

# Lindsay City Council Agenda

## Regular Meeting

Council Chambers at City Hall  
251 E. Honolulu, Lindsay, California  
Tuesday, August 25, 2015  
6:00PM

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1. a) Call to Order: 6:00 p.m.  
b) Roll Call: Council members Salinas, Mecum, Kimball, Mayor Pro Tem Sanchez, Mayor Padilla.  
c) Flag Salute: Council member MECUM.
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2. Public Comment: The public is invited to comment on any subject under the jurisdiction of the Lindsay City Council, including agenda items, other than noticed public hearings. Comments shall be limited to (3) minutes per person, with 30 minutes overall for the entire comment period, unless otherwise indicated by the Mayor.
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3. Consent Calendar: These items are considered routine and will be enacted by one motion, unless separate discussion is requested by Council or members of the public.  
**Request for approval of the following:** (pg.1-167)
    - a) Meeting Minutes for Aug. 11<sup>th</sup>, 2015.
    - b) Warrant List for Aug. 5<sup>th</sup> & 14<sup>th</sup>, 2015.
    - c) Request to close a portion of Sweet Brier Avenue for a Car Show on Sept. 19<sup>th</sup> from 11am to 7pm
    - d) Res.15-42 accepting the Right of Way that encompasses Ono City Parkway
    - e) Use of Sweet Brier Plaza by Church of God of Prophecy on Aug. 29<sup>th</sup> from Noon to 10pm
    - f) Public Safety Firing Range Agreement-included for information only
    - g) City of Lindsay updated personnel rules & regulations
    - h) Renew Agreements with Lindsay Unified School District for Use of the City Swimming Pool, Lindsay Patriots Extracurricular Sports Program and After School – Tienken Program.
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4. TCAG REGIONAL TRANSPORTATION IMPACT FEES UPDATE. (pg. 168-207)  
Presented by Ted Smalley, TCAG Executive Director.
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5. PROP. 218 PUBLIC HEARING AND CONSIDERATION OF RESOLUTION 15-40 (pg.208-216)  
ADOPTING REVISED SEWER AND REFUSE RATES.  
Presented by Bill Zigler, Interim City Manager.
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6. ACTIONS TO ADOPT THE UPDATED WATER CONSERVATION PLAN (pg.217-234)
    - a) 2<sup>nd</sup> Reading & Adoption of Ord.551 amending Sec. 13.04.345 of the Lindsay Municipal Code regarding enforcement of the amended Water Conservation Plan.
    - b) Res. 15-41 Adopting Updated Water Conservation PlanPresented by Mike Camarena, City Services Director.
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7. REQUEST FOR APPROVAL OF LPOA MOU. (pg. 235-247)  
Presented by Bill Zigler, Interim City Manager.
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8. FACTORS AFFECTING CASH FLOW/FINANCIAL STATE OF THE CITY. (pg. 248-254)  
Presented by Tamara Laken, Finance Director.
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9. DISCUSSION ON BUDGET AMENDMENT.  
Presented by Council member MECUM.
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10. COUNCIL REPORTS.  
Presented by Council members.
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11. STAFF REPORTS.  
Presented by Bill Zigler, Interim City Manager.
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12. EXECUTIVE SESSION
    - 1) Conference with Legal Counsel regarding pending litigation - GC§54956.9(d) (1)  
Brian Clower vs. City of Lindsay  
Tulare County Superior Court Case #257764
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13. ADJOURN. The next Regular meeting is scheduled for **TUESDAY, SEPT. 8, 2015 at 6:00 PM** in the Council Chambers at City Hall, 251 E. Honolulu, Lindsay, CA 93247.

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Materials related to an Agenda item submitted to the legislative body after distribution of the Agenda Packet are available for public inspection in the office of the City Clerk during normal business hours. Complete agenda is available at [www.lindsay.ca.us](http://www.lindsay.ca.us) In compliance with the Americans with Disabilities Act & Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the office of the City Clerk at (559) 562-7102 ext 8031. Notification 48 hours prior to the meeting will enable the City to ensure accessibility to this meeting and/or provision of an alternative format of the agenda and documents in the agenda packet.

# Lindsay City Council Meeting Minutes

Pg. 8080

Regular Meeting  
Council Chambers at City Hall  
251 East Honolulu, Lindsay, California  
Tuesday, August 11, 2015  
6:00 P.M.

Before Calling the Lindsay City Council Meeting to Order, Mayor PADILLA Welcomed all to the Lindsay City Council Meeting explained the Public Comment Portion of the meeting and interpreted the Welcome and Public comment Portion for any Spanish speakers only who may be in the audience. She added if you would like to speak and need an interpreter, you may bring someone with you, or if you would like and feel comfortable, staff will interpret for you.

## **CALL TO ORDER.**

Mayor PADILLA called the Meeting of the Lindsay City Council to order at 6:00 p.m. in the Council Chambers at City Hall, 251 E. Honolulu, Lindsay, and California.

**COUNCIL PRESENT:** SALINAS, MECUM, KIMBALL, Mayor Pro Tem SANCHEZ, Mayor PADILLA.

**COUNCIL ABSENT:** None.

**FLAG SALUTE:** Council member SALINAS.

## **PUBLIC COMMENT:**

Mayor PADILLA read the instructions for Public Comment in English and then in Spanish for the benefit of those Spanish only Speakers only who may be here for just this portion of the meeting.

## **PUBLIC COMMENT:**

Eric Sinclair-again recounted public safety incidents that occurred several years ago and reiterated that on his election there would be 'Zero Tolerance' for crime in Lindsay.

## **CONSENT CALENDAR:**

### **Request for approval of the following:**

- a) Meeting Minutes for July 28<sup>th</sup>, 2015.
- b) Warrant Register for June 15<sup>th</sup>, July 29<sup>th</sup> & 31<sup>st</sup> and Aug. 5<sup>th</sup>, 2015.
- c) Acceptance of July 31, 2015 Treasurer's Report.
- d) TCAG Quarterly Report.
- e) TCAG Claim form & Res. 15-35 for Lindsay's Regional Transportation Program funding allotment for FY15.
- f) Extending of School Resources Officer Program with Lindsay Unified School District
- g) Liquidation of 180-day Certificate of Deposit #0358630851.

## **ACTION:**

On Motion by SALINAS and Second by MECUM, the Lindsay City Council approved the Consent Calendar, as presented, Via Minute Order.

**AYES:** SALINAS, MECUM, KIMBALL, SANCHEZ, PADILLA.

**NOES:** None.

**ABSENT:** None.

## **PUBLIC HEARING: FIRST READING & INTRODUCTION OF ORDINANCE #551 AMENDING SECTION 13.04.345 OF THE LINDSAY MUNICIPAL CODE REGARDING THE ENFORCEMENT OF THE AMENDED WATER CONSERVATION PLAN.**

City Services Director, Mike Camarena introduced this item and staff report. He stated this is the first reading and introduction of Ordinance 551 relating to enforcement of our water conservation plan. He stated that at the July 28<sup>th</sup> meeting, staff presented Council with draft language relative to the Conservation Plan. This language specifically addressed the State Mandate to reduce water use by 25% or to reduce outdoor watering to 2-day per week. Staff has revised the draft water conservation plan based on council's discussion at that meeting and is presenting this document for adoption and the first reading of the amended Conservation Plan.

Mayor PADILLA announced this is a Public Hearing, in a moment I will allow those who are in favor of this ordinance an opportunity to speak, then those who may be opposed an opportunity to speak. Before I open the Public Hearing are there any questions from Council, seeing none she opened the Public Hearing for those in

**FIRST READING & INTRODUCTION OF ORDINANCE #551 AMENDING SECTION 13.04.345 OF THE LINDSAY MUNICIPAL CODE REGARDING THE ENFORCEMENT OF THE AMENDED WATER CONSERVATION PLAN continued**

favor of Ordinance 551 at 6:07pm. She asked if anyone would like to address Council in FAVOR of this item

Eric Sinclair asked that staff provide clarification, for those present, of what this amendment entails.

City Services Director stated what is being proposed tonight are Phase IV Emergency Water Conservation and Phase V Extreme Water Conservation to the existing Three Phase Water Conservation Plan.

Mayor PADILLA then asked if there was anyone else who wished to address Council in favor of the Ordinance, seeing none she asked if anyone would like to speak opposing Ordinance 551. Seeing none, she closed the Public Hearing at 6:08pm and asked for further questions from Council. Seeing none, she stated now that everyone has had an opportunity to read those sections, is everyone okay with the written warnings?

Council member Mecum: So the first and only warning is written or it can be either?

City Services Director: It is written, we hand deliver a letter and if no one is home, we leave a door hanger.

Council member KIMBALL: So when does this go into effect, 30 days after the second reading, so in September. Do we come back and decide whether we are going to change the phase we are in, is that how that works?

City Services Director: We are currently in Phase III, so to meet the State requirement of the 25% or 2-days a week outdoor watering we automatically, with council's approval, go to Phase IV. I think we can report that the July figures were tabulated and we saved just over 35% for this month! So right now our annual is just under 19% and we are on our way to hitting that 25% but we are still not guaranteed. Staff's recommendation would be to go to Phase IV. We could go back when it is appropriate.

Council member KIMBALL: We need to be able to show that we went to that phase to meet the mandate, correct?

City Services Director: Yes.

Council member SALINAS: some of the cities are having problems with the revenues, are we having problems?

City Services Director: So far it hasn't since we accommodated for the decrease in revenues since 2012 and so far it hasn't created a problem for us. We are okay for the rest of this fiscal year, it really depends on if we are able to get back to phase III or even to Phase II.

He stated that brochures from the cities of Porterville, Exeter and Visalia are on the back table as examples for us to prepare for the next phase and asked for Council's direction on what they would like Lindsay to do with our flyer.

Mayor PADILLA then asked if there were any further questions for Mike, seeing none she asked what if any action Council would like to take on this item.

**ACTION:**

On Motion by KIMBALL and Second by SALINAS, the Lindsay City Council declared the FIRST READING OF ORDINANCE #551 AMENDING SECTION 13.04.345 OF THE LINDSAY MUNICIPAL CODE REGARDING THE ENFORCEMENT OF THE AMENDED WATER CONSERVATION PLAN.

AYES: KIMBALL, SALINAS, MECUM, SANCHEZ, PADILLA.

NOES: None.

ABSENT: None.

**COUNCIL REPORTS**

Councilman MECUM – had nothing to report.

Councilwoman KIMBALL – announced she was back from vacation and no TCAG report as the meeting was cancelled.

**COUNCIL REPORTS continued**

Mayor Pro Tem SANCHEZ –had nothing to report.

Councilman SALINAS –had nothing to report.

Mayor PADILLA – Reported she & Mayor Pro Tem Sanchez attended a back to school event at the Church of God of Prophecy on Sweet Brier on August 1<sup>st</sup>. She stated the event was well attended, there was entertainment for the kids and they announced they will be doing this event again next year. The church provided local needy children with backpacks, school supplies and haircuts.

**STAFF REPORTS**

Interim City Manager Bill Zigler reported on the following:

Lindsay children back to school on 8/17

Coffee in the park scheduled for Friday 8/14 at 9am

TCAG will be making presentation to Council at 8/25 meeting

Lindsay Theater Group will be presenting “Taming of the Shrew”

Water Conservation Report for July at 35%

Sequoia Avenue Project ready for Roosevelt School Children

Vita Pakt Improvement Project Update

Proteus Program has trainees in Lindsay for 5-month program

July Building Permit

CalHFA negotiations

Mc Dermont Activities Update

**Before going into Executive Session Mayor PADILLA thanked all who attended tonight’s Council meeting & invited them back on 8/11 at 6pm. (She also made this announcement in Spanish).**

**EXECUTIVE SESSION**

- 1) Conference with Legal Counsel regarding pending litigation - GC§54956.9(d)(1)  
Brian Clower vs. City of Lindsay  
Tulare County Superior Court Case #257764

- 2) Conference with Legal Counsel regarding Anticipated litigation GC§54956.9(d)(4) (1 Case)

Mayor PADILLA reconvened the Regular Council Meeting and announced there was nothing to report and no action taken.

With no further business, Mayor PADILLA asked for a motion to adjourn the meeting.

**ADJOURN.** Upon motion of **MECUM** and Second of **KIMBALL**, Mayor PADILLA adjourned the Regular Meeting of the Lindsay City Council at 7:11 pm The next Regular City Council Meeting is scheduled for **Tuesday, August 25th, 2015 at 6PM** in the Council Chambers at City Hall, 251 E. Honolulu, Lindsay, CA 93247.

ATTEST:

CITY COUNCIL OF THE CITY OF LINDSAY

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Carmela Wilson, City Clerk

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Ramona Villarreal-Padilla, Mayor

**CITY OF LINDSAY ORGANIZATIONAL CHART FOR 2015-2016**

<b>FUND /DEPT</b>	<b>TITLE/DESCRIPTION</b>		
1014010	CITY COUNCIL		
1014040	CITY MANAGER		
1014050	FINANCE		
1014060	CITY ATTORNEY		
1014090	NON-DEPARTMENTAL		
1014110	PUBLIC SAFETY		
1014120	PUBLIC WORKS DEPT.		
1014130	STREETS		
1014210	PARKS		
1024111	ASSET FORFEITURE		RESTRICTED FUND
2614160	GAS TAX-MAINTENANCE		RESTRICTED FUND
2634180	TRANSPORTATION		RESTRICTED FUND
2644190	TRANSIT FUND		RESTRICTED FUND
3004300	MCDERMONT OPERATION		ENTERPRISE FUND
4004400	WELLNESS CENTER/AQUATIC		ENTERPRISE FUND
5524552	WATER		ENTERPRISE FUND
5534553	SEWER		ENTERPRISE FUND
5544554	REFUSE		ENTERPRISE FUND
5564556	LAND APPLICATION		SPECIAL REVENUE FUND
600	CAPITAL IMPROVEMENT FUND		ISF
8414140	CURB & GUTTER		SPECIAL REVENUE FUND
856	STORM DRAIN SYSTEM		SPECIAL REVENUE FUND
857	DOMESTIC WASTEWATER		SPECIAL REVENUE FUND
660	SUCCESSOR AGENCY FUND - RDA		
662	SUCCESSOR AGENCY FUND - LMI		
<b>ASSESSMENT DISTRICTS:</b>			
8834883	SIERRA VIEW	8884888	PARKSIDE ESTATES
8844884	HERITAGE PARK	8894889	SIERRA VISTA
8854885	INGOLDSBY	8904890	MAPLE VALLEY
8864886	SAMOA STREET	8914891	PELOUS RANCH
8874887	SWEETBRIER UNITS		
<b>HOUSING AND COMMUNITY DEVELOPMENT:</b>			
7004700	CDBG REVOLVING LN FUND		
7204720	HOME REVOLVING LN FUND		
779	IMPOUND ACCOUNT		

**NOTE: All payments using the object code of 200: EXAMPLE XXX-200-XXX are Liability accounts for monies collected from other sources - i.e. payroll deductions, deposits, impounds, etc - and are not Expenses to City**

CHECK#	DATE	VENDOR#	VENDOR	FUND	ACCOUNT	AMOUNT
84335	08/14/15	5781	ACE HEATING & AIR CONDITIONING	1014120	037000	\$140.00
84336	08/14/15	4255	ACTION EQUIPMENT RENTALS	5534553	037000	\$954.53
84337	08/14/15	2873	ADVANTAGE ANSWERING	1014120	033001	\$177.88
84338	08/14/15	5677	AL JAMES REID JR.	3004300	055006	\$200.00
84339	08/14/15	4990	ALEC BLUE	4004400	022000	\$855.00
84340	08/14/15	5009	ANDY GARCIA	3004300	055019	\$240.00
84341	08/14/15	5674	ANTHONY GONZALEZ	3004300	055006	\$325.00
84342	08/14/15	5457	AUTO ZONE COMMERCIAL	1014110	022015	\$23.97
84343	08/14/15	4135	BILL WALL'S DIRECT	1014110	031000	\$259.10
84344	08/14/15	4778	BROWN ARMSTRONG ACCOUNTANCY	2634180	031009	\$1,000.00
84344	08/14/15	4778	BROWN ARMSTRONG ACCOUNTANCY	5524552	031009	\$14,000.00
84345	08/14/15	051	BSK	5524552	022001	\$295.00
84345	08/14/15	051	BSK	5524552	022001	\$195.00
84345	08/14/15	051	BSK	5524552	022001	\$170.00
84345	08/14/15	051	BSK	5524552	022001	\$120.00
84345	08/14/15	051	BSK	5524552	022001	\$120.00
84345	08/14/15	051	BSK	5524552	022001	\$30.00
84345	08/14/15	051	BSK	5524552	022001	\$30.00
84345	08/14/15	051	BSK	5524552	022001	\$50.00
84346	08/14/15	873	CALIFORNIA RURAL WATER ASSOC.	5524552	038002	\$375.00
84348	08/14/15	2872	CHIEF SUPPLY	1014110	024004	\$28.82
84349	08/14/15	5930	CHRIS ALLARD	4004400	069102	\$280.00
84350	08/14/15	5825	CHRIS DEMPSIE	1014110	037008	\$544.35
84351	08/14/15	2319	COMPUTER SYSTEMS PLUS	1014050	036008	\$270.00
84351	08/14/15	2319	COMPUTER SYSTEMS PLUS	1014050	036008	\$45.00
84352	08/14/15	119	DOUG DELEO WELDING	1014120	022000	\$33.48
84353	08/14/15	4809	EDWARD SAVERY	3004300	055006	\$425.00
84354	08/14/15	2668	ELISEO MENDEZ	1014110	038002	\$51.00
84355	08/14/15	5611	ELITE FITNESS & NUTRITION	3004300	069113	\$3,000.00
84356	08/14/15	633	ENTENMANN-ROVIN CO.	1014110	025000	\$451.22
84308	08/05/15	2543	FARMERS INSURANCE	779	200351	\$1,006.27
84357	08/14/15	4989	FERNANDO SAENZ	5524552	038002	\$28.00
84358	08/14/15	5676	FIT FOR LIFE	4004400	055006	\$280.00
84359	08/14/15	3478	FRESNO PIPE & SUPPLY	5524552	036000	\$1,286.80
84360	08/14/15	137	FRIANT WATER AUTHORY	5524552	022010	\$1,495.00
84361	08/14/15	4527	GIANMARCO LASERNA	3004300	055019	\$425.00
84362	08/14/15	4837	GREG MULLINS	3004300	055006	\$350.00
84363	08/14/15	1391	HOME DEPOT	1014210	064046	\$81.18
84363	08/14/15	1391	HOME DEPOT	1014120	023000	\$28.18
84363	08/14/15	1391	HOME DEPOT	2614160	032004	\$281.69
84364	08/14/15	4714	HUNTINGTON COURT REPORTERS INC	1014110	031000	\$994.50
84365	08/14/15	4721	HUSSAIN RAYANI	3004300	055019	\$60.00
84366	08/14/15	5765	INDIANA TICKET COMPANY	3004300	069090	\$2,061.28
84367	08/14/15	5776	JESSE CAVASOS	1014110	038002	\$51.00
84368	08/14/15	5335	JUAN GOMEZ	5524552	038002	\$17.00
84368	08/14/15	5335	JUAN GOMEZ	5524552	038002	\$34.00
84369	08/14/15	4190	JUAN GUTIERREZ	3004300	055019	\$1,000.00
84370	08/14/15	5614	KALA DONNELLY	3004300	055019	\$400.00

CHECK#	DATE	VENDOR#	VENDOR	FUND	ACCOUNT	AMOUNT
84371	08/14/15	5462	KATHY PREKOSKI	4004400	022000	\$900.00
84372	08/14/15	5804	KELSIE AVINA	4004400	022000	\$350.00
84373	08/14/15	201	KENS STAKES & SUPPLIES	5524552	022000	\$55.08
84374	08/14/15	2128	KENT M. KAWAGOE, PH.D.	1014110	031000	\$150.00
84374	08/14/15	2128	KENT M. KAWAGOE, PH.D.	1014110	031000	\$150.00
84374	08/14/15	2128	KENT M. KAWAGOE, PH.D.	1014110	031000	\$150.00
84375	08/14/15	5448	KIRBY D. MANNON	4004400	055006	\$225.00
84376	08/14/15	2064	LA PUERTA ABIERTA	101	200300	\$100.00
84377	08/14/15	5788	LINCOLN AQUATICS	4004400	069076	\$254.68
84377	08/14/15	5788	LINCOLN AQUATICS	4004400	069076	\$451.70
84378	08/14/15	4427	LINDSAY AUTO PARTS	1014120	022000	\$2.35
84378	08/14/15	4427	LINDSAY AUTO PARTS	5524552	022000	\$7.06
84379	08/14/15	5620	LINDSAY CARDINALS KIDS FOOTBALL	101	200300	\$100.00
84380	08/14/15	2473	LINDSAY CULTURAL ARTS COUNCIL	101	200300	\$100.00
84381	08/14/15	4723	LUKE SHORT	3004300	055019	\$240.00
84382	08/14/15	5399	MARCOS LOYA	1014110	022015	\$60.00
84382	08/14/15	5399	MARCOS LOYA	1014130	023000	\$200.00
84382	08/14/15	5399	MARCOS LOYA	2614160	065008	\$1,292.00
84347	08/14/15	2220	MARI CARRILLO	1014110	038002	\$17.00
84383	08/14/15	4981	MARIA ALEJANDRA GUTIERREZ	3004300	055006	\$300.00
84384	08/14/15	234	MARTINS TIRE & AUTO	5524552	022015	\$49.95
84385	08/14/15	5916	MICHELLE CORONADO	3004300	055026	\$1,200.00
84386	08/14/15	2461	NATIONAL EMBLEM, INC.	1014110	024004	\$385.84
84387	08/14/15	5621	NEW LIFE CHURCH-LINDSAY	101	200300	\$100.00
84388	08/14/15	4798	NOEL PEREZ	1014110	038002	\$85.00
84389	08/14/15	1565	OACYS.COM INC	1014110	037000	\$106.23
84389	08/14/15	1565	OACYS.COM INC	1014040	033001	\$106.24
84389	08/14/15	1565	OACYS.COM INC	1014050	033001	\$106.24
84389	08/14/15	1565	OACYS.COM INC	1014110	037000	\$35.00
84389	08/14/15	1565	OACYS.COM INC	3004300	069069	\$199.95
84389	08/14/15	1565	OACYS.COM INC	4004400	033001	\$106.24
84389	08/14/15	1565	OACYS.COM INC	4004400	032007	\$189.95
84390	08/14/15	4204	ORKIN PEST CONTROL	4004400	069091	\$12.74
84391	08/14/15	272	PITNEY BOWES INC.	1014090	037000	\$1,000.00
84392	08/14/15	5498	PRENTICE ROBINSON	3004300	055019	\$240.00
84393	08/14/15	5684	QUIK-ROOTER	5534553	036001	\$337.50
84393	08/14/15	5684	QUIK-ROOTER	5534553	036001	\$450.00
84393	08/14/15	5684	QUIK-ROOTER	5534553	036001	\$450.00
84394	08/14/15	285	QUILL CORPORATION	1014110	036008	\$43.18
84394	08/14/15	285	QUILL CORPORATION	1014040	024002	\$59.39
84394	08/14/15	285	QUILL CORPORATION	1014050	021000	\$129.17
84394	08/14/15	285	QUILL CORPORATION	1014110	022000	\$209.68
84394	08/14/15	285	QUILL CORPORATION	1014110	022000	-\$106.01
84394	08/14/15	285	QUILL CORPORATION	1014110	036008	-\$17.94
84394	08/14/15	285	QUILL CORPORATION	1014050	021000	\$45.32
84395	08/14/15	5717	RANDSTAD/PLACEMENT PROS	1014050	010008	\$55.22
84395	08/14/15	5717	RANDSTAD/PLACEMENT PROS	1014050	010008	\$50.05
84395	08/14/15	5717	RANDSTAD/PLACEMENT PROS	5524552	010008	\$276.16

84395	08/14/15	5717	RANDSTAD/PLACEMENT PROS	5524552	010008	\$250.27
CHECK#	DATE	VENDOR#	VENDOR	FUND	ACCOUNT	AMOUNT
84395	08/14/15	5717	RANDSTAD/PLACEMENT PROS	5534553	010008	\$125.13
84395	08/14/15	5717	RANDSTAD/PLACEMENT PROS	5534553	010008	\$138.08
84395	08/14/15	5717	RANDSTAD/PLACEMENT PROS	5544554	010008	\$82.85
84395	08/14/15	5717	RANDSTAD/PLACEMENT PROS	5544554	010008	\$75.08
84396	08/14/15	5931	ROYAL RANGERS	101	200207	\$100.00
84397	08/14/15	4698	SAL ESTRADA SR.	3004300	055019	\$375.00
84398	08/14/15	5913	SERGIO VARELA	3004300	055026	\$900.00
84399	08/14/15	3208	SHANNON PATTERSON	4004400	022000	\$300.00
84400	08/14/15	5314	SHRED-IT USA-FRESNO	1014090	037000	\$60.08
84401	08/14/15	4555	SIERRA CHEMICAL CO.	5524552	022007	\$3,630.66
84401	08/14/15	4555	SIERRA CHEMICAL CO.	5524552	022007	-\$1,500.00
84402	08/14/15	5928	SOLARCITY	101	324040	\$285.99
84402	08/14/15	5928	SOLARCITY	101	200258	\$3.00
84402	08/14/15	5928	SOLARCITY	101	200340	\$7.02
84403	08/14/15	310	SOUTHERN CA. EDISON	5534553	032001	\$44.73
84403	08/14/15	310	SOUTHERN CA. EDISON	8914891	032001	\$28.76
84403	08/14/15	310	SOUTHERN CA. EDISON	8914891	032001	\$57.84
84404	08/14/15	4914	STEPHANIE VELASQUEZ	3004300	055006	\$600.00
84404	08/14/15	4914	STEPHANIE VELASQUEZ	4004400	055006	\$225.00
84405	08/14/15	4585	T & T PAVEMENT MARKINGS	2614160	065008	\$1,299.46
84405	08/14/15	4585	T & T PAVEMENT MARKINGS	2614160	065008	\$813.24
84405	08/14/15	4585	T & T PAVEMENT MARKINGS	2614160	065008	\$826.74
84406	08/14/15	3396	THYSSENKRUPP ELEVATOR	4004400	032006	\$273.32
84407	08/14/15	4943	TIMOTHY CULVER	3004300	055026	\$4,900.00
84408	08/14/15	3760	TRAINING FOR SAFETY, INC.	1014110	038002	\$109.00
84408	08/14/15	3760	TRAINING FOR SAFETY, INC.	1014110	038002	\$109.00
84409	08/14/15	348	UNDERGROUND SERVICE ALERT	1014120	037004	\$210.00
84410	08/14/15	5747	UNITED STAFFING	1014130	022000	\$1,066.40
84410	08/14/15	5747	UNITED STAFFING	1014210	022000	\$2,346.08
84410	08/14/15	5747	UNITED STAFFING	8834883	022000	\$170.62
84410	08/14/15	5747	UNITED STAFFING	8844884	022000	\$127.97
84410	08/14/15	5747	UNITED STAFFING	8864886	022000	\$85.31
84410	08/14/15	5747	UNITED STAFFING	8874887	022000	\$85.31
84410	08/14/15	5747	UNITED STAFFING	8884888	022000	\$127.97
84410	08/14/15	5747	UNITED STAFFING	8904890	022000	\$42.66
84410	08/14/15	5747	UNITED STAFFING	8914891	022000	\$213.28
84411	08/14/15	2960	UNITED STATES BUREAU OF RECLAM.	5524552	022010	\$5,398.10
84412	08/14/15	5413	UNIVAR USA INC	5524552	022004	\$657.19
84413	08/14/15	3402	VANESSA DURAN	1014110	038002	\$17.00
84414	08/14/15	1604	VISA	1014010	024000	\$53.97
84414	08/14/15	1604	VISA	1014110	022000	\$229.80
84414	08/14/15	1604	VISA	1014210	036007	\$1,549.43
84414	08/14/15	1604	VISA	1014110	024000	\$14.37
84414	08/14/15	1604	VISA	1014120	038002	\$14.95
84414	08/14/15	1604	VISA	1014090	037000	\$15.24
84414	08/14/15	1604	VISA	1014090	037000	\$20.98
84414	08/14/15	1604	VISA	1014040	021000	\$25.10

CHECK#	DATE	VENDOR#	VENDOR	FUND	ACCOUNT	AMOUNT
84414	08/14/15	1604	VISA	1014090	037000	\$11.89
84414	08/14/15	1604	VISA	3004300	069113	\$30.00
84414	08/14/15	1604	VISA	4004400	033001	\$157.69
84414	08/14/15	1604	VISA	4004400	069116	\$167.48
84414	08/14/15	1604	VISA	5524552	023000	\$9.99
84415	08/14/15	368	VOLLMER EXCAVATION, INC.	1014130	023000	\$54.00
84415	08/14/15	368	VOLLMER EXCAVATION, INC.	1014130	023000	\$542.70
84415	08/14/15	368	VOLLMER EXCAVATION, INC.	5524552	023000	\$542.70
84415	08/14/15	368	VOLLMER EXCAVATION, INC.	5524552	023000	\$54.00
84416	08/14/15	4978	WILLIAM B. PETERSON	3004300	055019	\$240.00
84417	08/14/15	5912	YVETTE DURAN	3004300	055006	\$200.00
					<b>TOTAL</b>	<b>\$74,181.65</b>

## MEMORANDUM

August 25, 2015

**To:** Honorable Mayor Padilla and City Council Members

**From:** William Zigler, Director of Planning and Economic Development

**Subject:** Minute Order Approval of Temporary Use Permit Request 15-31 to Close a Portion of Sweet Brier Avenue for a Car Show

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### **Summary:**

The McDermont Field House is hosting a car show organized by the Lindsay Chamber of Commerce and Ruben Gonzales on September 19, 2015 between 11am and 7pm. The car Show is expected to have a higher number of vehicles than permitted to be shown within McDermont facilities. This would require a partial street closure along both sides of Sweet Brier Avenue in front of the Field House between the hours of 6am and 10pm, allowing for setup and cleanup. Additionally, the organizers have requested the public parking lot near the Field House be available for food vending. Signatures supporting the closure have been obtained from affected property owners.

Further, the organizers have requested a beer garden be permitted in conjunction with this event, which will be limited to fenced and visually screened areas outside and designated areas within the Field House. Private security personnel would be retained and funded by event organizers to provide security.

### **Background Information:**

Street closures have been granted by Council in the past for a variety of public and semipublic events, such as the Orange Blossom Festival, Chili Cook Off, and Rib Cook Off.

### **Zoning:**

Zoning for the surrounding is mixed use (MXU) and high-density residential (RM-1.5). The proposed use is permitted, subject to approval of a Temporary Use Permit by City Council.

### **Recommendation:**

Staff recommends City Council approve the Temporary use permit application, subject to the following conditions:

- McDermont Field House staff would coordinate the placement of barricades and any visual warning devices identifying the street/parking lot closure with Public Safety and City Services.
- A small designated “No Parking” zone would be created in front/near the Field House to facilitate emergency vehicle access, which would be coordinated with Public Safety.
- The temporary fencing would be covered to block view of consumption of any alcoholic beverages in designated beer garden areas. The Beer Garden would be limited to areas not utilized by the Car Show and would not extend into attractions, arcades, hallways and fitness areas. “Beer Garden” would be defined by the facility director, and operated per requirements of the California Department of Alcohol Beverage Control. Absolutely no alcohol would be permitted outside the designated beer garden areas.
- No outside alcohol will be allowed inside the event. This includes the outdoor car show area.
- Security would be retained and funded by the event organizers, in number determined by the Director of Public Safety.
- The site and surrounding area would be maintained in a clean and neat condition, free of all trash and debris. The emptying of trash receptacles would be monitored and performed by McDermont staff. Upon conclusion of the temporary use, the site would be returned to its original condition.

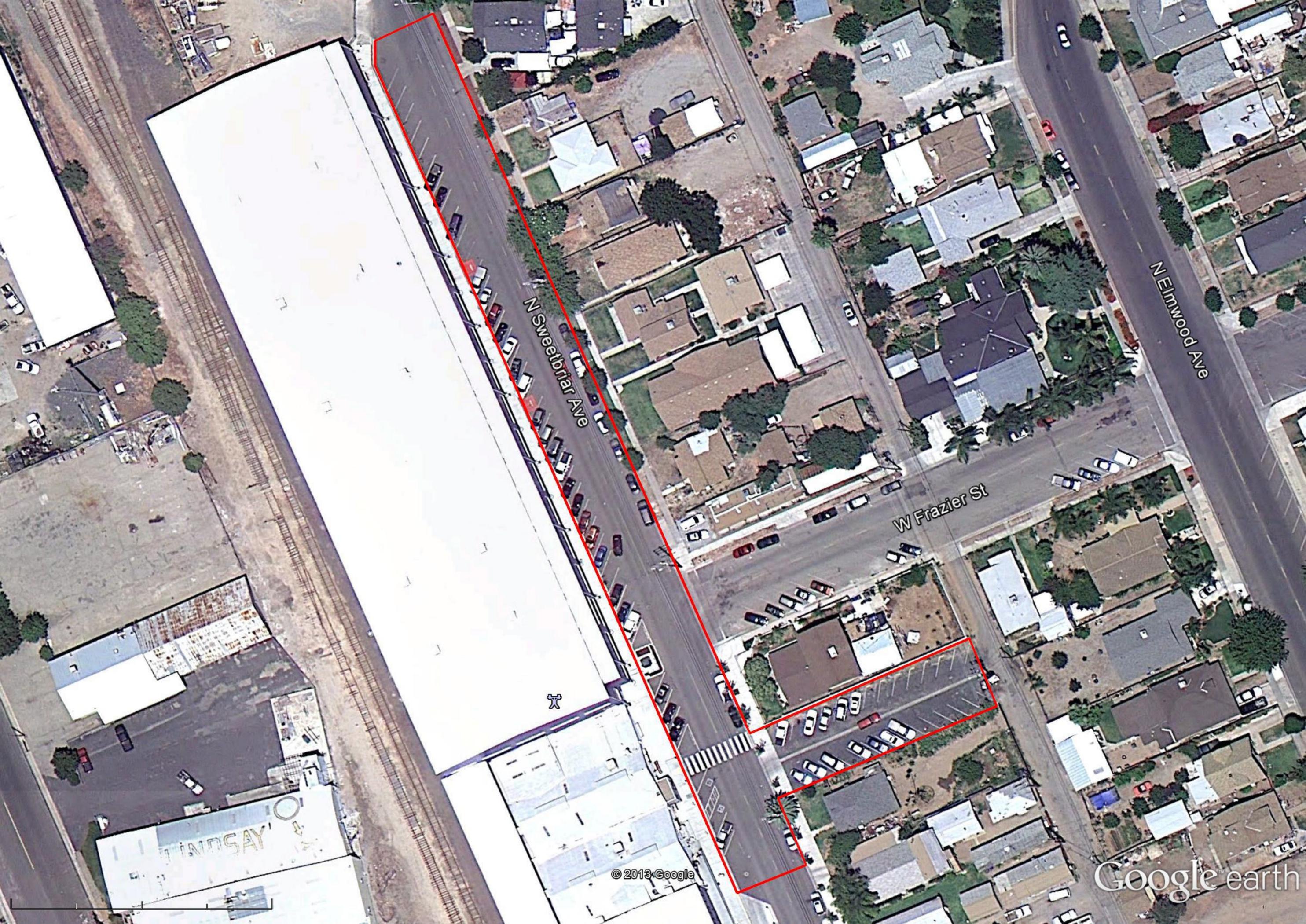
Respectfully Submitted,



William Zigler

Attachment:

- Aerial photo



N Sweetbriar Ave

W Frazier St

N Elmwood Ave

INDOSAY

© 2013 Google

Google earth



DATE : August 25, 2015  
TO : Mayor Padilla and City Council Members  
FROM : Mike Camarena, City Services Director  
RE : Resolution 15-42, Ono City Parkway Street Resolution of Acceptance

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### **Background**

Sierra View Street extension project was completed in 2012. This street was subsequently named Ono City Parkway. The entire construction was completed on city property (APN's 201-150-010 and 201-230-001) located on the northern limits of the city park.

California Streets and Highways Code, Division 2.5, City Streets, Chapter 1. Construction and Maintenance, Section 1806 states;

- (a) No city shall be held liable for failure to maintain any road until it has been accepted into the city street system in accordance with subdivision (b) or (c).
- (b) Except as provided by Section 989, or by Section 57329 or 57385 of the Government Code, no public or private street or road shall become a city street or road until the governing body, by resolution, has caused the street or road to be accepted into the city street system.
- (c) In lieu of the procedure set forth in subdivision (b), the governing body of a city may, by ordinance, designate a city officer to accept, on behalf of the governing body, streets and roads or portions thereof, into the city street system and to record conveyances to the city of real property interests for street and road uses and purposes. The designee shall, prior to recording any conveyance under this section, affix a certificate to the instrument stating the acceptance into the city street system and designating the name or number, or both, of the city street or road.

### **Request**

Staff is requesting that Council approve Resolution 15-42, A Resolution of the City of Lindsay accepting the right of way that encompasses Ono City Parkway and direct staff to record documents with Tulare County identifying the accepted right of way.

### **Attachments:**

Resolution 15-42  
Assessor Maps 201-150-010 and 201-230-001  
Ono City Parkway Legal Description (Exhibit A) with attachment (Exhibit B)

**RESOLUTION NO. 15-42**  
**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LINDSAY**  
**ACCEPTING ONO CITY PARKWAY INTO THE CITY STREET**  
**SYSTEM.**

At a regularly scheduled meeting of the City Council of the City of Lindsay, held this 25th day of August, 2015, at the hour of 6:00 p.m. in the Council Chambers of City Hall, Lindsay, California 93247 the following resolution was adopted:

**WHEREAS**, Section 1806 of the California Streets and Highways Code provides that, except as provided by Section 989, or by Section 57329 or 57385 of the Government Code, no public or private street or road shall become a city street or road until the governing body, by resolution, has caused the street or road to be accepted into the city street system; and

**WHEREAS**, pursuant to Section 1806 of the California Streets and Highways Code, the City Council desires to accept the real property described as Assessor's Parcel Number 201-150-010 and 201-230-001 (portions of) which is described in Exhibit A and depicted on the map attached to this Resolution as Exhibit B, into the City street system.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Lindsay, as follows:

1. Effective upon the date that a certified copy of this Resolution is recorded in the Official Records of the County of Tulare, the real property and/or parcels described as Assessor's Parcel Number 201-150-010 and 201-230-001 (portions of) which is described in Exhibit A and depicted on the map attached to this Resolution as Exhibit B, into the City street system.

2. The City Clerk is hereby authorized and directed to cause a certified copy of this Resolution, attested by the City Clerk under seal, to be recorded without acknowledgement, certificate of acknowledgement, or further proof in the Official Records of the County of Tulare.

3. All actions heretofore taken by the officers, employees and agents of the City with respect to the acceptance of conveyance and the recordation of any instrument relating to any and all of the real property and/or parcels described in Section 1 of this Resolution are hereby approved, confirmed and ratified, and the officers and employees of the City are hereby authorized and directed, jointly and severally, to do all things and to execute and deliver any and all certificates and documents which they may deem necessary or advisable in order to consummate the acceptance of said streets and roads into the City street system and otherwise to effectuate the purposes of this Resolution.

**PASSED AND ADOPTED** by the City Council of the City of Lindsay this 25th day of August, 2015.

ATTEST:

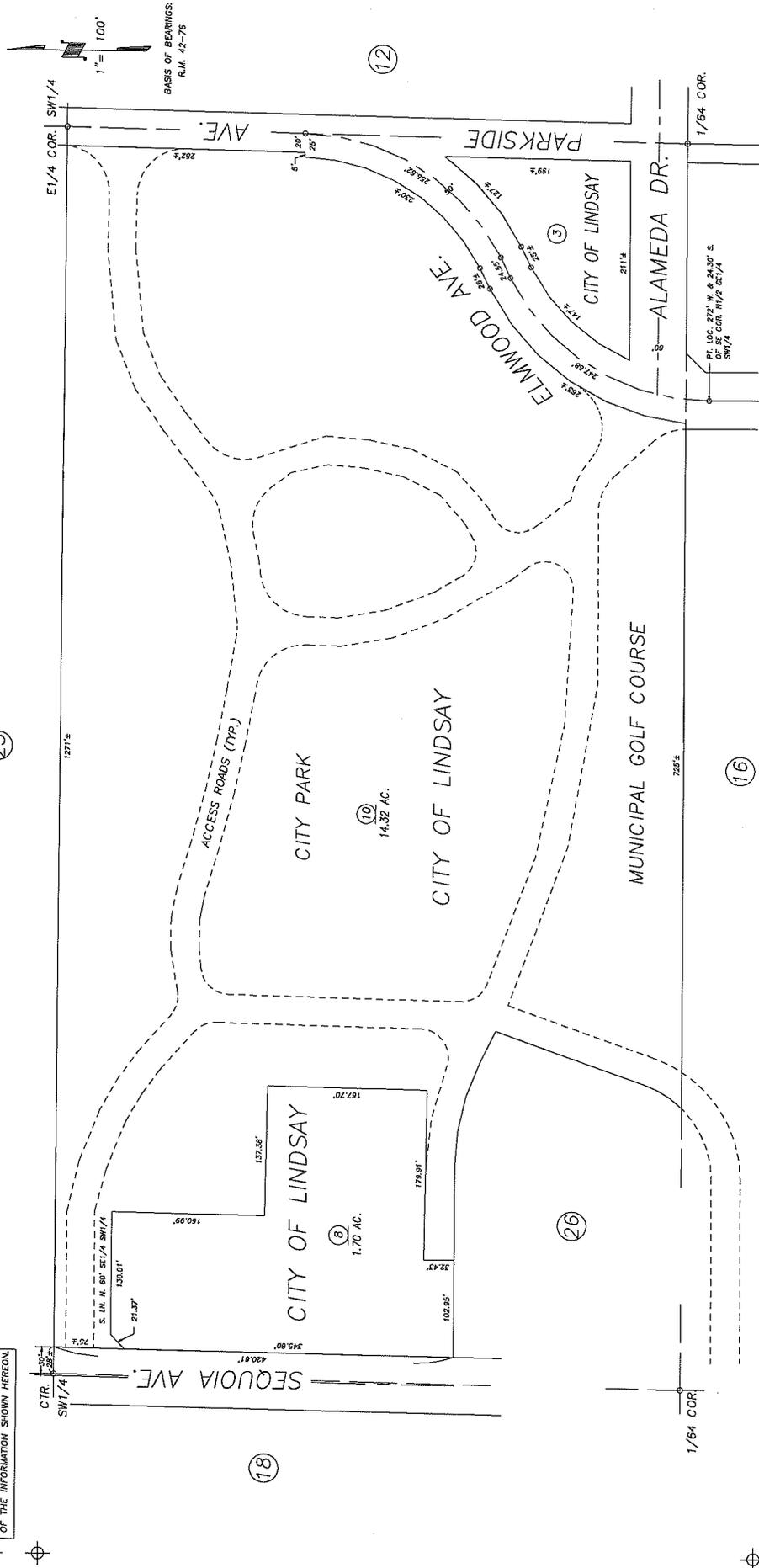
CITY COUNCIL OF THE CITY OF LINDSAY

-----  
Carmela Wilson, City Clerk

-----  
Ramona Villarreal Padilla, Mayor

N1/2 OF SE1/4 OF SW1/4 SEC.6, T.20S., R.27E., M.D.B.&M. Tax Area Codes 201-15  
003-028

**DISCLAIMER**  
THIS MAP WAS PREPARED FOR LOCAL PROPERTY ASSESSMENT PURPOSES ONLY AND THE PARCELS SHOWN HEREON MAY NOT BE IDENTICAL TO THE RECORDS OF THE COUNTY CLERK'S OFFICE AND SUBDIVISION ORDINANCES. NO WARRANTY OF LIABILITY IS ASSUMED FOR THE USE OF THE INFORMATION SHOWN HEREON.



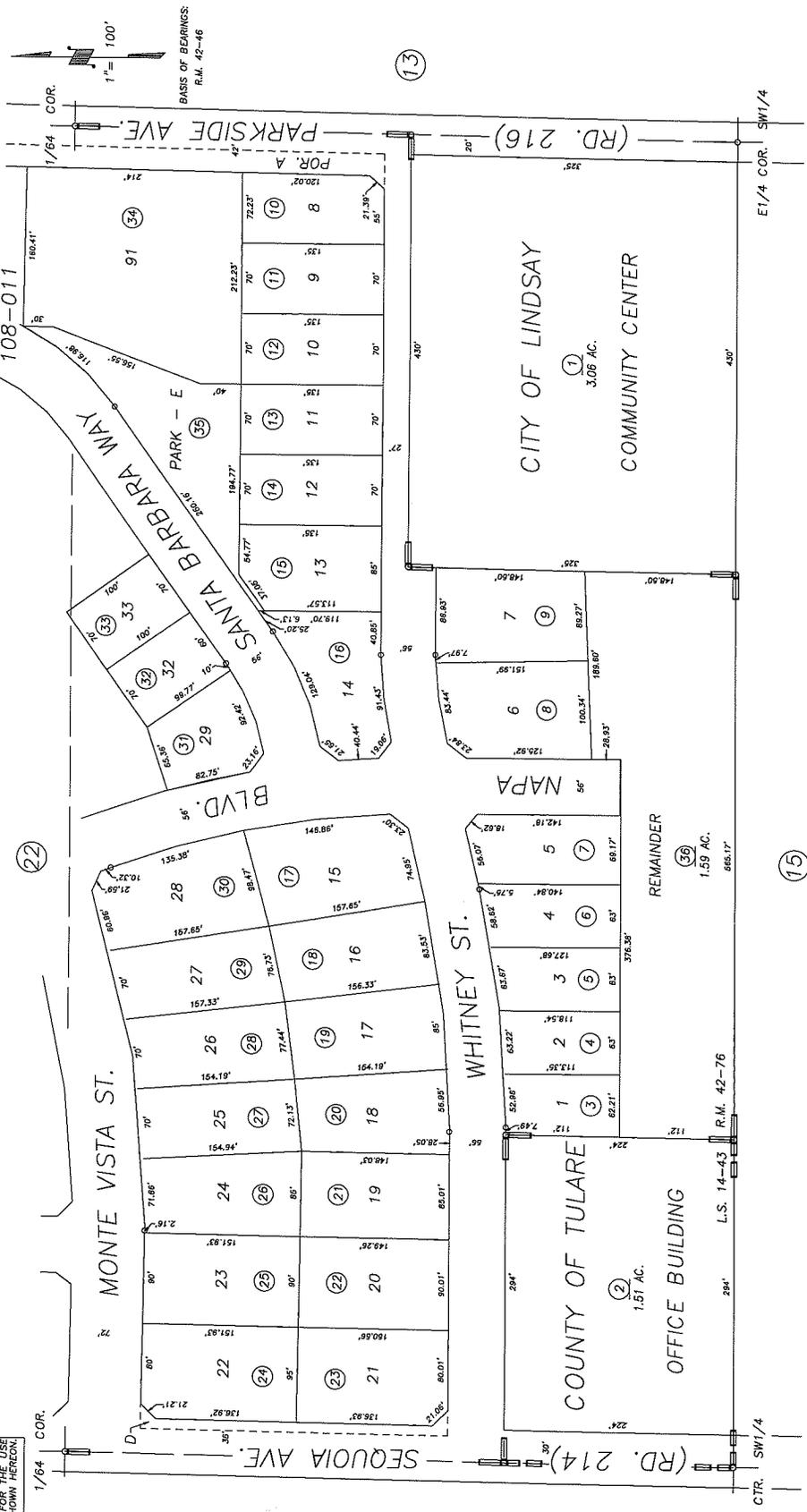
CITY OF LINDSAY  
ASSESSOR'S MAPS BK.201 , PG.15  
COUNTY OF TULARE, CALIFORNIA, U.S.A.

NOTE: Assessor's Parcel Numbers Shown in Circles (123)  
Assessor's Block Numbers Shown in Ellipses (123)

REVISION	DATE	TECH
2010-051576	09/20/2010	CBT

S1/2 OF NE1/4 OF SW1/4 SEC. 6, T.20S., R.27E., M.D.B.&M.  
 Tax Area Codes 201-23  
 003-013 003-025  
 003-028 003-023  
 108-011

**DISCLAIMER**  
 THIS MAP WAS PREPARED FOR LOCAL  
 PROPERTY ASSESSMENT PURPOSES ONLY  
 AND THE PARCELS SHOWN HEREON MAY  
 NOT ACCURATELY REFLECT THE  
 SUBDIVISION ORDINANCE AND LOCAL  
 LIABILITY IS ASSUMED FOR THE USE  
 OF THE INFORMATION SHOWN HEREON.



RECORD OF SURVEY, L.S. 14-43  
 POR. MISSION ESTATES, R.M. 42-76  
 CITY OF LINDSAY  
 ASSESSOR'S MAPS BK.201 , PG.23  
 COUNTY OF TULARE, CALIFORNIA, U.S.A.

