



**CITY OF LODI  
COUNCIL COMMUNICATION**

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**AGENDA TITLE:** Adopt Resolution to Approve the Water Rights Agreement for APN 031-040-10 (Formerly Known as 1219 Bezug Lane) and for APN 031-040-11 and APN 031-040-12 (Formerly Known as 1239 and 1251 Bezug Lane) and Authorize the City Manager to Execute Future Water Rights Agreements without Separate Council Action

**MEETING DATE:** September 1, 2004

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** That the City Council adopt a resolution approving the water rights agreement for APN 031-040-10 (formerly known as 1219 Bezug Lane) and for APN 031-040-11 and APN 031-040-12 (formerly known as 1239 and 1251 Bezug Lane), direct the City Manager and City Clerk to execute the water rights agreements on behalf of the City and authorize the City Manager to execute future water rights agreements without separate Council action.

**BACKGROUND INFORMATION:** In order to assist the City in providing an adequate water supply, property owners are required, as a condition of tentative map approval, to enter into an agreement with the City that the City of Lodi be appointed as its agent for the exercise of any and all overlying water rights appurtenant to the real property within the boundaries of the map and that the City may charge fees for the delivery of such water in accordance with City rate policies. The agreement establishes conditions and covenants running with the land for all lots/parcels within the boundaries of the map and provides deed provisions to be included in each conveyance.

The owners of parcel APN 031-040-10, Mazen M. Mardini and Haifa Mardini, have submitted a parcel map to create three residential parcels from one parcel. The owners of parcels APN 031-040-11 and APN 031-040-12, Ronald B. Thomas, Trustee of the Ronald B. Thomas Revocable Trust, and John Jeffrey Kirst and Carol Ann Kirst, Trustees of the Jeffrey and Carol Kirst Family Trust, have submitted a parcel map to create four residential parcels from two parcels. The proposed parcels are located on the west side of the former Bezug Lane (now known as Stonebridge Drive), as shown on Exhibit A.

The owners have executed the necessary water rights agreements and staff recommends that Council adopt a resolution approving the water rights agreements and direct the City Manager and City Clerk to execute the agreements on behalf of the City.

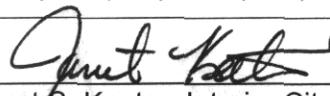
In addition, since the water rights agreement is a condition of all tentative map approvals, staff requests that Council authorize the City Manager to execute future standard water rights agreements on behalf of the City without separate Council action. This arrangement will save time for both staff and Council. A copy of the standard agreement template is attached as Exhibit B.

**FUNDING:** Not Applicable

  
Richard C. Prima, Jr.  
Public Works Director

Prepared by Sharon A. Welch, Senior Civil Engineer  
RCP/SAW/pmf  
Attachments

cc: Senior Civil Engineer Welch      Senior Engineering Technician Matsumoto      Mazen M. & Haifa Mardini  
Ronald B. Thomas (R. Thomas Development)      Jeffrey Kirst (Tokay Development)      Baumbach & Piazza

APPROVED:   
Janet S. Keeter, Interim City Manager



WHEN RECORDED, RETURN TO:

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

WATER RIGHTS AGREEMENT

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, a municipal corporation formed and existing under the laws of the State of California (hereinafter referred to as "City"), and \_\_\_\_\_, (hereinafter referred to as "Landowner"), as the owner of that certain real property described in Exhibit A, attached hereto and included herein as if set forth in full, which lands are hereinafter referred to as "the real property". The parties do agree for full and adequate consideration, receipt of which and the adequacy of which is evidenced by execution of the Agreement, as follows:

1. Conditions of Final Map. This Agreement is a part of and a condition of the proposed final map for *[name of subdivision/APN #]*.
2. Terms. This Agreement shall not be effective unless and until such final map is approved by the City. If approval of the final map shall not have been completed by the City by \_\_\_\_\_, the terms and provisions of this Agreement shall be null and void and of no further force or effect. If approval shall have occurred by said date, this Agreement shall not be altered, cancelled or rescinded, except in writing and executed by each party hereto.
3. Grant of Water Rights. Landowner, on behalf of itself, its successors and assigns, hereby grants and assigns to the City any and all appropriative or prescriptive water rights appurtenant to the real property.

