



**CITY OF LODI
COUNCIL COMMUNICATION**

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AGENDA TITLE: Adopt Resolution Authorizing the City Manager to Enter Reimbursement Agreements for Staff and Contract Costs Incurred in Processing Development Applications and Approved Developments.

MEETING DATE: April 4, 2007 City Council Meeting

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: Adopt Resolution authorizing the City Manager to enter into Reimbursement Agreements with Developers seeking staff and contract resources to process development applications and developments.

BACKGROUND INFORMATION: Through Resolution 2006-78, a copy of which is attached to this staff report, Council established the policy that Developers should pay the full cost of in-house and outside engineering and planning services incurred in the processing of development applications and implementation of approved developments.

In furtherance of that policy staff has, for more intensive developments that require a commitment of time and expenses beyond that recovered through standard fees, brought forth Reimbursement Agreements for Council approval (reference Agreements with Frontiers Community Builders and San Joaquin Valley Land Company).

Staff anticipates the need for such reimbursement agreements on a more frequent basis as it captures more of the costs associated with processing applications. Accordingly, much as is the case with Improvement Agreements, staff recommends that Council authorize the City Manager to enter into a template form of reimbursement agreement with certain minimum terms and authorize the City Manager to set others within his or her discretion.

The basic terms would follow the same format as the Blue Shield and Westside Annexation Agreements: An agreement to reimburse for all in-house and outside staff costs, a deposit with an evergreen account to bill those costs against and an acknowledgement that the agreement grants no guarantees regarding project approval. The amount of the deposit and evergreen amount would be subject to the City Managers discretion based on the expected cost of the services.

Accordingly, staff requests that Council authorize the City Manager to enter into reimbursement agreements with the following minimum terms:

- 1.) Developer will reimburse City for all in-house staff time, contract services, purchased supplies and equipment necessary to perform the engineering, legal, environmental and planning services necessary for Developer's project.
- 2.) Developer shall deposit an amount to be determined by the City Manager equating to staff's estimate of the above costs prior to staff beginning work on Developer's project. In the event

APPROVED: 
Blair King, City Manager

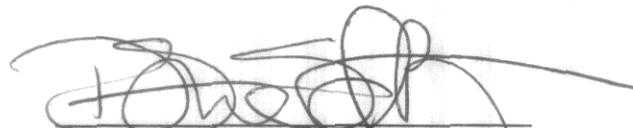
costs exceed the estimate, Developer will reimburse the City for the overage. The deposit will be required to be kept evergreen, meaning once the deposit falls below a set amount, the Developer must replenish the deposit. If the Developer fails to do so, City may cease work.

- 3.) Developer must acknowledge that the Agreement grants them no right or expectation for project approval and no right to control in-house or contract staff or demand that the project be processed on a particular time schedule.
- 4.) Developer must agree that it will not be entitled to damages for a delay in the schedule.
- 5.) Developer will agree to indemnify, defend and hold harmless the City of Lodi in any litigation arising out of or related to the project, including environmental claims, personal injury, inverse condemnation claims, and claims related to the Lodi Electric Utility taking over territory previously in the service area of another Electric Utility.

FISCAL IMPACT: None.

FUNDING AVAILABLE: Developer funded account.

Approved:



Stephen Schwabauer, City Attorney

RESOLUTION NO. 2006-78

A RESOLUTION OF THE LODI CITY COUNCIL AMENDING
PUBLIC WORKS DEPARTMENT ENGINEERING FEES FOR VARIOUS
DEVELOPMENT SERVICES; AMENDING COMMUNITY IMPROVEMENT
FEES FOR ADMINISTRATIVE PROCEDURES; AND AMENDING
PLANNING FEES FOR PRE-DEVELOPMENT REVIEW
AND HOURLY CHARGES

WHEREAS, the Lodi Municipal Code requires the City Council, by Resolution, to set fees for various services provided by the City of Lodi to recover those costs associated with providing specific services and programs; and

Public Works:

WHEREAS, it is common practice for the Community Development Department to request review, comments, conditions, and approval by Public Works Department staff as part of its review process for various development services, such as the review of annexation applications, development plans, tentative parcel and subdivision maps, and site plan and architectural applications; and

WHEREAS, historically, the Public Works Department Engineering Division staff costs related to these activities were considered to be covered by the fees collected by the Community Development Department. With the adoption of the restructured Community Development Department fee schedule in May 2005 and the establishment of a Special Revenue Fund for Community Development Department services, this is no longer the case; and