NOTE: Assessor's Parcel Numbers Shown in Circles (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35)  
 Assessor's Block Numbers Shown in Ellipses (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35)  
 MAP CHANGE ONLY 03/31/2015  
 REVISION DATE TECH

Exhibit "A"

Ono City Parkway R/W Description

That portion of the East half of the Southwest quarter of Section 6, Township 20 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Lindsay, County of Tulare, State of California, described as follows:

Beginning at a point in the North line of the Southeast quarter of said Southwest quarter, said point being North  $89^{\circ}10'38''$  East, 30.00 feet of the Northwest corner of the Southeast quarter of said Southwest quarter, said point also being in the East line of Sequoia Avenue;

Thence, South  $00^{\circ}00'43''$  West, 75.01 feet along said East line of Sequoia Avenue;

Thence, North  $44^{\circ}35'41''$  East, 21.37 feet to a point in the Southline of the North 60.00 feet of the Southeast quarter of said Southwest quarter;

Thence, North  $89^{\circ}10'38''$  East, along the South line of said North 60.00 feet, 707.26 feet to the beginning of a 270.00 foot radius tangent curve, concave to the South;

Thence, Easterly, along said curve, through a central angle of  $22^{\circ}26'55''$  an arc distance of 105.79 feet, to the beginning of a 330.00 foot radius reverse curve, concave to the North, a radial to said beginning bears South  $21^{\circ}37'33''$  West;

Thence, Easterly, along said curve, through a central angle of  $47^{\circ}16'45''$  an arc distance of 272.31 feet, to the beginning of a 270.00 foot radius reverse curve, concave to the South, a radial to said beginning bears North  $25^{\circ}39'12''$  West;

Thence, Easterly, along said curve, through a central angle of  $24^{\circ}49'50''$ , an arc distance of 117.01 feet to a point in the South line of the North 50.00 feet of the Southeast quarter of said Southwest quarter;

Thence, tangent to said curve, North  $89^{\circ}10'38''$  East, 47.76 feet;

Thence, South  $45^{\circ}20'57''$  East, 21.04 feet;

Thence, North  $89^{\circ}10'37''$  East, 5.00 feet to a point in the West line of Parkside Avenue;

Thence, North  $00^{\circ}07'33''$  East, 90.01 feet along the West line of Parkside Avenue;

Thence, South  $89^{\circ}10'37''$  West, 5.00 feet;

Thence, South  $44^{\circ}39'03''$  West, 21.39 feet to a point in the North line of the South 10.00 feet of the Northeast quarter of said Southwest quarter;

Thence, South  $89^{\circ}10'38''$  West, 48.75 feet to the beginning of a 330.00 foot radius tangent curve, concave to the South;

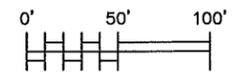
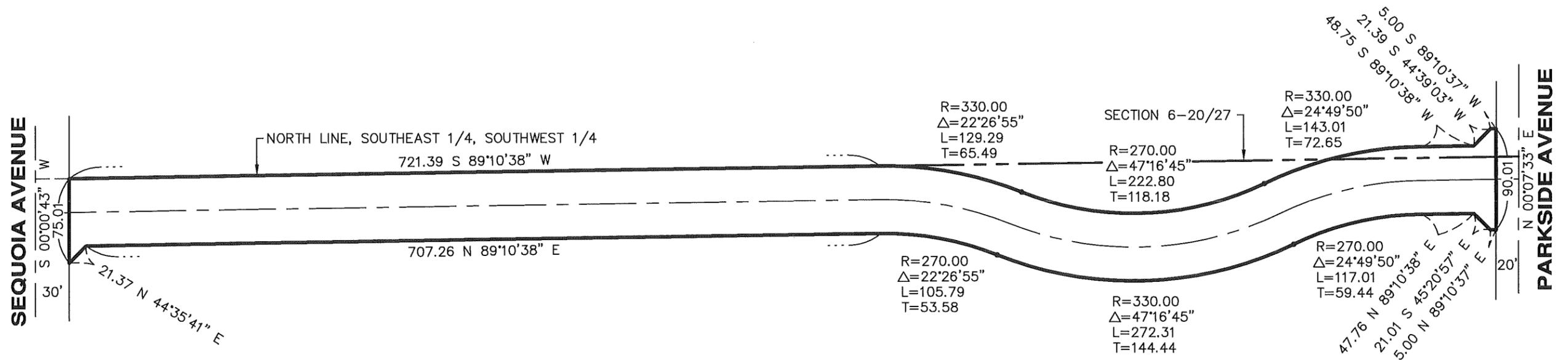
Thence, Westerly, along said curve, through a central angle of  $24^{\circ}49'50''$ , an arc distance of 143.01 feet, to the beginning of a 270.00 foot radius reverse curve, concave to the North, a radial to said beginning bears South  $25^{\circ}39'12''$  East;

Thence, Westerly, along said curve, through a central angle of  $47^{\circ}16'45''$ , an arc distance of 222.80 feet, to the beginning of a 330.00 foot radius reverse curve, concave to the South, a radial to said beginning bears North  $21^{\circ}37'33''$  East;

Thence, Westerly, along said curve, through a central angle of  $22^{\circ}26'55''$ , an arc distance of 129.29 feet to a point in the North line of the Southeast quarter of said Southwest quarter;

Thence, tangent to said curve, South  $89^{\circ}10'38''$  West, 721.39 feet to the point of beginning.

EXHIBIT "B"



SCALE: 1" = 100'

## MEMORANDUM

August 25, 2015

From: Director of Planning and Economic Development  
To: City Manager and City Council

**Subject:** Church of God of Prophecy Use of Sweet Brier Plaza – Temporary Use  
Permit 15-32 - Minute Order Approval

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**REQUEST:** Cristino Hernandez, a representative of the Church of God of Prophecy (CGP), has requested the use of Sweet Brier Plaza to hold an open air service on Saturday, August 29, 2015, at 6:00 pm. To allow adequate time for set-up and tear down, CGP is asking the permit to last from 12:00 pm to 10:00 pm. This would be a free-to-the-public, non-denominational event that would consist of a church service, live music, and free food.

**BACKGROUND:** The CGP has held a similar event before at the Sweet Brier Plaza in Lindsay and there were no complaints regarding their use of the site. The number of attendees is expected to be no more than one hundred.

The CGP will need access only to electrical power at the stage as well as access to the bathrooms. The CGP is aware of the city's noise ordinance (section 8.20 of the Lindsay Municipal Code) and will comply with the requirements provided therein. The CGP is also aware of their responsibility of obtaining separate approval from the County Health Department to ensure their food distributing practices are safe. Furthermore, CGP understands their responsibility for ensuring the area is clean and free from any waste related to their event prior to their departure.

**STAFF NOTES:** The CGP would be charged for any staff time related to setup (if required), cleanup, and for any damage incurred during site use. Restroom and electrical access would be coordinated through City Services. As a free-to-the-public, non-denominational event, site rental fees would not be charged. No equipment has been requested. The Plaza is not reserved by any other group or person for the requested timeframe. Staff recommends Minute Order approval of the request.

Respectfully Submitted,



William Zigler

TUP 15-32  
Church of God of Prophecy Use of Sweet Brier Plaza



Lindsay Department of Public Safety  
185 N. Gale Hill  
Lindsay, Ca 93247  
Tel: (559)562-2511  
Fax: (559)562-7126

---

August 18, 2015

Lindsay City Council

Re: Police Firing Range Agreement with City of Porterville 2015-2016

The Lindsay Department of Public Safety is renewing the annual use agreement of the Porterville Police Department's Firing Range. Lindsay Public Safety Officer's currently train at the firing range once a month at the cost of \$100.00 per month with an annual cost of \$1,200.00. This training is invaluable not only for the safety of the officer but the safety of citizens in the event an officer is forced to discharge their firearm. Attached is the renewal of this agreement for you to review.

Respectfully submitted

Interim Director of Public Safety  
Chris Hughes #683



## POLICE FIRING RANGE COOPERATIVE AGREEMENT

This Agreement is entered into as of July 1, 2015, between the CITY OF PORTERVILLE ("CITY"), and the CITY OF LINDSAY ("LINDSAY"), (each a "Party," and collectively, the "Parties"), with reference to the following:

- A. The Parties desire to allow the use of the CITY Police Firing Range ("Range") by the Lindsay Police Department ("LPD").
- B. The Parties are willing to enter into this Agreement on the terms and conditions set forth below.

### ACCORDINGLY, IT IS AGREED:

1. The term of this Agreement shall be for one (1) year, commencing on July 1, 2015, and ending on June 30, 2016.
2. LPD desires use of the Range approximately twelve (12) times per agreement year, at the frequency of approximately one (1) use per month.
3. The cost per agreement year shall be twelve hundred (\$1,200) dollars.
4. The CITY shall furnish use of the Range to the LPD including restroom facilities if available, and shall pay all taxes, insurance, maintenance fees, and all other costs required to provide use of the Range in accordance with this Agreement.
5. LPD shall have the use of on-site firearms buildings located at the Range for training programs. Any available classroom facility may be used on a case-by-case basis, without additional charge, when arranged through the Porterville Police Department ("PPD") Range Supervisor.
6. PPD and LPD agree the Range shall be open and usable by members of LPD at such times that are mutually agreeable to both parties. Exclusive use of the facilities by LPD must be coordinated with, and scheduled by the PPD Range Supervisor.

7. Prior to exclusive use of the Range, LPD will submit their training agenda and course of fire to the PPD Range Supervisor for approval.
8. LPD agrees that its members using the Range under this Agreement shall be governed by the range safety rules established by PPD. (Firearms Range Rules and Regulations, attached.)
9. On their scheduled training days, the LPD Range Master shall contact PPD Watch Commander upon their arrival and departure from the RANGE.
10. After use of the facility, LPD agrees to ensure the Range is cleaned properly of all debris resulting from their use, including brass. Brass will be left in containers (containing only brass) at the Range for disposal by PPD.
11. Notwithstanding Section 16 herein, both the PPD and LPD reserve the right to cancel this Agreement with thirty (30) days advance written notice to the other, for any (or no) reason. The cost shall be prorated to account for the period the contract was in effect.
12. The amount to be paid by LINDSAY will be due and payable as follows: LINDSAY shall pay the amount as invoiced by the CITY on an annual basis of the agreed-upon cost within thirty days of receiving said invoice(s).
13. The Parties shall hold harmless, defend and indemnify each other, their agents, officers, and employees from and against all liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, arising out of their activities or those of their agents, officers, or employees under this Agreement. This indemnification obligation shall survive the expiration or termination of this Agreement.
14. Except as otherwise required by law, any notice to be given shall be in writing and shall be either personally delivered, sent by facsimile transmission, or sent by first-class mail, postage prepaid, and addressed as follows:

CITY OF PORTERVILLE:

City Clerk of the City of Porterville  
291 N. Main Street  
Porterville, CA 93257  
Phone: 559-782-7447  
Fax: 559-782-7452

CITY OF LINDSAY:

City Clerk of the City of Lindsay  
251 East Honolulu Street  
Lindsay, CA 93247  
Phone: 559-562-7103  
Fax: 559-562-7100

Notice personally delivered is effective when delivered. Notice sent by facsimile transmission shall be deemed received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth day after mailing. Any Party may change the above address, phone number, or fax number by giving written notice pursuant to this paragraph.

15. No part of this Agreement may be assigned by any of the Parties without the prior written consent of the other Party(ies).

16. Termination.

a. The right to terminate this Agreement under this provision may be exercised without prejudice to any other right or remedy to which the terminating Party may be entitled to by law or under this Agreement.

1) This Agreement may be terminated by any Party should another Party:

- a) be adjudged bankrupt;
- b) become insolvent or have a receiver appointed;
- c) make a general assignment for the benefit of creditors;
- d) suffer any judgment which remains unsatisfied for 30 days and which would substantively impair the ability of the judgment debtor to perform under this Agreement; or
- e) materially breach this Agreement.

2) For any occurrences except item e), termination may be effected upon written notice by the terminating Party specifying the date of termination.

3) Upon a material breach, the Agreement may be terminated following the failure of the defaulting Party to remedy the

breach to the satisfaction of the non-defaulting Party(ies) within five (5) days of written notice specifying the breach. If the breach is not remedied within the five (5) day period, the non-defaulting Party may terminate the Agreement on further written notice specifying the date of termination.

4) If the nature of the breach is such that it cannot be cured within a five (5) day period, the defaulting Party may submit a written proposal within that period which sets forth a specific means to resolve the default. If the non-defaulting parties consent to that proposal in writing, which consent shall not be unreasonably withheld, the defaulting Party shall immediately embark on its plan to cure. If the default is not cured within the time agreed, the non-defaulting Party(ies) may terminate upon written notice specifying the date of termination.

b. Effects of Termination. Termination of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports or pre-termination contract activities.

17. This Agreement represents the entire Agreement between the Parties as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of all Parties.

18. This Agreement reflects the contributions of all Parties and accordingly the provisions of Civil Code Section 1654 shall not apply to address and interpret any uncertainty.

19. Unless specifically set forth, the Parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

20. The failure of any Party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for the breach or any subsequent breach. The acceptance by any Party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by any other Party.

21. This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the Parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and

void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either Party is lost, the Agreement may be terminated at the option of the affected Party.

22. Each Party agrees to execute any additional documents and to perform any further acts that may be reasonably required to effect the purposes of this Agreement.

23. It is expected that this agreement will continue into coming years. In June of each year of the agreement, the Porterville Chief of Police and the Lindsay City Manager, or their designees, shall convene a meeting to discuss the agreement. If the agreement is continued, the Porterville Chief of Police shall provide the new cost (if applicable), and the new agreement will indicate the amount of funding each party shall be responsible for.

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

CITY OF PORTERVILLE:

  
\_\_\_\_\_  
Eric Kroutil, Chief of Police

8/7/15  
\_\_\_\_\_  
Date

CITY OF LINDSAY:

  
\_\_\_\_\_  
Chris Hughes, Acting Public Safety Director

8/18/15  
\_\_\_\_\_  
Date



## AGENDA ITEM

Date: August 19, 2015  
To: Mayor Ramona Padilla and Council  
From: Bill Zigler, Interim City Manager.  
Re: Personnel Rules and Regulations

---

### **BACKGROUND:**

Staff has updated the City of Lindsay Personnel Rules and Regulations Handbook to conform with current State Laws and Regulations.

### **RECOMMENDATION ACTION:**

Staff recommends approval.

### **ATTACHMENT:**

Personnel Rules and Regulations Handbook

**CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

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**MERIT PERSONNEL SYSTEM**

**Section 1.1 Purpose**

The purpose of this personnel system is to:

1. Establish an equitable and uniform procedure for dealing with personnel matters;
2. Attract the most competent and desirable persons available for employment;
3. Assure that appointment and advancement of employees are based on merit and ability; and
4. Provide reasonable security for qualified employees.

The objectives of these personnel rules and regulations are to facilitate efficient and economical service to the public and provide for a fair and equitable system of personnel management in the municipal government. These rules and regulations set forth those procedures and policies which ensure similar treatment for those who compete for original and promotional employment and define certain obligations, rights privileges, benefits, and prohibitions which are placed upon all employees in the service of the City.

**Section 1.2 Personnel System Organization**

The City Manager has final responsibility for all personnel actions, except those reserved to the City Council. Each department head exercises direct line authority for personnel functions described in these rules and regulations. The City Manager shall administer the personnel system. He/she may delegate personnel duties for the effective administration of the system to the Personnel Director or his/her designee.

**Section 1.3 Merit Employment Policy**

It is the policy of the city to provide for an employment system, which assures that employees are selected, promoted and retained on the basis of merit. It is the intent of this system to provide fair and equitable treatment to all applicants for employment. The screening and selection of the employees shall be on a specific job related basis. The potential and actual performance of employees within the city shall guide employment decisions with the goal of providing a high performance work force for the residents of the City.

**Section 1.4 Intent of the Personnel System**

1. Employment Standards: The City Council and all the citizens of Lindsay have the right to expect that the City will employ the best qualified persons available, that the tenure of every City employee will be based on a demonstrated need for the work performed, availability of funds, competent effective performance, proper personal conduct, and continuing fitness for the position.
2. City Responsibility to employees: Each employee of the City of Lindsay has the right to expect: To be fully informed of his or her duties and

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

responsibilities; to be provided with adequate administrative and supervisory direction; to be informed of job expectations and desired work behaviors; that promotions will be made on the basis of merit and ability; and progressively improved work performance over an extended period will be recognized and rewarded; that incompetence and misconduct will not be tolerated; and that suspensions, demotions, terminations, and other disciplinary actions will be administered in a fair and impartial manner.

### **Section 1.5 Prior Policies Repealed**

If the terms and provisions of these personnel rules and regulations are inconsistent or in conflict with the terms and provisions of any prior City of Lindsay (“City”) personnel rules and regulations this policy shall prevail and such inconsistent or conflicting provisions or prior resolutions, rules and regulations this policy shall prevail and such inconsistent or conflicting provisions or prior resolutions, rules and regulations are hereby repealed.

### **Section 1.6 Priority of Collective Bargaining Agreements**

If a provision of these rules conflicts with any provision of an applicable collective bargaining agreement entered into by the [Agency] and a recognized employee organization, to the extent of such conflict, the provision of the collective bargaining agreement shall be deemed controlling unless the provision of these rules has been negotiated more recently.

### **Section 1.7 Terms of Personnel Manual**

These personnel rules and regulations shall take effect when approved by the City Manager of the City. The manual shall remain in effect unless repealed, in whole or part, by the City Manager. The City Manager may in his/her sole discretion add to, delete or otherwise modify these personnel rules and regulations, subject to the following paragraph.

Prior to amendment of these personnel rules and regulations, the City Manager shall consult with City employees or, if required, upon request, meet and confer with affected recognized employee organizations.

### **Section 1.8 Non-Discrimination**

The City shall comply with applicable federal and state laws governing fair employment practice and equal opportunity. The City strictly prohibits unlawful discrimination. This includes discrimination on the basis of sex, sexual orientation, gender identity, national origin, race, color, ancestry, religious creed, physical or mental disability, medical condition, age, marital status, citizenship status, uniformed service member status or any other protected class under applicable law.

### **Section 1.9 Application of Personnel Rules and Regulations**

These personnel rules and regulations have been developed to serve the City of Lindsay and all employees of the City of Lindsay unless specifically excluded. Its contents and all appropriate references represent the rules and practices to which all employees of the City are held accountable.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 1.10 Violations of Rules and Regulations**

Violation of the provisions of these rules and regulations shall constitute grounds for disciplinary action. A violation shall not make disciplinary action mandatory but shall be given such weight as shall be appropriate in view of all the circumstances.

### **Section 1.11 Employee Responsibility**

It shall be the responsibility of each employee to become aware and be knowledgeable of these personnel rules and regulations.

### **Section 1.12 Administrative-Department Policies and Procedures**

The City Manager or individual city department heads may develop and administer supplemental written department policies and procedures as deemed necessary for the efficient, safe and orderly administration of the City or department. However, no such policies or procedures shall conflict with or supersede these personnel rules and regulations, other Council resolutions and ordinances, or existing laws. Copies of department policies and procedures should be distributed to each employee of the department.

### **Section 1.13 Distribution of Personnel Policies**

A copy of these personnel rules and regulations shall be distributed to each City employee and each recognized employee organization. Newly hired employees shall receive a copy upon hire. Copies of these personnel rules and regulations shall also be distributed to each department of the City. Department heads shall make them accessible to employees. Copies shall be available in the personnel office. Employees with questions about these personnel rules and regulations may direct them to his or her immediate supervisor, the department head or to the personnel office.

### **Section 1.14 No Contract Created**

These rules do not create any contract of employment, expressed or implied, or any rights in the nature of a contract.

### **Section 1.15 Severability Clause**

If any provision, or the application(s) of any provision of these personnel rules and regulations is implemented is rendered or declared invalid by any final court action or by reason of any preemptive legislation, the remaining provisions of these personnel rules and regulations shall remain in full force and effect. Nothing these personnel rules and regulations shall be construed to deny any person or employee the rights granted by federal and state law. The rights, powers and authority of the City Manager in all matters, including the right to maintain any legal action shall not be modified or restricted by these regulations.

**DEFINITION OF TERMS**

**Section 2.1** Unless the context indicates otherwise the terms used in these personnel rules and regulations are fined as follows:

**Abandonment of Position** – The failure to report to work for three consecutive regular work shifts without notification by the employee and approval of the City.

**Acting Appointment** – An appointment of a person who possesses at least the minimum qualifications established for a particular class and who is appointed to a position in that class in the absence of available eligible incumbents, or on an interim basis pending later appointment of an eligible person.

**Advancement** – A salary increase within the limits of pay range established for a class.

**Allocation** – The assignment of a single position to its proper class in accordance with the duties performed, and the authority and responsibilities exercised.

**Anniversary Date** – One calendar year from the date of the employee’s probationary appointment with the City and each succeeding year thereafter, unless the probationary period was extended. An employee’s anniversary date shall be determined by applying the continuity of service requirements of these rules.

**Appeal** – A written request by an employee for consideration in matters relating to grievance and/or discipline as set forth in these rules.

**Appointment** – The offer to, and acceptance by, an individual for a position in the competitive service.

**Applicant** – Any person submitting a formal completed application for employment with the City.

**Appointing Authority** – The City Manager is the appointing authority for all City employees and the City Council shall appoint the City Manager. The City Manager may delegate appointing authority. Further delegations of appointing authority must be approved by the City Manager.

**Authorized Position** – A specific work position within a job classification that is or may be held by and employee.

**Benefit Date** – For the purpose of sick and vacation leave accrued, the benefit date is defined as follows for all employees: (a) if the first working day of the pay period was worked, the benefit date will be the first day of that pay period. (b) if the employee started anytime after the first working day of the pay period, then the benefit date will be the first day of the following pay period. (c) if an employee is absent without pay for any period of time his or her benefit date will be adjusted to reflect the deduction of the period of time in which the employees was absent without pay.

**Break in Continuous Service** – Separation of the employee from City employment initiated by either the City of the employees for any period without pay.

## CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

**Bulletin Board** – The official posting place for public notices.

**Certification** – The furnishing of names by the personnel officer of eligible, available candidates for employment, from an employment list in the manner prescribed in these rules.

**Class** – A result of grouping together those positions that are similar in duties, authority, and responsibility, so that the same requirements as to education, general knowledge, and ability may be required of incumbents, and permit grouping under a common title with common standards of selection, and with the same schedule of compensation. Individual positions in the same class may be assigned different duties and responsibilities.

**Class Specification** – The official description of a class including (1) title, (2) a definition, (3) a statement of the duties and responsibilities, and (4) the employment standards, such as education, experience, knowledge and skills, and abilities which may be required of applicants.

**Classification Plan** – The arrangement of positions in classes, together with the title and specifications describing each class.

**Compensation** – Salary, wages, fees, benefits, allowances or any other consideration paid to an employee for performing the duties or exercising the responsibilities of a position.

**Compensatory Time** – Time off from work in lieu of monetary payment for overtime work.

**Continuous Service** – Employment in a regular position that is uninterrupted from the effective date of the appointment except an authorized absence with pay or as required by law.

**Contract Employees** – Contract employees are those individuals employed by the City pursuant to the terms of an individual employment contract that sets forth terms and conditions of employment. Unless expressly stated herein, the provisions of these personnel rules and regulations shall not be applicable to contract employees.

**Days** – Means calendar days unless otherwise stated.

**Demotion** – The movement of an employee from a position in one class to another class, the next class having a lower maximum base rate of pay.

**Department** – A major administrative branch of the City involving a general line of work with one or more employees under the charge of one or more individuals known as supervisors.

**Department Head** – The individual designated as the administrative head of a City department. The City Manager is the Department Head of the other departments heads.

**Disciplinary Action** – The termination, demotion, reduction in pay, or suspension of a regular employee for cause.

**Eligible** – A person whose name is on an employment list.

**Employee** – A person who is legally occupying a position in the City's service or who is on an authorized leave of absence for such position.

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**Employee (Emergency)** - A person employed by the City for a temporary period of time to meet emergencies, which threaten life, property, or the general welfare of the City. An emergency employee serves at the will of the City Manager or designee and may be removed at any time without cause.

**Employee (Part-Time)** – A person employed by the City for specifically designated hours less than full time. A part time employee serves at the will of the City Manager or designee and may be removed at any time without cause.

**Employee (Probationary)** – A person employed by the City in a regular full-time position who has not completed the probationary period.

**Employee (Regular)** – A person employed by the City in a full-time capacity who has successfully completed his/her probationary period and has been retained according to the provisions of these rules. The term does not include an elected official.

**Employee (Temporary)** – A person employed by the City full-time or part-time for some specific work that is temporary in nature. A temporary employee serves at the will of the City Manager or designee and may be removed at any time without cause.

**Employee (Extra Help)** - An employee who is appointed to a position with less than year-round funding. Extra-help employees shall be compensated on an hourly basis shall not be eligible for participation in any benefit plans except as required by law and serves at the will of the City Manager or designee and may be removed at any time without cause.

**Employment Date** – Date on which an employee was hired to fill a position with the City.

**Employment List** – A list of names of persons who may be considered for employment with the City under specified conditions. Employment lists will be prepared as needed under the direction of the Personnel Director.

**Evaluation Date** – For the purpose of step advancement, this term shall mean the date upon which the employee’s most recent step advancement occurred.

**Examination** – An examination for a particular class, which is open to persons meeting the qualifications for the class.

**Exempt Employee** – The City Manager, department heads, executive or professional staff, administrative technical staff, and others whose duties and responsibilities allow them to be “exempt” from the overtime pay provisions as provided by the Federal Fair Labor Standards Act (FLSA) and any applicable state laws.

**Fiscal Year** – The fiscal year for the City begins on July 1 and ends on June 30 of the next year.

**Full-time Position** – A budgeted position in which an employee of the City is regularly scheduled to work at least forty (40) hours per week and/or no less than two thousand eighty hours per year.

**Grievance** – The formal allegation made by an employee that the City, or one of its representatives has violated, misinterpreted, or misapplied the provisions of the Memorandum of

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Understanding and/or City personnel ordinances, rules and regulations, or administrative directives.

**Grievance Procedure** – The systematic means set forth in these personnel rules and regulations by which an employee may obtain consideration of a grievance.

**Job Description** – Description of duties, responsibilities, and minimum qualification requirements of the positions included in the class.

**Lay-off** – The separation of employees from the active work force due to shortage of work or funds, or due to the abolition of positions by the City Manager and/or City Council for the above reasons or due to organization changes.

**Leave of Absence** – An authorized absence from duty for a specified period.

**Memorandum of Understanding** – (M.O.U.) An understanding reached with a recognized employee organization as a result of meeting and conferring on hours, wages, and working conditions in accordance with State law and City ordinances, resolutions and rules.

**Minimum Qualifications** – The minimum qualifications deemed necessary for a candidate to possess for selection to fill a vacancy and to maintain employment with the City.

**Oral Interview or Qualifications Appraisal Board** – Part of an examination conducted by a competent board to evaluate the candidate's education, experience, and general qualifications pertinent to the position for which examined.

**Out-of-Class Pay** – The salary an employee shall receive for working in a classification having a higher salary range than the one to which that employee was appointed during a period of time or these rules. .

**Overtime** – Time worked in excess of 40 hours in a work week or as provided in an applicable M.O.U.

**Part-time Position** – A position in which an employee of the City is regularly scheduled to work less than forty (40) hours per week and/or less than two thousand eighty hours per year.

**Performance Evaluation** – A review and evaluation of an employee's performance and capabilities in the employee's authorized position by the employee's immediate supervisor and/or other member of management at designated intervals and filed in the employee's official personnel file; minimum of one evaluation annually.

**Personnel Director** – The employee of the City designated to manage the personnel function of the City. The Personnel Director may delegate one or more of those functions to subordinates.

**Personnel Rules and Regulations Manual** - This Group of personnel rules and regulations concerning employment with the City of Lindsay.

**Personnel Records** – The official records of the City for each employee, maintained by and in the personnel office, except records that may be required to be maintained in other locations.

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**Position** – A specific office or employment provided by the budget, whether occupied or vacant, of limited term or regular, and requiring the performance of certain duties and responsibilities assigned or delegated by the appointing authority.

**Probationary Period** – A period from original date of hire to be considered an integral part of the examination, recruiting, testing and selection process during which an employee is required to demonstrate fitness for the position to which the employee is appointed by actual performance of duties of the position.

**Professional Employee** – Management, supervisory and technical employees engaged in work requiring specialized knowledge and skills as so designated by the City.

**Promotion** – The movement of an employee from a position of one class to a position in another class having a higher maximum salary rate, generally with an increase in duties and responsibilities over the employee's present class.

**Promotion** – The movement of an employee from a position of one class to a position in another class having a higher maximum salary rate, generally with an increase in duties and responsibilities over the employee's present class.

**Promotional Probationary Period** – The initial period of service by an employee in a promotion position, this period to be considered an integral part of the examination, testing and selection process during which an employee is required to demonstrate fitness for the position to which promoted by actual performance.

**Reclassification** – Modification of job title and corresponding salary range adjustment supported by an appropriate classification analysis prepared under the direction of the Personnel Director, or designee which identifies a change in level of difficulty and/or responsibilities between the existing job description and actual job duties.

**Reduction in Pay** – A temporary or permanent decrease in salary.

**Regular Position** – A budgeted position, the duties of which do not terminate at any stated time.

**Reinstatement** – The restoration without examination of a former regular employee to a classification in which the employee formerly served as a regular non-probationary employee within one year of separation from the City.

**Rejection** – The termination or demotion of an employee during a probationary period.

**Relief of Duty** – The temporary assignment of an employee to a status of administrative leave with pay.

**Reprimand** – An oral or written notification to an employee regarding a censure made as a disciplinary action.

**Resignation** – Voluntary termination of employment by an employee, including the abandonment of the position.

**Salary** – The wages paid for services performed.

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**Salary Increase** – An increase in salary for a classification as a result of the meet-and-confer process and/or City Manager or City Council action.

**Salary Range** – Categories, which determine the minimum and maximum salary with appropriate steps for each employment classification.

**Seniority** – Precedence of one employee over another based on length of service within the classification, department, and City to be determined by continuous employment from the date of hire into a regular position.

**Separation** – The voluntary or involuntary end of City employment.

**Smoking** – Includes any lighted cigarette, cigar or pipe.

**Standard Work Week** – Any consecutive seven (7) day period, as determined by the City, beginning at 12:01 A.M. on the first day, and ending at 12:00 midnight on the seventh day, and consisting of forty (40) hours.

**Step Increase** – A salary increase of one or more steps within the limits of the salary range established for a class.

**Supervisor** – A person having authority in the interest of the City to direct employees, or to adjust grievances, or effectively to recommend any such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

**Suspension** – The temporary separation, without pay, from service of an employee for disciplinary purposes.

**Termination** – Separation from City employment for disciplinary reasons or as a result of rejection during a probationary period.

**Transfer** – The movement of an employee within a department or between departments from one position to another position in the same class or another class having the same maximum salary.

**Vacancy** – An unfilled authorized position in the City of Lindsay employment.

**Work Shifts** – The days of the week and the hours on each of those days that an employee is assigned to work on a regular basis.

### **Section 2.2 Construction In General**

The provisions of these rules and regulations and proceedings under them shall be construed with the view to affect their purpose and to promote justice.

### **Section 2.3 Prohibited Acts Include Causing or Permitting**

An act or omission, which is unlawful under these rules, including causing, permitting, aiding, abetting, suffering, or concealing the act or omission.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 2.4 Reference to Rules Includes Amendments**

When a reference is made to a portion of these rules and regulations, or to an ordinance of the City, the reference applies to each amendment and addition, which may be made to it.

### **Section 2.5 “Shall” and “May”**

“Shall” is mandatory and “May” is permissive.

**GENERAL PROVISION**

**Section 3.1 Fair Employment**

During the selection process the City will not attempt to elicit information concerning race, color, ancestry, national origin, sexual orientation and/or gender identity, marital status, physical or mental disability, medical condition, age, citizenship status, political or religious opinions or affiliations of an applicant. Appointment or removal from a position shall not be affected or influenced by consideration of race, color, ancestry, national origin, sexual orientation, and/or gender identity, marital status, physical or mental disability, medical condition, age, citizenship status, political or religious opinion or affiliation or other category protected by law.

**Section 3.2 Violation of Rules and Regulations**

Violation of these rules is grounds for suspension, demotion, dismissal or other disciplinary action appropriate under the circumstances.

**Section 3.3 Amendment and Revision of Rules and Regulations**

It is fully recognized that rules and regulations, practices, procedures and policies may require modification to reflect changing needs and more effective methods as they are developed. These rules and regulations may be appropriately revised to reflect such needed changes.

**CLASSIFICATIONS**

**Section 4.1 Purpose**

The classification plan provides a complete inventory of all positions in the competitive service and an accurate description and specification for each class of employment. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities.

**Section 4.2 Classification Plan**

The classification plan consists of classes and positions defined by class specification, including the title. The classification plan shall be maintained so that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedule of compensation may be made to apply with equity under similar working conditions to all positions in the same class.

**Section 4.3 Administration**

The Personnel Director will continually review the classification plan based on the job analysis. The Personnel Director shall ascertain and record the duties and responsibilities of all positions in the competitive service, and make a recommendation to the City Council or City Manager of a classification for such positions. Changes in classifications, which result in a salary that falls outside the limits of the department budget, shall be approved by the City Manager.

**Section 4.4 Classification of Positions**

Each position shall be allocated to the appropriate class in accordance with the character, difficulty, and responsibility of its assigned duties. Positions in a single class shall be sufficiently similar to permit substantially the same level of skill, knowledge, ability, and other qualifications required of incumbents, the same or similar selection method and the same schedule of compensation.

**Section 4.5 Classification of New Positions**

All new full-time positions require City Council authorization. The Personnel Director shall recommend the proper assignment of any new positions to a class in the classification plan, or when appropriate, create a new class. When a new position is created and is classified before it is occupied, such position shall be subject to review by the Personnel Director after it is occupied to determine if the incumbent is performing the duties of the class.

**Section 4.6 Reclassification**

The classification plan may be amended from time to time. The assigned duties of positions, which have been materially changed over time by the City so as to necessitate reclassification, whether new or already created, shall be allocated by the City Manager to a more appropriate class. Reclassification shall not be used for the purpose of avoiding restrictions concerning demotions and promotions, nor to effect a change in salary in the absence of a significant change in assigned duties and responsibilities. During the process of consideration, any recognized employee organization affected shall be advised. Amendments and revisions of the plan may be

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suggested by any interested party, including any recognized employee organization and shall be submitted to the City Manager.

The City Manager may approve the reallocation of a position to a different class or approve the creation of a new class whenever the duties of the position change materially over time. This may occur upon the recommendation of the department head, or upon the request of an employee and with concurrence of the department head. When any change is made within a Department, which significantly affects the duties and responsibilities of any position, the appointing authority shall report these facts in writing to the Personnel Director. The Personnel Director or designee shall make a classification study of the duties and responsibilities and the relationship to other classes or positions. The Personnel Director may study the allocation of any position in the Classification Plan and make recommendations to the City Manager for a change in class or the allocation to a more appropriate class. The department head shall be consulted before a classification study is begun in his or her department. Studies may be initiated in the following manner:

1. Written request, submitted by the department head, due to reorganization of a department caused by a lack of funds, lack of work, or where the department reorganization would be for the betterment of the delivery of services or when the duties of a position have materially changed over time.
2. Referral from the City Manager.
3. When possible authorization of a new position is indicated.
4. Regular, periodic maintenance of the Classification Plan or when the Personnel Director identifies a need to study an existing position.

A change in classification on an occupied position shall affect the status of the incumbent in the following manner:

1. When a position is moved to a class with the same or higher salary range, the incumbent may retain the same status in the new class that was held in the prior class. The duties should have evolved over a period of time and be basically the same duties and responsibilities as were performed by the incumbent.
2. When a position is reallocated to a class in a related series with a lower salary range, incumbents may choose to retain the position by accepting voluntary demotion or may request a transfer, if available, for the class from which the position was moved. If neither of the foregoing is chosen, the normal layoff procedures will be followed.

### **Section 4.7 Job Descriptions (Specifications)**

The Personnel Director or designee with the assistance of the department heads shall prepare written specifications for each class of positions. The official copy of the specifications for each class shall be maintained in the personnel office and shall indicate the date of approval or last revision.

Each specification shall include the class, title, a brief description of the scope, nature, and responsibility of the class, a description of the tasks or duties ordinarily performed in the

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positions allocated to the class; a statement of the minimum qualifications considered necessary for proficient performance of the work, including education, experience, training, knowledge, skills, physical characteristics, and any additional factors considered pertinent. Specifications are not restrictive. A department head may temporarily assign other related duties and responsibilities or otherwise direct the work of employees.

No person shall be appointed to any position unless that person meets the minimum qualifications set forth in the currently approved class specification for that position or meets the permissible equivalency provisions of these rules.

### **Section 4.8 Vacancies**

When a permanent vacancy occurs in an authorized position, the department head may fill the vacant position with an existing employee or someone who is not currently employed. The department head may determine that it is in the City's best interest to leave the position vacant. Individuals will be chosen to fill the vacancy based on merit.

### **Section 4.9 Evaluations**

All personnel of the City of Lindsay are subject to periodic evaluations of their work performance. Each person will be rated by his or her immediate supervisor and/or past supervisor depending on the length of time a person has been assigned to a particular supervisor. Each probationary employee shall be rated at the end of the third, sixth, ninth, and eleventh months of his/her probationary period, while each regular employee shall be rated thirty days prior to the employee's anniversary date. Performance evaluations will consist of both a written evaluation report and an evaluation interview. The written report will be prepared and used as a guide during the evaluation interview. Each supervisor shall use the City form obtained from the Personnel Director or designee. The completed form will be dated and signed by the supervisor and the employee after the interview. The completed form will then be forwarded to the department head who in turn will supply the original to the Personnel Director.

# CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

## RULE V

### COMPENSATION

#### **Section 5.1 Preparation of Salary and Wage Plan**

Upon request of the City Manager, the Personnel Director shall recommend a wage and salary plan. The Personnel Director shall consult with each department head and give consideration to prevailing rates of pay and working conditions for comparable work in other public and private employment, the difficulty and responsibility of the work, current costs of living, suggestions of department heads, the City's financial condition and other relevant factors.

#### **Section 5.2 Adoption and Application of Plan**

The City Council shall adopt a salary and wage plan and may amend it from time to time. At the time the City Council considers it, interested persons may appear and shall be heard. Suggested changes may be submitted to the City Council through the City Manager. Said adoption will be accomplished during the budget process.

#### **Section 5.3 New Employees**

A new employee shall be appointed to the first step of the salary range to which his/her class is assigned, except as follows: where it is difficult to locate qualified personnel, or when it appears that the education and previous training or experience of a proposed employee is substantially superior to those required at the beginning level of the class and justify a beginning salary in excess of minimum compensation. The City Manager may authorize hiring at a higher step in such cases.

##### **Section 5.3.1 Advancement Within Salary Range**

Advancement within the salary range is not automatic. An increase is made on the basis of merit as established by the employees' work performance and after written recommendation of the department head. The department head shall set forth the source of funding for the raise, and show that adequate funds are available for the raise when given and in the coming fiscal years. Any advancement must be approved by the City Manager or designee. An employee who fails to receive in-grade salary advancement shall be notified in writing as to the reason.

##### **Section 5.3.2 Special Salary Adjustments**

In order to correct gross inequities or to reward outstanding achievement and performance, (exceptional service) the City Manager may upon recommendation of the department head adjust the salary rate of an employee to any step in his/her existing salary range or up to 10% above the range if the employee is at the top step. (See 5.5)

##### **Section 5.3.3 Applicable Pay Rates**

- (1) Following promotion. When promoted, an employee begins at step A of the range into which promoted or one step higher than his/her current salary, whichever is higher. The new anniversary date is the date of promotion.

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- (2) Following demotion. In the case of the demotion to a class with a lower maximum salary, an employee shall be assigned to the same salary step in the new class, assuming that his/her service has been continuous in the new class. The employee shall retain his/her previous anniversary date.
- (3) Following transfer. Where an employee is transferred from one position to another in the same class or to another class to which the same pay range is applicable, the employee retains the same pay step and anniversary date.
- (4) Following salary range increases and decreases. Where a pay range is revised upward or downward, the incumbent of a position in the affected class is entitled to a pay adjustment to the same relative step in the new pay range. The anniversary date does not change.

### **Section 5.4 Deductions**

Each deduction from an employee's wages shall be made in accordance with prevailing laws, contracts, rules and regulations.

#### **Section 5.4.1 Deductions Required by Law and Contracts**

Deductions include federal withholding tax, state withholding tax, social security tax, city retirement premium, paid family leave, and SDI.

#### **Section 5.4.2 Written Authorization From Employee**

Authorization is required for group medical, dental, hospitalization, disability, life insurance premiums, credit union, and any other deduction approved by the City Manager.

#### **Section 5.4.3 Claims**

Claims for non-payment of debts for the purpose of garnishing employees' wages shall be made to the Director of Finance under Section 710 of the Code of Civil Procedure.

### **Section 5.5 Salary Adjustment**

The factor of exceptional service is intended to recognize exceptional performance in which an employee is performing service substantially above the level of proficiency normally expected in the class or is producing results consistently superior to that normally expected of employees in the class. It does not include unusual acts or results caused by unusual conditions beyond the control of the employee, to which he/she demonstrated a normal reaction under the circumstances. This award may not be used in an attempt to solve a pay or classification inequity. We suggest you move this paragraph to Section 5.3.2

### **Section 5.6 "Acting" Capacity**

An employee, who temporarily assumes the duties of a superior position for an extended period of usually one (1) month or more, may upon approval of the City Manager receive premium pay commensurate with the duties assumed.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 5.7 Terminal Pay**

An employee who is terminated is entitled to terminal pay:

- (1) That portion of the final pay period from the first day of the final pay period to the effective date of separation. The day of separation is either the working day specified for separation or the last day of the pay period if no date is specified.
- (2) Accrued vacation actually earned but not taken.
- (3) Accrued overtime.

#### **Section 5.7.1 Employees' Death**

In case of employee's death the City shall pay the employee's beneficiary the sums set forth in 5.7 if he or she has so designated one; otherwise, terminal pay is paid to his or her estate.

#### **Section 5.7.2 City Property**

Terminal pay is paid to an employee only upon submission by the employee of all city-owned property in his/her possession including keys, badges, etc.

# **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

## **RULE VI**

### **APPLICATIONS AND APPLICANTS**

#### **Section 6.1 Employment Standards**

It is the policy of the City to employ the best-qualified and most competent person available. Selection is made on the basis of merit and such applicable standards as demonstrated ability, skills and experience, training aptitude, intelligence and character.

#### **Section 6.2 Applications**

The City shall make official application forms available in a manner, which will facilitate effective recruiting. The form shall require information covering training, education, experience, and other pertinent information, and may include references. The applicant must sign the application.

#### **Section 6.3 Application Filing**

Each person participating in a scheduled selection process for employment shall have completed and filed an official application form for that recruitment. The personnel office must receive the official application form no later than the date and time of the last filing deadline as published in the announcement. Each applicant must sign the application form certifying that all statements are correct. Persons applying for a position must comply with the following conditions:

1. Meet the general conditions pertaining to the filing of an application.
2. Meet the specific requirements as shown on the announcement for a particular position;
3. Meet the right-to-work in the United States or citizenship requirement, and
4. Be willing and able to accept the employment in the present vacant position or a future similar vacant position, if employment were offered.

The name of persons applying for City positions or the evaluation of their participation in any selection process shall not be made public. Applications will be accepted when recruitment has begun for a position.

##### **Section 6.3.1 Character**

The City may require an applicant to furnish evidence of good character.

##### **Section 6.3.2 Physical and Psychiatrist Examination**

The City may require an applicant to undergo physical and/or psychiatric examination at the City's expense.

##### **Section 6.3.3 Credit Rating**

The City may require satisfactory credit ratings of employees.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 6.3.4 Residency**

Residence in the City at the time of application is not a requirement. However, the City Manager or department head may require certain classes of employees to live within a specified response time of the City.

### **Sections 6.4 Standards – Operation of Motor Vehicle**

If driving a vehicle is required for the job the applicant must be able to show:

- (a) The ability to possess a valid California driver's license
- (b) The ability to drive safely
- (c) The ability to operate a motor vehicle in all types of weather conditions

### **Section 6.4.1 Personal Integrity**

The City will consider evidence of personal integrity such as:

- (a) Refusing to yield to the temptation of bribes, gratuities, pay offs, etc.
- (b) Refusing to tolerate unethical or illegal conduct on the part of other personnel.
- (c) Showing strong moral character and integrity in dealing with the public.
- (d) Being honest in dealing with the public.

### **Section 6.4.2 Dependability**

The City will consider evidence of dependability such as:

- (a) Having a record of submitting reports or completing assignments on time and not malingering on jobs.
- (b) A record of being motivated to perform well.
- (c) A record of dependability and ability to follow through on assignments.
- (d) A history of taking the extra effort required for complete accuracy in all details of work.
- (e) A willingness to work the hours needed to complete a job.

### **Section 6.5 Disqualification of Applicant**

The Personnel Director may eliminate from the selection process, remove from the eligible list, or refuse to certify the name of any person:

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

- (a) Who does not meet the minimum qualifications established for the class or position to which they seek appointment;
- (b) Who has made a false statement, misrepresentation, or omission of material fact or actual or attempted deception, fraud or misconduct in connection with his or her application
- (c) Who has improperly used or attempted to use any personal or political influence to further his or her eligibility for appointment;
- (d) Who has been terminated for good cause from previous employment.
- (e) Who has failed to submit an application correctly within the prescribed time limit;
- (f) Who has directly or indirectly obtained information regarding examinations to which applicants are not entitled;
- (g) Who has failed any part of the selection process for the same position within the last six months
- (h) Who is physically or psychologically unfit for the performance of essential functions of the position and such unfitness cannot be reasonably accommodated.
- (i) Who has been convicted, including pleas of guilty and nolo contendere, of any felony or a misdemeanor, which was of such a nature as to reflect adversely and substantially on the applicant's ability to perform the duties of the position. The City Manager may disregard such convictions if it is found and determined by the City Manager that mitigating circumstances exist.
- (j) For any other material cause which in the judgment of the Personnel Director would render the applicant unsuitable for the position, including a prior resignation from the City, termination from the City or a significant disciplinary action.

# CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

## RULE VII

### **EXAMINATIONS AND ELIGIBLE LISTS**

#### **Section 7.1 Conduct of Examinations**

The Personnel Director is responsible for examinations except when the City Manager determines that examination for a particular class should be conducted by the department concerned.

#### **Section 7.2 Nature and Types of Examination**

The selection techniques used in the examination process shall be impartial and related to those subjects which, in the opinion of the department head, fairly measure the relative capacities of the person examined to execute the duties and responsibilities of the class to which employed. Such techniques include: personal interview, written examination, performance tests, work samples, physical agility tests, evaluation of training and experience, physical examination, psychological tests, background investigation, or any combination of these or other tests. The probationary period shall be considered as a portion of the examination process. Examinations shall be designed to provide equal opportunity to all candidates by being based on an analysis of the essential requirements of the class, covering only factors related to such requirements.

##### **Section 7.2.1 Continuous Examinations**

Open-Competitive examinations may be administered periodically for a single class, as the needs of the service require.

##### **Section 7.2.2 Promotional Examinations**

It is the policy of the City to give open and competitive examinations for all positions except when the City Manager finds that there are a sufficient number of qualified candidates in city service or that the position requires special knowledge and familiarization. Promotional examinations may include any of the selection techniques mentioned in section 7.2 of this rule. Only employees who meet the requirements set forth in the examination announcements may compete.

#### **Section 7.3 Scoring Examination and Qualifying Scores**

A candidate's score in a given examination shall be the total of his or her scores on each competitive part of the examination weighted as determined for the selection process. Failure in one part of the examination shall be grounds for declaring such applicant as failing the entire examination or as disqualified for subsequent parts of an examination.

#### **Section 7.4 Notice of Examination Results**

Applicants shall be notified by mail concerning the results of their participation in the selection process. Said notification shall indicate whether or not the applicant has been placed on the employment list.

# **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

## **Section 7.5 Establishment of Eligible List**

As soon as possible after the completion of an examination, the Personnel Director or designee shall score the examination and prepare an eligible list in numerical ranking based on the candidate's grade. One of the candidates with the top five highest test scores should be appointed. If the department head chooses to appoint an individual who is not in the top five written justification shall be made to the Personnel Director. The Personnel Director shall review the written justification and recommend approval or denial to the City Manager for final action.

### **Section 7.5.1 Duration of List**

An eligible list other than one resulting from a continuous examination remains in effect for one year, unless abolished, exhausted or extended by the City Manager. Any extension shall be for an additional period of not more than three (3) months.

### **Section 7.5.2 Re-employment List**

The name of each regular employee who has been laid off shall be placed on an appropriate re-employment list in the order of total continuous cumulative time served in probationary and regular status. The names remain for three (3) months unless the persons are sooner re-employed.

## **Section 7.6 Removal of Name From List**

The Personnel Director may remove the name of an eligible applicant from the employment list:

- (1) For ground set forth in Rule VI, Section 6.4, entitled Disqualification of applicants;
- (2) On receipt of a statement from the eligible applicant indicating a lack of interest in the class or employment.
- (3) On evidence that the eligible applicant cannot be located;
- (4) On evidence that the eligible applicant fails to respond to a notice mailed to the last designated address within five (5) working days following the mailing of notice;
- (5) On report of an unsatisfactory background investigation;
- (6) If on a promotional list and separated from employment.

The person affected shall be notified of the removal of the name by a notice mailed to the last known address.

**APPOINTMENTS**

**Section 8.1 Types of Appointments**

A vacancy is filled by original appointment, reinstatement, re-employment, transfer, promotion, or demotion.

**Section 8.2 Request to Fill Vacancy**

The Personnel Director shall be notified when a vacancy is to be filled.

**Section 8.3 Method of Appointment**

The Personnel Director may send the list of eligibles to the department head as set forth in Rule VII, Section 7.5.1. If the department head; after interview desires, to make the appointment, he/she may do so subject to the approval of the City Manager. The department head may fill a vacancy by reinstatement, transfer, demotion, promotion, or re-employment, if permissible under these rules. This request shall be made prior to the Personnel Director undertaking any other method of appointment or establishing an eligibility list. If the Personnel Director (or City Manager if the employee is reinstated) grants permission to proceed with filling the vacancy in this manner, the Personnel Director shall notify the person, not the department head. If the person is offered the appointment and does not accept the appointment in writing, or present himself/herself for duty as prescribed, the appointment is considered rejected.

**Section 8.4 Reinstatement**

A regular employee who resigns in good standing may within one (1) year of his or her resignation be reinstated in a position in the class in which he or she previously had served or in a comparable class. A person may be reinstated only if a vacancy exists, the department head recommends reinstatement, and the City Manager approves. An employee reinstated is in a probationary status and is considered a new employee for purposes of vacation, sick leave and salary increases. If the Employee returns and is granted reinstatement within thirty (30) days, employment will resume as though uninterrupted and the employee will not be required to serve a probationary period.

**Section 8.5 Re-employment After Lay-Off**

A regular employee who is laid off in accordance with these rules is entitled to preference in filling a vacancy in the class or position previously held by that employee for a period of (3) months. An employee so re-employed retains all benefits accrued in prior service with the city. During the lay-off, no benefits accrue and the anniversary date shall be adjusted if the lay-off time exceeds thirty (30) days.

**Section 8.6 Transfer**

An employee may be transferred from a class in one department to a position of the same class in another department. Such transfer does not result in a loss to the employee of accumulated vacation, sick leave or overtime.

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### **Section 8.7 Demotion**

A position may be filled by demotion of an employee in accordance with these rules and regulations. An employee may be demoted in preference to being laid off.

### **Section 8.8 Nepotism**

No person may be appointed or transferred into a position in the city in which a relative by blood, marriage or domestic partnership is employed. The City Manager may waive this prohibition based on the needs of the city.

### **Section 8.9 Temporary or Part-Time Appointments**

Time spent under temporary or part-time appointment is not credited to the probationary period or counted toward salary eligibility. Time spent under temporary or part-time appointment is not credited to vacation, sick leave, or retirement benefits.

### **Section 8.10 Offer of Employment**

Only the Personnel Director may extend offers of employment to selected candidates. Employment offers for all positions shall be made in writing and shall include starting salary on an hourly, weekly or monthly basis. An employment offer made in terms of annual salary shall not imply a yearly contract.

All appointments shall be classified as full-time, part-time or temporary and are defined as exempt or non-exempt for overtime pay. Employees will not change from part-time or temporary status to another status unless specifically informed of such a change, in writing by the Personnel Director. Part time and temporary employees serve at will and may be terminated at any time without cause or an opportunity for a hearing.

### **Section 8.11 Fingerprints / Live Scan**

As a condition of employment, the City Manager may require a person seeking employment by the City to be fingerprinted prior to beginning employment or immediately thereafter. Refusal of an employee to be fingerprinted or failure to report for fingerprinting shall be sufficient cause for disqualification for employment or termination from employment. The Personnel Director shall establish and maintain a system for fingerprinting of employees. Fingerprint cards or live scan documents shall become a part of the employee's personnel folder to be cleared through the Bureau of Criminal Identification and Investigation of the State of California and other agencies as deemed appropriate. The fingerprint cards or live scan prints for law enforcement applicants shall be processed immediately.