*[Omit following paragraph if real property is **not** adjacent to the Mokelumne River]*

4. Preservation of Riparian Rights. Landowner expressly intends that upon subdivision of the real property, riparian water rights appurtenant to the real property shall be preserved to each (*parcel, lot*) thereby created whether adjoining the Mokelumne River or not, and there shall be preserved to each such (*parcel, lot*) a proportionate share of such riparian right.
5. Appointment of City as Agent. In order to assist the City in obtaining an adequate water supply, Landowner, on behalf of its successors and assigns, hereby appoints City as its agent for the exercise of any and all (riparian and) *[Omit words in parenthesis if not adjacent to the Mokelumne River]* overlying water rights appurtenant to the real property for purposes of diversion and delivery of water to the real property, and Landowner further agrees that the City may charge reasonable fees for the delivery of such water.

6. Conditions and Covenants Running With the Land. Landowner agrees that the provisions of the recordable Agreement benefit the real property, and establish conditions and covenants running with the land and binding successor owners of possessors of interest in the real property. Upon recordation of the Agreement, and upon transfer of all or any portion of the real property described in Exhibit A hereto, successors in title or interest to all or any portion of such lands shall be deemed to agree and consent to the terms of the Agreement by acceptance of title or interest to such lands or any part thereof, whether the interest is legal or equitable in the property.
7. Deed Provisions. Landowner further agrees to insert in each deed granting a portion of the real property the following provisions and to have the grantee under each such deed execute the deed:

*[Omit following paragraph if real property is **not** adjacent to the Mokelumne River]*

“This grant does not sever, and there is no intention to sever, and the grantor intends not to sever, riparian water rights on the lands retained by the grantor. This grant does not sever, and there is no intention to sever, and the grantor intends not to sever, riparian water rights on lands conveyed to the grantee.”

“Grantor and Grantee, each on behalf of itself, its successors and assigns, appoints the City of Lodi as agent for the exercise of any and all (riparian and) *[Omit words in parenthesis if not adjacent to the Mokelumne River]* overlying water rights appurtenant to *[describe the land granted]* for purposes of diversion and delivery of water to *[the land granted]*, and agrees that the City may charge reasonable fees for the delivery of such water. Such appointment is intended to benefit *[the land granted]*.”

IN WITNESS WHEREOF, City and Landowner have caused their names to be hereunto affixed and the City of Lodi has caused its corporate name and seal to be hereunto affixed by its proper officers thereunto duly authorized.

LANDOWNER(S)

\_\_\_\_\_  
Date

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

(CORPORATE SEAL)

CITY OF LODI, A MUNICIPAL CORPORATION

By: \_\_\_\_\_  
Janet S. Keeter, Interim City Manager

\_\_\_\_\_  
Date

ATTEST:

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

\_\_\_\_\_  
Date

APPROVED AS TO FORM:

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

CITY COUNCIL

LARRY D. HANSEN, Mayor  
JOHN BECKMAN  
Mayor Pro Tempore  
SUSAN HITCHCOCK  
EMILY HOWARD  
KEITH LAND

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>

JANET S. KEETER  
Interim City Manager  
SUSAN J. BLACKSTON  
City Clerk  
D. STEVEN SCHWABAUER  
City Attorney  
RICHARD C. PRIMA, JR.  
Public Works Director

August 26, 2004

Mr. Ronald B. Thomas  
R. Thomas Development  
P.O. Box 1598  
Lodi, CA 95241-1598

Mr. Jeffrey Kirst  
Tokay Development  
P.O. Box 1259  
Woodbridge, CA 95258

Mazen M. & Hafiah Mardini  
999 S. Fairmont Avenue, Ste. 115  
Lodi, CA 95240

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

SUBJECT: Adopt Resolution to Approve the Water Rights Agreement for APN 031-040-10 (Formerly Known as 1219 Bezug Lane) and for APN 031-040-11 and 031-040-12 (Formerly Known as 1239 and 1251 Bezug Lane) and Authorize the City Manager to Execute Future Water Rights Agreements without Separate Council Action

Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, September 1, 2004. 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 333-6702.

If you have any questions about the item itself, please call Sharon Welch, Senior Civil Engineer, at 333-6800, extension 2659.