WHEREAS, in an effort to recover Public Works Department staff costs related to these discretionary services and reduce the burden on the General Fund, staff is recommending the amendment of seven Engineering fees to be collected by the Public Works Department. They are: 1) Annexation, 2) Development Plan, 3) Tentative Subdivision Map, 4) Tentative Parcel Map/Non-Residential Condominium Conversion, 5) Site Plan and Architectural Review, 6) Building Permit – Commercial/Industrial, and 7) Building Permit – Residential; and

WHEREAS, in order to set fees appropriately, staff performed an analysis of personnel time and associated costs typically required to perform each task. Those costs include the cost of Public Works staff (salary plus benefits) plus the "fully loaded" costs for Citywide overhead (vehicle maintenance, building maintenance, telephone, etc.) and internal services (Finance, City Attorney, etc.). The proposed fees are shown on Exhibit A; and

WHEREAS, the fees represent the level of effort and associated costs for an average development project. The applicability of the standard fee shall be determined by the Public Works Director or his designee with projects exceeding an average level of staff work being charged on a time and cost basis. The proposed hourly rate by staff position is shown on Exhibit B. The hourly rate is also based on salary plus benefits and the "fully loaded" costs for City-wide overhead; and

WHEREAS, the fee schedule for existing Engineering fees, except plan check and inspection, includes a provision for an annual adjustment on July 1 based on the Consumer Price Index (Western Region, Urban, unadjusted) for the previous calendar year. Because the new Engineering fees are based upon actual time and cost, staff will continue to monitor all Engineering services and request Council to update them from time to time to reflect changes in salary, benefits and overhead costs; and

WHEREAS, it is recommended that the new fees take effect on June 15, 2006. It is further recommended that any applications subject to review by the Public Works Department that are submitted after the effective date shall be subject to the new fees; and

Community Development:

WHEREAS, on April 19, 2006, the City Council adopted an ordinance amending code enforcement procedures and establishing administrative citations and administrative enforcement hearings; and

WHEREAS, the ordinance establishes administrative citation fines but does not address all administrative fees. Such fees are established by resolution. Attached as Exhibit C is the proposed updated Community Improvement Fee Schedule to include new procedures established by the new code enforcement ordinance; and

WHEREAS, in May 2005, the City Council approved a new fee schedule for Planning fees that was based primarily on an average of Planning fees charged in surrounding cities. While this new fee schedule did increase Planning fees, it does not achieve full cost recovery, except for only in the simplest of circumstances; and

WHEREAS, staff recommends amending the fee schedule as shown in Exhibit D with the notation "plus hourly" to reflect actual staff time spent working on the request. Staff will collect the set fee for the Planning permit at time of application and then track staff time spent processing the permit. At conclusion of the permit processing (i.e., Planning Commission or City Council approval), staff will reconcile staff time spent processing the permit plus other required administrative charges (legal notice publishing costs, mail hearing notice costs, etc.) with the fee collected at application submittal. If not substantially equal, staff will then collect the balance due from the applicant as part of the issuance of the Planning permit; and

WHEREAS, staff proposes two new procedures with the fee being added to the Planning Fee Schedule (Exhibit D). One of these procedures is a Pre-development Review; the second new fee is for a non-residential condominium conversion; and

WHEREAS, since staff time would be tracked and charged to the project, it is necessary to adopt the staff hourly rate by position. The proposed hourly rate reflects total salary plus benefits and does include overhead for materials, vehicle use, building maintenance, and utilities. Exhibit E establishes these hourly rates for Community Improvement and Planning. These rates will need to be updated by Resolution from time to time to reflect changes in salary, benefits, and overhead costs.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Lodi does hereby implement the fee schedules attached hereto, marked Exhibit A, B, C, D, and E and made a part of this Resolution; and

BE IT FURTHER RESOLVED that the Engineering fees will also be subject to an annual adjustment on July 1 based on the Consumer Price Index (Western Region, Urban, unadjusted) for the previous calendar year; and

BE IT FURTHER RESOLVED that any applications subject to review by the Public Works or Community Development Departments that are submitted after the effective date of this Resolution shall be subject to the new fees; and

RESOLVED FURTHER that all resolutions or parts of resolutions in conflict herewith are repealed insofar as such conflict may exist; and

RESOLVED FURTHER that this resolution shall be in force and take effect on June 15, 2006.

