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## Staff Report

ITEM NO. 3D

To: Lemoore City Council  
From: Nanci Lima, City Clerk  
Date: April 7, 2008  
Subject: Resolution 2008-22 –Opposing Proposition 98

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### **Discussion:**

All experts agree that California is facing very serious immediate and long-term water issues. In order to provide safe, clean drinking water to an increasing number of residents, to supply businesses and farms with an adequate water supply, and to preserve water resources and ecosystems, it is abundantly clear that the State of California and local water agencies will need new and varying water projects. However, Proposition 98 threaten virtually all future public and private water projects up and down the state intended to preserve clean drinking water, protect existing water resources, and secure additional water supply.

Either intentionally or through negligence, the Proposition 98 would make it illegal to use eminent domain to acquire land and water to develop public water projects.

The proposition's proposed amendment to California Constitution Article 1, section 19(a) prohibits the taking of private property for "private use." Proposed section 19(b)(3)(ii) defines "private use" as including: transfer of ownership, occupancy or use of private property or associated property rights to a public agency for the consumption of natural resources or for the same or a substantially similar use as that made by the private owner.

Section 19(b)(3)(ii) expressly designates as a "private use" the transfer of property rights to a "public agency" for the "consumption of natural resources." Thus, it is clear that property transfers under eminent domain or threat of eminent domain to a public agency for the purpose of consumption of natural resources i.e. water, are prohibited.

All elements of a public water project involve the "consumption of natural resources". Thus, Proposition 98 would eliminate a necessary tool and jeopardize a vast number of public and private water projects to develop new water delivery system, enhance water supply and protect drinking water quality.

The League of California Cities is recommending that cities join the League in taking a position opposing Proposition 98.

### **Budget Impact:**

None at this time.

### **Recommendation:**

That the Council, by motion, approve Resolution 2008-22 Opposing Proposition 98 and direct the City Clerk to forward a certified copy of Resolution 2008-22 to the League of California Cities.