### **Section 8.12 Medical Examination**

Following a conditional offer of employment, prospective employees shall be required to complete a job related pre-placement physical and/or psychological examination. Conditional offers of employment are made contingent upon passing this examination; however, the city shall make reasonable accommodations to the special needs of any disabled individual as required by

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law. A licensed physician chosen by the City without cost to the prospective employee shall perform such examination. The prospective employee shall be required to complete a medical history questionnaire and a medical records release as necessary to facilitate the examination. The physician will indicate the employee's fitness for employment on the examination form. In the event the examination is not completed prior to the employee's scheduled start date, only a tentative appointment may be made. Final appointment will be contingent on a satisfactory examination result.

Depending on the job-related physical characteristics required, a medical examination may be required for:

- (1) Entering employees;
- (2) Employees seeking a transfer from one position requiring general physical abilities to another position requiring different physical abilities and;
- (3) Employees returning to work from a medical leave of absence.

The physician conducting the medical examination shall be supplied with a current job description indicating the job-related duties and requirements of the position. The results of all medical examinations shall be confidential. Examination results for entering employees and employees transferring to another position shall **not** be kept in the employee's **personnel** file. No employee shall hold any position in which the employee is not able to perform the essential functions of the job **with or without reasonable accommodation if disabled**. The City Manager may require that employees take a psychological or a medical examination as it deems necessary in order to determine employees to be mentally and physically capable of performing the job without a significant risk to the health or safety of themselves or others.

### **Section 8.13 Driver's License and Driving Record**

Employees who are required to drive are required to possess a valid California driver's license and maintain a satisfactory driving record as a condition of employment. Employees must immediately report to the Personnel Director any changes in driving privileges. Failure to do so may result in disciplinary actions.

### **Section 8.14 Employment Oath**

All employees of the City shall complete and sign the Oath or Affirmation of Allegiance of Public Officers and Employees on the first day of employment in accordance with Article XX, Section 3 of the Constitution of the State of California. The City Clerk or other designated individual shall administer the Oath and a signed copy shall be included in the employee's personnel file.

### **Section 8.15 Identification Cards**

The Personnel Director or department head shall issue employee identification cards to all employees of the City. Employee identification cards are to be used by employees in conducting business on behalf of the City. Employee identification cards are the property of the City and shall be surrendered to the City upon demand or separation from employment and prior to receiving payment of salary due at separation. Employees shall be required to immediately report lost or stolen identification cards to the Personnel Director.

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### **Section 8.16 Keys**

Keys to City facilities will be issued to employees so designated by the City Manager or his designee. Keys are the property of the City and shall be surrendered to the City upon separation from employment and prior to receiving payment of salary due at separation. Employees shall be required to immediately report lost or stolen keys to the Personnel Director.

### **Section 8.17 Other City Property**

Other property issued to the employee belonging to the City shall be surrendered to the City upon demand or upon separation. The final salary due may be adjusted for failure to return issued property.

**PROBATIONARY PERIOD**

**Section 9.1 Purpose**

The probationary period is the final step in the selection process. It is an extension of the examination process and the employee’s performance shall be closely observed for securing the most effective adjustment of a new employee to his or her position.

**Section 9.2 Duration of Probationary Period**

Each original and promotional appointment made to a position in the competitive service shall be subject to probationary period. The length of the probationary period shall be twelve (12) months of continuous service for all employees. The probationary period shall not include time served in any employment capacity except that of a regular full-time position. The probationary period may be for a longer period of time if extended or as established in the job description.

**Section 9.3 Successful Completion of Probationary Period**

The Personnel Director or designee shall notify the department head two weeks prior to the end of any probationary period. If the employee’s performance has been satisfactory to the department head and advancement to regular status is warranted, the department head shall so state in the employee’s probationary performance evaluation report. The employee shall then be advanced to regular status on his or her anniversary date. If such a statement is not filed, the employee will be deemed to have satisfactorily completed his or her probationary period.

**Section 9.4 Rejection of Probationer**

During the probationary period, an employee is considered “at will” and may be rejected at any time by the City Manager (at the recommendation of the department head) for failure to satisfactorily complete the probationary period. Notification of rejection by the department head shall be served on the probationer.

**Section 9.5 Rejection Following Promotion**

A promoted employee who does not successfully complete a probationary period shall be restored, providing a vacancy exists, to the same or similar position in the same class from which promoted unless charges are filed and employee is terminated in the manner provided for in the these rules.

**Section 9.6 Promotion, Demotion, and Transfer Probationary Period**

A new probationary period shall be required following demotion or transfer. When an employee transfers or demotes from one department to another department, a new probationary period shall be served in the latter department.

**Section 9.7 Reemployment and Reinstatement Probationary**

Persons appointed to positions by reemployment must serve a new probationary period, unless the appointment is to the same class in the same department where a probationary period has been

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previously served. Persons appointed to positions by reinstatement must serve a new probationary period. No credit for former employment shall be granted.

### **Section 9.8 Interrupted Probationary Period**

When the probationary period of an employee is interrupted because of a leave of absence or appointment to another class and the employee later returns to the former class in the same or a different department, a new probationary period shall be served. Credit for all or part of the previous probationary period may be granted the employee by recommendation of the department head, and approval by the City Manager. (See 9.2).

### **Section 9.9 Extension of Probationary Period**

At the discretion of the department head and with the approval of the City Manager, the probationary period may be extended for a maximum of six (6) months and a new anniversary date will be established.

If employee's probationary period is interrupted due to illness or injury for thirty (30) days or more the employee's probationary period will be automatically extended for the period of absence and a new anniversary date will be established.

# CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

## RULE X

### **HOURS OR WORK; OVERTIME; HOLIDAYS**

#### **Section 10.1 Hours of Work**

The provisions in this section govern hours of work for employees. However, this provision shall not interfere with essential services of a department. Under no condition shall any full-time employee for the City work less than 40 hours per week within five (5) consecutive days. Shifts vary as required to meet the operational requirements of the department where the employee works. When desirable, the City Manager may designate other working hours for employees whose specific duties require it.

#### **Section 10.2 Attendance**

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holiday and leaves. All departments shall keep daily attendance record of employees, which shall be reported to the finance office in the form and on the dates specified.

Failure on the part of an employee, absent without leave, to return to duty within three consecutive work shifts is cause for immediate discharge, and such employee automatically waives all rights under these rules and regulations.

#### **Section 10.3 Holidays**

The holidays observed in the City shall be posted each year.

##### **Section 10.3.1 Paid Holiday**

Paid holiday is paid time off for certain designated holidays or pay in lieu of holidays for personnel who are assigned to work on holidays. If any supervisor deems that adequate need exists and requests an employee to work on a holiday, the employee has no right to decline. An employee who is required to work on a paid holiday will receive an extra day of pay for the holiday worked, or the day may be taken at a later time as the employee and the department head see fit. As far as practical, holiday work shall be equally distributed among employees. No department head or supervisor is free to leave his department to observe a holiday until a necessary level of staffing has been achieved.

##### **Section 10.3.2 Holiday Falling On Weekend**

When a holiday falls on a Sunday, the following Monday is a holiday. If a holiday falls on a Saturday, the preceding Friday is a holiday.

##### **Section 10.3.3 Overtime Compensation for Holidays Worked**

Employees who work on a holiday because it occurs during their regular work schedule in addition to regular pay are entitled to either pay at straight time or one day's compensatory time.

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All other overtime compensation for time worked on holidays shall be paid the rate of 1-1/2 times the hourly rate based on the employee's monthly salary, unlicensed employee prefers compensatory time.

### **Section 10.3.4 Employee Request**

A city employee who wishes to observe holidays peculiar to his or her race or religion may do so with the approval of his/her department head. This time off is charged to compensatory time or vacation.

### **Section 10.4 Overtime**

It is the policy of the City's to compensate non-exempt employees who work authorized overtime either by payment of wages for each hour worked over forty (40) in a work week or as agreed in the applicable Memorandum of Understanding ( M.O.U. ), or by the allowance of accrual of compensatory time off. Overtime is compensated at one and one half times the Fair Labor Standards Act regular rate of pay In order to qualify for either, the employee must make the appropriate entry on the time sheet, as soon as practical after overtime is worked.

### **Section 10.5 Compensatory Time Off Policy**

#### **Section 10.5.1 Supervisor Approval Required Before Work**

A non-exempt employee may opt to accrue compensatory time-off ("CTO") in lieu of cash payment for overtime worked if his or her supervisor agrees prior to overtime work being performed.

#### **Section 10.5.2 Accrual Rate**

CTO accrues at the rate of 1.5 hours for each hour worked over 40 hours of actual work in the employee's work week. CTO cannot be accumulated in excess of [100] hours at any given time.

#### **Section 10.5.3 Employee Requests to Use CTO**

The City will grant an employee's request to use accumulated CTO provided that: (1) the department can accommodate the use of CTO on the day requested without undue disruption; and (2) the employee makes the request in writing to the supervisor no later than five days prior to the date requested. If the employee does not provide five days' notice, or if the department cannot accommodate the time off, the City will provide the employee the opportunity to cash out the CTO requested at the end of the current pay period.

#### **Section 10.5.4 City Cash Out**

The City reserves the right to cash out accumulated CTO at any time.

#### **Section 10.5.5 Employee Cash Out**

During employment, CTO is cashed out at the employee's current FLSA regular rate of pay (including all FLSA-applicable salary differentials). Employees separating from City

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service shall be compensated for all accrued, unused compensatory hours at the current FLSA regular rate of pay, or the average regular rate for the prior three years, whichever is higher.

**Section 10.6 General Overtime Policy**

No non-exempt employee is authorized to “volunteer” work time to the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime period or immediately thereafter. Working overtime without approval is grounds for discipline.

**Section 10.7 Employees Responsibility**

Employees shall complete the requests immediately after working the overtime and turn them in to their immediate supervisor.

**Section 10.8 Supervisors Responsibility**

The supervisor who verifies the overtime earned shall approve the request. After the entry has been made on the employee’s time sheet, the time sheet shall be forwarded to the department head for final approval.

**Section 10.9 Accounting for Overtime Worked**

Employees are to record the actual time worked in an overtime status. In some cases, an M.O.U. or other contract provides that minimum time will be paid, ( e.g. two hours, for call out). The supervisor will enter the actual time worked.

**Section 10.10 Accounting for Portions of an Hour**

Partial hours for overtime worked are to be accounted for in quarters of an hour. One quarter is equivalent to fifteen minutes as indicated by the following chart.

<u>TIME WORKED</u>	<u>INDICATE ON SHEET</u>
1 – 15 Minutes	¼ hour
16 – 30 Minutes	½ hour
31 – 45 Minutes	¾ hour
46 – 60 Minutes	1 hour

**Section 10.11 Variations in Time Reported**

Where two or more employees are assigned to the same activity and the amount of time for which payment is requested varies from that reported by the other employee, the supervisor may require each employee to include the reason for variation on the back of the overtime payment request.

**Section 10.12 Off-Duty Employment**

No City employee may accept gainful employment during off-duty hours unless prior approval is obtained from department head and City Manager.

# CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

## RULE XI

### **LEAVE OF ABSENCE**

#### **Section 11.1 Vacation Leave of Employee**

Full time employees receive ten (10) days of vacation for the first five years of employment. Full time employees with five (5) years of continuous service will receive eleven (11) days per year. Full time employees with seven (7) years of continuous service will receive thirteen (13) days per year of vacation. Full time employees with ten (10) years of continuous service will receive fifteen (15) days per year of vacation.

##### **Section 11.1.1 When Vacation Leave is Earned**

Full vacation leave is earned by:

- (a) A full time employee on sick leave with pay;
- (b) An employee on paid leave of absence on account of disability created by on the job accident while working for the city.
- (c) An employee on jury leave. It is not earned by an employee on unpaid leave of absence, nor by one on leave covered by a private disability insurance plan.

It is not earned by an employee on unpaid leave of absence, by one on leave covered by a private disability insurance plan or by temporary, emergency, or extra help employees. Part time employees only earn pro rated vacation after 5 years of uninterrupted service.

##### **Section 11.1.2 Effect of Holiday on Vacation Leave**

An employee is not charged vacation leave for a holiday occurring during his vacation leave.

##### **Section 11.1.3 Changing Vacation Leave to Sick Leave**

Vacation leave may be changed to sick leave upon submission of a doctor's certificate stating that the employee is ill and unable to work. Such change in leave shall be approved by the City Manager.

#### **Section 11.2 Sick Leave**

The purpose of this section is to provide an orderly methods of furthering the health and safety of city employees. Sick leave is not a right, which an employee can use at his or her discretion, but a privilege which is allowed only in the case if illness, bodily injury, exposure to contagious disease, medical or dental appointment or attendance upon an ill or injured member of employee's immediate family. Sick leave may not be granted for absence caused by intoxication or excessive use of alcoholic beverages. To be paid for sick leave, an employee must notify his supervisor before the time for beginning his/her daily duties. Section 11.4 covers leave of absence caused by on-the-job injuries. The finance office shall maintain sick leave records for all city employees.

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## **Section 11.2.1 Accrual of Sick Leave**

An employee accrues sick leave beginning with the first day of the sixth month of employment. Sick leave is accrued at the rate of 3.08 hours per pay period (10 days per year). Upon separation from City service sick leave is lost.

### **A. Part-Time Employees Sick Leave / Healthy Workplace Healthy Family Act of 2014 (AB 1522)**

An employee who, on or after July 1, 2015, works in California for 30 or more days within a year from the beginning of employment, is entitled to paid sick leave. Employees, including part-time and temporary employees, will earn at least one hour of paid leave for every 30 hours worked. Accrual begins on the first day of employment or July 1, 2015, whichever is later.

**Exceptions:** Employees covered by qualifying collective bargaining agreements, In-Home Supportive Services providers, and certain employees of air carriers are not covered by this law.

An employer may limit the amount of paid sick leave an employee can use in one year to 24 hours or three days. Accrued paid sick leave may be carried over to the next year, but it may be capped at 48 hours or six days.

An employee may use accrued paid sick days beginning on the 90th day of employment. An employee may request paid sick days in writing or verbally. An employee can take paid leave for employee's own or a family member for the diagnosis, care or treatment of an existing health condition or preventive care or for specified purposes for an employee who is a victim of domestic violence, sexual assault or stalking.

## **Section 11.2.2 When Right to Take Sick Leave Begins**

A regular employee may take paid sick leave beginning the seventh month of employment.

## **Section 11.2.3 Use of Sick Leave**

An employee with approval of the department head may use accumulated sick leave for dental or medical appointments during working hours not exceeding four (4) hours at one time. An employee is not charged sick leave for an appointment if time absent is less than one (1) hour. An employee, with prior approval of the department head, may use accumulated sick leave to attend an ill or injured member of his/her immediate family, up to a maximum of five (5) days a year. This includes time off in order to take a member of his immediate family to or from the hospital. In addition, another three (3) days accumulated sick leave may be used with prior approval of department head for critical illness in the immediate family when death appears to be imminent. Sick leave granted under this subsection shall be indicated on employee's time sheet and his personnel records shall be noted accordingly.

## **Section 11.2.4 Return to Employment After Sick Leave**

When an employee returns to duty after an absence of three days or more chargeable to sick leave, the department head or Personnel Director may require an affidavit showing the nature of

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the cause of sickness or injury. If absence is five (5) days or longer, the department head or Personnel Director may require a signed statement from a doctor or dentist that the employee was incapacitated and unable to perform his or her duties throughout the entire period of sick leave, unless the City Manager grants a waiver. In case of frequent use of sick leave, an employee may be requested to file a physician's statement for each illness regardless of duration. An employee may be required to take an examination by a physician designated by the City to determine the employee's fitness for duty. On the basis of authoritative medical advice, the City Manager shall determine whether an employee is physically fit to perform for the duties of his/her position and when the employee can be reasonably accommodated if disabled and may take the action he/she considers appropriate.

### **Section 11.3 Medical Leave**

In the case of an employee's continued illness after the expiration of sick leave, his or her absences may then be charged to compensatory time accrued or vacation leave accrued with the approval of department head. Upon the complete use of sick leave, vacation and compensatory time accrued, the City Manager may grant a medical leave of absence without pay upon written request of the employee, setting for the reason for the request. The approval by the City Manager shall be in writing. If the employee is not able to return to work by the end of that period, he/she may request further medical leave and the City Manager may grant or deny the request. If no further leave is granted, failure on the part of the employee on leave to report promptly at its expiration shall be cause for immediate discharge.

### **Section 11.4 On Duty Injuries**

The purpose of this policy is to provide for the reporting of on-duty injuries or death to Risk Management, ensure proper medical attention is received and document the circumstances of the incident. An employee injured in the course of his/her employment must report the accident to his supervisor as promptly as possible. The employee must be given the State "Employee's Claim for Workers' Compensation Benefits" form within twenty-four (24) hours of notification by the employee. The form must be given out regardless of whether or not the employee receives first aid, seeks medical treatment or loses any time from work.

#### **Section 11.4.1 Pay**

An employee is entitled to receive a full day's pay for the day injured. Thereafter the provisions in subsection 11.4.2 apply.

#### **Section 11.4.2 Accumulated Sick Leave**

Upon expiration of sick leave, he/she in on unpaid industrial accident leave. If the employee is not eligible for sick leave pay, he/she is on unpaid industrial accident leave effective the day after the injury.

### **Section 11.5 Injuries Requiring Medical Care**

All work related injuries requiring medical care must be reported to the City of Lindsay Risk Management Office and a claim form shall be provided to the injured employee within 24 hours from the time the injury was discovered, excluding weekends and holidays.

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### **Section 11.6 Liability For Failure To Comply**

Labor Code section 5400 makes failure to comply with the 24-hour reporting procedure a misdemeanor. Additionally, disciplinary action may be taken for an employee's failure to comply with this procedure.

### **Section 11.7 Accident Defined**

“Accident” is defined as any occurrence from which bodily injury or property damage may result, regardless of whether any injury or damage actually does occur, e.g. exposure where no immediate injury is apparent.

### **Section 11.8 Employee's Responsibility**

Any employee sustaining any work-related injury or involved in any accident while on duty shall report such injury or accident as soon as practical to his/her supervisor. An employee who fails to promptly report an accident to his supervisor within a specified time may be ineligible for paid industrial accident leave.

Any employee observing or learning of a potentially hazardous condition is to promptly report the condition to his/her immediate supervisor.

Any employee sustaining a work-related injury that requires relief from duty is required to be examined/treated by a doctor.

When appropriate, an employee being treated for an on-duty injury is to advise the attending physician that “light duty” may be available.

An injured employee shall report as soon as practical to their immediate supervisor the medical findings concerning the injury and the extent and duration of any work restrictions if they are known.

### **Section 11.9 Supervisor's Responsibility**

The supervisor is responsible for promptly notifying the finance office and Personnel Director, submitting a statement signed by the employee or supervisor giving all details.

For work-related accidents or injuries not requiring professional medical care, A City of Lindsay “Supervisor's Report of Injury” form shall be completed in triplicate. All copies of the completed form shall be forwarded to Risk Management.

When accident or injury is reported initially on the “Supervisor's Report of Injury” form and the employee subsequently requires professional medical care, the State of California Employer's Report of Occupational Injury or Illness” form shall then be completed. The injured employee shall also sign the form in the appropriate location.

Every injured employee must be provided with an “Employee's Claim for Workers' Compensation Benefits Form” (DWC-1) within 24 hours, regardless of the nature of illness or injury.

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Copies of any reports documenting the accident or injury should be forwarded to Risk Management as soon as they are completed.

A supervisor who fails to report an accident after being notified by the employee is subject to disciplinary action.

### **Section 11.10 Department Head's Responsibility**

The department head shall review and forward copies of the report to the personnel department and retain a copy in the employee's personnel file.

### **Section 11.11 Injuries Requiring No Medical Attention**

Those injuries not requiring medical attention shall be recorded on a Supervisor's Report of injury, a city form. This form shall be completed and signed by a supervisor.

This form shall be signed by the affected employee, indicating that he/she desired no medical attention at the time of the report. By signing this form, the employee will not preclude his/her ability to seek medical attention later.

### **Section 11.12 Injury Caused by Other**

When an employee sustains work-related injuries caused by other person, and is then approached by such person or an agent, insurance company or attorney, and offered a settlement of claims, that employee shall take no action other than to make a written report of this contact to his/her supervisor as soon as possible.

### **Section 11.13 No Settlement Without Prior Approval**

In no case shall the employee accept a settlement without receiving prior approval of the Director of Personnel. It must first be determined that the offered settlement will not affect any claim the City of Lindsay may have regarding payment for damage(s) to equipment or reimbursement for wages against the person who caused the accident or injury. The objective of this policy is to protect the City's right of subrogation, while ensuring that the employee's rights to receive compensation for injuries are not affected.

### **Section 11.14 Leaves of Absence Due to Death of Family Member**

Every employee shall obtain his department head's approval in advance for absence on account of death in order to be eligible for the benefits in this section.

#### **Section 11.14.1 Immediate Family**

A full time employee is entitled to use sick leave to care for illness or injury in the immediate family as specified in Section 11.2.2. A regular full-time employee is allowed a leave of absence with pay not to exceed 3 working days in the case of death in the employee's immediate family. With his/her Department Head's approval, he or she may have 2 additional working days, which are charged first to sick leave, second to compensatory time, third to vacation.

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Immediate family, for the purpose of bereavement leave, is defined as the employee's spouse, child, parent, brother, sister, mother/father-in-law, brother/sister-in-law, grandparents, or registered Domestic Partner.

### **Section 11.14.2 Other Than Immediate Family**

A department head may allow a regular full-time employee leave of absence up to one day to attend the funeral of a person other than a member of his/her immediate family, chargeable to sick leave, compensatory time or vacation.

### **Section 11.14.3 Timesheet**

Each absence on account of death leave must be explained on the employee's time sheet.

### **Section 11.15 Jury Leave – Notice**

When an employee is called for jury duty, he or she shall be granted leave for this purpose upon presenting the jury notice to his or her department head. The department head shall notify the Personnel Director.

#### **Section 11.15.1 Pay**

A regular full-time employee is entitled to receive jury leave with full pay if he or she remits to the city compensation received from duty. Compensation for mileage is not considered compensation for jury duty. The employee may elect to retain jury duty compensation, but if he or she does so he or she is not entitled to salary while on jury leave. The time spent on jury duty is not work time for the purpose of calculating overtime.

#### **Section 11.15.2 Without Pay**

An employee who is not a regular full-time employee takes jury leave without pay.

#### **Section 11.15.3 Partial Day**

If jury duty permits, the employee is expected to work a partial day.

### **Section 11.16 Military Leave**

Military leave shall be granted in accordance with the provisions of federal and state law. Employees entitled to military leave shall give the department head an opportunity within the limits of military regulations to determine when such leave shall be taken. Employees who served in the U.S. military organizations or state militia groups may take the necessary time off with pay to fulfill this obligation. These employees may apply accrued personal leave and unused earned vacation time to the leave if they wish; however they are not obliged to do so. Reinstatements of individuals returning from military leave shall be done in accordance with the Military and Veterans Code of California.

Employees are eligible for reemployment after completing military service, provided the employee provides copies of the military orders to the department head upon receipt; military service is entered directly from employment with the City and active duty service is satisfactorily completed; and re-employment is applied for and take place within ninety (90) days after

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discharge from active duty. If you are returning from up to six (6) months active duty for training, you must apply within thirty (30) days after discharge.

### **Section 11.17 Statement of Policy**

To the extent not already provided for under current leave policies and provisions, the City will provide family and medical care leave for eligible employees as required by state and federal law. The following provisions set forth certain of the rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 (“FMLA”), and the regulations of the California Family Rights Act (“CFRA”). Unless otherwise provided by this article, “Leave” under this article shall mean leave pursuant to the FMLA and CFRA.

#### **Section 11.17.1 Definitions**

- A. “12-Month Period” means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- B. “Child” means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self care because of a mental or physical disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for care and includes, a biological, adopted, foster or step-child. A child is “incapable of self care” if he/she requires active assistance or supervision to provide daily self care in three or more of the activities of daily living or instrumental activities of daily living—such as, caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, etc.
- C. “Parent” means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
- D. “Spouse” means a husband or wife as defined or recognized under California State law for purposes of marriage.
- E. “Domestic Partner,” as defined by Family Code §§ 297 and 299.2, shall have the same meaning as “Spouse” for purposes of CFRA Leave.
- F. “Serious health condition” means an illness, injury impairment, or physical or mental condition that involves:
  - 1. Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery there from); or
  - 2. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:

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- a) A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:
  - i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
  - ii) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
- b) Any period of incapacity due to pregnancy or for prenatal care.
- c) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
  - i) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
  - ii) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
  - iii) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
- d) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.
- e) Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery

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after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

- G. “Health Care Provider” means:
1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
  2. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treats or supervises treatment of a serious health condition;
  3. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
  4. Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
  5. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
  6. Any health care provider from whom an employer or group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.
- H. “Active Duty” means a duty under a call to order of active, retired, reserves, or National Guard members of the United States Armed Forces by law or any other provision of law during a war or national emergency declared by the President or Congress.
- I. “Contingency Operation” means a military operation that is (1) designated by the Secretary of Defense as an operation in which members of the United States Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or (2) that results in the call to order of active duty members of the United States Armed Forces by law or any other provision of law during a war or national emergency declared by the President or Congress.
- J. “Covered Servicemember” means a member of the United States Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, in otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.

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- K. “Outpatient Status” means the status of a member of the United States Armed Forces assigned to: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- L. “Next of Kin” means the nearest blood relative of an injured servicemember.
- M. “Serious Injury or Illness” means an injury or illness incurred by a member of the Armed Forces in the line of duty on active duty that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.

### **Section 11.17.2 Reasons For Leave**

Leave is only permitted for the following reasons:

1. The birth of a child or to care for a newborn of an employee;
2. The placement of a child with an employee in connection with the adoption or foster care of a child;
3. Leave to care for a child, parent, spouse, or domestic partner who has a serious health condition;
4. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position;
5. Leave for a “qualifying exigency” may be taken arising out of the fact that an employee’s spouse, son, daughter, or parent is on active military duty or has been notified of an impending call or order to active duty in support of a contingency operation involving the United States Armed Forces; or
6. Leave to care for a spouse, son, daughter, parent, or “next of kin” servicemember of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty (this leave can run up to 26 weeks of unpaid leave during an employer’s 12-month period).

### **Section 11.17.3 Employees Eligible For Leave**

An employee is eligible for leave if the employee:

1. Has worked for at least 12 months; and
2. Has been employed for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

### **Section 11.17.4 Amount of Leave**

Eligible employees are entitled to a total of 12 workweeks (or 26 weeks to care for an injured servicemember) of leave during any 12-month period.

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### **A. Minimum Duration of Leave**

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions. If leave is requested to care for a child, parent, spouse or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

### **B. Spouses Both Employed By The City**

In any case in which a husband and wife both employed by the City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave).

In any case in which a husband and wife both employed by the City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 26 workweeks during any 12-month period if leave is taken to care for an injured servicemember. Except as noted above, this limitation does not apply to any other type of leave under this policy.

### **Section 11.7.5 Employee Benefits While on Leave**

Leave under this policy is unpaid. While on leave, employees will continue to be covered by the City group health insurance to the same extent that coverage is provided while the employee is on the job. However, employees will not continue to be covered under the City's other non-health benefit plans which are not provided pursuant to the City's group health plans.

Employees may make the appropriate contributions for continued coverage under the preceding non-health benefit plans by payroll deductions or direct payments made to these plans. Depending on the particular plan, the City will inform you whether the premiums should be paid to the carrier or to the City. Your coverage on a particular plan may be dropped if you are more than 30 days late in making a premium payment. However, you will receive a notice at least 15 days before coverage is to cease, advising you that you will be dropped if your premium payment is not paid by a certain date. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. The City shall have the right to recover premiums through deduction from any sums due the City (e.g. unpaid wages, vacation pay, etc.).

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### **Section 11.17.6 Substitution of Paid Accrued Leaves**

While on leave under this policy, as set forth herein, an employee may elect to concurrently use paid accrued leaves. Similarly, the City may require an employee to concurrently use paid accrued leaves after requesting FMLA and/or CFRA leave, and may also require an employee to use family and medical care leave concurrently with a non-FMLA/CFRA leave which is FMLA/CFRA-qualifying.

- A. **Employee’s Right To Use Paid Accrued Leaves Concurrently With Family Leave**  
Where an employee has earned or accrued paid vacation, administrative leave, compensatory time, or personal or family leave (if applicable to your agency, this is referring to paid family leave; some agencies permit employees to use a certain number of sick leave days for family leave purposes), that paid leave may be substituted for all or part of any (otherwise) unpaid leave under this policy.

As for sick leave, an employee is entitled to use sick leave concurrently with leave under this policy if:

1. The leave is for the employee’s own serious health condition; or
2. The leave is needed to care for a parent, spouse, child, or domestic partner with a serious health condition, and would be permitted as sick leave under the City’s sick leave policy.

- B. **City’s Right To Require An Employee To Use Paid Leave When Using FMLA/CFRA Leave**

Employees must exhaust their accrued leaves concurrently with FMLA/CFRA leave to the same extent that employees have the right to use their accrued leaves concurrently with FMLA/CFRA leave, with two exceptions:

1. Employees are not required to use accrued compensatory time earned in lieu of overtime earned pursuant to the Fair Labor Standards Act; and
2. Employees will only be required to use sick leave concurrently with FMLA/CFRA leave if the leave is for the employee’s own serious health condition.

- C. **City’s Right To Require An Employee To Exhaust FMLA/CFRA Leave Concurrently With Other Leaves**

If an employee takes a leave of absence for any reason which is FMLA/CFRA qualifying, the City may designate that non-FMLA/CFRA leave as running concurrently with the employee’s 12-week FMLA/CFRA leave entitlement. The only exception is for peace officers and firefighters who are on leave pursuant to Labor Code § 4850.

- D. **City’s and Employee’s Rights If An Employee Requests Accrued Leave Without Mentioning Either the FMLA or CFRA**

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA-qualifying purpose, the City may not ask the employee if the leave is for a FMLA/CFRA-qualifying purpose. However, if the City denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA-qualifying purpose, the City may inquire further into the reason for the absence. If the reason is FMLA/CFRA-qualifying, the City may require the employee to exhaust accrued leave as described above.

### **Section 11.17.7 Medical Certification**

Employees who request leave for their own serious health condition or to care for a child, parent or a spouse who has a serious health condition must provide written certification from the health care provider of the individual requiring care if requested by the City. If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his/her position.

Employees who request leave to care for an injured service member who is a child, spouse, parent, or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's serious injury or illness.

#### **A. Time To Provide A Certification**

When an employee's leave is foreseeable and at least 30 days notice has been provided, if a medical certification is requested, the employee must provide it before the leave begins. When this is not possible, the employee must provide the requested certification to the City within the time frame requested by the City (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

#### **B. Consequences For Failure To Provide An Adequate Or Timely Certification**

If an employee provides an incomplete medical certification the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established by this policy, the City may delay the taking of FMLA/CFRA leave until the required certification is provided.

#### **C. Recertification**

If the City has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a recertification.

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### **D. Intermittent Leave Or Leave On A Reduced Leave Schedule**

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition{"serious health condition"}, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

### **Section 11.17.8 Employee Notice of Leave**

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least 30 days' notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. Such notice may be orally given. If the City determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the City may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute.

### **Section 11.17.9 Reinstatement Upon Return From Leave**

#### **A. Right To Reinstatement**

Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and City the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.

### **Section 11.18 Authorized Leave of Absence Without Pay**

A department head may grant an employee a leave of absence without pay for not more than ten (10) days when it is in the best interest of the city, and on approval of the City Manager. Any leave of absence in excess of ten (10) days can only be granted by the City Manager.

#### **Section 11.18.1 Return From Leave**

Return from leave:

- (a) Failure of an employee to return to duty upon the termination of authorized leave of absence is an unauthorized leave of absence and is cause for discharge.

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- (b) Upon return an employee may be required to submit to medical examination to determine whether or not he/she is still capable of performing the duties of his/her position. When a physical examination discloses that an employee is not physically capable of performing his/her duties, the City shall offer him/her any vacant position in the city for which he/she is qualified. If an employee is no longer physically capable of performing the duties of a vacant position, he or she shall be terminated.

### **Section 11.19 Pregnancy Disability Leave**

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid pregnancy disability leave for up to four months.

#### **Section 11.19.1 Notice & Certification Requirements**

1. Requests for pregnancy disability leave must be submitted in writing and must be approved by the employee's supervisor or department director before the leave begins. The request must be supported by a written certification from the attending physician stating that the employee is disabled from working by pregnancy, childbirth or a related medical condition. The certification must state the expected duration of the disability and the expected date of return to work.
2. All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the department director prior to being taken. Requests for an extension of leave must be submitted in writing to the department director prior to the agreed date of return and must be supported by a written certification of the attending physician that the employee continues to be disabled by pregnancy, childbirth, or a related medical condition. The maximum pregnancy disability leave is four months.

#### **Section 11.19.2 Compensation During Leave**

Pregnancy disability leaves are without pay. However, the employee may first use accrued sick leave, vacation leave, and then any other accrued paid time off during the leave.

#### **Section 11.19.3 Benefits During Leave**

1. An employee on pregnancy disability leave may receive any group health insurance coverage that was provided before the leave on the same terms as provided to other employees who become disabled off-duty, if: 1) the employee is eligible for concurrent family medical leave; and 2) the employee has not already exhausted this 12-week group health insurance coverage benefit in the current family medical leave eligibility period. The City may recover premiums it paid to maintain health coverage, as provided by the family and medical leave laws, if an employee does not return to work following pregnancy disability leave.
2. An employee on pregnancy disability leave who is not eligible to receive group health insurance coverage as described above, may receive health insurance coverage in conjunction with COBRA guidelines by making monthly premium payments to the City.

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3. Sick and Vacation Leave Accrual: Sick leave and vacation leave do not accrue while an employee is on unpaid pregnancy disability leave.

### **Section 11.19.4 Reinstatement**

1. Upon the expiration of pregnancy leave and the City's receipt of a written statement from the health care provider that the employee is fit to return to duty, the employee will be reinstated to her original or an equivalent position, so long as it was not eliminated for a legitimate business reason during the leave.
2. If the employee's original position is no longer available, the employee will be assigned to an open position that is substantially similar in job content, status, pay, promotional opportunities, and geographic location as the employee's original position.
3. If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the City will initiate an interactive process with the employee in order to identify a potential reasonable accommodation.
4. An employee who fails to return to work after the termination of her leave loses her reinstatement rights.

### **Section 11.20 Unauthorized Leave of Absence**

An unauthorized leave of absence is treated as time not worked.

### **Section 11.21 Deduction**

For an unauthorized leave of absence the City shall deduct from the employee's pay an amount equal to time absent.

### **Section 11.22 Sick Leave Donations**

In the event an employee is unable to work due to catastrophic illness, surgery (either their own or that of qualifying family member), City employees may donate their accrued sick leave to another employee under the following conditions:

- Employee will be out of work in excess of two weeks (80 hours).
- The sick/injured employee has exhausted all of his/her accrued sick, vacation, and compensatory time.
- Individual employees may donate sick leave hours, which are in excess of forty (40) accrued hours with a cap of twenty (20) hours per fiscal year.
- Employees, who are terminating their employment with the City, may not donate their sick leave hours to another employee.

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- Any employee requesting a donation of sick leave hours shall submit a written request to the Department head requesting authorization to obtain the donation of sick leave hours from their fellow employees.

### **Section 11.23 Leave Requests**

The following procedure shall apply for all leave requests other than for sick leave:

- A) Leave requests shall be made in writing using the City of Lindsay Leave Request Form, which will be available at each department work site. No leave will be considered approved until the form is signed by the employee's department head or his/her designee and a copy of the form returned to the requesting employee.
- B) Vacation requests should be made at least two weeks in advance. In those cases where multiple employees are requesting the same time period off, the order in which the requests are received shall determine which employee are granted vacation leave.
- C) Special request for one day off which was not a planned vacation may be made at any time prior to the day to be taken. The leave request form must be submitted and approved prior to the employee taking the day off.
- D) Upon receiving a leave request, the department head shall approve/deny the request and forward a copy to the requesting employee and to the finance department. In the case of denial, the department head shall indicate on the form the reasons for the denial.
- E) Employees who are denied a leave request may appeal to the Personnel Director .

### **Section 11.24 Temporary and Part Time Employees Not Eligible**

Temporary employees, including emergency and extra help employees are not eligible for paid benefits, including paid leaves of absence unless the law requires otherwise. Part time employees are not eligible for benefits or leaves of absence other than vacation after five years of service.

**TRANSFER AND DEMOTION**

**Section 12.1 Transfer**

**Section 12.1.1 Involuntary Transfer**

The City may initiate employee transfers when the transfer is in the best interest of the City. City initiated transfers shall not serve the required probationary period in accordance with Rule 9. Upon approval of the Personnel Director and City Manager, the department head may transfer an employee anytime from one position to another position in a comparable class where the salary range is the same, involves the performance of similar duties and requires substantially the same basic qualifications. However, the employee shall be consulted prior to any transfer. Any employee who is transferred from one position to another position in the same or similar class shall be compensated at the same step and salary range the employee received in the previous position. The salary anniversary date shall not change. Employees may appeal the transfer within five (5) days to the City Manager whose decision is final.

**Section 12.1.2 Voluntary Transfer**

An employee's request for transfer to another type of work or department normally will be considered only after successful completion of the probationary period. Employees requesting a transfer shall submit a memorandum to the Personnel Director and City Manager detailing the request for transfer and reasons for the request. Upon receipt of the transfer request, the Personnel Director will notify the employee's Department Head. Job performance, qualifications, attendance and other factors shall be evaluated to ensure the most effective use of the employee's capabilities in evaluating the transfer request. The Personnel Director will communicate to the employee whether the request is granted. When the foregoing factors are substantially equal, transfers shall be determined by City seniority. Employees transferred to a vacant position at their request shall serve a new probationary period in accordance with Rule 9.

If the transfer involved a change from one department to another, both department heads must consent thereto unless the City Manager orders the transfer.

Transfer shall not be used to effectuate a promotion or demotion, each of which may be accomplished only as provided in the personnel rules and regulations.

**Section 12.2 Demotion**

The City Manager may demote an employee for disciplinary purposes. No employee shall be demoted to a position who does not possess the minimum qualification. Disciplinary demotion action shall be in accordance with Rule 14.

Demotion is the removal of an employee from his or her present position to a lower paying position.. A Department Head may request the City Manager demote an employee for any of the following reasons:

- (a) At the request of an employee, provided the employee possesses the minimum qualifications for the demoted position.
- (b) Failure to meet the job-related standards of a promotional probation.

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(c) For disciplinary actions (see Rule 14).

(d) For displacement.

Employees requesting a voluntary demotion shall submit a memorandum to the Personnel Director and City Manager detailing the request for voluntary demotion and reasons for the request. Upon receipt of the request for voluntary demotion, the Personnel Director will notify the employee's department head. If the request for voluntary demotion involves a change from one department to another, both department heads must consent thereto unless the City Manager orders the demotion. Employees demoted at their own request shall be placed at the same step unless another step is mutually agreed to. If the employee has held regular status in the classification to which he or she is voluntarily demoted, probation can be waived upon approval of the City Manager.

**SEPARATION FROM SERVICE**

**Section 13.1 Abandonment of Position**

An employee may be separated from employment if the employee fails to report for duty and is absent from work without approved leave for more than three consecutive work shifts, or fails to report for work upon the expiration of a vacation or a leave of absence where the employee did not notify his or her department head of the reason for the absence. This will be deemed to be a resignation and may result in termination of employment. The Personnel Director shall provide written notice of the proposed action to be taken due to abandonment to the employee at the last known address. Said notice shall provide the employee the Skelly prep disciplinary due process process

**Section 13.2 Disciplinary Action**

An employee may be separated from employment for disciplinary reasons by the City Manager as provided in Rule 14.

**Section 13.3 Layoff**

An employee may be separated from employment because of changes in duties or organization, abolishment of position, shortage of work or funds.

**Section 13.3.1 Statement of Intent**

Whenever, in the judgment of the City Council, it becomes necessary to abolish any position or employment, the employee holding such position or employment may be laid off or demoted without disciplinary action and without the right of appeal.

**Section 13.3.2 Notification**

Employees to be laid off will be given, whenever possible, at least fourteen (14) calendar days prior notice.

**Section 13.3.3 Order of Layoff**

Employees will be laid off in the inverse order of their seniority in their classification in the department. Seniority is determined based upon date of hire in the classification and higher classifications in the department. A lay off out of the inverse order of seniority may be made if, in the City’s judgment, retention of special job skills are required. Within each class, employees will be laid off in the following order, unless special skills are required: temporary, part-time, probationary, and regular. In cases where there are two or more employees in the classification in the department from which the lay off is to be made who have the same seniority date, such employees will be laid off on the basis of the last evaluation rating in the class, providing such rating has been on file at least thirty (30) days and no more than twelve (12) months prior to lay off, as follows:

First, all employees having ratings of “improvement needed;” second, all employees having ratings of “competent;” third, all employees having ratings of “outstanding.”

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### **Section 13.3.4 Re-employment Rights for Laid-off Employees**

Regular employees, who have received a satisfactory or better evaluation for the 12 months prior to lay off, have completed their probationary period and who have been laid off shall be automatically placed on a re-employment list for two (2) years for the classification from which they were laid off.

### **Section 13.4 Resignation**

An employee wishing to leave employment in good standing shall file with the City M a written resignation stating the effective date and reasons for leaving, at least two weeks before leaving the service, unless approval for a shorter notice is obtained. Resignation shall be deemed accepted upon submission. A resignation made with the notice required may be regarded as cause for denying the resigning employee future employment with the City, and is a resignation not in good standing.

### **Section 13.5 Disability**

An employee may be separated for disability when the employee cannot perform the essential functions of the job. The City may separate a disabled employee if the employee cannot perform the essential functions of the job with reasonable accommodation. (NOTE: ADD REASONABLE ACCOMMODATION POLICY – PAGE 13).

#### **A. POLICY**

The City provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act.

#### **B. PROCEDURE**

##### **1. Request for Accommodation**

An employee who desires a reasonable accommodation in order to perform essential job functions should make such a request in writing to the Human Resources Department. The request must identify: a) the job-related functions at issue; and b) the desired accommodation(s).

##### **2. Reasonable Documentation of Disability**

Following receipt of the request, the Human Resources Department may require additional information, such as reasonable documentation of the existence of a disability.

##### **3. Fitness for Duty Examination**

The City may require an employee to undergo a fitness for duty examination to determine whether the employee can perform the essential functions of the job with or without reasonable accommodation. The City may also require that a City-approved physician conduct the examination.

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### **4. Interactive Process Discussion**

After receipt of reasonable documentation of disability and/or a fitness for duty report, the City will arrange for a discussion, in person or via telephone conference call, with the employee, and his or her representative(s), if any. The purpose of the discussion is to work in good faith to fully discuss all feasible potential reasonable accommodations.

### **5. Case-by-Case Determination**

The City determines, in its sole discretion, whether reasonable accommodation(s) can be made, and the type of accommodation(s) to provide. The City will not provide accommodation(s) that would pose an undue hardship upon City finances or operations, or that would endanger the health or safety of the employee or others. The City will inform the employee of its decision as to reasonable accommodation(s) in writing.

### **Section 13.6 Retirement**

Retirement from employment shall be subject to the terms and conditions of the City's retirement plan. Whenever an employee meets the conditions set forth in the City's retirement plan regulations, they may elect to retire and receive benefits earned under the retirement plan.

### **Section 13.7 Death of Employee**

In the event of a death of an employee, payment of earned wages due shall be in accordance with the laws of the state. Unless otherwise provided by law, payment of any other funds due the deceased employee will be paid to the beneficiary so designated in writing by the employee. If no beneficiary has been designated, any funds due shall be paid to the deceased employee's surviving spouse or domestic partner. In the absence of a surviving spouse or partner, such payment shall be made to the employee's children. In the absence of children, such payment shall be made to the estate of the deceased employee.

### **Section 13.8 Return of City-Owned Property**

The department head is responsible for the return of city-owned property by the employee leaving the service of the city. The employee shall return the property before he or she is entitled to receive his/her final salary check.

### **Section 13.9 Exit Interviews**

Whenever possible, the Personnel Director shall conduct exit interviews with employees upon separation from employment.

**DISCIPLINARY PROCEDURES**

**Section 14.1 Policy**

The City’s policy on disciplinary actions is founded on the premise that the actions are to be corrective, and any disciplinary actions should reinforce and shape employee behavior in the reasonable and necessary direction actualizing the City’s goals.

The tenure of every employee shall be based on reasonable standards of person conduct and job performance. Failure to meet such standards shall be grounds for appropriate disciplinary action. Disciplinary actions should be progressively more severe, and commensurate with the seriousness of the offense and with due consideration of the employee’s prior performance record. However, the City may disregard progressive discipline for a serious offense. A serious offense may result in severe discipline. All suspensions, demotions, reductions in salary and terminations of persons with regular status shall be made according to these rules. Employees who are probationary, temporary, part time or serve pursuant to a contract may be disciplined at any time without cause or right of appeal unless their contract provides otherwise.

**Section 14.2 Basis for Disciplinary Action**

Basis for disciplinary actions include, but shall not be limited to, the reasons listed below and in accordance with procedures listed in these rules.

- (a) Failure to meet work performance standards and requirements; unsatisfactory or careless work; failure to meet production or quality standards as given by employee’s supervisor; or mistakes due to carelessness or failure to get necessary instructions.
- (b) Discourteous or disrespectful treatment of other employees, citizens, suppliers, or visitors, or treatment, which does not foster cooperation.
- (c) Insubordination or refusing to obey supervisor’s directions pertaining to work, refusal to perform assigned work; or to follow a direct order or insulting or demeaning the authority of a supervisor or manager.
- (d) Willful or negligent disobedience of any law, City or department rule or regulation.
- (e) Failure to maintain a neat and clean appearance in terms of the standards established by the employee’s supervisor; any departure from accepted conventional modes of dress or personal grooming; or wearing improper or unsafe clothing.
- (f) Excessive use of City telephone for personal calls.
- (g) Posting, removing or altering notices on any bulletin board on City property without permission of an officer of the City.
- (h) Soliciting during working hours and/or in working areas’ selling merchandise or collecting funds of any kind for charities or others with authorization during

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- business hours, or at a time or place that interferes with the work of another employee on City premises.
- (i) Conducting a lottery or gambling on City premises.
  - (j) Misappropriation or damage of public property or waste of public funds or property through negligent or willful misconduct.
  - (k) Absence without approved leave; leaving work station during work hours without supervisor's permission, except to use the restroom; leaving work before the end of a workday or not being ready to work at the start of a workday without supervisors approval; or stopping work before time specified for such purposes.
  - (l) Failure to report an absence or late arrival; excessive absenteeism; or tardiness.
  - (m) Practicing deception or fraud in the securing of a job appointment or promotion; or failure to supply full information as to character, reputation, or acts which, if known at the time of appointment might have resulted in a disqualification of the employee for the job to which appointment was made.
  - (n) Falsification or misrepresentation of a relevant official statement, document, reports or records, and employment application, including the omission of information in an attempt to deceive or mislead, or the willful omission of information that, if known, could affect the outcome.
  - (o) Misappropriation of found property; theft of City property or the property of other employees; unauthorized possession or removal of any City property, including documents, from the premises without prior permission from management; unauthorized use of City equipment or property for personal reasons; or using City equipment for profit.
  - (p) Violating the non-disclosure agreement; giving confidential or proprietary City information to other organizations, to unauthorized employees, or to anyone whom issuance of such information has not been authorized; breach of confidentiality of personnel information; or removing the contents of any official record, report, document or other written matter, current or completed.
  - (q) Lying about sick or personal leave; falsifying reason for a leave of absence or other data requested by the City; or alteration of City records or other City documents.
  - (r) Failure to use or alteration of time cards, attendance documents or other records; altering such records of another employee, or causing someone to alter such records which is considered theft of time.
  - (s) Neglect of duties.
  - (t) Being intoxicated or under the influence of intoxicants, drugs or narcotics while at work; or use, possession or sale of such in any quantities while on City premises except medications prescribed by a physician, which do not impair work performance. Possessing or using alcohol in City offices or facilities.

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- (u) Smoking while on duty in an area where smoking is prohibited or at non-designated times, as specified by department rules.
- (v) Incompetency.
- (w) Inefficiency.
- (x) Dishonesty.
- (y) Malicious gossip and/or spreading rumors; engaging in behavior designed to create discord and lack of harmony; interfering with another employee on the job; or willfully restricting work output or encouraging in other to do the same.
- (z) Improper withdrawal or limitation of service or any action that interferes with or is disruptive of the City mission or the public service.
- (aa) Any act or statement, oral or written, which tends to bring the City, it's employees or officers into disrepute or ridicule.
- (bb) Use of coarse, obscene, profane, or insolent language or gestures to any Other employee or the public; indifference or rudeness towards the public or any other employee; or any disorderly/antagonistic conduct on City premises.
- (cc) Sleeping while on duty; or loitering or loafing during working hours.
- (dd) Improper political activity.
- (ee) Unauthorized possession of dangerous or illegal firearms, weapons or explosives on City property or while on duty, or displaying or brandishing any firearm or weapon, whether in jest or otherwise, in any manner which can be construed as careless, threatening or dangerous except in the performance or official duties.
- (ff) Receiving or accepting, directly or indirectly, any money, gift, reward, service, gratuity, favor, hospitality, loan or other consideration for any service or official action rendered by the employee, without first securing the written permission from the City Manager.
- (gg) Use of influence of position with the City for private gain or advantage, or the use of time, facilities, equipment or supplies for private gain or advantage.
- (hh) Engaging in an act of sabotage; or negligently causing the destruction, damage, loss or misuse of City property, or the property of any employees, customers, suppliers, or visitors; or the failure to immediately report damage, loss or an accident involving City equipment.
- (ii) Negligence or any careless action which endangers the life or safety of another person; willful violation of security or safety rules or failure to observe safety rules or safety practices; failure to wear required equipment; or tampering with safety equipment or other devices.

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- (jj) Negligence or any careless action which endangers the life or safety of another person; willful violation of security or safety rules or failure to observe safety rules or safety practices; failure to wear required equipment; or tampering with safety equipment or other devices.
- (kk) Fighting or horseplay or provoking a fight while on duty.
- (ll) Conviction of a felony or misdemeanor when there is a nexus to the workplace. The word, “convicted” shall be construed to mean pleas of guilty, or nolo contendere, regardless, of whether sentence is imposed by the court.
- (mm) Engaging in criminal conduct or acts of violence, or making threats of violence toward anyone on City premises or when representing the City.
- (nn) Threatening, intimidating or coercing other employees on or off the premise at anytime, for any purpose.
- (oo) Immoral conduct or indecency on City property; or failure to exhibit acceptable behavior either during or outside duty hours such that the employee’s ability to perform his or her duties is impaired; or the ability of the City to perform its’ mission is or may be impaired; or causes the discredit to the City.
- (pp) Refusal to take and subscribe any oath or affirmation, which is required by law in connection with employment.
- (qq) Unlawful discrimination, harassment or retaliation.
- (rr) Conflict or interest.
- (ss) Any deliberate action that is extreme in nature and is detrimental to the City’s efforts to operate efficiently.
- (tt) Working overtime without authorization.
- (uu) Any violation or action inconsistent with these personnel system rules or officially promulgated City rules, regulations or policies.

