

**Tuesday, October 19, 2010, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

Web Site: [www.ci.tracy.ca.us](http://www.ci.tracy.ca.us)

**Americans with Disabilities Act** - The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in Council meetings. Persons requiring assistance or auxiliary aids should call City Hall (209/831-6000) 24 hours prior to the meeting.

**Addressing the Council on Items on the Agenda** - The Brown Act provides that every regular Council meeting shall provide an opportunity for the public to address the Council on any item within its jurisdiction before or during the Council's consideration of the item, provided no action shall be taken on any item not on the agenda. Each citizen will be allowed a maximum of five minutes for input or testimony. At the Mayor's discretion, additional time may be granted. The City Clerk shall be the timekeeper.

**Consent Calendar** - All items listed on the Consent Calendar are considered routine and/or consistent with previous Council direction. A motion and roll call vote may enact the entire Consent Calendar. No separate discussion of Consent Calendar items will occur unless members of the City Council, City staff or the public request discussion on a specific item at the beginning of the meeting.

**Addressing the Council on Items not on the Agenda** – The Brown Act prohibits discussion or action on items not on the posted agenda. Individuals addressing the Council should state their names and addresses for the record, and for contact information. "Items from the Audience" following the Consent Calendar will be limited to 15 minutes. "Items from the Audience" listed near the end of the agenda will not have a maximum time limit. The five minute maximum time limit for each speaker applies to all "Items from the Audience." Any item not on the agenda, brought up by the public shall automatically be referred to staff. In accordance with Council policy, if staff is not able to resolve the matter satisfactorily, the member of the public may request a Council Member to sponsor the item for discussion at a future meeting. When citizens address the Council, speakers should be as specific as possible about their concerns. If several speakers comment on the same issue, an effort should be made to avoid repetition of views already expressed.

**Presentations to Council** - Persons who wish to make presentations which may exceed the time limits are encouraged to submit comments in writing at the earliest possible time to ensure distribution to Council and other interested parties. Requests for letters to be read into the record will be granted only upon approval of the majority of the Council. Power Point (or similar) presentations need to be provided to the City Clerk's office at least 24 hours prior to the meeting. All presentations must comply with the applicable time limits. Prior to the presentation, a hard copy of the Power Point (or similar) presentation will be provided to the City Clerk's office for inclusion in the record of the meeting and copies shall be provided to the Council. Failure to comply will result in the presentation being rejected. Any materials distributed to a majority of the Council regarding an item on the agenda shall be made available for public inspection at the City Clerk's office (address above) during regular business hours.

**Notice** - A 90 day limit is set by law for filing challenges in the Superior Court to certain City administrative decisions and orders when those decisions or orders require: (1) a hearing by law, (2) the receipt of evidence, and (3) the exercise of discretion. The 90 day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge a City Council action in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised during the public hearing, or raised in written correspondence delivered to the City Council prior to or at the public hearing.

**Full copies of the agenda are available at City Hall, 333 Civic Center Plaza, the Tracy Public Library, 20 East Eaton Avenue, and on the City's website [www.ci.tracy.ca.us](http://www.ci.tracy.ca.us)**

CALL TO ORDER  
PLEDGE OF ALLEGIANCE  
INVOCATION  
ROLL CALL  
PRESENTATIONS – Proclamation – “World Polio Day”

1. CONSENT CALENDAR

- A. Minutes Approval
- B. Approve the First Amendment to the Offsite Improvement Agreement with Winco Holdings, Inc. of Boise, Idaho, for the WinCo Foods Facility and Authorize the Mayor to Execute the Amendment
- C. Approval of Permit for the Consumption of Alcoholic Beverages on City Streets for the Tracy Chamber of Commerce “Downtown Mixer” on October 28, 2010, and the Tracy City Center Association “Downtown Wine Stroll” on October 29, 2010
- D. Approval of Amendment Number Two to the Professional Services Agreement with Design, Community, and Environment (DC&E) for the General Plan Amendment, Final Environmental Impact Report, and Municipal Services Review to Change the Scope of Work and Augment the Budget, Authorize the Use of \$24,639 from the Infrastructure Master Plans Staff Time Funds, and Authorize the Mayor to Execute the Amendment
- E. Approve an Expenditure Plan for the Use of Proposition 1B Funds in the Amount of \$1,205,764.40, for the Design and Reconstruction of Street Overlays in the City and Authorization to Amend the Budget to Include a New CIP for City-Wide Street Overlays with Proposition 1B Funds

2. ITEMS FROM THE AUDIENCE

- 3. THAT COUNCIL CONDUCT A PUBLIC HEARING DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL ON EACH OF THE PARCELS LISTED IN EXHIBIT “A” TO THIS AGENDA ITEM A NUISANCE; CONSIDER OBJECTIONS TO ABATEMENT OF SAID NUISANCE, AND APPROVE A RESOLUTION AUTHORIZING FIRE DEPARTMENT STAFF TO ORDER CONTRACTOR TO ABATE SAID NUISANCES WITH THE REMAINING FUNDS AVAILABLE
- 4. RECEIVE PUBLIC TESTIMONY FROM PUBLIC HEARING FOR ANNUAL UNMET TRANSIT NEEDS, CITY OF TRACY, FISCAL YEAR 2010-11
- 5. APPROVAL OF AN AMENDMENT TO THE SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN (SJMSCP) DEVELOPMENT FEE, RESULTING IN AN OVERALL DECREASE IN FEES FOR 2011

6. ADOPTION OF RESOLUTION OF INTENTION TO APPROVE AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF TRACY AND THE BOARD OF ADMINISTRATION OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; INTRODUCE AN ORDINANCE AUTHORIZING THE AMENDMENT TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM PLAN TO INCLUDE A '2% AT 55 MODIFIED FORMULA AND THREE-YEAR FINAL COMPENSATION' BENEFIT FOR MISCELLANEOUS CLASSIFICATION PLAN EMPLOYEES HIRED AFTER DECEMBER 16, 2010
7. PRELIMINARY FISCAL REPORT ON GENERAL FUND FOR FISCAL YEAR 09-10 AND FIRST REPORT ON FINANCIAL AND BUDGETING TRENDS AND CONDITIONS FOR FY 10-11
8. SECOND READING AND ADOPTION OF ORDINANCE 1152 AN ORDINANCE OF THE CITY OF TRACY AMENDING THE CONCEPT DEVELOPMENT PLAN FOR THE BROOKVIEW PLANNED UNIT DEVELOPMENT FROM A 95-LOT RESIDENTIAL SUBDIVISION TO AN 80-LOT RESIDENTIAL SUBDIVISION FOR THE 10-ACRE PARCEL LOCATED AT THE NORTHWEST CORNER OF BROOKVIEW DRIVE AND PERENNIAL PLACE, ASSESSOR'S PARCEL NUMBER 248-560-28
9. ITEMS FROM THE AUDIENCE
10. COUNCIL ITEMS
11. ADJOURNMENT

**August 31, 2010, 3:30 p.m.**

Council Chambers, 333 Civic Center Plaza

Web Site: [www.ci.tracy.ca.us](http://www.ci.tracy.ca.us)

1. CALL TO ORDER– Mayor Pro Tem Tucker called the meeting to order at 3:30 p.m.
2. ROLL CALL - Roll call found Council Members Abercrombie, Maciel, and Mayor Pro Tem Tucker present; Council Member Tolbert and Mayor Ives absent.
3. ITEMS FROM THE AUDIENCE – None
4. ADOPT A RESOLUTION AMENDING RESOLUTION 2010-121 RELATED TO THE GATEWAY BUSINESS PARK – PHASE 1, TRACT 3659, EXTENDING THE TIME TO RECORD THE FINAL MAP AND AUTHORIZING THE CITY MANAGER TO SIGN THE AMENDED ESCROW INSTRUCTIONS – Andrew Malik, Director of Development and Engineering Services presented the staff report. Tracy Gateway Business Park is a 550-acre commercial project composed of development of a business park and commercial/retail sites. The Vesting Tentative Subdivision Map was approved by the Council on April 28, 2004, (Resolution No. 2004-011), and a Development Agreement between the City of Tracy and Tracy Gateway, LLC (Developer) was approved on June 1, 2004, (Ordinance 1062). On July 20, 2010, the Council approved a new Final Map, an amended and restated Subdivision Improvement Agreement, a New Deferred Improvement Agreement and a New Potable Water Supply Operations and Maintenance Agreement for the Tracy Gateway Business Park per Resolution 2010-120. The Council also authorized the City Manager to sign the escrow instructions related to recordation of the Final Map per Resolution 2010-121. These approvals were contingent on recordation of the Final Map by August 31, 2010, pursuant to the terms of the Escrow Instructions.

The owners of Gateway Business Park, Phase 1, have requested that the City extend the approval deadline to record the Final Map from August 31, 2010, to November 18, 2010. Section 4 of Resolution 2010-121 would be amended to allow the extension as follows:

“4. Approves the new Final Map for Tracy Gateway Business Park – Phase 1, Tract 3659; and approves and authorizes the Mayor to sign the following: (a) Amended and Restated Subdivision Improvement Agreement; (b) New DIA; and (c) New Non-potable Water Agreement. The approvals and authorizations contained in this section 4 are contingent and effective only upon the new Final Map being recorded pursuant to the terms of the Amended Escrow Instructions. If the new Final Map is not recorded by November 18, 2010, pursuant to the terms of the Amended Escrow Instructions, the approvals and authorizations contained in this section 4 shall not take effect and shall be deemed as never having occurred.”

All other sections of Resolution 2010-121 remain unchanged.

Staff recommended the Council approve the amendment to extend the time to record the Final Map and authorize the City Manager to sign the amended escrow instructions.

Mayor Pro Tem Tucker invited public comment.

Clark Wallace, Managing Member, Tracy Gateway LLC, stated they anticipated the final map would be recorded within the next 10-14 days.

It was moved by Council Member Abercrombie and seconded by Council Member Maciel to adopt Resolution 2010-141 amending Resolution 2010-121 related to Tracy Gateway Business Park – Phase 1, Tract 3659, extending the time to record the Final Map, and authorizing the City Manager to sign the amended escrow instructions. Voice vote found all in favor; passed and so ordered.

5. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Council Member Maciel to adjourn. Voice vote found all in favor; passed and so ordered. Time: 3:37 p.m.

The above agenda was posted at City Hall on August 30, 2010. The above are summary minutes.

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Mayor

ATTEST:

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City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

October 5, 2010, 6:30 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Ives called the meeting to order at 6:30 p.m. for the purpose of a closed session to discuss the items outlined below.
2. ROLL CALL – Roll call found Council Members Abercrombie, Maciel, Tolbert, Tucker and Mayor Ives present.
3. ITEMS FROM THE AUDIENCE - None
4. CLOSED SESSION –
  - A. Pending Litigation (Government Code section 54956.9 (b))
    - *City of Tracy v. California State Water Resources Control Board*  
(Sacramento County Superior Court Case No. 39-2009-80000392-CU-WM-GDS)
  - B. Initiation of Litigation (Government Code Section 54956.9(c))
    - Number of cases - one
5. MOTION TO RECESS TO CLOSED SESSION – Council Member Abercrombie motioned to recess the meeting to closed session at 6:30 p.m. Council Member Tolbert seconded the motion. Voice vote found all in favor; passed and so ordered.
6. RECONVENE TO OPEN SESSION – Mayor Ives reconvened the meeting into open session at 6:51 p.m.
7. REPORT OF FINAL ACTION – Council Member Abercrombie moved to authorize the City Attorney to enter into a fourth tolling agreement with Armadillo Realty, LLC pursuant to the terms set forth in closed session. Council Member Maciel seconded the motion. Voice vote found all in favor; passed and so ordered.
8. ADJOURNMENT – It was moved by Council Member Abercrombie and seconded by Council Member Maciel to adjourn. Voice vote found all in favor; passed and so ordered. Time: 6:51 p.m.

