



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDATITLE: Authorize City Attorney to Issue "Comfort Letter" to Pine Street Partners LLC in Connection with the Purchase of Property at 212 West Pine Street and 211 West Oak Street (CA)

MEETING DATE: May 19, 2010 City Council Meeting

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: Authorize City Attorney to Issue "Comfort Letter" to Pine Street Partners LLC in Connection with the Purchase of Property at 212 West Pine Street and 211 West Oak Street.

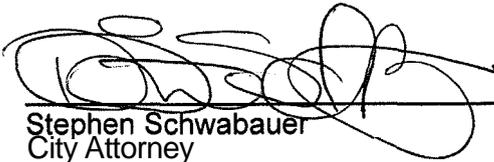
BACKGROUND INFORMATION: The former Finance Building potentially overlies two PCE/TCE contamination plumes, the Central Plume and the Northern Plume. Although the site was connected with the contamination, the City has entered settlement agreements with all known responsible parties.

Beckman Capital Corp., owners of the site are in negotiations to sell the property to Pine Street Partners LLC. The Buyers are concerned about the potential for the City to pursue recovery against them upon their purchase. This concern could be allayed through the issuance of a "Comfort Letter" which would with certain qualifications indicate the City's determination not to pursue the Buyers or their successors. Based upon my understanding that the Council does not desire to expand the litigation and the settlement with the owners of the site, I recommend the Council authorize me to issue a comfort letter in the form attached hereto.

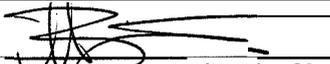
FISCAL IMPACT: N/A

FUNDING AVAILABLE: N/A

Approved:



Stephen Schwabauer
City Attorney

APPROVED: 

Kenneth Bartram, Interim City Manager

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CITY OF LODI
CITY ATTORNEY'S OFFICE



D. STEPHEN SCHWABAUER
City Attorney

JANICE D. MAGDICH
Deputy City Attorney

May 20, 2010

Pine Street Partners LLC
c/o Betty Seibly
Petersen & Company
17 E. Lodi Avenue, Suite 20
Lodi, California 95240

Re: 212 West Pine Street and 211 West Oak Street, Lodi, CA

Dear Sir/Madame:

Beckman Capital Corp ("Beckman") owns property located at 212 W. Pine Street and 211 West Oak Street in Lodi, situated within the Lodi Central Plume Area ("CPA"). The CPA is a groundwater plume containing Tetrachloroethene (PCE). Beckman and its predecessors in interest are alleged to have contributed to the contamination in the CPA. However, the City of Lodi has entered into settlements with all of the parties who are known to have contributed contamination to the CPA, and has undertaken the obligation to clean up the contaminated soil and groundwater in the CPA.

This letter will confirm that the City Council authorized me at its meeting on May 19, 2010 to affirm that the City of Lodi will not pursue environmental claims against Beckman or its successors in interest under CERCLA, or under any other environmental liability theory (such as nuisance) for the contamination in the CPA. This statement of intent does not apply to liabilities that could arise if Beckman or its successors or assigns actually contribute at some future date to the contamination.

If you have any questions or concerns regarding this matter, please contact me.

Sincerely,

D. STEPHEN SCHWABAUER
City Attorney

DSS/pn

cc: City Council
City Clerk