### **Section 14.3 Types of Discipline**

The following procedures shall be followed when, in the judgment of the department head, an employee has committed an act or omission that justifies disciplinary action. Disciplinary actions may range from informal conversations to formal termination. A typical progressive sequence of disciplinary actions used by the City is:

1. Counseling: The immediate supervisor usually counsels the employee. Counseling is informal discussion with an employee designed to assist the employee to fully develop his or her skills and abilities. The discussion may include, but shall not be limited to, clarifying standards, setting expectations and areas of concern, seeking information, or problem solving. Counseling is usually the action taken to assist the employee in clarifying the need for improvement.

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To provide both the supervisor and employee with a permanent record of a counseling, a written memo may be sent to the employee to clarify verbal agreements and the need for possible behavior change. No record of the counseling is placed in the employee's permanent personnel file unless disciplinary action of at least a written reprimand is later issued on the same problem.

2. Oral reprimand: The oral warning notifies the employee that his or her performance or behavior must be improved. Oral warnings are given by supervisors when counseling has failed to produce the desired change.

The warning shall define the areas in which improvement is required, set goals leading to this improvement, and shall inform the employee that failure to improve will result in more serious action. To provide both the supervisor and employee with a permanent record of a specific violation, a written memo may be sent to the employee confirming the conversation. The memo shall state the offense and consequences if corrective action is not taken. No record is placed in the employee's permanent personnel file unless subsequent action is necessary.

3. Written reprimand: A written warning is a formal notice to an employee of a performance or conduct problem.

The content of the written warning shall define what occurred, the date and time of event which is the cause of the reprimand, what was violated by the employee, what the employee is directed to do to correct the situation, and the employee's right to respond in writing within five (5) working days of the reprimand. The written reprimand shall be signed by the employee's supervisor, or department head, countersigned by the employee, and filed with the personnel officer. If the employee refuses to sign, it shall be noted as such on the memorandum. When the written warning is issued, the employee, shall receive one copy with both signatures affixed and a copy will be placed in the employee's permanent personnel file along with the employee's response if any.

4. Suspension,

A department head may suspend an employee from his or her position for cause. Documents related to a suspension shall become part of the employee's personnel file when the discipline is final. An employee subject to suspension will receive prior written notice and right of appeal as provided herein.

5. Demotion

A department head may demote an employee from his or her position for cause. Documents related to a demotion shall become part of the employee's personnel file when the discipline is final. An employee subject to demotion will be entitled to prior written notice and right of appeal as provided herein.

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### 6. Reduction in Pay

A department head may reduce an employee's pay for cause. A reduction in pay for disciplinary purposes may take one of two forms: (1) a decrease in salary to a lower step within the salary range, or (2) a decrease in salary paid to an employee for a fixed period of time. Documents related to a reduction in pay shall become part of the employee's personnel file when the discipline becomes final. An employee subject to a reduction in pay is entitled to prior written notice and right of appeal as provided herein.

### 7. Discharge

A department head may discharge an employee from his or her position for cause. Documents related to discharge shall become a part of an employee's personnel file when the discipline becomes final. A discharged employee is entitled to prior written notice and right of appeal as provided herein.

## **Section 14.4 Written Notice of Intent to Discipline**

Only regular, for-cause employees have the right to the conference and appeal process outlined in Sections 14.4, 14.5, and 14.6. Written notice of the proposed disciplinary action (Suspension, Demotion, Reduction In Pay, or Termination) shall be given to the employee. Such notice shall include:

- (a) A statement which clearly defines the intent to take action, the proposed action to be taken and the effective beginning and ending time of intended action.
- (b) A statement of the specific grounds and particular facts upon which the proposed disciplinary action will be taken.
- (c) A copy of all written materials, reports or documents upon which the intended discipline is based.
- (d) A statement with the date and time of the Skelly conference with the department head.
- (e) A statement that the employee will be afforded the right to respond, either orally, in writing, or both within five (5) working days upon receipt of the intended disciplinary action, to the department head.
- (f) Notice that the failure to respond within five (5) working days shall constitute a waiver of the right to respond prior to the imposition of discipline.
- (g) The employee's signature on the notice of intent to render discipline shall acknowledge receipt of said notice by the employee. If the employee refused to sign it shall be noted as such on the notice of intent to discipline. The signature documentation on said notice shall acknowledge that the employee received the notice.

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### **Section 14.5 Employee Response**

Within five (5) working days the employee shall have the right to respond, in writing, or at the conference to the department head concerning the proposed action (Suspension, Demotion, Reduction in Pay, Termination).

If, within the five (5) working days response period, the employee, does not indicate a desire to participate in the pre-disciplinary Skelly process, the proposed action of the City should be considered conclusive and shall take effect as prescribed.

The employee's failure to make an oral response at the arranged conference time, or the employee's failure to cause his or her written response to be delivered by the date and time specified in the notice, constitutes a waiver of the employee's right to respond prior to the imposition of the discipline. In that case, the proposed disciplinary action will be imposed on the date specified.

### **Section 14.6 Final Notice of Discipline**

Within 5 calendar days of receipt of the employee's timely written response or within 5 calendar days of the conference, the department head will (1) dismiss the notice of intent and take no disciplinary action against the employee, (2) modify the intended disciplinary action, or (3) impose the intended disciplinary action. In any event, the department head will prepare and provide the employee with a notice that contains the following:

- a. The level of discipline, if any, to be imposed and the effective date of the discipline;
- b. The specific charges upon which the discipline is based;
- c. A summary of the facts upon which the charges are based;
- d. A copy of all written materials, reports, or documents upon which the discipline is based; and
- e. A statement of the nature of the employee's right to appeal.

### **Section 14.7 Relief of Duty**

The Personnel Director may place the employee on administrative leave with pay pending the completion of an investigation or opportunity to respond as may be required to determine if disciplinary action is to be taken. In the event of an oral notice, the City Manager shall confirm the action by giving the employee written notice.

### **Section 14.8 Appeal**

An employee, who desires to appeal to the City Manager or designee shall inform the Personnel Director in writing within five (5) days of the department head's decision. The City Manager or designee shall hear the appeal within sixty (60) days after the employee informs the Personnel Director.

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### **Section 14.8.1 Request for Appeal Hearing**

A regular, for-cause employee may appeal from a final notice of discipline in the form of suspension, demotion, reduction in pay, or termination by delivering a written answer to the charges and a request for appeal to the Personnel Director, who will forward the appeal to the City Manager. The written answer and request for appeal must be received no later than 10 calendar days from the date of the department director's decision.

### **Section 14.8.2 Date and Time of the Appeal Hearing**

The City Manager will set a date for an appeal hearing before himself/herself or the designee within a reasonable time after receipt of a timely request for appeal but no later than sixty (60) days. An employee who, having filed a timely request for appeal, has been notified of the time and place of the appeal hearing, and who fails to appear personally at the hearing, may be deemed to have abandoned his or her appeal. In such a case, the City Manager may dismiss the appeal.

### **Section 14.8.3 Identification of Issues, Witnesses and Evidence**

No later than 10 days prior to the appeal hearing, each party will provide each other and the City Manager or designee a statement of the issues to be decided, a list of all witnesses to be called (except rebuttal witnesses), a brief summary of the subject matter of the testimony of each witness, and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing.

The City will use numbers to identify its evidence; the employee shall use alphabet letters.

Neither party will be permitted to call any witness during the hearing who has not been identified pursuant to this section, nor use any exhibit not provided pursuant to this section, unless that party can show that they could not have reasonably anticipated the need for the witness or exhibit. The Personnel Board will state at the beginning of the hearing the decision as to the precise issue(s) to be decided.

### **Section 14.8.4 Conduct of the Appeal Hearing**

#### **a. Subpoenas**

The City Manager or designee has authority to issue subpoenas in the name of the City prior to the commencement of the hearing. Each party is responsible for serving his/her/its own subpoenas. City employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing. City employees who are subpoenaed to testify during non-working hours will be compensated for the time they actually testify unless the City agrees to a different arrangement.

#### **b. Continuances**

The City Manager or designee may continue a scheduled hearing only upon good cause shown.

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c. Record of the Proceedings

All disciplinary hearings may, at the discretion of the parties, be either recorded by a court reporter or tape recorded. Any party who requests a transcript of the proceedings must pay for his/ her/ its own copy of a transcript.

d. The City Manager's (or designee's) Authority During the Hearing

The City Manager or designee has the authority to control the conduct of the hearing and to affirm, modify, or revoke the discipline.

e. Conduct of the Hearing

i. The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner the City Manager or designee, decides is the most conducive to determining the truth.

ii. Any relevant evidence may be admitted if it is the type of evidence upon which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.

iii. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but over timely objection shall not be sufficient in itself to support a finding, unless such evidence would be admissible over objection in civil actions. An objection is timely if made before submission of the case.

iv. The rules dealing with privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.

v. Irrelevant and unduly repetitious evidence may be excluded.

vii. During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon the request of either party.

viii. All witnesses shall be sworn in for the record prior to testifying at the hearing.

f. Burden of Proof at the Hearing

The City has the burden of proof by a preponderance of the evidence.

g. Right to Due Process

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

The employee shall have the following due process rights during the hearing:

- i. The right to be represented by legal counsel or another chosen representative, at his or her own expense;
- ii. The right to call and examine witnesses on his or her behalf;
- iii. The right to introduce evidence;
- iv. The right to cross-examine opposing witnesses on any matter relevant to the issues;
- v. The right to impeach any witness regardless of which party first called him or her to testify; and
- vi. The right to rebut evidence against him or her.

i. Presentation of the Case

All parties and their counsel or representatives shall not disparage the intelligence, morals, or ethics of their adversaries or the City Manager or designee. The hearing shall proceed in the following order unless the City Manager or designee directs otherwise:

- i. The City shall be permitted to make an opening statement.
- ii. The employee shall be permitted to make an opening statement.
- iii. The City shall produce its evidence.
- iv. The employee shall produce his or her evidence.
- v. The City, followed by the employee, may offer rebuttal evidence.
- vi. Closing arguments of no more than 20 minutes shall be permitted at the discretion of the City Manager or designee. The City shall have the right to argue first, the employee may argue second, and the City may reserve a portion of its argument time for rebuttal.

j. Hearing Demeanor and Behavior

All parties and their attorneys or representatives shall not, by written submission or oral presentation, disparage the intelligence, ethics, morals, integrity or personal behavior of their adversaries or members of the Board.

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k. Written Briefs by the Parties

The City Manager or designee or the parties may request the submission of written briefs. The City Manger or designee will determine whether to allow written briefs, the deadline for submitting briefs, and the page limit for briefs.

5. Written Findings and Decision

The City Manager or designee shall render a statement of written findings and decision within 14 days after the hearing has been completed and the briefs, if any, have been submitted. The decision is final.

6. Proof of Service of the Written Findings and Decision

The City Manager or designee shall send its final statement of written findings and decision, along with a proof of service of mailing, to each of the parties and to each of the parties' representatives.

8. Statute of Limitations

The City Manager's (or designee's) written findings and decision is final. There is no process for reconsideration. Pursuant to Code of Civil Procedure section 1094.6, the parties have 90 days from the date of the proof of service of mailing of the written findings and decision to appeal the decision to the Superior Court in and for the County of Tulare.

## CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

### RULE XV

#### **CITY – OWNED EQUIPMENT**

##### **Section 15.1 Motor Vehicles – Use**

Each city vehicle may be used only on city business and shall be stored in prescribed locations on city property when not in use. Normally, only the City Manager and a department head are allowed to take a vehicle home. The City Manager may make exceptions.

##### **Section 15.2 Assignment**

The City Manager shall assign each vehicle into the custody of a department head. The department head is responsible for proper use and safeguarding of that vehicle.

##### **Section 15.3 Operation**

Only an employee may operate a city vehicle. No officer or employee shall allow an unauthorized person to rent, borrow or use a city vehicle or permit a hitchhiker or other person not having business with the city to ride in a vehicle. An employee operating a city vehicle who is involved in an accident must report the accident immediately to the police department and the Personnel Director. No city employee may drive a city vehicle who does not have in his/her possession a valid driver's license. Each city employee shall comply with all city and state laws regarding the operation of city vehicles and is personally responsible for payment of a fine incurred while driving a city vehicle.

##### **Section 15.4 Equipment Other Than Motor Vehicles**

No city equipment, instruments, tools, supplies, machines or other items which are the property of the city may be used by an officer or employee engaged in outside employment. No employee shall take city property for personal use without permission of the appropriate department head. If permission is granted, the employee is responsible for its safe return. No officer or employee shall allow an unauthorized person to rent, borrow, or use city property except with prior permission of the City Manager or appropriate department head.

**POLITICAL ACTIVITY**

**Section 16.1 Prohibited Conduct:**

The City prohibits:

1. Employees and officers from engaging in political activities during work hours;
2. Political campaigning in City buildings or on premises adjacent to City buildings; and
3. An employee or officer from using his or her office to coerce or intimidate public employees to promote, propose, oppose, or contribute to any political cause or candidate.

**Section 16.2 Examples of Prohibited Conduct**

1. Participate in political activities of any kind while in uniform;
2. Participate in political activities during working hours;
3. Participate in political activities on City worksites;
4. Place or distribute political communications on City property;
5. Use equipment to make political communications;
6. Solicit a political contribution from an officer or employee of the City, or from a person on a City employment list, with knowledge that the person from whom the contribution is solicited is a City officer or employee;
7. Favor or discriminate against any employee because of political opinions or affiliations;
8. Interfere with any election; or
9. Attempt to trade job benefits for votes

**16.3 Examples of Permitted Conduct**

1. Express opinions on all political subjects or candidates;
2. Become a candidate for any local, state, or national election;
3. Contribute to political campaigns;
4. Join and participate in the activities of political organizations;
5. Request, during off-duty time, political contributions, through the mail or other means, from City officers or employees if the solicitation is part of a solicitation

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made to a significant segment of the public which may include City officers or employees;

6. Solicit or receive, during off-duty time, political contributions from a City employee organization if the funds, when collected, were not earmarked for a clearly identifiable candidate for a federal, state or local office; or
7. Solicit or receive, during off-duty time, political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of City officers or employees.

**TRAINING OF EMPLOYEES**

**Section 17.1 Responsibility for Training**

It is the policy of the City to encourage the training of employees. The City Manager and department heads have responsibility for developing training programs for employees. Training may include lecture courses, demonstrations, assignment of reading matter or other devices available for the purpose of improving the effectiveness and broadening the knowledge of a municipal officer or employee in the performance of his or her duties.

**Section 17.2 Credit for Training**

Participation in and successful completion of special training courses may be considered in making advancements and promotions. The employee shall file evidence of training programs with the personnel officer.

**Section 17.3 Training Costs**

When in the opinion of the City Manager a training course to be taken by an employee will benefit the City, the City Manager may authorize payment by the City of tuition charges, fees and textbooks. Textbooks purchased by the City become the property of the City. When tuition is paid by the City, the employee must file with the Personnel Department written evidence of his or her satisfactorily passing the course or he or she may be required to refund money paid by the City for the course. If the employee is separated from the city service within six( 6) months after completing the course. This includes training for peace officers where none of the training or only a portion of the training was reimbursed by P.O.S.T. The employee will be responsible for the portion not reimbursed to the City.

**GRIEVANCE PROCEDURE**

**Section 18.1 PURPOSE**

The grievance procedure will give regular employees assurance that the City recognizes their right to be heard and assist them in achieving job satisfaction. The purpose of this procedure is to provide a just and equitable method for the resolution of grievances or complaints without prejudice. The intent of this policy is to:

- (a) Promote improved employer-employee relations by establishing grievance procedures on matters for which appeal or hearing is not provided by other regulations;
- (b) Give each employee a systematic means of obtaining further consideration of problems after every reasonable effort has failed to resolve them through discussion;
- (c) Settle grievances as near as possible to point of origin.
  1. Supervisors shall make every effort to resolve grievances informally at their level.
- (d) Provide that appeals shall be conducted as informally as possible.

**Section 18.2 Definition of Grievance**

Subject to the exclusions listed, a grievance is defined as any dispute that: (1) is job-related, (2) is wholly or partially within the province of the City to rectify or remedy, (3) concerns terms and conditions of employment, (4) involves the interpretation, application, or alleged violation of these rules or a current Memorandum of Understanding (MOU) between the City and a recognized employee organization representing City employees, and (5) is not subject to any other City dispute resolution process or procedure that is provided by statute, ordinance, resolution or agreement.

**Section 18.3 Grievance Procedure**

In every case involving a grievance, the employee shall first make an effort to resolve the grievance with his/her supervisor without delay. If the employee does not believe the problem is satisfactorily resolved, he/she may appeal in writing on the grievance form to the department head. The appeal must be filed within thirty (30) days of the date the employee knew or should have known of the circumstances giving rise to the grievance.

**Section 18.4 Investigation of Facts/Decision of Department Head**

The department head shall investigate the facts and issues and shall decide the matter at the earliest date consistent with the nature of the investigation but in any event, within 5 working days. The Department Head shall personally notify the employee of his/her decision in writing on the grievance form.

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### **Section 18.5 Appeal to Personnel Director**

If the employee desires to pursue the matter further, he/she shall notify the Personnel Director in writing on the grievance form within five (5) working days of the Department Head's decision.

### **Section 18.6 Employee Meeting**

Within ten (10) days after the Personnel Director receives the grievance complaint, the grievance complaint, he/she will arrange a meeting of the employee, employee representative (if any,) and department head. At the meeting an earnest effort shall be made to arrive at a satisfactory resolution of the issue.

### **Section 18.7 Written Decision**

If a resolution is not reached at the employee meeting, the Personnel Director shall make his/her decision in writing five (5) working days after the date of the meeting. The decision of the Personnel Director is final.

### **Section 18.8 Regulations During Grievance Procedure:**

The following regulations apply during the grievance procedure:

- (a) An employee may request the assistance of another person of his/her own choosing in preparing and presenting the appeal at any level of the review;
- (b) The employee and his/her representative may use a reasonable amount of work time, determined by the appropriate department head, in conferring about and presenting the grievance.
- (c) The time limits specified in this rule may be extended to a definite date by mutual written agreement of the parties;
- (d) An employee may drop proceedings upon written notice at any state of the procedure;
- (e) The result of final adjudication shall be in writing and acknowledged by the signature of all parties;
- (f) Copy of the grievance complaint, department head conclusion and Personnel Director decision maintained in a file containing grievances;
- (g) There may not be discrimination, reprisal, or retaliation against any employee for availing himself/herself of the grievance procedure.

**REPORTS AND RECORDS**

**Section 19.1 Personnel Files**

The Personnel Director shall maintain a personnel record for each employee in the service of the City showing the name, title of position held, the department to which assigned, salary, changes in employment status, disciplinary action, performance evaluation, and such other information as may be considered pertinent by the Personnel Director. Personnel records are confidential and access to personnel records shall be limited.

**Section 19.2 Access to Administrative Records**

The City Attorney and the Personnel Director shall have access to all departmental records, documents, and papers pertaining to employees, the examination of which will aid in the discharge duties. All administrative records shall be maintained in a manner, which will preserve their confidentiality.

**Section 19.3 Employee Access to Their Personnel Records**

**Section 19.3.1 Inspection of File**

An employee may inspect his or her own personnel file, at reasonable times and at reasonable intervals. An employee who wishes to review his or her file should contact the Personnel Officer to arrange an appointment. The review must be done in the presence of a designated employee of Personnel.

**Section 19.3.2 Copies**

On request, an employee is entitled to receive a copy of any employment related document he or she has signed. An employee who wishes to receive such a copy should contact a designated employee of Personnel. On request, the City will also provide an employee single copies of any other documents in his or her personnel file. The City may charge a reasonable fee for the copies.

In the event the employee wishes to have another person/representative inspect his or her personnel file, the employee must provide the person/representative with written authorization. The employee will be notified of the date, time and place of the inspection in writing. It is the employee's responsibility to notify the person to whom the employee has given written authorization of the date, time and place of the inspection.

Under no circumstances is the employee and/or the employee's designee permitted to add or remove any document or other item from the employee's personnel file during the inspection.

**Section 19.4 Access to Personnel Records by Department Heads**

A Department Head shall have access to all records, documents, and papers pertaining to employees in his or her department, if the examination will aid in the discharge of his or her duties. The Department shall maintain this confidentiality.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 19.5 Destruction of Records**

Upon approval of the City Attorney, all other records relating to personnel may be destroyed as prescribed by law.

### **Section 19.6 Purging of Employee Discipline Records**

Only written reprimand may be expunged upon sustained corrective behavior after one year. The employee wishing to have a written reprimand purged shall make a written request to the City Manager. The City Manager shall consult with the employee's department head to substantiate that corrective behavior has been sustained for the one-year period. The City Manager shall obtain the concurrence of the department head before the records are expunged.

### **Section 19.7 Address Notification**

Employees shall notify the personnel office of any change of name, address, or telephone number within five (5) calendar days of change.

### **Section 19.8 Performance Evaluations**

It is the policy of the City to evaluate employee performance on a regularly scheduled basis. The performance evaluation shall normally be conducted by the employee's immediate supervisor and shall be discussed with the employee. The employee's immediate supervisor shall consider performance in relation to the duties outlined in the employee's position description.

A performance evaluation shall be completed prior to the completion of the probationary period, and annually thereafter. A performance evaluation shall be completed on at least an annual basis for regular employees and prior to the promotion or transfer of an employee. The Personnel Director will notify the employee's department head approximately thirty (30) days prior to the employee's anniversary date. It is the department head's responsibility to assure that the performance evaluation is completed and returned to the employee for signature prior to the employee's evaluation date. Special evaluation, as needed, may be given.

# CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS



## **HARASSMENT DISCRIMINATION AND RETALIATION POLICY**

### **Section 20.1 Purpose**

It is the City's intent and the purpose of this Policy to provide all employees, applicants, and contractors with an environment that is free from any form of discriminatory harassment, discrimination or retaliation as defined in this Policy. This Policy prohibits harassment or discrimination on the basis of any of the following protected classifications: an individual's race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition and physical or mental disability (whether perceived or actual) or any other category protected by law. It is also the policy of the City to provide a procedure for investigating alleged harassment, discrimination and retaliation in violation of this Policy. The protection from discrimination includes the protection from retaliation for having taken action either as a complainant, or for assisting a complainant in taking action, or for acting as a witness or advocate on behalf of an employee in a legal or other proceeding to obtain a remedy for a breach of this policy.

### **Section 20.2 Policy**

The City has zero tolerance for any conduct that violates this Policy. Conduct need not rise to the level of a violation of law in order to violate this Policy. Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. If you are in doubt as to whether or not any particular conduct may violate this Policy, do not engage in the conduct, and seek guidance from a supervisor or the Personnel Director.

Romantic or sexual relationships between supervisors and subordinate employees are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. The relationship may create an appearance of impropriety and lead to charges of favoritism by other employees. A welcome sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing.

### **Section 20.3 Definitions**

1. Protected Classifications:

This Policy prohibits harassment or discrimination because of an individual's protected classification(s). "Protected Classification" includes race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), national origin, ancestry, citizenship status, uniformed service member status, marital status, pregnancy, age, medical condition and physical or mental disability (whether perceived or actual).

2. Policy Coverage:

This Policy prohibits elected officials, officers, employees and contractors from harassing or discriminating against applicants, officers, officials, employees and contractors because: (1) of an individual's protected classification, (2) of the

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perception of an individual is protected classification, or (3) the individual associates with a person who has or is perceived to have a protected classification.

3. Discrimination:

This Policy prohibits treating individuals differently because of the individual's protected classification as defined by this Policy.

4. Harassment:

Harassment means unsolicited words or conduct which subjectively and objectively offend another person. Harassment includes, but is not limited to, the following examples of behavior undertaken because of an individual's protected classification:

- a. Verbal harassment, such as epithets (nicknames and slang terms), derogatory or suggestive comments, propositioning, jokes or slurs, including graphic verbal commentaries about an individual's body, or that identify a person on the basis of his or her protected classification. Verbal harassment includes comments on appearance and stories that tend to disparage those of a protected classification.
- b. Visual forms of harassment, such as derogatory posters, notices, bulletins, cartoons, drawings, sexually suggestive objects, or e-mails on the basis of a protected classification. Visual harassment includes mimicking the way someone walks or talks because of their protected classification.
- c. Physical harassment, such as assault, touching, impeding or blocking movement, grabbing, patting, leering, making express or implied job-related threats in return for submission to physical acts, taunting, or any physical interference with normal work or movement.
- d. Sexual harassment, such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature or any of the above described conduct when:
  - i. Submission to such conduct is either an expressed or implied term or condition of an individual's employment, or
  - ii. Submission to or rejection of such conduct is used as the basis for employment decisions affecting such individual, or
  - iii. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile, intimidating or offensive work environment, or
  - iv. By definition, sexual harassment is not within the course and scope of an individual's employment with the City's.

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5. Discrimination/harassment does not include the following:
  1. Bona fide acts or omission of acts based solely upon bona fide occupational qualifications under Equal Employment Opportunity Commission and California Fair Employment and Housing Commissions Guidelines.
  2. Bona fide requests or demands by a supervisor that the employee improve his/her work quality or output, that the employee report to the job site on time, that the employee comply with city or departmental rules or regulations, or any other appropriate work related communication between supervisor and employee.

Individual employees may be held personally liable for discriminatory acts, including sexual harassment.

### **Section 20.4 Retaliation**

Retaliation against a person (and his or her associates) who reports or provides information about harassment or discrimination is strictly prohibited. Any act of reprisal violates this Policy and will result in appropriate disciplinary action. Examples of actions that might be retaliation against a complainant, witness or other participant in the complaint process include: (1) singling a person out for harsher treatment; (2) lowering a performance evaluation; (3) failing to hire, failing to promote, withholding pay increases, assigning more onerous work, abolishing a position, demotion or discharge; or (4) real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination.

Well-intentioned attempts to insulate or protect a complainant by changing his or her work environment or schedule or duties or by transferring the complainant to another office may be retaliatory. Before a supervisor takes such action, the supervisor should contact the Personnel Director.

Any act of retaliation will be treated as a separate and distinct incident, regardless of the outcome of the harassment or discrimination complaint.

### **Section 20.5 Reporting Harassment, Discrimination or Retaliation**

An applicant, employee, officer, official or contractor who feels he or she has been harassed, discriminated against or retaliated against in violation of this Policy should report the conduct immediately as outlined below so that the complaint can be resolved quickly and fairly.

All employees involved in the complaint process may be represented by a person of their choosing and at their own expense.

1. Object to the Conduct

Sometimes an individual is unaware that his/her conduct is offensive. The offensive behavior may be eliminated by simply informing the offender that the conduct or language in question is unwelcome and offensive and request that it

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be discontinued immediately. A person who believes he/she is being harassed is encouraged to use this process.

When the conduct in question continues after the offending person has been informed it is offensive, or if a person does not feel comfortable talking to the offending person directly, the employee should make a report in accordance with subsection 2 below or go directly to the formal reporting process.

### **2. Oral Report**

If a person who believes that this Policy has been violated does not want to confront the offending person, he/she should report the conduct to a supervisor, department head or any City management employee. The individual may also seek the advice, assistance or consultation of a supervisor, department head, or any City management employee. Any supervisory or management employee who receives such a report must in turn direct it to the Personnel Director of Human Resources. The Personnel Director will determine what level of investigation and response is necessary.

### **3. Written Process**

An individual who believes this Policy has been violated may provide a written complaint to a supervisor, department head or any management employee who in turn must direct the complaint to the Human Resources Department. Individuals are encouraged to use the Confidential Complaint Form for this purpose.

### **4. Option to Report to Outside Administrative Agencies**

Applicants, employees, officers, officials and contractors have the option to report harassment, discrimination, or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH).

## **Section 20.6 Supervisory Resolution**

Whenever possible, employees who believe they are experiencing discrimination, discriminatory harassment or retaliation are encouraged to inform the individual that his/her behavior is unwelcome, offensive, unprofessional or highly inappropriate. If this does not resolve the concern or if an employee feels uncomfortable, threatened, or has difficulty expressing his/her concern, assistance should be sought from a supervisor or manager.

## **Section 20.7 Formal Investigation/Response**

### **1. Investigation**

Upon receipt of a complaint of alleged harassment, discrimination or retaliation, the Personnel Director will be responsible for coordinating a thorough investigation (unless he/she is named in the complaint). The Personnel Director may coordinate the investigation with the complainant's department head and may hire an outside investigator if the City deems it appropriate. The type of

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investigation undertaken, and the party chosen to conduct the investigation will depend on the nature of the complaint made and will be determined by the Personnel Director. The Personnel Director will report the status of investigations to the City Manager as appropriate.

The Director, in concurrence with the City Manager, may take interim action to diffuse volatile circumstances. The investigator will review the complaint allegations in an objective manner and to the extent that the City deems necessary. The investigation will normally include interviews with the reporting individual, the accused, and any other person who is believed to have relevant knowledge concerning the allegations. The investigator will remind all witnesses to maintain the confidentiality of the interview and that retaliation against those who report alleged harassment or who participate in the investigation is prohibited.

The City takes a proactive approach to potential Policy violations and will conduct an investigation if its officers, supervisors, or managers become aware that harassment, discrimination or retaliation may be occurring, regardless of whether or not the recipient of the alleged action or a third party reports a potential violation.

### 2. Remedial and Disciplinary Action

If the investigation determines that the alleged conduct occurred and that the conduct violated this Policy, the City will notify the complainant and perpetrator of the general conclusion(s) of the investigation and take effective remedial action that is designed to end the violation(s). Any employee or officer determined to have violated this Policy will be subject to disciplinary action, up to and including termination. Disciplinary action may also be taken against any official, supervisor or manager who condones or ignores potential violations of this Policy, or who otherwise fails to take appropriate action to enforce this Policy. Any official or contractor found to have violated this Policy will be subject to appropriate sanctions.

### 3. Closure

At the conclusion of the investigation, the Personnel Director will notify the complainant in general terms of the outcome of the investigation.

### 4. Confidentiality

Every possible effort will be made to assure the confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to fully investigate potential Policy violations and take effective remedial action. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a supervisor or the Personnel Director. Any individual who discusses the content of an investigatory interview will be subject to discipline or other appropriate sanction. The City will not disclose a completed investigation report except as it deems necessary to support a disciplinary action,

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to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or a court order.

### **Section 20.8 Responsibilities of Employees, Management and Supervisory Employees**

#### **1. Employees**

In order to establish and maintain a professional working environment, while at the same time preventing harassment, discrimination, and retaliation, employees are expected to:

- Set an example of acceptable conduct by not participating in or provoking behavior that violates this Policy. Try not to be angry or insulted if an individual tells you that your behavior is offensive. People have different ethical values and standards and may be offended by behavior you think is proper. Tell the individual you did not realize your behavior was offensive, and immediately cease the conduct.
- Let fellow employees know when you consider behavior offensive. The City hires people from a wide variety of cultural and ethnic backgrounds, and an individual may not realize behavior he or she thinks is proper could be seen by others as offensive.
- Report harassment, discrimination or retaliation as quickly as possible, whether the employee is the target of the conduct or a witness.
- If an employee witnesses harassment, he or she should tell the individual being harassed that the City has a policy prohibiting such behavior, and that he or she can demand that the harasser cease the behavior.
- Maintain confidentiality as required by this Policy.
- Fully cooperate with the City's investigation of complaints made under this Policy.

#### **2. Managers and Supervisors**

In addition to the responsibilities listed above, managers and supervisors are responsible for the following:

- Implementing this Policy by taking all complaints seriously and modeling behavior that is consistent with this Policy. Direct all complaints to the Personnel Director.
- Taking positive steps to eliminate any form of harassment, discrimination or retaliation observed or brought to his/her attention.
- Making sure no department director, supervisor or other employee retaliates through any action of intimidation, restraint, coercion or discrimination.

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- Monitoring the work environment and taking appropriate action to stop potential Policy violations.
- Following up with those who have complained to ensure the behavior complained of has ceased.
- Informing complainants of their option to contact the EEOC or DFEH regarding a potential Policy violation.

### **C. MANDATORY TRAINING**

As part of its commitment to ensuring a work environment free from harassment and discrimination, the City requires that all of its employees receive training on this Policy at least once every two years. Human Resources will schedule training sessions each year to ensure that employees are able to complete the mandatory training. Attendance at the training will be documented.

### **Section 20.9 Disposition of Complaints**

Only one of the following four (4) dispositions will be used to classify the disposition of an allegation of harassment:

- (a) Sustained Complaints- If the complaint is substantiated, this policy and procedure prohibiting discrimination/harassment will be reviewed with the offender. Appropriate disciplinary action and/or training, will be taken pursuant to disciplinary procedures.
- (b) Not Sustained Complaints- If there is insufficient evidence to either prove or disprove the allegation(s), both parties to the complaint will be informed of the reason(s) for this disposition.
- (c) Unfounded Complaint- If it is determined that an act reported pursuant to this policy/procedure did not in fact occur, a finding of unfounded shall be made.
- (d) Exonerated Complaints- If it is determined that an act reported pursuant to this policy/procedure did in fact occur, but was lawful and proper within the guidelines established herein, a finding of exonerated shall be made.

Should it be determined that the reporting party maliciously filed the complaint knowing that it was false or frivolous at the time of the complaint, that employee shall be subject to discipline up to, and including termination.

### **Section 20.10 Documentation of Complaints**

All complaints or allegations shall be documented on forms and in manner designated by the Director of Personnel. All reports shall be:

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

- Approved by the Director of Personnel
- Maintained for a minimum of five (5) years

### **Section 20.11 Questions Regarding Discrimination or Harassment**

Employees having questions are encouraged to contact a supervisor, manager, their department head, Personnel Director or the City Manager, or they may contact the California Department of Fair Employment and Housing at (800) 884-1684 or the Equal Employment Opportunity Commission (800) \_\_\_\_\_ - (NEED PHONE NUMBER)

### **Section 20.12 Workplace Violence**

The City of Lindsay is committed to providing a safe work environment that is free of violence and the threat of violence. The top priority in this process is effectively handling critical workplace incidents, especially those dealing with actual or potential violence. The department of public safety will be notified of all incidents.

This policy sets forth the City's position regarding workplace violence and provides guidance to all employees, supervisors and managers in addressing workplace violence issues.

- A. Violence or the threat of violence, against or by any employee of the City or any other person is unacceptable.
  - (1) Should a non-employee, on City property, demonstrate or threaten violent behavior he/she may be subject to criminal prosecution.
  - (2) Should an employee, during working hours, demonstrate or threaten violent behavior he/she may be subject to disciplinary action in addition to criminal prosecution.
  
- B. The following actions are considered violent acts and are explicitly prohibited.
  - (1) Striking, punching, slapping, or assaulting another person.
  - (2) Fighting or challenging another person to fight.
  - (3) Grabbing, pinching or touching another person in an unwanted way whether sexually or otherwise.
  - (4) Engaging in dangerous, threatening or unwanted horseplay.
  - (5) Possession, use or threat of use, of a gun, knife or other weapon of any kind on the city property, including parking lots, other exterior premises, city vehicles, or unless such possession or use is a requirement of the job.
  - (6) Threatening or harming another person, or any other action or conduct that implies the threat of bodily harm.

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- C. Any employee who is victim of any violent threatening or harassing conduct, any witness to such conduct, or anyone receiving a report of such conduct, whether the perpetrator is a city employee or non-employee person in the chain of command.

The appropriate person in the chain of command may include:

- (1) Immediate Supervisor
- (2) Department Head
- (3) Personnel Director
- (4) City Manager

If no one in the chain of command can be reached, the employee should report to the personnel department. In case of emergencies, the employee should call 911 immediately.

- D. No one, acting in good faith who initiates a complaint or reports an incident under this policy will be subject to retaliation or harassment.
- E. In the event the City fears for the safety of the perpetrator or the safety of others at the scene of the violent act, law enforcement will be called for assistance.
- F. Employees who violate this policy may be subject to disciplinary action up to and including termination.

# CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

## RULE XXI

### **SUBSTANCE ABUSE POLICY**

#### **Section 21.1 Introduction**

The intent of this policy is to deter the misuse or abuse of legal or illegal substances that create a threat to the safety and health of any City Employee or member of the public. The City of Lindsay discourages alcohol and drug abuse and strives to achieve a work force free from the influence of drugs and alcohol.

In recognition of the City's responsibility to maintain a safe, healthful and productive work environment and each employee's responsibility to perform work for the public safely, effectively and efficiently, the City will act to eliminate any substance abuse which increases the risk of accidents, absenteeism, substandard performance, poor employee's morale or damage to the City's reputation. Substance abuse includes the use of or possession of illegal drugs, alcohol or controlled substance, which could impair an employee's ability to perform his or hers job safely, effectively and efficiently.

The City of Lindsay believes that its employees are its most important assets. Thus, a primary objective of the policy is to ensure that public safety and the welfare of our employees are not endangered as a result of substance abuse. Additionally, the City is committed to provide an employee with an opportunity for recovery and rehabilitation, enabling the affected employee to return to satisfactory job performance level.

#### **Section 21.2 Purpose**

This policy sets forth the City's position regarding substances abuse and provides guidance to all employees, supervisors and managers in addressing substance abuse issues.

#### **Section 21.3 Policy**

It is the City's policy that no employee shall:

- (a) Report to work under the influence of alcohol or drugs;
- (b) Be under the influence of alcohol or drugs while on standby;
- (c) Possess drugs while on duty or while on standby;
- (d) Use alcohol or drugs while on duty or while on standby;
- (e) Sell, distribute or provide alcohol or drugs to any employee or person while on duty or while on standby;
- (f) Sell, distribute or provide alcohol or drugs to any employee or person while on duty or while on standby;
- (g) Have their ability to work impaired as a result of the use of alcohol or drugs.

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While use of medically prescribed medication and drugs is not per se a violation of the policy, failure by the employee to notify his/her supervisor before beginning work when taking such medication or drugs which may interfere with the safe and effective performance of duties is a violation of this policy. In the event there is a question regarding the employee's ability to safely and effectively perform the assigned duties while using such medication or drugs, clearance from a qualified physician will be required.

The City reserves the right to search, without employee consent, all areas and property in which the City maintains full or joint control with the employee for the purpose of detecting the presence of alcohol or illegal drugs. Areas in which the City maintains full control include but are not limited to all City owned equipment. Areas jointly controlled by the City and employees include but are not limited to desks, lockers, file cabinets, office cabinets and bookshelves. Otherwise, the City may notify the appropriate law enforcement agency that an employee may have illegal drugs in his/her possession or in an area not jointly or fully controlled by the City.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be detained for a reasonable time until an authorized City representative or law enforcement representative can transport the employee from the work site.

Violations of this policy may be grounds for disciplinary action, up to and including discharge. Refusal to submit immediately to a drug and/or alcohol test when requested by City management or law enforcement personnel, failure to cooperate during testing, or any acts taken by the employee to negate testing procedures, may constitute insubordination and may be ground for discipline up to and including termination.

The City has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact the Personnel Director or their supervisors for additional information. The City is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as disabled.

### **Section 21.4 Application**

This policy applies to all City of Lindsay employees as well as applicants for positions with the City of Lindsay. This policy applies to alcohol and to all substances, drugs or medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the function of the job.

### **Section 21.5 Employee Responsibilities**

An employee shall:

- (a) Not report to work or while on standby have his/her ability to perform job duties impaired due to alcohol or drug use, on or off duty.
- (b) Not possess, use, or be under the influence of alcohol or drugs (illegal drugs and legal drugs without a prescription) during working hours, while on standby, on breaks, during meal periods or while driving a personnel vehicle or City vehicle on City business;

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- (c) Not directly or through a third party sell or provide drugs or alcohol to any person or to any other employee while either employee or both employees are on duty or while on standby;
- (d) Submit immediately to a drug and/or alcohol test when directed by a responsible City supervisor or management representative;
- (e) Notify his/her supervisor, before beginning work or when contacted for call back when taking any medications or drugs, prescription or non-prescription, or alcohol, which may interfere with the safe and effective performance of duties or operation of City equipment; and;
- (f) Upon request, provide a current valid prescription for any drug or medication identified when a drug analysis is positive within a reasonable time period. The prescription must be in the employee's name.

### **Section 21.6 Employee Complaint**

- (a) Any employee may file a complaint with their department head regarding any employee whose performance is being affected by substance abuse.
- (b) An employee filing a complaint shall, within 24 hours, document in writing, the facts constituting reasonable suspicion that the employee in question was intoxicated or under the influence of drugs and/or alcohol.
- (c) Complaints, which are determined to be malicious or vexatious will not be tolerated and will subject the complaining individual to disciplinary action.

### **Section 21.7 Management Responsibilities and Guidelines**

- A. Manager and supervisors are responsible for consistent enforcement of this policy.
- B. Managers and supervisors may direct an employee to submit to a drug and/or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol. "Reasonable suspicion" is a belief based on objective and articulable facts sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- (a) Slurred speech;
- (b) Alcohol on breath;
- (c) Problems walking or other physical activity impairments;
- (d) An accident involving City property;

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- (e) Physical altercation;
  - (f) Verbal altercation;
  - (g) Behavior, which is so unusual that it, warrants summoning a supervisor or anyone else with authority;
  - (h) Possession of alcohol or drugs;
  - (i) Information obtained from a reliable person with personal knowledge.
- C. Any manager or supervisor directing an employee to submit to a drug and/or alcohol test shall, within 24 hours, document in writing the acts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs and/or alcohol. Any manager or supervisor encountering an employee who refuses to submit to a drug and/or alcohol test upon request shall remind the employee of the requirements and consequences of this policy.
- (j) Managers or supervisors shall not physically search employees.
  - (k) Managers and supervisors shall notify the appropriate law enforcement agency when they have reasonable suspicion or believe that an employee may have illegal drugs in his or her possession or in an area not jointly or fully controlled by the City.
  - (l) Managers and supervisors may search areas jointly or fully controlled by the City.
  - (m) Managers and supervisors shall not confiscate, without consent, prescription drugs or medication from an employee who has a prescription.

### **Section 21.8 Employee Assistance Program**

The City has a well-established voluntary Employees Assistance Program (EAP) to assist employees who seek help for substance abuse problems.

The EAP is available for assessment, referral to treatment, and follow-up. Any employee with the City of Lindsay wishing confidential assistance for a possible alcohol or drug problem may contact personnel, their insurance provider or the Employee Assistance Program for additional information.

Employees who are concerned about their alcohol and/or drug use are strongly encouraged to voluntarily seek assistance through the EAP or health insurance program. In addition, employees who are concerned about alcohol and/or drug use among their co-workers should strongly encourage those individuals to seek assistance through the EAP.

All Self-referral contacts are held in confidence by the EAP unless the employee requests, through specific written release of information, that the department, supervisors, union or other parties be notified.

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The employee's compliance with recommendations of the EAP is voluntary. Employee's job security and/or promotional opportunities will not be jeopardized by utilization of the EAP or any other treatment service.

If an employee requires leave time for substance abuse treatment, he/she can follow established personnel policy concerning sick leave usage.

### **Section 21.9 Confidentiality**

The City recognizes the confidentiality and privacy due employees, and disclosure of any information relating to chemical abuse treatment, except on a need to know basis, shall only be with the expressed written consent of the employee involved or pursuant to lawful process.

### **Section 21.10 Compliance**

Employees must, as a condition of employment, abide by the terms of this policy, and report any conviction under a criminal drug statute for violations occurring on or off city premises while conducting City Business. A report of a conviction must be made as soon as possible, but in no case more than five (5) days after the conviction.

**MISCELLANEOUS RULES**

**Section 22.1 Dress Code**

Employees of the City are required to dress appropriately for the jobs they are performing. Therefore, failure to follow the dress regulations contained in this section shall be grounds for discipline.

- (1) All clothing must be neat, clean, and in good repair.
- (2) Prescribed uniforms and safety equipment must be worn.
- (3) Foot wear must be appropriate for the work environment and functions performed.
- (4) Hair must be neat, clean and well-groomed.
- (5) Beards, mustaches, and sideburns must be maintained in neat and well-groomed fashion.
- (6) Jewelry is acceptable except where it constitutes a health or safety hazard.
- (7) Good personal hygiene is required.
- (8) Dress must be appropriate to the work setting particularly if the employee has public contact.
- (9) No tattoos are allowed anywhere on the head, face, or neck.
- (10) Any visible tattoos shall not be obscene, sexually explicit, discriminatory to sex, race, religion, or national origin, extremist, and/or gang-related. Any non-conforming tattoos will be covered with clothing or a bandage while at work or removed.
- (11) For employees working with the public, no objects, articles, jewelry or ornamentation of any kind shall be attached to or through the skin if visible on any body part including the tongue or any part of the mouth except one set of reasonably-sized earrings in each lobe. Any non-conforming piercing shall be removed, covered with a bandage, or replaced with a clear, plastic spacer.

If an employee has a question about how the piercing policy is applicable to them, the matter should be immediately raised with their supervisor for consideration and determination.

**Section 22.2 Outside Activities**

A full-time employee may not carry on concurrently with his/her public service, any private business or undertaking, attention to which affects the time or quality of his/her work or which casts discredit upon or creates embarrassment for the city government.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 22.3 Other Public Offices**

An employee may not accept appointment to a county or state or position or otherwise incur an obligation of civil public service outside his/her regular municipal employment without first obtaining the recommendation of his/her department head and approval of the City Manager.

### **Section 22.4 Official Badge or Insignia**

An official or employee who wears a badge or other official insignia as evidence of his/her authority may not permit the badge or insignia to be used or worn by another person without approval of the department head. The department head may not grant approval except to a person regularly and formally appointed by the City Manager to the position designated by the badge or insignia. The employee shall return the badge or insignia to the department head when he/she terminates.

### **Section 22.5 Purchase Order**

No officer or employee may order services or merchandise without first being authorized to do so and obtaining a purchase order. Employee who orders services or merchandise without a purchase order is personally responsible for payment.

### **Section 22.6 Operating City Vehicles**

Employees whose duties include the driving of a city vehicle shall possess a valid driver's license issued by the State of California, such license shall be carried at all times when so engaged.

### **Section 22.7 False Information**

No employee of the City of Lindsay shall make false official reports or knowingly enter or cause to be entered in any department books, records, or reports, any inaccurate, false or improper information. A failure to enter information as required by an employee is also deemed to be false information.

### **Section 22.8 Release of Information**

It is the City's policy that all requests for information concerning current or former employees, either by telephone or in writing, are to be referred to the Personnel Director.

It is the City's policy to state only that a person is (was) employed with the City, the date of employment and verification of title or position.

When a valid authorization for release of information, as determined by the Personnel Director is submitted, additional information may be release. All requests for references must be made in writing. Generally only written references will be provided and then only in conformance with the specific provisions of the former employees' authorization to release information.

Only job-related issues are to be discussed. Job-related issues include attendance, work habits, quality and quantity of work, supervision required and initiative.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 22.9 Employment of Related Persons**

A policy concerning the employment of related persons applicable to personnel practices is desirable since employment decisions and/or supervision involving a related person may create potential conflicts of interest, create a negative or unprofessional work environment, or present concerns regarding supervision, safety, security or morale.

#### **Section 22.9.1 Definition of “Related Person”**

“Related Person” shall include: mother, father, grandmother, grandfather, or grandchild of the employee or spouse or domestic partner of the employee, and the son, son-in-law, daughter, daughter-in-law, brother or sister of the employee, or any other person living in the immediate household of the employee.

#### **Section 22.9.2 Prohibited Conduct**

- (a) Related person will not be eligible for employment with the City where potential problems of supervision, safety, security or morale, or potential conflicts of interest exist.
- (b) Related persons may not be employed in the same department nor under the same immediate supervisor where potential problems of supervision, safety, security or morale, or potential conflicts of interest exist.
- (c) One related person may not supervise another person where the potential for creating adverse impact on supervision, safety, security or morale exists.

### **Section 22.10 Meals and Breaks Periods**

All employees except for police and fire personnel, are not on call during meal breaks unless directed otherwise by a supervisor. The time spent for meal period shall not exceed the authorized time allowed.

Each employee is entitled to a 15-minute break, near the mid point, for each four-hour work period. Only one 15-minute break shall be taken during each four hours of duty. No breaks shall be taken during the first or last two hours of an employee’s shift unless approved by a supervisor.

### **Section 22.11 Time Sheets**

All employees are paid on a bi-weekly basis usually on Friday with certain exceptions such as holidays. Time sheets shall be completed and submitted to Administration no later than Monday on a bi-weekly basis, unless specified otherwise. Department heads are responsible for the accurate and timely submission of the time sheets for the payment of wages.

### **Section 22.12 Seatbelts**

All employees shall wear available safety restraints whenever operating a City vehicle or equipment.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 22.13 Smoking**

Smoking and other use of tobacco products is not permitted inside city facilities. It shall also be the responsibility of all employees to ensure that no person smokes or uses any tobacco product inside city facilities. Department heads may designate specific vehicles as “smoking” vehicle.

### **Section 22.14 Fitness for Duty**

#### **Section 22.14.1 Conditional Offer of Employment Examinations**

After a conditional offer of employment has been extended to an applicant, the City may, in compliance with all applicable laws, require the applicant to submit to a fitness for duty examination prior to conferring appointment.

#### **Section 22.14.2 Current Employee Examinations**

The Personnel Director or a designee may require an employee to submit to a fitness for duty examination to determine if the employee is able to perform the essential functions of his or her job when: 1) the employee appears to be unable to perform or has difficulty performing one or more essential functions of his or her job; and 2) there is reason to question the employee’s ability to safely or efficiently complete work duties.

#### **Section 22.14.3 Role of Health Care Provider**

A City-selected health care provider will examine the employee at City expense. The City will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the employee’s job. The health care provider will examine the employee and provide the City with non-confidential information regarding whether:

- 1) the employee is fit to perform essential job functions;
- 2) there are any reasonable accommodations that would enable the employee to perform essential job functions; and
- 3) the employee’s continued employment poses a threat to the health and safety of him or herself or others. Should the health care provider exceed the scope of the City’s request and provide confidential health information, the City will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the City has requested.

#### **Section 22.14.4 Medical Information**

During the course of a fitness for duty examination, the City will not seek or use information regarding an employee’s medical history, diagnoses, or course of treatment without an employee’s written authorization.

#### **Section 22.14.5 Medical Information from the Employee’s Health Care Provider**

An employee may submit confidential medical information to the City from his or her personal health care provider. If the employee provides written authorization, the Personnel Director will submit the information that the employee provides to the City-paid health care provider who

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

conducted the examination. The Personnel Director will request the City-paid health care provider to determine whether the information alters the original fitness for duty assessment.

### **Section 22.14.6            Interactive Process Discussion**

After receipt of both the health care provider's fitness for duty report, and the analysis of the employee's personal health care information (if any) the Personnel Director will arrange for a discussion or discussions, in person or via conference telephone call, with the employee and his or her representatives, (if any). The purpose of the discussions will be in good faith to fully discuss all feasible potential reasonable accommodations. During the discussions, the Personnel Director will also discuss, if relevant, alternate available jobs for which the employee is qualified, or whether the employee qualifies for disability retirement or family and medical leave.

