



CITY OF LODI
COUNCIL COMMUNICATION

AGENDA TITLE: Adopt a Resolution Approving Addendum No. 3 to Lodi Boys and Girls Club City Lease to Accommodate F&M Bank Financing

MEETING DATE: November 17, 2004

PREPARED BY: Interim City Manager

RECOMMENDED ACTION: That the City Council consider adopting a Resolution approving addendum No. 3 to Lodi Boys and Girls Club City lease to accommodate F&M financing.

BACKGROUND INFORMATION: The Lodi Boys and Girls Club currently has a lease with the City of Lodi for the ground upon which their building is located. Addendum #2 (Exhibit A) to the lease is a guarantee by the City of a \$373,000 loan between the Club and Farmers and Merchants Bank. Since issued, the Club has paid that debt down to a principal amount of \$165,000. The Club is proposing to consolidate a Bank of Lodi \$100,000 line of credit and apply for \$50,000 loan and requesting that the City add this to its existing guarantee. Attached for Council's consideration is Addendum #3 (Exhibit B) which reflects an amended amount from Addendum #2 (\$165,000) and the amount of \$150,000 of the new loan.

We have removed the reference to the payments by the Weybret Trust because the Trust was not a party to the prior guarantee, and as such, the agreement was not binding on the trust. The Trust has agreed to continue making payments of amounts sufficient to pay the existing balance of \$165,000, but not the new loan of \$150,000.

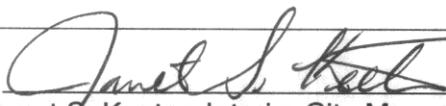
This Addendum #3 is necessary for the Club to effectuate its agreement with Farmer's and Merchants Bank and will allow them to move forward with restructuring their debt. The bottom line for the City is that should the Club default on its loan, the City would be responsible (as it is now) for seeking a new tenant for the facility which must be a 501(c)(3) tax exempt non-profit organization. The City would be responsible for making the interest only payments (as it is now) on the referenced loan upon cessation of occupancy of the Club. If no tenant is in place, the City shall, at its own option, either assume the loan or pay off the balance owing to the loan. In either case, the City shall then have sole ownership and control of the improvements.

FUNDING: Not Applicable.


Janet S. Keeter
Interim City Manager

Attachments: Addendum #2 (Exhibit A)
Addendum #3 (Exhibit B)

cc: Lodi Boys and Girls Club

APPROVED: 
Janet S. Keeter, Interim City Manager

Lease Addendum No. 2 (Consent to Debt)

This lease addendum, entered into this 20th day of October, 1999, by and between the City of Lodi, a municipal corporation (City) and the Lodi Boys and Girls Club, Inc., a California Non-Profit Corporation (Club) shall be as follows:

WHEREAS, City and Club entered into an unrecorded lease of City-owned land on December 15, 1993 to allow for the construction and operation of a recreational facility by Club on said land; and

WHEREAS, a Memorandum of Lease between Club and City was recorded in July of 1996; and

WHEREAS, Club is seeking to refinance some outstanding debt through Farmers and Merchants Bank of Central California (Bank); and

WHEREAS, pursuant to paragraph 13 of the lease, consent of City is required in order to encumber, mortgage, hypothecate or pledge the premises or improvements as security for any debt; and

WHEREAS, City is willing to give such consent based upon certain conditions.

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

City consents to the loan from Bank to Club in the amount of \$373,000.00 based upon the following conditions:

1. Consent is for this loan only;
2. The Weybret Trust must make payments on the loan on behalf of the Club to the maximum amount available from the trust;
3. In the event of default by Club which results in Club being unable to continue to occupy the premises and improvements pursuant to the lease, City shall forebear from declaring an abandonment or cessation of use under the lease. City will instead, in coordination with Bank and the Weybret Trust, seek a new tenant for the premises and improvements. Said new tenant must be a qualified 501(c)(3) tax exempt non-profit organization and occupy the facilities within 90 days of cessation of occupancy by Club. City shall make interest-only payments on the referenced loan for 90 days following cessation of occupancy of Club. If no tenant is in place as described above, City shall, at its own option, either assume the loan or pay off the balance owing on the loan. In either case, City shall then have sole ownership and control of the improvements;
4. To the extent this consent conflicts with the lease this consent shall control; otherwise the provisions of the lease are effective and unchanged;
5. Club shall make the terms of this consent part of and incorporate them into the loan requirements for the loan from Bank.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first mentioned above.