The agenda was posted at City Hall on September 30, 2010.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

AGENDA ITEM 1.B

REQUEST

**APPROVE THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT WITH WINCO HOLDINGS, INC. OF BOISE, IDAHO, FOR THE WINCO FOODS FACILITY AND AUTHORIZE THE MAYOR TO EXECUTE THE AMENDMENT**

EXECUTIVE SUMMARY

Approval of the amendment to the existing Offsite Improvement Agreement with Winco Holdings, Inc. (Developer), will allow the Developer to occupy the building and open the food store business before the completion of certain offsite improvements at the intersections of Corral Hollow Road/Grant Line Road and Naglee Road/Pavilion Parkway.

DISCUSSION

On April 3, 2007, City Council approved the Preliminary/Final Development Plan for a retail food store at the south east corner of Pavilion Parkway and Power Road known as the WinCo Foods Facility. Approval of this project was subject to specified development conditions of approval. Among other things, the Developer was required to design and construct certain offsite improvements to mitigate traffic impacts. Construction of the offsite improvements were authorized under the Offsite Improvement Agreement (OIA) that was approved by City Council on April 20, 2010. Per the OIA, the following offsite or street improvements are to be completed before the building can be occupied.

Corral Hollow Road/Grant Line Road

- Exclusive right-turn lane on Grant Line Road to northbound Corral Hollow Road
- Free right-turn lane on Grant Line Road to southbound Corral Hollow Road
- Acceleration lane on Grant Line Road from southbound Corral Hollow Road
- Exclusive right-turn lane on Corral Hollow Road to westbound Grant Line Road
- Modification of the traffic signal timing

Naglee Road/Pavilion Parkway

- Additional left-turn lane on Naglee Road to northbound Pavilion Parkway
- Exclusive right-turn on Naglee Road to westbound I-205
- Modification of the traffic signal timing

All the rights-of-way and permits that are necessary to construct the offsite improvements have been acquired or obtained. Improvement security was also submitted by the Developer to guarantee completion of the offsite improvements. The existing OIA allows completion of these improvements by April 19, 2011. However, the Developer has estimated that the offsite improvements will be completed before the end of 2010.

The Developer has submitted a written request to allow Winco Holdings, Inc. to occupy the building prior to completion of the offsite improvements. City staff believes that the request is reasonable since the improvements are already under construction.

#### Environmental Documentation

An Environmental Impact Report (EIR) was prepared for the project (SCH # 2003102045) and certified by City Council on April 3, 2007.

#### STRATEGIC PLAN

This agenda item is a routine operational item and does not relate directly to the Council's seven strategic plans.

#### FISCAL IMPACT

There is no fiscal impact to the General Fund. The Developer has paid the cost of processing the amendment.

#### RECOMMENDATION

Staff recommends that City Council approve the First Amendment to the Offsite Improvement Agreement with Winco Holdings, Inc., of Boise, Idaho, for the WinCo Foods Facility and authorize the Mayor to execute the Amendment.

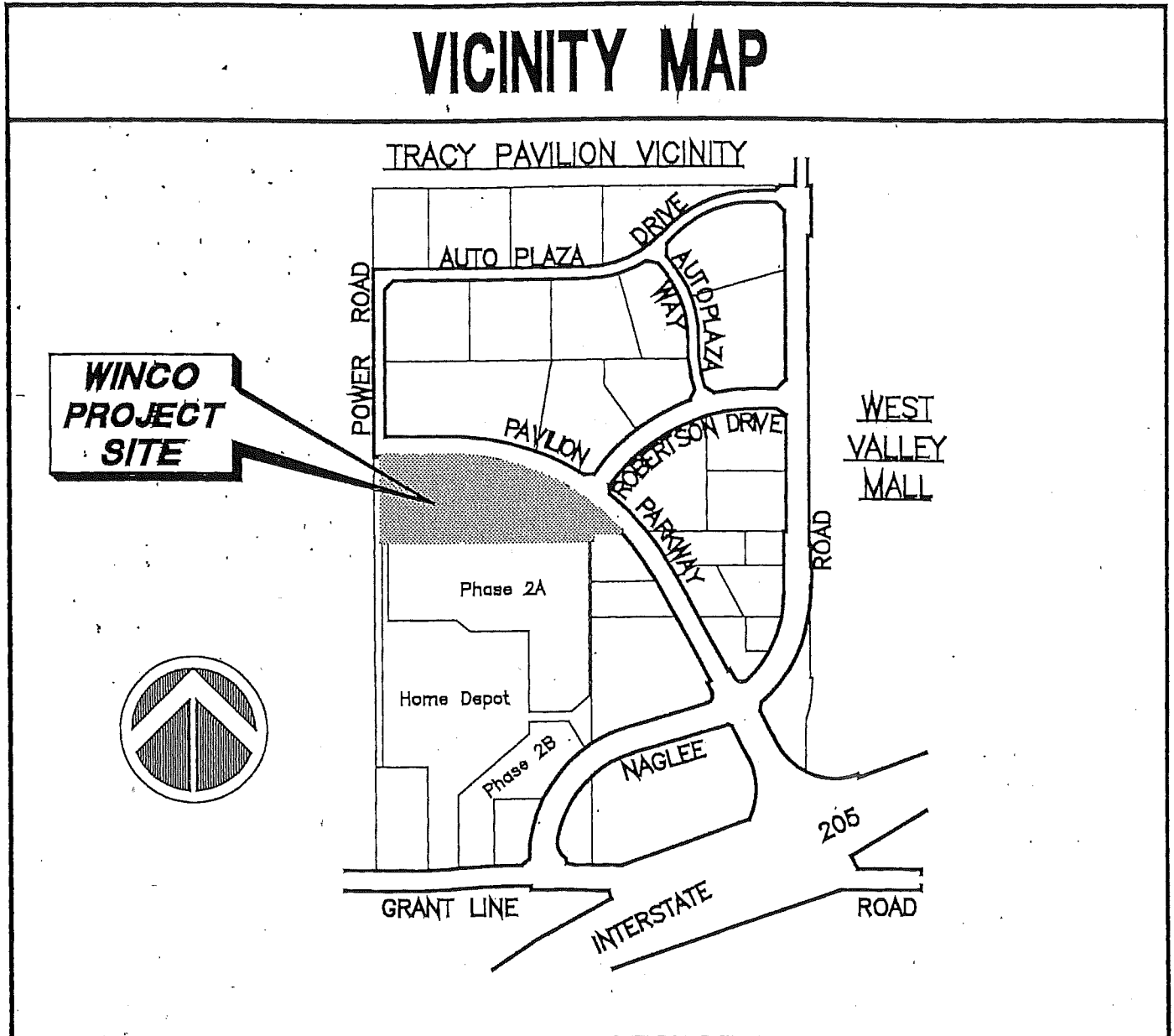
Prepared by: Cris Mina, Senior Civil Engineer

Reviewed by: Kul Sharma, City Engineer

Approved by: Andrew Malik, Development and Engineering Services Director  
Leon Churchill, Jr., City Manager



# VICINITY MAP



**CITY OF TRACY  
FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AMENDMENT  
FOR WINCO FOODS FACILITY**

This **FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AMENDMENT** (hereinafter "Amendment") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (hereinafter "City"), and **WINCO HOLDINGS, INC.**, a Delaware corporation (hereinafter "Developer").

**RECITALS**

- A. Developer has submitted development plans for a building facility to be constructed at the southwest corner of Pavilion Parkway and Power Road (hereinafter "Project") and the City has determined that certain off-site improvements (hereinafter referred to as either "Off-site Improvements" or "Work") shall be made by the Developer as a condition of the development of the Project.
- B. The Offsite Improvement Amendment for the Project was approved by the City Council on April 20, 2010, pursuant to Resolution No. 2010-053 and is on file with the City Clerk (hereinafter "Agreement").

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

- 1. **INCORPORATION BY REFERENCE.** This Amendment hereby incorporates by reference all terms and conditions set forth in the Agreement, unless specifically modified by this Amendment. All terms and conditions set forth in the Agreement which are not specifically modified by this Amendment shall remain in full force and effect.
- 2. **AMENDMENT TO THE OFFSITE IMPROVEMENT AMENDMENT.** Section 7.3 of the Agreement is amended to read as follows:

**"7.3. Completion of Work.** The Developer shall complete all Work by no later than three hundred sixty-five (365) days after the City's execution of the Agreement. City will allow the temporary and final occupancy of the building, subject to substantial completion of the Work or Offsite Improvements, as determined by the City Engineer."

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CITY OF TRACY  
FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT  
WINCO FOODS FACILITY  
PAGE 2 OF 2

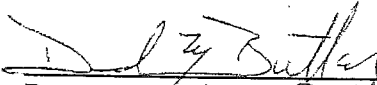
3. **SIGNATURES.** This Agreement is executed in two (2) duplicate originals, each of which is deemed original. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Subdivider and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

CITY OF TRACY  
a municipal corporation

DEVELOPER

\_\_\_\_\_  
By: Brent Ives  
Title: MAYOR  
Date: \_\_\_\_\_

  
\_\_\_\_\_  
By: David M. Butler  
Title: CFO  
Date: 9/27/18

Attest:

\_\_\_\_\_  
By: Sandra Edwards  
Title: CITY CLERK  
Date: \_\_\_\_\_

Approved As To Form:

\_\_\_\_\_  
By: Daniel Sodergren  
Title: CITY ATTORNEY  
Date: \_\_\_\_\_

RESOLUTION \_\_\_\_\_

APPROVING THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT WITH WINCO HOLDINGS, INC. OF BOISE, IDAHO, FOR THE WINCO FOODS FACILITY AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT

WHEREAS, On April 3, 2007, City Council approved the Preliminary/Final Development Plan for a retail food store at the south east corner of Pavilion Parkway and Power Road known as the WinCo Foods Facility, and

WHEREAS, The Developer was required to design and construct certain offsite improvements to mitigate traffic impacts, and

WHEREAS, Construction of the offsite improvements were authorized under the Offsite Improvement Agreement that was approved by City Council on April 20, 2010, and

WHEREAS, All the rights-of-way and permits that are necessary to construct the offsite improvements have been acquired or obtained, and

WHEREAS, The existing OIA allows completion of these improvements by April 19, 2011, and

WHEREAS, The Developer has estimated that the offsite improvements will be completed before the end of 2010, and

WHEREAS, The Developer has submitted a written request to allow Winco Holdings, Inc. to occupy the building prior to completion of the offsite improvements, and

WHEREAS, There is no fiscal impact to the General Fund. The Developer has paid the cost of processing the amendment;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves the First Amendment to the Offsite Improvement Agreement with Winco Holdings, Inc., of Boise, Idaho, for the WinCo Foods Facility and authorizes the Mayor to execute the Amendment.

\* \* \* \* \*

Resolution \_\_\_\_\_  
Page 2

The foregoing Resolution \_\_\_\_\_ was adopted by the City Council on the 19<sup>th</sup> day of October, 2010, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

AGENDA ITEM 1.C

REQUEST

**APPROVAL OF PERMIT FOR THE CONSUMPTION OF ALCOHOLIC BEVERAGES ON CITY STREETS FOR THE TRACY CHAMBER OF COMMERCE "DOWNTOWN MIXER" ON OCTOBER 28, 2010, AND THE TRACY CITY CENTER ASSOCIATION "DOWNTOWN WINE STROLL" ON OCTOBER 29, 2010**

EXECUTIVE SUMMARY

Tracy Municipal Code states Council may, by resolution, issue a permit allowing the consumption of alcohol on public streets and the like at an organized event of community-wide interest. The Parks and Community Services Department is coordinating two requests for an alcohol permit in conjunction with a community event and is seeking Council approval.

DISCUSSION

Tracy Municipal Code Section 4.12.190(d) states, "The Council, by resolution, may issue a permit allowing the consumption of alcohol on public streets and the like at an organized event of community-wide interest. The consumption of intoxicating beverages shall be restricted to the perimeters of the community event as described in the permit." Additionally, Tracy Municipal Code Chapter 4.40 governs Special Event permits occurring on or within the public right-of-way.

For many years, the City of Tracy has successfully coordinated special community events that have community-wide interest with various community and non-profit organizations, including the Chamber of Commerce and the Downtown Tracy Business Improvement Association (DTBIA). Some of these events have received City approval for the consumption of alcoholic beverages within the boundary of the events. All of these functions were conducted within the Downtown Tracy Business District.