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

RCP/pmf  
Enclosure  
cc: City Clerk

NCC\_WATER RIGHTS AGMT.DOC



**CITY OF LODI  
COUNCIL COMMUNICATION**

**AGENDA TITLE:** Adopt Resolution to Approve the Water Rights Agreement for APN 031-040-10 (Formerly Known as 1219 Bezug Lane) and for APN 031-040-11 and APN 031-040-12 (Formerly Known as 1239 and 1251 Bezug Lane) and Adopt Resolution Authorizing the City Manager to Execute Future Water Rights Agreements without Separate Council Action

**MEETING DATE:** September 1, 2004

**PREPARED BY:** Public Works Director

**RECOMMENDED ACTION:** That the City Council adopt a resolution approving the water rights agreement for APN 031-040-10 (formerly known as 1219 Bezug Lane) and for APN 031-040-11 and APN 031-040-12 (formerly known as 1239 and 1251 Bezug Lane), direct the City Manager and City Clerk to execute the water rights agreements on behalf of the City and adopt a resolution authorizing the City Manager to execute future water rights agreements without separate Council action.

**BACKGROUND INFORMATION:** In order to assist the City in providing an adequate water supply, property owners are required, as a condition of tentative map approval, to enter into an agreement with the City that the City of Lodi be appointed as its agent for the exercise of any and all overlying water rights appurtenant to the real property within the boundaries of the map and that the City may charge fees for the delivery of such water in accordance with City rate policies. The agreement establishes conditions and covenants running with the land for all lots/parcels within the boundaries of the map and provides deed provisions to be included in each conveyance.

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The owners have executed the necessary water rights agreements and staff recommends that Council adopt a resolution approving the water rights agreements and direct the City Manager and City Clerk to execute the agreements on behalf of the City.

In addition, since the water rights agreement is a condition of all tentative map approvals, staff requests that Council authorize the City Manager to execute future standard water rights agreements on behalf of the City without separate Council action. This arrangement will save time for both staff and Council. A copy of the standard agreement template is attached as Exhibit B.

**FUNDING:** Not Applicable

Richard C. Prima, Jr.  
Public Works Director

Prepared by Sharon A. Welch, Senior Civil Engineer  
RCP/SAW/pmf  
Attachments

cc: Senior Civil Engineer Welch Senior Engineering Technician Matsumoto Mazen M. & Haifa Mardini  
Ronald B. Thomas (R. Thomas Development) Jeffrey Kirst (Tokay Development) Baumbach & Piazza

**APPROVED:** \_\_\_\_\_  
Janet S. Keeter, Interim City Manager

DRAFT

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING WATER RIGHTS AGREEMENTS FOR APN 031-040-10 (FORMERLY KNOWN AS 1219 BEZUG LANE) AND FOR APN 031-040-11 AND APN 031-040-12 (FORMERLY KNOWN AS 1239 AND 1251 BEZUG LANE, AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENTS ON BEHALF OF THE CITY OF LODI

=====

WHEREAS, in order to assist the City in providing an adequate water supply, property owners are required, as a condition of tentative map approval, to enter into an agreement with the City that the City of Lodi be appointed as its agent for the exercise of any and all overlying water rights appurtenant to the real property within the boundaries of the map and provides deed provisions to be included in each conveyance; and

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve Water Rights Agreements for APN 031-040-10 (Formerly Known as 1219 Bezug Lane) and for APN 031-040-11 and APN 031-040-12 (Formerly Known as 1239 and 1251 Bezug Lane), as shown on Exhibit A attached; and

BE IT FURTHER RESOLVED that the City Council hereby directs the City Manager and City Clerk to execute the Water Rights Agreements on behalf of the City of Lodi.

Dated: September 1, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 1, 2004, by the following vote:

- AYES: COUNCIL MEMBERS –
- NOES: COUNCIL MEMBERS –
- ABSENT: COUNCIL MEMBERS –
- ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

RESOLUTION NO. 2004-\_\_\_\_

DRAFT

A RESOLUTION OF THE LODI CITY COUNCIL  
AUTHORIZING AND DIRECTING THE CITY MANAGER  
TO EXECUTE ALL FUTURE WATER RIGHTS  
AGREEMENTS WITHOUT SEPARATE COUNCIL ACTION

=====

WHEREAS, in order to assist the City in providing an adequate water supply, property owners are required, as a condition of tentative map approval, to enter into an agreement with the City that the City of Lodi be appointed as its agent for the exercise of any and all overlying water rights appurtenant to the real property within the boundaries of the map and provides deed provisions to be included in each conveyance; and

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize and direct the City Manager and City Clerk to execute all future water rights agreements on behalf of the City of Lodi without separate City Council action.

