RESOLUTION NO. 2008-05

A RESOLUTION OF THE LODI CITY COUNCIL
RATIFYING THE EMPLOYMENT AGREEMENT
EXTENSION BETWEEN THE CITY MANAGER AND
ELECTRIC UTILITY DIRECTOR GEORGE MORROW

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby ratify the Employment Agreement Extension between the City Manager and Electric Utility Director George Morrow; and

BE IT FURTHER RESOLVED that the terms of the extended Agreement sets forth a two-year term with one automatic two-year extension and a six-month severance package in the event he is terminated without cause during the term of the contract; and

BE IT FURTHER RESOLVED that the extended Agreement further authorizes the City Manager to grant up to a maximum of a five percent salary increase at the end of the first two-year term.

Dated: January 16, 2008

I hereby certify that Resolution No. 2008-05 was passed and adopted by the City Council of the City of Lodi in a regular meeting held January 16, 2008, by the following vote:

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

NOES: COUNCIL MEMBERS – Mayor Mounce

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None

RANDI JOHL
City Clerk

EMPLOYMENT AGREEMENT

Executive Management
Exempt Service

Electric Utility Director

THIS AGREEMENT entered into on January 16, 2008, by and between the CITY OF LODI, a municipal corporation (hereinafter referred to as "City") and George F. Morrow, an individual (hereinafter referred to as "Employee").

WHEREAS, Employee has served as Electric Utility Director from January 23, 2006 to January 22, 2008 and City desires to continue to employ the services of Employee as Electric Utility Director; and

WHEREAS, Employee desires to continue to serve as Electric Utility Director for the City beginning January 23,2008; and

WHEREAS, City and Employee agree in writing to the terms and conditions of employment as Electric Utility Director; and

WHEREAS, Employee and City agree and acknowledge that Employee's employment as Electric Utility Director is his sole and exclusive employment with City, and that their employment relationship is governed solely and exclusively by this Agreement.

NOW, THEREFORE, in consideration of the promises and conditions set forth herein, the parties mutually agree as follows:

1. **Employment:** City agrees to employ Employee as Electric Utility Director, in accordance with the following provisions:

(a) Employee shall serve as Electric Utility Director, and shall be responsible for managing and directing the operations of the Electric Utility Department in accordance with an agreed upon performance plan.

(b) Employee shall perform his duties to the best of his ability in accordance with the highest professional and ethical standards of the profession and shall comply with all general rules and regulations established by the City.

(c) Employee shall not engage in any activity which is or may become a conflict of interest, prohibited contract, or which may create an incompatibility of office as defined under California law. Employee shall comply fully with his reporting and disclosure obligations under regulations promulgated by the Fair Political Practices Commission (FPPC).

(d) Employee agrees to remain in the exclusive employ of the City during the term of this Agreement. Employee shall dedicate his full energies and qualifications to his employment as Electric Utility Director, and shall not engage in any other employment except as may be specifically approved in writing in advance by the City Manager.

2. Maintenance of Professional Expertise: To promote continued professional growth and benefit to the City, Employee shall, at City expense and consistent with budgetary constraints: maintain membership in professional organizations related to city utility administration and related professional disciplines; attend workshops, seminars and other similar activities designed to advance Employee's professional development; and, represent the City in professional associations and other organizations.

3. Term: The term of the Agreement shall be for a period of two (2) years, commencing January 23, 2008, until terminated by either party in accordance with the provisions set forth in Paragraph 4, or until terminated by the event of the death or permanent disability of Employee. This Agreement will be automatically renewed one time for an additional two (2) year period on the same terms and conditions if neither party gives notice of intent to not renew it at least six (6) months prior to its expiration. This Agreement may also be renewed with amendments by the City Manager and Employee, at any time prior to its expiration. Any amendments to or renewals of this Agreement beyond the first automatic renewal shall require Council consent.

4. Resipnation or Termination:

(a) Employee may resign at any time and agrees to give City at least 30 days advance written notice of the effective date of his resignation. In such event, Employee shall not be entitled to severance pay as provided in Paragraph 5 herein.

(b) The parties recognize and affirm that Employee may be terminated by the City Manager with cause, which shall mean gross insubordination, incapacity, dereliction of duty, conviction of a crime involving acts of moral turpitude or involving personal gain to him, or material breach of this Agreement. In such event, Employee shall not be entitled to severance pay as provided in Paragraph 5 herein.

(c) The parties recognize and affirm that Employee may be terminated by the City Manager without cause. In such event, Employee shall be entitled to severance pay as provided in Paragraph ***5*** herein.