### **Section 22.14.7            Determination**

After the discussions, the Personnel Director will review the information received, and determine if there is a reasonable accommodation that would enable the employee to perform essential job functions, or if the accommodations would pose an undue hardship on City finances or operations. The Personnel Director will inform the employee of his or her determination. The Personnel Director will use his or her discretion based upon the particular facts of each case.

**COMPUTER, INTERNET, ELECTRONIC MAIL, AND VOICE MAIL**

**Section 23.1 Introduction**

The City of Lindsay, hereinafter (City), is committed to providing employees with the business tools necessary in order to enhance efficiency in job performance and best serve the citizens of Lindsay.

**Section 23.2 Purpose**

This policy sets forth the City’s policy with respect to the use of computers, electronic mail (e-mail), intranet (internal messaging systems), mobile messaging, telephonic voice mail and Internet access and other electronic communications systems provided by the City of Lindsay.

**Section 23.3 Applicability**

The provisions of this policy apply to all employees of the City of Lindsay, including full-time and temporary employees, as well as volunteers, agents and vendors.

**Section 23.4 General Provision**

With the rapidly changing nature of electronic media, and the “etiquette” which is developing among users of external on-line services and the Internet, this policy cannot lay down rules to cover every possible to be applied to use of computers, electronic mail (e-mail), intranet (internal messaging systems), and mobile messaging systems, telephonic voice mail and Internet access and other electronic communications systems provided by the City of Lindsay.

**Section 23.5 No expectation of Privacy**

The city respects the individual privacy of its employees. However, employee privacy does not extend to the employee’s work-related conduct or to the use of City-provided equipment or supplies.

**Section 23.6 Ownership**

E-mail, telephonic voice mail, internal messaging systems, Internet access and other electronic communications systems are provided only for the purpose of conducting City business. All electronic communications of any sort or type generated by employees with City equipment or stored on city equipment are the property of the City of Lindsay.

The City recognizes that there may be incidental or occasional personal use of e-mail or voice mail but these messages will be treated the same as other messages. The City reserves the right to access and disclose as necessary all messages sent over its e-mail or voice mail system, without regard to content. Since your personal messages can be assessed by the City management without prior notice, you should not use e-mail or voice mail to transmit any messages you would not want read, or listened to by a third party. Misusing the Internet e-mail system, or telephonic voice mail systems will subject you to disciplinary action up to and including termination.

## CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS

All software programs, computer files and other documents created by City employees on City computer or other electronic systems are the property of the City and therefore exclusively owned by the City.

### **Section 23.7 Prohibited Uses**

All employees are prohibited from:

- (a) Installation of programs on the City's computer systems (including virus checking and screen savers) without prior written consent of the department head.
- (b) Copying City Software programs for personal use;
- (c) Use another employee's password to attempt to gain access to the employee's computer electronic mail (e-mail), Internet access or other electronic communications systems;
- (d) Connecting computers (including laptops and personal computers) not owned or leased by the City to the City's information system network without prior written consent;
- (e) Using the access code, log-on or password of other employees to gain access to their e- mail or computer records, without prior consent.
- (f) Disclosing access codes, log-on or password of otherwise make the City electronic resources available to persons not authorized to have such access;
- (g) Infringing on others' access and use of the City's information systems, including, but not limited to:
  - 1. Sending of excessive messages, either locally or off-site;
  - 2. Unauthorized modifications of system facilities, operating systems or disk partitions;
  - 3. Attempting to crash or tie up a City computer or network;
  - 4. Attempting or gaining unauthorized access to or damaging or vandalizing City computing facilities, equipment, software, or computer files;
  - 5. Developing or using a modem on City owned or leased computers without the prior written consent;
  - 6. Installing or using a modem on City owned or leased computers without the prior written consent.
  - 7. Violating any federal, state or local laws in the use of City information systems;

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

8. Violating any copyright or license to software, information (including, but not limited to, text images, icons, programs, etc.) Whether created by the City or any other person or entity;
- (h) Exposing others, either intentionally or unintentionally, to material which is offensive, obscene or in poor taste;
- (i) Any use that would be offensive to a reasonable person because it involves an individual's race, religion, color, sex, gender identity, sexual orientation (including heterosexuality, homosexuality and bisexuality), ethnic or national origin, ancestry, citizenship status, uniformed service member status, marital status, family relationship, pregnancy, age, medical condition (cancer or HIV/AIDS related), genetic characteristics, and physical or mental disability (whether perceived or actual);
- (j) Communication of confidential City information to unauthorized individuals within or outside the City;
- (k) Sending messages with content that conflicts with any City policies, rules or other applicable laws;
- (l) Unauthorized attempts to access City data or systems;
- (m) Theft or unauthorized copying of electronic files or data;
- (n) Initiating or sustaining chain letters, and
- (o) Intentionally misrepresenting one's identity for improper or illegal acts.

### **Section 23.8 Violations of This Policy**

Violations of any provision of this policy may result in disciplinary action up to and including termination of employment.

**FEDERAL HEALTH CONTINUATION REQUIREMENTS THE CONSOLIDATED  
OMNIBUS RECONCILIATION ACTS OF 1985**

**Section 24.1 Continuation Rights as an Employees**

The Employee covered by the City group health plan, has the right to choose Continuation Coverage if the employee losses his/her group health coverage because of a reduction in hours of employment or termination of employment, except for reasons of gross misconduct.

**Section 24.2 Continuation Rights as a Spouse**

The spouse of an employee covered by a group health plan, has the right to chose Continuation coverage if the employee’s group health coverage is lost due to:

- (1) The death of the employee
- (2) Termination of the employee’s employment (for reason other than gross misconduct) or reduction in his or her hours of employment;
- (3) Divorce or legal separation; or
- (4) The employee’s entitlement to Medicare.

**Section 24.3 Continuation Rights as a Dependent Child**

A dependent child of an employee covered by a group health plan has the right to Continuation Coverage if the employee’s group health coverage is lost due to:

- (1) The death of the employee
- (2) Termination of the employee’s employment (reasons other than gross misconduct) or reduction in his or her hours of employment;
- (3) Divorce or legal separation;
- (4) The employee’s entitlement to Medicare; or
- (5) The dependent ceasing to be dependent child as defined under this group health plan.

**Section 24.4 Notice Requirements**

The law requires that the employee or family member inform the Plan Administrator, within 60 days, of a divorce, legal separation or when a child is no longer a dependent as defined under group health plan. If the Plan Administrator is someone other than the employer, then the employer has the responsibility to notify the Plan Administrator, within 30 days, in the case of employee’s death, termination of employment, reduction in hours or Medicare entitlement. When the Plan administrator is notified that one of these events has happened, the Plan Administrator will in turn notify the employee within 14 days, that he/she has the right to choose Continuation Coverage. The employee then has 60 days from the date they would lose coverage or the date of the notice, whichever is greater, to elect Continuation Coverage.

Each person who loses group health coverage has a separated right to make an election. If Continuation Coverage is not elected, group health coverage may end.

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

### **Section 24.5 Premium Payment**

A person electing Continuation Coverage may be responsible for the payment for the continued coverage. In most cases the maximum amount that may be charged for Continuation Coverage is 102% of the applicable group premium.

The first premium for Continuation Coverage is due by the 45<sup>th</sup> day following the date the person elects Continuation Coverage.

The employee has the right to make all future premium payments on a monthly basis. However, annual, semi annual or quarterly payments may also be made if the employee and employer so agree. A grace period of 30 days (or one equal in length to the employer grace period, if longer) will be allowed for late payment of any monthly premium.

Failure to pay the premium by the end of the grace period may cause termination of Continuation Coverage.

### **Section 24.6 Length of Continuation Coverage**

The maximum length for Continuation Coverage is 18 months when the cause for loss of coverage is termination of employment or reduction in the hours of the employee. In all other cases, the Continuation Coverage period 36 months. Continuation Coverage, however, may terminate before the end of the 18 or 36 month period when:

- (1) The former employer no longer provides group health coverage to any of its employees;
- (2) The premium for Continuation Coverage is not paid by the end of the grace period;
- (3) The employee becomes covered under another employer sponsored health plan, except when the new plan has a pre existing condition provision; or
- (4) The employee becomes entitled to Medicare.

When Continuation Coverage terminates, the employee will be allowed to convert to an individual health conversion policy, if a health conversion privilege is available to similarly situated active employees.

### **Section 24.7 Extension of Continuation Coverage**

If the employee and his/her spouse or dependent children have elected Continuation Coverage for 18 months due to termination of employment or reduction in hours and before the end of the 18 month period:

- (1) The employee dies
- (2) The employee divorces or becomes legally separated; or
- (3) The employee becomes entitled to Medicare,

## **CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

The spouse and dependent children may extend Continuation Coverage. Additionally, during the 18 month period, if a child loses dependent status, the child may also extend Continuation Coverage.

In these instances, Continuation Coverage will be extended up to 36 months from the date coverage was originally lost, subject to payment of up to 102% of the applicable group premium.

### **Section 24.8 Pre-existing Medical Conditions**

If the employee's Continuation Coverage terminates because the employee became covered under another employer sponsored health plan and that plan limits or reduces the employee's coverage due to a pre-existing medical condition, the employee may maintain Continuation Coverage for the balance of the applicable 18 or 36 months period.

Continuation Coverage will then pay benefits for the pre-existing medical condition without regard to any other group health coverage. All other benefits will be coordinated with the new group health plan so that no more than 100% of allowable expenses under both group health plans will be payable.

### **Section 24.9 Social Security Disability**

If the employee, his/her spouse or dependent child are disabled at the time of termination in employment or reduction in hours, the disabled person may be entitled to 29 months of Continuation Coverage instead of 18 months.

To qualify for this extension, he or she must apply for disability status under the Social Security Act and notify the Plan Administrator when a determination of disability is made. This notice must be provided to the Plan Administrator within 60 days after the date of determination and prior to the end of the 18- month continuation period. The disabled person must also notify the Plan Administrator within 30 days of the date the Social Security Administration determines that he or she is no longer disabled. This extended Continuation Coverage will then terminate on the first day of the month, which begins after the 30 days of the date of final determination by Social Security.

The first 18 months of Continuation Coverage may require payment of up to 102% of the applicable group premium. The next 11 months may require payment of up to 150% of the applicable group premium.

### **Section 24.10 State Continuation Rights**

Several, but not all states, have continuation options from which the employee may choose as alternatives to Continuation Coverage. If the group health plan requires the employer to offer a state continuation option, there should be an explanation in the employee's group health booklet. The employee may elect either the State Continuation or Continuation Coverage but the employee cannot elect both.

This policy is intended to provide the employee with a brief explanation of COBRA. It is not intended to provide the employee with legal advice.

**CITY OF LINDSAY – PERSONNEL RULES AND REGULATIONS**

Any notice of change of address, change of marital status, or children's status should be sent to the employer at:

City of Lindsay  
251 E. Honolulu  
P.O. Box 369  
Lindsay, CA 93247



# Memo

**To:** Mayor Padilla and City Council Members  
**From:** Bill Zigler, Interim City Manager  
**Date:** 08/25/2015  
**Re:** Request for Contract Renewal with LUSD

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## SUMMARY:

To renew agreements with Lindsay Unified School District and authorize the Interim City Manager to execute the agreements on behalf of the city.

## RECOMMENDED ACTION:

Staff recommends that the City Council approve the attached agreements with LUSD.

## ATTACHMENTS:

Use of the City Swimming Pool  
Lindsay Patriots Extracurricular Sports Program and  
After School – Tienken Program

**LINDSAY UNIFIED SCHOOL DISTRICT  
AND  
CITY OF LINDSAY**

**LINDSAY WELLNESS CENTER SWIMMING POOL USE AGREEMENT**

**THIS AGREEMENT**, is entered into as of August 10, 2015 , between the LINDSAY UNIFIED SCHOOL DISTRICT, referred to as DISTRICT, and the CITY OF LINDSAY, referred to as CONSULTANT, with reference to the following:

- A. Government Code section 53060 and Education Code section 35160 authorize the District to contract with persons who are specially trained and experienced and competent to perform special services.
- B. District wishes to hire CONSULTANT as an independent contractor pursuant to the authority of Government Code section 53060 and Education Code section 35160.
- C. Pursuant to Education Code section 45103.1(b)(2), the services contracted are not available within the DISTRICT, cannot be performed satisfactorily by school district employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the school district.

**ACCORDINGLY, IT IS AGREED:**

**1. TERM:** This Agreement shall become effective as of July 1, 2015 and shall expire on June 30, 2016 unless otherwise terminated as provided in this Agreement.

**2. SERVICES:** CONSULTANT shall provide services as set forth in Exhibit A, entitled "Scope & Cost of Services" which exhibit is made part of this Agreement by reference.

**3. COST OF SERVICES:** For services rendered, CONSULTANT shall be paid according to the fee schedule set forth in Exhibit A.

**4. METHOD OF PAYMENT:** CONSULTANT shall provide a monthly invoice or upon completion of services to DISTRICT. DISTRICT shall provide and file IRS Form 1099 to report CONSULTANT'S calendar year earnings.

**5. COMPLIANCE WITH LAW:** CONSULTANT shall provide services in accordance with applicable Federal, State, and local laws, regulations and directives. With respect to CONSULTANT'S employees, CONSULTANT shall comply with all laws and regulations pertaining to wages and hours, state and federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment.

**6. RECORDS AND AUDIT:** CONSULTANT shall maintain complete and accurate records with respect to the services rendered and the costs incurred under this Agreement. In addition, CONSULTANT shall maintain complete and accurate records with respect to any payments to employees or subcontractors. All such records shall be prepared in accordance with generally accepted accounting procedures, shall be clearly identified, and shall be kept readily accessible. Upon request, CONSULTANT shall make such records available within Tulare County to the designated public and/or private auditor of DISTRICT and to his agents and representatives, for the purpose of auditing and/or copying such records for a period of five (5) years from the date of final payment under this Agreement.

**7. INDEPENDENT CONTRACTOR STATUS:**

a. This Agreement is entered into by both parties with the express understanding that CONSULTANT will perform all services required under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to constitute the CONSULTANT or any of its agents, employees or officers as an agent, employee or officer of DISTRICT.

b. CONSULTANT agrees to advise everyone it assigns or hires to perform any duty under this agreement that they are not employees of DISTRICT. Subject to any performance criteria contained in this Agreement, CONSULTANT shall be solely responsible for determining the means and methods of performing the specified services and DISTRICT shall have no right to control or exercise any supervision over CONSULTANT as to how the services will be performed. As CONSULTANT is not DISTRICT'S employee, CONSULTANT is responsible for paying all required state and federal taxes. In particular, DISTRICT will not:

i. Withhold FICA (Social Security) from CONSULTANT'S payments.

ii. Make state or federal unemployment insurance contributions on CONSULTANT'S behalf.

iii. Withhold state or federal income tax from payments to CONSULTANT.

iv. Make disability insurance contributions on behalf of CONSULTANT.

v. Obtain unemployment compensation insurance on behalf of CONSULTANT.

c. Notwithstanding this independent contractor relationship, DISTRICT shall have the right to monitor and evaluate the performance of CONSULTANT to assure compliance with this Agreement.

**8. FINGERPRINTING REQUIREMENTS:**

a. Pursuant to California Education Code section 45125.1, before any agents or employees of CONSULTANT may enter school grounds where they may have any contact with pupils, CONSULTANT shall submit fingerprints of its employees in a manner authorized by the California Department of Justice, together with a fee determined by the Department of Justice. CONSULTANT shall not permit any employee to come in contact with pupils of School District until the Department of Justice has ascertained that the CONSULTANT'S employees have not been convicted of a felony as defined in Education Code section 45122.1.

b. CONSULTANT shall provide the DISTRICT with a written list of the names of its employees who may come in contact with pupils before commencement of work. CONSULTANT shall certify, in a form provided and attached, under penalty of perjury, that it has complied with the requirements of Education Code section 45125.1, and that none of its employees who may come in contact with pupils have been convicted of a felony as defined in Education Code section 45122.1, based upon the information CONSULTANT has received from the Department of Justice.

c. If CONSULTANT believes that its employees will have only limited contact with pupils and should therefore be exempted from these requirements, CONSULTANT must contact the DISTRICT with its request for exemption within fifteen (15) days prior to the commencement of work. The request for exemption must specify the grounds for such proposed exemption, considering the totality of circumstances, including but not limited to the length of time CONSULTANT will be on school grounds, whether pupils will be in proximity to the site where the CONSULTANT'S employees are working, and whether the CONSULTANT'S employees will be working by themselves or with others. Whether to grant or deny the exemption is within the sole discretion of the DISTRICT governing board.

d. The CONSULTANT shall impose the foregoing requirements on any subcontractors or assignees.

**9. INDEMNIFICATION:** CONSULTANT shall hold harmless, defend and indemnify DISTRICT, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including DISTRICT property, arising from, or in connection with, the performance by CONSULTANT or its agents, officers and employees under this Agreement. This indemnification specifically includes any claims that may be made against DISTRICT by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against DISTRICT alleging civil rights violations by CONSULTANT under Government Code section 12920 et seq. (California Fair Employment and Housing Act) and any fines or penalties imposed on DISTRICT for CONSULTANT'S failure to provide form DE-542, when applicable. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

**10. CONFLICT OF INTEREST:**

a. CONSULTANT agrees at all times in performance of this Agreement to comply with the law of the State of California regarding conflicts of interests or appearance of conflicts of interest, including, but not limited to Government Code section 1090 et seq., and the Political Reform Act, Government Code section 81000 et seq. and regulations promulgated pursuant thereto by the California Fair Political Practices Commission. The statutes, regulations and laws previously referenced include, but are not limited to, prohibitions against any public officer or employee, including CONSULTANT for this purpose, from the making of any decision on behalf of DISTRICT in which such officer, employee or consultant has direct or indirect financial interest. A violation can occur if the public officer, employee or consultant participates in or influences any DISTRICT decision which has the potential to confer any pecuniary benefit on CONSULTANT or any business firm in which CONSULTANT has an interest, with certain narrow exceptions.

b. CONSULTANT agrees that if any facts come to its attention which raise any questions as to the applicability of conflicts of interest laws, it will immediately inform the DISTRICT designated representative and provide all information needed for resolution of this question.

#### **11. TERMINATION:**

a. The right to terminate this Agreement under this provision may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement.

i. Without Cause: DISTRICT shall have the right to terminate this Agreement without cause by giving thirty (30) days prior written notice of intention to terminate pursuant to this provision, specifying the date of termination.

ii. With Cause:

(1) This Agreement may be terminated by either party should the other party:

(a) be adjudged a bankrupt, or

(b) become insolvent or have a receiver appointed, or

(c) make a general assignment for the benefit of creditors, or

(d) suffer any judgment which remains unsatisfied for 30 days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or

(e) materially breach this Agreement.

(2) For any of the occurrences except item (e), termination may be effected upon written notice by the terminating party specifying the date of the termination.

(3) Upon a material breach, the Agreement may be terminated following the failure of the defaulting party to remedy the breach to the satisfaction of the non-defaulting party within five (5) days of written notice specifying the breach. If the breach is not remedied within that five (5) day period, the non-defaulting party may terminate the agreement on further written notice specifying the date of termination.

(4) If the nature of the breach is such that it cannot be cured within a five (5) day period, the defaulting party may, submit a written proposal within that period which sets forth a specific means to resolve the default. If the non-defaulting party consents to that proposal in writing, which consent shall not be unreasonably withheld, the defaulting party shall immediately embark on its plan to cure. If the default is not cured within the time agreed, the non-defaulting party may terminate upon written notice specifying the date of termination.

b. Effects of Termination: Expiration or termination of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities.

c. Suspension of Performance: Independent of any right to terminate this Agreement, the authorized representative of DISTRICT for which CONSULTANT'S services are to be performed, may immediately suspend performance by CONSULTANT, in whole or in part, in response to health, safety or financial emergency, or a failure or refusal by CONSULTANT to comply with the provisions of this Agreement, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

**12. ENTIRE AGREEMENT REPRESENTED:** This Agreement represents the entire agreement between CONSULTANT and DISTRICT as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

**13. HEADINGS:** Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

**14. NOTICES:**

a. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

**DISTRICT:**  
Superintendent  
Lindsay Unified School District  
371 E. Hermosa Street  
Lindsay, CA 93247  
**Phone No.:** (559) 562-5111 ext. 5109  
**Fax No.:** (559) 562-4637

**With A Copy To:**  
Business Services  
Lindsay Unified School District  
371 E. Hermosa Street  
Lindsay, CA 93247  
**Phone No.:** (559) 562-5111 ext.5115  
**Fax No.:** (559) 562-6145

**CONSULTANT:**  
City Manager  
City of Lindsay  
PO Box 369  
Lindsay, CA 93247  
**Phone No.:** (559) 562-7103  
**Fax No.:** (559) 562-7100

b. Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth day after the date of mailing. Either party may change the above address or phone or fax number by giving written notice pursuant to this paragraph.

**15. CONSTRUCTION:** This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.

**16. NO THIRD PARTY BENEFICIARIES INTENDED:** Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

**17. GOVERNING LAW:** This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this Agreement is made and shall be performed in Tulare County, California. CONSULTANT waives the removal provisions of California Code of Civil Procedure section 394.

**18. WAIVERS:** The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.

**19. EXHIBITS AND RECITALS:** The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

**20. CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY:** This Agreement is subject to all applicable laws and regulations. If any provision of this

Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement shall continue in full force and effect.

**21. FURTHER ASSURANCES:** Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to effect the purposes of this Agreement.

**22. ASSURANCES OF NON-DISCRIMINATION:** CONSULTANT shall not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

**23. ASSIGNMENT/SUBCONTRACTING:** Unless otherwise provided in this Agreement, DISTRICT is relying on the personal skill, expertise, training and experience of CONSULTANT and CONSULTANT'S employees and no part of this Agreement may be assigned or subcontracted by CONSULTANT without prior written consent of DISTRICT.

**24. DISPUTE RESOLUTION:** If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within 30 days, either party may pursue litigation to resolve the dispute.

**25. UNEMPLOYMENT INSURANCE COMPLIANCE:** CONSULTANT acknowledges that this Agreement is subject to filing obligations pursuant to Unemployment Insurance Code section 1088.8. Accordingly, DISTRICT has an obligation to file a report with the Employment Development Department, which report will include the CONSULTANT'S full name, social security number, address, the date this contract was executed, the total amount of the contract, the contract's expiration date or whether it is ongoing. CONSULTANT agrees to cooperate with DISTRICT to make such information available and to provide DE Form 542. DE Form 542 is only required if CONSULTANT is a sole proprietor or partnership. Failure to provide the required information may, at DISTRICT'S option, prevent approval of this Agreement, or be grounds for termination by DISTRICT.

**THE PARTIES**, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

LINDSAY UNIFIED SCHOOL DISTRICT

Date: 8/19/15

BY   
Superintendent or Designee,  
Lindsay Unified School District

CITY OF LINDSAY

Date: \_\_\_\_\_

BY \_\_\_\_\_  
City Manager or Designee,  
City of Lindsay

## EXHIBIT A

### SCOPE & COST OF SERVICES

#### BACKGROUND:

Lindsay Unified School District wishes to use the City of Lindsay's swimming pool for practices for the High School Swim Team and for swimming instruction for Lindsay High School PE learners. The District will not use the therapeutic pool at any time.

#### CONSULTANT shall provide the following services:

1. Open the facility for District use, and lock facility after District use.
2. Designate one person to be the liaison with the District to discuss scheduling, equipment storage and mutual issues with the District. This person will be the Wellness Director.
3. Pay all costs for electricity for the pool use
4. Pay for all maintenance for the pool use. This maintenance includes ensuring that all equipment needed for swimming competitions are operational, including but not limited to starting blocks and all timing equipment.

#### DISTRICT shall provide:

1. Provide for certified Life guards while Lindsay High School PE learners are at the pool for instruction.
2. Have learners and staff pick up after their use of the City Pool.
3. Designate one person to be the liaison with the City to discuss scheduling, equipment storage and mutual issues with the City. This person will be the Dean of Student Affairs at Lindsay High School.
4. Leave timers, flags, kick boards and printers at the pool. The City is not responsible for any lost or stolen items.
5. Pay for all utility gas costs for heating the pool from January through June of each year
6. Pay for 75% of all chemical costs for the pool from January through June of each year
7. Pay 50% of the utility gas costs for heating the pool from July through December of each year
8. Pay 50% of all chemical costs for the pool from July through December of each year
9. Total Costs to the District shall not exceed \$50,000.

**LINDSAY UNIFIED SCHOOL DISTRICT  
AND  
CITY OF LINDSAY**

**PATRIOTS EXTRA-CURRICULAR SPORTS PROGRAM AGREEMENT**

**THIS AGREEMENT**, is entered into as of August 10, 2015 , between the LINDSAY UNIFIED SCHOOL DISTRICT, referred to as DISTRICT, and the CITY OF LINDSAY, referred to as CONSULTANT, with reference to the following:

- A. Government Code section 53060 and Education Code section 35160 authorize the District to contract with persons who are specially trained and experienced and competent to perform special services.
- B. District wishes to hire CONSULTANT as an independent contractor pursuant to the authority of Government Code section 53060 and Education Code section 35160.
- C. Pursuant to Education Code section 45103.1(b)(2), the services contracted are not available within the DISTRICT, cannot be performed satisfactorily by school district employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the school district.

**ACCORDINGLY, IT IS AGREED:**

**1. TERM:** This Agreement shall become effective as of July 1, 2015 and shall expire on June 30, 2016 unless otherwise terminated as provided in this Agreement.

**2. SERVICES:** CONSULTANT shall provide services as set forth in Exhibit A, entitled "Scope & Cost of Services" which exhibit is made part of this Agreement by reference.

**3. COST OF SERVICES:** For services rendered, CONSULTANT shall be paid according to the fee schedule set forth in Exhibit A.

**4. METHOD OF PAYMENT:** CONSULTANT shall provide a monthly invoice or upon completion of services to DISTRICT. DISTRICT shall provide and file IRS Form 1099 to report CONSULTANT'S calendar year earnings.

**5. COMPLIANCE WITH LAW:** CONSULTANT shall provide services in accordance with applicable Federal, State, and local laws, regulations and directives. With respect to CONSULTANT'S employees, CONSULTANT shall comply with all laws and regulations pertaining to wages and hours, state and federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment.

**6. RECORDS AND AUDIT:** CONSULTANT shall maintain complete and accurate records with respect to the services rendered and the costs incurred under this Agreement. In addition, CONSULTANT shall maintain complete and accurate records with respect to any payments to employees or subcontractors. All such records shall be prepared in accordance with generally accepted accounting procedures, shall be clearly identified, and shall be kept readily accessible. Upon request, CONSULTANT shall make such records available within Tulare County to the designated public and/or private auditor of DISTRICT and to his agents and representatives, for the purpose of auditing and/or copying such records for a period of five (5) years from the date of final payment under this Agreement.

**7. INDEPENDENT CONTRACTOR STATUS:**

a. This Agreement is entered into by both parties with the express understanding that CONSULTANT will perform all services required under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to constitute the CONSULTANT or any of its agents, employees or officers as an agent, employee or officer of DISTRICT.

b. CONSULTANT agrees to advise everyone it assigns or hires to perform any duty under this agreement that they are not employees of DISTRICT. Subject to any performance criteria contained in this Agreement, CONSULTANT shall be solely responsible for determining the means and methods of performing the specified services and DISTRICT shall have no right to control or exercise any supervision over CONSULTANT as to how the services will be performed. As CONSULTANT is not DISTRICT'S employee, CONSULTANT is responsible for paying all required state and federal taxes. In particular, DISTRICT will not:

i. Withhold FICA (Social Security) from CONSULTANT'S payments.

ii. Make state or federal unemployment insurance contributions on CONSULTANT'S behalf.

iii. Withhold state or federal income tax from payments to CONSULTANT.

iv. Make disability insurance contributions on behalf of CONSULTANT.

v. Obtain unemployment compensation insurance on behalf of CONSULTANT.

c. Notwithstanding this independent contractor relationship, DISTRICT shall have the right to monitor and evaluate the performance of CONSULTANT to assure compliance with this Agreement.

**8. FINGERPRINTING REQUIREMENTS:**

a. Pursuant to California Education Code section 45125.1, before any agents or employees of CONSULTANT may enter school grounds where they may have any contact with pupils, CONSULTANT shall submit fingerprints of its employees in a manner authorized by the California Department of Justice, together with a fee determined by the Department of Justice. CONSULTANT shall not permit any employee to come in contact with pupils of School District until the Department of Justice has ascertained that the CONSULTANT'S employees have not been convicted of a felony as defined in Education Code section 45122.1.

b. CONSULTANT shall provide the DISTRICT with a written list of the names of its employees who may come in contact with pupils before commencement of work. CONSULTANT shall certify, in a form provided and attached, under penalty of perjury, that it has complied with the requirements of Education Code section 45125.1, and that none of its employees who may come in contact with pupils have been convicted of a felony as defined in Education Code section 45122.1, based upon the information CONSULTANT has received from the Department of Justice.

c. If CONSULTANT believes that its employees will have only limited contact with pupils and should therefore be exempted from these requirements, CONSULTANT must contact the DISTRICT with its request for exemption within fifteen (15) days prior to the commencement of work. The request for exemption must specify the grounds for such proposed exemption, considering the totality of circumstances, including but not limited to the length of time CONSULTANT will be on school grounds, whether pupils will be in proximity to the site where the CONSULTANT'S employees are working, and whether the CONSULTANT'S employees will be working by themselves or with others. Whether to grant or deny the exemption is within the sole discretion of the DISTRICT governing board.

d. The CONSULTANT shall impose the foregoing requirements on any subcontractors or assignees.

**9. INDEMNIFICATION:** CONSULTANT shall hold harmless, defend and indemnify DISTRICT, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including DISTRICT property, arising from, or in connection with, the performance by CONSULTANT or its agents, officers and employees under this Agreement. This indemnification specifically includes any claims that may be made against DISTRICT by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against DISTRICT alleging civil rights violations by CONSULTANT under Government Code section 12920 et seq. (California Fair Employment and Housing Act) and any fines or penalties imposed on DISTRICT for CONSULTANT'S failure to provide form DE-542, when applicable. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

**10. CONFLICT OF INTEREST:**

a. CONSULTANT agrees at all times in performance of this Agreement to comply with the law of the State of California regarding conflicts of interests or appearance of conflicts of interest, including, but not limited to Government Code section 1090 et seq., and the Political Reform Act, Government Code section 81000 et seq. and regulations promulgated pursuant thereto by the California Fair Political Practices Commission. The statutes, regulations and laws previously referenced include, but are not limited to, prohibitions against any public officer or employee, including CONSULTANT for this purpose, from the making of any decision on behalf of DISTRICT in which such officer, employee or consultant has direct or indirect financial interest. A violation can occur if the public officer, employee or consultant participates in or influences any DISTRICT decision which has the potential to confer any pecuniary benefit on CONSULTANT or any business firm in which CONSULTANT has an interest, with certain narrow exceptions.

b. CONSULTANT agrees that if any facts come to its attention which raise any questions as to the applicability of conflicts of interest laws, it will immediately inform the DISTRICT designated representative and provide all information needed for resolution of this question.

## 11. TERMINATION:

a. The right to terminate this Agreement under this provision may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement.

i. Without Cause: DISTRICT shall have the right to terminate this Agreement without cause by giving thirty (30) days prior written notice of intention to terminate pursuant to this provision, specifying the date of termination.

ii. With Cause:

(1) This Agreement may be terminated by either party should the other party:

(a) be adjudged a bankrupt, or

(b) become insolvent or have a receiver appointed, or

(c) make a general assignment for the benefit of creditors, or

(d) suffer any judgment which remains unsatisfied for 30 days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or

(e) materially breach this Agreement.

(2) For any of the occurrences except item (e), termination may be effected upon written notice by the terminating party specifying the date of the termination.

(3) Upon a material breach, the Agreement may be terminated following the failure of the defaulting party to remedy the breach to the satisfaction of the non-defaulting party within five (5) days of written notice specifying the breach. If the breach is not remedied within that five (5) day period, the non-defaulting party may terminate the agreement on further written notice specifying the date of termination.

(4) If the nature of the breach is such that it cannot be cured within a five (5) day period, the defaulting party may, submit a written proposal within that period which sets forth a specific means to resolve the default. If the non-defaulting party consents to that proposal in writing, which consent shall not be unreasonably withheld, the defaulting party shall immediately embark on its plan to cure. If the default is not cured within the time agreed, the non-defaulting party may terminate upon written notice specifying the date of termination.

b. Effects of Termination: Expiration or termination of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities.

c. Suspension of Performance: Independent of any right to terminate this Agreement, the authorized representative of DISTRICT for which CONSULTANT'S services are to be performed, may immediately suspend performance by CONSULTANT, in whole or in part, in response to health, safety or financial emergency, or a failure or refusal by CONSULTANT to comply with the provisions of this Agreement, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

**12. ENTIRE AGREEMENT REPRESENTED:** This Agreement represents the entire agreement between CONSULTANT and DISTRICT as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

**13. HEADINGS:** Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

**14. NOTICES:**

a. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

**DISTRICT:**  
Superintendent  
Lindsay Unified School District  
371 E. Hermosa Street  
Lindsay, CA 93247  
**Phone No.:** (559) 562-5111 ext. 5109  
**Fax No.:** (559) 562-4637

**With A Copy To:**  
Business Services  
Lindsay Unified School District  
371 E. Hermosa Street  
Lindsay, CA 93247  
**Phone No.:** (559) 562-5111 ext.5115  
**Fax No.:** (559) 562-6145

**CONSULTANT:**  
City Manager  
City of Lindsay  
PO Box 369  
Lindsay, CA 93247  
**Phone No.:** (559) 562-7103  
**Fax No.:** (559) 562-7100

b. Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth day after the date of mailing. Either party may change the above address or phone or fax number by giving written notice pursuant to this paragraph.

**15. CONSTRUCTION:** This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.

**16. NO THIRD PARTY BENEFICIARIES INTENDED:** Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

**17. GOVERNING LAW:** This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this Agreement is made and shall be performed in Tulare County, California. CONSULTANT waives the removal provisions of California Code of Civil Procedure section 394.

**18. WAIVERS:** The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.

**19. EXHIBITS AND RECITALS:** The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

**20. CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY:** This Agreement is subject to all applicable laws and regulations. If any provision of this

Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement shall continue in full force and effect.

**21. FURTHER ASSURANCES:** Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to effect the purposes of this Agreement.

**22. ASSURANCES OF NON-DISCRIMINATION:** CONSULTANT shall not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

**23. ASSIGNMENT/SUBCONTRACTING:** Unless otherwise provided in this Agreement, DISTRICT is relying on the personal skill, expertise, training and experience of CONSULTANT and CONSULTANT'S employees and no part of this Agreement may be assigned or subcontracted by CONSULTANT without prior written consent of DISTRICT.

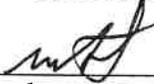
**24. DISPUTE RESOLUTION:** If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within 30 days, either party may pursue litigation to resolve the dispute.

**25. UNEMPLOYMENT INSURANCE COMPLIANCE:** CONSULTANT acknowledges that this Agreement is subject to filing obligations pursuant to Unemployment Insurance Code section 1088.8. Accordingly, DISTRICT has an obligation to file a report with the Employment Development Department, which report will include the CONSULTANT'S full name, social security number, address, the date this contract was executed, the total amount of the contract, the contract's expiration date or whether it is ongoing. CONSULTANT agrees to cooperate with DISTRICT to make such information available and to provide DE Form 542. DE Form 542 is only required if CONSULTANT is a sole proprietor or partnership. Failure to provide the required information may, at DISTRICT'S option, prevent approval of this Agreement, or be grounds for termination by DISTRICT.

**THE PARTIES**, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

LINDSAY UNIFIED SCHOOL DISTRICT

Date: 8/19/15

BY   
Superintendent or Designee,  
Lindsay Unified School District

CITY OF LINDSAY

Date: \_\_\_\_\_

BY \_\_\_\_\_  
City Manager or Designee,  
City of Lindsay

## EXHIBIT A

### SCOPE & COST OF SERVICES

#### BACKGROUND:

District and Consultant agree to work together toward the mutual goal of implementing an Extra-Curricular Sports Program for Learners in content levels 6 through 8. The program is designed to engage learners in sports programs and increase participation in this program. This program shall be know as Lindsay Patriots Extra-Curricular Sports Program.

This program consists of Varsity and Junior Varsity elite teams, which will represent Lindsay as they compete against teams from neighboring communities in coed flag football, girls' volleyball, boys' soccer, girls' soccer, boys' basketball, girls' basketball, boys' baseball, and girls' softball. Patriots tryouts will be offered to all DISTRICT learners in content levels 6 through 8 and at no cost to learners or their families. Seasons last for approximately 4-6 weeks with 2 games each week. Upon qualification, Patriots Varsity teams can move on to playoffs.

There will be no charge to learners or their families to participate in the Lindsay Patriots Extra-Curricular Sports Program.

Learners who participate in the Lindsay Patriots Extra-Curricular Sports Program will need to make adequate academic progress in core subject areas assigned in their educational plan to be eligible to play in contests. Adequate academic progress is defined by academic performance at the approximate rate of the pacing calendar or faster as determined by the learning facilitator and as described in paragraph "o" below. Adequate academic progress will be computed on the most recent grading period.

Learners may not practice or play in contests if they have been suspended from school or expelled from the District.

In addition to the Lindsay Patriots Extra-Curricular Sports Program, the City will offer McDermont Sports Leagues. The McDermont Sports Leagues are not subject to this agreement.

Practices will occur after school at McDermont or at District facilities. Games will be played at McDermont or other sports complexes within Lindsay or Neighboring Districts.

CONSULTANT shall provide the following services:

- a. Be responsible for all costs related to the Lindsay Patriots Extra-Curricular Sports Program
- b. Designate a representative for the Lindsay Patriots program who will:
  - i. serve as a liaison with the District, and

- ii. meet with other school league representatives from other district schools for coordination and scheduling of games
- c. Meet with the District's liaison and the Superintendent or Designee at regularly scheduled meetings to discuss issues, problem and needs of the Lindsay Patriots Extracurricular Sports Program.
- d. Be responsible for having referees at each home "league" game and payment of referees.
- e. Pay coaching stipends according to the City's salary schedule.
- f. Use the District's facilities for sports competitions, as well as the City's facilities.
- g. Be responsible for preparing the fields for all competitions.
- h. Arrange for competition location and for appropriate field preparations.
- i. Provide a list of names of players in each sport to the schools.
- j. May use Mid-Valley transportation (busses) for transportation to "league" games.
- k. Complete all transportation requests.
- l. Have all persons coaching learners in the Lindsay Patriots Sports Program FBI and DOJ fingerprinted and receive proper clearance.
- m. Maintain a minimum of one Junior Varsity (JV) and one Varsity (V) boys' teams and one Junior Varsity (JV) and one Varsity (V) girls' teams with four different sports of each team.
- n. Maintain a no charge policy for learner participation in the Lindsay Patriots Extra-Curricular Sports Program.
- o. Make sure that learners who participate in the Lindsay Patriots Sports Program are making adequate academic progress:
  - i. Participants must have **citizenship** grades of 2.0 or better in school (using Life Skills Measurement Topic Content) and follow the Code of Ethics agreement.
  - ii. Participants must have an **attendance rate** of 90% or better at school or for practice/games, for the reporting period.
  - iii. Participants must make **adequate academic progress** in core areas assigned in their educational plan. Adequate progress is defined as:
    - 1. For participants on pace: academic performance at the approximate rate of the pacing calendar or faster as determined by the Learning Facilitator
    - 2. For participants behind-pace: academic performance at the approximate rate of the Individualized Learning Plan or faster as determined by the Learning Facilitator
- p. Make sure that learners who have been suspended from school or expelled from the District do not participate in Lindsay Patriots Extracurricular Sports Program.
- q. Hold practices after school at McDermont or at District facilities. Competitions may be played at McDermont or other sports complexes within Lindsay or the District.
- r. Conduct the Tryout and Fundamental Skills Clinic at the beginning of each sports season.
- s. Conduct a survey of parents, participants, coaches, and District site administrators near the end of each season and consider making adjustments to the program based on feedback received. Survey results will be shared with the District upon request.

In addition to the Lindsay Patriots Sport Program, the City will offer additional McDermont Sports Leagues, which are not subject to this agreement.

DISTRICT shall provide:

- a. Provide one payment of \$34,840 to the City of Lindsay for the operation of the Lindsay Patriots Extracurricular Sports Program per year. This is the only payment contemplated by this agreement.
- b. Designate an Afterschool Sports Coordinator as the liaison with the City for the coordination of the program, facility use, school calendars, and learner eligibility.
- c. The District's Superintendent or Designee is the person responsible to ensure the Patriots Sports Program is in compliance with all District rules and regulations and legal requirements, including compliance with Title IX.
- d. Meet at regularly scheduled meetings with the designated City person to discuss issues, problems, and needs of the Lindsay Patriots Extracurricular Sports Program.
- e. Help with the filling out of transportation requests and submittal to the transportation department if the City requests such a need.
- f. Fund the Tryout and Fundamental Skills Clinics that are provided at the beginning of each sports season, which is included in the fees paid under this contract.

The District and the City shall share the use of the sports equipment for both the Tienken League intramural program and the Lindsay Patriots Extracurricular Sports Program. Equipment must be available to Tienken League and Lindsay Patriots Program prior to any other use.

**LINDSAY UNIFIED SCHOOL DISTRICT  
AND  
City of Lindsay - McDermont Field House**

**AGREEMENT**

**THIS AGREEMENT**, is entered into as of August 10, 2015 , between the LINDSAY UNIFIED SCHOOL DISTRICT, referred to as DISTRICT, and the CITY OF LINDSAY, referred to as CONSULTANT, with reference to the following:

- A. Government Code section 53060 and Education Code section 35160 authorize the District to contract with persons who are specially trained and experienced and competent to perform special services.
- B. District wishes to hire CONSULTANT as an independent contractor pursuant to the authority of Government Code section 53060 and Education Code section 35160.
- C. Pursuant to Education Code section 45103.1(b)(2), the services contracted are not available within the DISTRICT, cannot be performed satisfactorily by school district employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the school district.

**ACCORDINGLY, IT IS AGREED:**

**1. TERM:** This Agreement shall become effective as of July 1, 2015 and shall expire on June 30, 2016 unless otherwise terminated as provided in this Agreement.

**2. SERVICES:** CONSULTANT shall provide services as set forth in Exhibit A, entitled "Scope & Cost of Services" which exhibit is made part of this Agreement by reference.

**3. COST OF SERVICES:** For services rendered, CONSULTANT shall be paid according to the fee schedule set forth in Exhibit A.

**4. METHOD OF PAYMENT:** CONSULTANT shall provide a monthly invoice or upon completion of services to DISTRICT. DISTRICT shall provide and file IRS Form 1099 to report CONSULTANT'S calendar year earnings.

**5. COMPLIANCE WITH LAW:** CONSULTANT shall provide services in accordance with applicable Federal, State, and local laws, regulations and directives. With respect to CONSULTANT'S employees, CONSULTANT shall comply with all laws and regulations pertaining to wages and hours, state and federal income tax,

unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment.

**6. RECORDS AND AUDIT:** CONSULTANT shall maintain complete and accurate records with respect to the services rendered and the costs incurred under this Agreement. In addition, CONSULTANT shall maintain complete and accurate records with respect to any payments to employees or subcontractors. All such records shall be prepared in accordance with generally accepted accounting procedures, shall be clearly identified, and shall be kept readily accessible. Upon request, CONSULTANT shall make such records available within Tulare County to the designated public and/or private auditor of DISTRICT and to his agents and representatives, for the purpose of auditing and/or copying such records for a period of five (5) years from the date of final payment under this Agreement.

**7. INDEPENDENT CONTRACTOR STATUS:**

a. This Agreement is entered into by both parties with the express understanding that CONSULTANT will perform all services required under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to constitute the CONSULTANT or any of its agents, employees or officers as an agent, employee or officer of DISTRICT.

b. CONSULTANT agrees to advise everyone it assigns or hires to perform any duty under this agreement that they are not employees of DISTRICT. Subject to any performance criteria contained in this Agreement, CONSULTANT shall be solely responsible for determining the means and methods of performing the specified services and DISTRICT shall have no right to control or exercise any supervision over CONSULTANT as to how the services will be performed. As CONSULTANT is not DISTRICT'S employee, CONSULTANT is responsible for paying all required state and federal taxes. In particular, DISTRICT will not:

i. Withhold FICA (Social Security) from CONSULTANT'S payments.

ii. Make state or federal unemployment insurance contributions on CONSULTANT'S behalf.

iii. Withhold state or federal income tax from payments to CONSULTANT.

iv. Make disability insurance contributions on behalf of CONSULTANT.

v. Obtain unemployment compensation insurance on behalf of CONSULTANT.

c. Notwithstanding this independent contractor relationship, DISTRICT shall have the right to monitor and evaluate the performance of CONSULTANT to assure compliance with this Agreement.

**8. FINGERPRINTING REQUIREMENTS:**

a. Pursuant to California Education Code section 45125.1, before any agents or employees of CONSULTANT may enter school grounds where they may have any contact with pupils, CONSULTANT shall submit fingerprints of its employees in a manner authorized by the California Department of Justice, together with a fee determined by the Department of Justice. CONSULTANT shall not permit any employee to come in contact with pupils of School District until the Department of Justice has ascertained that the CONSULTANT'S employees have not been convicted of a felony as defined in Education Code section 45122.1.

b. CONSULTANT shall provide the DISTRICT with a written list of the names of its employees who may come in contact with pupils before commencement of work. CONSULTANT shall certify, in a form provided and attached, under penalty of perjury, that it has complied with the requirements of Education Code section 45125.1, and that none of its employees who may come in contact with pupils have been convicted of a felony as defined in Education Code section 45122.1, based upon the information CONSULTANT has received from the Department of Justice.

c. If CONSULTANT believes that its employees will have only limited contact with pupils and should therefore be exempted from these requirements, CONSULTANT must contact the DISTRICT with its request for exemption within fifteen (15) days prior to the commencement of work. The request for exemption must specify the grounds for such proposed exemption, considering the totality of circumstances, including but not limited to the length of time CONSULTANT will be on school grounds, whether pupils will be in proximity to the site where the CONSULTANT'S employees are working, and whether the CONSULTANT'S employees will be working by themselves or with others. Whether to grant or deny the exemption is within the sole discretion of the DISTRICT governing board.

d. The CONSULTANT shall impose the foregoing requirements on any subcontractors or assignees.

**9. INDEMNIFICATION:** CONSULTANT shall hold harmless, defend and indemnify DISTRICT, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including DISTRICT property, arising from, or in connection with, the performance by CONSULTANT or its agents, officers and employees under this Agreement. This indemnification specifically includes any claims that may be made against DISTRICT by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against DISTRICT alleging civil rights violations by CONSULTANT under Government Code section 12920 et seq. (California Fair Employment and Housing Act) and any fines or penalties

imposed on DISTRICT for CONSULTANT'S failure to provide form DE-542, when applicable. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

#### **10. CONFLICT OF INTEREST:**

a. CONSULTANT agrees at all times in performance of this Agreement to comply with the law of the State of California regarding conflicts of interests or appearance of conflicts of interest, including, but not limited to Government Code section 1090 et seq., and the Political Reform Act, Government Code section 81000 et seq. and regulations promulgated pursuant thereto by the California Fair Political Practices Commission. The statutes, regulations and laws previously referenced include, but are not limited to, prohibitions against any public officer or employee, including CONSULTANT for this purpose, from the making of any decision on behalf of DISTRICT in which such officer, employee or consultant has direct or indirect financial interest. A violation can occur if the public officer, employee or consultant participates in or influences any DISTRICT decision which has the potential to confer any pecuniary benefit on CONSULTANT or any business firm in which CONSULTANT has an interest, with certain narrow exceptions.

b. CONSULTANT agrees that if any facts come to its attention which raise any questions as to the applicability of conflicts of interest laws, it will immediately inform the DISTRICT designated representative and provide all information needed for resolution of this question.

#### **11. TERMINATION:**

a. The right to terminate this Agreement under this provision may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement.

i. Without Cause: DISTRICT shall have the right to terminate this Agreement without cause by giving thirty (30) days prior written notice of intention to terminate pursuant to this provision, specifying the date of termination.

ii. With Cause:

(1) This Agreement may be terminated by either party should the other party:

(a) be adjudged a bankrupt, or

(b) become insolvent or have a receiver appointed, or

(c) make a general assignment for the benefit of creditors, or

(d) suffer any judgment which remains unsatisfied for 30 days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or

(e) materially breach this Agreement.

(2) For any of the occurrences except item (e), termination may be effected upon written notice by the terminating party specifying the date of the termination.

(3) Upon a material breach, the Agreement may be terminated following the failure of the defaulting party to remedy the breach to the satisfaction of the non-defaulting party within five (5) days of written notice specifying the breach. If the breach is not remedied within that five (5) day period, the non-defaulting party may terminate the agreement on further written notice specifying the date of termination.

(4) If the nature of the breach is such that it cannot be cured within a five (5) day period, the defaulting party may, submit a written proposal within that period which sets forth a specific means to resolve the default. If the non-defaulting party consents to that proposal in writing, which consent shall not be unreasonably withheld, the defaulting party shall immediately embark on its plan to cure. If the default is not cured within the time agreed, the non-defaulting party may terminate upon written notice specifying the date of termination.

b. Effects of Termination: Expiration or termination of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities.

c. Suspension of Performance: Independent of any right to terminate this Agreement, the authorized representative of DISTRICT for which CONSULTANT'S services are to be performed, may immediately suspend performance by CONSULTANT, in whole or in part, in response to health, safety or financial emergency, or a failure or refusal by CONSULTANT to comply with the provisions of this Agreement, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

**12. ENTIRE AGREEMENT REPRESENTED:** This Agreement represents the entire agreement between CONSULTANT and DISTRICT as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

**13. HEADINGS:** Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

**14. NOTICES:**

a. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

**DISTRICT:**

Superintendent  
Lindsay Unified School District  
371 E. Hermosa Street  
Lindsay, CA 93247  
**Phone No.:** (559) 562-5111 ext. 5109  
**Fax No.:** (559) 562-4637

**With A Copy To:**

Business Services  
Lindsay Unified School District  
371 E. Hermosa Street  
Lindsay, CA 93247  
**Phone No.:** (559) 562-5111 ext.5115  
**Fax No.:** (559) 562-6145

**CONSULTANT:**

**Name:** City of Lindsay - McDermont Field House  
**Address:** 365 N. Sweetbriar Ave  
Lindsay, CA 93247  
**Phone No.:** 559-562-3326  
**Fax No.:**

b. Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth day after the date of mailing. Either party may change the above address or phone or fax number by giving written notice pursuant to this paragraph.

**15. CONSTRUCTION:** This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.

**16. NO THIRD PARTY BENEFICIARIES INTENDED:** Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

**17. GOVERNING LAW:** This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this Agreement is made and shall be performed in Tulare County, California. CONSULTANT waives the removal provisions of California Code of Civil Procedure section 394.

**18. WAIVERS:** The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party of either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.

**19. EXHIBITS AND RECITALS:** The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

**20. CONFLICT WITH LAWS OR REGULATIONS/SEVERABILITY:** This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement shall continue in full force and effect.

**21. FURTHER ASSURANCES:** Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to effect the purposes of this Agreement.