Dated: September 1, 2004

=====

I hereby certify that Resolution No. 2004-\_\_\_\_ was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 1, 2004, by the following vote:

- AYES: COUNCIL MEMBERS –
- NOES: COUNCIL MEMBERS –
- ABSENT: COUNCIL MEMBERS –
- ABSTAIN: COUNCIL MEMBERS –

SUSAN J. BLACKSTON  
City Clerk

RESOLUTION NO. 2004-174

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING WATER RIGHTS AGREEMENTS FOR APN 031-040-10 (FORMERLY KNOWN AS 1219 BEZUG LANE) AND FOR APN 031-040-11 AND APN 031-040-12 (FORMERLY KNOWN AS 1239 AND 1251 BEZUG LANE) AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENTS ON BEHALF OF THE CITY OF LODI

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WHEREAS, in order to assist the City in providing an adequate water supply, property owners are required, as a condition of tentative map approval, to enter into an agreement with the City that the City of Lodi be appointed as its agent for the exercise of any and all overlying water rights appurtenant to the real property within the boundaries of the map and provides deed provisions to be included in each conveyance.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve Water Rights Agreements for APN 031-040-10 (formerly known as 1219 Bezug Lane) and for APN 031-040-11 and APN 031-040-12 (formerly known as 1239 and 1251 Bezug Lane), as shown on Exhibit A attached; and

BE IT FURTHER RESOLVED that the City Council hereby directs the City Manager and City Clerk to execute the Water Rights Agreements on behalf of the City of Lodi.

Dated: September 1, 2004

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I hereby certify that Resolution No. 2004-174 was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 1, 2004, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hitchcock, Howard, and Mayor Hansen