Dated: May 3, 2006

I hereby certify that Resolution No. 2006-78 was passed and adopted by the City Council of the City of Lodi in a regular meeting held May 3, 2006, by the following vote:

AYES: COUNCIL MEMBERS – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON
City Clerk

Engineering Fee	Proposed Fee ⁽¹⁾
Annexation ^{(2) (3)}	\$630
Development Plan ^{(2) (3)}	\$1050 plus \$15/lot over 5 lots
Tentative Subdivision Map ^{(2) (3)}	\$1050 1-5 lots plus \$15/lot over 5 lots
Tentative Parcel Map & Non-Residential Condominium Conversion	\$840
Site Plan	\$420
Building Permit - Commercial/Industrial/Multi-Family	\$600
Building Permit - Single-Family Residential	\$110

⁽¹⁾ These fees shall be adjusted annually by the inflation rate based on the prior calendar year as determined by the Consumer Price Index (Western Region, Urban, unadjusted). The rate of inflation (or deflation) is applied to the fees to determine the fees for the subsequent year. Said fee adjustments, if any, will be made automatically effective July 1 of each year.

⁽²⁾ Based on single-family residential developments having 75 lots or less. Single family residential projects having more than 75 lots will be charged on a time and cost basis.

⁽³⁾ Commercial/industrial projects larger than 2 acres will be charged on a time and cost basis.

EXHIBIT B

PUBLIC WORKS ENGINEERING HOURLY CHARGE⁽¹⁾

(1) These hourly rates are fully burdened, which includes salary, all benefits, and overhead.

FEE SCHEDULE

EXHIBIT C

City of Lodi Community Development Department - Community Improvement Division

	<u>Current</u>	<u>Proposed</u>
Initial Field Inspection Fee	0	\$50
Initial Compliance Inspection	0	\$50
<i>Both of the aforementioned fees would be waived if voluntary compliance is obtained within given deadline.</i>		
Code Compliance Permit Fee	\$100/hr	\$100/hr
Reinspection Fee	n/a	\$50
Initial Non-Compliance Fee	\$100	\$100
Subsequent Non-Compliance Fees	\$300	\$300
Initial Appeal Fee	\$300	\$100
Second Appeal Fee	n/a	\$300

EXHIBIT D



FEE SCHEDULE

CITY OF LODI, COMMUNITY DEVELOPMENT DEPARTMENT, 221 W. PINE ST., LODI, CA 95240
PHONE: (209) 333-6711 FAX: (209) 333-6842

PLANNING:	FEE
ADMINISTRATIVE DEVIATION.....	\$350 + HOURLY
ANNEXATION.....	\$4,000 + HOURLY
APPEALS.....	\$300
DEVELOPMENT PLAN REVIEW.....	\$2,500 + HOURLY
ENVIRONMENTAL IMPACT REPORT.....	HOURLY
GENERAL PLAN AMENDMENT.....	\$3,000 + HOURLY
HOME OCCUPATION.....	\$100
LANDSCAPE REVIEW.....	\$175 + HOURLY
LIVE ENTERTAINMENT PERMIT.....	\$200
LOT LINE ADJUSTMENT.....	\$650 + HOURLY
MITIGATION MONITORING.....	\$HOURLY
NEGATIVE DECLARATION.....	\$900 + HOURLY
TENTATIVE PARCEL MAP.....	\$2,500 + HOURLY
NON-RESIDENTIAL CONDOMINIUM CONVERSIONS.....	\$2,000 + HOURLY
PRELIMINARY ENVIRONMENTAL ASSESSMENT.....	\$250 + HOURLY
REZONE.....	\$2,000 + HOURLY
SITE PLAN AND ARCHITECTURAL REVIEW (SPARC).....	\$1,875 + HOURLY
TENTATIVE SUBDIVISION MAP.....	\$4,600 + HOURLY
USE PERMIT.....	\$2,000 + HOURLY
VARIANCE.....	\$1,000 + HOURLY
PRE-DEVELOPMENT REVIEW.....	\$250
DOCUMENT IMAGING.....	\$50/APPLICATION
STAFF CONSULTATION (INCLUDING LETTERS).....	HOURLY

THE APPLICATION FEES LISTED ABOVE ARE REFUNDABLE UNDER THE FOLLOWING CIRCUMSTANCES:

- WITHIN 30-DAYS OF APPLICATION - 75% REFUND.
- AFTER PROJECT ACCEPTANCE AND CIRCULATION FOR REVIEW - 50% REFUND.
- AFTER FORMULATION OF STAFF RECOMMENDATION TO PLANNING COMMISSION AND/OR CITY COUNCIL, OR 90-DAYS, WHICHEVER COMES FIRST - NO REFUND.

