 82047218 and more particularly described as follows:

BEGINNING at the Southeast corner of Parcel "A" as shown upon Map filed for record August 31, 1979 in Book 8 of Parcel Maps, Page 35, San Joaquin County Records; thence South 814.67 feet more or less to a point in the North line of that parcel of land deeded to the City of Lodi, October 20, 1980 by Instrument No. 80070391; thence East along the North line of said parcel, 7.00 feet; thence North 814.7 feet more or less, to a point lying 7.00 feet East of the point of beginning; thence West, 7.00 feet to the point of beginning.

ALSO EXCEPTING THEREFROM the Northerly 25 feet in Pine Street and those portions dedicated for public roadway on Parcel Map recorded in Book 8 of Parcel Maps, Page 35.

CITY COUNCIL

JOHN BECKMAN, Mayor  
SUSAN HITCHCOCK  
Mayor Pro Tempore  
LARRY D. HANSEN  
BOB JOHNSON  
JOANNE L MOUNCE

# 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](mailto:pwdept@lodi.gov)  
<http://www.lodi.gov>

BLAIR KING  
City Manager

SUSAN J. BLACKSTON  
City Clerk

D. STEVEN SCHWABAUER  
City Attorney

RICHARD C. PRIMA, JR.  
Public Works Director

February 24, 2005

Beverly Ann Gross  
119 Santa Ynez  
Lodi, CA 95242

Phillip Smith  
145 W. Jahant Road  
Acampo. CA 95220

Baumbach & Piazza  
323 W. Elm Street  
Lodi, CA 95240

SUBJECT: Approve Improvement Deferral Agreement for 214 Kelly Street

Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, March 2, 2005. 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 Sharon Welch, Senior Civil Engineer, at (209) 333-6800, extension 2659.



For: Richard C. Prima, Jr.  
Public Works Director

RCP/pmf

Enclosure

cc: City Clerk