At the present time, the Parks and Community Services Department is coordinating a request for an alcohol permit in conjunction with the following two community events: the "Chamber Mixer" being conducted by the Tracy Chamber of Commerce, and the "Downtown Wine Stroll", being conducted by the Tracy City Center Association. In conjunction with this event, a request for an alcohol permit, to allow alcoholic beverages to be served as a component of the event, is being presented for approval.

The Tracy Chamber of Commerce is requesting a permit to serve alcoholic beverages at its "Chamber Mixer" event on October 28, 2010, from 5:00 p.m. to 8:00 p.m., along Garner Alley between C Street and Central, and along Central Avenue between 9<sup>th</sup> and 8<sup>th</sup> Streets.

The Tracy City Center Association is requesting a permit to serve alcoholic beverages at its "Downtown Wine Stroll" event on October 29, 2010, from 6:30 p.m. to 9:30 p.m., along Central Avenue between 6<sup>th</sup> and 11<sup>th</sup> Streets, along 10<sup>th</sup> Street between A Street and Central Avenue, and along 9<sup>th</sup> Street between C Street and D Street.

## STRATEGIC PLAN

This agenda item supports the Communication and Marketing strategic plan and specifically implements the following goal and objectives:

**Goal 2:** Provide the community of Tracy with basic and extended services that offer opportunities for individuals, families and businesses to prosper as they live, work and play in Tracy

**Objective 2e:** Promote the high "quality of life" attributes and recreation opportunities of the City

## FISCAL IMPACT

There is no impact on the General Fund.

## RECOMMENDATION

It is recommended that City Council, by resolution, authorize and approve the permit described above for consumption of alcoholic beverages within the above-described designated areas for the Tracy Chamber of Commerce "Downtown Mixer" on October 28, 2010, and the Tracy City Center Association "Downtown Wine Stroll" on October 29, 2010.

Prepared by: Mark Honberger, Recreation Services Supervisor

Reviewed by: Rod Buchanan, Director of Parks and Community Services

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION \_\_\_\_\_

APPROVING PERMITS FOR THE CONSUMPTION OF ALCOHOLIC BEVERAGES  
ON CITY STREETS FOR THE TRACY CHAMBER OF COMMERCE "DOWNTOWN MIXER"  
ON OCTOBER 28, 2010, AND THE TRACY CITY CENTER ASSOCIATION  
"DOWNTOWN WINE STROLL" ON OCTOBER 29, 2010.

WHEREAS, The Tracy Chamber of Commerce has requested a permit to conduct a special event in the City of Tracy on October 28, 2010, that requires the authorization of the City Council for a permit for the consumption of alcoholic beverages in public places; and

WHEREAS, The Tracy City Center Association has requested a permit to conduct a special event in the City of Tracy on October 29, 2010, that requires the authorization of the City Council for a permit for the consumption of alcoholic beverages in public places; and

WHEREAS, These events will have community-wide interest and will enhance the property of the downtown Tracy business area; and

WHEREAS, Subject to City Council approval, the Tracy Municipal Code allows such activities and permits under Section 4.12.190(d) and Chapter 4.40.

NOW, THEREFORE, BE IT RESOLVED, That the City Council does hereby authorize the issuance of a permit for the possession and consumption of alcoholic beverages within the boundary of the above described Special Event, as further described in the staff report accompanying this resolution, to be conducted in the Downtown Business District of Tracy to: The Tracy Chamber of Commerce on October 28, 2010, between 5:00 p.m. and 8:00 p.m., and The Tracy City Center Association on October 29, 2010, from 6:30 p.m. to 9:30 p.m.

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The foregoing Resolution \_\_\_\_\_ was adopted by the Tracy City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



AGENDA ITEM 1.D

REQUEST

**APPROVAL OF AMENDMENT NUMBER TWO TO THE PROFESSIONAL SERVICES AGREEMENT WITH DESIGN, COMMUNITY, AND ENVIRONMENT (DC&E) FOR THE GENERAL PLAN AMENDMENT, FINAL ENVIRONMENTAL IMPACT REPORT, AND MUNICIPAL SERVICES REVIEW TO CHANGE THE SCOPE OF WORK AND AUGMENT THE BUDGET, AUTHORIZE THE USE OF \$24,639 FROM THE INFRASTRUCTURE MASTER PLANS STAFF TIME FUNDS, AND AUTHORIZE THE MAYOR TO EXECUTE THE AMENDMENT**

EXECUTIVE SUMMARY

This agenda item involves the approval of additional funding of \$24,639 for the General Plan Amendment, Final Environmental Impact Report (FEIR), and Municipal Services Review (MSR). This additional funding will allow for the expanded scope of work and augmented budget to effectively incorporate the comments received during the Supplemental EIR (SEIR) public comment period. This will involve preparation of the FEIR, and revisions to the MSR. Funding would come from the staff time budget for the Infrastructure Master Plans.

DISCUSSION

On March 4, 2008, City Council approved a Professional Services Agreement (PSA) for the General Plan Amendment and accompanying SEIR. The PSA and scope of work included changes to the Sphere of Influence, and additional General Plan goals and policies related to sustainability. The approved budget for the General Plan Amendment and its SEIR was approved at \$190,000. A Draft General Plan Amendment document and a Draft SEIR were prepared and circulated for a 45-day public review period, as required by the California Environmental Quality Act (CEQA). Several verbal and written comments were received during the review period. Those comments required revisions to the SEIR, and therefore revisions to and recirculation of the SEIR. A PSA Amendment and additional budget of \$53,160 was appropriated for that work in September 2009.

In July 2010, the revised SEIR was re-circulated for the CEQA-required public review period and again extensive comments were received. In order to properly respond to the number of comments received in the General Plan, and the FEIR, and to make the corresponding revisions to the MSR as a result of the comments, additional funding is required. DC&E has submitted proposed scopes of work and budgets (Exhibit 1), which amount to \$9,383 for the response to EIR comments, and \$15,256 for the revisions to the MSR, for a total of \$24,639.

Staff recommends that \$24,639 be used from the Infrastructure Master Plans staff time budget for the completion of these revisions. The General Plan and the Infrastructure Master Plans are closely related, and in particular, the preparation of the MSR will include the use of data that has been compiled for the Infrastructure Master Plans.

The proposed increase to the scope of work increases the budget for the project by \$24,639 to a total of \$263,247.

### STRATEGIC PLAN

This agenda item supports the Traffic Mobility & Connectivity, Economic Development, Community Amenities, and Environmental Sustainability Strategic Plans. These strategic plans, in part, were developed as a result of the General Plan approval in 2006, as a method of implementation of the Goals within the General Plan. The proposed General Plan Amendment contains the same, as well as updated goals and policies from the General Plan, and builds upon those goals in the realm of environmental sustainability.

### FISCAL IMPACT

This agenda item will not result in additional appropriation from the General Fund. It will use \$24,639 from the Infrastructure Master Plans staff time budget.

### RECOMMENDATION

Staff recommends that City Council approve Amendment Number Two to the Professional Services Agreement with DC&E for the General Plan Amendment, Final EIR, and MSR to amend the scope and increase the budget, and use \$24,639 from the Infrastructure Master Plans staff time budget, and authorize the Mayor to execute the agreement.

Prepared by: Victoria Lombardo, Senior Planner

Reviewed by: Bill Dean, Assistant DES Director

Approved by: Andrew Malik, Development and Engineering Services Director  
Leon Churchill, Jr., City Manager

### ATTACHMENTS

Exhibit 1—Professional Services Agreement w/Contract Modification

**CITY OF TRACY  
AMENDMENT NO. 2 TO  
PROFESSIONAL SERVICES AGREEMENT BETWEEN  
DESIGN, COMMUNITY, AND ENVIRONMENT AND THE CITY OF TRACY**

This Amendment No. 2 (hereinafter "Amendment") to the Professional Services Agreement for the General Plan Amendment and SEIR is made and entered into by and between the City of Tracy, a municipal corporation (hereinafter "City"), and Design, Community and Environment (hereinafter "DC&E").

**RECITALS**

- A. The City and DC&E entered into a Professional Services Agreement (hereinafter "Agreement") for the General Plan Amendment and SEIR which was approved by the City Council on March 4, 2008.
- B. The Agreement obligates the Consultant to prepare the General Plan Amendment and its related Supplemental EIR and Municipal Services Review (MSR).
- C. Extensive comments were received from the public during the comment period for the revised Draft SEIR, thus causing the need for additional analyses to be completed for the response to comments for the FEIR. The cost of the additional analyses exceed that which was originally anticipated and estimated in the scope of work for the Agreement.

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

- 1. **Incorporation By Reference.** This Amendment hereby incorporates by reference all terms and conditions set forth in the Agreement, unless specifically modified by this Amendment. All terms and conditions set forth in the Agreement which are not specifically modified by this Amendment shall remain in full force and effect.
- 2. **Terms of Amendment.** Section 1, Scope of Services is amended to include the attached expanded scope of work. Section 5.1, Compensation is also amended to include a revised budget amount of \$24,639, in addition to the \$190,000 budget that was approved within the original PSA and augmented by \$49,354 in September of 2009.
- 3. **Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.
- 4. **Severability.** In the event any term of this Amendment is held invalid by a court of competent jurisdiction, the Amendment shall be construed as not containing that term, and the remainder of this Amendment shall remain in full force and effect.

**CITY OF TRACY**  
**Amendment No. 2 to Professional Services Agreement**  
**General Plan Amendment, FEIR and MSR**  
**Page 2 of 2**

5. **Signatures.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment on behalf of the respective legal entities of the City. This Amendment shall inure to the benefit of and be binding upon the parties thereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties do hereby agree to the full performance of the terms set forth herein.

CITY OF TRACY

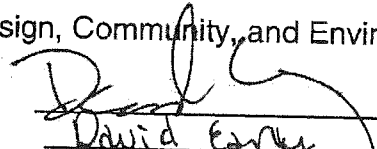
By: \_\_\_\_\_  
Brent Ives  
Title: Mayor  
Date: \_\_\_\_\_  
Attest: \_\_\_\_\_

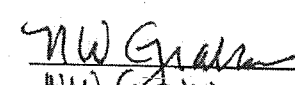
By: \_\_\_\_\_  
Sandra Edwards  
Title: City Clerk  
Date: \_\_\_\_\_

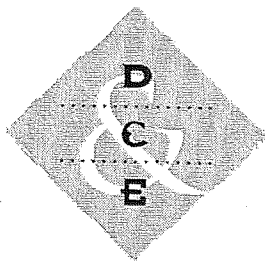
Approved as to form

By: \_\_\_\_\_  
Daniel G. Sodergen  
Title: City Attorney  
Date: \_\_\_\_\_

Design, Community, and Environment

By:  \_\_\_\_\_  
David Early  
Title: President  
Date: 10/8/10

By:  \_\_\_\_\_  
NW Graham  
Title: Treasurer  
Date: 10/8/10



DESIGN, COMMUNITY & ENVIRONMENT

1625 SHATTUCK AVENUE  
SUITE 300  
BERKELEY, CA 94709  
TEL: 510 848 3815  
FAX: 510 848 4315

CONTRACT MODIFICATION

PROJECT Tracy General Plan Amendment and Environmental Review  
DC&E PROJECT NUMBER 641 CONTRACT MODIFICATION NUMBER 5  
DATE October 7, 2010  
FROM Steve Noack  
TO Victoria Lombardo  
City of Tracy  
333 Civic Center Drive  
Tracy, CA 95376

THIS CONTRACT MODIFICATION AMENDS THE EXISTING CONTRACT BETWEEN DESIGN,  
COMMUNITY & ENVIRONMENT, INC. AND THE CITY OF TRACY FOR THE TRACY GENERAL  
PLAN AND EIR.

THE EXISTING SCOPE OF WORK IS HEREBY AMENDED AS FOLLOWS:

DC&E will revise the Municipal Services Review (MSR) to account for changes to the General Plan since the last Screencheck Draft of the MSR was prepared (in June 2009) and to provide updated information about services in Tracy using the updated Infrastructure Master Plans. This cost estimate assumes that the information about services in Tracy will be readily available from the Infrastructure Master Plans, and that no new calls to service providers for updated information will be required. DC&E will prepare an Administrative Draft MSR and Screencheck Draft MSR. Preparation of the Public Review Draft MSR will be completed under our current scope of work.