**22. ASSURANCES OF NON-DISCRIMINATION:** CONSULTANT shall not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

**23. ASSIGNMENT/SUBCONTRACTING:** Unless otherwise provided in this Agreement, DISTRICT is relying on the personal skill, expertise, training and experience of CONSULTANT and CONSULTANT'S employees and no part of this Agreement may be assigned or subcontracted by CONSULTANT without prior written consent of DISTRICT.

**24. DISPUTE RESOLUTION:** If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within 30 days, either party may pursue litigation to resolve the dispute.

**25. UNEMPLOYMENT INSURANCE COMPLIANCE:** CONSULTANT acknowledges that this Agreement is subject to filing obligations pursuant to Unemployment Insurance Code section 1088.8. Accordingly, DISTRICT has an obligation to file a report with the Employment Development Department, which report will include the CONSULTANT'S full name, social security number, address, the date this contract was executed, the total amount of the contract, the contract's expiration date or whether it is ongoing. CONSULTANT agrees to cooperate with DISTRICT to make such information available and to provide DE Form 542. DE Form 542 is only required if CONSULTANT is a sole proprietor or partnership. Failure to provide the required information may, at DISTRICT'S option, prevent approval of this Agreement, or be grounds for termination by DISTRICT.

**THE PARTIES**, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

Date: 8/19/15

LINDSAY UNIFIED SCHOOL DISTRICT

BY   
Superintendent or Designee,  
Lindsay Unified School District

CITY OF LINDSAY

Date: \_\_\_\_\_

BY \_\_\_\_\_  
City Manager or Designee,  
City of Lindsay

## EXHIBIT A

### SCOPE & COST OF SERVICES

CONSULTANT shall provide the following services:

SPORTS (TIENKEN ACADEMY CONTENT LEVELS 6TH - 8TH)

Facilities set up (goals, courts, nets, etc...) for 2 games at each of the designated times from 1:30 - 5:00 on the dates on the attached Tienken schedules. During each visit, 225 learners (75 per game time; 2 games going at the same time) will enter McDermont free of charge (\$4.50 per Learner paid by District). In addition, Consultant will provide 2 paid officials/referrees, one for each game, 2 games going on at the same time per site.

Volleyball (September 2 - October 14); Football (October 21 - December 9); Soccer (January 6 - February 3); Basketball (February 17 - March 16) (SEE ATTACHED SCHEDULES)

SPORTS Costs per Game (paid by District)

\$4.50 entry fee per learner

\$100 per game day for Referees

MCDERMONT FREE DAYS CONTENT LEVELS 6TH - 8TH

Entrance fees plus use of attractions for 2 hours for 75 learners per visit for 12 visits (2 visits per K-8 school site) (SEE SCHEDULE) On these McDermont Free Days, Tienken/STARS

Participants will have access to the Flow Rider, Laser Tag, and Rock Wall. A \$5 arcade card will also be given to each participant for use in the arcade area. Soccer fields, basketball courts, volleyball courts, and bounce houses may also be available, but are subject to availability. This use is not intended to be exclusive.

If the facility is unable to accommodate the STARS learners on a designated day, they will notify the STARS directors as soon as possible and reschedule to make up the dates/times.

FREE DAY Costs per Visit (paid by District)

\$10 entry fee per learner

CONSULTANT shall be paid as follows:

225 learners per game day (3 sets of 75) at \$4.50 entry fee per learner plus the cost of 2 referees/officials at \$100 per game day for 20 scheduled Wednesday's = \$1112.50/game day X 20 games = \$22,250

75 learners per free day at \$10 entry fee per learner for 2 hours for a total of 12 visits = \$750/free day X 12 free days = \$9,000

The total amount payable to CONSULTANT shall not exceed the sum of \$ 31,250 .

DISTRICT shall provide:

Sports and free day schedules, transportation, and supervision while at the McDermont Field House.



# **TIENKEN SCHEDULE**



## **DATE COED VOLLEYBALL 2015 TIME**

<b>SEPT. 2</b>	<b>JEFFERSON VS. KENNEDY</b>	<b>1:30</b>
	<b>ROOSEVELT VS. REAGAN</b>	<b>2:45</b>
	<b>LINCOLN VS. WASHINGTON</b>	<b>4:00</b>
<b>SEPT. 16</b>	<b>LINCOLN VS. ROOSEVELT</b>	<b>1:30</b>
	<b>KENNEDY VS. REAGAN</b>	<b>2:45</b>
	<b>JEFFERSON VS. WASHINGTON</b>	<b>4:00</b>
<b>SEPT. 30</b>	<b>JEFFERSON VS. ROOSEVELT</b>	<b>1:30</b>
	<b>KENNEDY VS. WASHINGTON</b>	<b>2:45</b>
	<b>REAGAN VS. LINCOLN</b>	<b>4:00</b>
<b>OCT. 7</b>	<b>KENNEDY VS. ROOSEVELT</b>	<b>1:30</b>
	<b>REAGAN VS. WASHINGTON</b>	<b>2:45</b>
	<b>JEFFERSON VS. LINCOLN</b>	<b>4:00</b>
<b>OCT 14</b>	<b>WASHINGTON VS. ROOSEVELT</b>	<b>1:30</b>
	<b>KENNEDY VS. LINCOLN</b>	<b>2:45</b>
	<b>REAGAN VS. JEFFERSON</b>	<b>4:00</b>

**\*ALL GAMES WILL BE HELD AT MCDERMONT FIELD HOUSE\***



## **TIENKEN SCHEDULE**

<b><u>DATE</u></b>	<b><u>COED FOOTBALL 2015</u></b>	<b><u>TIME</u></b>
<b>OCT. 21</b>	<b>JEFFERSON VS. KENNEDY</b>	<b>1:30</b>
	<b>ROOSEVELT VS. REAGAN</b>	<b>2:45</b>
	<b>LINCOLN VS. WASHINGTON</b>	<b>4:00</b>
<b>OCT. 28</b>	<b>LINCOLN VS. ROOSEVELT</b>	<b>1:30</b>
	<b>KENNEDY VS. REAGAN</b>	<b>2:45</b>
	<b>JEFFERSON VS. WASHINGTON</b>	<b>4:00</b>
<b>NOV 4</b>	<b>WASHINGTON VS. ROOSEVELT</b>	<b>1:30</b>
	<b>KENNEDY VS. LINCOLN</b>	<b>2:45</b>
	<b>REAGAN VS. JEFFERSON</b>	<b>4:00</b>
<b>DEC. 2</b>	<b>KENNEDY VS. ROOSEVELT</b>	<b>1:30</b>
	<b>REAGAN VS. WASHINGTON</b>	<b>2:45</b>
	<b>JEFFERSON VS. LINCOLN</b>	<b>4:00</b>
<b>DEC. 9</b>	<b>JEFFERSON VS. ROOSEVELT</b>	<b>1:30</b>
	<b>KENNEDY VS. WASHINGTON</b>	<b>2:45</b>
	<b>REAGAN VS. LINCOLN</b>	<b>4:00</b>

**\*ALL GAMES WILL BE HELD AT MCDERMONT FIELD HOUSE\***



## **TIENKEN SCHEDULE**

<b><u>DATE</u></b>	<b><u>COED SOCCER 2016</u></b>		<b><u>TIME</u></b>
<b>JAN. 6</b>	<b>LINCOLN</b>	<b>VS. ROOSEVELT</b>	<b>1:30</b>
	<b>KENNEDY</b>	<b>VS. REAGAN</b>	<b>2:45</b>
	<b>JEFFERSON</b>	<b>VS. WASHINGTON</b>	<b>4:00</b>
<b>JAN. 13</b>	<b>WASHINGTON VS. ROOSEVELT</b>		<b>1:30</b>
	<b>KENNEDY</b>	<b>VS. LINCOLN</b>	<b>2:45</b>
	<b>REAGAN</b>	<b>VS. JEFFERSON</b>	<b>4:00</b>
<b>JAN. 20</b>	<b>JEFFERSON</b>	<b>VS. ROOSEVELT</b>	<b>1:30</b>
	<b>KENNEDY</b>	<b>VS. WASHINGTON</b>	<b>2:45</b>
	<b>REAGAN</b>	<b>VS. LINCOLN</b>	<b>4:00</b>
<b>JAN. 27</b>	<b>KENNEDY</b>	<b>VS. ROOSEVELT</b>	<b>1:30</b>
	<b>REAGAN</b>	<b>VS. WASHINGTON</b>	<b>2:45</b>
	<b>JEFFERSON</b>	<b>VS. LINCOLN</b>	<b>4:00</b>
<b>FEB. 3</b>	<b>JEFFERSON</b>	<b>VS. KENNEDY</b>	<b>1:30</b>
	<b>ROOSEVELT</b>	<b>VS. REAGAN</b>	<b>2:45</b>
	<b>LINCOLN</b>	<b>VS. WASHINGTON</b>	<b>4:00</b>

**\*ALL GAMES WILL BE HELD AT MCDERMONT FIELD HOUSE\***



## **TIENKEN SCHEDULE**



<b><u>DATE</u></b>	<b><u>COED BASKETBALL 2016</u></b>		<b><u>TIME</u></b>
<b>FEB. 17</b>	<b>JEFFERSON</b>	<b>VS. KENNEDY</b>	<b>1:30</b>
	<b>ROOSEVELT</b>	<b>VS. REAGAN</b>	<b>2:45</b>
	<b>LINCOLN</b>	<b>VS. WASHINGTON</b>	<b>4:00</b>
<b>FEB. 24</b>	<b>LINCOLN</b>	<b>VS. ROOSEVELT</b>	<b>1:30</b>
	<b>KENNEDY</b>	<b>VS. REAGAN</b>	<b>2:45</b>
	<b>JEFFERSON</b>	<b>VS. WASHINGTON</b>	<b>4:00</b>
<b>MAR. 2</b>	<b>WASHINGTON</b>	<b>VS. ROOSEVELT</b>	<b>1:30</b>
	<b>KENNEDY</b>	<b>VS. LINCOLN</b>	<b>2:45</b>
	<b>REAGAN</b>	<b>VS. JEFFERSON</b>	<b>4:00</b>
<b>MAR. 9</b>	<b>JEFFERSON</b>	<b>VS. ROOSEVELT</b>	<b>1:30</b>
	<b>KENNEDY</b>	<b>VS. WASHINGTON</b>	<b>2:45</b>
	<b>REAGAN</b>	<b>VS. LINCOLN</b>	<b>4:00</b>
<b>MAR. 16</b>	<b>KENNEDY</b>	<b>VS. ROOSEVELT</b>	<b>1:30</b>
	<b>REAGAN</b>	<b>VS. WASHINGTON</b>	<b>2:45</b>
	<b>JEFFERSON</b>	<b>VS. LINCOLN</b>	<b>4:00</b>

**\*ALL GAMES WILL BE HELD AT MCDERMONT FIELD HOUSE\***



## **TIENKEN SCHEDULE**



<b><u>DATE</u></b>	<b><u>FREE DAYS 2015 - 2016</u></b>	<b><u>TIME</u></b>
<b>AUGUST 26</b>	<b>JEFFERSON</b>	<b>2:00 - 4:00</b>
<b>SEPT. 9</b>	<b>KENNEDY</b>	<b>2:00 - 4:00</b>
<b>SEPT. 23</b>	<b>LINCOLN</b>	<b>2:00 - 4:00</b>
<b>FEB 10</b>	<b>REAGAN</b>	<b>2:00 - 4:00</b>
<b>MAR 30</b>	<b>ROOSEVELT</b>	<b>2:00 - 4:00</b>
<b>APRIL 6</b>	<b>WASHINGTON</b>	<b>2:00 - 4:00</b>
<b>APRIL 13</b>	<b>JEFFERSON</b>	<b>2:00 - 4:00</b>
<b>APRIL 20</b>	<b>KENNEDY</b>	<b>2:00 - 4:00</b>
<b>APRIL 27</b>	<b>LINCOLN</b>	<b>2:00 - 4:00</b>
<b>MAY 11</b>	<b>REAGAN</b>	<b>2:00 - 4:00</b>
<b>MAY 18</b>	<b>ROOSEVELT</b>	<b>2:00 - 4:00</b>
<b>MAY 25</b>	<b>WASHINGTON</b>	<b>2:00 - 4:00</b>

**\*\*\*ENTRY FEE PAID FOR UP TO 75 LEARNERS**

# TULARE RTIF UPDATE

**ADMINISTRATIVE DRAFT**

**FEBRUARY 17, 2015**





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# Executive Summary

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The Tulare County Association of Governments (TCAG) has prepared a Traffic Impact Fee (TIF) that would apply to new development Countywide in Tulare County. The TIF funds a select list of transportation system improvements. This Executive Summary provides an overview of the study objectives, methodologies, projects to be funded, and results of the nexus analysis.

## Study Objectives

The primary policy objective of the TIF program is to ensure that new development pays the transportation improvement costs associated with growth. The primary purpose of this report is to calculate and present fees that will enable the County to expand its inventory of transportation facilities – and therefore maintain its facilities standards – as new development leads to increased traffic roadways located within Tulare County.

The County can impose TIF fees within their jurisdictions under authority granted by the *Mitigation Fee Act (the Act)*, contained in *California Government Code Sections 66000 et seq.* This report provides the necessary findings required by the *Act* for adoption of the fees presented in the fee schedules presented in this report.

The County of Tulare is forecast to experience growth in both its incorporated cities and unincorporated areas through this study's planning horizon of 2040. This growth will create an increase in demand for transportation improvements. Given the revenue challenges that are common to most cities and counties in California; this report highlights the need for a regional transportation impact fee program to ensure that new development funds the share of transportation improvement costs associated with growth. This report makes use of the most current available growth forecasts, facility plans, and traffic modeling to ensure that the TIF program is representative of the transportation facility needs resulting from new development.

## Projects Included in the TIF Study

The study includes the projects detailed in Tables 4 and 4b. Certain projects are no longer included in the TIF program because growth through 2040 would no longer cause traffic on those roads to drop below level of service "D".

## Methodology Used in This Study

The impact fees calculated in this study are based on maintaining specified County of Tulare level of service (LOS) facility standards on roadways. The Tulare County General Plan has designated LOS "D" as the minimum acceptable LOS standard on County facilities in general Caltrans also strives to maintain a LOS C on state highway projects.

This study is an update of the previous study. Although many of the transportation system improvement projects included in this study were included in prior studies, new development is not being asked to pay to remedy existing transportation system improvements. All projects

included in this study either a) met the County's roadway level of service standards at the time they were originally added to the TIF program, or b) have an identified existing deficiency share of costs that will not be funded with impact fee revenue.

Impact fees are calculated to help fund the cost of facilities required to accommodate growth. The *Mitigation Fee Act* requires that any agency adopting impact fees establish a reasonable nexus between the projected amount of new development, the public improvements (in this case transportation improvements) needed to serve that development, and the amount of the fees. The six steps followed in this TIF update study and described in detail in the chapters that follow include:

1. Prepare projections of travel demand;
2. Identify facility standards;
3. Identify candidate facilities (transportation improvement projects);
4. Determine new development's cost share;
5. Calculate the TIF by allocating new development's cost share per unit of development, and;
6. Identify alternative funding.

This report relies primarily on level of service (LOS) standards to establish a nexus between projected new development in the County and the need for improvements to roadways of regional importance. This report also relies upon the results of select link analysis. Select link analysis identifies where the traffic that will be using each roadway improvement is coming from and going to.

The most recent TCAG traffic model was used in this analysis for several purposes, including LOS and select link analysis.

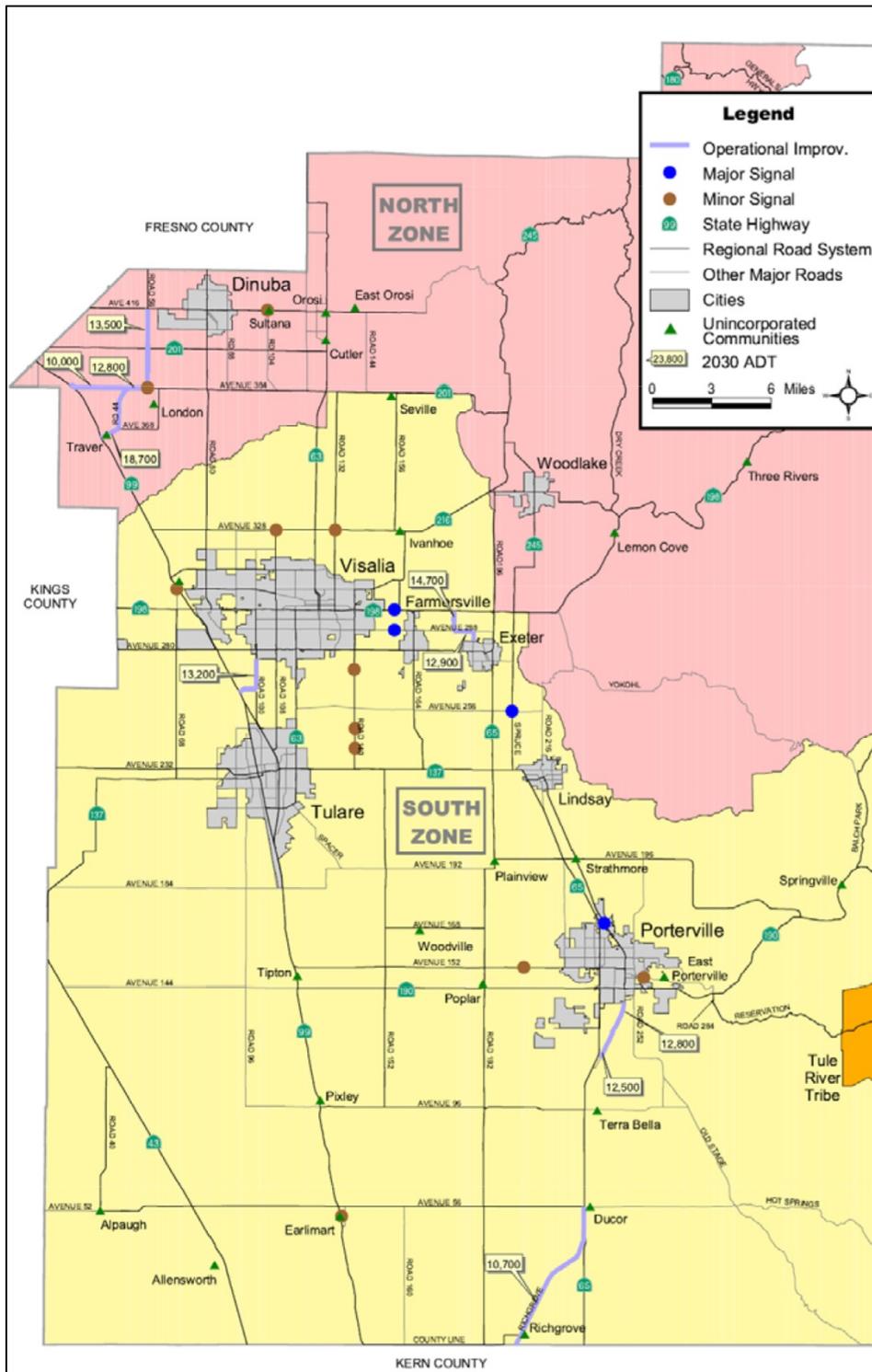
## Fee Zones

Different areas of the County generate differing amounts of demand for transportation facilities. This analysis examined the demand for transportation facilities for two zones. The two fee zones analyzed in the study are a north zone and a south zone, and are defined as follows:

1. **North Zone:** Northern portion of the County containing the cities of Dinuba and Woodlake and the surrounding unincorporated areas.
2. **South Zone:** The cities of Visalia, Tulare, Lindsay, Exeter, Farmersville, Porterville and the surrounding unincorporated areas.

Refer to **Figure 1** for a map of the fee zones. Willdan has also provided a calculation of the fee for a single combined zone.

Figure 1: Traffic Impact Fee Zones



## Fee Schedule

**Table E.1** summarizes the schedule of maximum justified transportation impact mitigation fees based on the analysis contained in this report. Just as vehicle trip generation varies by land use, the TIF fee varies by land use and is charged for each residential unit or each 1,000 square feet of nonresidential space. A key nexus finding is based on the setting of the TIF proportional to the additional trip demand created by different types of new development. Below are the fees calculated for north and south zones, as well as a single combined zone.

**Table E.1: Transportation Impact Fee Schedule**

Land Use	A	B	C = A x B		D = C x 0.02	E = C + D	E / 1,000
	Cost Per Trip	Trip Rate Assumption	Base Fee <sup>1</sup>	Admin Charge <sup>1, 2</sup>	Total Fee <sup>1</sup>	Fee per Sq. Ft.	
<b>North Zone</b>							
<u>Residential</u>							
Single Family	\$ 380	9.57	\$ 3,637	\$ 73	\$ 3,710		
Multi-family	380	6.65	2,527	51	2,578		
<u>Nonresidential</u>							
Commercial	\$ 380	42.94	\$ 16,317	\$ 326	\$ 16,643	\$ 16.64	
Office	380	11.01	4,184	84	4,268	4.27	
Industrial	380	6.97	2,649	53	2,702	2.70	
<b>South Zone</b>							
<u>Residential</u>							
Single Family	\$ 387	9.57	\$ 3,704	\$ 74	\$ 3,778		
Multi-family	387	6.65	2,574	51	2,625		
<u>Nonresidential</u>							
Commercial	\$ 387	42.94	\$ 16,618	\$ 332	\$ 16,950	\$ 16.95	
Office	387	11.01	4,261	85	4,346	4.35	
Industrial	387	6.97	2,697	54	2,751	2.75	
<b>Combined Zone</b>							
<u>Residential</u>							
Single Family	\$ 387	9.57	\$ 3,704	\$ 74	\$ 3,778		
Multi-family	387	6.65	2,574	51	2,625		
<u>Nonresidential</u>							
Commercial	\$ 387	42.94	\$ 16,618	\$ 332	\$ 16,950	\$ 16.95	
Office	387	11.01	4,261	85	4,346	4.35	
Industrial	387	6.97	2,697	54	2,751	2.75	

<sup>1</sup> Persons per dwelling unit or per 1,000 square feet of nonresidential.

<sup>2</sup> Administrative charge of 2.0 percent for (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

Sources: Tables 1 and 5; Willdan Financial Services.

# 1. Introduction

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This study analyzes the need for transportation improvements to support the growth through 2040 in Tulare County. This chapter provides an overview of California's *Mitigation Fee Act* (*California Government Code* Sections 66000 *et seq.*) and major County and State policy supporting a Traffic Impact Fee (TIF). The chapter also provides a description of the technical approach chosen for the TIF and report organization.

## Background

The changing fiscal landscape in California during the past 30 years has steadily undercut the financial capacity of local governments to fund infrastructure. Three dominant trends stand out:

- ♦ The passage of a string of tax limitation measures, including increased thresholds of voter approval for many taxes or tax increases, starting with Proposition 13 in 1978 and continuing through the passage of Proposition 218 in 1996;
- ♦ Declining popular support for bond measures to finance infrastructure for the next generation of residents and businesses; and
- ♦ Steep reductions in federal and state assistance.

Faced with these trends, many cities and counties have had to adopt a policy of “growth pays its own way.” This policy shifts the burden of funding infrastructure expansion from existing ratepayers and taxpayers onto new development. This funding shift has been accomplished primarily through the imposition of assessments, special taxes, and development impact fees.

Assessments and special taxes require approval of property owners and are appropriate when the funded facilities are directly related to the developing property. In contrast, development fees are an appropriate funding source for facilities that benefit all development countywide. Development fees need only a majority vote of the legislative body for adoption.

The County of Tulare has the authority to impose impact fees by virtue of their police powers, which are granted in Article 11, Section 7 of the California Constitution. The exercise of that power is guided by the *Mitigation Fee Act* (“*Act*”) contained in California Government Code Sections 66000 *et seq.* This study provides the necessary findings required by the *Act* for adoption of a Traffic Impact Fee (TIF).

Tulare County first initiated the study of establishing development impact fees to fund transportation facilities in 2010. This study will comprehensively update the traffic fees for changes in growth projections, project costs and other technical considerations.

## Approach

Impact fees are calculated to help fund the cost of facilities required to accommodate growth. The *Mitigation Fee Act* requires that any agency adopting impact fees establish a reasonable nexus between the projected amount of new development, the public improvements (in this case, traffic improvements) needed to serve that development, and the amount of the fees. The six steps followed in this TIF update study and described in detail in the chapters that follow include:

1. Prepare projections of travel demand;
2. Identify facility standards;
3. Identify eligible projects;
4. Identify alternative funding;
5. Determine new development's cost share; and,
6. Calculate the TIF by allocating new development's cost share per unit of development.

This report relies primarily on level of service (LOS) standards to establish a nexus between projected new development in the County and the need for improvements to roadways of regional importance. LOS is calculated based on the volume of traffic on a roadway or at an intersection compared to the capacity of the roadway or intersection. LOS "A," "B," and "C" suggest that delays are insignificant to acceptable. LOS "D" suggests delays are high and some short-term back-ups occur. LOS "E" and "F" suggest restricted speeds and significant delays as traffic volumes meet or exceed the capacity of the facility. The current minimum acceptable LOS standard set by the County and Caltrans is LOS "D".

This report also relies upon the results of select link analysis. Select link analysis identifies where the traffic that will be using each roadway improvement is coming from and going to.

The most recent TCAG traffic model was used in this analysis for several purposes, including LOS and select link analysis.

## Organization

This study is divided into the following eight chapters and three appendices:

- ♦ Chapter 1, **Introduction** (this chapter): Summarizes public infrastructure financing in California, and the general technical approach used in the study;
- ♦ Chapter 2, **Trip Demand and Growth Projections**: Describes the growth projections used to estimate future demand and translates the growth into trip demand measures;
- ♦ Chapter 3, **TIF Projects and Project Costs**: Details the projects that are included in the TIF Program;
- ♦ Chapter 4, **Cost Allocation and Fee Calculation**: Describes the results of traffic modeling and the determination of development's share of cost for roadway facilities; Details maximum justified impact fees for traffic facilities;
- ♦ Chapter 5, **Implementation**: Provides guidelines for the implementation and ongoing maintenance of the TIF Program; and,
- ♦ Chapter 6, **Mitigation Fee Act Findings**: Summarizes the five statutory findings required for adoption of the proposed public facilities fees in accordance with the *Mitigation Fee Act* (California Government Code 66000 et. seq.).

## 2. Trip Demand and Growth Projections

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This chapter describes the estimates of trip demand for transportation facilities. The most recent TCAG traffic model provided the estimates of the amounts of growth expected during the planning horizon of the TIF. These land use projections are later converted to vehicle trips to provide a measure of travel demand.

### Trip Generation by Land Use

Vehicle trips (trips) are used as a measure of the use of transportation facilities by various land uses. Trip volumes help define the need for improvements to selected road segments or intersections. A traffic model is used because it is a more accurate way of identifying trip volume from existing and projected land uses on various existing and proposed road segments, and as part of an overall transportation system.

This study uses average daily level of service (LOS) output from the TCAG traffic model to identify improvements and allocate costs by land use category. The share of roadway improvement costs allocated to each unit of new development is based on the relative amount of new trip demand generated by that development. Trip demand during the afternoon peak hour of traffic is used because this is generally the busiest time of day for traffic, and road improvements are needed to provide capacity to accommodate peak levels of traffic. The traffic study used for this analysis identified improvements needed to mitigate deficiencies during the peak hour.

As new development generates increased vehicle trips for the County's transportation network, additional capacity in the system will be needed in the form of the improvements described in this report. Allocation of cost by land use incorporates rates of trip generation, relative shares of pass-by and diverted trips, and relative trip length, by major land use category.

Trip generation rates are applied to development projections to allocate improvement costs by land use type. The trip generation rates used for this analysis are based on years of study of major land use categories by the Institute of Transportation Engineers:

- ◆ Single family
- ◆ Multi-family
- ◆ Commercial
- ◆ Office
- ◆ Industrial

**Table 1** shows trip generation rate assumptions used in this analysis.

**Table 1: Trip Rate Assumptions**

<b>Land Use</b>	<b>Rate per Unit/ 1,000 SF</b>
<i>Residential</i>	
Single Family	9.57
Multi Family	6.65
<i>Nonresidential</i>	
Commercial	42.94
Office	11.01
Industrial	6.97

Source: Institute of Traffic Engineers, Trip Generation Manual, 8th Edition.

## Housing and Employment Growth

Base year (2010) assumptions for population and dwelling units and building square feet are based on the TCAG traffic model. The planning horizon for this analysis is 2040. The nexus analysis uses 2040 TCAG traffic model data to estimate new development's demand for transportation improvements.

All demographic assumptions are shown for the County as a whole, and also shown for each of the two fee zones as identified previously in Figure 1. Fees are calculated independently for each zone, based on the trip demand for each specific facility from each zone.

**Table 2** lists the base year and 2040 land use assumptions used in the nexus analysis, by zone. This study does not require that all projected growth will have occurred within the study's planning horizon. Whether this amount of new development occurs prior to 2040 or after 2040, the need for transportation improvements included in the TIF Program and the impact fee revenues that flow with new development are mutually supportive. No funding threshold or transportation improvement is tied to any particular calendar year.

**Table 2: Growth Projections**

	South Zone			North Zone			Total		
	Base Year	2040	Growth	Base Year	2040	Growth	Base Year	2040	Growth
<i>Residential Dwelling Units</i>									
Single Family	96,392	139,129	42,737	15,346	19,656	2,987	111,738	158,785	45,724
Multi-family	26,171	61,770	35,599	3,767	7,059	2,885	29,938	68,829	38,484
Subtotal	122,563	200,899	78,336	19,113	26,715	5,872	141,676	227,614	84,208
<i>Building Square Feet (000s)</i>									
Commercial	11,807	20,836	9,029	1,304	2,104	800	13,111	22,939	9,829
Office	21,303	42,732	21,429	1,813	3,667	1,854	23,116	46,399	23,283
Industrial	75,296	127,300	52,004	14,870	23,926	9,055	90,166	151,226	61,059
Subtotal	108,405	190,868	82,462	17,987	29,696	11,709	126,393	220,564	94,171

Sources: TCAG; Willdan Financial Services

## Growth in Trip Demand Through 2040

Based on the trip rate assumptions shown in Table 1, and the growth projections in Table 2, **Table 3** calculates the projected travel demand growth in the County, and for each zone between the base year and 2040. These trip demand “unit” totals are calculated by multiplying the trip demand factors by the development projections from Table 2.

**Table 3: Growth in Trips**

	Dwelling Units / 1,000 Square Feet			Trip Rate	Trips		
	South Zone	North Zone	Total		South Zone	North Zone	Total
<b>Base Year</b>							
<i>Residential Dwelling Units</i>							
Single Family	96,392	15,346	111,738	9.57	922,471	146,861	1,069,333
Multi-family	26,171	3,767	29,938	6.65	174,037	25,051	199,088
Subtotal	122,563	19,113	141,676		1,096,509	171,912	1,268,420
<i>Nonresidential</i>							
Commercial	11,807	1,304	13,111	42.94	506,974	56,003	562,978
Office	21,303	1,813	23,116	11.01	234,545	19,959	254,504
Industrial	75,296	14,870	90,166	6.97	524,813	103,646	628,459
Subtotal	108,405	17,987	126,393		1,266,332	179,608	1,445,940
<b>2040</b>							
<i>Residential Dwelling Units</i>							
Single Family	139,129	19,656	158,785	9.57	1,331,465	188,108	1,519,572
Multi-family	61,770	7,059	68,829	6.65	410,771	46,942	457,713
Subtotal	200,899	26,715	227,614		1,742,235	235,050	1,977,285
<i>NonResidential</i>							
Commercial	20,836	2,104	22,939	42.94	894,684	90,335	985,019
Office	42,732	3,667	46,399	11.01	470,481	40,369	510,850
Industrial	127,300	23,926	151,226	6.97	887,281	166,762	1,054,043
Subtotal	190,868	29,696	220,564		2,252,446	297,466	2,549,912
<b>Growth</b>							
<i>Residential Dwelling Units</i>							
Single Family	42,737	4,310	47,047	9.57	408,993	41,247	450,240
Multi-family	35,599	3,292	38,891	6.65	236,733	21,892	258,625
Subtotal	78,336	7,602	85,938		645,726	63,139	708,865
<i>Nonresidential</i>							
Commercial	9,029	800	9,829	42.94	387,710	34,332	422,042
Office	21,429	1,854	23,283	11.01	235,935	20,410	256,345
Industrial	52,004	9,055	61,059	6.97	362,468	63,116	425,584
Subtotal	82,462	11,709	94,171		986,113	117,858	1,103,971
Total					1,631,840	180,997	1,812,836

Sources: TCAG; Tables 1 and 2, Willdan Financial Services

# 3. TIF Projects and Project Costs

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This chapter presents a description of the transportation improvement projects and the costs of the projects included in the updated TIF program.

## TIF Projects

Prior to cost allocation, total project costs must be identified. All projects included in this comprehensive update were included in the prior study with the exception of one project (SR-65). The following projects are included in the TIF program. Some previously identified projects from the first study are no longer listed here because they are now either fully funded or no longer meet the qualifying LOS threshold. They are listed below and displayed in more detail in **Figure 2**.

- Project A: SR-99 from County Line to SR-190
- Project B: SR-99 from SR-190 to Avenue 200y
- Project C: SR-99 from Avenue 100 to Prosperity
- Project F: SR-99 Aux lanes
- Project G: SR-198 from SR-99 to Lovers Lane
- Project H: SR-63 from Shannon Pkwy (Ave 314) to Avenue 402
- Project J: SR-137 from Tulare to Lindsay
- Project K: SR-190 from Westwood Rd to Reservation Road (Rd 284)
- Project L: Road 140 from Avenue 280 to Avenue 256
- Project M: SR-65 from SR-137 to SR-198

**State Route 99** is a 4/5 lane freeway that runs in a north-south direction providing a regional connection within the San Joaquin Valley. State Route 99 has a landscaped median that separates the roadway section into 2 travel lanes per direction. State Route 99 is planned to be widened from 4 to 6-lanes in the future through the Caltrans Interregional Improvement Program (IIP) and Proposition 1B funds.

**State Route 198** (Sierra Drive) is a 4-lane divided freeway from State Route 99 to Road 204 near Exeter. East of Spruce Road, State Route 198 continues east to the Sequoia National Park entrance will serving communities of Lindcove, Lemon Cove and Three Rivers. West of State Route 99 and east of Road 204, State Route 198 operates as a 2-lane highway. State Route 198 is proposed to be improved to a four lane expressway between the cities of Hanford and Visalia. State Route 198 serves commercial, residential, recreational, retail and agricultural land uses.

**State Route 63** is a north-south, four to six-lane arterial that runs through eastern Tulare and extends through Visalia to Fresno County. This roadway is known as State Route 63 (Mooney Boulevard) from Visalia (State Route 198) to Tulare Avenue (State Route 137). North of downtown Visalia, SR-63 is known as Dinuba Blvd and connects Visalia with the communities of Cutler and Orosi.

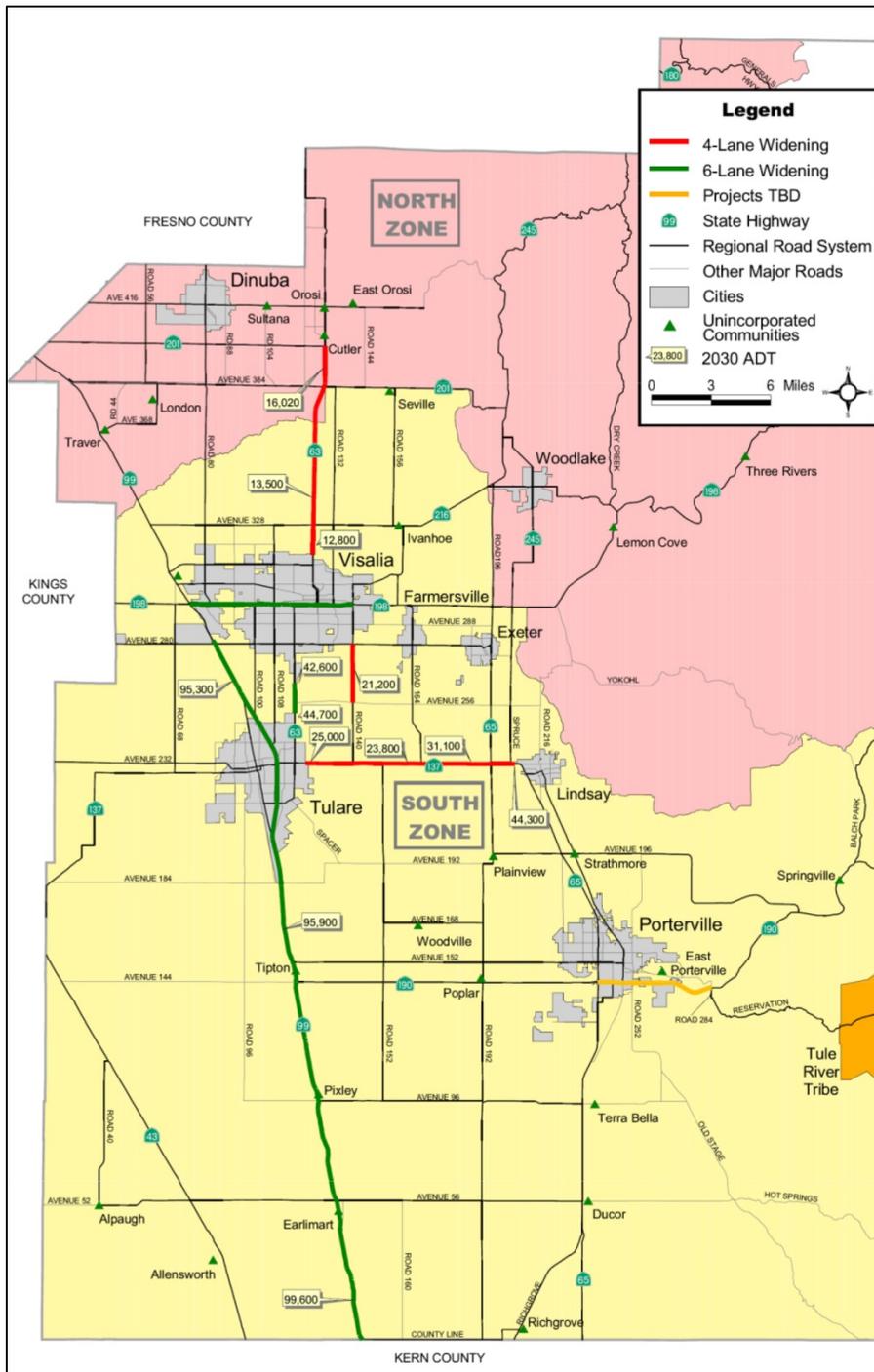
**State Route 65** is a north-south highway/freeway segment that begins at State Route 198 and continues into Kern County. Within Tulare County State Route 65 serves Exeter (Kaweah Avenue), Lindsay, Strathmore, Porterville, Terra Bella and rural Tulare County. State Route 65 in Porterville is constructed to freeway standards from just south of State Route 190 to just north of Henderson Avenue. State Route 65 also provides a connection to Bakersfield for south county residents and serves agricultural, commercial, residential and educational land uses.

**State Route 137** (Tulare-Lindsay Highway) also known as Inyo and Tulare Avenues, is a two to four-lane arterial type facility that runs in an east-west direction through Tulare. State Route 137 begins in Corcoran (Kings County), continues east through Tulare and ends west of Lindsay at State Route 65. State Route 137 serves primarily agricultural and residential land uses in the rural areas and retail/commercial within Tulare.

**State Route 190** is an east-west, two to four-lane arterial type facility that extends from the Sierra foothills through the City of Porterville to the community of Tipton on SR-99. It is the primary east-west corridor through the City of Porterville.

**Road 140 (Lovers Lane)** is a north-south street that serves Visalia as well as central Tulare County. Lovers Lane is four-lanes north of Caldwell Avenue and it tapers from four to two-lanes to the south. Lovers Lane serves a variety of urban land uses north of Caldwell Avenue. South of Caldwell Avenue, Lovers Lane transitions to a rural two lane road; it primarily serves agricultural land uses. Road 140 begins at Saint John Parkway in Visalia and extends south to Avenue 192.

Figure 2: Traffic Impact Fee Widening Projects



## Project Costs

Cost estimates are shown in **Table 4**. Cost estimates used in this study were developed by developed by TCAG. Alternative funding from state and federal sources is subtracted from the total project costs to determine the net cost of projects to be included in the TIF. As noted in the table, some project costs have not been included because the projects have been substantially completed or no longer met the LOS requirement for inclusion.

**Table 4: Project List**

ID	Route	From	To	Total Cost	Federal/ State	RTIF	Net TIF Cost
A	SR-99	County Line	SR-190	\$ 342,000,000	80%	20%	\$ 68,400,000
B		SR-190	Avenue 200	\$ 146,000,000	80%	20%	\$ 29,200,000
C		Avenue 200	Prosperity	76,000,000	80%	20%	15,200,000
D <sup>2</sup>		Prosperity	Caldwell	-	80%	20%	-
E <sup>2</sup>		Caldwell	Goshen	-	80%	20%	-
F		Aux lanes		55,000,000	9%	91%	50,050,000
G1	SR-198	SR-99	Akers	45,000,000	10%	90%	40,500,000
G2		Akers	SR 63	30,000,000	10%	90%	27,000,000
G3		SR 63	Lovers Lane	46,000,000	10%	90%	41,400,000
G4 <sup>1</sup>		Lovers Ln	Rd 156	-			-
H1 <sup>3</sup>	SR-63	Avenue 402	Avenue 368	36,000,000	10%	90%	32,400,000
H2		Avenue 368	Avenue 312	55,000,000	10%	90%	49,500,000
I <sup>1</sup>		Visalia	Tulare	-			-
J	SR-65	SR-137	SR-198	120,000,000	85%	15%	18,000,000
J	SR-137	Tulare	Lindsay	145,000,000	10%	90%	130,500,000
K1	SR-190	SR 65	Blue Heron Pkwy	103,000,000	25%	75%	77,250,000
K2 <sup>4</sup>	SR-190	Blue Heron Pkwy	Reservation Road	106,000,000	25%	75%	79,500,000
K3	SR-190	Westwood Rd	SR 65	22,000,000	10%	90%	19,800,000
L	Road 140	Avenue 280	Avenue 256	7,000,000	0%	100%	7,000,000
<b>Total Highway Costs</b>				<b>\$1,334,000,000</b>			<b>\$ 685,700,000</b>
Zone Costs				15,200,000	0%	100%	15,200,000
<b>Total RTIF Costs</b>				<b>\$1,349,200,000</b>			<b>\$ 700,900,000</b>

<sup>1</sup> Project Costs Excluded Because Project no longer exceeds LOS threshold.

<sup>2</sup> Projects already funded and substantially completed.

<sup>3</sup> \$48.2 million of total \$125 million allocated to fee program.

<sup>4</sup> Total cost is \$206 million, with \$100 million coming from Measure R.

Source: Willdan Financial Services.

Table 4b, below, details the zone costs for the north and south zones.

**Table 4b: Zone Projects**

<b>Road Segments</b>	<b>Improvement</b>	<b>Cost</b>
<b>North Zone</b>		
Road 56 (Avenue 416 to State Route 201)	Operational Improvements	820,000
Merritt/Road 44 (Traver to Avenue 384)	Operational Improvements	1,080,000
Avenue 384 (State Route 99 to Road 56)	Operational Improvements	1,450,000
Avenue 416 & Road 104	Install traffic signal	190,000
Avenue 384 & Road 56	Install traffic signal	<u>190,000</u>
<b>Total</b>		<b>3,730,000</b>
<b>South Zone</b>		
Road 100 (Visalia limits to Avenue 264 - Liberty)	Operational Improvements	2,810,000
Avenue 264 (State Route 99 to Road 100)	Operational Improvements	360,000
Road 180 (State Route 198 to Avenue 288)	Operational Improvements	420,000
Avenue 288 (Road 180 to Belmont Road - Exe.)	Operational Improvements	420,000
Belmont Road (Avenue 288 to Exeter Limits)	Operational Improvements	210,000
Avenue 240 & Road 140	Install traffic signal	190,000
Avenue 248 & Road 140	Install traffic signal	190,000
Avenue 288 & Road 156	Install traffic signal	380,000
Avenue 296 (Mineral King) & Road 156	Install traffic signal	380,000
Avenue 304 & Road 68	Install traffic signal	190,000
Avenue 328 & Road 108	Install traffic signal	190,000
Avenue 328 & Ben Maddox Way	Install traffic signal	190,000
Avenue 272 & Road 140	Install traffic signal	190,000
Main Street (Porterville Limits to Avenue 112 - TB)	Operational Improvements	1,510,000
Richgrove Drive (State Route 65 to Kern Co.)	Operational Improvements	2,700,000
Avenue 152 & Road 208	Install traffic signal	190,000
Avenue 256 & Road 204 (Spruce Road)	Install traffic signal	190,000
Leggett Street & Date Avenue	Install traffic signal	190,000
Main Street & North Grand Avenue (Orange Belt Driv	Install traffic signal	380,000
State Road & Washington Avenue	Install traffic signal	190,000
<b>Total</b>		<b>11,470,000</b>
<b>Grand Total</b>		<b>15,200,000</b>

Sources: Tulare County Association of Governments, Willdan Financial Services.

## 4. Cost Allocation and Fee Calculation

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This first half of this chapter documents a reasonable relationship between increased travel demand from new development within the County and the share of roadway improvement costs that are associated with the need to accommodate that growth. The second part of this chapter describes the traffic impact mitigation fee calculations.

### Impact of Growth on Transportation Facilities

The analysis of how growth impacts transportation facilities that are included in the TIF was accomplished by running the following three scenarios in the TCAG traffic model:

- ♦ Base year (2010) County General Plan land uses;
- ♦ 2040 County General Plan land uses with no improvements to the road network (*2040 Without Improvements* scenario); and
- ♦ 2040 County General Plan land uses with TIF improvements added to the road network (*2040 With Improvements* scenario).

Changes in the performance of roadways between scenarios inform the TIF Program's allocation of costs between new and existing development. The metric of performance used in the TIF is level of service (LOS). LOS data is used from the model runs to allocate the total cost of each project to the TIF program.

LOS is calculated based on the volume of traffic on a roadway or at an intersection compared to the capacity of the roadway or intersection. LOS "A," "B," and "C" suggest that delays are insignificant to acceptable. LOS "D" suggests tolerable delays although traffic is significant and some short-term back-ups occur. LOS "E" and "F" suggest restricted speeds and significant delays as traffic volumes meet or exceed the capacity of the facility.

### Existing Deficiencies

Existing roadways and intersections that do not meet County LOS standards are considered existing deficiencies. All projects included in this study are not currently deficient, and will become deficient in the future due to trip growth from new development, unless traffic improvements are constructed to mitigate new development's impacts.

For each project included in the TIF, **Table 5** documents existing LOS and future LOS with no TIF projects, and future LOS with TIF projects. Without the TIF projects included in the fee, these segments would ultimately have an unacceptable LOS. Project costs with no existing deficiencies can be allocated 100% to new development after accounting for alternative funding sources. Projects that are either new roadways or new extensions have no existing level of service deficiencies and no deficiency share is allocated to existing development.

**Table 5: Level of Service**

ID	Route	From	To	Base Year		2040	
				ADT	LOS	ADT	LOS
A	SR-99	County Line	SR-190	45,000	B	61,000	D
B	SR-99	SR-190	Avenue 200	55,000	C	76,000	F
C	SR-99	Avenue 200	Prosperity	56,000	C	78,000	F
D	SR-99	Prosperity	Caldwell	56,000	C	87,000	F
E	SR-99	Caldwell	Goshen	56,000	C	81,000	F
F	SR-99	Aux lanes					
G1	SR-198	SR-99	Akers	56,000	C	70,000	E
G2	SR-198	Akers	SR 63	64,000	D	83,000	F
G3	SR-198	SR 63	Lovers Lane	65,000	D	89,000	F
G4	SR-198	Lovers Ln	Rd 156	32,000	A	48,000	B
H1	SR-63 <sup>1</sup>	Avenue 402	Avenue 368	9,600	B	15,000	F
H2	SR-63	Avenue 368	Avenue 312	7,600	A	12,000	D
I	SR-63	Visalia	Tulare	29,500	C	27,000	B
	SR-65	SR-137	SR-198	9,500	B	12,237	D
J	SR-137	Tulare	Lindsay	11,100	C	47,000	F
K1	SR-190	SR 65	Blue Heron Pkwy	25,100	A	38,000	E
K2	SR-190	Blue Heron Pkwy	Reservation Road	11,200	C	19,000	F
K3	SR-190	Westwood Rd	SR 65	5,800	A	20,000	F
L	Road 140	Avenue 280	Avenue 256	8,200	A	22,000	F

Notes: ADT = Average Daily Trips; LOS = Level of Service

Source: KHA.

## Select Link Analysis

Select link runs of the travel demand model were conducted for each of the projects included in the TIF. A select link analysis identifies where the traffic that will be using each roadway improvement is coming from and going to. With this information, the fair share of the cost of the improvement can be allocated to new development in each of the two fee zones identified earlier in this report, and these proportional costs included in the impact fee calculated for each zone.

For fee assignment purposes, there are four categories of trips identified through each select link process:

1. Trips that both start and end in Tulare County;
2. Trips that have an origin in Tulare County, and a destination outside the County;
3. Trips that have an origin outside the Tulare County, and a destination in the County;
4. Trips that have neither an origin nor a destination in Tulare County, but are using a County roadway to pass through the County.

Trip types that fall into Category 4 are "external" trips, and are not subject to the fee program. Although these through trips take up capacity on the roadway and thereby contribute to the need for the improvement, local development cannot be held responsible for the impact of external traffic on the transportation system. The proportion of external trips on the selected link is applied

to the cost of the improvement, and that portion of the improvement cost is not included in the impact fee program. The portion of the improvements that cannot be funded by local development must be covered with other local, state, and federal funding sources.

**Table 6** details the allocation between the North and South zones based on the select link analysis.

**Table 6: Select Link Allocation**

ID	Route	From	To	Net TIF Cost	North Zone	South Zone
A	SR-99	County Line	SR-190	\$ 68,400,000	-	68,400,000
B		SR-190	Avenue 200	29,200,000	468,000	28,732,000
C		Avenue 200	Prosperity	15,200,000	472,000	14,728,000
D		Prosperity	Caldwell	-	-	-
E		Caldwell	Goshen	-	-	-
F		Aux lanes		50,050,000	4,995,900	45,054,100
G	SR-198	SR-99	Akers	108,900,000	10,971,000	97,929,000
H1	SR-63	Avenue 402	Avenue 368	32,400,000	15,858,000	16,542,000
H2		Avenue 368	Avenue 312	49,500,000	24,039,000	25,461,000
I	SR-63	Visalia	Tulare	-	-	-
	SR-65	SR-137	SR-198	18,000,000	1,797,149	16,202,851
J	SR-137	Tulare	Lindsay	130,500,000	6,138,000	124,362,000
K1	SR-190	SR 65	Blue Heron Pkwy	77,250,000	309,000	76,941,000
K2	SR-190	Blue Heron Pkwy	Reservation Road	79,500,000	-	79,500,000
K3	SR-190	Westwood Rd	SR 65	19,800,000	79,200	19,720,800
L	Road 140	Avenue 280	Avenue 256	\$ 7,000,000	-	7,000,000
<b>Total Highway Costs</b>				<b>\$685,700,000</b>	<b>65,127,249</b>	<b>620,572,751</b>
Zone Costs				15,200,000	3,730,000	11,470,000
<b>Total RTIF Costs</b>				<b>\$700,900,000</b>	<b>68,857,249</b>	<b>632,042,751</b>

Source: Willdan Financial Services.