STAFF REQUESTS FOR INFORMATION, CORRECTIONS, OR AMENDMENTS MUST BE SUBMITTED WITHIN 30-DAYS. IF A PROJECT IS INACTIVE BEYOND 30-DAYS, THE APPLICATION WILL BE RETURNED AND A REFUND PROCESSED.

BUILDING: SEE "BUILDING FEES COLLECTED AT PERMIT ISSUANCE"

EXHIBIT E

COMMUNITY DEVELOPMENT HOURLY CHARGE

COMMUNITY IMPROVEMENT

- Community Improvement Manager \$70/Hr
- Community Improvement Officers \$45/Hr
- Administrative Clerk \$30/Hr

PLANNING

- Community Development Director \$100/Hr
- Planning Manager \$80/Hr
- Senior Planner \$65/Hr
- Associate Planner \$55/Hr
- Assistant Planner \$50/Hr (if filled)
- Junior Planner \$45/Hr (if filled)
- Contract Planner \$80/Hr +/- (TBD)
- Administrative Secretary \$40/Hr

RESOLUTION NO. 2007-55

A RESOLUTION OF THE LODI CITY COUNCIL
AUTHORIZING THE CITY MANAGER TO ENTER
INTO REIMBURSEMENT AGREEMENTS ON BEHALF
OF THE CITY OF LODI

WHEREAS, at its meeting held May 3, 2006, the Lodi City Council adopted Resolution No. 2006-78, establishing the policy that developers should pay the full cost of in-house and outside engineering and planning services incurred in the processing of development applications and implementation of approved developments; and

WHEREAS, in furtherance of that policy, staff has, for more intensive developments that require a commitment of time and expenses beyond that recovered through standard fees, brought forth reimbursement agreements for Council approval; and

WHEREAS, staff anticipates the need for such reimbursement agreements on a more frequent basis as it captures more of the costs associated with processing applications; and

WHEREAS, accordingly, much as is the case with improvement agreements, staff recommends that Council authorize the City Manager to enter into a template form of reimbursement agreement with certain minimum terms and authorize the City Manager to set others within his or her discretion; and

WHEREAS, the basic terms of an agreement would be to reimburse for all in-house and outside staff costs, a deposit with an evergreen account to bill those costs against, and an acknowledgement that the agreement grants no guarantees regarding project approval. The amount of the deposit and evergreen amount would be subject to the City Manager's discretion based on the expected cost of the services; and

WHEREAS, staff requests that Council authorize the City Manager to enter into reimbursement agreements with the following minimum terms:

- 1.) Developer will reimburse City for all in-house staff time, contract services, and purchased supplies and equipment necessary to perform the engineering, legal, environmental, and planning services necessary for developer's project.
- 2.) Developer shall deposit an amount to be determined by the City Manager equating to staff's estimate of the above costs prior to staff beginning work on developer's project. In the event costs exceed the estimate, developer will reimburse the City for the overage. The deposit will be required to be kept evergreen; meaning once the deposit falls below a set amount, the developer must replenish the deposit. If the developer fails to do so, City may cease work.
- 3.) Developer must acknowledge that the agreement grants them no right or expectation for project approval and no right to control in-house staff or demand that the project be processed on a particular time schedule.

- 4.) Developer must agree that it will not be entitled to damages for a delay in the schedule.
- 5.) Developer will agree to indemnify, defend, and hold harmless the City of Lodi in any litigation arising out of or related to the project, including environmental claims, personal injury, inverse condemnation claims, and claims related to the Lodi Electric Utility taking over territory previously in the service area of another Electric Utility.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to enter into reimbursement agreements with the minimum terms as outlined above.

Dated: April 4, 2007

I hereby certify that Resolution No. 2007-55 was passed and adopted by the City Council of the City of Lodi in a regular meeting held April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Katzakian, Mounce, and Mayor Johnson

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



RANDI JOHL
City Clerk