DC&E will also attend a meeting with Local Agency Formation Commission (LAFCo) staff, as well as a LAFCo workshop and LAFCo hearing.

PREVIOUS CONTRACT AMOUNT	\$247,991.00
AMOUNT OF THIS AMENDMENT	\$15,256.00
NEW TOTAL CONTRACT AMOUNT	\$263,247.00

**DESIGN, COMMUNITY & ENVIRONMENT**

TERMS FOR BILLING AND PAYMENT OF THE ADDITIONAL CONTRACT COST:

As per original contract.

ALL OTHER TERMS AND CONDITIONS OF THE EXISTING CONTRACT DATED  
MAY 30, 2008, AS AMENDED, REMAIN UNCHANGED.

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DESIGN, COMMUNITY & ENVIRONMENT, INC.  
DAVID EARLY, PRINCIPAL

CLIENT SIGNATURE

RESOLUTION\_\_\_\_\_

APPROVING AMENDMENT NUMBER TWO TO THE PROFESSIONAL SERVICES AGREEMENT WITH DESIGN, COMMUNITY AND ENVIRONMENT (DC&E) TO PREPARE THE GENERAL PLAN AMENDMENT, FINAL ENVIRONMENTAL IMPACT REPORT (FEIR), AND MUNICIPAL SERVICES REVIEW REVISIONS, CHANGING THE SCOPE OF WORK AND AUGMENTING THE BUDGET, AUTHORIZING THE USE OF \$24,639 FROM THE INFRASTRUCTURE MASTER PLANS STAFF TIME FUNDS, AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT

WHEREAS, On March 4, 2008, the City Council approved a Professional Services Agreement with Design, Community and Environment (DC&E) to prepare the General Plan Amendment and related SEIR, and

WHEREAS, On September 15, 2009, City Council approved an amendment to the Professional Services Agreement for additional work related to the SEIR, and

WHEREAS, Due to extensive comments related to greenhouse gas emissions and potential cumulative climate change impacts of the General Plan received during the re-circulation of the Draft SEIR, the scope of work for the project has exceeded the amended scope of work and Professional Services Agreement, and

WHEREAS, Additional work is needed to respond to comments in the Final EIR, and amend the Municipal Services Review (MSR), and

WHEREAS, The revised scope of work contains a budget of \$24,639, a budget of \$24,639 from the Infrastructure Master Plans project will be used for the General Plan Amendment;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves Amendment Number Two to the Professional Services Agreement and Scope of Work with DC&E for the General Plan Amendment and related FEIR and MSR and authorize the use of \$24,639 from the Infrastructure Master Plans account for payment of consultant services.

\* \* \* \* \*

Resolution \_\_\_\_\_  
Page 2

The foregoing Resolution \_\_\_\_\_ was adopted by the City Council on the 19<sup>th</sup> day of October, 2010, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



AGENDA ITEM 1.E

REQUEST

**APPROVE AN EXPENDITURE PLAN FOR THE USE OF PROPOSITION 1B FUNDS IN THE AMOUNT OF \$1,205,764.40, FOR THE DESIGN AND RECONSTRUCTION OF STREET OVERLAYS IN THE CITY AND AUTHORIZATION TO AMEND THE BUDGET TO INCLUDE A NEW CIP FOR CITY-WIDE STREET OVERLAYS WITH PROPOSITION 1B FUNDS**

EXECUTIVE SUMMARY

Proposition 1B (Transportation Improvement) is providing funds for the Local Street and Roadway Improvements, Congestion Relief, and Traffic Safety related projects in the State. The City of Tracy is one of the recipients of this grant and will receive \$1,205,764.40 from fiscal year 2009-10. In order to receive the allocated funds, City Council must approve a plan for the use of the allocated funds in FY 2009-10 as determined by the State Controller's Office (SCO). Staff is recommending City Council approve the expenditure plan for the use of \$1,205,764.40 from Proposition 1B Funds.

DISCUSSION

The State of California Proposition 1B provided \$19.925 billion from bond funds for a variety of transportation priorities, including \$2 billion for cities and counties to fund the maintenance and improvement of local transportation facilities. The 2007 State Budget appropriated a total of \$950 million of these Proposition 1B funds in 2007-08. The State also appropriated \$441 million for FY 2009-2010. Of this amount, \$258 million was allocated to cities.

The share that a city or county is allocated from the Proposition 1B Funds is determined by the SCO based on population. To receive these funds, the legislative body of the local jurisdiction must approve a plan for the use of the amount of funds available from that fiscal year.

Based on the California Department of Finance report, the City of Tracy will receive \$1,205,764.40 from the 2009-10 budget year and the City Council must approve the expenditure plan for this amount.

Staff has reviewed the recommendations of the City's Pavement Management System (PMS) and evaluated the various roadway projects city-wide. Based upon the PMS and evaluation of various streets, the grant funds will be best spent to complete asphalt overlay of various streets in the City. This will be the most cost effective use of these funds. After receipt of the grant and prior to starting design of the project, the number of streets recommended for asphalt overlay from PMS will be identified and cost estimates will be prepared to match the grant funding.

Staff is recommending that City Council approve the plan for the use of Proposition 1B Funds for the design and construction of asphalt overlays of various streets in the City.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's seven strategic plans.

FISCAL IMPACT

There is no impact to the General Fund. Design and construction costs of the subject projects will be paid from available funds from Proposition 1B.

RECOMMENDATION

That City Council, by resolution, approve the expenditure plan for the use of Proposition 1B Funds in the amount of \$1,205,764.40 from FY 2009-2010 for the design and construction of street overlays in the City and authorization to amend the budget to include a new Capital Improvement Project for city-wide street overlays with Proposition 1B Funds.

Prepared by: Zabih Zaca, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

Approved by: Andrew Malik, Development and Engineering Services Director  
Leon Churchill, Jr., City Manager

RESOLUTION 2010-\_\_\_\_\_

APPROVING AN EXPENDITURE PLAN FOR THE USE OF PROPOSITION 1B FUNDS IN THE AMOUNT OF \$1,205,764.40, FOR THE DESIGN AND RECONSTRUCTION OF STREET OVERLAYS IN THE CITY AND AUTHORIZING AMENDING THE BUDGET TO INCLUDE A NEW CIP FOR CITY-WIDE STREET OVERLAYS WITH PROPOSITION 1B FUNDS

WHEREAS, The State of California Proposition 1B provided \$19.925 billion from bond funds for a variety of transportation priorities, and

WHEREAS, The share that a city or county is allocated from the Proposition 1B Funds is determined by the State Controller's Office (SCO) based on population, and

WHEREAS, To receive these funds, the legislative body of the local jurisdiction must approve a plan for the use of the amount of funds available from that fiscal year, and

WHEREAS, Based on the California Department of Finance report, the City of Tracy will receive \$1,205,764.40 from the 2009-10 budget year, and

WHEREAS, Staff has reviewed the recommendations of the City's Pavement Management System (PMS) and evaluated the various roadway projects city-wide, and

WHEREAS, Based upon the PMS and evaluation of various streets, the grant funds will be best spent to complete asphalt overlay of various streets in the City, and

WHEREAS, There is no impact to the General Fund. Design and construction costs of the subject projects will be paid from available funds from Proposition 1B;

NOW THEREFORE, BE IT RESOLVED, That City Council approves by resolution, the expenditure plan for the use of Proposition 1B Funds in the amount of \$1,205,764.40 from FY 2009-2010 for the design and construction of street overlays in the City and authorizes amending the budget to include a new Capital Improvement Project for city-wide street overlays with Proposition 1B Funds.

\* \* \* \* \*

Resolution \_\_\_\_\_

Page 2

The foregoing Resolution 2010-\_\_\_\_\_ was adopted by the City Council on the 19<sup>th</sup> day of October 2010, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

AGENDA ITEM 3

REQUEST

**THAT COUNCIL CONDUCT A PUBLIC HEARING DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL ON EACH OF THE PARCELS LISTED IN EXHIBIT "A" TO THIS AGENDA ITEM A NUISANCE; CONSIDER OBJECTIONS TO ABATEMENT OF SAID NUISANCE, AND APPROVE A RESOLUTION AUTHORIZING FIRE DEPARTMENT STAFF TO ORDER CONTRACTOR TO ABATE SAID NUISANCES WITH THE REMAINING FUNDS AVAILABLE**

EXECUTIVE SUMMARY

The Fire Department performs inspections regularly and responds to complaints from residents regarding the existence of weeds, rubbish, refuse and flammable material on residential and commercial parcels. Abatement notices are sent to parcel owners within the City deemed by Fire Department staff to be a public nuisance and dangerous to the public health and safety.

The notice states the time and date of the Public Hearing to be conducted by the City Council to address any and all objections to the proposed abatement and, as necessary, authorize Fire Department staff to direct the City's contractor to abate parcels Council finds to be a nuisance.

DISCUSSION

Pursuant to Tracy Municipal Code, a Public Hearing is required prior to the abatement of any parcels. Sections 4.12.250 through 4.12.340 of the Tracy Municipal Code set forth the procedure for the City to abate weeds, rubbish, refuse and flammable material on private property.

On September 2, 2010, and September 8, 2010, pursuant to Tracy Municipal Code, Section 4.12.280, the Fire Department sent a notice to the property owner(s) listed in Exhibit "A". That notice required the owner to abate weeds; rubbish, refuse and flammable material on his/her parcel within twenty days, and informed the property owner(s) that a Public Hearing would be conducted on October 19, 2010, where any protests regarding the notice to abate would be heard.

Under the provisions of Tracy Municipal Code, Section 4.12.290, the Fire Department will proceed at Council's direction with instructing the City's contractor to perform weed, rubbish, refuse and flammable material abatement on the parcels listed in Exhibit "A".

After the parcels that Council has declared to be a nuisance have been abated, Fire Department staff will notify the property owners, pursuant to Tracy Municipal Code, Section 4.12.320, of a public hearing where Council will consider the report of costs for abatement and any objections of the property owners liable for the cost of abatement. A twenty five percent administrative charge to each individual property will also be imposed.

The total fiscal year 2010/2011 budget for weed abatement is approximately \$12,000. The first weed abatement public hearing conducted on July 20, 2010 resulted in abatement costs totaling \$10,300 leaving a balance of \$1,700 to address the properties listed in Exhibit "A" for the remainder of this fiscal year. Staff will prioritize the properties listed in Exhibit "A" by severity of hazard, and abate those properties with the remaining funds available.

Additionally, because the current fiscal situation requires the City to re-evaluate its current practices for greater efficiencies and explore alternative approaches to address service delivery options, staff proposes the following four strategies. Staff will return to Council at a later time for the appropriate Council actions related to the administrative fee adjustment, but the strategies are presented in this staff report to inform Council of the proposed direction.

**Strategy One: Develop a Neighborhood Outreach Program:**

The City will ensure weed abatement is addressed utilizing the regulatory options available, including imposing administrative citations and administrative fees. In addition, the City will develop an outreach program to educate and empower neighborhoods to initiate actions that would better place weed abatement in the hands of the responsible parties. The outreach and education program will include working with existing Neighborhood Watch programs throughout the City to assess their interest in establishing a volunteer neighborhood clean up effort or to communicate with owners to urge them to ensure the property is maintained properly. This City/Neighborhood partnership ensures regulatory and administrative remedies are exercised by the City, while working with interested neighborhood groups to encourage property owners to take ownership in the fire safety of their properties.

**Strategy Two: Actively Assess Property Ownership:**

The City will initiate an assessment to clarify which properties to be abated are in foreclosure, which have absentee landlords, (property owners that do not at the property to be abated) and which properties are owned by developers. This property assessment will result in targeted efforts by City staff to attempt to get the weeds abated.

**Strategy Three: Increase the Administrative Fee:**

Staff conducted an analysis of the weed abatement revenue received by the City over the last five years to determine whether the weed abatement program was recovering its costs and whether the administrative fees need to be adjusted. Table 1 below shows that the annual average cost recovery for weed abatement over the last five years is \$10,786.

