

RESOLUTION NO. 2008-216

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING
THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE
SECOND PHASE AGREEMENT FOR FUNDING THE PLANNING AND
DEVELOPMENT ACTIVITIES OF THE LODI ENERGY CENTER

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WHEREAS, Lodi is a member of the Northern California Power Agency ("NCPA") and by way of City Council Resolution 2007-247 is a Project Participant in the Second Phase Agreement (Agreement) for Funding the Planning and Development Activities of the Lodi Energy Center (LEC); and

WHEREAS, on or about March 1, 2008, NCPA had attained 100% Project subscription along with fully executed Agreements from all Project Participants including Lodi; and

WHEREAS, the Project Participants met on March 6, 2008, and formed the Project Participant Committee (PPC) as contemplated in the Agreement and such PPC directed NCPA staff to commence Phase 2A Project activities; and

WHEREAS, on June 30, 2008, the PPC directed the NCPA LEC Project Manager to commence Phase 2B activities on or about August 1, 2008; and

WHEREAS, Project related air resources agency and CEC Application for Certification (AFC) applications were submitted during August and September 2008, respectively; and

WHEREAS, the Project Participants are aware that certain critical power equipment, such as the gas and steam turbine components of the power island assembly, require significant lead times for fabrication and delivery, and thus such equipment must be ordered in a timely manner to support LEC's construction and scheduled Commercial Operation Date of April 2012; and

WHEREAS, the Project Participants are additionally aware of the recent rapid escalation trends of power generation construction and equipment costs and consequently desire to control the delivered cost of certain LEC power island equipment by making a deposit to secure a manufacturing schedule slot or taking other actions to secure a known delivered cost for such equipment; and

WHEREAS, the Project Participants desire to amend the Phase 2B activities described in the Agreement to provide for the timely delivery and cost certainty of critical power island components through advanced equipment ordering, securing equipment, manufacturing schedule, and/or pricing options, or other method in order to attain delivery timing and cost certainty of critical LEC equipment; and

WHEREAS, the Parties desire to amend the Phase 2B activities described in the Agreement to include the leasing of any needed warehouse and administrative facilities located at or proximate to the proposed Project site in order to provide for timely and adequate staff work space and secure equipment and materials storage; and

WHEREAS, in order to fund the expected cost to attain power island equipment delivery timing and pricing certainty, the Project Participants are willing to increase the Phase 2B portion of the Agreement budget by up to \$15 million, for a total Phase 2B budget amount of \$24 million (\$9 million currently approved plus the proposed added \$15 million), and thus resulting in a revised combined LEC Phase 2A and 2B budget of \$40 million (\$16 million for Phase 2A plus the proposed revised Phase 2B amount of \$24 million) of which Lodi will be responsible for its proportionate share; and

WHEREAS, Lodi acknowledges that expenditures/deposits/option premiums incurred to attain greater equipment delivery and pricing certainty may not be refundable, in whole or in part, in the event that the LEC is not ultimately financed or constructed: and

WHEREAS, Lodi received from NCPA a 30-day advance written notice to all Project Participants by memorandum dated August 22, 2008, of its intent to seek NCPA Commission approval to execute LEC Amendment No. 1 at NCPA's September 26, 2008, Commission meeting; and

WHEREAS, the NCPA Commission did approve execution of the LEC Amendment No. 1 at NCPA's September 26, 2008, Commission meeting; and

WHEREAS, Amendment No. 1 to the Agreement will provide an opportunity for the Project Participants including Lodi to explore and implement options to meet key equipment delivery timing and cost requirements associated with the LEC Project and therefore to help Lodi meet capacity and energy power goals, reduce reliance on third-party power purchase agreements, and assist the State of California in meeting its reserve requirements and energy goals.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize (i) the City Manager to execute Amendment No. 1 to the Second Phase Agreement for Funding the Planning and Development Activities of the Lodi Energy Center and (ii) the Electric Utility Director to implement and administer such amended Agreement in accordance with its terms.

Dated: November 5, 2008

I hereby certify that Resolution No. 2008-216 was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 5, 2008, by the following vote:

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

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



RANDI JOHL
City Clerk