All other trip types with an origin, destination or both in Tulare County are subject to the fee program as these trips are related to future development in the County. **Appendix A** contains the select link analysis detail.

## Fee per Trip Demand Unit

Every impact fee consists of a dollar amount, or the cost of projects that can be funded by a fee, divided by a measure of development. In the case of the TIF, all fees are first calculated as a cost per trip demand unit. Then these amounts are translated into housing unit (\$/unit) and employment space (\$/1,000 square feet) by multiplying the cost per trip by the trip generation rate for each land use category. These amounts become the fee schedule.

**Table 7** calculates the cost per trip for Zones 1 and 2. Cost per trip is calculated by dividing the total project costs allocated to each zone from the select link analysis, by the total trip growth in that zone.

**Table 7: Cost per Trip**

	North Zone	South Zone	Countywide
Net Costs	\$ 68,857,249	\$ 632,042,751	\$ 700,900,000
Trip Growth	180,997	1,631,840	1,812,836
Cost Per Trip	\$ 380	\$ 387	\$ 387

Sources: Kimley Horn; Willdan Financial Services.

Based on the cost per trip calculated above, **Table 7** shows the Traffic Impact Fee schedule, by land use. The fee for a given land use is calculated by multiplying the cost per trip by the trip demand factor for that land use from **Table 1**.

**Table 8: Transportation Impact Fee Schedule**

Land Use	A	B	C = A x B		D = C x 0.02	E = C + D	E / 1,000
	Cost Per Trip	Trip Rate Assumption	Base Fee <sup>1</sup>	Admin Charge <sup>1, 2</sup>	Total Fee <sup>1</sup>	Fee per Sq. Ft.	
<b>North Zone</b>							
<u>Residential</u>							
Single Family	\$ 380	9.57	\$ 3,637	\$ 73	\$ 3,710		
Multi-family	380	6.65	2,527	51	2,578		
<u>Nonresidential</u>							
Commercial	\$ 380	42.94	\$ 16,317	\$ 326	\$ 16,643	\$ 16.64	
Office	380	11.01	4,184	84	4,268	4.27	
Industrial	380	6.97	2,649	53	2,702	2.70	
<b>South Zone</b>							
<u>Residential</u>							
Single Family	\$ 387	9.57	\$ 3,704	\$ 74	\$ 3,778		
Multi-family	387	6.65	2,574	51	2,625		
<u>Nonresidential</u>							
Commercial	\$ 387	42.94	\$ 16,618	\$ 332	\$ 16,950	\$ 16.95	
Office	387	11.01	4,261	85	4,346	4.35	
Industrial	387	6.97	2,697	54	2,751	2.75	
<b>Combined Zone</b>							
<u>Residential</u>							
Single Family	\$ 387	9.57	\$ 3,704	\$ 74	\$ 3,778		
Multi-family	387	6.65	2,574	51	2,625		
<u>Nonresidential</u>							
Commercial	\$ 387	42.94	\$ 16,618	\$ 332	\$ 16,950	\$ 16.95	
Office	387	11.01	4,261	85	4,346	4.35	
Industrial	387	6.97	2,697	54	2,751	2.75	

<sup>1</sup> Persons per dwelling unit or per 1,000 square feet of nonresidential.

<sup>2</sup> Administrative charge of 2.0 percent for (1) legal, accounting, and other administrative support and (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses.

Sources: Tables 1 and 5; Willdan Financial Services.

An administrative charge of two percent of the total impact fee is also calculated in Table 6. The administrative charge funds costs that include: (1) a standard overhead charge applied to County programs for legal, accounting, and other departmental and countywide or citywide administrative

support, (2) impact fee program administrative costs including revenue collection, revenue and cost accounting, mandated public reporting, and fee justification analyses. Revenue from the administrative charge should be tracked and compared against actual costs. Adjustments in the percentage collected for the administrative component should be made if warranted.

# 5. Implementation

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This chapter provides guidance on major TIF Program implementation actions that Tulare County may wish to take. The guidance provided in this study is not a substitute for legal advice and County and City staff will want to consult with its legal counsel regarding final decisions on how to comply with the *Mitigation Fee Act (Act)*.

## TIF Program Adoption Process

Impact fee program adoption procedures are found in the *California Government Code* section 66016. Adoption of an impact fee program requires the Board of Supervisors and City Council to follow certain procedures, including ensuring availability of support documents and a public hearing.

Subject to the advice of legal counsel, the Board of Supervisors and City Council should make a finding that adoption of the proposed fees is consistent with both agency processes and with California Government Code Sections 66016 through 66019 (sections of the Code which codified the *Mitigation Fee Act* and establish requirements for the impact fee implementation process.) The County should:

- ♦ At least 10 days prior, publish notice of a public hearing on the proposed impact fee.
- ♦ At least 14 days prior, send a notice of a public hearing to any party that has submitted a written request for such a notice.
- ♦ At least 10 days prior to the hearing, make this report and all supporting documentation such as transportation planning and finance documents available for review by the public.
- ♦ Hold the public hearing to consider a resolution adopting the TIF.
- ♦ Adopt a resolution establishing the TIF fee schedule.

## Reporting Requirements

The County of Tulare should comply with the annual and five-year reporting requirements of the *Act*. Reports should document fees collected, expended, and programmed, along with current fee account balances.

## Fee Collection and Expenditure

To ensure a reasonable relationship between each fee and the type of development paying the fee, growth projections distinguish between different land use types. The land use types used in this analysis are:

- ♦ **Single family:** Detached one-family dwelling units.
- ♦ **Multi-family:** All attached multi-family dwellings such as apartments and condominiums, plus mobile homes, duplexes, and dormitories.
- ♦ **Commercial:** All commercial development including retail, hotel, motel.
- ♦ **Office:** All general, professional, and medical office development.

- ♦ **Industrial:** All manufacturing, warehouse, agricultural and vehicle and freight terminal development.

Some developments may include more than one land use type, such as apartments over ground floor retail or a planned unit development with both single and multi-family uses. In these cases the TIF would be calculated separately for each land use type.

The County of Tulare should have the discretion to impose the TIF based on the specific aspects of a proposed development regardless of zoning. The guideline to use is the daily trip generation, adjusted for trip length and pass-through rates. The fee imposed should be based on the land use type that most closely represents the trip generation of the development.

Pursuant to *California Government Code* section 66007 (b), fees will be collected at the time of the issuance of a building permit or certificate of occupancy.

## Renovations and Changes in Use

Impact fees should be charged to new development projects that increase the demand for transportation facilities. Accordingly, impact fees would generally not be charged for building renovations, unless new dwelling units or new nonresidential space is created.

If a renovation is associated with a change in use that results in increased trip demand factor, the difference between the fees that would have been charged for the prior use and the new use may be charged. For example, if commercial space is renovated and converted to offices, the County may charge the difference between the office impact fees and the commercial impact fees.

## Inflation Adjustment

This impact fee program should be kept up to date by periodically adjusting the fees for inflation. Such adjustments should be completed regularly to ensure that new development will fully fund its share of needed facilities. There are no inflation indices that are specific to Tulare County. We recommend that the Engineering News Record's national Building Cost Index (BCI) be used to estimate the change in construction costs. While there is a BCI calculated for nearby San Francisco, use of the national BCI is recommended because it is not as susceptible to wide variations as the local index.

While fee updates using inflation indexes are appropriate for periodic updates to ensure that fee revenues keep up with increases in the costs of transportation improvements, TCAG will also need to conduct more extensive updates of the fee documentation and calculation when significant new data on growth projections and/or improvement project plans become available.

## 6. Mitigation Fee Act Findings

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Development impact fees are one-time fees typically imposed on development projects by local agencies responsible for regulating land use (cities and counties). To guide the widespread imposition of public facilities fees, the State Legislature adopted the *Mitigation Fee Act (Act)* with Assembly Bill 1600 in 1987 and subsequent amendments. The *Act*, contained in *California Government Code* sections 66000 through 66025, establishes requirements on local agencies for the imposition and administration of fee programs. The *Act* requires local agencies to document five findings when adopting a fee.

Sample text that may be used for the five statutory findings required for adoption of the impact fee is presented in this chapter and supported in detail by Chapters 2 and 3 of this report. All statutory references below are to the *Act*. The County should consult with its legal counsel for final drafting of these findings.

### Purpose of Fee

For the first finding the County must:

*Identify the purpose of the fee. (§66001(a)(1))*

The purpose of this fee is to ensure that new development will contribute toward the cost of transportation facility improvements necessary to accommodate the types and quantities of growth identified by the County's General Plan. Section TC-1.4 of the County's General Plan states: "The County shall work to enhance funding available for transportation projects. This includes... transportation impact fees to pay for appropriate construction, enhancement, and maintenance of transportation facilities." The fee advances a legitimate public interest by enabling the County to fund improvements to its transportation infrastructure required to accommodate new development.

### Use of Fee Revenues

For the second finding the County must:

*Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in Section 65403 or 66002, may be made in applicable general or specific plan requirements, or may be made in other public documents that identify the public facilities for which the fee is charged. (§66001(a)(2))*

The TIF will fund a portion of approximately \$446 million of transportation facility projects. These projects are identified in Table 4 of this document. Additional funding from other sources is required to fully fund these improvements.

Costs for planned transportation improvements are preliminarily identified in this report. Costs funded by the TIF may include fee collection and accounting, project administration and management, design and engineering, right-of-way acquisition, and construction. Fee revenues will be used for the sole purpose of expanding capacity in the countywide transportation system

to accommodate new development. The share of project costs representing external, inter-regional trips will be funded with non-fee revenues from other sources. The TIF will not be used for the purpose of correcting existing deficiencies in the transportation system.

## Benefit Relationship

For the third finding the County must:

*Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed. (§66001(a)(3))*

The County will restrict fee revenues to capital projects that expand capacity to serve new development. Improvements funded by the TIF will provide the additional residents and workers from new development in the County with the transportation infrastructure required to meet the County's level of service roadway standards.

These capital improvements are required to maintain acceptable levels of service as additional traffic volume accompanies development. The planned projects identified in this report will expand the capacity of the region's transportation system to accommodate the increased trips generated by new development. Thus, there is a reasonable relationship between the use of fee revenues and the residential and nonresidential types of new development that will pay the fee.

## Burden Relationship

For the fourth finding the County must:

*Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed. (§66001(a)(4))*

New dwelling units and building square footage are indicators of the demand for transportation improvements needed to accommodate growth. As additional dwelling units and building square footage are constructed, the occupants of these structures generate additional demand on the countywide transportation system.

The need for the TIF is based on projections of growth that show an increase in trip generation and a decrease in level of service primarily as a result of new development. The estimated impacts from new development are based on trip demand factors that vary by land use category, providing a reasonable relationship between the type of development and the need for improvements.

## Proportionality

For the fifth finding the local agencies must:

*Determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed. (§66001(b))*

This reasonable relationship between the TIF imposed on a specific development project and the cost of the facilities attributable to that project is based on the estimated vehicle trip demand that the project will add to the County's transportation system. The total fee for a specific residential

development is based on the number and type of new dwelling units multiplied the trip demand factor, which is based on the trip generation rate for the applicable residential land use category.

The fee for a specific nonresidential development is based in a similar manner on the amount of building square footage by land use category. Larger projects generate more vehicle trips and pay a higher fee than smaller projects of the same land use category. Thus, the fee schedule ensures a reasonable relationship between the TIF for a specific development project and the cost of the regional transportation improvements attributable to the project.

# Appendix A – TIF Re-evaluation Triggers

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The attached memo summarizes the events that would trigger a recalculation/re evaluation of the TIF fees.

## **TULARE COUNTY TRAFFIC IMPACT FEE STUDY TECHNICAL ADVISORY COMMITTEE**

### ***Consensus Efforts (This is an incomplete draft and not a recommendation for presentation or Board consideration) Updated May 18, 2012***

The following is a compilation of key items that tend to have overall agreement. As progress is made, the list will be adjusted.

#### Overall

1. The TAC should be a part of the recommendation process to the TCAG Board when the TIF gets to stage of formal review and consideration.
2. The Traffic Study represents the “Ceiling” of projects and not a recommendation.
3. The Traffic Study should more clearly explain the model and at a minimum reference model documentation.
4. Given the revised costs, the potential/projected 20 year TIF fees are too high and not likely to be financially feasible.

#### TIF Fee triggers for fee re-evaluation (or traffic analysis review)

1. Any time significant funding is received for a regional project not assumed in the TIF calculation.
  - a. Example: More funding received for SR-99 that reduces the 20% TIF share
  - b. Example: Federal funding is received for a state highway
2. When the cumulative amount of new funding exceeds \_\_\_\_\_ not assumed in the TIF calculation.
  - a. Example: 10 signals receive safety funding.
  - b. Example: Small amount of funding is received on four regional projects
3. When significant change to the construction cost index occurs (This has not been discussed but implied)
  - a. When the economic down turn happened a few years ago, the cost of construction significantly decreased
  - b. When the natural disaster Katrina occurred a number of years ago, key construction materials significantly increased such as steel and PCC
4. TCAG major model update (This occurs approximately every 5 years)
5. Major revision to a member agency Circulation Element (This has not been discussed but implied)
6. Not a trigger per se, but for TIF purposes new project funding should be assumed in place if:
  - a. The new funding is programmed in the four year FTIP
  - b. The new funding is programmed into the five year STIP
  - c. The new funding is amended into the Measure R Expenditure plan

# Appendix B – Comparable Fee Programs

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The following tables detail a survey of the fees charged by comparable jurisdictions.

**Table B-1  
Comparable County and Regional Fees**

Jurisdiction	TCAG RTIF (06/13)		Fresno	Kings	Kern	San Joaquin TIMF+RTIF		Madera County		Merced County	Yuba County
	Low	High				Low	High	Low	High		
Fee per Single Family Unit	\$1,421	\$2,840	\$1,727	\$0	\$0	\$3,894	\$4,570	\$4,136	\$9,091	\$1,375	\$2,756
Fee per SF of Retail/Commercial	3.39	6.04	1.96	0	0	6.86	8.57	3.15	6.92	1.23	12.65
Fee per SF of Office/Commercial	1.74	3.10	1.23	0	0	4.28	4.93	1.28	2.82	0.00	6.33
Fee per SF of Industrial	1.10	1.96	0.49	0	0	2.59	3.01	0.86	1.89	0.62	2.53

Willdan Financial Services, 2013

**Table B-2  
City Fees**

Fee Type	Visalia	Fresno		Bakersfield		Modesto		Hanford	Delano	Wasco	Clovis	
		Low	High	Low	High	Low	High				Low	High
Fee per Single Family Unit	\$4,592	\$697	\$2,263	\$7,747	\$12,870	\$14,066	\$14,066	\$1,734	\$1,632	\$724	\$423	\$4,773
Fee per SF of Retail/Commercial	11.33	1.86	6.46	2.02	3.35	6.89	10.30	7.38	7.32	3.25	0.40	5.46
Fee per SF of Office/Commercial	5.07	1.42	4.61	0.95	1.00	6.74	13.20	1.52	1.88	0.83	0.40	5.46
Fee per SF of Industrial	1.59	0.21	0.68	0.78	7.99	1.95	2.64	0.99	1.19	0.53	0.25	3.41

Willdan Financial Services, 2013

**Table B-3  
Combined Fees**

Fee Type	Visalia	Modesto		Fresno		Bakersfield	
		Low	High	Low	High	Low	High
Fee per Single Family Unit	\$7,432	\$18,074	\$18,074	\$2,424	\$3,990	\$7,747	\$12,870
Fee per SF of Retail/Commercial	17.37	8.73	12.14	3.82	8.42	2.02	3.35
Fee per SF of Office/Commercial	8.17	9.97	16.43	2.65	5.84	0.95	1.00
Fee per SF of Industrial	3.54	3.42	4.11	0.70	1.17	0.78	7.99

Willdan Financial Services, 2013

# Appendix C – Traffic Modeling Analysis

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This appendix includes traffic modeling analysis prepared by Kimley-Horn and Associates.

Model Outputs and LOS Calculations

ID	Roadway Segment	Between (From / To)	2009 Count			2010 Model on 2010 Network - Unadjusted			2040 Model on 2040 Network - Unadjusted			2040 Output Analyzed Using 2010 Network - Unadjusted (2)			2040 Output Analyzed Using 2010 Network - Difference Method (2)		
			Daily	Facility-Lanes For Analysis	LOS (1)	Daily	Facility-Lanes For Analysis	LOS (1)	Daily	Facility-Lanes For Analysis	LOS (1)	2040 Volume	Facility-Lanes For Analysis	LOS (1)	2040 Volume	Facility-Lanes For Analysis	LOS (1)
A	SR-99	County Line to SR-190	45,000	F4	B	46,344	F4	B	61,994	F4	D	61,994	F4	D	60,649	F4	D
B	SR-99	SR-190 to Avenue 200	55,000	F4	C	54,821	F4	C	75,765	F4	F	75,765	F4	F	75,945	F4	F
C	SR-99	Avenue 200 to Prosperity	56,000	F4	C	58,788	F4	C	80,693	F6	C	80,693	F4	F	77,906	F4	F
D	SR-99	Prosperity to Caldwell	56,000	F4	C	52,356	F4	B	83,769	F6	C	83,769	F4	F	87,413	F4	F
E	SR-99	Caldwell to Goshen	56,000	F4	C	48,327	F4	B	72,827	F6	B	72,827	F4	E	80,500	F4	F
F		Aux lanes															
G1	SR-198	SR 99 to Akers	56,000	F4	C	18,900	F4	A	32,891	F4	A	32,891	F4	A	69,992	F4	E
G2	SR-198	Akers to SR 63	64,000	F4	D	21,760	F4	A	40,990	F4	A	40,990	F4	A	83,230	F4	F
G3	SR-198	SR 63 to Lovers Lane	65,000	F4	D	38,251	F4	A	61,847	F4	D	61,847	F4	D	88,596	F4	F
G4	SR-198	Lovers Ln to Rd 156	32,000	F4	A	34,876	F4	A	50,479	F4	B	50,479	F4	B	47,603	F4	B
H1	SR-63	Avenue 402 to Avenue 368	9,600	C2	B	20,872	C2	F	26,617	C2	F	26,617	C2	F	15,345	C2	F
H2	SR-63	Avenue 368 to Avenue 312	7,600	C2	A	23,161	C2	F	27,732	C2	F	27,732	C2	F	12,171	C2	D
I	SR-63	Visalia to Tulare	29,500	A4	C	38,189	A4	E	36,096	A4	E	36,096	A4	E	27,408	A4	B
	SR-65	SR 137 to SR 198	9,500	C2	B	5,513	C2	A	8,250	C2	A	8,250	C2	A	12,237	C2	D
J	SR-137	Tulare to Lindsay	11,100	C2	C	24,226	C2	F	60,460	C2	F	60,460	C2	F	47,334	C2	F
K1	SR-190	SR 65 to Hillcrest St	25,100	A4	B	16,979	A4	A	29,668	F6	A	29,668	A4	C	37,790	A4	E
K2	SR-190	Blue Heron Pkwy to Reservation Rd	11,200	C2	C	10,938	C2	C	19,125	C2	F	19,125	C2	F	19,387	C2	F
K3	SR-190	Westwood Rd to SR 65	5,800	C2	A	7,683	C2	A	21,413	C2	F	21,413	C2	F	19,530	C2	F
L	Road 140	Avenue 280 to Avenue 256	8,200	C2	A	26,365	C2	F	39,813	C2	F	39,813	C2	F	21,648	C2	F

(1) Based on thresholds in TCAG 2012 TIF Report

(2) Analysis completed using 2040 volumes generated on 2040 network

Although model coded as Freeway, because of at-grade intersections analyzed as Arterial

### Select Link Analysis for Daily Model Outputs

ID	Roadway Segment	Between (From / To)	2009 Count (1)			2010 Model on 2010 Network - Unadjusted			2040 Output Analyzed Using 2010 Network - Unadjusted (2)			2010 to 2040 Volume Delta	PM Peak Hour Model Output			Daily Model Output (Excludes E-E Trips)					2010 to 2040 Daily Traffic Characteristics			
			Daily	Model Type/Ln	LOS (1)	Daily	Model Type/Ln	LOS (1)	Volume	Model Type/Ln	LOS (1)		2010	2040	Delta	2010	2040	Delta	North TIF District	South TIF District	North TIF District	South TIF District	TCAG (at least one trip end)	E-E
A	SR-99	County Line to SR-190	45,000	1-2	B	46,344	1-2	B	61,994	1-2	D	15,649	4,311	5,597	1,286	13,930	23,783	9,853	33	9,819	0.3%	99.7%	63%	37%
B	SR-99	SR-190 to Avenue 200	55,000	1-2	C	54,821	1-2	C	75,765	1-2	F	20,945	4,928	6,806	1,878	23,884	38,710	14,826	286	14,539	1.9%	98.1%	71%	29%
C	SR-99	Avenue 200 to Prosperity	56,000	1-2	C	58,788	1-2	C	80,693	1-3	F	21,906	5,214	6,972	1,758	28,521	44,666	16,145	424	15,721	2.6%	97.4%	74%	26%
D	SR-99	Prosperity to Caldwell	56,000	1-2	C	52,356	1-2	B	83,769	1-3	F	31,413	4,999	7,921	2,922	25,177	52,049	26,872	2,575	24,298	9.6%	90.4%	86%	14%
E	SR-99	Caldwell to Goshen	56,000	1-2	C	48,327	1-2	B	72,827	1-3	F	24,500	4,738	7,161	2,423	22,368	41,938	19,570	1,990	17,580	10.2%	89.8%	80%	20%
F		Aux lanes																						
G1	SR-198	SR 99 to Akers	56,000	1-2	C	18,900	1-2	A	32,891	1-2	E	13,992	2,083	3,632	1,549	21,716	37,843	16,127	2,322	13,805	14.4%	85.6%	115%	-15%
G2	SR-198	Akers to SR 63	64,000	1-2	D	21,760	1-2	A	40,990	1-2	F	19,230	2,328	4,415	2,086	24,606	45,968	21,362	2,342	19,020	11.0%	89.0%	111%	-11%
G3	SR-198	SR 63 to Lovers Lane	65,000	1-2	D	38,251	1-2	A	61,847	1-2	F	23,596	4,036	6,178	2,143	45,214	69,949	24,735	1,614	23,121	6.5%	93.5%	105%	-5%
G4	SR-198	Lovers Ln to Rd 156	32,000	1-2	A	34,876	1-2	A	50,479	1-2	B	15,603	3,971	6,759	2,788	44,111	59,088	14,977	-188	15,165	-1.3%	101.3%	96%	4%
H1	SR-63	Avenue 384 to Avenue 368	9,600	2-2	B	20,872	2-2	F	26,617	2-2	F	5,745	3,346	4,266	920	37,883	48,341	10,457	5,100	5,357	48.8%	51.2%	182%	-82%
H2	SR-63	Avenue 368 to Avenue 312	7,600	2-2	A	23,161	2-2	F	27,732	2-2	D	4,571	3,617	4,336	719	40,891	49,080	8,189	3,934	4,255	48.0%	52.0%	179%	-79%
I	SR-63	Visalia to Tulare	22,400	2-4	C	38,189	2-4	E	36,096	2-4	B	-2,092	3,330	3,160	-169	38,476	36,320	-2,156	-140	-2,016	6.5%	93.5%	103%	-3%
J	SR-137	Tulare to Lindsay	11,100	2-2	C	24,226	2-2	F	60,460	3-4	F	36,234	2,200	5,365	3,165	24,509	61,066	36,558	1,548	35,010	4.2%	95.8%	101%	-1%
K1	SR-190	SR 65 to Hillcrest St	25,100	1-2	B	16,979	1-2	A	29,668	1-3	E	12,690	1,586	3,312	1,725	17,076	29,740	12,664	68	12,596	0.5%	99.5%	100%	0%
K2	SR-190	Hillcrest St to Reservation Rd	11,200	2-2	C	10,938	2-2	C	19,125	2-2	F	8,187	990	1,656	666	11,003	19,191	8,188	1	8,187	0.0%	100.0%	100%	0%
K3	SR-190	Westwood Rd to SR 65	5,800	2-2	A	7,683	2-2	A	21,413	3-4	F	13,730	680	1,700	1,020	7,688	21,283	13,595	21	13,574	0.2%	99.8%	99%	1%
L	Road 140	Avenue 280 to Avenue 256	8,200	2-2	A	26,365	2-2	F	39,813	2-2	F	13,448	2,512	3,280	768	27,992	41,098	13,106	-348	13,454	-2.7%	102.7%	97%	3%

(1) TCAG 2012 TIF Report  
(2) Analysis completed using 2040 volumes generated on 2040 network  
(3) Project costs for K2 include those related to K1  
(4) Unless noted the project is needed prior to 2040  
2040 LOS E or worse - potential additional Select Zone Analysis (if requested)  
2040 LOS D or better - not anticipated to require additional Select Zone Analysis  
Project calculations not valid given traffic reduction between 2010 and 2040

Select Link Analysis for PM Peak Hour Output

ID	Segment	PM Peak Hour Model Output (Excludes E-E Trips)					2010 to 2040 PM Peak Hour Traffic Characteristics			
		2010	2040	Delta	North TIF District	South TIF District	North TIF District	South TIF District	TCAG (at least one trip end)	E-E
A	SR-99	1,384	2,305	921	-4	925	-0.5%	100.5%	72%	28%
B	SR-99	2,115	3,501	1,386	22	1,364	1.6%	98.4%	74%	26%
C	SR-99	2,405	3,672	1,267	40	1,228	3.1%	96.9%	72%	28%
D	SR-99	2,228	4,605	2,378	252	2,125	10.6%	89.4%	81%	19%
E	SR-99	2,041	3,886	1,845	226	1,619	12.3%	87.7%	76%	24%
F										
G1	SR-198	2,080	3,632	1,552	225	1,327	14.5%	85.5%	100%	0%
G2	SR-198	2,327	4,415	2,088	228	1,860	10.9%	89.1%	100%	0%
G3	SR-198	4,032	6,151	2,119	127	1,991	6.0%	94.0%	99%	1%
G4	SR-198	3,968	6,732	2,764	-28	1,349	-1.0%	48.8%	99%	1%
H1	SR-63	3,255	4,147	893	437	455	49.0%	51.0%	97%	3%
H2	SR-63	3,526	4,218	692	336	355	48.6%	51.4%	96%	4%
I	SR-63	3,330	3,160	-169	-10	-159	5.9%	94.1%	100%	0%
J	SR-137	2,153	5,259	3,106	146	2,960	4.7%	95.3%	98%	2%
K1	SR-190	1,586	3,312	1,725	7	1,109	0.4%	64.3%	100%	0%
K2	SR-190	990	1,656	666	0	666	0.0%	100.0%	100%	0%
K3	SR-190	680	1,656	976	4	1,231	0.4%	126.1%	96%	4%
L	Road 140	2,512	3,280	768	-64	833	-8.4%	108.4%	100%	0%

## PUBLIC HEARING PROCEDURES

The following rules shall apply:

1. OPEN the public hearing.
2. PROPOSERS (those in favor). The Council may ask questions of the proponents and they may respond.
3. OPPOSERS (those against). The Council may ask questions of the opponents and they may respond.
4. REBUTTAL each side.
5. FURTHER QUESTIONS from Council, but the parties may not engage in further debate.
6. CLOSE the public hearing.
7. COUNCIL DISCUSSION.
8. MOTION ( if necessary).
9. COUNCIL VOTE.

**CITY OF LINDSAY PUBLIC NOTICE**

**NOTICE TO PROPERTY OWNERS AND RATEPAYERS OF PUBLIC HEARING  
ON REFUSE RATE INCREASES**

**PROPOSITION 218 NOTIFICATION**

Hearing Date & Time: August 25, 2015, at 6:00 PM or as soon thereafter as possible  
Hearing Location: City Council Chambers, City Hall, 251 E. Honolulu Street, Lindsay, CA 93247

**Basis of Proposed Rates:** Article XIID of the California Constitution requires that the City clearly demonstrate the basis for all property-related rates and charges to residents. Refuse rates are required to recoup the cost of providing the service, including a reasonable reserve. Expenses include the third party provider cost, and providing revenue for the Street Improvement Program Fee which allocates 23.60% of water, sewer and refuse charges to the Street Improvement Fund per the 2004 Engineer’s Report and Council Action. The rates proposed herein are designed to meet all legal requirements and fairly and equitably recover the required revenue from all customer classes.

The rate structures in this notice were previously adopted by Resolution No. 04-14 on February 24,2004. On July 12, 2011, the City Council adopted Resolution 2011-50, which reduced refuse rates. The reduced rates have reduced the revenue available from the refuse charges reducing the revenue for the refuse fund. The current rate increase will reinstate the rates that were in effect prior to the adoption of Resolution 2011-50. Those prior rates had gone into effect in February 2009 and were as follows:

Residential:	22.73 per month	Increase: 1.14 per month
Commercial:	22.73 per month	Increase: 1.14 per month
Commercial Recycling:	31.71 per month	Increase: 1.59 per month

All other Refuse Rates: See Exhibit “A”

**Refuse Rates:** The City currently charges refuse rates a fee based on land or property use as shown above and on Exhibit “A.” These rates are based on the character or type of use at a given service address. Different types or categories of uses generate different quantities and qualities of refuse, and therefore incur different rates to provide the service to that category of use. The categories of uses are shown above and on Exhibit “A.”

**Impact on Your Bill:** If approved, refuse rate increases would go into effect with the November, 2015 billings. The refuse portion of the monthly bill would increase as shown above .

**Compliance with Proposition 218:** In 1996, California voters approved Proposition 218 which amended the state constitution relating to passage of property related fees. Today, Proposition 218 requires the City to: 1) inform property owners and rate payers that proposed rate increases are being considered; 2) clearly demonstrate the basis on which these fees/rates are calculated; and 3) hold a public hearing at least 45 days after notification. Refuse rates are subject to a “majority protest,” meaning they cannot be passed if a majority (50% + 1) of property owners or ratepayers impacted by the rate change submit written protests to the City opposing the increase.

**Date, Time and Location of Public Hearing:** The Public Hearing for proposed rate increases will be held on August 25, 2015 at 6:00 PM, or as soon thereafter as possible, at the City Council Chambers, located at 261 E. Honolulu St., Lindsay, CA 93247.

**Written Protest:** A written protest against the proposed rate change must identify the address of the impacted property and include signature(s) of the property owner(s) or rate payer(s). If the City receives written protests against the proposed refuse rates by a majority of the affected property owners or rate payers prior to the end of the hearing, the City Council will not approve the rate increase. In compliance with Proposition 218, only one protest for each property will be counted. For further information, please contact the City at (559) 562-7102, or visit the City offices at the address above.

**Why are Rate Adjustments Needed?**

The proposed rates will re-institute rates that went into effect starting in February 2009 to provide the revenue needed to fund the cost of refuse service and the refuse fund’s share of the Street Improvement Fund.

**AVISO PÚBLICO DE LA CIUDAD DE LINDSAY**  
**AVISO DE AUDENCIA PÚBLICA A LOS PROPIETARIOS Y CONTRIBUYANTES**  
**DE AUMENTOS DE TARIFAS EN BASURA.**

**NOTIFICACIÓN de PROPOSICIÓN 218**

Fecha y Hora de Audición: 25 Agosto 2015, a las 6:00 pm o tan pronto como sea posible Ubicación de audición:  
Ayuntamiento de Salas, 251 E. Honolulu Street, Lindsay, CA 93247

**Bases de tarifas propuesto:** Artículo XIID de la Constitución de California requiere que el Ayuntamiento demuestra claramente la base de todas las tasas y cargos a los residentes relacionados con la propiedad. las tarifas de la basura se requieren para recuperar el coste de proporcionar servicio, incluyendo una reserva razonable. Los gastos incluyen el costo tercero proveedor de partido, y proporcionar ingresos para Programa de Mejoramiento de las Calles, que asigna 23.6% de agua, alcantarillado y se niegan los cargos al Fondo de Mejoramiento de la Calle por el informe del Ingeniero 2004 y la acción del Consejo. Las tarifas propuestas en este documento están diseñados para satisfacer todos los requisitos legales y de manera justa y equitativa recuperar los ingresos necesarios de todas las clases de clientes.

Las estructuras de tarifas en este aviso se adoptaron previamente por la Resolución No. 14-04 del 24 de Febrero de 2004. El 12 de Julio de 2011, el Ayuntamiento aprobó la Resolución 2011-50, lo que redujo las tasas de negarse. Los tipos reducidos han reducido los ingresos disponibles de los cargos de basura, reduciendo los ingresos para el fondo de la basura. El aumento de la tarifa actual restablecerá las tasas que estaban en vigor antes de la adopción de la Resolución 2011-50. Esas tasas anteriores habían entrado en vigor en Febrero de 2009 y ha sido el siguiente:

Residencial:	\$22.73 por mes	Aumento:	\$1.14 por mes
Comercial:	\$22.73 por mes	Aumento:	\$1.14 por mes
Reciclaje profesional:	\$31.71 por mes	Aumento:	\$1.59 por mes

Todas otras Tarifas de Basura: Ver Anexo "A"

**Tarifas de Basura:** La ciudad actualmente cobra una tarifa basada en el uso de la propiedad como se muestra arriba y en el Anexo "A" Estas tarifas se basan en el carácter o tipo asignada en cada domicilio. Diferentes tipos o categorías de usos generan diferentes cantidades y calidades de basura, y por lo tanto incurrir en diferentes tarifas para prestar servicio a cada categoría de uso. Las categorías de usos se muestran arriba y en el Anexo "A"

**Impacto en su factura:** Si se aprueba, aumentos de tarifas entrarían en vigor con la facturación de Noviembre de 2015 la facturación. La parte de la basura de la factura mensual se incrementaría como se muestra arriba.

**El cumplimiento de la Proposición 218:** En 1996, los votantes de California aprobaron la Proposición 218 que modificó la constitución del estado en relación con el paso de los honorarios relacionados con la propiedad. Hoy en día, la Proposición 218 requiere que la Ciudad: 1) informe a los propietarios y los pagadores de tarifas que proponen aumentos de las tasas que se están considerando; 2) demuestren claramente la base sobre la que se calculan las tasas de estos cargos; y 3) celebrar una audiencia pública al menos 45 días después de la notificación. Tarifas de Basura están sujetas a una "protesta de mayoría", lo que significa que no se pueden pasar si una mayoría (50% + 1) de los propietarios o de los contribuyentes afectados por el cambio de tarifa somete protestas a la Ciudad que se oponen al aumento escrito.

**Fecha, hora y lugar de la audiencia pública:** La Audiencia Pública para aumentos de tarifas propuestas se llevarán a cabo el 25 de Agosto de 2015 a 6:00 PM, o tan pronto como sea posible, en la Cámara del Consejo de la ciudad, ubicado en 251 E. Honolulu St ., Lindsay, CA 93247.

**Protesta por Escrito:** Una protesta escrita contra el cambio de tarifa propuesta debe identificar la domicilio de la propiedad afectada y debe incluir la firma (s) del propietario (s) propiedad o pagador (s) de tasa. Si la Ciudad recibe protestas contra las tarifas de basura propuestas escrito por una mayoría de los propietarios afectados o pagadores de la tarifa antes de la final de la audiencia, el Ayuntamiento no va a aprobar el aumento de la tarifa. En cumplimiento de la Proposición 218, se contará solo una protesta para cada propiedad. Para más información, póngase en contacto con la Ciudad al (559) 562-7102, o visite las oficinas de la Ciudad a el domicilio anterior.

**Por qué se necesitan ajustes en las tarifas?**

Las tarifas propuestas servirán para re-instituir tarifas que entraron en vigor a partir de Febrero de 2009 para proporcionar los ingresos necesarios para financiar el costo del servicio de basuras y la parte del fondo de la basura y del Fondo de Mejoramiento de la calle.

# CITY OF LINDSAY PUBLIC NOTICE

## NOTICE TO PROPERTY OWNERS AND RATEPAYERS OF PUBLIC HEARING ON SEWER RATE INCREASES FOR RESIDENTIAL SERVICES, LAUNDROMATS AND CARWASHES PROPOSITION 218 NOTIFICATION

Hearing Date & Time: August 25, 2015, at 6:00 PM or as soon thereafter as possible  
Hearing Location: City Council Chambers, City Hall, 251 E. Honolulu Street, Lindsay, CA 93247

**Basis of Proposed Rates:** Article XIID of the California Constitution requires that the City clearly demonstrate the basis for all property-related rates and charges to residents. Sewer rates are required to recoup the cost of providing the service, including reserves for infrastructure repair and replacement. Expenses include the cost of labor, energy, chemicals and other supplies, and providing required system maintenance, including the Street Improvement Program Fee which allocates 23.60% of water, sewer and refuse charges to the Street Improvement Fund per the 2004 Engineer's Report and Council Action. The rates proposed herein are designed to meet all legal requirements and fairly and equitably recover the required revenue from all customer classes.

The rate structures in this notice were previously adopted by Resolution No. 04-14 on February 24, 2004. On July 12, 2011, the City Council adopted Resolution 2011-47, which reduced sewer rates for residential uses and landromats and carwashes. The reduced rates have reduced the revenue available from the sewer charges reducing the revenue for the sewer fund. The current rate increase will reinstate the rates that were in effect prior to the adoption of Resolution 2011-47. Those prior rates had gone into effect in February 2009 and were as follows:

Residential:	36.88 per month	Increase:	6.86 per month
Laundromats & Carwashes	\$2.89/ 100 CF	Increase:	\$1.04 per 100 CF

**Wastewater (Sewer) Rates:** The City currently charges residential sewer customers a flat fee. This is the base charge for residences. The rates for laundromats and carwashes are based on units of 100 cubic feet of water as shown above.

**Impact on Your Bill:** If approved, sewer rate increases would go into effect with the November, 2015 billings. The sewer portion of the monthly bill for residential users would increase \$6.86 per month.

**Compliance with Proposition 218:** In 1996, California voters approved Proposition 218 which amended the state constitution relating to passage of property related fees. Today, Proposition 218 requires the City to: 1) inform property owners and rate payers that proposed rate increases are being considered; 2) clearly demonstrate the basis on which these fees/rates are calculated; and 3) hold a public hearing at least 45 days after notification. Sewer rates are subject to a "majority protest," meaning they cannot be passed if a majority (50% + 1) of property owners or ratepayers impacted by the rate change submit written protests to the City opposing the increase.

**Date, Time and Location of Public Hearing:** The Public Hearing for proposed rate increases will be held on August 25, 2015 at 6:00 PM, or as soon thereafter as possible, at the City Council Chambers, located at 261 E. Honolulu St., Lindsay, CA 93247.

**Written Protest:** A written protest against the proposed rate change must identify the address of the impacted property and include signature(s) of the property owner(s) or rate payer(s). If the City receives written protests against the proposed water rates by a majority (50% + 1) of the affected property owners or rate payers prior to the end of the hearing, the City Council will not approve the change. In compliance with Proposition 218, only one protest for each property will be counted. For further information, please contact the City at (559) 562-7102, or visit the City offices at the address above.

### Why are Rate Adjustments Needed?

The proposed rates will re-institute rates that went into effect starting in February 2009. The current sewer system is aging and is experiencing normal repairs and replacements of the sewer facilities and increases in operating costs. The re-instituted rates are intended to meet these requirements.

The proposed rate increases will be used to operate and maintain the existing wastewater facilities and maintain a reasonable reserve. In addition, the rate increase will increase the maintenance and equipment budget to required levels and fund the sewer system share of the Street Improvement Fund.

AVISO PUBLICO DE LA CIUDAD DE LINDSAY  
AVISO A LOS PROPIETARIOS DE PROPIEDAD Y CONTRIBUYENTES DE AUDIENCIA PÚBLICA  
SOBRE AUMENTOS DE TARIFA DE ALCANTARILLA  
PARA SERVICIOS RESIDENCIALES, LAVANDERIAS Y LAVADORAS DE AUTOS.  
NOTIFICACIÓN DE PROPOSICIÓN 218

Audición Fecha y hora: 25 Agosto 2015, a las 6:00 pm o tan pronto como sea posible  
Ubicación audición: Ayuntamiento de Salas, City Hall, 251 E. Honolulu Street, Lindsay, CA 93247

Bases de tarifas propuesto: Artículo XIIID de la Constitución de California requiere que el Ayuntamiento demuestre claramente la base de todas las tasas y cargos a los residentes relacionados con la propiedad. Se requieren tasas de alcantarillado para recuperar el costo de la prestación del servicio, incluyendo las reservas para la reparación de la infraestructura y de reemplazo. Los gastos incluyen el costo de la mano de obra, energía, productos químicos y otros suministros, y proporcionar el mantenimiento del sistema requerido, incluida la Comisión de Programa de Mejoramiento de la calle que asigna 23.6% de agua, alcantarillado y se niegan los cargos al Fondo de Mejoramiento de la calle por Informe y Consejo de Acción del Ingeniero 2004. Las tarifas propuestas en este documento están diseñados para satisfacer todos los requisitos legales y de manera justa y equitativa recuperar los ingresos necesarios de todas las clases de clientes.

Las estructuras de tarifas en este aviso se adoptaron previamente por la Resolución No.14-04 del 24 de Febrero de 2004. El 12 de Julio de 2011, el Ayuntamiento aprobó la Resolución 2011-47, la cual causo el redujo tasas de alcantarillado para usos residenciales, de lavanderías y lavadoras de autos. Los tipos reducidos han reducido los ingresos disponibles de los cargos de alcantarillado y reducido los ingresos para el fondo de la alcantarilla. El aumento de la tarifa actual serbira a restablecer las tasas que estaban en vigor antes de la adopción de la Resolución 2011-47. Esas tasas anteriores habían entrado en vigor en Febrero de 2009 y ha sido el siguiente:

Residencial:	\$36.88 por mes	Aumento:	\$6.86 por mes
Lavanderías y Labadoras de Auto	\$ 2.89 / 100 PC	Aumento:	\$1.04 por 100 PC

Precios de Aguas Residuales (Alcantarilla): La ciudad actualmente cobra a los clientes residenciales de alcantarillado una tarifa plana. Esta es la carga base para las residencias. Las tarifas de lavanderías y lavados de carros se basan en unidades de 100 pies cúbicos de agua como se muestra arriba.

Impacto en su factura: Si se aprueba, aumentos de las tasas de alcantarillado entrarían en vigor con la fractura de Noviembre de 2015. La porción de alcantarillado de la factura mensual para los utilizadores residenciales aumentaría \$ 6.86 por mes.

En cumplimiento de la Proposición 218: En 1996, los votantes de California aprobaron la Proposición 218 que modificó la constitución del estado en relación con el paso de los honorarios relacionados con la propiedad. Hoy en día, la Proposición 218 requiere que la Ciudad: 1) informe a los propietarios y los pagadores de tarifas que proponen aumentos de las tasas se están considerando; 2) demuestran claramente la base sobre la que se calculan las tasas de estos cargos; y 3) celebrará una audiencia pública al menos 45 días después de la notificación. Las tasas de alcantarillado están sujetos a una "protesta mayoría", lo que significa que no se pueden pasar si una mayoría (50% + 1) de los propietarios o de los contribuyentes afectados por el cambio de tarifa submitan protestas a la Ciudad que se oponen al aumento escrito.

**Fecha, hora y lugar de la audiencia pública:** La Audiencia Pública para aumentos de tarifas propuestas se llevarán a cabo el 25 de Agosto de 2015 a 6:00PM, o tan pronto como sea posible, en la Cámara del Consejo de la ciudad, ubicado en 251 E. Honolulu St., Lindsay, CA 93247.

**Protesta Escrito:** Una protesta escrita contra el cambio de tasa propuesta debe identificar la dirección de la propiedad afectada y debe incluir la firma (s) del propietario (s) propiedad o pagador (s)de tasa. Si la Ciudad recibe protestas contra las tarifas de Alcantarilla propuestos escrito por una mayoría (50% + 1) de los propietarios afectados o pagadores de la tarifa antes de la final de la audiencia, el Ayuntamiento no va a aprobar el cambio. En cumplimiento de la Proposición 218, se contará solo una protesta para cada propiedad. Para más información, póngase en contacto con la Ciudad de Lindsay al (559) 562-7102, o visite las oficinas de la Ciudad a la dirección antes mencionada.

**Por qué se necesitan ajustes a las tarifas?**

Las tarifas propuestas serbira a re-instituir tarifas que entraron en vigor a partir de Febrero de 2009. El sistema de alcantarillado actual está envejeciendo y está experimentando reparaciones normales y reemplazos de las instalaciones de alcantarillado y el aumento de los costos de operación. El re-instituido de esas as tasas están destinadas a cumplir estos requisitos.

Los aumentos de tarifas propuestas se utilizan para operar y mantener las instalaciones de aguas residuales existentes y para mantener una reserva razonable. Además, el aumento de la tarifa se incrementará al presupuesto de mantenimiento y equipos a los niveles requeridos y serbira a financiar la parte del sistema de alcantarillado del Fondo de Mejoramiento de la calle.

## Exhibit “A”

### Sewer Rate

	Current Rate	Increase	new rate
Residential:	\$30.00 per month	\$ 6.88	\$36.88
Laundromats & Carwashes	\$1.85/ 100 CF	\$1.04/CF	\$2.89/CF

Wastewater (Sewer) Rates: The City currently charges residential sewer customers a flat fee

### Refuse Service

	Pick-ups per week	current rate	rate increase (5%)	adjusted rate
<b>Residential</b>				
1 group of cans (3 can total)	1	\$21.59	\$1.14	\$22.73
1 addt'l can (black, blue or green)	1	\$5.70	\$0.29	\$5.42
 <b>Commercial</b>				
1 group of cans (3 can total)	1	\$21.59	\$1.14	\$22.73
1 Yard Bin	1	\$63.22	\$3.33	\$66.55
1 Yard Bins	2	\$117.47	\$6.18	\$123.65
1 Yard Bins	3	\$171.88	\$9.05	\$180.93
1 ½ Yard Bin	1	\$ 78.17	\$4.11	\$82.28
1 ½ Yard Bins	2	\$131.53	\$6.92	\$138.45
1 ½ Yard Bins	3	\$185.01	\$9.74	\$194.75
2 Yard Bin	1	\$92.15	\$4.85	\$97.00
2 Yard Bins	2	\$161.10	\$8.48	\$169.58
2 Yard Bins	3	\$223.88	\$11.78	\$235.66
3 Yard Bin	1	\$127.90	\$6.73	\$134.63
3 Yard Bins	2	\$222.69	\$11.72	\$234.41
3 Yard Bins	3	\$312.55	\$16.45	\$329.00
6 Yard Bin	1	\$256.36	\$13.49	\$269.85
6 Yard Bins	2	\$445.51	\$23.45	\$468.96
6 Yard Bins	3	\$631.29	\$33.23	\$664.52
 <b>Commercial Recycling</b>				
1 Yard Bin	1	\$30.12	\$1.59	\$31.71
2 Yard Bin	1	\$43.92	\$2.31	\$46.23

**RESOLUTION NO. 15-40  
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LINDSAY  
ADOPTING REVISED SEWER & REFUSE RATES.**

At a regular meeting of the City Council of the City of Lindsay, called held on the 25th day of August, 2015, at the hour of 6:00 p.m. of said day, in the City Council Chambers, City Hall, 251 East Honolulu, Lindsay, California 93247 , the following resolution was adopted:

**THAT WHEREAS**, the user fee rates of the City of Lindsay, for the utility services of sewer & refuse, as well as the costs incurred in operating these utilities, has been reviewed by the City Council of the City of Lindsay; and

**WHEREAS**, said user fees require adjustments to make them equitable for all citizens, and;

**WHEREAS**, the City Clerk of the City of Lindsay conducted a public hearing on this matter on August 25, 2015 in accordance with Proposition 218; and

**WHEREAS**, the City Clerk certifies that all property owners and account holders were notified of the proposed rate increase and the time and location of the public hearing by U.S. Mail on July 9, 2015; and

**WHEREAS**, after the close of the Public Hearing, the submitted written protests were counted and found to be less than a majority or the required 50% plus one.

**NOW, THEREFORE, BE IT RESOLVED** that the City of Lindsay does hereby adopt the following user fees as shown in exhibit "A" hereto attached.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Lindsay this 25th day of August, 2015.

CITY COUNCIL OF THE CITY OF LINDSAY

\_\_\_\_\_  
Ramona Villarreal-Padilla, Mayor

ATTEST:

\_\_\_\_\_  
Carmela Wilson, City Clerk



DATE : August 25, 2015  
TO : Mayor Padilla and City Council Members  
FROM : Michael Camarena, City Services Director  
RE : Second Reading and Adoption of Ordinance 551, an Ordinance of the City of Lindsay amending Section 13.04.345 of the Lindsay Municipal Code amending Adopted Water Conservation Plan and Approval of Resolution 15-41, A Resolution of the City Council of the City of Lindsay Adopting the updated Water Conservation Plan and Declaring the City to be in Phase IV of the Plan.

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#### **SUMMARY**

Staff requests Council approval of the Second Reading & Adoption of Ordinance 551 an Ordinance of the City of Lindsay amending Section 13.04.345 of the Lindsay Municipal Code amending the existing Water Conservation Plan as detailed in the attached draft ordinance.

Staff also requests Approval of Resolution 15-41, A Resolution of the City Council of the City of Lindsay Adopting the updated Water Conservation Plan and Declaring the City to be in Phase IV of the Plan

Staff presented this item as well as the updated Water Conservation plan on August 11, 2015 as the First reading of the draft ordinance.

#### **RECOMMENDED ACTION:**

Request approval of the Second Reading & Adoption of Ordinance 547 and Resolution 15-41.

#### **ATTACHMENTS:**

Draft Water Conservation Plan  
Resolution 15-41

# CITY OF LINDSAY



## WATER CONSERVATION PLAN

Amended August 11, 2015

## SECTION I INTRODUCTION

The City of Lindsay is located on the east side of the San Joaquin Valley in Tulare County near the base of the Sierra Nevada Mountains. The City is traversed by State Highway 65 running north and south along the west side of the City. Lindsay is located approximately 12 miles east of Tulare and State Highway 99, approximately 11 miles north of Porterville and 18 miles southeast of Visalia, the County seat of Tulare County.

The City of Lindsay was incorporated on February 29, 1910 as "Class Six" city under the laws of the State of California. The area within the existing City limits contains approximately 2.72 square miles or 1,743 acres of which approximately 82.1 percent is presently developed for commercial, industrial and residential use.

As a general law city of the State of California, Lindsay is governed by an elected five member City Council, one of whom serves as Mayor. Administrative officials include a City Manager, City Clerk, City Attorney, Finance Director, City Engineer, City Services Director, Planning Director and Director of Public Safety. The major city departments consist of Public Safety (police and fire), Planning and Community Development, and City Services.

The City also owns and operates McDermont Field House, a recreational and sports facility along with the Wellness Center. Each facility has a Director overseeing staff and operations.