Table 1: Weed Abatement Cost Recovery over a 5 Year Period

<b>Weed Abatement Revenue (FY 05/06 – FY 0/10)</b>	
FY 05-06	\$3,594.00
FY 06-07	\$2,668.00
FY 07-08	\$22,530.00
FY 08-09	\$10,482.00
FY 09-10	\$14,660.00
Total:	\$53,934.00
Annual Average:	<b>\$10,786.80</b>

The Administrative charge for weed abatement was last in March 2003, Resolution 2003-059. Increasing the Administrative charge from twenty five percent to several times the cost of the abatement will be more reflective of the City's actual cost recovery needs and should encourage property owners to abate their own properties rather than neglect them, leaving the City to abate by default.

**Strategy four: Issue Administrative Citations:**

Currently, with respect to weed abatement, staff does not issue many administrative citations for non-responsive property owners. Staff intends to include the issuance of administrative citations as part of its overall strategy of reducing the number of properties in the City requiring the City's contractor to perform weed abatement.

Staff expects that combining regulatory and administrative remedies with a neighborhood partnership strategy will result in increased weed abatement compliance by property owners and increase the City's cost recovery efforts.

**STRATEGIC PLAN**

This agenda item is a routine operational item and does not relate to the Council's seven strategic plans.

**FISCAL IMPACT**

The weed abatement budget for FY 10/11 is \$12,100. There is a \$1,784 balance for the remainder of the fiscal year.

RECOMMENDATION

Staff recommends that Council conduct a public hearing declaring the existence of weeds, rubbish, refuse and flammable material on each of the parcels listed in exhibit "A" to this agenda item a nuisance; consider objections to abatement of said nuisance, and approve a resolution authorizing fire department staff to order contractor to abate said nuisances with the remaining funds available.

Prepared by: Gina Rodriguez, Administrative Assistant II

Reviewed by: Germane Friends, Interim Fire Chief  
Maria A. Hurtado, Assistant City Manager

Approved by: Leon Churchill Jr., City Manager

Attachment: Exhibit "A" - 2010 Weed Abatement Parcel List



**TRACY FIRE - WEED ABATEMENT LIST  
OCTOBER 19, 2010 COUNCIL MEETING**

APN	SITUS ADDRESS	NAME/BUSINESS	MAILING ADDRESS	CITY	STATE	ZIP	PROPERTY IN FORECLOSURE	BANKED OWNED
246-230-13	135 Tioga Drive	Boyd & Sue Westfall	135 Tioga Drive	Tracy	CA	95376		
246-230-47	1030 Sultana Way	Sandra Knight	1030 Sultana Way	Tracy	CA	95376		
253-220-39	7834 W. Linne Road	California Reconveyance Co	9200 Oakdale Avenue	Chatsworth	CA	91311	Yes	
235-069-21	59 W. 6th Street	Stan Shore	242 Kellogg Avenue	Palo Alto	CA	94301		
246-170-23	500 Yosemite Drive	Recontrust Company NA	1800 Tapo Canyon Road	Simi Valley	CA	93065	Yes	
234-210-01	500 Mosswood Court	Recontrust Company NA	1800 Tapo Canyon Road	Simi Valley	Ca	93085	Yes	
238-310-06	2378 Riveira Court	Paul Iain Barrie	Richmond BC	BC	Canada	V7E6t5		
238-560-09	3064 Soto Court	Indymac Federal Bank	155 N. Lake Avenue	Pasadena	CA	91101		
238-380-43	1198 Michael Drive	Ashit Xinzuwadia	1198 Michael Drive	Tracy	CA	95376		
232-143-13	1425 W. Lowell Avenue	Northwest Trustee Services	505 N. Tustin Ste, 243	Santa Ana	CA	92705	Yes	
214-510-72	2915 Fairfield Drive	California Reconveyance Co	9200 Oakdale Avenue	Chatsworth	CA	91311	Yes	
214-130-05	2980 Loreto Court	Augustine Arroyo	2645 Monroe Street	Tracy	CA	95376		
242-040-49	Vacant lot Dove Dr & Mits	Meritage Homes of Calif	1671 E. Monte Vista Ave, Ste 214	Vacaville	CA	95699		
252-260-01	Vacant lots Dominique & Basque	TVC Tracy Holdco LLC	3208 Wycliffe Drive	Modesto	CA	95355		
252-050-24	Vacant lots Dominique & Basque	TVC Tracy Holdco LLC	3208 Wycliffe Drive	Modesto	CA	95355		
232-380-02	1610 Autumn Meadow	Gurmail & Armarjit Singh	1585 Meridian Avenue	San Jose	CA	95125		

RESOLUTION \_\_\_\_\_

DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL ON THE PARCELS LISTED IN EXHIBIT "A", A NUISANCE AUTHORIZING FIRE DEPARTMENT STAFF TO ORDER CONTRACTOR TO ABATE

WHEREAS, On September 2, 2010 and September 8, 2010, pursuant to Tracy Municipal Code, Section 4.12.280, Fire Department staff mailed, via certified mail, a notice to the owners of record listed within Exhibit "A", that the existence of weeds, rubbish, refuse and flammable material on said parcel in the City of Tracy constitutes a nuisance and is dangerous to public health and safety of the inhabitants of the City pursuant to Section 4.12.260 of the Tracy Municipal Code, and

WHEREAS, The notices included an order to abate said nuisance within 20 days and informed the property owner(s) of their opportunity to appear and object to the abatement of such nuisance at a public hearing before the City Council on October 19, 2010, and

WHEREAS, The County Assessors Office shows the mailing address for the owner(s) of record of the subject parcels as listed within Exhibit "A", and a notice to abate and the notice of the public hearing was sent in a timely manner to that address by certified mail, and

WHEREAS, Objections, if any, to said abatement have been heard and considered, and

WHEREAS, The Fire Department has \$1,784, remaining in the FY 2010-2011 budget for weed, rubbish, refuse and flammable material abatement, staff will need to prioritize the properties listed in Exhibit "A" by severity of hazard, and abate those properties to the extent the remaining funds are available;

NOW, THEREFORE, BE IT RESOLVED, that the City Council declares the weeds, rubbish, refuses and flammable material on the parcels listed within Exhibit "A" to be a nuisance and further authorizes Fire Department staff to order the City's contractor to abate the accumulation of weeds, rubbish, refuse and flammable materials on the listed parcels.

\*\*\*\*\*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2010. By the following vote:

- AYES: COUNCIL MEMBERS:
- NOES: COUNCIL MEMBERS:
- ABSENT: COUNCIL MEMBERS:
- ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

AGENDA ITEM 4

REQUEST

**RECEIVE PUBLIC TESTIMONY FROM PUBLIC HEARING FOR ANNUAL UNMET TRANSIT NEEDS, CITY OF TRACY, FISCAL YEAR 2010-11**

EXECUTIVE SUMMARY

The City of Tracy (City) annually receives funds from the Transportation Development Act (TDA). Under provisions of the TDA, a local public hearing must be held annually to review any unmet transportation needs prior to allocation of TDA funds. Staff recommends that City Council receive public testimony concerning any unmet transportation needs. Comments will be forwarded to the San Joaquin Council of Governments to substantiate the validity of proposed unmet transit needs.

DISCUSSION

Under provisions of the State of California Transportation Development Act (TDA), local public hearings must be held annually to review any unmet transit needs prior to the allocation of TDA funds. The hearings will be held on October 19, 2010, at 1:30 p.m. in the Tracy Transit Station Conference Room 105, and again at 7:00 p.m. in City Hall Council Chambers during the regularly-scheduled City Council meeting.

The City of Tracy requested TDA funds for Fiscal Year 2009-10 for the following purposes:

1. Public Transportation Operating Costs	\$ 733,710
2. Public Transportation Capital Costs	\$ 178,139
3. Roads and Streets Projects	\$2,286,300
4. Pedestrian and Bicycle Projects	\$ 50,512
5. TDA Administration	\$ <u>90,845</u>

TOTAL 2009-10 CLAIM: \$3,339,506

The TRACER Public Transit System provides Fixed Route and Paratransit Bus services Monday through Friday from 7:00 a.m. until 7:00 p.m., and Saturdays from 9:00 a.m. to 5:00 p.m. The Paratransit Subsidized Taxi service operates during the days and hours that the Paratransit Bus service is not in operation.

The purpose of the public hearing is for the City Council to receive public testimony concerning any unmet transportation needs which may exist for the Tracy community. No decision as to the sufficiency of local transit services is requested from the Council.

The minutes of the public hearing on October 19, 2010, shall be forwarded to the San Joaquin County Council of Governments (SJCOG) which has the responsibility of determining whether transit needs remain unmet and would be reasonable to meet by the applicable jurisdiction. Staff members from SJCOG will attend the Tracy public hearings to witness the community responses and to answer specific questions concerning the TDA process.

Attached are copies of the Notice of Public Hearing relative to the Unmet Transit Needs Hearings (Exhibit "A") published in the TriValley Herald newspaper, as well as the circular (Exhibit "B") that was delivered to over forty-four social services/activity agencies within the Tracy community.

FISCAL IMPACT

The public hearing does not require any direct expenditure of City funds and will not impact the General Fund.

RECOMMENDATION

There is no action required other than the public hearing.

Prepared by: Ed Lovell, Management Analyst II  
Reviewed by: Rod Buchanan, Director of Parks and Community Services  
Approved by: Leon Churchill, Jr., City Manager

Attachments:

Exhibit "A" – Public Hearing Notice  
Exhibit "B" – Circular

EXHIBIT "A"

NOTICE OF PUBLIC HEARING  
CITY OF TRACY

A public hearing will be held on October 19, 2010, at 1:30 p.m. at the Tracy Transit Station, 50 East Sixth Street, Conference Room 103, for the purpose of inviting discussion and statements relative to unmet public transportation needs. Additionally, at 7:00 p.m., or as soon thereafter as possible, the Tracy City Council will hold a public hearing in the Council Chambers, at Tracy City Hall, 333 Civic Center Plaza, to hear statements relative to unmet public transportation needs which can reasonably be met (required by Section 6656, California Administrative Code), prior to allocation of TDA funds for roads and street purposes.

All interested persons are invited to be present and to submit statements orally or in writing, before or during the meeting.

Information concerning this matter may be obtained at the Parks and Community Service Department, 400 E. Tenth Street, Tracy, CA 95376.

Sandra Edwards  
City Clerk  
Publish: 9/18, 10/14, 10/19/2010



Think Inside the Triangle™

EXHIBIT "B"

# UNMET TRANSIT NEEDS HEARING

## PUBLIC HEARING

TRACER Fixed Route  
SJRTD Bus Service  
Park-N-Ride  
Car Pooling / COG

TRACER Paratransit  
Taxi Service  
Ride Sharing / COG  
Rail Service / ACE



**DATE** Tuesday, October 19, 2010

**HEARING 1** - 1:30 p.m. - 2:30 p.m.  
Tracy Transit Station  
Room # 105  
50 E. Sixth Street, Tracy

**HEARING 2** - 7:00 p.m.  
City Council Meeting  
City Hall, Council Chambers

*Need a ride? Do you (or others in your community) believe that you would benefit from having public transportation in your area? Your concerns are important to us.*

*Can't make it? Have questions or comments?  
Contact Jayne Pramod, Transportation Coordinator,  
City of Tracy, at (209) 831-6214, [Jayne.pramod@ci.tracy.ca.us](mailto:Jayne.pramod@ci.tracy.ca.us)*

## UNMET TRANSIT NEEDS SUGGESTIONS

*Drop off or mail to : City of Tracy, Parks & Community Services Department. ATTN: Jayne Pramod, 400 E. 10th Street, Tracy, CA - 95376*

Parks & Community Services Department  
400 East 10<sup>th</sup> Street, Tracy, CA 95376  
(209) 831-6200

*Creating Community through People, Parks and Programs*

AGENDA ITEM 5

REQUEST

**APPROVAL OF AN AMENDMENT TO THE SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN (SJMSCP) DEVELOPMENT FEE, RESULTING IN AN OVERALL DECREASE IN FEES FOR 2011**

EXECUTIVE SUMMARY

In 2001 the City began participating in the newly established San Joaquin County Multi Species Habitat Conservation and Open Space Plan (SJMSCP). The fees for participation in the plan were established in 2001 and updated in 2005, 2007, 2008, 2009 and 2010. Pursuant to the land sales comparables and the Consumer Price Index, the fees are proposed to be updated for collection starting January 1, 2011. The revised fees represent a 9 percent decrease from the fees collected in 2010.

