



**CITY OF LODI
COUNCIL COMMUNICATION**

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AGENDA TITLE: Authorize City Attorney to Issue "Comfort Letter" to Ford Construction Company, Inc., in Connection with the Purchase of Property Located at 300 West Pine Street

MEETING DATE: June 4, 2014 City Council Meeting

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: Authorize City Attorney to Issue "Comfort Letter" to Ford Construction Company, Inc., in connection with the purchase of property located at 300 West Pine Street.

BACKGROUND INFORMATION: The former City Finance Building, located at 300 West Pine Street, potentially overlies the PCE/TCE Central contamination plume. The site was not connected with the contamination, and the City has entered settlement agreements with all known responsible parties.

Russell G. & Kathryn A. Munson, owners of the site are in negotiations to sell the property to Ford Construction Company, Inc. The Buyers are concerned about the potential for the City to pursue recovery against them upon their purchase of the site. 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:

A handwritten signature in black ink, appearing to read "Janice D. Magdich".

Janice D. Magdich
Interim City Attorney

APPROVED:

A handwritten signature in black ink, appearing to read "Stephen Schwabauer".

Stephen Schwabauer, Interim City Manager

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CITY OF LODI
CITY ATTORNEY'S OFFICE

JANICE D. MAGDICH
City Attorney



June 5, 2014

Mr. Nick Jones, President
Ford Construction Company, Inc.
639 E. Lockeford Street
Lodi, California 95240

SUBJECT: 300 West Pine Street, Lodi, CA

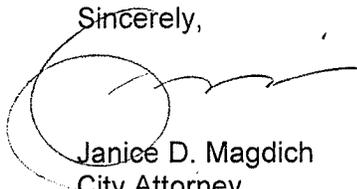
Dear Mr. Jones:

Ford Construction Company, Inc., is in the process of purchasing property located at 300 West Pine Street in Lodi situated within or near the Lodi Central Plume Area (CPA). The CPA is a groundwater plume containing Tetrachloroethene (PCE). 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 June 4, 2014, to affirm that the City of Lodi will not pursue environmental claims against Ford Construction Company, Inc., or its successors or assigns under the Comprehensive Environmental Response, Compensation, and Liability Act (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 Ford Construction Company, Inc., 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,


Janice D. Magdich
City Attorney

cc: City Council
City Clerk