## SECTION 2 WATER SUPPLY AND WATER SYSTEM

The City of Lindsay's water system consists of approximately 2,900 service connections in the current service area. Greater than 95% of the connections are metered. All new water connections are required to be metered.

The City of Lindsay's water system supply consists of three deepwells supplied by groundwater aquifers both inside the City's service area as well as outside the city limits, 2,500 acre feet of surface water purchased annually from the United States Department of the Interior, Bureau of Reclamations, Central Valley Project, at Millerton Reservoir and delivered to the City's point of delivery by way of the Friant Kern Canal and a 4.0 million gallon steel storage tank located on Todd's Hill.

Monitoring and partial control is provided by wireless digital data signals telemetry to the well sites and the water storage tank.

Historically, the surface water supply is the City of Lindsay's primary source of water. The groundwater supply is considered as the City's secondary source and is utilized to satisfy peak demands on the system.

The fluctuation and deterioration of groundwater quality, with particular respect to nitrates (N03), Perchlorate ( $\text{ClO}_4$ ) and Dibromochloropropane (DBCP,  $\text{C}_3\text{H}_5\text{Br}_2\text{Cl}$ ) with the City's deepwells has put additional pressure and importance on the surface water supply.

In 2013 and 2014 drought conditions have risen to levels never experienced in California. These conditions along with a requirement to supply water to the San Joaquin River and other longstanding water rights commitments have substantially reduced the surface water supply to a below normal amount available to the City through its annual contract with the United States Department of the Interior, Bureau of Reclamations. The amount declared in the 2014 water year was 0% of the normal 2,500 acre feet of surface water available to the City.

With the very limited surface water and groundwater supplies, it will be necessary for the City of Lindsay to promote and enforce this water conservation plan in order to provide sufficient water to meet community demands.

### SECTION 3 CONSERVATION MEASURES

The City of Lindsay is aware of the need for continual water conservation and through direction by the City Council has adopted resolutions and ordinances to provide staff with the means of implementing and enforcing necessary water conservation measures.

Through this updated Water Conservation Plan, the City will continue their efforts in water conservation and adopt new policies and guidelines as the need becomes apparent. This revised plan has been developed around a 5 Phase approach with the following structure:

Phase I - Water Conservation

Phase II - Water Monitoring

Phase III - Strict Enforcement

Phase VI – Emergency Water Conservation

Phase V – Extreme Water Crisis

The benefits of conserving water as a limited natural resource, through this format will be realized by the community in the form of reduced energy costs, reduced impact on the Wastewater Treatment Plant and sufficient water supply during peak demands. It is the intent of the water conservation plan be a joint effort of all residents and water users and the City and through community efforts, optimal results will be achieved.

Actions within each phase have been defined as either actions to be undertaken by the City or by the General Public. Due to the number of variables which affect the water conditions in existence at any one point in time, a report by City Staff, will describe the necessary action for transition from one phase to another (more or less stringent). At such time as staff has determined that the water condition warrants advancement to a more stringent phase, a report and request will be forwarded to the City Council for their review and approval.

**SECTION 4**  
**PHASE I - WATER CONSERVATION**

Through a joint effort of the City and General Public, this phase is established to conserve water, a limited natural resource, through reductions of water waste and implementation of guidelines for more efficient use of the available limited supply of water. Phase I typically applies during periods when an average water supply is forecast.

The following outline describes steps to be taken by the City as well as Residents that makes it possible to achieve the above goals:

- The City shall implement a "Public Awareness Program" designed to make the community aware of the water conditions.
- The City shall develop a set of "Water Conservation Guidelines" that would be made available to residents for use in conserving water.
- The City shall keep the community aware of changing conditions through news media. This is necessary in the event that stricter conditions may be coming in the future.
- Enforce most current and adopted building codes and regulations that deal with building construction with regard to water and energy conservation.
- Request that residents reduce landscape irrigation practices to a minimum. Request that landscape irrigation be performed during late evenings or early mornings to reduce the amount of water lost due to evaporation.
- Require that all new developments follow model water efficient landscape designs, including automatic irrigation systems with rain control gauges.
- Require that all new developments follow model water efficient landscape designs with regard to plantings and planting designs and layout.
- Discourage users from washing down sidewalks and driveways. Request that this item be accomplished by other means such as sweeping, etc.
- Request that restaurants support the water conservation effort by serving water upon request only.
- The City shall reduce all landscape irrigation practices to a minimum.

- The City shall intensify its leak detection program by repairing or replacing leaking valves, water meters and fire hydrants as necessary.
- Coordinate with local schools to implement a Water Education Program that would instill a water conservation ethic in the minds of today's youth. This alone can permanently affect the water using habits of tomorrow's adults.
- The City's fire hydrant testing schedule shall be arranged so that fire hydrant testing occurs during off peak periods. Fire Hydrant testing and flushing is a necessary item to provide the public with safe, clean water for fire protection and domestic use.

**SECTION 5**  
**PHASE II - WATER MONITORING**

Phase II typically applies during periods when below average water supply is forecast.

When it is found that it is necessary to implement Phase II of the Water Conservation Plan, the City shall advise the City Council of the need for a more aggressive water conservation program due to forth coming shortfalls in supply and /or increased demands on the system. With the adoption of Phase II of the Water Conservation Plan, the City shall intensify its water conservation efforts by the following practices:

- The City shall take a more aggressive approach with the "Public Awareness Program" designed to make the community aware of the water conditions and possibility of a water shortage.
- The City shall reduce landscape watering, of City facilities, additionally as deemed necessary to provide only enough water required to maintain survival of permanent plants such as trees and shrubs.
- The City shall begin monitoring water use by residents or large commercial, institutional or industrial water users and alerting them to the potential impact of waste or over use. In this Phase a verbal warning would be issued and a citation issued if the condition were to continue.
- All items of Phase I Water Conservation would be intensified. All residents would be asked to increase their water conservation efforts.
- The City would implement a voluntary water use schedule that would define days available to irrigate (odd and even address system) landscaping as follows;

From June 1st to September 30th annually, or as conditions require:

1. Odd numbered street addresses water only on Wednesdays, Fridays and /or Sundays.
2. Even numbered street addresses water only on Tuesdays, Thursdays, and /or Saturdays.
3. No outdoor watering on **Mondays**.
4. This program also encourages customers to turn off their sprinklers on rainy days.
5. **No watering between 9:00 AM and 9:00 PM.**

Voluntary water use schedule table;

<u>Sunday</u>	<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>	<u>Saturday</u>
Odd	<b>No Watering</b>	Even	Odd	Even	Odd	Even

The voluntary watering schedule does not apply to:

1. Drip irrigation systems
2. Handheld watering methods with automatic shutoff mechanism
3. Flower and vegetable gardens
4. Outdoor potted plants and hanging baskets
5. Newly planted lawns

## SECTION 6

### PHASE III - STRICT ENFORCEMENT

Phase III typically applies during periods when water supply shortages are probable or in extreme conditions such as continued and/or widespread drought.

In the event it is found necessary to implement Phase III of the Water Conservation Plan, the City shall advise the City Council of the need for a more aggressive and stringent water conservation program due to probable shortfalls in supply and/or increased demands on the system. With the adoption of Phase III of the Water Conservation Plan, the City shall implement the following mandatory water conservation provisions:

- The City will intensify its efforts to inform the public of the need for Water Conservation with special emphasis given to inform the Public of water shortage conditions.
- The City shall intensify efforts of community awareness by stepping up information of changing conditions through news media.
- All items of Phase I and Phase II Water Conservation would be intensified. All residents would be asked to increase their water conservation efforts.
- The City shall reduce landscape watering, of City facilities, additionally as deemed necessary to confine impact on the water system. If it becomes necessary, watering of City facilities, parks and median islands will be suspended and evaluated each day.
- The City would implement a mandatory water use schedule that would define days available to irrigate (odd and even address system). The schedule is identified in Phase II of this Water Conservation Plan.
- The City will strictly enforce the water conservation program by issuing written warnings or citations for misusing water. The schedule of citations are as follows;
  - a. Informal, Written Warning
  - b. Formal Written Warning
  - c. Punitive Citation, \$50.00
  - d. Punitive Citation, \$150.00
  - e. Punitive Citation, \$250.00

The definitions of misusing water shall be;

1. Washing down driveways and sidewalks;
2. Watering of outdoor landscapes that cause excess runoff;
3. Using a hose to wash a motor vehicle, unless the hose is fitted with a shut-off nozzle;
4. Using potable water in a fountain or decorative water feature, unless the water is recirculated.

Any monetary citation issued will be collected via the monthly utility bill and follow the most current utility collection ordinance.

- The City would establish a usage allowance for water use based on past usage. Services that exceed the allowed usage allowance could be charged a higher rate (the rate would be set by Council action in the event this type of action would be necessary) for water.
- A 15% rate increase on all residential and landscape accounts may go into effect upon Council adoption after notice, hearing and other rate-setting or adjustment procedures as required by applicable law. This rate increase will encourage water conservation and will also serve as a provision to recover the lost revenues from water conservation. The increase will begin upon adoption and end when water supply shortages or extreme conditions such as continued and/or widespread drought are under control.

**SECTION 7**  
**PHASE IV – Emergency Water Conservation**

Phase IV typically applies during periods when water supply shortages exist or in extreme conditions such as continued and/or widespread drought.

In the event it is found necessary to implement Phase IV of the Water Conservation Plan, the City shall advise the City Council of the need for a more aggressive and stringent water conservation program due to imminent shortfalls in supply and/or increased demands on the system or continued mandates from the State of California. With the adoption of Phase IV of the Water Conservation Plan, the City shall implement the following mandatory water conservation provisions:

- The City will intensify its efforts to inform the public of the requirement for Water Conservation with special emphasis given to inform the Public of water supply conditions.
- The City shall intensify efforts of community awareness by stepping up information of changing conditions through news or social media.
- All items of Phase I, Phase II and Phase III Water Conservation would be intensified. All residents would be required to increase their water conservation efforts.
- The City shall implement a mandatory outdoor water use schedule that would define two days available to irrigate (odd and even address system). The schedule is identified as follows:

<u>Sunday</u>	<u>Monday</u>	<u>Tuesday</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>	<u>Saturday</u>
Odd	<b>No Watering</b>	Even	Odd	<b>No Watering</b>	<b>No Watering</b>	Even

- Watering of turf on median islands in public right of way shall be suspended.
- Watering on designated days shall only be allowed between 9:00 pm –9:00 am.
- No watering will be allowed between 9:00 am – 9:00 pm.
- All new permits shall satisfy the latest requirements of the California Model Landscape Ordinance, including already approved, but not yet completed permits.

- Washing of automobiles, trucks, trailers, boats, airplanes, and other mobile equipment is permitted with handheld watering devices with automatic shut off nozzles and only during designated days and times.
- Any outdoor use of handheld watering devices with automatic shut off nozzles (including vehicle washing use of pressure washing equipment) used during designated days and times are limited to 30 minutes of use for each watering day.
- No outdoor watering during, or within 48 hours of, measurable rain.
- Spas, wading, and swimming pools are only allowed to be refilled or added to during designated days and times. Water slides or water bounce houses or other private water attractions shall only be allowed during designated days and times and with a hose controlled with shut off nozzle.
- Collection of grey water from indoor uses is highly recommended. Distribution of grey water on outdoor landscaping is highly recommended to be done on respective water days.
- The City will strictly enforce the water conservation program by issuing citations for misusing water. The schedule of citations are as follows;
  - a. Informal Written Warning
  - b. Punitive Citation, \$50.00
  - c. Punitive Citation, \$150.00
  - d. Punitive Citation, \$250.00

## SECTION 8

### PHASE V – Extreme Water Crisis

Phase V typically applies during periods when water supply shortages exist and in extreme conditions such as continued and/or widespread drought or unreliable water supply.

In the event it is found necessary to implement Phase V of the Water Conservation Plan, the City shall advise the City Council of the need for a more aggressive and stringent water conservation program due to existing shortfalls in supply and increased demands on the system. With the adoption of Phase V of the Water Conservation Plan, the City shall implement the following mandatory water conservation provisions:

- The City will intensify its efforts to inform the public of the requirement for Water Conservation with special emphasis given to inform the Public of water supply conditions.
- The City shall intensify efforts of community awareness by stepping up information of changing conditions through news or social media.
- No outdoor irrigation of landscaping or vegetation. There shall be no watering outdoors until Phase 5 restrictions are rescinded.
- No washing of automobiles, trucks, trailers, boats or other types of mobile equipment except at commercial, fleet wash stations or fixed vehicle wash facilities (with approved runoff protection and collection) until Phase 5 emergency restrictions are rescinded. Mobile vehicle wash services shall not be allowed.
- Collection of grey water from indoor uses is highly recommended. Distribution of grey water on outdoor landscaping is highly recommended to be done on respective water days.
- Outdoor water use for emergency purposes shall be by permit only, after review and approval by the City Services Director.
- City parks, schools, and similar establishments may water once per week by permit only, after review and approval by the City Services Director.
- No new water connections shall be permitted until Phase 5 restrictions are rescinded.

- The City will strictly enforce the water conservation program by issuing citations, without warning, for using water outdoors without a permit or misusing water. The schedule of citations are as follows;
  - a. Informal Written Warning
  - b. Punitive Citation, \$50.00
  - c. Punitive Citation, \$150.00
  - d. Punitive Citation, \$250.00

**RESOLUTION NO. 15-41**  
**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LINDSAY**  
**ADOPTING THE UPDATED WATER CONSERVATION PLAN AND**  
**DECLARING THE CITY TO BE IN PHASE IV OF THE PLAN.**

At a regularly scheduled meeting of the City Council of the City of Lindsay, held this 25th day of August, 2015, at the hour of 6:00 p.m. in the Council Chambers of City Hall, Lindsay, California 93247 the following resolution was adopted:

**WHEREAS**, on January 17, 2014, the California State Water Resources Control Council notified all water rights holders in California that, in the coming months, if dry weather conditions persist, the State Water Council will notify water rights holders in critically dry watersheds of the requirement to limit or stop diversions of water under their water right, based upon the priority of their right; and

**WHEREAS**, on January 17, 2014, the Governor of the State of California acknowledged that the state is experiencing extremely dry conditions that have persisted since 2012, and proclaimed a state of emergency in the State of California due to current drought conditions; and

**WHEREAS**, the Governor's proclamation also noted that the snowpack in California's mountains is approximately 20 percent of the normal average for this date; and

**WHEREAS**, the Governor's proclamation called upon all Californians to reduce their water usage by 20 percent; and

**WHEREAS**, the state legislature enacted California Water Code § 1058.5 on March 1, 2014, which grants the State Water Resources Control Council ("SWRCB") power to enact emergency water conservation measures during "a critically dry year"; and

**WHEREAS**, on April 25, 2014, the Governor proclaimed that a state of emergency continued to exist under the California Emergency Services Act based on continued drought conditions; and

**WHEREAS**, the drought conditions that formed the basis of the Governor's emergency proclamations continue to exist and will likely continue for the foreseeable future; and

**WHEREAS**, on July 28, 2014, new mandatory state water conservation regulations proposed by the SWRCB, were added to the California Code of Regulations ("CCR") and became effective immediately; and

**WHEREAS**, the new regulations, 23 CCR §§ 863-865, require all distributors of public water to immediately enact and enforce minimum water conservation measures; and

**WHEREAS**, the regulation adopted by the State Water Board on May 5 uses a sliding scale for setting conservation standards. The regulation places each urban water supplier into one of eight tiers which are assigned a conservation standard, ranging between 8 percent and 36 percent reduction in water use. As a small water system provider, the City of Lindsay is tasked with one of 2 options; reduce water production by 25% compared to our 2013 water year or update our water conservation plan to require 2 day a week outdoor; and

**WHEREAS**, new mandatory state water conservation regulations proposed by the SWRCB, were added to the California Code of Regulations ("CCR") and became effective immediately; and

**WHEREAS**, the above declarations by the Governor and activity of the SWRCB and the state legislature make it apparent to the City Council ("Council") of the City of Lindsay ("City")

that the ordinary demands and requirements of water consumers cannot be satisfied without depleting state and local water supplies to the extent that there would be insufficient water for human consumption, sanitation, and fire protection; and

**WHEREAS**, the above declarations by the Governor and activity of the SWRCB and the state legislature make it apparent to the Council that the City must update an updated water conservation program; and

**WHEREAS**, California Water Code § 350 *et seq.* authorizes the governing body of a public water supply distributor to declare that water shortage emergency conditions prevail within the area served by such distributor whenever it finds and determines that the ordinary demands and requirements of water consumers cannot be satisfied without depleting the water supply of the distributor to the extent that there would be insufficient water for human consumption, sanitation, and fire protection; and

**WHEREAS**, Water Code § 375, *et seq.*, gives the City the power to “adopt and enforce a water conservation program to reduce the quantity of water used by those persons for the purpose of conserving the water supplies of the public entity” after holding a properly noticed public hearing and making appropriate findings of necessity for the adoption of a water conservation program; and

**WHEREAS**, pursuant to Water Code §§ 353 & 375, the City may make such declarations after a duly noticed public hearing and said hearing has been held,

**NOW, THEREFORE, BE IT RESOLVED** by the City Council, as follows:

1. Pursuant to Water Code § 350, *et seq.*, and Water Code § 375, *et seq.*, and for the reasons set forth herein, the Council declares that a water shortage emergency now exists throughout the area served by the City, and it is therefore necessary for the City to adopt an updated water conservation program.

2. Pursuant to Water Code § 352 and Government Code § 6061, at least seven days prior to the date of hearing the City published in a newspaper of general circulation notice of the time and place of a public hearing.

3. Pursuant to Water Code § 351, the City held a public hearing on August 26, 2014, at which consumers had an opportunity to be heard to object to the water conservation program and to present their respective needs to the governing Council.

4. Pursuant to Water Code § 353, the Council is hereby authorized to and hereby adopts its updated Water Conservation Plan, containing regulations and restrictions on the delivery of water and the consumption within said area of water supplied for public use as will conserve the water supply for the greatest public benefit with particular regard to domestic use, sanitation, and fire protection. The Water Conservation Plan is attached hereto as Exhibit A.

5. The City Council hereby declares that the City is in Phase IV of the Water Conservation Plan, and as such all restrictions and regulations set forth in Phase IV will apply, until Council subsequently acts to change to a different Phase of the Plan, or otherwise acts to modify or abolish the Plan.

6. The declaration of a water shortage emergency shall remain in effect until subsequent action to remove or modify by the City Council.

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Lindsay approves and adopts the Updated Water Conservation Plan and declares the city to be in Phase IV of the plan due to the Executive order issued by Governor Brown which mandates the City of Lindsay reduce water use by 25% or to reduce outdoor watering to two (2) days per week.

**PASSED AND ADOPTED** by the City Council of the City of Lindsay this 25th day of August, 2015.

ATTEST:

CITY COUNCIL OF THE CITY OF LINDSAY

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Carmela Wilson, City Clerk

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Ramona Villarreal Padilla, Mayor



## AGENDA ITEM

Date: August 19, 2015  
To: Honorable Mayor Ramona Padilla and Esteemed Council  
From: Bill Zigler, Interim City Manager  
Re: LPOA MOU for 2015 thru 2016

### ACTION:

- Public Hearing
- Ordinance
- Consent Calendar
- **Action Item**
- Report Only

Attached for your consideration is the final signed agreement (MOU) between the City of Lindsay and the City of Lindsay, Lindsay Police Officers Association (LPOA).

### Summary of Negotiations:

- LPOA MOU expired on June 30, 2012
- LPOA formally withdrew from negotiations for FY2013-14 due to the City's economic issues.
- LPOA commenced negotiations on June 3, 2014.
- After many meetings and proposals the City was able to reach an agreement August 18, 2015.

### **Action Required:**

Staff requests that Council approve the LPOA MOU and direct the Interim City Manager to sign said document.

Respectfully,

William Zigler  
Interim City Manager



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**MEMORANDUM OF UNDERSTANDING  
CITY OF LINDSAY  
LINDSAY PUBLIC SAFETY OFFICERS' ASSOCIATION**

July 1, 2015 – June 30, 2016

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**ARTICLE 1- PREAMBLE**

This Memorandum of Understanding, hereinafter referred to as "Agreement" or "MOU", is made and entered into between the City of Lindsay, hereinafter referred to as "City" and the Lindsay Public Safety Officers' Association, affiliated with Teamster Union Local 856, AFL-CIO, hereinafter referred to as "Association", pursuant to California Government Code §3500, et seq.

**ARTICLE 2- RECOGNITION**

- A. The City recognizes the Association as the recognized and exclusive representative for the following job classifications:
  - 1. Public Safety Sergeant
  - 2. Public Safety Officer
- B. This recognition excludes:
  - 1. All Management Employees
  - 2. All Temporary Employees
  - 3. All Part-Time Employees
- C. The City agrees to meet and confer with the Association as the exclusive representative on matters relating to the scope of representation under the Meyers-Milias-Brown Act, and as provided under the City's Employer-Employee Relations Policy, Chapter 2.40.

**ARTICLE 3- SEVERANCE**

- A. If any provision of this agreement should be found invalid, unconstitutional, unlawful, or unenforceable by reason of any existing or subsequently enacted legislative provision or by judicial authority, the offending provision shall be severed, and all other provision of this agreement shall remain in full force and effect for the duration of the agreement.



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### **ARTICLE 3- SEVERANCE (Continued)**

- B. Should a provision be severed as a result of Section (A) above, the City and Association agree to meet and confer in a timely manner in an attempt to negotiate a substitute provision. Such negotiations shall apply only to the severed provision(s) of this agreement.

### **ARTICLE 4- SOLE AGREEMENT**

- A. If, during the term of this agreement the parties mutually agree to modify, amend, or alter the provisions of this agreement in any manner, such changes shall only be effective when reduced to writing and approved by authorized representatives of the City and the Association. Any such changes so adopted shall become part of this agreement and subject to its terms.
- B. It is agreed that any provisions pertaining to wages, hours, or working conditions found to be in conflict with provisions of this agreement shall be null and void, and that the provisions of this agreement shall prevail.

### **ARTICLE 5- ASSOCIATION RIGHTS**

- A. The City agrees that as the exclusive representative, the Association officers or officially designated representatives shall be allowed the following:
  - 1. Reasonable access to employee work locations for the purpose of processing grievances or contacting members of the organization concerning business within the scope of representation. Access shall be restricted so as not to interfere with the normal operations of the department or with established safety or security requirements.
  - 2. Space on existing department bulletin boards within the representation unit provided such use is not derogatory to the City, Employees of the City or other Employee Organizations. No material shall be posted on the bulletin boards that refer to candidates for public office or ballot measures.
- B. The City agrees to provide for payroll deductions for Association monthly dues. Such payroll deduction shall be provided in accordance with City forms and processes. The Association agrees to hold the City harmless for withholding such dues.



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## **ARTICLE 6- CITY RIGHTS**

In order to ensure that the City shall continue to carry out necessary City service functions and responsibilities to the public and to maintain efficient and responsive public safety services for the citizens of the City of Lindsay, the City continues to reserve and retain solely and exclusively all rights, including but not limited to:

- A. Determine Public Safety Department Policy, including the right to manage the affairs of the Public Safety Department in all respects.
- B. Evaluate, direct, supervise, hire, promote, suspend, discipline, discharges, demote, transfer, assign and retain employees of the Public Safety Department.
- C. Relieve employees of the Public Safety Department from duties because of lack of work or funds, or under conditions where continued work would be ineffective or nonproductive, in accordance with City's Rules and Regulations.
- D. Determine the level of service to be rendered, operations to be performed, utilization of technology and equipment, means and methods of operation and overall budgetary matters.
- E. Determine the appropriate job classification, organizational structure and personnel by which Public Safety Department Operations are conducted.
- F. Determine the size and composition of the Public Safety Department.
- G. Assign employees of the Public Safety Department per operational needs as determined by the City.
- H. Determine the issues of public policy and control the overall mission of the Public Safety Department.
- I. Maintain and improve the efficiency and effectiveness of the Public Safety Department.

## **ARTICLE 7- CONTRACTING AND SUBCONTRACTING**

Prior to contracting out any work or function of the operation of the Public Safety Department, the City will meet and confer with the Association.



## **ARTICLE 8- RETIREMENT**

The City agrees to continue the Benefit Formula for Public Safety Employees hired prior to 12/31/2012, 3% at Age 55. The employee is responsible for 4% of the employee portion. Public Safety Employees hired on or after 1/01/2013 will be on PEPRA Benefit Formula 2.7% at Age 55. The employee is responsible for 11.5% of the employee contribution.

## **ARTICLE 9- GRIEVANCE PROCEDURE**

The City and the Association agree that a "Grievance" is the expressed claim by an employee or group of employees that the City has violated, misrepresented or misapplied the MOU provisions and/or City Personnel Ordinances, Rules & Regulations or Administrative Directives.

## **ARTICLE 10- SAFETY EQUIPMENT**

- A. The City shall furnish all Public Safety Officers with the following safety equipment:
1. Firearm
  2. Holster
  3. Belt
  4. Duty Ammunition
  5. Two Handcuffs with Case
  6. Flashlight with batteries
  7. Baton
  8. Two Speed Loaders or Three Magazines with Case.
  9. Mace/OC Spray with Holder (If Required)
  10. Ballistic Vest (Level II or Higher)
  11. Foul Weather Gear
  12. Taser Conducted Electrical Weapon with holster



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## **ARTICLE 11- WORK WEEK**

Employees assigned to police functions:

- A. Work Cycle- Monday 0000 through Sunday 2359 hours.
- B. Work Schedule- A two week schedule of 12-Hour shifts, cycling three days on/four days off, followed by four days on/three days off. This City reserves the right to alter this workweek to fit the needs of the Department/City
- C. Overtime- Those hours worked in excess of 80 hours per 14-Day work cycle.
- D. Sick Days and Vacation Days shall be counted as days worked for the purposes of overtime.
- E. Days off shall normally be consecutive.
- F. Call back to work from off duty time shall be paid at 1.5 times the normal rate or pay, with a guaranteed two (2) hour minimum. Additional hours worked may also be "Flexed Off" from future scheduled hours in the same pay cycle at the option of the employee with a supervisor's approval, or the employee may choose to accrue earned Compensatory Time Off at 1.5 times the normal rate, or have those hours paid as overtime.

## **ARTICLE 12- COURT TIME**

- A. Any employee covered by the terms of this MOU required to appear for authorized Court Time when off duty shall receive a minimum of two hours pay for such court or call back time.

## **ARTICLE 13- SPECIAL PAYS**

- A. POST CERTIFICATE or EDUCATIONAL INCENTIVE PAY
  - 1. The City will pay per month, to any Public Safety Officer covered by this agreement for the possession of any one of the following:
    - a. POST Intermediate Certificate- \$125
    - b. POST Advanced Certificate- \$150



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## ARTICLE 13- SPECIAL PAYS (Continued)

c. Associate's Degree (AA or AS, etc.)- \$200

**OR**

d. Bachelor's Degree (BA or BS, etc.)- \$300

2. No employee may receive both the Educational Incentive Pay AND the POST Certificate Pay simultaneously.

### B. COURT STANDBY PAY OR DEFERRED COMPENSATION MATCH

1. The City agrees to establish a program to pay one of the following:

a. Court Standby at the rate of \$700 per year payable each July.

1. Said payment to be prorated by the number of months the employee has worked as a public safety officer for the City in the twelve month period immediately preceding the July in which the premium is to be paid.

**OR**

2. City will match any employee's contribution to the City's Deferred Compensation program in an amount not to exceed 3% of the contributing employee's base salary.

2. Employees may make this choice only once per year, in June of each year this benefit remains in effect.

### C. SPECIAL ASSIGNMENT PAY

1. Employees assigned to work in any of the following specific assignments will be paid an additional sum according to the assignment as follows:

a. K-9 Team- 5%

b. Detective Unit- 5%

c. Traffic Investigations Supervisor- 3%



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## ARTICLE 13- SPECIAL PAYS (Continued)

### D. FIELD TRAINING OFFICER PAY

1. Employees formally appointed by the City to serve as Field Training Officers (FTO) will receive premium pay in an amount equal to 3% of their base salary, payable only when the FTO is assigned to a specific trainee.

### E. OFFICER-IN-CHARGE PAY

1. An employee who is designated by the Public Safety Director to serve as an Officer-In-Charge (OIC) when no sergeant is assigned to patrol responsibilities will receive premium pay in an amount equal to 3% of the employee's base salary each workday, or portion thereof such designation is in effect.

### F. UNIFORM ALLOWANCE

1. Each employee covered by this agreement will receive a uniform allowance of \$1000 per year. Said allowance will be paid in \$500 installments on December 1 and July 1 of each year, provided the employee has worked the previous six (6) month period.
2. Newly hired employees will receive, upon employment, \$500, representing six (6) months' advance uniform allowance. After six months of employment, the employee will begin to earn the uniform allowance at the rate of \$83.33 per month ( $\$1000 \div 12 = \$83.33$ ). Said accumulated monthly allowance will be paid in December or July (Whichever occurs first); actual amount dependent upon the accrued monthly allowance.

### G. BILINGUAL PAY

1. The City will pay \$40 per month for Certified Translators, with the understanding that (1) all Public Safety Department officers will be eligible to take the oral and written tests currently being used for members of the SEIU bargaining unit, and (2) the tests will be offered to the Lindsay Public Safety Department members within a reasonable time, not to exceed ninety (90) days from the adoption of this MOU.



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## ARTICLE 13- SPECIAL PAYS (Continued)

### H. FIREFIGHTER PAY

1. The City will pay each employee who acts in the capacity of a firefighter, who possesses a Firefighter I Certificate issued by the California State Fire Marshal's Office, an additional sum of \$250 payable at the same time as the Uniform allowance in installments of \$125 in July and \$125 in December. Should the City discontinue the practice of requiring members of the bargaining unit to perform fire suppression services, this stipend will also be discontinued.

### I. LONGEVITY PAY

1. Any employee who has completed ten years of service with the City will receive a longevity incentive in the amount of 5% of the employee's base salary each month. An additional 2.5% of the employee's base salary will be awarded at 15 years of service with the City.

## ARTICLE 14- SALARY

Effective July 1, 2015, the City agrees to adjust the Classification and Salary Schedule for all members of the bargaining unit by an increase of 1.5%.

## ARTICLE 15- HOLIDAYS

- A. Each employee covered by this agreement, except as provided in Section B below, will receive, on or about December 1<sup>st</sup> each year, Holiday Pay equal to 96 hours (12 Holidays X 8 Hours) paid at the employee's regular rate of pay. As a function of this payment method, holidays would not be counted as days worked for the purposes of overtime.
- B. Holiday Pay for employees who have not been employed a complete 12 months immediately preceding December 1<sup>st</sup> of each year will be prorated based upon the number of recognized holidays that have occurred during the period of their employment with the Public Safety Department. The following recognized holidays will be considered in prorating Holiday Pay: Christmas Day, New Year's Day, Martin Luther King Jr. Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and the Day After Thanksgiving.



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## **ARTICLE 16- VACATION**

- A. Accrual- Vacation will be accrued at the rate of 11 days per year after 5 years of continuous service, and 13 days per year after 7 years of service.
- B. Vacation Buy-Back- On or about December 1<sup>st</sup> each year that this provision remains in effect, the City will buy-back at the employee's option, any accrued Vacation and/or Compensatory Time Off hours that exceed an aggregate total of 200 hours.

## **ARTICLE 17- INSURANCE**

- A. Medical, Dental, Vision, Life Insurance- During the term of this agreement, the City agrees to continue to provide Medical, Dental, Vision and Life Insurance coverage for all eligible employees and their eligible dependents. The City further agrees to continue to pay 100% of the total of the combined employee only premium and 50% of the combined dependent premiums, with the exception of Life Insurance, which the employee would be responsible for 100% of the dependent's premium in the event they elect such coverage.
- B. Continuation Upon Retirement- Effective upon insurance plan renewal, the City agrees to allow employees with 15 or more years of continuous service to continue coverage in the City active employees' health insurance program until said retiree reaches the age of Medicare eligibility. The City will contribute 3.5% of the employee only premium for each year of the employee's continuous service with the City.
- C. The City retains the right to change insurance policy/provider during the duration of this Agreement.

## **ARTICLE 18- BEREAVEMENT LEAVE**

Immediate Family, for the purposes of Bereavement Leave, is defined as the employee's Spouse, Child, Parent, Brother, Sister, Mother-in-law, Father-in-law, Brother-in-law, Sister-in-law, Grandparent or Registered Domestic Partner.

## **ARTICLE 19- IRC SECTION 125 PLAN**

All employees covered by this agreement will be allowed to participate in any 125 Plan provided by the City.



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## 3612ARTICLE 20- EDUCATIONAL EXPENSE & INCENTIVE PROGRAM

- A. Pursuant to Rule XVII, Section 3 of the Personnel Rules and Regulations, any employee covered by this agreement may be eligible to receive educational expense reimbursement subject to the following procedure:
1. When in the opinion of the City Manager, a course to be taken by the employee will specifically benefit the City, then the City manager may authorize the reimbursement or advancement of fees for tuition and/or required text books. Any textbooks paid for by the City become property of the City.
  2. When course tuition is advanced or reimbursed by the City, the employee must provide written evidence of satisfactorily passing, with a grade of "C" or better; or, the employee will be required to refund any advanced tuition or may be refused reimbursement regardless of pre-approval.
  3. If a recipient of an educational expense advance or reimbursement terminates or is terminated from employment within six (6) months of completion of a course, the employee will be required to refund any expenses paid by the city in relation to said course.
  4. In no event will the City be responsible for the reimbursement of expenses not approved in advance by the City Manager.
- B. EDUCATIONAL EXPENSE PROGRAM
1. Purpose- The purpose of this program is to provide financial incentive to employees who, on their own time, enroll and complete approved educational programs that will add and/or improve skills that will enhance employee productivity and thereby augment their value as employees of the City.
  2. Eligible Employees- "Employee" shall mean any permanent full-time employee or any permanent part-time employee working thirty (30) or more hours per week.
  3. Approved Educational Programs- An "Approved Educational Program" shall mean a class or classes, which are recommended by the department head and approved by the City Manager, and determined to be beneficial to the performance of an employee in his/her current job assignment. The class must be approved in advance to qualify for the incentive program.



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## ARTICLE 20- EDUCATIONAL EXPENSE & INCENTIVE PROGRAM (Continued)

- a. To qualify, the class must be conducted by a fully accredited adult school, college or university and require at least 20 hours of course instruction in the case of adult schools, or be a complete semester or quarter in duration in the case of colleges and/or universities.
  - b. Classes taken while on duty (On Compensable Time), at the express direction of the City, e.g. POST Basic Academy will not be eligible for the incentive program.
4. Grade Requirement- In addition to meeting the criteria above, incentive payment will only be allowed in the event of the successful completion of the course undertaken with a passing grade of "C" or better, or "Pass" if the course is graded as "Pass/Fail". The employee is responsible for providing appropriate evidence of successful completion.
5. Amount of Incentive- The incentive will be paid only to those employees who continue their employment with the City, as provided below:
- a. Employees who continue their employment for a full six (6) months (180 days) following completion of an approved class will receive a payroll bonus of \$150.
  - b. Employees who continue their employment for a full twelve (12) months (365 days) following completion of the class will receive an additional \$150 payroll bonus.
  - c. There will be no incentive payment if an employee does not continue employment for at least six months, and there will be no pro rata payment for employees who terminate employment between the sixth and twelfth month following completion of an approved class.
  - d. An employee may not, in any event, qualify for an incentive payment of more than \$300 in any fiscal year.



**ARTICLE 21- RENEGOTIATION**

In the event either party hereto desires to negotiate the provisions of a successor MOU, such party shall serve upon the other it written request to commence negotiations on or before the 15<sup>th</sup> day of March of the year in which this agreement expires. Failure to provide such notice shall indicate satisfaction with the existing terms and conditions, and the desire for such terms and conditions to remain in force an additional twelve (12) months beyond its expiration date.

**ARTICLE 22- TERM**

The provision of this MOU shall commence on July 1, 2015 and remain in effect through June 30, 2016, unless notice, as provided in Article 21 of this MOU, is not given in the required time.

This Memorandum of Understanding entered into and signed this 18<sup>th</sup> day of August, 2015.

**LINDSAY PUBLIC SAFETY OFFICERS' ASSOC.**

\_\_\_\_\_  
Sergeant Nicholas Nave, President

**CITY OF LINDSAY**

\_\_\_\_\_  
William Zigler, Interim City Manager

  
\_\_\_\_\_  
Officer Eddie Alcantar, Vice President

\_\_\_\_\_  
Tamara Laken, Finance Director



#### AGENDA ITEM

Date: August 25, 2015  
To: Mayor Ramona Padilla and Members of Council  
From: Tamara Laken, Director of Finance  
Re: Factors Affecting Cash Flow – Financial State of the City

#### ACTION:

- Public Hearing
- Ordinance
- Consent Calendar
- Action Item
- **Report Only – Council Direction Sought**

#### **Background:**

On June 9, 2015, the Operating Budget and Financial Plan for FY16 was presented to, and adopted by, the City Council with the Management's Budget Message that provides a fairly comprehensive financial status of the city. It was brought to my attention that some of the verbiage in the last paragraph on the first page of the Budget Message was unclear and possibly misleading; therefore, I have edited the letter to provide better clarity and am asking for approval of the revised letter with all revisions highlighted in yellow. Although only the paragraph on the first page was changed, I am including the entire letter as it provides the basis for our discussion regarding the financial state of the city at the time the budget was adopted and subsequent factors that are affecting our cash flow.

I wish to make it clear that I believe the projected numbers as presented in the FY16 Budget are accurate. The discussion will regard cash flow issues due to recent factors affecting our cash flow, which is a related, but separate issue from the budget and suggested long-term solutions as staff seeks direction from Council regarding the need to reduce, and ultimately close the general fund deficit.

#### **Attachments:**

- Revised Budget Message Letter
- Additional Materials to be provided at the meeting.



City of Lindsay  
City Manager's FY16 Budget Message

June 09, 2015

Mayor Ramona Padilla and Members of Council,

The 2015-2016 Operations Budget and Financial Plan for the City of Lindsay is presented to you with pride in the collective efforts of each Department Head as well as all City employees in the development of this document.

The City conducted more Council public budget study sessions than in any years previous and the Council is to be commended for their selfless dedication on behalf of the City. A public hearing is scheduled for tonight, June 09, 2015 to allow the public to comment. The DRAFT budget has been available for public review since 5/12/2015 and the collective pieces have been presented to Council beginning in March 2015. This budget does have some changes since the posting of the DRAFT, however, none are major, or change the direction provided by Council. This budget represents the City's determination to continue working towards the goal of achieving the best for our citizens, providing core services and utilizing tax revenue in the most efficient and effective manner possible. The emphasis on continuing our aggressive program of streets renovation continues to remain the primary focus of the Capital Improvement Plan; addressing the continuing drought issue is also of primary concern.

### **Budget Overview**

Although the City has seen positive signs of improvement, there remains the effort to "hold the line" when it comes to expenditures. The General Fund budget deficit for fiscal year 2015-2016 is \$494,502. The following factors have contributed to this deficit:

- CalPERS Payment Demand for Unfunded Liability in the amount of \$185,750 SAFETY + \$368,954 MISC for a total demand of \$554,704 for FY16
- Increase in health insurance premiums
- Increase in workers' compensation insurance
- Increase in property insurance
- Increase in Public Safety Dispatch Fees due to loss of City of Porterville cooperative agreement
- Decline in General Fund revenues as sales tax and property tax experienced little growth

Even with the challenges we face, the budget addresses the major goals and priorities identified by Council for the coming fiscal year. Overall, the City maintains a \$13.5 million dollar budget for fiscal year 2015-2016. The City's General Fund revenues are estimated at \$3.53 million (which does not include Operating Transfers-In from Revenue counted in another fund), expenditures are estimated at \$4.02 million (excludes Operating Transfers-Out or use of Fund Balance) based on historical factors and known data.

### Debt Service Fund Focus

Staff has worked hard, with great success, this past year to address those debt instruments of the City, or that of the former Redevelopment Agency (for which the City is ultimately responsible), that has, or had, upcoming balloon payments that could have forced the City into default: With the assistance of a negotiated lump-sum 3 year advance of payments from the Lindsay District Hospital Board, we were able to amass enough cash and structure an Intra-fund loan arrangement to meet the balloon payment of the 2009 \$1 Million Bond issue October 1, 2014. Of the \$560,748 authorized by Council to loan to the Successor Agency, all but \$226,138 has been repaid via the RPTTF; I expect the remaining portion to be paid-in-full with the January 2016 increment. Staff was also successful in negotiating a refunding of the 2005, 2007, and 2008 RDA bonds into a single issue of 2015 which is expected to save the Successor Agency about \$102,000 annually to be applied to other ROPS debt; the term of the bonds was not extended and the overall savings expected to be achieved is \$1.5 million. The comprehensive Debt Service Fund schedule, that is included as part of this budget document, provides detailed information regarding all outstanding debt for which the City, or City as Successor Agent for the former Redevelopment Agency, is responsible and has been updated for the new fiscal year to include the date of origination, the original loan amount, the interest rate, the payment amounts and dates as well as the source of funds for repayment. No new debt has been incurred since FY2009.

City Manager FY16 Budget Message (cont)

### Enterprise Fund Focus

Council has recognized that Sewer and Refuse continue to run a deficit and have scheduled a Prop 218 to restore rates to 2011 levels. This action is expected to eliminate the deficit in those funds. Water is a critical issue for this town that despite economic diversification is still heavily reliant on the agriculture industry for the livelihood of many of our citizens and industries. Ensuring an adequate and quality water supply for the City of Lindsay is a top concern and priority for the upcoming fiscal year and for future years. Council authorized staff to pursue grant funding from various sources to address the critical issue regarding the city's wells. This budget contains a capital improvement request to fund a Test well so that in the event we are successful with any of our grant applications we will be ready to proceed in a timely manner. Additional information about water usage and historical financial data is provided with this budget message.

Council authorized \$300,000 for water line repair to the Laurel Avenue area. The project has been completed and we expect to see a reduced need for staffing as well as a decrease in the amount of water previously lost due to the leaks.

Focus this year is on keeping the Wastewater Treatment plant in good condition and addressing the infrastructure problems with our lines that began cropping up a few years ago. Council authorized the purchase of a Jetter to clear lines in FY15 and we believe we will see a reduction in sewer backup claims and certainly in the amount spent on outside lines maintenance companies.

McDermont Field House and the Lindsay Wellness Center continue to work on attracting new revenue streams, thus reducing the supplement required from the General Fund. If Revenues are

not meeting Expenses at the mid-year review we will propose a plan for reduction of hours to close this gap. At this point, we believe our facilities have so much to offer and staff is working on

City Manager FY15 Budget Message (cont)

plans to bring new recreational and competitive fitness events into Lindsay. Our focus will be in combining the features of all city facilities to showcase our potential.

#### General Fund Focus and New Funds Established

In FY14, the Street Improvement Program (SIP) Fund was established to account for the portion of the utility billing rates – 23.6% of the charge for each service - water, sewer, and refuse – that was established to fund the streets renovation and maintenance program. By establishing a unique and separate accounting fund for these fees, a fund balance has been established which facilitates the tracking of these funds to ensure they are appropriated solely for streets renovation purposes unless otherwise authorized. The SIP Fund is a Special Revenue Fund. Prior to FY14, the 23.6% portion of the utility collections was expensed to each of the enterprise funds in which it was collected, then reclassified as revenue to the General Fund for use in streets projects. The collections are about \$1 Million annually. Not reclassifying these revenues into the General Fund has resulted in a projected deficit in the General Fund in the amount of \$491,115 for FY15 and \$494,502 for FY16. Staff will be exploring measures to address this deficit in FY16 and will bring ideas to Council for consideration by the end of the first quarter.

#### FY 15 GOALS & OBJECTIVES UPDATE:

- **Develop a progress form standard for all departments to set and track goal target dates for departmental goals that can be used to measure and report progress to Council on a quarterly basis. Form to be completed and ready for use by September 30, 2014. – This goal is still pending.**
- **Complete the Financial System upgrade conversion with full implementation completed by August 31, 2014. - This goal has been met.**
- **Establish additional water meter read routes to implement the electronic read system that is compatible with the financial billing system which will save employee time, increase efficiency, and reduce errors. The first test route shall be established**
- **no later than August 31, 2014 with additional routes added every month thereafter until all neighborhoods with this technology have been incorporated into the system. This goal is partially met as we have established a test route and have been working with vendors and our software providers to launch this feature.**
- **Update the City website to list available commercial properties, streamline the permitting and application processes and make the site more attractive and user friendly. The on-line forms application is to be added no later than November 1, 2014 with the site revision to be completed by March 31, 2015. This goal has been met.**
- **Make applications to all available sources to secure funding to repair Well #11 to ensure an adequate supply of back-up water supply. Develop an emergency water**

plan with the first draft completed by September 30, 2014 and the completed document approved by Council by March 31, 2015. This goal has been met.

- Increase the completion percentage of the Streets Improvement Program from 54% to 65% by the end of FY15 – Progress time lines to be quarterly with the majority of the work to be completed in the first, second, and fourth quarters of the fiscal year. This goal has been mostly met - we are currently at 61%.
- Replace the antiquated records system of the Public Safety Department with bidding, purchase and installation to be completed by October 15, 2014 and full conversion, training, and implementation completed by December 31, 2014. This goal has been met
- Develop a Fleet Replacement Fund and program to ensure adequate resources are available to fund the replacement of vehicles, particularly police and fire vehicles, when they reach the end of useful life. Time line for implementation of this goal shall be to complete a needs assessment by September 30, 2014; To research and identify funding sources by December 31, 2014 and establish a cash reserve fund amount by May 15, 2015 with regular deposit amounts to be budgeted and begin July 1, 2015 and continue quarterly thereafter. This goal has not been met.
- Develop and implement a minimum fund balance policy for each of the City's major funds. Progress reports to be made quarterly with the policy presented to Council for adoption with the March 31, 2015 financial update. This goal has not been met.
- Continue to make the City of Lindsay one of the healthiest communities in the Valley by providing increased recreational opportunities at city public facilities and parks in partnership with Lindsay Unified School District. Pursue the HRRP grant that will facilitate this goal. Grant application to be submitted before July 1, 2014 – if funded the funds would be received by December 31, 2014 and expended on park and recreation projects by June 30, 2015. This goal has been met – the City was awarded \$465,000 in HRRP funding that has been split between McDermont Field House and Parks.
- Develop contingency plans to address the possibilities of increased costs, loss of revenue, or increased state unfunded mandates. Finance Department to complete a 5 year and 10 year forecast report by September 4<sup>th</sup> and present to Council for acceptance on September 9, 2014. Once the forecast is complete, contingency plans can be developed. Completion deadline is March 31, 2015. This goal has not been met.

#### FY 16 GOALS & OBJECTIVES:

- These are listed in the New Department Pages that have been added to this year's budget

UPCOMING CHALLENGES:

- A. *Employee Benefits:* The budget for FY13 saw an increase in workmen's comp rates of 45% for Municipal employees (non manual labor), 69% for all other non-safety Municipal employees, and 23% for police officers. The budget for FY14 saw another increase in the rates set by the State Insurance Commissioner of 22% for Municipal employees (non manual labor), 17% for all other non-safety Municipal employees, and 7% for police officers. Per our insurance carrier, these rates are expected to increase for FY15 by another 15-20% and we will be billed a retrospective adjustment for previous years losses of \$27,343. This continued increase is substantial and quite negatively impacts the City's overall budget, particularly the General Fund that accounts for the public safety department. In addition to the work comp rate increase, the Pension Reform Act of 2012 will result in a major increase in FY16 for which we must begin mitigation efforts now. These efforts will involve reviewing our retirement plans and increasing the percentage the employee's pay of the EPMC portion of the overall CalPERS contribution. Lastly, our health care premiums continue to rise each year by 4-12%; the City can no longer absorb these increases and a cap on this benefit must be set or the plan reduced to a lesser benefit. The City did add an additional tier to the plan, the Choice 750 that is considerably less than the Classic tier alternate tier. Staff will continue to explore optional insurance plans to ensure we are providing the greatest possible benefit while not increasing the cost to the City budget.
- B. *Insurance:* The City expects to see a 10-15% increase in our Liability premiums and a 15-20% increase to the Property premiums as the CSJVRMA did a thorough appraisal of all City property in FY15.. The City does not participate in either the Auto Physical Damage Program or the Employment Practices (ERMA)
- C. *Staffing:* Staffing levels have decreased in the Finance Department, Public Safety, McDermont Field House and City Services and are described in the personnel section of the budget. The overall fiscal impact has resulted in a net savings of approximately \$352,843. However, there are a number of unknown factors that have the potential to impact the budget such as the hiring of a new City Manager and Director of Public Safety to replace one person who did both jobs for one salary. The employees lost in City Services will need to be replaced to maintain service levels.
- D. *Special Audits:* Staff has worked closely and cooperatively with auditors from the Department of Transportation and the State Office of Housing & Community Development to resolve compliance and expenditure issues with projects between the years 2005 – 2010. The Asset Transfer review from the RDA branch of the DOF was received on May13, 2015 and does demand return of assets in the amount of \$472,856 from the City to the Successor Agency. Staff disputes this and will continue to negotiate with DOF to resolve this issue in the City's favor. There may be some repayment demands made against the City from CDBG, CalTRANS, and SCO – Gas Tax Division, but all those issues are also in negotiations. At this time, the amount of the final demands is unknown, but staff is proactively preparing for the eventuality and confident in at least partial release based on additional information we provided..

CONCLUSION:

From the outside looking in, Lindsay may appear to be a city “on the brink of disaster” as one media outlet put it; however I assure you, we are *not* a city in crisis. We *are* a city in turbulence, but that is of a political nature, not an administrative nature. Former City Manager Rich Wilkinson did an outstanding job of creating and enforcing internal control polices and procedures that remaining staff will continue to enforce. He also did an excellent job of keeping senior staff informed regarding all events and issues facing this city. While it is very sad that this city has lost a great leader, I would remind everyone that City Administration is not an individual event – it is a team event and senior staff will continue to move forward with the day-to-day management of the city as Council decides on what type of leadership you are looking for in the next city manager and begins the process to recruit and fill that position.

I want to thank the Mayor and City Council for their total involvement in the budget decision-making process; we are mindful and aligned with your stated goals and objectives for this fiscal year. I would like to recognize the efforts of Management Analyst Paul Myers for creating so many of the charts and graphs that make this document so much more user friendly, Maria Knutson, whose assistance in this process has been invaluable and whose technical skills to create the electronic version are very much appreciated and Nicole Bolanos and Brian Spaunhurst for their assistance with this process. I also want to thank all my city colleagues for their commitment to providing the City of Lindsay resident’s outstanding public service, despite continued budget reductions, and for each employee’s commitment in making Lindsay a great place to live, visit, and work.

Lindsay has done an outstanding job of diversifying our economic base and building infrastructure to support development (under Drennen), transforming the community into a premier recreational and wellness community (Townsend), and recovering from the economic downturn, dissolution of RDA, and myriad other factors that sent us reeling in financial crisis (Wilkinson); I believe Lindsay is now poised and ready to move into a very positive future with all we have to offer!

Respectfully Submitted,

Tamara Laken  
Acting City Manager / Director of Finance