DISCUSSION

Background

In 2001, City Council approved a resolution to establish the authority to collect a development fee for the SJMSCP. That fee was established in 2001, and subsequently updated in 2005, 2007, 2008, 2009 and 2010.

The formula for updating the fee was categorized into three distinct components to better calculate an accurate fee per acre [FEE = Category A (acquisition) + Category B (assessment & enhancement) + Category C (management & admin)]. The final mitigation fees (Table 1) reflect true costs in each category and other real costs associated to fulfill the goals of the plan.

***Category A (acquisition) - Comparables***

This category is directly related to land valuation based on comparables which occur in specific zones of the plan. This category is evaluated on a yearly basis by taking all qualified comparables in each zone, including SJCOG, Inc. easements, to set a weighted cost per acre using the same methodology as in the Financial Analysis Update in 2006 created by EPS. The SJCOG, Inc. easements are evaluated using the appraised value of the property in the before condition included with the fee title sales of other property occurring in San Joaquin County. The final weighted cost per acre of each zone is calculated into a blended rate under Category A (acquisition) figure for each habitat type.

The criteria to determine valid comparables used in the weighted calculation are:

1. All SJCOG, Inc. transactions (fee title and appraised value of unencumbered property)
2. Sales not less than 40 acres
3. Sales not greater than 500 acres
4. No parcels with vineyard or orchard (except SJCOG, Inc. transactions for special needs)

5. Must be land which would fulfill mitigation under the plan
6. Not greater than 2 years old from the date of June 30<sup>th</sup> of each year with all acceptable comparables included (criteria 1-5). A minimum of 10 acceptable comparables are required for analysis. If the minimum of 10 transactions are not available, the time period will extend at 3 month intervals prior to the beginning date until 10 comparables are gathered.

The calculation results in a decrease to the Agricultural/Natural Habitat type of Category A component from \$10,011.11 to \$8,576.04.

**Category B (assessment & enhancement) - Consumer Price Index**

This category is an average of the California Consumer Price Index (CPI), as reported by the California Department of Finance, for a 12 month period following a fiscal year (July – June) to keep up with inflation on a yearly basis. The CPI has been deemed appropriate regarding the cost of inflation for this category. The California CPI calculation increased 1.8%.

The calculation results in an increase of the Category B component to be \$2,996.88.

**Category C (management & administration) - Consumer Price Index**

This category is an average of the California Consumer Price Index (CPI), as reported by the California Department of Finance, for a 12 month period following a fiscal year (July – June) to keep up with inflation on a yearly basis. The CPI has been deemed an appropriate regarding the cost of inflation for this category. The California CPI calculation increased 1.8%.

The calculation results in an increase of the Category C component to be \$1,689.55.

SJCOG, Inc. staff calculated the fees using the SJMSCP Financial Analysis formula model [FEE= Category A (acquisition) + Category B (assessment & enhancement) + Category C (management & Admin)] which is shown in Table 1 below. The overall result in the calculations was a decrease in the fees from 2010 to 2011.

**Table 1 – Mitigation Fees to Be Adopted for 2011**

Habitat Type	Category A	Category B	Category C	Total Fee	Rounded Fee*
Open Space	\$4,288.02	\$1,498.44	\$844.78	<b>\$6,631.23</b>	<b>\$6,631</b>
AG/Natural	\$8,576.04	\$2,996.88	\$1,689.55	<b>\$13,262.47</b>	<b>\$13,262</b>
Vernal Pool (grasslands)	\$31,580.64	\$564.36	\$6,183.02	<b>\$38,328.02</b>	<b>\$38,328</b>
Vernal Pool (wetted)	\$31,580.64	\$39,956.00	\$6,183.02	<b>\$77,719.66</b>	<b>\$77,720</b>

\*rounded to the nearest dollar to be adopted and in place by January 1, 2011

All of the land within and adjacent to the current City limits are classified as Open Space or AG/Natural, as there are no vernal pools near the City of Tracy. The current (2010)



per-acre fees in the relevant categories are \$7,307 per acre for Open Space, and \$14,615 for AG/Natural.

**Monitoring Plan Funding:**

Along with the annual index adjustment, the SJMSCP is required to monitor the plan to address funding shortfalls as stated in Section 7.5.2.1 of the plan. SJCOG, Inc. shall undertake an internal review of the SJMSCP funding plan every three years to evaluate the adequacy of each funding source identified in the plan, identify existing or potential funding problems, and identify corrective measures, should they be needed in the event of actual or potential funding shortfalls. This will be reported to the permitting agencies for review in Annual Reports. A review of the Financial Analysis Plan, similar to the process undertaken in the 2006 review, will occur every five years to ensure the adopted methodology is fulfilling the goals of the plan.

**FISCAL IMPACT**

This agenda item will not require any specific expenditure of funds. All of the fees collected with each project will be applied toward the SJMSCP.

**RECOMMENDATION**

Staff recommends that the City Council approve, by adoption of a resolution, the amended development fees for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan, as shown in the City Council resolution dated October 19, 2010.

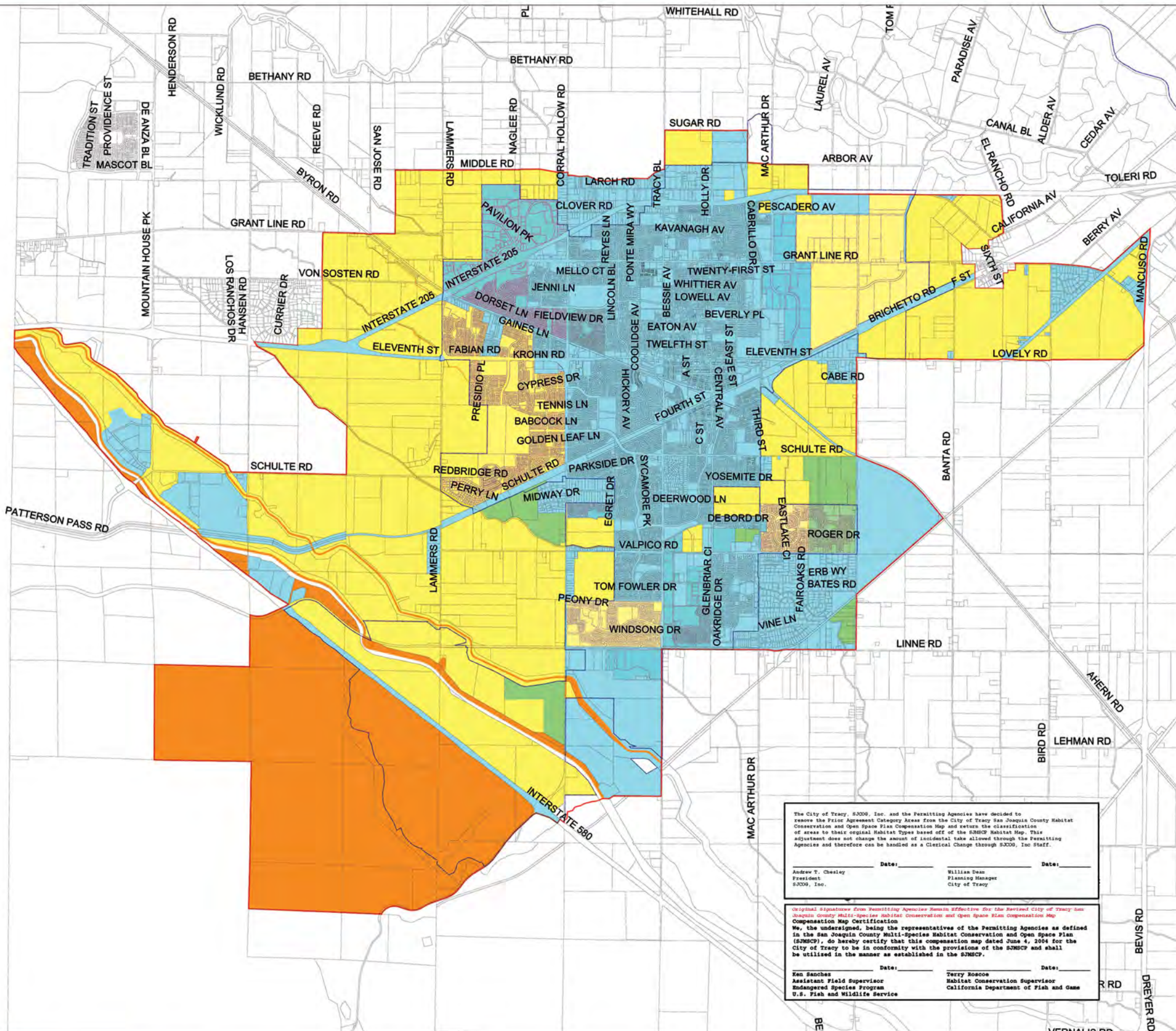
**ATTACHMENT**

Attachment A—City of Tracy Land Category / Pay Zones Map

Prepared by: Victoria Lombardo, Senior Planner, City of Tracy  
Steve Mayo, Senior Regional Planner, SJCOG

Reviewed by: Bill Dean, Assistant DES Director

Approved by: Andrew Malik, Development and Engineering Services Director  
Leon Churchill, Jr., City Manager



- LAND CATEGORY / PAY ZONES**
- CATEGORY A  
EXEMPT  
NO PAY ZONE
  - CATEGORY B  
OTHER OPEN SPACES  
PAY ZONE A
  - CATEGORY C  
AG. HABITAT OPEN SPACES  
PAY ZONE B (Agricultural)
  - CATEGORY D  
NATURAL LANDS HABITAT  
PAY ZONE B (Natural)
  - CATEGORY E  
VERNAL POOLS  
PAY ZONE C
- PLANNING AREA BOUNDARY**
- URBAN EXPANSION AREA
  - CITY LIMITS
  - PARCEL LINE

# San Joaquin County Multi-Species Habitat Conservation and Open Space Plan

The City of Tracy, SJO09, Inc. and the Permitting Agencies have decided to remove the Prior Agreement Category Areas from the City of Tracy San Joaquin County Habitat Conservation and Open Space Plan Compensation Map and return the classification of areas to their original Habitat Types based off of the SJOHCP Habitat Map. This adjustment does not change the amount of incidental take allowed through the Permitting Agencies and therefore can be handled as a Clerical Change through SJO09, Inc Staff.

Date: \_\_\_\_\_ Date: \_\_\_\_\_  
 Andrew T. Chesley, President, SJO09, Inc.      William Dean, Planning Manager, City of Tracy

*Original Signatures from Permitting Agencies Remain Effective for the Revised City of Tracy San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Compensation Map Certification*

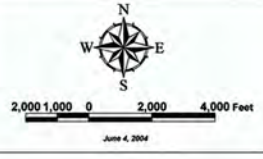
We, the undersigned, being the representatives of the Permitting Agencies as defined in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJOHCP), do hereby certify that this compensation map dated June 4, 2004 for the City of Tracy to be in conformity with the provisions of the SJOHCP and shall be utilized in the manner as established in the SJOHCP.

