



**CITY OF LODI  
COUNCIL COMMUNICATION**

**AGENDA TITLE:** Adopt a resolution authorizing the City Manager to allocate Public Benefit Program funds for Lodi's first annual *Electronic Waste Clean-Up Day*; and authorizing the City Manager to execute a contract with Teris LLC/MSE Environmental to provide disposal and recycling services for this program (\$25,000).

**MEETING DATE:** June 16, 2004

**PREPARED BY:** Electric Utility Director

**RECOMMENDED ACTION:** That the City Council adopt a resolution authorizing the City Manager to allocate \$25,000 in Public Benefit Program funds for Lodi's first annual *Electronic Waste Clean-Up Day*; and authorizing the City Manager to execute a contract with Teris LLC/MSE Environmental to provide disposal and recycling service for this program.

**BACKGROUND INFORMATION:** The *Electronic Waste Clean-Up Day* is another in our series environmental programs funded Lodi's Public Benefits Program. The intent of this new effort is to assist Lodi electric utility customers with the proper disposal and recycling of aging and energy *inefficient* computer monitors, computer hardware and television sets. The program is also designed to showcase and promote the purchase of EnergyStar® computers and television sets. The program specifics include the following:

- the event will take place on Saturday, August 14, 2004, 7:00am until 10:00am;
- the location of the event will be the Public Parking lot *adjacent* to the Kofu Park Tennis Courts on Ham Lane (in close proximity to Lodi's Municipal Service Center);
- *eligible customers-* in order to drop-off an old computer and/or television set for disposal and recycling, customers must show a current California drivers license, as well as a copy of their City of Lodi utility bill or statement;
- computer software, television antennas, cable boxes, and cardboard boxes will not be accepted for disposal or recycling;
- upon the disposal of their computer and/or television set, the first one-hundred fifty (150) eligible customers will receive a coupon for \$50.00 off the purchase of one (1) EnergyStar® computer system or television set; the energy efficient home electronics product must be purchased from a Lodi retailer.

In order to successfully complete this project, Electric Utility staff is recommending the use of Teris LLC/MSE Environmental. This organization completed a similar recycling project in the spring of 2004 for San Joaquin County's Public Works Department, and has coordinated numerous household hazardous waste recycling projects for municipalities throughout central and northern California. Teris LLC/MSE

APPROVED:

  
H. Dixon Flynn, City Manager

Adopt a resolution authorizing the City Manager to allocate Public Benefit Program funds for Lodi's first annual *Electronic Waste Clean-Up Day*; and authorizing the City Manager to execute a contract with Teris LLC/MSE Environmental to provide disposal and recycling services for this program (\$25,000) (EUD)  
June 16, 2004  
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Environmental is considered a leader in the recycling industry in the United States, and maintains three field offices in California (Benicia, Camarillo and Wilmington). *Due to their extensive background and work with municipal agencies in California, Electric Utility staff respectfully requests that the Lodi City Council dispense with going out to bid pursuant to Lodi Municipal Code 3.20.070.*

This project, which promotes energy conservation, also assists customers with the disposal and proper recycling of aging home electronics products. *(Note: in discussing our proposed project with staff from other City departments, as well as San Joaquin County Public Works personnel, many of these aging computers, monitors and television sets are illegally dumped in alley ways, residential neighborhoods, behind shopping centers and stores, etc., rather than being properly discarded.)*

Electric Utility staff respectfully recommends approval of the *Electronic Waste Clean-Up Day* as a qualifying component of the City of Lodi Public Benefits Program.

**FUNDING:** 164605 Public Benefits Program (Category: Demand-side Management)

**Funding Approval:**

  
Jim Krueger, Finance Director

  
Alan N. Vallow  
Electric Utility Director

**PREPARED BY:** Rob Lechner, Manager of Customer Service & Programs

ANV/RL/ke

cc: R. Lechner

## **AGREEMENT OF TERMS AND CONDITIONS FOR ELECTRONIC WASTE SERVICES**

This Agreement, made and entered into as of the \_\_\_\_\_ day of May, 2004 by and between the City of Lodi, CA, hereinafter referred to as "Customer," and Teris LLC, dba MSE Environmental, 880 West Verdulera Street, Camarillo, California, hereinafter referred to as "MSE".

### **WITNESSETH:**

WHEREAS, Customer has Electronic Waste, hereinafter referred to as "E-waste", and wishes the E-Waste to be packaged, transported and properly disposed;

WHEREAS, MSE is willing to accept certain types of Customer's E-waste and/or ensure that it is properly packaged, transported and/or disposed of according to the terms and conditions herein;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### **1.0 E-WASTE SERVICES**

MSE shall ensure legal servicing, treatment and/or disposal of such types of E-waste listed on the attached Schedule "A" as requested by Customer. Schedule A may be modified if required by the parties' joint execution of an amendment. Services to be provided may include packaging, supplies, transportation, disposal, of E-waste materials and additional services as requested by Customer.

### **2.0 TRANSPORTATION**

2.1 MSE shall be responsible for providing suitable means to transport the E-waste.

2.2 MSE shall prepare all shipping papers, manifest, and labels with each shipment of E-waste in accordance with all applicable requirements of the United States Department of Transportation ("DOT") and the United States Environmental Protection Agency ("EPA") under the Toxic Substances Control Act ("TSCA"), the Resource Conservation and Recovery Act ("RCRA"), and all other Federal, State and local statutes, regulations and ordinances.

2.3 MSE or MSE's contracted transporter shall maintain in force and require all carriers it engages to carry vehicular liability insurance equivalent to that specified in Section 9.0 of this Agreement and shall, upon request, provide the other party with certificates of insurance evidencing such coverages.

2.4 Customer will provide satisfactory area, roadways and approaches to safely conduct mobile E-waste collection event.

### **3.0 RESPONSIBILITIES**

3.1 MSE shall mobilize all manpower, equipment, materials and technical services required to perform mobile E-waste collection event.

3.2 MSE shall arrive on-site prior to collection hours and perform site set-up.

3.3 MSE shall unload, package, transport and dispose of E-waste collected from participant vehicles.

3.4 MSE shall demobilize after event completion and leave site clean.

3.5 MSE shall provide project summary and document after completion of project.

### **4.0 WARRANTIES**

4.1 MSE warrants that its services performed under this Agreement shall comply with all requirements of federal, state and local laws, regulations, and ordinances.

4.2 MSE warrants that all permits, licenses, authorizations, and approvals required for transportation of the E-waste by federal, state and local laws, regulations, and ordinances shall be in effect at the time of transportation.

4.3 MSE warrants that the containers MSE supplies comply with all laws, regulations or ordinances which may be applicable to their packaging or transportation, including, but not limited to DOT regulations. Customer warrants that E-waste for disposal will be packaged in MSE supplied containers that meet above requirements.

### **5.0 INDEMNIFICATION AND SUBROGATION**

5.1 MSE agrees to indemnify, hold harmless and defend Customer, its officers, directors, shareholders, agents, employees and affiliates, from any and all liabilities, claims, penalties, forfeitures, suits and the costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorneys' fees) which Customer may hereafter incur, become responsible for or pay out as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of governmental laws, regulations or orders, to the extent that such damage was caused by

- (i) MSE's breach of any term or provision of this Agreement;
- (ii) the failure of any warranty of MSE to be true, accurate and complete; or
- (iii) any negligent, intentional or willful act or omission of MSE or its employees, subcontractors or agents.

5.2 Customer agrees to indemnify, hold harmless and defend MSE, its officers, directors, shareholders, agents, employees and affiliates, from any and all liabilities, claims, penalties, forfeitures, suits and the costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorneys' fees) which MSE may hereafter incur, become responsible

for or pay out as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of governmental laws, regulations or orders, to the extent that such damage was caused by

- (iv) Customer's breach of any term or provision of this Agreement;
- (v) the failure of any warranty of Customer to be true, accurate and complete; or
- (vi) any negligent, intentional or willful act or omission of Customer or its employees, subcontractors or agents.

5.3 With respect to any claim for indemnification, the party claiming a right to indemnity shall:

- (i) give written notice of the claim within a reasonable period following the event or occurrence and identify the basis of the indemnification asserted; and
- (ii) allow the other party (including its employees, agents, insurers and counsel) reasonable access to any of its employees, property and records for the purpose of conducting an investigation of such claim and for the purpose of obtaining statements, photographs, physical evidence and chemical analyses and taking such other steps as may be necessary to preserve evidence of the event or occurrence on which the claim is based. If the party claiming a right to indemnity denies the other party reasonable access as set forth above, the party claiming such right shall forfeit that right and assume sole responsibility for the claim for which indemnification is sought and shall not be entitled to indemnity.

5.4 MSE agrees to indemnify, save harmless and defend Customer from and against any and all liabilities, claims, penalties, forfeitures, suits and the costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorneys' fees), which it may hereafter incur, become responsible for or pay out as a result of any violation by MSE in its transportation, treatment, storage or disposal of the E-waste listed on the Schedule A and/or Quotation, including, but not limited to, violations resulting from the intentional or negligent act or omission of MSE, its officers, employees, agents, and/or contractors.

## **6.0 CHARGES AND FEES**

6.1 MSE's charges for its services pursuant to this Agreement are set forth in Schedule "A".

6.2 When possible, MSE shall weigh all containers including drums, lab packs, etc., prior to transporting and record the weight on shipping documents. Invoices will be based upon the containerized pricing as provided in Schedule "A".

## **7.0 PAYMENT**

Each invoice for E-waste received by MSE and/or services provided to Customer shall be paid, net terms, by Customer within thirty (30) days from Customer's receipt of invoice. Invoices not paid when due shall accrue interest at the rate of one percent (1 %) per month from the due date.

## 8.0 TERM

8.1 This Agreement shall commence on the date first above written and shall continue in full force and effect until December 31, 2004.

8.2 This agreement may be terminated at any time by either party providing the other party with at least thirty (30) days prior written notice of termination. Should this agreement be terminated by either party, MSE shall be responsible for removing any and all equipment and/or materials associated with this agreement and collected during the course of performing E-waste collections at Lodi, CA. Customer shall be responsible for payment of fees for final services as listed in Schedule "A".

## 9.0 INSURANCE

MSE shall have in effect and shall maintain for the term of this Agreement the following insurance:

<u>TYPE OF INSURANCE</u>	<u>MINIMUM POLICY LIMITS</u>
Worker's Compensation	\$2,000,000 per occurrence
Automobile Liability	\$2,000,000 combined single limit
General Liability	\$2,000,000 per occurrence
	\$4,000,000 aggregate
Pollution Liability	\$25,000,000 limit

MSE shall provide notice to Customer of any changes in coverage limits and will provide certificates of insurance upon request.

## 10.0 GENERAL PROVISIONS

10.1 In the performance of this Agreement, MSE is an independent contractor.

10.2 Each party grants the other, its agents and employees, during the term of this Agreement, reasonable access to the other party's facilities for purposes of fulfilling obligations under this Agreement. Each party agrees to comply with reasonable safety standards adopted by the other while on the other's premises. Each party further agrees to protect and hold confidential technologies observed while on the other's premises. MSE agrees to protect and hold confidential all non-public data on E-waste received from Customer, unless legal or regulatory requirements mandate disclosure. MSE and Customer agree to protect and hold confidential all non-public information concerning the other party's business, operations, technologies, formulas, procedures, processes, methods, trade secrets, ideas, improvements, plans, programs, plants, equipment or customers.

10.3 This Agreement constitutes the entire Agreement between MSE and Customer, and all previous representations relative thereto, either written or oral, are hereby annulled and superseded. No modification shall be binding on MSE or Customer unless in writing and signed by both parties.

**11.0 DEFAULTS**

11.1 Except as provided in Section 11.2 herein, if, during the term of the Agreement, either party shall become delinquent in settling its account or shall be in default of any provisions of the Agreement, the other party may suspend its performance hereunder until such delinquency or default has been corrected.

11.2 Any delay or failure of either party in the performance of its required obligations hereunder shall be excused if and to the extent caused by acts of God, strikes, action of regulatory agencies, fire, flood, windstorm, explosion, riot, war, sabotage, court injunction or order, loss of permits, and cause or causes beyond the reasonable control of the party affected provided that a prompt notice of such delay is given by such party to the other and each of the parties hereto shall be diligent in attempting to remove such cause or causes. Performance hereunder shall be suspended only for the amount of time reasonably necessary to remove such cause or causes which result in the delay.

**12.0 NOTICE**

Any notice required to be given by the terms of this Agreement shall be delivered by hand or mailed to at the following; or to such other address for either party as that party may, by notice, designate.

Teris LLC, dba MSE Environmental.  
880 West Verdulera Street  
Camarillo, CA 93010

CITY OF LODI  
1331 South Ham Lane  
Lodi, CA 95242

IN WITNESS WHEREOF, MSE and Customer have each caused this agreement to be executed by its duly authorized representative on the day and year set forth.

ACCEPTED:

ACCEPTED:

Teris, LLC dba MSE Environmental

City of Lodi

\_\_\_\_\_  
Janice K. Oldemeyer, Vice President

\_\_\_\_\_  
Manager, City of Lodi

DATE \_\_\_\_\_

DATE \_\_\_\_\_

\_\_\_\_\_  
Attorney, City of Lodi

**SEAL OF CITY LODI CLERK**

### SCHEDULE "A" COST SHEET

The following pricing details specific prices for the various types of wastes and services that MSE will provide to the City. This pricing includes labor, equipment, supplies, transportation and disposal.

<b>Category</b>	<b>Cost per unit</b>
Televisions	12.50/each
Computer Monitors	10.50/each
Computer Peripherals (printers, scanners, mice, speakers)	\$0.14/lb
Computer Processing Units	\$0.14/lb
Mobilization Fee (includes all labor, equipment & supplies)	\$5,000

RESOLUTION NO. 2004-122

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY  
MANAGER TO ALLOCATE PUBLIC BENEFITS PROGRAM FUNDS FOR  
THE ELECTRONIC WASTE CLEAN-UP DAY AND FURTHER  
AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH  
TERIS LLC/MSE ENVIRONMENTAL TO PROVIDE DISPOSAL AND  
RECYCLING SERVICES FOR THIS PROGRAM

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WHEREAS, the state has mandated that beginning January 1, 1998, the City of Lodi is obligated to fund various programs through a Public Benefits Charge (PBC) based on an historical electric revenue requirement; and

WHEREAS, the requirement amounts to approximately \$1 million per year that must be dedicated to qualifying programs such as energy efficiency. A further stipulation is that these efforts must be done on the customer's side of the meter in order to qualify; and

WHEREAS, the City of Lodi's Public Benefits Program is comprised of four segments or customer groups: commercial/industrial, residential, community/non-profit, and municipal; and

The *Electronic Waste Clean-Up Day* is another in the series of environmental programs funded through the City of Lodi's Public Benefits Program. The intent of this new effort is to assist Lodi electric utility customers with the proper disposal and recycling of aging and energy inefficient computer monitors, computer hardware, and television sets. The program is also designed to showcase and promote the purchase of EnergyStar® computers and television sets. The program specifics include the following:

- the event will take place on Saturday, August 14, 2004, 7:00 a.m. until 10:00 a.m.;
- the location of the event will be the public parking lot *adjacent* to the Kofu Park Tennis Courts on Ham Lane (in close proximity to Lodi's Municipal Service Center);
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WHEREAS, in order to successfully complete this project, Electric Utility staff is recommending the use of Teris LLC/MSE Environmental. This organization completed a similar recycling project in the spring of 2004 for San Joaquin County's Public Works Department, and has coordinated numerous household hazardous waste recycling projects for municipalities throughout central and northern California; and

WHEREAS, Lodi Municipal Code §3.20.070 authorizes dispensing with bids for purchases of supplies, services, or equipment when it is in the best interest of the City to do so; and

WHEREAS, Teris LLC/MSE Environmental is considered a leader in the recycling industry in the United States and maintains three field offices in California (Benicia, Camarillo, and Wilmington). Due to its extensive background and work with municipal agencies in California, Electric Utility staff respectfully requests that the Lodi City Council dispense with going out to bid pursuant to Lodi Municipal Code §3.20.070; and

WHEREAS, this project, which promotes energy conservation, also assists customers with the disposal and proper recycling of aging home electronics products; and

WHEREAS, Electric Utility staff respectfully recommends approval of the *Electronic Waste Clean-Up Day* as a qualifying component of the City of Lodi Public Benefits Program.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby authorizes the City Manager to allocate Public Benefits Program funds for Lodi's first annual Electronic Waste Clean-up Day in the amount of \$25,000.00; and

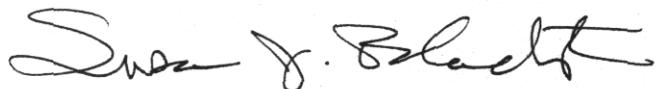
BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute a contract with Teris LLC/MSE Environmental to provide disposal and recycling services for this program.

Dated: June 16, 2004

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I hereby certify that Resolution No. 2004-122 was passed and adopted by the Lodi City Council in a regular meeting held June 16, 2004, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hitchcock, Howard, and Land  
NOES: COUNCIL MEMBERS – None  
ABSENT: COUNCIL MEMBERS – Mayor Hansen  
ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON  
City Clerk