City of Lodi, a municipal corporation

Lodi Boys and Girls Club, Inc.
A California Non-Profit Corporation

H. DIXON FLYNN
City Manager

RICHARD J. JONES
President, CEO

Attest:

ALICE M. REIMCHE
City Clerk

Approved as to Form:

RANDALL A. HAYS
City Attorney

Lease Addendum No. 3 (Consent to Debt)

This lease addendum, entered into this November 17, 2004, by and between the City of Lodi, a municipal corporation (City) and the Lodi Boys and Girls Club, Inc., a California Non-Profit Corporation (Club) shall be as follows:

WHEREAS, City and Club entered into an unrecorded lease of City-owned land on December 15, 1993 to allow for the construction and operation of a recreational facility by Club on said land; and

WHEREAS, a Memorandum of Lease between Club and City was recorded in July of 1996; and

WHEREAS, Club is seeking to refinance some outstanding debt and secure new debt through Farmers and Merchants Bank of Central California (Bank); and

WHEREAS, pursuant to paragraph 13 of the lease, consent of City is required in order to encumber, mortgage, hypothecate or pledge the premises or improvements as security for any debt; and

WHEREAS, City is willing to give such consent based upon certain conditions.

NOW, THEREFORE, BE IT AGREED AS FOLLOWS:

City consents to the loan from Bank to Club in the amount of \$315,000.00 based upon the following conditions:

1. Consent is for:
 - a. The loan stipulated in Addendum #2 (in the current principal amount of \$165,000)
 - b. The new loan of \$150,000 (to be funded 12/04 by Farmers & Merchants Bank)
2. The Club must make payments on these loans.
3. In the event of default by Club which results in Club being unable to continue to occupy the premises and improvements pursuant to the lease, City shall forebear from declaring an abandonment or cessation of use under the lease. City shall nevertheless be entitled to terminate all of Club's rights in the lease upon such a default and remove tenant from the premises. City will also, in coordination with Bank, seek a new tenant for the premises and improvements. Said new tenant must be a qualified 501(c)(3) tax exempt non-profit organization and occupy the facilities within 90 days of cessation of occupancy by Club. City shall make interest-only payments on the referenced loan for 90 days following cessation of occupancy of Club. If no tenant is in place as described above, City shall, at its own option, either assume the loan or pay off the balance owing on the loan. In either case, City shall then have sole ownership and control of the improvements;

4. To the extent this consent conflicts with the lease this consent shall control; otherwise the provisions of the lease are effective and unchanged;
5. Club shall make the terms of this consent part of and incorporate them into the loan requirements for the loan from Bank.
6. Addendum #3 supercedes #2.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first mentioned above.

City of Lodi, a municipal corporation

Lodi Boys and Girls Club, Inc.
A California Non-Profit Corporation

JANET S. KEETER
Interim City Manager

RICHARD J. JONES
President, CEO

Attest:

SUSAN BLACKSTON
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

RESOLUTION NO. 2004-258

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO EXECUTE
ADDENDUM NO. 3 TO LODI BOYS AND GIRLS CLUB
CITY LEASE TO ACCOMMODATE FARMERS &
MERCHANTS BANK FINANCING

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BE IT RESOLVED that the Lodi City Council hereby authorizes the City Manager to execute Lease Addendum No. 3 to the Lodi Boys and Girls Club City Lease to accommodate Farmers and Merchants Bank financing.

Dated: November 17, 2004

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I hereby certify that Resolution No. 2004-258 was passed and adopted by the Lodi City Council in a regular meeting held November 17, 2004, by the following vote:

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



SUSAN J. BLACKSTON
City Clerk