Date: \_\_\_\_\_ Date: \_\_\_\_\_  
 Ken Sanchez, Assistant Field Supervisor, Endangered Species Program, U.S. Fish and Wildlife Service      Terry Roscoe, Habitat Conservation Supervisor, California Department of Fish and Game

## CITY OF TRACY COMPENSATION MAP (REVISED MARCH 2006)



San Joaquin Council of Governments  
 555 East Weber Avenue  
 Stockton, CA 95202



RESOLUTION 2010-\_\_\_\_\_

ADOPTING THE AMENDED DEVELOPMENT FEES FOR THE SAN JOAQUIN COUNTY  
MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN (SJMSCP)

WHEREAS, The City Council of the City of Tracy adopted an (Ordinance / Resolution) establishing the authority for collection of a Development Fee for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) for all new developments pursuant to the SJMSCP within the City of Tracy, and

WHEREAS, A "Fee Study" dated July 16, 2001 was prepared which analyzed and identified the costs, funding, and cost-benefit of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan, and

WHEREAS, The purpose of the SJMSCP Development Fee is to finance the goals and objectives of the SJMSCP that include, but are not limited to preserve land acquisition, preserve enhancement, land management, and administration that compensate for such lands lost as a result of future development in the City of Tracy and in San Joaquin County, and

WHEREAS, After considering the Fee Study and the testimony received at the public hearing, the Tracy City Council approved said report; and further found that the future development in the City of Tracy will need to compensate cumulative impacts to threatened, endangered, rare and unlisted SJMSCP Covered Species and other wildlife and compensation for some non-wildlife related impacts to recreation, agriculture, scenic values and other beneficial Open Space uses, and

WHEREAS, An "Updated Fee Study" dated November 2, 2006 was prepared which analyzed and identified the costs and funding of the SJMSCP, and the Tracy City Council approved updated SJMSCP Development Fees on January 16, 2007, and subsequently approve the annual update to those fees on October 16, 2007 and October 21, 2008, October 20, 2001, and

WHEREAS, The current SJMSCP Development Fee for open space lands is \$7,307 an acre for the year 2010 due to annual adjustments consistent with the California Construction Cost Index (CCCI), and

WHEREAS, The current SJMSCP Development Fee for natural lands and agricultural lands is \$14,615 an acre for the year 2010 due to annual adjustments consistent with the California Construction Cost Index (CCCI), and

WHEREAS, The updated fee per acre for open space lands as adjusted pursuant to land sale comparables and the Consumer Price Index for the year 2011 is \$6,631 , and

WHEREAS, The updated fee per acre for natural lands and agricultural lands as adjusted pursuant to land sale comparables and the Consumer Price Index for the year 2011 is \$13,262, and

WHEREAS, To ensure that the SJMSCP development fees keep pace with inflation, annual adjustments, based on the method set forth in this resolution, shall be made to the fees annually, and

WHEREAS, The Assessment and Enhancements and Management and Administration components shall be adjusted annually based on the Consumer Price Index (CPI). The Acquisition Cost component shall be adjusted annually based on a minimum of ten comparable agricultural sales within the previous two years. If ten acceptable comparables are not found, then the two year window will increase in three month intervals until ten acceptable comparable agricultural sales are found. The comparable agricultural sales shall meet the following criteria: over forty acres in size, but under 500 acres in size, no orchard or vineyard properties shall be included, and all comparable sales must be on land that is consistent as mitigation land under the SJMSCP. In addition, all SJCOG, Inc. transactions regardless of size or sale type will be included in the comparables, and

WHEREAS, The Updated Fee Study with the SJMSCP and the fee amendment were available for public inspection and review in the office of the City Clerk for more than 10 days prior to the date of this Public Hearing;

NOW, THEREFORE, The City Council finds as follows:

1. The City Council finds and declares that the purposes and uses of the Development Fee, and the determination of the reasonable relationship between the fees' uses and the type of development project on which the fees are imposed, are all established in Resolutions 2001-050 and 2007-021, and remain valid, and the City Council therefore adopts such determinations.
2. The City Council finds and declares that since adoption of Resolutions 2001-050 and 2007-021, the cost of land has changed in San Joaquin County, and that in order to maintain the reasonable relationship established by Resolutions 2001-050 and 2007-021, it is necessary to adjust the Development Fee for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan.
3. The Development Fee for open space shall be \$6,631 an acre, as adjusted pursuant to land sale comparables and the Consumer Price Index, as shown in Exhibit A attached hereto.
4. The Development Fee for natural lands and agricultural land shall be \$13,262 an acre as adjusted pursuant to land sale comparables and the Consumer Price Index, as shown in Exhibit A attached hereto.
5. The Development Fee for vernal pool habitat and multi-purpose open space conversion shall be consistent with the table identified in Exhibit "A" and attached hereto.
6. The Fee provided in this resolution shall be effective on January 1, 2011, which is at least sixty (60) days after the adoption of this resolution.

\*\*\*\*\*

Resolution \_\_\_\_\_

Page 3

The foregoing Resolution 2010-\_\_\_\_\_ was adopted by the City Council on the 19<sup>th</sup> day of October 2010, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk

**Exhibit A**

**2011 Updated Habitat Fees**

<b>Habitat Type</b>	<b>Fee Per Acre</b>
Multi-Purpose Open Space	\$ 6,631
Natural	\$ 13,262
Agriculture	\$ 13,262
Vernal Pool - uplands	\$ 38,328
Vernal Pool - wetted	\$ 77,720

AGENDA ITEM 6

REQUEST

**ADOPTION OF RESOLUTION OF INTENTION TO APPROVE AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF TRACY AND THE BOARD OF ADMINISTRATION OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; INTRODUCE AN ORDINANCE AUTHORIZING THE AMENDMENT TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM PLAN TO INCLUDE A '2% AT 55 MODIFIED FORMULA AND THREE-YEAR FINAL COMPENSATION' BENEFIT FOR MISCELLANEOUS CLASSIFICATION PLAN EMPLOYEES HIRED AFTER DECEMBER 16, 2010**

EXECUTIVE SUMMARY

This report recommends action to implement a second tier of retirement benefits for all employees in the miscellaneous classification plan, which includes Department Heads, Confidential Managers, Mid-Managers, Teamsters and the Technical and Support Services Unit hired after December 16 2010.

DISCUSSION

Council has recently taken a number of actions to approve a second tier of retirement benefits for miscellaneous classification employees. On August 17, 2010, Council approved the Teamster Memorandum of Understanding, which included a second-tier retirement benefit. On September 7, 2010, the City Council approved a Letter of Understanding for the Mid-Managers, as well as revisions to the Compensation and Benefits Plans for Department Heads, Confidential Managers, and Technical and Support Services Unit, to also provide for a second tier in employee retirement benefits. This item is the next step in the process. Once all steps in the process are completed and approved by Council, new employees in the miscellaneous classification plan, hired after December 16, 2010, will receive the reduced retirement benefit of 2% @ 55, three-year final compensation. While the City is not anticipating any hiring in the near future, over time, this reduced benefit level will decrease benefit costs paid by the City.

Pursuant to Government Code Section 20471, a 20-day period between the adoption of the Resolution of Intention and the adoption of the final Ordinance is required.

STRATEGIC PLAN

This agenda item supports the Organizational Effectiveness Strategic Plan and specifically implements the following goal and objectives:

**Goal 1:** Assure fiscal health

**Objective 1a:** Develop a 5 Year Plan that leads to a Balanced Budget and elimination of the City structural budget deficit

**Objective 1b:** Explore Early Retirement Options & 2-Tier Retirement System

FISCAL IMPACT

There is no fiscal impact for adoption of the new benefit formula. For FY 2010-11, there will be minimal, if any, savings from the implementation of this second tier (2% at 55) because all miscellaneous classification employees hired prior to the contract amendment will continue to receive the prior retirement formula of 2.5% at 55. Over the years, however, the City will begin to see savings as new employees will be hired at the less costly second tier formula.

RECOMMENDATION

That the City Council:

- 1) Adopt a Resolution of Intention to approve a contract amendment between the City of Tracy and the Board of Administration of the Public Employees' Retirement System to include the '2% at 55 Modified Formula' and 'Three-Year Final Compensation' benefit (Sections 21354 and 20037 of the Public Employees Retirement Law) for miscellaneous classification personnel hired after December 16, 2010; and
- 2) Introduce an Ordinance authorizing the amendment to the contract between the City of Tracy and the Board of Administration of the California Public Employees' Retirement System to implement this benefit effective December 17, 2010.

Prepared by: Maria Olvera, Human Resources Director

Approved by: Leon Churchill, City Manager

Attachments: Resolution of Intention  
Ordinance  
Exhibit – Amendment to Contract between the Board of Administration  
CALPERS and the City of Tracy City Council



RESOLUTION \_\_\_\_\_

ADOPTION OF RESOLUTION OF INTENTION TO APPROVE AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF TRACY AND THE BOARD OF ADMINISTRATION OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; TO INCLUDE A SECOND TIER, '2% AT 55 MODIFIED FORMULA AND THREE-YEAR FINAL COMPENSATION' BENEFIT FOR MISCELLANEOUS CLASSIFICATION PLAN EMPLOYEES HIRED AFTER DECEMBER 16, 2010

WHEREAS, The Public Employees Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said law; and

WHEREAS, One of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of a resolution giving notice of its intention to approve an amendment to said contract, which resolution shall contain a summary of the change proposed in said contract; and

WHEREAS, The following is a statement of the proposed change:

To provide Section 20475 (Different Level of Benefits): Section 21354 (2% at 55 Modified Formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy does hereby give notice of intention to approve an amendment to the contract between City of Tracy and the Board of Administration of the Public Employees' Retirement System providing for a second tier '2% at 55 Modified Formula' and 'Three-Year Final Compensation' benefit for miscellaneous classification personnel hired after December 16, 2010, a copy of said amendment being attached hereto, as "Exhibit \_\_\_\_" and by this reference made a part hereof.

\*\*\*\*\*

The foregoing Resolution 2010-\_\_\_\_\_ was adopted by the Tracy City Council on the 19<sup>th</sup> day of October, 2010, by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE CITY OF TRACY AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF TRACY AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO INCLUDE A SECOND TIER '2% AT 55 MODIFIED FORMULA AND THREE-YEAR FINAL COMPENSATION' BENEFIT FOR MISCELLANEOUS CLASSIFICATION PLAN EMPLOYEES HIRED AFTER DECEMBER 16, 2010.

WHEREAS, The Public Employees' Retirement Law permits the participation of public agencies and their employees in the Public Employees' Retirement System by the execution of a contract, and sets forth the procedure by which said public agencies may elect to subject themselves and their employees to amendments to said contract: and

WHEREAS, The Government Code sets forth procedures to amend this contract: and

WHEREAS, One of the steps in the procedures to amend this contract is the adoption by the governing body of the public agency of an ordinance to approve an amendment to said contract: and

WHEREAS, Council has recently taken a number of actions to approve a second tier of retirement benefits for employees: and

WHEREAS, A Resolution of Intention (Resolution # \_\_\_\_\_) was adopted on October 19, 2010 to approve the Public Employees' Retirement System contract amendment providing for a second tier '2% at 55 Modified Formula' and 'Three-Year Final Compensation' benefit for miscellaneous classification personnel hired after December 16, 2010; and

NOW, THEREFORE, The City Council of the City of Tracy does ordain as follows:

SECTION 1: That an amendment to the contract between the City Council of the City of Tracy and the Board of Administration, California Public Employees' Retirement System is hereby authorized, to include the '2% at 55 Modified Formula' and 'Three-Year Final Compensation' benefit (Sections 21354 and 20037 of the Public Employees Retirement Law) for miscellaneous classification personnel hired after December 16, 2010, a copy of said amendment being attached hereto, marked as Exhibit A, and by such reference made a part hereof as though herein set out in full.

SECTION 2: That the Mayor of the City of Tracy is hereby authorized, empowered, and directed to execute said amendment for and on behalf of the City of Tracy.

SECTION 3: That this Ordinance shall take effect 30 days after the date of its adoption, and

SECTION 4: That prior to the expiration of fifteen (15) days from the passage thereof shall be published once in the Tri-Valley Herald, a newspaper of general circulation, published and circulated in the City of Tracy and thenceforth and thereafter the same shall be in full force and effect.

\* \* \* \* \*

The foregoing Ordinance \_\_\_\_\_ was introduced at a regular meeting of the Tracy City Council on the 19<sup>th</sup> day of October, 2010, and finally adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



## EXHIBIT A

California  
Public Employees' Retirement System

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# AMENDMENT TO CONTRACT

Between the  
Board of Administration  
California Public Employees' Retirement System  
and the  
City Council  
City of Tracy

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The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective October 1, 1948, and witnessed September 8, 1948, and as amended effective January 1, 1960, June 1, 1972, November 1, 1972, March 19, 1974, July 1, 1978, February 1, 1983, September 1, 1983, May 3, 1985, January 18, 1991, June 30, 1997, November 16, 1997, June 1, 2000, January 1, 2004, January 1, 2005, January 1, 2006, October 1, 2006 and July 2, 2010 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 16 are hereby stricken from said contract as executed effective July 2, 2010, and hereby replaced by the following paragraphs numbered 1 through 17 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 55 for local miscellaneous members; age 50 for local police members entering membership in the police classification on or prior to July 2, 2010; age 55 for local police members entering membership for the first time in the police classification after July 2, 2010 and age 55 for local fire members.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

2. Public Agency shall participate in the Public Employees' Retirement System from and after October 1, 1948 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.
3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
  - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
  - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
  - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
  - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
  - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.
  - (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.