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Land

ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON  
City Clerk

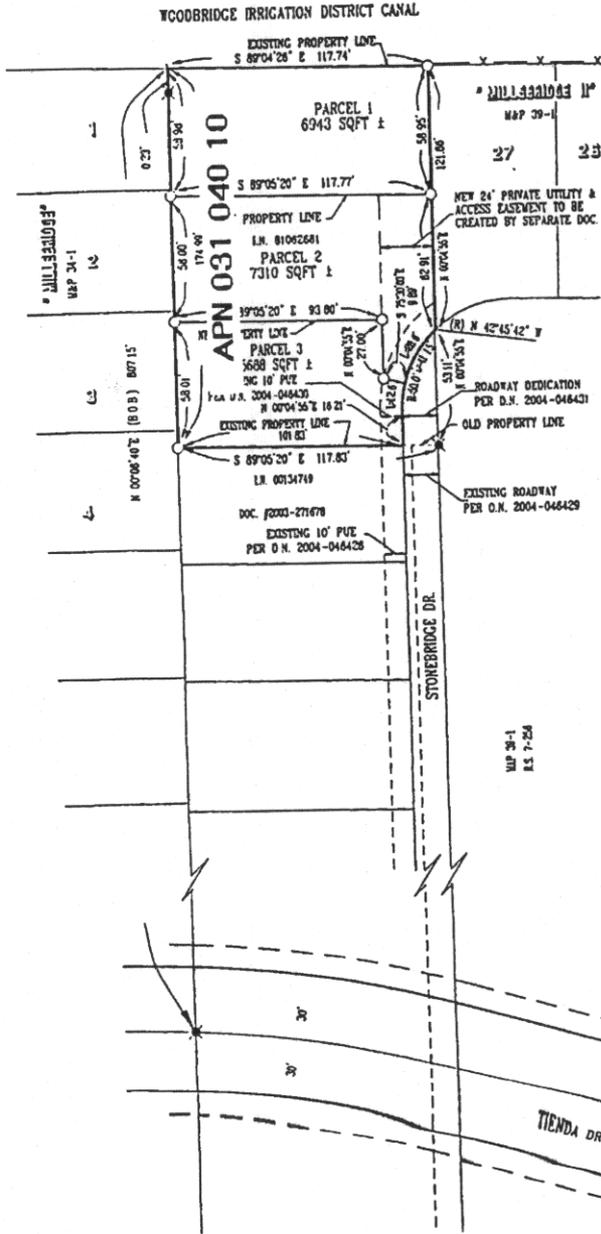


# CITY OF LODI

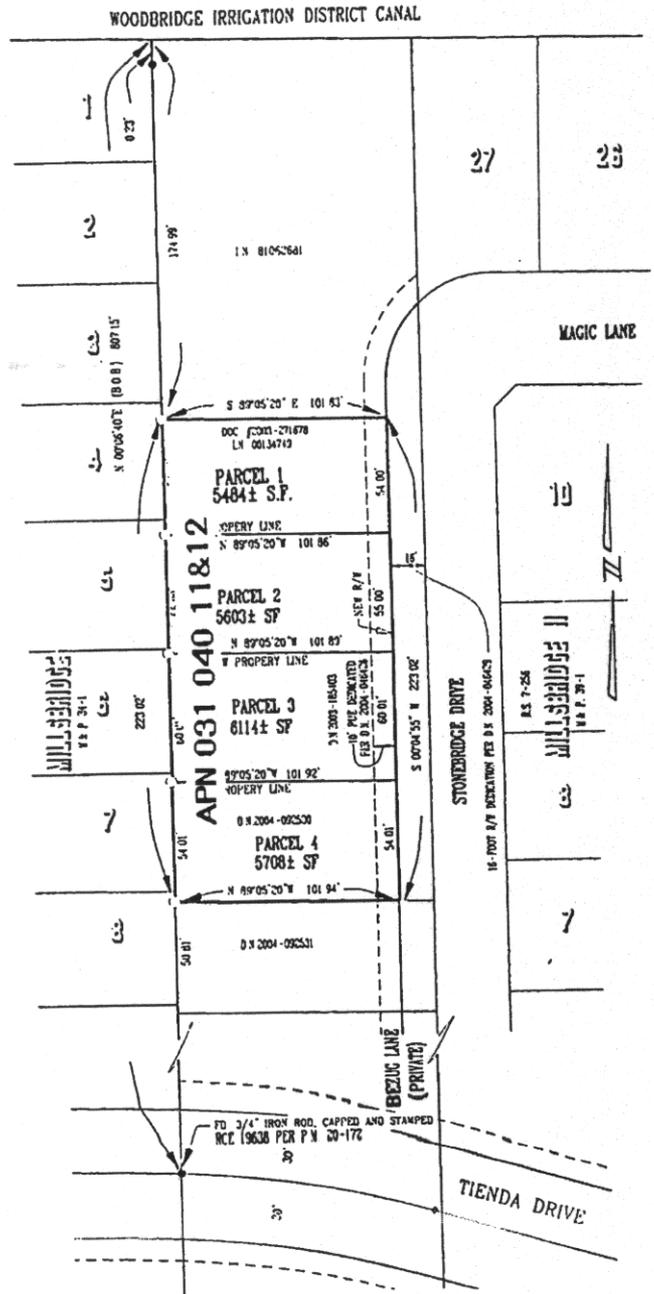
PUBLIC WORKS DEPARTMENT

# EXHIBIT A

## WATER RIGHTS AGREEMENT



**MARDINI PARCEL**  
1219 BEZUG LANE



**THOMAS & KIRST PARCELS**  
1239 & 1251 BEZUG LANE

RESOLUTION NO. 2004-175

A RESOLUTION OF THE LODI CITY COUNCIL  
AUTHORIZING AND DIRECTING THE CITY MANAGER  
TO EXECUTE ALL FUTURE WATER RIGHTS  
AGREEMENTS WITHOUT SEPARATE COUNCIL ACTION

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WHEREAS, in order to assist the City in providing an adequate water supply, property owners are required, as a condition of tentative map approval, to enter into an agreement with the City that the City of Lodi be appointed as its agent for the exercise of any and all overlying water rights appurtenant to the real property within the boundaries of the map and provides deed provisions to be included in each conveyance.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize and direct the City Manager and City Clerk to execute all future water rights agreements on behalf of the City of Lodi without separate City Council action.

Dated: September 1, 2004

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I hereby certify that Resolution No. 2004-175 was passed and adopted by the City Council of the City of Lodi in a regular meeting held September 1, 2004, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hitchcock, Howard, and  
Mayor Hansen

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Land

ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON  
City Clerk