(d) In the event of termination and in recognition of Employee's professional status and integrity, Employee and the City Manager shall prepare a joint public statement to be made by the City Manager. This employment relationship is based on the mutual respect between the parties and a desire to maintain the highest degree of professionalism. In communicating with third parties about the parties' employment relationship and the circumstances under which it may have been severed, the parties shall (a) protect and advance their mutual respect and professionalism, and (b) refrain from making statements that would negatively impact either party.

(e) Employee may choose to resign or retire his office instead of being terminated if agreed to by the City Manager. In such an event the public announcement, as provided for in Paragraph 4 (d) above, will note Employee has resigned or retired. The provisions of Paragraph ***4*** (d) shall remain applicable.

5. Severance Pay: If Employee is terminated by the City Manager during the initial or any renewed term of this Agreement without cause while still willing and able to perform the duties of Electric Utility Director, City agrees to pay Employee a cash payment equal to six (6)

months' aggregate salary and the City's cost of six (6) months' health insurance benefits subject *to* reduction as set forth in this Paragraph 5. The severance payment will be paid over time at the same time as other employees of the City are paid and subject to customary withholdings. In the event Employee retains new employment during the six month severance period, any remaining severance payment will be forfeited as of the date Employee begins his new Employment. To be eligible for such severance pay, Employee shall fulfill all of his obligations under this Agreement, and shall sign an Acknowledgment and Release of Claims against the City. Payment under this paragraph will release City from any further obligations under this Agreement, or any other transaction between the parties.

6. **Employment as Department Head is Sole Employment with City:** Employee further represents and acknowledges that his employment as Electric Utility Director is his sole and exclusive employment with the City. Employee has no right to any other exempt position with the City, or to any employment in the classified service.

7. **Salarv:**

(a) City agrees to pay Employee $159,171 in salary per annum for his services, payable in installments at the same time as other employees of the City are paid and subject to customary withholding.

(b) **A** salary increase of up to five percent (5%) may be granted by the City Manager effective each January 23 with a satisfactory performance evaluation.

8. **Benefits:** The City shall provide Employee the same benefits as provided to management employees in accordance with the terms of the Executive Management Statement of Benefits dated 1998 and as they may be amended, increased or decreased, except as modified herein. These are the sole and exclusive benefits to be provided to Employee. Any improvement or modification of such benefits may only be made by written instrument signed by the City Manager. As used herein, benefits include, but are not limited to: vacation, sick leave, holidays, administrative leave, retirement, vision insurance, health insurance, dental insurance, long term disability insurance and life insurance. Employee's vacation leave shall be calculated as if Employee was in his sixth year of employment (i.e., Employee shall accrue fifteen days of vacation per year increasing from there as provided in the Executive Management Statement of Benefits.) Employee will also earn and accumulate sick leave and vacation as provided in the Executive Management Statement of Benefits.

9. **Performance Evaluation:** The City Manager shall review and evaluate the performance of Employee each year and set goals and objectives for the ensuing year. Such review and evaluation shall be in accordance with specific criteria developed in the performance plan in consultation with Employee and the City Manager.

10. **Assienment:** Employee shall not assign any of the duties and responsibilities, or obligations of this Agreement except with the express written consent of the City Manager.

11. **Authority to Work in the United States:** Employee represents, under penalty of perjury, that he is authorized to work in the United States. In accordance with §274A (8 USC 1324) of the Immigration Reform and Control Act of 1986 before this Agreement can become effective, Employee must provide documentary evidence to City consistent with the Act, that he is legally entitled to work in the United States, and must execute the verification required by that Act.

12. **Cell Phone/Vehicle**: Employee will be provided with a Cell Phone for employment related use at the City's expense on terms consistent with other Executive Managers. Employee will be provided with a City vehicle.

13. **Not Used**

14. **Notice:** All notices required herein shall be sent first class mail to the parties as follows:

To **CITY:** City of Lodi
P. O. Box 3006
Lodi, CA 95241-1910

To **EMPLOYEE:** George Morrow
1516 Sylvan Way, # 510
Lodi, CA 95242

Notice shall be deemed effectively served upon deposit in the United States mail. Either party may change the address notices are to be sent to them by notifying the other party in writing of such change.

15. **Entire Agreement:** This Agreement contains the entire agreement between the parties hereto. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied on by any party hereto. This Agreement may only be amended by written instrument signed by Employee and the City Manager and specifically approved by the City Council in open session.

16. **Severability:** If any provision of this Agreement is invalid or unenforceable, it shall be considered deleted herefrom and the remainder of this Agreement shall be unaffected and shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year written above.

EMPLOYEE

_____
George Morrow, Electric Utility Director

CITY OF LODI, a municipal corporation

By: _____
Blair King, City Manager

ATTEST:

By: _____
Randi Johl, City Clerk

APPROVED AS TO FORM:

By: _____
Steve Schwabauer, City Attorney