PLEASE DO NOT SIGN "EXHIBIT ONLY"

- (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
- 4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
    - a. Local Fire Fighters (herein referred to as local safety members);
    - b. Local Police Officers (herein referred to as local safety members);
    - c. Employees other than local safety members (herein referred to as local miscellaneous members).
  - 5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:

**NO ADDITIONAL EXCLUSIONS**

- 6. Prior to January 1, 1975, those members who were hired by Public Agency on a temporary and/or seasonal basis not to exceed 6 months were excluded from PERS membership by contract. Government Code Section 20336 superseded this contract provision by providing that any such temporary and/or seasonal employees are excluded from PERS membership subsequent to January 1, 1975. Legislation repealed and replaced said Section with Government Code Section 20305 effective July 1, 1994.
- 7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after October 1, 2006 shall be determined in accordance with Section 21354 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified).
- 8. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after October 1, 2006 and not entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21354.4 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2.5% at age 55 Modified).

PLEASE DO NOT SIGN "EXHIBIT ONLY"

9. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21354 of said Retirement Law subject to the reduction provided therein for Federal Social Security (2% at age 55 Modified).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a local police member entering membership in the police classification on or prior to July 2, 2010 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
11. The percentage of final compensation to be provided for each year of credited prior and current service as a local fire member and current service as a local police member entering membership for the first time in the police classification after July 2, 2010 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
12. Public Agency elected and elects to be subject to the following optional provisions:
  - a. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local safety members only.
  - b. Section 21574 (Fourth Level of 1959 Survivor Benefits) for local safety members only.
  - c. Section 20965 (Credit for Unused Sick Leave) for local fire members entering membership on or prior to May 3, 1985 only.
  - d. Section 20475 (Different Level of Benefits). Section 20965 (Credit for Unused Sick Leave) is not applicable to local fire members entering membership for the first time in the fire classification after May 3, 1985.

Section 21363.1 (3% @ 55 Full formula) is applicable to local police members entering membership for the first time in the police classification after July 2, 2010.

Section 21354 (2% @ 55 Modified formula) and Section 20037 (Three-Year Final Compensation) are applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.
  - e. Section 20903 (Two Years Additional Service Credit).

PLEASE DO NOT SIGN "EXHIBIT ONLY"

- f. Section 21024 (Military Service Credit as Public Service).
  - g. Section 20042 (One-Year Final Compensation) for local miscellaneous members entering membership on or prior to the effective date of this amendment to contract and all local safety members.
13. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on February 1, 1983. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
14. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
15. Public Agency shall also contribute to said Retirement System as follows:
- a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21574 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local safety members.
  - b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
  - c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.
16. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.



17. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

BOARD OF ADMINISTRATION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL  
CITY OF TRACY

BY \_\_\_\_\_  
LORI MCGARTLAND, CHIEF  
EMPLOYER SERVICES DIVISION  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY \_\_\_\_\_  
PRESIDING OFFICER

\_\_\_\_\_  
Witness Date

Attest:

\_\_\_\_\_  
Clerk

AGENDA ITEM 7

REQUEST

**PRELIMINARY FISCAL REPORT ON GENERAL FUND FOR FISCAL YEAR 09-10 AND FIRST REPORT ON FINANCIAL AND BUDGETING TRENDS AND CONDITIONS FOR FY 10-11**

EXECUTIVE SUMMARY

This report provides an update to previous General Fund financial projections based upon most recent available data and information. The City will likely close out FY 09-10 with a \$5.9 million draw on reserves instead of \$7.5. The General Fund revenue and expenses so far in FY 10-11 look to be tracking according to budget.

DISCUSSION

The current economic environment has severely affected the fiscal condition of the City. The City receives 93% of its General Fund taxes from just two sources, property tax and sales tax. Because of lower property values, property tax to the City has fallen from \$20.5 million in FY 07-08 to about \$15 million in FY 09-10. Sales tax has fallen from \$13 million in FY 06-07 to about \$9.2 million in FY 09-10.

FY 09-10

The FY 09-10 budget as originally adopted anticipated that the City's General Fund would receive \$46.4 million in revenue and that the City would have \$53.8 million in expenditures. This would mean the City would need to draw \$7.4 million from reserves. The following can be reported as preliminary figures to close out FY 09-10 (the City's annual audit has begun but has not yet been concluded – the auditor's may have other final adjusting entries for FY 09-10). Actual revenues of \$43.1 are substantially lower than what the budget anticipated (\$46.4 million). However, the City instituted significant budget cutting actions resulting in expenditures of \$49.4 million as compared to the budget of \$53.8. As such, the expected draw from reserves for FY 09-10 should be approximately \$5.9 million instead of \$7.4 million.

FY 10-11

The FY 10-11 budget anticipates revenues of \$42.5 million and expenses of \$47.3 million thereby requiring a draw on reserves of \$4.8 million. The revenue projections included an anticipated decrease in property taxes in FY 10-11 of 3%. The actual decrease is about 2.5%. As such the City should receive about \$100,000 more than budget in FY 10-11 from property taxes.

The City expected sales tax would increase by 4.1% from \$9 million to \$9.4 million. Sales tax has been dropping every quarter for several years. However, actual sales tax increased by 1.2% for the first quarter of calendar year 2010 as

compared to the same quarter in 2009. Sales tax for the second quarter for 2010 also increased by 1.8% as compared to the second quarter in 2009. With two successive increases perhaps the City has finally seen the bottom of the recession as it relates to retail sales activity. This together with the new Macy's opening, the original budget estimate of \$9.4 million for sales tax for FY 10-11 looks firm.

The FY 10-11 budget also included revenue from a potential January 2011 implementation of an EMS response fee. This was estimated at \$227,000 for the six month period from January 2011 to June 2011. The original draw on reserves for FY 10-11 of \$4.8 million looks firm even if an EMS fee in January 2011 was not implemented. This EMS fee revenue is likely to be offset by slightly better property tax revenue than budgeted and with additional employee salary cessions that were not included in the budget.

Balance of Reserves

The City has two sources of General Fund reserves. This is the balance of the Economic Uncertainty Fund and the undesignated balance of the General Fund. The balance of these two sources together is estimated as follows:

	Previous Estimate	Revised
Balance as of 6/30/10	\$27,301,785	\$28,801,785
Balance as of 6/30/11	\$22,468,785	\$23,968,785

STRATEGIC PLAN

This is routine report item and does not affect any strategic plan.

FISCAL IMPACT

None

RECOMMENDATION

This is an information item only. No action is required

Prepared by: Zane Johnston, Finance & Administrative Services Director

Approved by: Leon Churchill, Jr., City Manager

AGENDA ITEM 8

REQUEST

**SECOND READING AND ADOPTION OF ORDINANCE 1152 AN ORDINANCE OF THE CITY OF TRACY AMENDING THE CONCEPT DEVELOPMENT PLAN FOR THE BROOKVIEW PLANNED UNIT DEVELOPMENT FROM A 95-LOT RESIDENTIAL SUBDIVISION TO AN 80-LOT RESIDENTIAL SUBDIVISION FOR THE 10-ACRE PARCEL LOCATED AT THE NORTHWEST CORNER OF BROOKVIEW DRIVE AND PERENNIAL PLACE, ASSESSOR'S PARCEL NUMBER 248-560-28**

EXECUTIVE SUMMARY

Ordinance 1152 was introduced at the Council meeting held on October 5, 2010. Ordinance 1152 is before Council for a second reading and adoption

DISCUSSION

Ordinance 1152 was introduced at the Council meeting held on October 5, 2010, to amend the Concept Development Plan for Brookview Planned Unit Development from a 95-lot residential subdivision to an 80-lot residential subdivision for the 10-acre parcel.

Ordinance 1152 is before Council for a second reading and adoption

STRATEGIC PLAN

This agenda item does not relate to the Council's seven strategic plans.

FISCAL IMPACT

None.

RECOMMENDATION

That Council adopts Ordinance 1152 following its second reading.

Attachment

Prepared by: Adrienne Richardson, Deputy City Clerk  
Reviewed by: Carole Fleischmann, Assistant City Clerk

Approved by: Leon Churchill, Jr., City Manager

ORDINANCE 1152

AN ORDINANCE OF THE CITY OF TRACY AMENDING THE CONCEPT DEVELOPMENT PLAN FOR THE BROOKVIEW PLANNED UNIT DEVELOPMENT FROM A 95-LOT RESIDENTIAL SUBDIVISION TO AN 80-LOT RESIDENTIAL SUBDIVISION FOR THE 10-ACRE PARCEL LOCATED AT THE NORTHWEST CORNER OF BROOKVIEW DRIVE AND PERENNIAL PLACE, ASSESSOR'S PARCEL NUMBER 248-560-28

WHEREAS, The subject property is a 10-acre parcel located at the northwest corner of Brookview Drive and Perennial Place, Assessor's Parcel Number 248-560-26; and

WHEREAS, The subject property is contained within Garden Square, which is an existing 375-lot residential subdivision consisting of approximately 91 acres; and

WHEREAS, In October 2000, the City approved the Concept Development Plan (CDP) for the Garden Square Planned Unit Development (PUD), which showed the 10-acre subject property as a school site, at the request of the Jefferson School District; and

WHEREAS, In September 2002, the Jefferson School District informed the property owner and the City that it no longer desired to locate a school on this site and released all interest in the property, which granted development opportunity back to the property owner; and

WHEREAS, On June 19, 2007, City Council amended the Garden Square CDP for the 10-acre subject property from a school site to a 95-lot residential subdivision, known as Brookview; and

WHEREAS, On June 23, 2010, Brookview Properties, LLC submitted an application to amend the Brookview CDP from a 95-lot residential subdivision to an 80-lot residential subdivision; and

WHEREAS, The subject property is designated Residential by the Industrial Areas Specific Plan and Residential Low by the General Plan, which allows a density range of 2.1 to 5.8 residential units per gross acre; and

WHEREAS, The density of the Garden Square subdivision with the proposed amendment to the Brookview CDP would be 5.0 residential units per gross acre, which is consistent with the General Plan; and

WHEREAS, The Planning Commission considered this matter at a noticed public hearing held on August 25, 2010 and recommended that City Council amend the Brookview CDP from a 95-lot residential subdivision to an 80-lot residential subdivision; and

WHEREAS, The City Council held a duly noticed public hearing to consider the ordinance on October 5, 2010.

The Tracy City Council hereby ordains as follows:

SECTION 1: The Concept Development Plan for the Brookview Planned Unit Development is amended from a 95-lot residential subdivision to an 80-lot residential subdivision for the 10-acre parcel located at the northwest corner of Brookview Drive and Perennial Place, Assessor's Parcel Number 248-560-28.

SECTION 2. The project is consistent with the Mitigated Negative Declaration that was adopted by City Council on June 19, 2007 for the previously approved Brookview project. The amendment to the Brookview project would include a reduction in density from 95 to 80 lots. The street and block layout would be the same as previously approved. No potentially significant impacts would result from this project that weren't previously addressed in the adopted Mitigated Negative Declaration. In accordance with California Environmental Quality Act Guidelines Section 15183, no further environmental assessment is required. The amended Brookview project would be required to comply with the mitigation measures of the adopted Mitigated Negative Declaration. The mitigation measures include requiring compliance with all applicable rules and regulations of the San Joaquin Valley Air Quality Pollution Control District, compliance with General Plan mitigation measures to reduce the impacts of temporary noise from construction activities, and requirement of the applicant to pay an in-lieu park fee.

SECTION 3. This Ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 4. This Ordinance shall be published once in a newspaper of general circulation within fifteen (15) days from and after its final passage and adoption.

\* \* \* \* \*

The foregoing Ordinance 1152 was introduced at a regular meeting of the Tracy City Council on the 5<sup>th</sup> day of October, 2010, and finally adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote:

AYES: COUNCIL MEMBERS:  
NOES: COUNCIL MEMBERS:  
ABSENT: COUNCIL MEMBERS:  
ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk