

**Tuesday, March 1, 2011, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

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

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**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

PRESENTATION – Employee of the Month

Recognition of D.A.R.E. Graduates

Measure E Resident Oversight Committee – Certificates of Appointment

1. CONSENT CALENDAR

- A. Minutes Approval
- B. Award a Construction Contract to M.C.I. Engineering of Stockton, California, for Construction of Storm Drain Improvements at Various Locations, 2010 Project – CIP 76057, and Authorize the Mayor to Execute the Construction Contract
- C. Award a Construction Contract to Rodgers Construction & Engineering, of Stockton, for the Chrisman Road Widening (Eleventh Street to Brichetto Road) Project - CIP 73110, and Authorize the Mayor to Execute the Contract
- D. Authorize Removal of Existing “U” Turn Restrictions at Intersections on Valpico Road at Tracy Boulevard and MacArthur Drive
- E. Approval of an Offsite Improvement Agreement (OIA) with AMB Property, L. P., for Construction of Public Improvements at the Intersection of Grant Line Road and Chabot Court and at the Entrance to the Best Buy Distribution Facility on Grant Line Road, and Authorization for the Mayor to Execute the OIA
- F. Approve Resolution Authorizing a Leave of Absence for Tracy Transportation Advisory Commissioner Christina Frankel
- G. Oppose the Governor’s Proposal to Eliminate Redevelopment Agencies in California
- H. Authorization to Amend the City’s Conflict of Interest Code
- I. Appropriation of Funds for a Variety of FY 10-11 Budget Items
- J. Approving Consent of an Assignment and Assumption Agreement for the Existing Reimbursement Agreement of the Tracy Lammers Road Project with the New Developer, and Authorizing the Mayor to Execute the Consent

2. ITEMS FROM THE AUDIENCE

3. APPROVAL OF MEMORANDUM OF UNDERSTANDINGS WITH TRACY LITTLE LEAGUE; TRACY BABE RUTH; TRACY YOUTH SOCCER LEAGUE; AND TRACY FUTBOL CLUB FOR CONSTRUCTION AND MAINTENANCE OF SPORTS FIELDS AND RELATED AMENITIES WITHIN THE HOLLY SUGAR SPORTS COMPLEX AND; APPROVAL OF AMENDMENT 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH NOLTE ASSOCIATES, INC. FOR ADDITIONAL DESIGN AND CONSTRUCTION RELATED SERVICES FOR THE HOLLY SUGAR YOUTH SPORTS COMPLEX, CIP 78115, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AMENDMENT

4. SEEK CITY COUNCIL DIRECTION OF THE DRUG ABUSE RESISTANCE EDUCATION (DARE) PROGRAM PROFESSIONAL SERVICES AGREEMENT WITH THE TRACY UNIFIED SCHOOL DISTRICT (TUSD) AND WHETHER AND HOW TO PHASE OUT OF CITY FUNDING THE DARE PROGRAM
5. PUBLIC MEETING TO CONSIDER A RESPONSE TO THE STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT REGARDING COMMENTS ON THE DRAFT HOUSING ELEMENT
6. APPROVE THE INCREASE IN BAIL SCHEDULE FOR TRACY MUNICIPAL CODE PARKING AND EQUIPMENT VIOLATIONS TO REFLECT CHANGES IN STATE OF CALIFORNIA FEES AND INTRODUCTION OF AN ORDINANCE TO REMOVE THE TRAFFIC FINE SCHEDULE FROM THE TRACY MUNICIPAL CODE AND ALLOW IT TO BE SET BY COUNCIL RESOLUTION
7. ITEMS FROM THE AUDIENCE
8. COUNCIL ITEMS
9. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

February 15, 2011, 5:00 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Ives called the meeting to order at 5:02 p.m. for the purpose of a closed session to discuss the items outlined below.
2. ROLL CALL – Roll call found Council Members Abercrombie, Rickman, Mayor Pro Tem Maciel and Mayor Ives present; Council Member Elliott absent. Council Member Elliott arrived at 5:05 p.m.
3. ITEMS FROM THE AUDIENCE - None
4. CLOSED SESSION –

Real Property Negotiations (Govt. Code section 54956.8)

- A. Property Location: Various parcels adjacent to Corral Hollow Road needed for road widening (including portions of: APN Nos. 214-020-01; 214-020-02; 214-020-03; 214-020-04; 214-020-05; 214-020-06; 214-020-07; 214-020-08; 214-020-09; 212-260-011; 212-260-10)
- Negotiator(s) for the City: Kul Sharma, Assistant Director of Development and Engineering Services; and Associated Right of Way Services
- Negotiating Parties: Frank and Kimberly Arbura; Axton Real Estate; Bindra Sandhu; Kulbir Randhawa; Kagehiro Company; Mitsuo and Elsie Kagehiro; Hemkunt Group; Tim Cates and Dorothy Gomes
- Under Negotiation: Price and terms of payment for the purchase of the property
- B. Property Location: City-owned Holly Sugar Property (APN No. 212-15-001)
- Negotiator(s) for the City: Rod Buchanan, Director of Parks and Community Services
- Negotiating Parties: Representatives of the following organizations:
- Tracy Little League
  - Tracy Babe Ruth League, Inc.
  - Tracy Futbol Club
  - Tracy Youth Soccer League
- Under Negotiation: Price and terms of payment for the lease of the property

5. MOTION TO RECESS TO CLOSED SESSION – Council Member Abercrombie motioned to recess the meeting to closed session at 5:03 p.m. Mayor Pro Tem Maciel seconded the motion. Voice vote found Council Members Abercrombie, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Elliott absent. Motion carried 4:0:1.

Dan Sodergren, City Attorney, stated that Andrew Malik, Director of Development and Engineering Services, would join closed session as an additional city representative for the real property negotiations related to various parcels adjacent to Corral Hollow Road needed for road widening.

Dan Sodergren, City Attorney, stated that Andrew Malik, Director of Development and Engineering Services, and Kul Sharma, Assistant Director of Development and Engineering Services, would join closed session as additional city representatives for the real property negotiations related to City-owned Holly Sugar Property (APN No. 212-15-001).

6. RECONVENE TO OPEN SESSION – Mayor Ives reconvened the meeting into open session at 5:46 p.m.
7. REPORT OF FINAL ACTION – None.
8. ADJOURNMENT – It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adjourn. Voice vote found all in favor; passed and so ordered. Time: 5:46 p.m.

The agenda was posted at City Hall on February 10, 2011. The above are summary minutes.

\_\_\_\_\_  
Mayor

ATTEST:

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

AGENDA ITEM 1.B

REQUEST

**AWARD A CONSTRUCTION CONTRACT TO M.C.I. ENGINEERING OF STOCKTON, CALIFORNIA, FOR CONSTRUCTION OF STORM DRAIN IMPROVEMENTS AT VARIOUS LOCATIONS, 2010 PROJECT - CIP 76057, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONSTRUCTION CONTRACT**

EXECUTIVE SUMMARY

This project is part of the City's on-going effort to replace damaged or missing storm drain infrastructure to improve the street drainage system and reducing maintenance costs.

DISCUSSION

The scope of work includes removal and replacement of damaged storm drain structures, addition of new structures, and replacing adjacent concrete flat-work at the following two locations: 1141 Walnut Avenue and 1490 Eastlake Circle.

Engineering staff prepared the project plans and specifications in house. The project was advertised for bids on January 18, and January 25, 2011. The following twelve bids were received and publicly opened on February 1, 2011, at 2:00 p.m.

<u>Contractor</u>	<u>Total Base Bid</u>
M.C.I. Engineering	\$17,280
Quimu Contracting, Inc.	\$18,887
Sposeto Engineering Inc.	\$20,900
Rodgers Construction & Eng. Inc.	\$22,800
Knife River Construction	\$23,220
Tom Mayo Construction	\$25,000
Pleasanton Engineering Construction	\$28,000
M.D.F. Pipeline	\$28,500
G.H.H. Engineering, Inc.	\$29,795
Glissman Excavating	\$30,250
Granite Construction Company	\$32,400
Pfister Excavating, Inc.	\$33,330

M.C.I. Engineering, of Stockton, California, is the lowest monetary bidder. The bid analysis indicates that the lowest bid is "responsive" and the bidder is "responsible". M.C.I. Engineering, of Stockton has the appropriate contractor's license in current and active standing with the State and has completed similar projects with the City of Tracy and other public agencies.

The anticipated cost of construction of this project, if awarded to M.C.I. Engineering, is estimated as follows:

Contractor's Bid for Construction	\$17,280.00
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Inspection and Construction Management	\$ 5,000.00
Contingency	<u>\$ 7,000.00</u>
Total Construction Cost	\$29,280.00
 Project Budget	 \$38,025.00

#### STRATEGIC PLAN

This agenda item is consistent with Council's approved goal for the Community Amenities Strategy to preserve and maintain existing community assets.

#### FISCAL IMPACT

There will be no fiscal impact to the General Fund. Adequate funding is available in CIP 76057 to complete construction of this project.

#### RECOMMENDATION

That City Council, by resolution award a construction contract to M.C.I. Engineering, of Stockton, California in the amount of \$17,280 for construction of THE Storm Drain Improvements at Various Locations, 2010 Project - CIP 76051, and authorize the Mayor to execute the construction contract.

Prepared by: Moheb Argand, Associate Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

RESOLUTION \_\_\_\_\_

AWARDING A CONSTRUCTION CONTRACT TO M.C.I. ENGINEERING OF STOCKTON, CALIFORNIA, FOR CONSTRUCTION OF STORM DRAIN IMPROVEMENTS AT VARIOUS LOCATIONS, 2010 PROJECT - CIP 76057, AND AUTHORIZING THE MAYOR TO EXECUTE THE CONSTRUCTION CONTRACT

WHEREAS, The scope of work includes removal and replacement of damaged storm drain structures, addition of new structures, and replacing adjacent concrete flat-work at two locations, and

WHEREAS, The project was advertised for bids on January 18, and January 25, 2011, and the following twelve bids were received and publicly opened on February 1, 2011,

M.C.I. Engineering	\$17,280
Quimu Contracting, Inc.	\$18,887
Sposeto Engineering Inc.	\$20,900
Rodgers Construction & Eng. Inc.	\$22,800
Knife River Construction	\$23,220
Tom Mayo Construction	\$25,000
Pleasanton Engineering Construction	\$28,000
M.D.F. Pipeline	\$28,500
G.H.H. Engineering, Inc.	\$29,795
Glissman Excavating	\$30,250
Granite Construction Company	\$32,400
Pfister Excavating, Inc.	\$33,330

WHEREAS, M.C.I. Engineering, of Stockton, California, is the lowest monetary bidder, and

WHEREAS, The bid analysis indicates that the lowest bid is "responsive" and the bidder is "responsible", and

WHEREAS, The anticipated cost of construction of this project, if awarded to M.C.I. Engineering, is estimated as follows:

Contractor's Bid for Construction	\$17,280.00
Inspection and Construction Management	\$ 5,000.00
Contingency	<u>\$ 7,000.00</u>
Total Construction Cost	\$29,280.00

WHEREAS, There will be no fiscal impact to the General Fund. Adequate funding is available in CIP 76057 to complete construction of this project;

NOW THEREFORE, BE IT RESOLVED, That City Council, awards a construction contract to M.C.I. Engineering, of Stockton, California in the amount of \$17,280 for construction of THE Storm Drain Improvements at Various Locations, 2010 Project - CIP 76051, and authorizes the Mayor to execute the construction contract.

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Resolution \_\_\_\_\_

Page 2

The foregoing Resolution \_\_\_\_\_ was adopted by City Council on the 1<sup>st</sup> day of March 2011, 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

**AWARD A CONSTRUCTION CONTRACT TO RODGERS CONSTRUCTION & ENGINEERING, OF STOCKTON, FOR THE CHRISMAN ROAD WIDENING (ELEVENTH STREET TO BRICHETTO ROAD) PROJECT - CIP 73110, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT**

EXECUTIVE SUMMARY

Award of this construction contract will initiate construction to widen Chrisman Road north of Eleventh Street to improve traffic circulation for the City’s Chrisman property development including the propose site for the future Learning Center.

DISCUSSION

The scope of work for this project involves widening Chrisman Road with the addition of one left turn lane and overlaying the entire roadway width north from Eleventh Street to Brichetto Road, a distance of approximately 1,800 linear feet. The project is funded from Proposition 1B grant funding.

Plans and specifications were prepared in-house by engineering staff. The project was advertised for competitive bids on January 18 and 25, 2011. Eleven bids were received and publicly opened at 2:00 p.m. on February 8, 2011, with the following results:

<b>Contractor</b>	<b>Bid Amount</b>
Rodgers Construction & Engineering – Stockton, CA	\$215,994
Granite Construction – Stockton, CA	\$216,985
Knife River Construction – Stockton, CA	\$221,550
Galedridge Construction – Alviso, CA	\$249,387
DeSilva Gates Construction – Dublin, CA	\$257,800
Redgwick Construction – Newark, CA	\$259,000
George Reed, Inc. – Modesto, CA	\$267,500
O.C. Jones & Sons, Inc. – Oakland, CA	\$273,550
J.D. Pasquetti – Lincoln, CA	\$274,880
Top Grade Construction – Livermore, CA	\$297,965
Teichert Construction – Stockton, CA	\$324,350

Rodgers Construction & Engineering is the lowest monetary bidder. Bid analysis indicates that their bid is “responsive” and the bidder is “responsible”. Rodgers Construction & Engineering has good references and has completed similar projects for the City of Tracy and other public agencies. Based on available funds, it is recommended that the bid be awarded to Rodgers Construction & Engineering, of Stockton California for \$ 215,994. Due to recent cost fluctuations in the current

construction market, the lowest bid is 25% lower than the engineer's estimate and is within the available budgeted amount for the project.

The total construction cost of this project, if awarded, is as follows:

Construction Bid	\$215,994
Planning and design	\$ 16,000
Construction management, inspection and design support during construction	\$ 7,000
County Permit & Inspections	\$ 20,000
Contingency (15%)	\$ 32,400
City wide project management	\$ 18,000
Total Construction Cost	\$309,394
Total Current Available Project Budget	\$390,185

If the project is awarded to Rodgers Construction & Engineering, construction of the project will commence in March 2011, with completion expected by May 2011. The project will create approximately seven construction related jobs during the construction period.

Staff received a protest letter from the Foundation for Fair Contracting (FFC) requesting that the City not award this contract to Rodgers Construction & Engineering alleging that it is a "non-responsible bidder." Although the letter claims that FCC is filing a formal bid protest, pursuant to the General Provisions of the City's Bid Documents, only parties who have submitted a bid for the Project are entitled to file a bid protest. Consequently, FFC is not eligible to file a protest. However, staff has investigated the allegations in the letter and determined that the problems cited are either not accurate or were due to the complexity of a specific project and was not typical of the work performance of Rodgers Construction in the past. Based on staff's investigation and the previous experience the City of Tracy has with Rodgers Construction & Engineering on four prior public works projects with no problems, staff finds that Rodgers Construction is a responsible bidder and recommends that the City Council award them the contract.

#### STRATEGIC PLAN

The agenda item is a routine operational item and is not related to the City Council's Seven Strategic Plans.

#### FISCAL IMPACT

This is an approved CIP project funded by a Proposition 1B grant. Funds have been appropriated and there will be no impact to the General Fund.

RECOMMENDATION

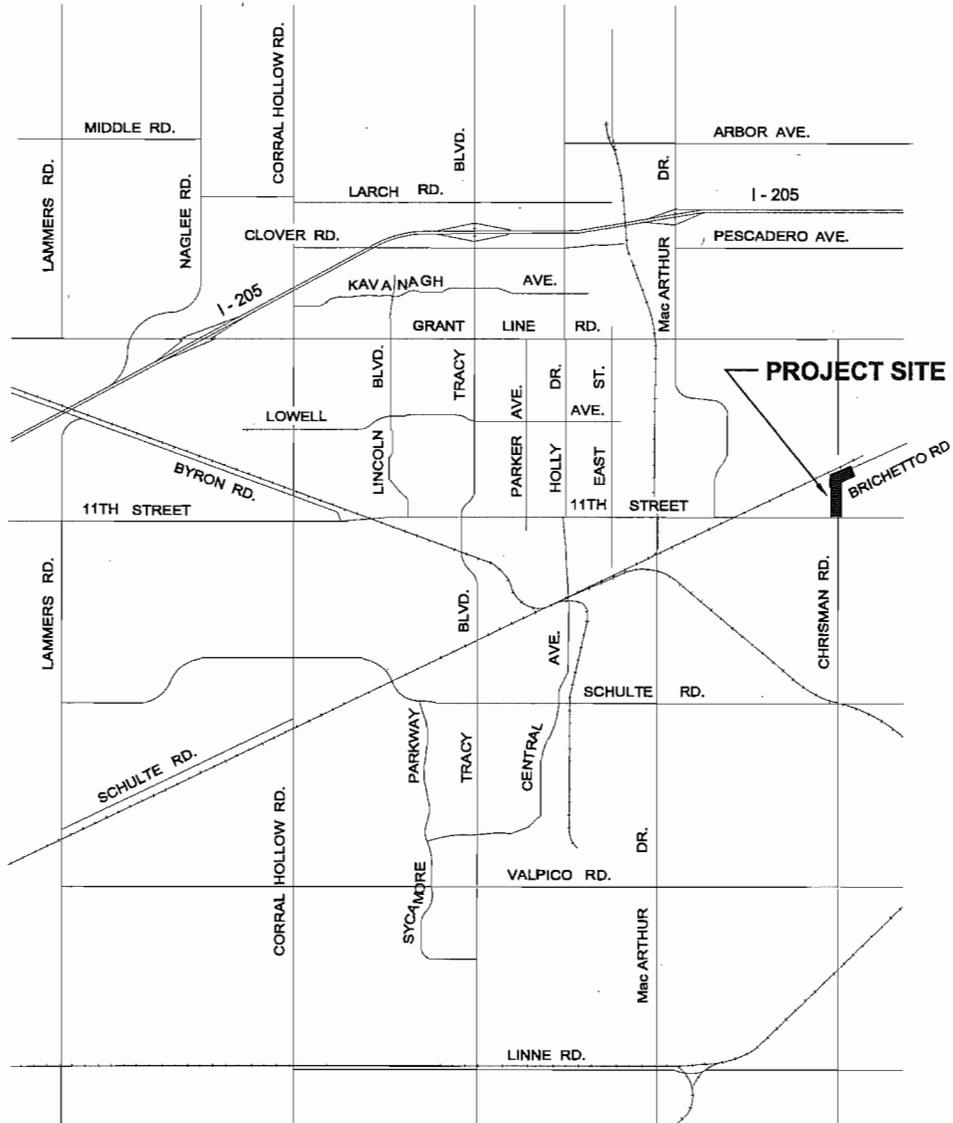
That City Council award a construction contract for the Chrisman Road Widening (Eleventh Street to Bricchetto Road) Project - CIP 73110, to Rodgers Construction Engineering in the amount of \$ 215,994 and authorize the Mayor to execute the construction contract.

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

Attachments: Location Map  
Letter from FFC dated 2/16/11  
Letter from Rodgers Construction & Engineering dated 2/22/11



**LOCATION MAP  
( CITY OF TRACY )**



NOT TO SCALE



VIA FACSIMILE (209) 831-6120/FIRST CLASS MAIL

February 16, 2011

Sandra Edwards, City Clerk  
City of Tracy  
333 Civic Center Plaza, Floor 2  
Tracy, CA 95376-4062

RE: **LOW BIDDER: RODGERS CONSTRUCTION AND ENGINEERING CO., INC.**  
**AWARDING BODY: CITY OF TRACY**  
**PROJECT: CHRISMAN ROAD WIDENING (73110)**  
**11TH STREET TO BRICHETTO ROAD**  
**TRACY, CALIFORNIA - SAN JOAQUIN COUNTY**

Dear Ms. Edwards:

In accordance with Public Contract Code Section 1103, please accept this letter as a formal bid protest against the low bidder and request that the above contractor's bid be rejected due to Rodgers Construction & Engineering, Inc., being a non-responsible bidder.

To be considered responsible, a bidder must have the quality, fitness, and capacity to perform the work set forth in the contract. Responsibility should be determined from reliable information concerning ownership, management, skill, judgment, integrity, financial resources, performance of other contracts, conduct, claims, labor practices and compliance with relevant laws and regulations. The facts are as follows:

**Stanislaus County Project - ARRA Cape Seal 2009**

The enclosed Stanislaus County Public Works Weekly Statements of Working Days confirm that Rodgers Construction and Engineering Co., Inc., has had continuous problems with the above project. They include:

- **Multiple safety concerns**
- **Rodgers management's failure to respond timely in correcting said safety concerns**
- **Problems with the quality of performance/workmanship**
- **Failure to comply with relevant laws and regulations**
- **Failure to maintain site in clean and orderly manner**

FOUNDATION FOR FAIR CONTRACTING  
3807 Pasadena Avenue, Suite 150 -- Sacramento, CA 95821  
(916) 487-7871 -- Fax (916) 487-0306  
www.ficalifornia.com

Sandra Edwards, City Clerk  
City of Tracy  
February 16, 2011  
Page 2

**FFC Complaints**

The FFC has filed multiple complaints against Rodgers Construction and Engineering Co., Inc., for failure to comply with the Laws and Regulations Governing the Payment of Prevailing Wages.

Please contact our office with questions, comments, or clarifications. We thank you for maintaining the highest of standards at the City of Tracy.

Sincerely,



Bryan Berthiaume  
Executive Director

Enclosures

Case: 284ST

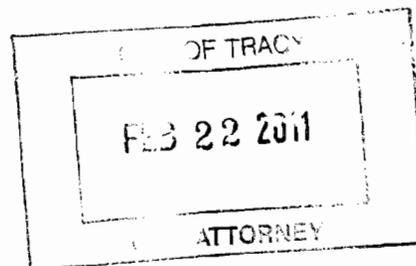
- cc: Carole Fleischmann, Assistant City Clerk - City of Tracy - Fax (209) 831-6120
- Binh Nguyen, Development & Engineering Services Department - City of Tracy - Fax (209) 831-4430
- Leon Churchill, City Manager - City of Tracy - Fax (209) 831-6120
- Dan Sodergren, City Attorney - City of Tracy - Fax (209) 831-6120
- City Council - City of Tracy - Fax (209) 831-6120
- Daniel Rodgers - Rodgers Construction and Engineering Co., Inc. - Fax (209) 464-5782

**RODGERS  
CONSTRUCTION  
& ENGINEERING, INC.**

P.O. Box 6885~Stockton, CA 95206-6885  
Phone 209 /464-5780~Fax 209/ 464-5782  
License No. 552432 Class A

February 22, 2011

Sandra Edwards, City Clerk  
City of Tracy  
333 Civic Center Plaza



Dear Ms. Edwards,

In response to the harassing letter that you received dated February 16, 2011 from FFC in the form of a bid protest for the Chrisman Road Widening project.

As they have tried numerous times in the past, FFC once again attempts to tarnish our good name and reputation. Rodgers Construction & Engineering Co., Inc. a UDBE General Engineering Contracting firm going into our 25<sup>th</sup> year of business vehemently deny any and all accusations and insinuations that are recklessly written in this letter referred to. We intend to defend our good name, and reputation through legal channels. This letter also serves the purpose of stating that a more detailed letter from our legal council regarding FFC as well as our intended course of action against any future slanderous behavior on their behalf will be forthcoming.

Copies of all correspondence will be provided to the City of Tracy, as well as all other whom might have a legal interest in this matter. As always I can be reached at my office (209) 464-5780 or call (209) 992-1439 to answer any further questions if you need any more information.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Rodgers", with a long horizontal flourish extending to the right.

Dan Rodgers  
President

Cc: Carole Fleischmann, Assistant City Clerk 209 831-6120  
Leon Churchill, City Manager  
Dan Sodergren, City Attorney  
City Council

RESOLUTION \_\_\_\_\_

AWARDING A CONSTRUCTION CONTRACT TO RODGERS CONSTRUCTION & ENGINEERING, OF STOCKTON, FOR THE CHRISMAN ROAD WIDENING (ELEVENTH STREET TO BRICHETTO ROAD) PROJECT - CIP 73110, AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT

WHEREAS, The scope of work for this project involves widening Chrisman Road with the addition of one left turn lane and overlaying the entire roadway width north from Eleventh Street to Brichetto Road, and

WHEREAS, The project was advertised for competitive bids on January 18 and 25, 2011 and eleven bids were received and publicly opened on February 8, 2011, and

WHEREAS, Rodgers Construction & Engineering is the lowest monetary bidder; bid analysis indicates that their bid is "responsive" and the bidder is "responsible", and

WHEREAS, The total construction cost of this project, if awarded, is as follows:

Construction Bid	\$215,994
Planning and design	\$ 16,000
Construction management, inspection and design support during construction	\$ 7,000
County Permit & Inspections	\$ 20,000
Contingency (15%)	\$ 32,400
City wide project management	\$ 18,000
Total Construction Cost	\$309,394
Total Current Available Project Budget	\$390,185

WHEREAS, This is an approved CIP project funded by a Proposition 1B grant. Funds have been appropriated and there will be no impact to the General Fund;

NOW THEREFORE, BE IT RESOLVED, That City Council, awards a construction contract for the Chrisman Road Widening (Eleventh Street to Brichetto Road) Project - CIP 73110, to Rodgers Construction Engineering in the amount of \$ 215,994 and authorizes the Mayor to execute the construction contract.

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Resolution \_\_\_\_\_

Page 2

The foregoing Resolution \_\_\_\_\_ was adopted by City Council on the 1<sup>st</sup> day of March 2011, 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

**AUTHORIZE REMOVAL OF EXISTING “U” TURN RESTRICTIONS AT INTERSECTIONS ON VALPICO ROAD AT TRACY BOULEVARD AND MACARTHUR DRIVE**

EXECUTIVE SUMMARY

With the recent commercial development on Valpico Road, there has been an increase in traffic movement at the intersections of Valpico Road at Tracy Boulevard and MacArthur Drive. Currently there are U turn restrictions at these intersections that limit certain movements at the intersection thereby requiring vehicles to travel additional distances.

Staff evaluated these intersections for U turn movements for passenger vehicles and recommends removing the existing U turn prohibitions for northbound, southbound, and eastbound directions at Valpico Road and Tracy Boulevard and in the southbound direction for Valpico Road and MacArthur Drive.

DISCUSSION

With the recent development of commercial properties along Valpico Road, there has been an increase in turning movements at the intersections of Valpico Road at Tracy Boulevard and MacArthur Drive. U turn restrictions limit such movements and thus require vehicular traffic to travel farther to accomplish turning back on the roadway.

The existing improvements at these intersections were completed in multiple stages by various developments under encroachment permits approved at the administrative level. Due to the staged completion of improvements, various movements at these intersections were restricted. In order to remove the movement restrictions, Council authorization is necessary in accordance with Section 3.08.150 of the Tracy Municipal Code.

The intersection of Valpico Road and Tracy Boulevard is controlled by a traffic signal with dedicated left turn lanes and two through lanes in each direction. Currently U turns are allowed in the westbound direction at this intersection. U turn movements in other directions, i.e., southbound, eastbound and northbound are prohibited.

The intersection of Valpico Road and MacArthur Drive is controlled by a traffic signal. There is one dedicated left turn in each direction and one through lane in each direction. Currently a U turn is allowed in the eastbound direction only. Other directions, i.e. southbound, westbound, and northbound are prohibited for U turn movements.

After reviewing the existing conditions at both intersections, staff recommends that City Council:

- Authorize removal of the existing U turn prohibition on the southbound, eastbound, and westbound directions at Valpico Road and Tracy Boulevard;
- Authorize removal of the existing U turn prohibition on the southbound direction at Valpico Road and MacArthur Drive as shown in Attachment A.

#### FISCAL IMPACT

Funding for maintenance of city streets which includes signing and striping, is a budgeted item included in the Public Works Department operating budget.

#### STRATEGIC PLAN

This agenda item supports the traffic mobility and connectivity strategic plan and specifically implements the following goals and objectives.

Goal 3: Improve Traffic Congestion Management

#### RECOMMENDATION

That City Council, by resolution, authorize removal of the existing “No U Turns” on the southbound, westbound, and northbound directions at the intersection of Valpico Road and Tracy Boulevard and authorize removal of the existing “No U Turns” on the southbound direction at Valpico Road and MacArthur Drive.

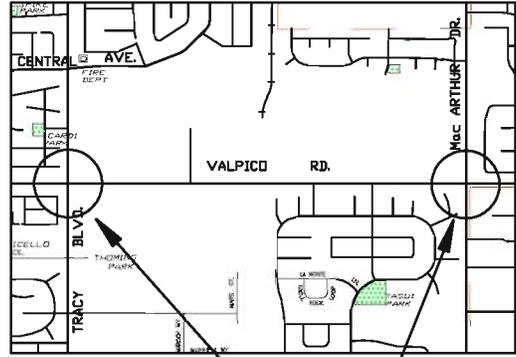
Prepared by: Ripon Bhatia, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer  
Kevin Tobeck, Public Works Director

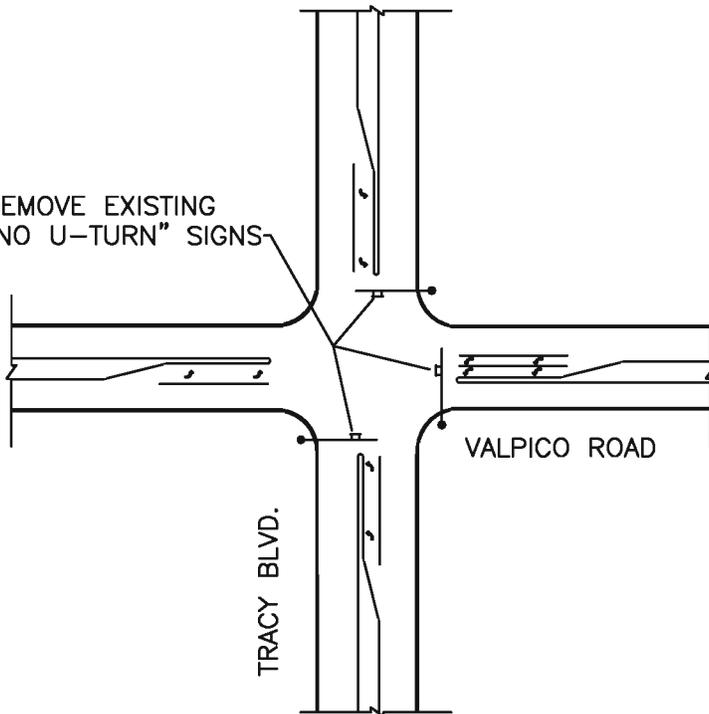
Approved by: Andrew Malik, Development and Engineering Services Director  
Leon Churchill, Jr., City Manager

Attachment - A – Area Map

# EXHIBIT 'A'

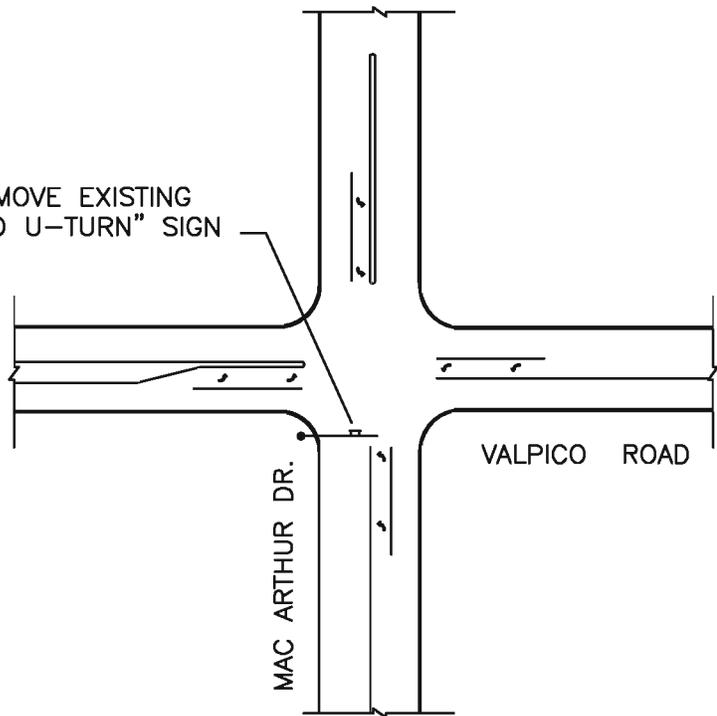


REMOVE EXISTING  
"NO U-TURN" SIGNS



PROJECT LOCATIONS

REMOVE EXISTING  
"NO U-TURN" SIGN



PROPOSED REMOVAL OF U-TURN RESTRICTIONS AT THE INTERSECTIONS OF  
VALPICO ROAD & TRACY BLVD.  
VALPICO ROAD & MAC ARTHUR DR.

U-TURN  
MODIFICATIONS

DESIGNED BY	REVISIONS		
	DATE	DESCRIPTION	APPROVED
REB			
DRAWN BY			
DM			
CHECKED BY			
PV			
SCALE			
N.T.S.			

SHEET 1  
OF 1 SHEETS

CITY OF TRACY

APPROVED FOR CONSTRUCTION SUBJECT TO THE DATA SHEETS.  
CITY OF TRACY AND THE UNDERSIGNED ARE NOT RESPONSIBLE FOR  
ERRORS AND/OR OMISSIONS THAT MAY BE PRESENT ON THESE PLANS.  
P.L. REEF (SIGNED) CITY ENGINEER DATE

RESOLUTION \_\_\_\_\_

AUTHORIZING REMOVAL OF EXISTING "U" TURN RESTRICTIONS AT INTERSECTIONS ON VALPICO ROAD AT TRACY BOULEVARD AND MACARTHUR DRIVE

WHEREAS, With the recent development of commercial properties along Valpico Road, there has been an increase in turning movements at the intersections of Valpico Road at Tracy Boulevard and Ma Arthur Drive, and

WHEREAS, Due to the staged completion of improvements, various movements at these intersections were restricted, and

WHEREAS, Staff recommends that City Council authorize removal of the existing U turn prohibition on the southbound, eastbound, and westbound directions at Valpico Road and Tracy Boulevard, and

WHEREAS, Staff recommends that City Council authorize removal of the existing U turn prohibition on the southbound direction at Valpico Road and MacArthur Drive, and

WHEREAS, Funding for maintenance of city streets which includes signing and striping, is a budgeted item included in the Public Works Department operating budget;

NOW THEREFORE, BE IT RESOLVED, That City Council, authorizes removal of the existing "No U Turns" on the southbound, westbound, and northbound directions at the intersection of Valpico Road and Tracy Boulevard and authorizes removal of the existing "No U Turns" on the southbound direction at Valpico Road and MacArthur Drive.

\*\*\*\*\*

The foregoing Resolution \_\_\_\_\_ was adopted by City Council on the 1<sup>st</sup> day of March 2011, 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

**APPROVAL OF AN OFFSITE IMPROVEMENT AGREEMENT (OIA) WITH AMB PROPERTY, L. P. , FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS AT THE INTERSECTION OF GRANT LINE ROAD AND CHABOT COURT AND AT THE ENTRANCE TO THE BEST BUY DISTRIBUTION FACILITY ON GRANT LINE ROAD, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE OIA**

EXECUTIVE SUMMARY

AMB Property L.P., (Developer) is planning to renovate the existing industrial building at the southeast corner of Chabot Court and Grant Line Road for use as a storage and distribution facility for Best Buy. Certain offsite street improvements on Grant Line Road including traffic signals on Chabot Court and Grant Line Road, and at the main entrance to the distribution facility on Grant Line Road were required to be constructed before occupancy of the building. The Developer wants to construct these improvements and enter into an Offsite Improvement Agreement with the City. Approval of this agreement will allow the Developer to proceed with construction of the required improvements.

DISCUSSION

AMB Property L.P. has proposed to renovate the existing 371,000 square foot industrial building for use as a storage and distribution facility for Best Buy. In order to provide a more efficient vehicular access to the distribution facility and also to improve traffic circulation for the remaining portion of the Chabot Commerce Center, certain street improvements on Grant Line Road, including traffic signals at Chabot Court and at the main entrance to the distribution facility, (Offsite Improvements) are required. The Developer will also construct approximately 1.60 acres of parking improvements at the southwest corner of Chabot Court and Grant Line Road. The Developer will construct and complete the Offsite Improvements before occupancy of the building.

Improvement Plans and Specifications for the Offsite Improvements have been prepared and reviewed by Engineering staff. The Developer has executed the OIA and submitted the required security to guarantee completion of the Offsite Improvements covered under the OIA. The OIA is on file with the office of the City Engineer and is available for review upon request.

Upon completion, the City will accept all offers of dedication of public right-of-way, and accept the public improvements for maintenance.

STRATEGIC PLAN

This agenda item is consistent with the Council approved Economic Development Strategy to ensure physical infrastructure necessary for development.

FISCAL IMPACT

There will be no impact to the General Fund. The Developer has paid the cost of plan checking, agreement processing, permit, testing and engineering inspection fees.

RECOMMENDATION

That the City Council, by resolution, approve the Offsite Improvement Agreement with AMB Property, L.P., and authorize the Mayor to execute the Offsite Improvement Agreement for Chabot Commerce Center, Tract 3019.

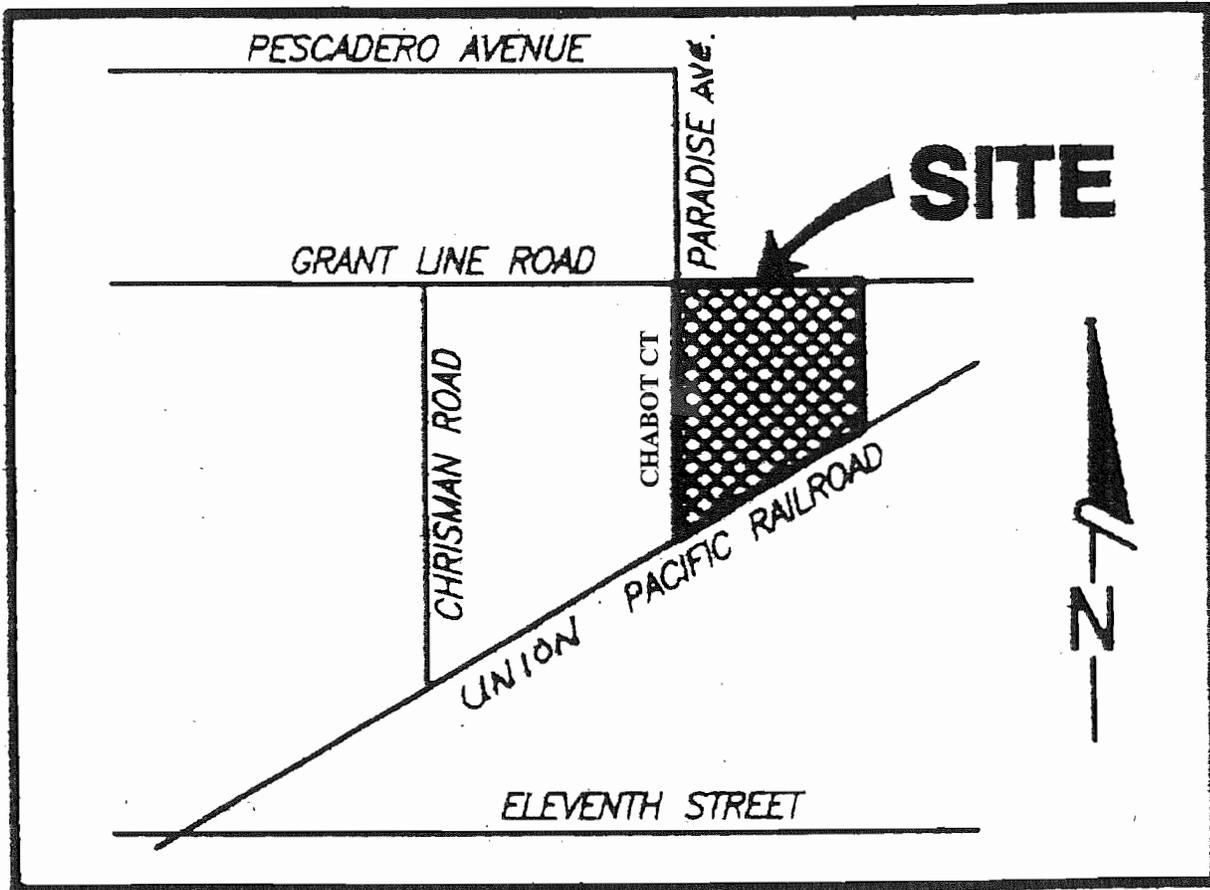
Prepared by: Ranchhod Pandya, Assistant Civil Engineer  
Cris Mina, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

Attachment - Vicinity Map

OFF-SITE IMPROVEMENT AGREEMENT  
CHABOT COMMERCE CENTER - TRACT NO. 3019



VICINITY MAP  
NOT TO SCALE

RESOLUTION \_\_\_\_\_

APPROVING AN OFFSITE IMPROVEMENT AGREEMENT (OIA) WITH AMB PROPERTY, L. P. , FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS AT THE INTERSECTION OF GRANT LINE ROAD AND CHABOT COURT AND AT THE ENTRANCE TO THE BEST BUY DISTRIBUTION FACILITY ON GRANT LINE ROAD, AND AUTHORIZING THE MAYOR TO EXECUTE THE OIA

WHEREAS, AMB Property L.P. has proposed to renovate the existing 371,000 square foot industrial building for use as a storage and distribution facility for Best Buy, and

WHEREAS, In order to provide a more efficient vehicular access to the distribution facility and also to improve traffic circulation for the remaining portion of the Chabot Commerce Center, certain street improvements on Grant Line Road, including traffic signals at Chabot Court and at the main entrance to the distribution facility, (Offsite Improvements) are required, and

WHEREAS, The Developer will construct and complete the Offsite Improvements before occupancy of the building, and

WHEREAS, Improvement Plans and Specifications for the Offsite Improvements have been prepared and reviewed by Engineering staff, and

WHEREAS, The Developer has executed the OIA and submitted the required security to guarantee completion of the Offsite Improvements covered under the OIA, and

WHEREAS, Upon completion, the City will accept all offers of dedication of public right-of-way, and accept the public improvements for maintenance, and

WHEREAS, There will be no impact to the General Fund. The Developer has paid the cost of plan checking, agreement processing, permit, testing and engineering inspection fees;

NOW THEREFORE, BE IT RESOLVED, That City Council, approves the Offsite Improvement Agreement with AMB Property, L.P., and authorizes the Mayor to execute the Offsite Improvement Agreement for Chabot Commerce Center, Tract 3019.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by City Council on the 1<sup>st</sup> day of March 2011, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 1.F

REQUEST

**APPROVE RESOLUTION AUTHORIZING A LEAVE OF ABSENCE FOR TRACY  
TRANSPORTATION ADVISORY COMMISSIONER CHRISTINA FRANKEL**

EXECUTIVE SUMMARY

On Feb 11, 2011, staff received a request from Transportation Advisory Commissioner Christina Frankel for a leave of absence from March 1, 2011, to June 30, 2011. The Transportation Advisory Commission Bylaws state a Transportation Advisory Commission member may submit a written request to the City Council for a leave of absence of up to six months which may be approved at the City Council's discretion.

DISCUSSION

Transportation Advisory Commissioner Christina Frankel has requested a leave of absence from March 1, 2011, to June 30, 2011, due to work schedule conflicts. Should her work schedule change during that period of time, she requests the ability to resume her regular duties as a Commissioner. The Transportation Advisory Commission (TAC) Bylaws stipulate that any Commissioner can request up to six-months leave of absence from their duties on the Commission. This request is to be directed to, and can only be approved by, the City Council.

The TAC consists of nine members and one seat is currently vacant.

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 fiscal impact to the General Fund, Transportation Fund, or Airport Fund at this time.

RECOMMENDATION

That the City Council, by Resolution, approve a leave of absence for Transportation Advisory Commissioner Christina Frankel.

Prepared by: Ed Lovell, Management Analyst II

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

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION \_\_\_\_\_

AUTHORIZATION FOR A LEAVE OF ABSENCE FOR  
TRANSPORTATION ADVISORY COMMISSIONER CHRISTINA FRANKEL

WHEREAS, Transportation Advisory Commissioner Christina Frankel has requested a leave of absence from March 1, 2011, to June 30, 2011, due to a work schedule conflict; and

WHEREAS, The Transportation Advisory Commission (TAC) Bylaws stipulate that any Commissioner can request up to six months leave with Council approval; and

WHEREAS, The Transportation Advisory Commission consists of nine members and one seat is currently vacant.

NOW, THEREFORE, BE IT RESOLVED, That the City Council authorizes a leave of absence from March 1, 2011, to June 30, 2011 for Transportation Advisory Commissioner Christina Frankel.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by the Tracy City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2011 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

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

AGENDA ITEM 1.G

REQUEST

**OPPOSE THE GOVERNOR'S PROPOSAL TO ELIMINATE REDEVELOPMENT AGENCIES IN CALIFORNIA**

EXECUTIVE SUMMARY

Recently the Governor of California proposed to eliminate all redevelopment agencies in the State. A coordinated effort has begun to combat the attack on redevelopment agencies and the League of California Cities, the California Redevelopment Association (CRA) and various business leaders, labor leaders and local elected officials have already begun communicating their concern over the impacts of this proposal. Staff is requesting that Council approve a resolution opposing the Governor's proposal to eliminate redevelopment agencies in California and authorize staff to communicate such opposition to the Governor, the Legislature, business groups and citizens.

DISCUSSION

As part of the Fiscal Year 2011-2012 State budget, Governor Brown has proposed to eliminate all redevelopment agencies in California. This proposal will bring little financial benefit to the State, but will permanently destroy hundreds of thousands of jobs, billions of dollars in local economic activity. Eliminating redevelopment will take away one of the few tools local governments have to address blight, urban decay, and to comply with State requirements to plan for more jobs-housing balance. In addition, redevelopment is the second largest funding source for affordable housing, behind only the federal government. Twenty percent of property taxes generated from redevelopment activities are spent on affordable housing.

The City of Tracy can directly attribute a large part of downtown revitalization to the Community Development Agency's (CDA) redevelopment activity. Over the past several years redevelopment has funded such projects as the Downtown Streetscape, renovation of the Fire Administration building and revitalization of the Grand Theatre. These were vital projects in the downtown which would not have been possible without redevelopment funding.

A coordinated effort has begun to combat the attack on redevelopment agencies and the League of California Cities, the California Redevelopment Association (CRA) and various business leaders, labor leaders and local elected officials have already begun communicating their concern over the impacts of this proposal. Staff is requesting that Council approve a resolution opposing the Governor's proposal to eliminate redevelopment agencies in California and authorize staff to communicate such opposition to the Governor, the Legislature, business groups and citizens.

STRATEGIC PLAN

This agenda item supports the Economic Development strategic plan. This agenda item specifically implements the following goals and objectives:

**Goal 1:** Increase the employment opportunities and sales tax base in Tracy.

While this agenda doesn't fit into a particular objective under the plan it promotes the goal of increasing employment opportunities by having incentives available to further development in Tracy.

FISCAL IMPACT

There is no fiscal impact as a result of this item.

RECOMMENDATION

Staff recommends that Council approve a resolution opposing the Governor's proposal to eliminate redevelopment agencies in California.

Prepared by: Amie Mendes, Economic Development Analyst

Reviewed by: Ursula Luna-Reynosa, Economic Development Director

Approved by: Leon Churchill Jr., City Manager

Attachments – Resolution

RESOLUTION \_\_\_\_\_

OPPOSING THE GOVERNOR'S PROPOSAL TO ELIMINATE REDEVELOPMENT AGENCIES  
IN CALIFORNIA

WHEREAS, as part of its 2011-2012 budget proposal, Governor Brown has proposed permanently eliminating California's more than 400 local redevelopment agencies; and

WHEREAS, this proposal represents continuation of State budget raids of local government funds that voters have repeatedly sought to end, most recently in November 2010 when an overwhelming 61% of voters elected to stop State raids of local government funds, including redevelopment funds; and

WHEREAS, this proposal will bring very little financial benefit to the State. According to the State Controller's Office, redevelopment agencies have more than \$87 billion in bond and other contractual obligations that legally must be repaid before revenues are available to any other purpose. In fact, according to the State Department of Finance's own budget documents, there will be zero State savings in out years from shutting down redevelopment; and

WHEREAS, this proposal will destroy local economic development, including hundreds of thousands of jobs and billions of dollars in local economic activity throughout California; and

WHEREAS, throughout California, redevelopment activities support 304,000 jobs annually, including 170,600 construction jobs, contribute over \$40 billion annually to California's economy in the generation of goods and services, and generate more than \$2 billion in State and local taxes in a typical year; and

WHEREAS, eliminating redevelopment will take away one of the few tools local governments have to comply with State requirements to plan for more compact urban development supported by transit-oriented development, housing, jobs and infrastructure; and

WHEREAS, eliminating redevelopment will destroy the development of affordable housing in California. Redevelopment agencies are the second largest funder of affordable housing, behind only the federal government, responsible for over 98,000 units of affordable housing since 1993; and

WHEREAS, shutting down redevelopment agencies is a violation of multiple State and Federal constitutional provisions.

NOW, THEREFORE, BE IT RESOLVED, that the City Council formally opposes the Governor's proposal to eliminate redevelopment agencies in California.

BE IT FURTHER RESOLVED, that the Council authorizes City staff to communicate its opposition to the Governor, the Legislature, business groups and citizens.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 1<sup>st</sup> day of March, 2011, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

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

March 1, 2011

AGENDA ITEM 1.H

REQUEST

**AUTHORIZATION TO AMEND THE CITY'S CONFLICT OF INTEREST CODE**

EXECUTIVE SUMMARY

This item updates the City's Conflict of Interest Code in accordance with the Political Reform Act.

DISCUSSION

Pursuant to the State Political Reform Act, the City's Conflict of Interest Code is required to be updated on a regular basis, and whenever changes to the Code are made. The Code was last updated by Resolution 2010-045, adopted on April 20, 2010.

Appendix 1 includes an explanation of the disclosure category. Appendix II, the Conflict of Interest Code, lists designated positions and the required category of disclosure. Each designated position included in Appendix II is required by Government Code 87302 to file the Fair Political Practices Statement of Economic Interests, Form 700, annually. The statements are filed with the City Clerk's office.

The only change to Appendix II is the addition of the Measure E Residents' Oversight Committee.

FISCAL IMPACT

There is no impact to the General Fund.

RECOMMENDATION

That the City Council approves, by resolution, the amendment to the City's Conflict of Interest Code.

Prepared by: Carole Fleischmann, Assistant City Clerk  
Reviewed by: Maria Hurtado, Assistant City Manager  
Approved by: Leon Churchill, Jr., City Manager

Attachments: Appendix I  
Appendix II  
Resolution

## Appendix I

### CONFLICT OF INTEREST STATEMENTS

#### Disclosure Categories

**Category 1** - All designated employees in this category shall disclose all sources of income, investments, interests in real property, and business positions required to be disclosed of those public officials named in Government Code section 87200.

**Category 2** - All designated employees in this category shall disclose all sources of income, investments and business entities in which the designated employee holds a management position if the business entity engages in land development; construction; the provision of architectural, engineering or other services in connection with construction; the manufacture or sale of electrical, plumbing and other products used in construction; the acquisition or sale of real property or financing of land acquisition, development or construction.

**Category 3** - All designated employees in this category shall disclose all sources of income, investments, and business entities in which the designated employee holds a management position if the business entity is of the type which contracts with the City of Tracy to provide services, supplies, materials, machinery or equipment.

**Category 4** - All designated employees in this category shall disclose all sources of income, investments, and business entities in which the designated employee holds a management position if the business entity is of the type which contracts with the designated employee's department.

## Appendix II

### CITY OF TRACY CONFLICT OF INTEREST CODE DESIGNATED POSITIONS AND ASSIGNED DISCLOSURE CATEGORIES

Government Code section 87200 requires certain City officials and employees to file "Statements of Economic Interests." In addition, these designated City officials, employees, and consultants are required, pursuant Government Code section 87302 and this Code, to file Statements of Economic Interests:

#### City Employees

#### Disclosure Categories

Accounting Officer	3, 4
Animal Services Supervisor	3, 4
Arts Program Manager	1
Assistant City Attorney	1
Assistant City Clerk	3, 4
Assistant City Manager	1
Assistant City Engineer	1
Assistant Civil Engineer	2, 3, 4
Assistant Director of DES/City Engineer	1
Associate Civil Engineer	4
Associate Planner	1
Budget Officer	3, 4
Chief Building Official	1
Community Access Coordinator	4
Community Development Analyst	1
Community Preservation Manager	1
Deputy City Attorney I/II	1
Deputy Director of Public Works (Utilities)	1
Development and Engineering Services Director	1
Economic Development Management Analyst	3, 4
Economic Development Director	1
Facilities Maintenance Superintendent	3, 4
Finance and Administration Director	1
Fire Chief	1
Fire Division Chief	2, 3, 4
Gallery Supervisor	3, 4
Housing Program Specialist	1
Human Resources Analyst	3, 4
Human Resources Director	3, 4

Appendix II  
Page Two

Information Systems Administrator	3, 4
Information Systems Manager	3, 4
Laboratory Supervisor	3, 4
Landscape District Maintenance Supervisor	3,4
Management Analyst I/II	3, 4
Parks Maintenance Supervisor	3, 4
Police Captain	3, 4
Police Chief	1
Police Lieutenant	3, 4
Professional Standards Sergeant	3,4
Parks and Community Services Director	1
Public Works Director	1
Public Works Maintenance and Operations Superintendent(s)	3, 4
Recreation Coordinator	3, 4
Recreation Supervisor	3, 4
Senior Civil Engineer	1
Senior Human Resources Analyst	3, 4
Senior Planner	1
Technical Theatre Supervisor	3, 4
Special Counsel	1
Utilities Line Maintenance Superintendent	3, 4
Wastewater Operations Superintendent	3, 4
Water Plant Superintendent	3, 4

Elected Officials

City Treasurer	1
City Clerk	1

Consultants

Disclosure requirements will be determined on a case-by-case basis using the criteria contained in the Regulations of the FPPC.

Legal Consultant	3,4
------------------	-----

Boards and Commissions

Building Board of Appeals	1
Tracy Arts Commission	1
Parks and Community Services Commission	1
Transportation Advisory Commission	1
Measure E Resident Oversight Committee	1

RESOLUTION

AUTHORIZING AN AMENDMENT TO THE CITY'S CONFLICT OF INTEREST CODE

WHEREAS, Pursuant to the State Political Reform Act, the City's Conflict of Interest Code is required to be updated on a regular basis, and whenever changes to the Code are made, and

WHEREAS, The Code was last updated by Resolution 2010-045, adopted on April 20, 2010, and

WHEREAS, The City Council is the Code Reviewing Board for processing the City's Conflict of Interest Code, and

WHEREAS, Government Code Sections 87306 and 87307 provide that a City Council may amend its Conflict of Interest Code whenever there are changed circumstances, including recognition of new positions within the City, and

WHEREAS, Staff has recommended the Measure E Residents' Oversight Committee be included in Appendix II, Designated Positions and Assigned Disclosure Categories.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby authorizes the Measure E Residents' Oversight Committee to be included in the City's Conflict of Interest Code.

\*\*\*\*\*

The foregoing Resolution 2011-\_\_\_\_ was passed and adopted by the Tracy City Council on the 1st day of March 2011, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

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

AGENDA ITEM 1.I

REQUEST

**APPROPRIATION OF FUNDS FOR A VARIETY OF FY 10-11 BUDGET ITEMS**

DISCUSSION

A budget and fiscal workshop was held with City Council on February 15, 2011. The focus of this workshop was an examination of the City's General Fund fiscal condition midway through FY 10-11 as well as a 5-year budget forecast. Often after a mid-year budget analysis there is a number of housekeeping budget adjustments to consider. The following have been identified in order to provide appropriate budget authority.

Appropriate \$41,000 in grants received by the police department for DUI check points. This will increase the police budget by \$41,000 but there is an offsetting revenue source, the receipt of the grant. The Police Department applied for and received these grant funds from the California Office of Traffic Safety (OTS). The expenses have already been paid, the grant funds simply need to be appropriated to offset these expenses.

Appropriate \$75,000 from the Central Garage Fund to cover additional expenses associated with vehicle repairs, fuel, and tires.

The City provides for equipment replacement funds via a charge back to each departments' operating budget for its respective equipment inventory. As part of budget cutting efforts, fifty percent of these charges were suspended for FY 10-11 and also proposed for FY 11-12. This means equipment must last longer. This has an impact on the Central Garage Fund in that it may take on additional repairs. However, the actual vehicle maintenance record is considered before making the determination to keep such vehicle in inventory. Also, the price of fuel has spiked again in recent months and is likely to remain at such levels (or higher) for the duration of FY 10-11. The Central Garage Fund does have sufficient reserve to cover this contingency.

Appropriate \$10,000 to cover additional services of the San Joaquin Partnership.

The City currently contributes \$35,000 per year to the San Joaquin Partnership for the economic development efforts supplied by that organization. The City has the opportunity to increase this investment and receive greater attention and referral from the Partnership. The City has funds remaining in the RSP Fund which have previously been used for special economic development efforts most notably the \$1 million shop local program (gift cards for auto purchase) as well as the incentive to secure the new Macy's at West Valley Mall (\$2.75 million). This recommendation is to appropriate \$10,000 from the RSP Fund.

Appropriate \$75,000 for additional expenses for the Police Department in regards to gang activity.

The Tracy Police Department has responded to gang related activities by increasing the level of enforcement in an effort to suppress violent and criminal activity associated with gangs. The increase in visibility and level of enforcement is part of a four prong strategy that was used in early 2010 to successfully suppress violent crime and gang activity in Tracy. The strategy was presented to the City Council in a comprehensive report on January 18, 2011.

The City of Tracy's Police Department has analyzed staffing availability and projected overtime costs for 2011. The estimated cost of this increased focus on gang activity for the remainder of FY 10-11 is \$120,000. However, some of this can be absorbed in the current budget resulting in a need for an additional appropriation of funds of \$75,000.

*Appropriate \$40,000 as additional sales tax auditing fees.*

The City utilizes the services of an outside sales tax auditing firm. The firm uses a variety of information in order to determine the City is correctly receiving the local share of sales tax (1 cent) which is to be allocated according to point of sale. The firm works on contingency as their fee is 25% of new sales tax allocated to the City through their audit work for the first 6 quarters. After the 6 quarters there is no longer a fee. The audit firm recently identified a distribution center located in Tracy in which catalog sales were being supplied from that center. Sales tax for California residents must be collected in this instance and the 1 cent should be allocated to Tracy. This was significant amount and the audit contingency fee will exceed the expected budget which was based on more routine and typically smaller sales tax reallocation. This fee amount will be far outweighed by additional sales tax received by the City.

STRATEGIC PLANS

This is a routine item and does not affect one of the City Councils current seven strategic plans.

FISCAL IMPACT

There is an impact to the General Fund by this action. Specifically this item will result in an additional General Fund expense of \$75,000 for the Police Department that does not have any offsetting revenue or expense reduction. The action will also appropriate \$41,000 in Police grants to the General Fund and will also appropriate \$40,000 from the General Fund for sales tax auditing but this amount will be offset from greater than expected sales tax receipts (resulting from the audit). This action will result in an additional \$75,000 be spent in the Central Garage Fund and \$10,000 spent from the RSP fund.

RECOMMENDATION

It is recommended that the City Council by resolution approve the appropriation of funds for certain items as identified in the resolution for the FY 10-11 budget.

Prepared by: Zane Johnston, Finance & Administrative Services Director

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION \_\_\_\_\_

APPROVING AN APPROPRIATION OF FUNDS FOR A VARIETY OF  
FY 10-11 BUDGET ITEMS

WHEREAS, A budget and fiscal workshop was held with City Council on February 15, 2011, and

WHEREAS, The focus of this workshop was an examination of the City's General Fund fiscal condition midway through FY 10-11 as well as a 5-year budget forecast. The following budget adjustments have been identified in order to provide appropriate budget authority:

- Appropriate \$41,000 in grants received by the police department for DUI check points.
- Appropriate \$75,000 from the Central Garage Fund to cover additional expenses associated with vehicle repairs, fuel, and tires.
- Appropriate \$10,000 to cover additional services of the San Joaquin Partnership.
- Appropriate \$75,000 for additional expenses for the Police Department in regards to gang activity.
- Appropriate \$40,000 as additional sales tax auditing fees.

WHEREAS, There is an impact to the General Fund by this action. Specifically this item will result in an additional General Fund expense of \$75,000 for the Police Department that does not have any offsetting revenue or expense reduction. The action will also appropriate \$41,000 in Police grants to the General Fund and will also appropriate \$40,000 from the General Fund for sales tax auditing but this amount will be offset from greater than expected sales tax receipts (resulting from the audit). This action will result in an additional \$75,000 be spent in the Central Garage Fund and \$10,000 spent from the RSP fund;

NOW, THEREFORE, BE IT RESOLVED, That the City Council approve the appropriation of funds for certain items as identified in the resolution for the FY 10-11 budget.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2011 by the following vote:

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

\_\_\_\_\_  
Mayor

ATTEST:

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

AGENDA ITEM 1.J

REQUEST

**APPROVING CONSENT OF AN ASSIGNMENT AND ASSUMPTION AGREEMENT FOR THE EXISTING REIMBURSEMENT AGREEMENT OF THE TRACY LAMMERS ROAD PROJECT WITH THE NEW DEVELOPER, AND AUTHORIZING THE MAYOR TO EXECUTE THE CONSENT**

EXECUTIVE SUMMARY

Catellus Development Corporation, a Delaware corporation, the developer of the Tracy Lammers Road Project (Assigner/Developer) has requested City consent of the assignment of their rights and obligations covered under the Reimbursement Agreement, to a new developer, Catellus Tracy, LLC. In order to transfer all the rights and outstanding obligations under this agreement, an Assignment and Assumption Agreement must be signed by both the Developer and the Assignee.

DISCUSSION

Catellus Development Corporation, a Delaware corporation (Developer), predecessor in interest to Catellus Operating Limited Partnership, entered into a Reimbursement Agreement on August 21, 2001, with the City, to recover the costs of processing annexation, general plan amendment, specific plan amendment, pre-zoning and infrastructure master planning for the project referred to as the Tracy Lammers Road Project. The Tracy Lammers Road Project includes a proposal to develop a 660-acre site for mixed used commercial, industrial park and business park with related infrastructure improvements north of I-205 and generally west of Byron Road. The Reimbursement Agreement was approved by the City Council on August 21, 2001 by Resolution 2001-298.

On February 5, 2002, the City Council approved Amendment 1 to the Reimbursement Agreement to specifically modify sections 4 and 5 (Contractor's Work and Payments) of the Reimbursement Agreement.

The Developer entered into a Second Reimbursement Agreement with the City on March 25, 2005, per Resolution 2005-051 to specifically provide for funding for completion of a Project Study Report, preparation for the environmental review, management of the environmental review process, and project facilitation of the I-205 /Lammers Road Interchange Project and be reimbursed by the City from future developments in excess of their fair share cost.

In 2009, the City and certain developers entered into an Infrastructure Master Plan Processing Agreement. This agreement requires developers to pay the City of all costs incurred in preparing Tier 1 Infrastructure Master Plans. An amendment to the Infrastructure Master Plan was approved by the City Council on September 15, 2009, pursuant to Resolution 2009-181, to add Homewood, LLC, a California limited liability corporation to the Infrastructure Master Plan Processing Agreement.

The Reimbursement Agreement dated August 21, 2001, Amendment 1 to this Reimbursement Agreement, second Reimbursement Agreement dated March 25, 2005,

Infrastructure Master Plan Processing Agreement of September 15, 2009, and Amendment 1 to this Agreement (collectively referred to as "Tracy Agreements") are on file with the City Clerk's office and are available for review upon request.

The Developer now desires to transfer the Tracy Lammers Road Project and assign all its rights and obligations covered under the Tracy Agreements with respect to the Tracy Lammers Road Project to Catellus Tracy, LLC (the Assignee), an affiliate of the private investment firm, TPG Capital L.P., as part of a sale of a larger portfolio of properties owned or controlled by the Developer. The Developer has agreed to sell, assign, transfer, convey and deliver to the Assignee, and the Assignee has agreed to accept and assume from the Developer, all rights, interests and obligations of the Developer under the Tracy Agreements.

The Assignee has acknowledged and understands that any outstanding obligations of the Developer under the Tracy Agreements will be assumed and performed by the Assignee. The City Council's consent to the transfer of interest and obligations under the Tracy Agreements is subject to the valid execution of the Assignment and Assumption Agreement which is attached as Exhibit A to the City Council's Consent.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

There will be no impact to the General Fund. The Developer will pay for the cost of processing the agreement.

#### RECOMMENDATION

That City Council, by resolution, approve the Assignment and Assumption Agreement for the Tracy Lammers Road Project, to Catellus Tracy Investment, LLC, a Delaware limited liability company and authorize the Mayor to sign the Consent.

Prepared by: Cris Mina, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

Attachment – Exhibit 'A' - Agreement

**EXHIBIT A**

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:**

Catellus Tracy Investment, LLC  
66 Franklin Street, Suite 200  
Oakland California 94607  
Attention: Mr. Bill Hosler

City of Tracy  
333 Civic Center Plaza  
Tracy, CA 95376  
Attention: City Clerk

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**ASSIGNMENT AND ASSUMPTION AGREEMENT**

This Assignment and Assumption Agreement (the “**Agreement**”) is made effective as of \_\_\_\_\_, 2011, by and between Catellus Operating Limited Partnership, a Delaware limited partnership, successor by merger to Catellus Development Corporation, a Delaware corporation (“**COLP**”) and Catellus Tracy, LLC (“**Catellus Tracy**”, together with COLP are collectively referred to herein as “**Assignor**”), and Catellus Tracy Investment, LLC, a Delaware limited liability company (“**Assignee**”).

A. COLP and the City of Tracy (the “**City**”) are parties to the Reimbursement Agreement dated August 21, 2001, as amended by Amendment No.1 dated February 4, 2002, (as so amended, the “**Reimbursement Agreement**”) and the Second Reimbursement Agreement dated March 25, 2005 (the “**Second Reimbursement Agreement**”), and Catellus Tracy and the City are parties to the Infrastructure Master Plan Processing Agreement, dated August 31, 2009 (the “**Infrastructure Agreement**”; the Infrastructure Agreement together with the Reimbursement Agreement and the Second Reimbursement Agreement are collectively, the “**City of Tracy Agreements**”) related to the Tracy Lammers’ Project (the “**Project**”).

B. Assignor desires to Transfer to Assignee all of Assignor’s rights and obligations under the City of Tracy Agreements with respect to the Project (the “**Assigned Interests**”) and Assignee desires to assume from Assignor the Assigned Interests.

NOW, THEREFORE, in consideration of the promises and the mutual agreements and covenants set forth herein and intending to be legally bound hereby, Assignor and Assignee do hereby agree as follows:

1. Assignment. Assignor hereby assigns to Assignee all of Assignor’s right, title and interest in and to the Assigned Interest.

2. Assumption. Assignee hereby assumes from Assignor all of Assignor’s right, title and interest in and to the Assigned Interests relating to the period from and after the effective date of this Agreement, and agrees to perform all of Assignor’s obligations under the City of Tracy Agreements with respect to the Assigned Interests relating to the period from and after the effective date of this Agreement.

3. Consent. The City has consented to such assignment and assumption pursuant to the Consent set forth in Exhibit A.

4. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation shall not affect the validity or enforceability of the offending term or provision in any other situation.

5. Successors and Assigns. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their permitted successors and assigns.

6. Applicable Law. This Agreement shall be governed by, and constructed in accordance with, the laws of the State of California, applicable to contracts executed in and to be performed entirely within that state, and without regard to the conflict of laws provisions thereof.

7. Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, Assignor and Assignee have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

ASSIGNOR:

Catellus Operating Limited Partnership,  
A Delaware limited partnership, successor by merger to  
Catellus Development Corporation

By: Palmtree Acquisition Corporation,  
a Delaware corporation

By: \_\_\_\_\_  
Name:  
Title:

And

Catellus Tracy, LLC  
A Delaware limited liability company

By: \_\_\_\_\_  
Name:  
Title:

ASSIGNEE:

Catellus Tracy Investment, LLC,  
a Delaware limited liability company

By: Catellus Holding, LLC, its sole member

By: \_\_\_\_\_

Name: Ronald Cami

Title: Vice President

**CONSENT TO ASSIGNMENT AND ASSUMPTION**

The CITY OF TRACY, a municipal corporation (the “**City**”), hereby consents to the Assignment and Assumption Agreement, attached hereto as Exhibit A, by and between Catellus Operating Limited Partnership, a Delaware limited partnership and Catellus Tracy, LLC, a Delaware limited liability company, as Assignor, and Catellus Tracy Investment, LLC, a Delaware limited liability company, as Assignee (the “**Assignment**”), to which this Consent to Assignment and Assumption is attached, and, subject to the valid execution of the Assignment and Assumption Agreement, releases Assignor from obligations under the City of Tracy Agreements (as defined in the Assignment) relating to the period from and after the effective date of the Assignment.

THE CITY OF TRACY,

\_\_\_\_\_  
By: Brent H. Ives  
Title: MAYOR

Attest:

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

Approved As To Form:

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

RESOLUTION \_\_\_\_\_

APPROVING CONSENT OF AN ASSIGNMENT AND ASSUMPTION AGREEMENT FOR THE EXISTING REIMBURSEMENT AGREEMENT OF THE TRACY LAMMERS ROAD PROJECT WITH THE NEW DEVELOPER, AND AUTHORIZING THE MAYOR TO EXECUTE THE CONSENT

WHEREAS, Catellus Development Corporation, a Delaware corporation (Developer), predecessor in interest to Catellus Operating Limited Partnership, entered into a Reimbursement Agreement with the City of Tracy on August 21, 2001, and

WHEREAS, On February 5, 2002, the City Council approved Amendment 1 to the Reimbursement Agreement, and

WHEREAS, The Developer entered into a Second Reimbursement Agreement with the City on March 25, 2005, and

WHEREAS, In 2009, the City and certain developers entered into an Infrastructure Master Plan Processing Agreement, and

WHEREAS, An amendment to the Infrastructure Master Plan was approved by the City Council on September 15, 2009, and

WHEREAS, The Developer now desires to transfer the Tracy Lammers Road Project and assign all its rights and obligations covered under the Tracy Agreements with respect to the Tracy Lammers Road Project to Catellus Tracy, LLC (the Assignee), an affiliate of the private investment firm, TPG Capital L.P., as part of a sale of a larger portfolio of properties owned or controlled by the Developer, and

WHEREAS, The Assignee has acknowledged and understands that any outstanding obligations of the Developer under the Tracy Agreements will be assumed and performed by the Assignee, and

WHEREAS, There will be no impact to the General Fund. The Developer will pay for the cost of processing the agreement.

NOW THEREFORE, BE IT RESOLVED, That City Council, approves the Assignment and Assumption Agreement for the Tracy Lammers Road Project, to Catellus Tracy Investment, LLC, a Delaware limited liability company and authorizes the Mayor to sign the Consent

\* \* \* \* \*

Resolution \_\_\_\_\_

Page 2

The foregoing Resolution \_\_\_\_\_ was adopted by City Council on the 1<sup>st</sup> day of March 2011, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 3

REQUEST

**APPROVAL OF MEMORANDUM OF UNDERSTANDINGS WITH TRACY LITTLE LEAGUE; TRACY BABE RUTH; TRACY YOUTH SOCCER LEAGUE; AND TRACY FUTBOL CLUB FOR CONSTRUCTION AND MAINTENANCE OF SPORTS FIELDS AND RELATED AMENITIES WITHIN THE HOLLY SUGAR SPORTS COMPLEX AND; APPROVAL OF AMENDMENT 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH NOLTE ASSOCIATES, INC. FOR ADDITIONAL DESIGN AND CONSTRUCTION RELATED SERVICES FOR THE HOLLY SUGAR YOUTH SPORTS COMPLEX, CIP 78115, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AMENDMENT**

EXECUTIVE SUMMARY

City Council approved a Professional Services Agreement with Nolte Associates, Inc., on July 20, 2010 for completion of the design and construction documents related to Holly Sugar Youth Sports Complex (Complex). Since that date, staff, local youth sports organizations and Nolte Associates have completed a thorough design review process which included input from the public, stakeholders and the Parks and Community Services Commission.

City Council also directed staff to negotiate agreements with the sports leagues for construction and maintenance associated with the Complex. Staff has met with representatives of local youth sports organizations in an effort to finalize Memoranda of Understanding (MOUs) that outline basic parameters for a ground lease including development and ongoing maintenance of fields. To design the Complex within the allocated budget, it is necessary to make some minor changes to the site plan in an effort to best maximize field availability. These changes will require additional services from Nolte Associates in the development of the site design and construction documents. Staff requests that Council consider approval of MOUs and Amendment 1 to Nolte Associates Professional Services Agreement for a not to exceed amount of \$83,000 for these additional services.

DISCUSSION

On November 18, 2009, Council approved a conceptual design for the Holly Sugar Youth Sports Complex (Complex) and directed staff to prepare an Request for Proposals to obtain the services of a qualified consultant to design the first phase of the Complex, which encompassed approximately 60 acres. On July 20, 2010, City Council approved a Professional Services Agreement with Nolte Associates to complete design and construction documents for the Complex for a not to exceed amount of \$1,716,741. The scope of work involved master conceptual plan design of the whole 150+/- acre site to size the infrastructure, complete the improvement plans and specifications for Phase 1 infrastructure and sports fields.

Since the award of this agreement, Nolte Associates conducted meetings with staff, Parks and Community Services Commission and local youth sports organizations to

receive input on the Design Development Package for the Complex. The two factors that were primarily considered the final Design Development Package were available funding and the 2006 Playing Field Needs Assessment. Consideration of these factors resulted in the availability of eight soccer fields and 12 baseball fields. The design adjustment was presented to and endorsed by the Parks and Community Services Commission at its February 3, 2011 meeting.

## **MOUs WITH SPORTS LEAGUES**

Over the last two years, staff conducted meetings with representatives with the local youth sports leagues to finalize MOUs for access to specific areas within the project site for development and ongoing maintenance of playing fields as designated in the conceptual design. A total of 12 leagues participated in developing the draft MOU deal points and eight leagues submitted Statements of Interest and Ability to be considered in Phase 1 development. Because not all leagues can be accommodated in Phase 1, staff met with all 8 leagues who have agreed with the Phase 1 plan. The 4 leagues that will be included in Phase 1 are:

- Tracy Little League
- Tracy Babe Ruth
- Tracy Youth Soccer League
- Tracy Futbol Club

The remaining 4 leagues will have first right of refusal on their identified fields in the conceptual design in future phases. Separate MOUs will be presented for Council approval in April/May 2011 for these leagues. Those leagues are:

- Tracy Express Softball
- Asociacion de Clubs Unidos Soccer League
- Soccer Xtar Liga
- Afghan Soccer Club

Four additional leagues were involved in the MOU development process that have indicated that they will wait for future phasing. They are:

- Tracy Raiders
- Tracy Cougars
- Tracy Buccaneers
- Alternativo Futbol

## **PROPOSED DESIGN DEVELOPMENT PACKAGE**

Minor adjustments were made to the final conceptual design and the first phase of the Complex. These adjustments to the conceptual design (See Attachment A) were necessary to accommodate user group needs, space limitations and budget considerations. These factors included:

- Reduced space due to the inclusion of wind buffers as requested by user groups.
- Reduced space due to necessary storm water detention area.
- Additional parking area needed to accommodate facility users.

- Insuring adequate restroom/concession facilities and storage space for each league to operate.

The following table illustrates the revised conceptual design with original conceptual design as well as the 2006 Playing Field Needs Assessment through the year 2015 and fields included in Phase 1:

<b>FIELD TYPE</b>	<b>ORIGINAL DESIGN</b>	<b>REVISED DESIGN</b>	<b>2015* NEEDS</b>	<b>PHASE 1</b>
Baseball (all sizes)	18	14	15	12
Softball (all sizes)	5	5	.4	0
Football (all sizes)	4	6	3.2	0
Soccer (all sizes)	14	16	7.9	8

\*Note: Based on field needs assessment conducted in 2006 by Beals Alliance. Veterans Park Baseball Field was added to the existing field inventory since 2006 and is included above.

The proposed first phase (See Attachment B) would encompass approximately 70.2 acres of the project site and would include a total of 12 baseball fields, 8 soccer fields and four parking lots to accommodate facility users. The proposed phase adds approximately 10 acres which expands the scope of Nolte Associates' services requiring an amendment to their agreement. Nolte Associates has submitted a proposal (See Attachment G) to provide additional services and after City's review and negotiations agreed to complete this additional task for not to exceed amount of \$83,000. The cost for these additional services will be paid from the project budget.

## **PROJECT BUDGET**

A current available budget of \$10,778,324 exists for this CIP. In previous years, the City has expended funds for environmental review and other related costs.

### Design and Non Construction Cost Estimates

The following is a breakdown of anticipated costs for design and non construction for this phase of the project which indicates that \$7,611,591 will be available for Construction:

<b>DESCRIPTION</b>	<b>ESTIMATE</b>
Available Funding	\$10,778,324
Design Contract Awarded	(\$1,716,741)
Project Design Contingencies	(\$86,000)
Project Design Contract Amendment	(\$83,000)
SJ COG Habitat Fee (estimated)	(\$930,992)
Finance Project Charges (estimated)	(\$300,000)
Building Plan Check Fees	(\$50,000)
<b>TOTAL REMAINING CONSTRUCTION FUNDS</b>	<b>\$7,611,591</b>

Construction Cost Estimate

The following is the construction cost estimate for the mass grading of the project site and infrastructure improvements for proposed phase 1.

<b>NO.</b>	<b>DESCRIPTION</b>	<b>ESTIMATE</b>
1	Mass Project Grading	\$2,484,694
2	Off Site Roadway	\$391,200
3	On Site Roadway	\$770,269
4	Parking Lots	\$1,078,679
5	Storm Drain	\$87,494
6	Sanitary Sewer System	\$549,055
7	Water Distribution System	\$526,018
8	Irrigation System	\$857,917
9	<b>SUB TOTAL</b>	<b>\$6,745,326</b>
10	Construction Contingencies (10%)	\$674,533
11	Construction Management/inspection (7%)	\$472,173
12	Design Support During Construction (3%)	\$202,360
	<b>TOTAL ESTIMATED CONSTRUCTION COSTS</b>	<b>\$8,094,392</b>

**PROJECT TIMELINE**

The proposed phase 1 will result in overall delay of the project delivery by one month. The following is the original and revised timeline for this project:

<b>NO.</b>	<b>DESCRIPTION</b>	<b>ORIGINAL DATES</b>	<b>REVISED DATES</b>
1	Completion of Plans and Specifications	June 2011	August 2011
2	City Council Award of Construction Contract	August 2011	November 2011
3	Site Infrastructure Completed	May 2012	July 2012
4	Site Ready for Field Construction	August 2012	September 2012

STRATEGIC PLAN

This agenda item supports the organizational effectiveness strategic plan and specifically implements the following goal and objectives:

**Community Amenities Priority**

**Goal 1:** Create a community with a wide range of amenities

**Objective 1a:** Identify the amenities desired by the community

FISCAL IMPACT

There is no impact to the General Fund. The additional cost for the agreement amendment with Nolte Associates will be paid from the project budget. There is a construction shortfall of \$482,801 which staff believes can be made up in this favorable bid environment and in project contingencies. Adequate funding is available to pay the construction cost including Amendment 1 to the agreement with Nolte Associates. Due to the favorable construction bidding environment, the City may realize substantial savings in construction costs and the final project costs may be within the budgeted amount. Additionally, some shortfall may be absorbed in project contingencies or in slight changes in project scope and the City's rights to exercise the option of alternate bid items

RECOMMENDATION

1. Approve a memorandum of understanding with Tracy Little League (Attachment C) relating to the lease of property within the complex and construction of sports fields and related amenities; and
2. Approve a memorandum of understanding with Tracy Babe Ruth (Attachment D) relating to the lease of property within the complex and construction of sports fields and related amenities; and
3. Approve a memorandum of understanding with Tracy Youth Soccer League (Attachment E) relating to the lease of property within the complex and construction of sports fields and related amenities; and
4. Approve a memorandum of understanding with Tracy Futbol Club (Attachment F) relating to the lease of property within the complex and construction of sports fields and related amenities; and
5. That City Council accept the status of Holly Sugar Sports complex and approve Amendment 1 to the Professional Services Agreement with Nolte Associates, Inc. (Attachment G) for additional design and construction related services for the Holly Sugar Sports Complex, CIP 78115, in the amount of \$83,000, and authorize the Mayor to execute the Amendment.

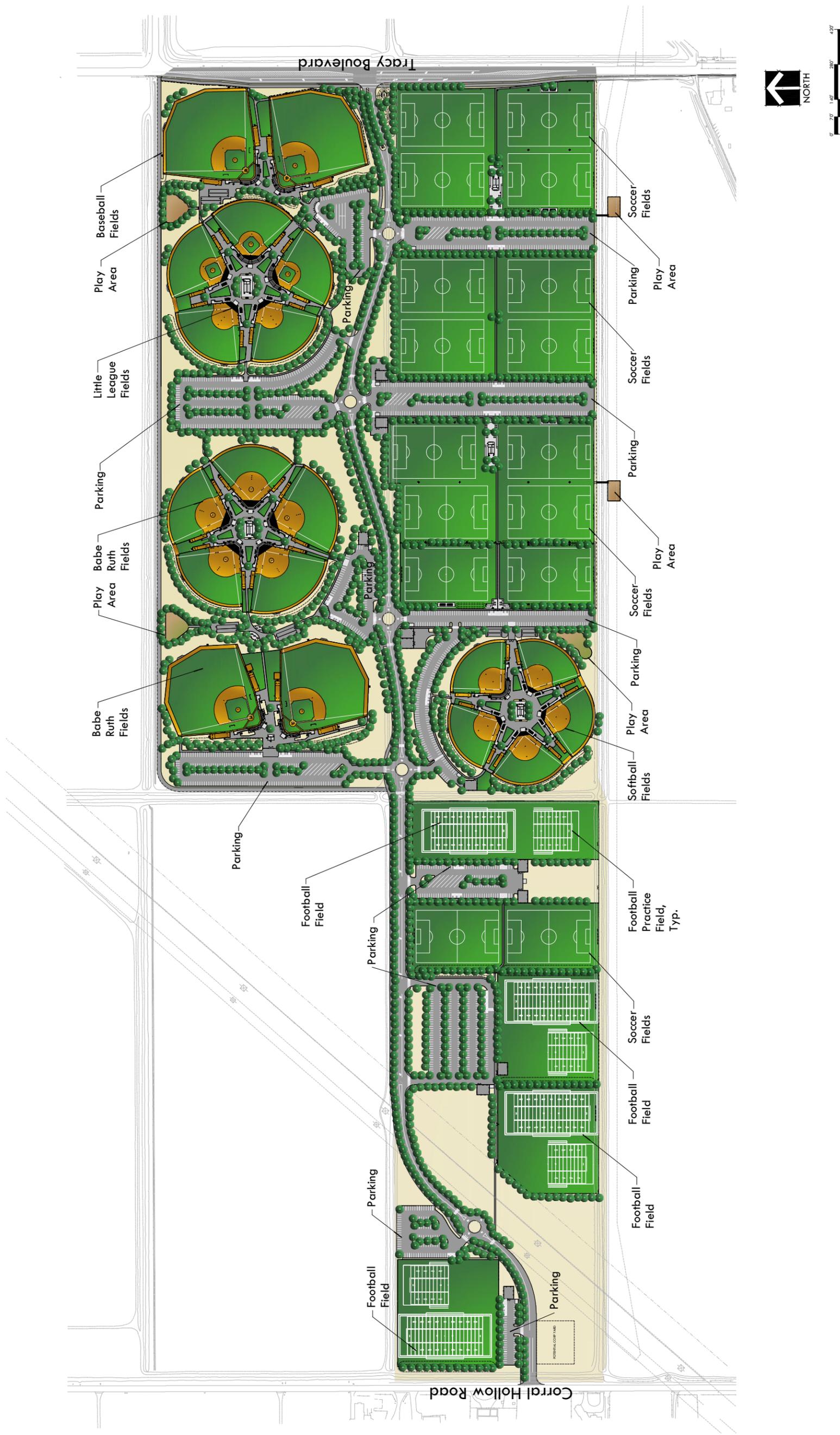
Prepared by: Floyd Lewis, Recreation Supervisor, Parks and Community Services  
Paul Verma, Senior Civil Engineer

Reviewed by: Rod Buchanan, Parks and Community Services Director  
Andrew Malik, Development and Engineering Services Director  
Kuldeep Sharma, City Engineer

Approved by: R. Leon Churchill, Jr., City Manager

Attachments:

- Attachment A: Site Master Plan
- Attachment B: Phase One
- Attachment C: Memorandum of Understanding with Tracy Little League
- Attachment D: Memorandum of Understanding with Tracy Babe Ruth
- Attachment E: Memorandum of Understanding with Tracy Youth Soccer League
- Attachment F: Memorandum of Understanding with Tracy Futbol Club
- Attachment G: Amendment No. 1 to agreement with Nolte Associates



# Holly Sugar Sports Complex - Site Master Plan

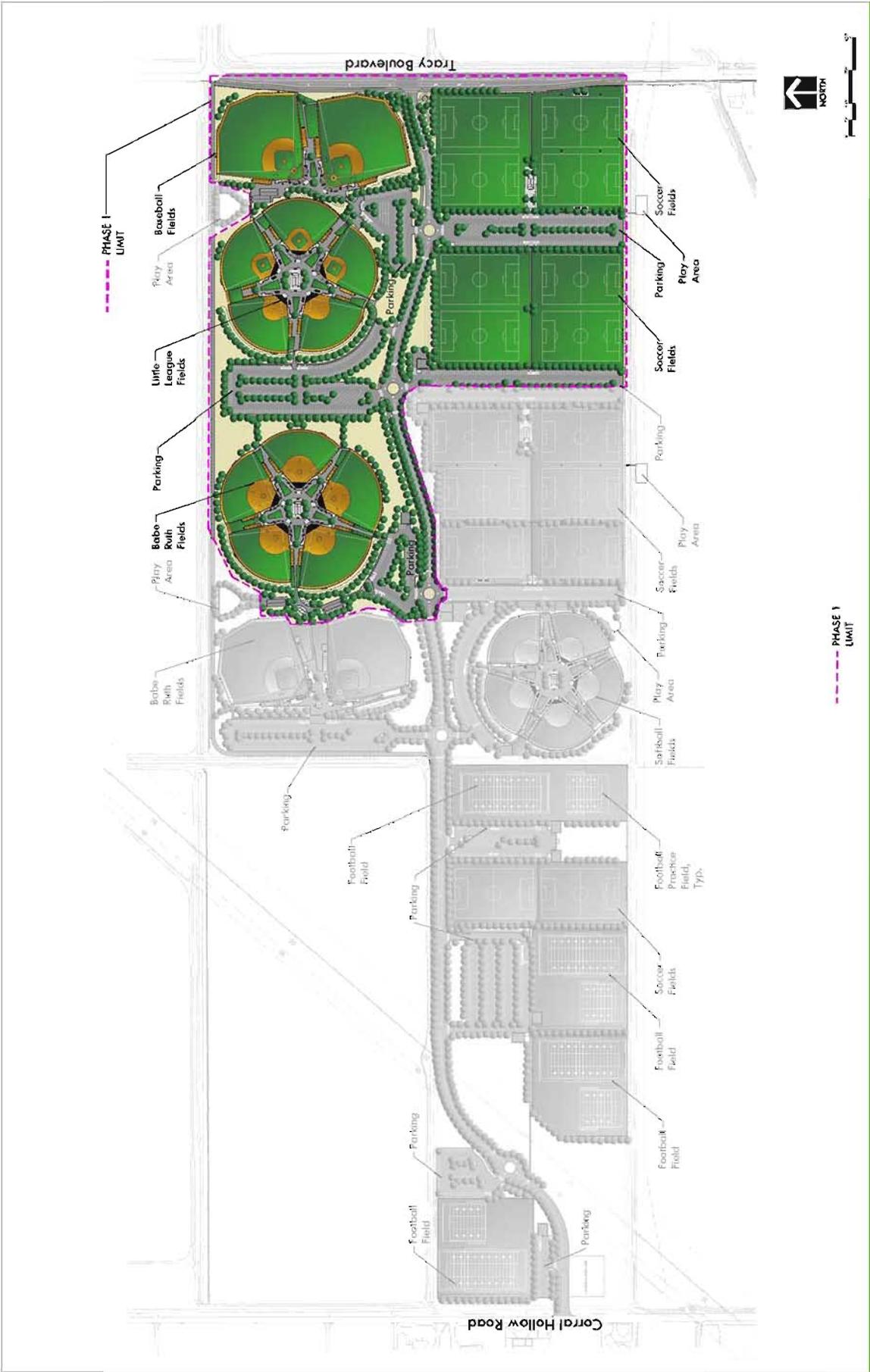
City of Tracy



Date: 01/17/11 Project #: 0909400-0739

LANDSCAPE ARCHITECTURE  
 CIVIL ENGINEERING  
 SPORT PLANNING & DESIGN  
 2425 The Alameda, Ste. 200  
 Santa Clara, CA 95050  
 Tel: 408.985.7200  
 Fax: 408.985.7260  
 www.verdedesigninc.com

VERDE DESIGN



# Holly Sugar Sports Complex - Site Master Plan

## City of Tracy

**NOIJE**  
ARCHITECTURAL & ENGINEERING  
2401 UNIVERSITY BLVD  
SUITE 200  
TRACY, CA 95376  
TEL: 925.865.7200  
WWW.NOIJE.COM

**VERDE DESIGN**  
DATE: 01/17/11 PROJECT #: 0909400-0739

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF TRACY AND TRACY LITTLE LEAGUE  
FOR DEVELOPMENT AND OPERATION OF A YOUTH SPORTS FACILITY**

This MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into this 1st day of March, 2011, by and between the CITY OF TRACY, a municipal corporation ("CITY") and TRACY LITTLE LEAGUE, a California non-profit corporation ("TLL").

**RECITALS**

- A. CITY owns approximately 20 acres of property on Tracy Boulevard, north of the City, in unincorporated San Joaquin County, contained within the area commonly referred to as the Holly Sugar Sports Fields ("Property");
- B. CITY has initiated and approved an Environmental Impact Report for a youth sports facility on and nearby the Property;
- C. CITY intends to construct infrastructure improvements and design construction documents for sports fields to be located at the Property ("Infrastructure Improvements and Design Standards");
- D. TLL is a California non-profit corporation formed as a youth sports organization in the City of Tracy, California;
- E. The parties desire to enter into a future ground lease or use agreement ("Future Lease"), under which TLL will construct seven baseball fields and certain other improvements ("Facility Improvements");
- F. Under the Future Lease, TLL will maintain and operate the Property as a youth sports facility; and
- G. The purpose of this MOU is to set forth the general agreement and understanding of the parties related to key terms of the Future Lease.

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

**SECTION 1. INFRASTRUCTURE IMPROVEMENTS AND DESIGN STANDARDS.** The planned area for the Future Lease is shown in greater detail in Exhibit "A", but is subject to such reasonable deviation as may be needed as more facts are known as to the condition of Property.

CITY will use its best efforts to complete the following Infrastructure Improvements and Design Standards by August, 2012:

- a. Provide infrastructure to the Property, which includes:
  - 1. Gravel parking lot(s);
  - 2. Main utility lines stubbed out to the Property (potable water, irrigation main line(s), sanitary sewer, electric, gas and telephone);
  - 3. Widened Tracy Boulevard frontage;
  - 4. Paved access road;
  - 5. Mass grading of Property; and

6. Construction documents (such as design, etc.) for the seven baseball fields, conceptually shown in Exhibit "B", that TLL will be obligated to build under the Future Lease.

**SECTION 2. TERMS OF LEASE.** The Future Lease for the Property will include, but not be limited to, the following terms:

- a. After the Future Lease is fully executed by all parties, TLL will:
  1. Pay City approximately \$150 per acre annually as rent, for the entire agreed upon leased area, with payment beginning when fields are ready for league construction;
  2. Construct fields and substantiality complete related facilities, substantially adhering to the conceptual layout shown in Exhibit "B" attached hereto and made a part hereof, subject to such reasonable deviation as may be needed as more facts are known, and also adhering to City standards which will include the construction documents for the sports fields within 10 years after execution of the Future Lease, including such related items as installation of irrigation systems, turf, paved pathways and sports fixtures such as bleachers, backstop, etc.;
  3. Obtain and pay any required fees for permits, licenses and inspections for such construction as it is obligated to do under the Future Lease with the exception that the City of Tracy shall pay the costs for any City permit, inspection and license fees that are required as a portion of its consideration of the ground lease;
  4. Operate and schedule leased fields in an effort to meet community sport field needs;
  5. Properly repair and maintain sports fields, sport fixtures and associated landscaping in a timely fashion or contract out services;
  6. Timely pay all possessory interest taxes associated with lease;
  7. Arrange for and pay costs associated with any necessary temporary restroom facilities;
  8. Maintain status as a legal entity entitled to do business (e.g., enter into contracts, be insured, etc.) with the Office of the State of California Secretary of State;
  9. Pay any connection, service and monthly fees associated with utilities (e.g. electric and, water for consumption costs, etc.);
  10. Keep the leased property free of trash and weeds and immediately adjacent areas free and clear of trash and weeds;
  11. Allow the City use of the leased property several days each year, upon reasonable notice from the City so as to not unduly interfere with TLL's planned activities; and
  12. Allow public access to, from, and across parking and concession areas.
- b. After the Future Lease is fully executed by all parties, City will:
  1. Pay for maintaining irrigation wells or pumps (if needed) and cost of electricity associated with such wells or pumps (if needed);
  2. Pay for ongoing maintenance of roadways, public landscape areas and parking lots; and
  3. Allow TLL to:
    - i. Temporarily name facilities/complexes and erect signs identifying those names during the term of the lease, and only on the leased property, and collect fees associated with naming rights. All applicable regulations will apply;

- ii. Charge fees to any individual to use the fields, including parking fees under arrangement with City for specified spaces provided that access to adjacent properties/fields will be allowed at no charge;
  - iii. Rent the leased property and charge fees for the purpose of hosting youth sports functions;
  - iv. Install storage sheds, concession stands, restrooms, etc. upon City approval; and
  - v. Sell concessions during events subject to applicable laws and regulations.
- c. The term of the lease will be one ten-year period with one ten-year extension period if fields are timely built under the terms of the Future Lease.
1. The Future Lease will outline an accelerated lease renewal option based on agreed upon performance criteria.
  2. Starting in year five, the rent will be increased annually based on the CPI, not to exceed 3% annually, for term of lease including any renewals.

**SECTION 3. ESTABLISHMENT OF FUTURE LEASE.** CITY and TLL shall negotiate in good faith to establish the remaining terms of the Future Lease. The parties shall use their best efforts to establish the remaining terms of, and execute, the Future Lease by June of 2012. In the event the parties are unable to timely establish the remaining and final terms of the Future Lease, CITY may further improve and/or use the Property at its sole discretion. The Future Lease terms shall include such items as:

- a. Construction standards (derived from the construction plans and other City standards);
- b. A phasing plan for development and completion of agreed upon Facility Improvements, which plan may include lease options for the land on which the fields will not be constructed within two years of execution of Future Lease;
- c. A description of how the facility will be made available and accessible to the public and to other youth sports organizations in the City of Tracy;
- d. An operations plan detailing TLL's planned operations and TLL's maintenance responsibilities and standards; and
- e. TLL's documented financial ability to complete its obligations under the Future Lease.

**SECTION 4. INSURANCE.**

- a. **General.** TLL shall, throughout the duration of this Agreement, maintain insurance to cover TLL, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
- b. **Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- c. **Endorsements.** TLL shall obtain endorsements to the commercial general liability with the following provisions:
  1. The CITY (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
  2. For any claims related to this Agreement, TLL's coverage shall be primary insurance with respect to the CITY. Any insurance maintained by the CITY shall be excess of the TLL's insurance and shall not contribute with it.

- d. Notice of Cancellation. TLL shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days prior written notice to the CITY should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- e. Authorized Insurers. All insurance companies providing coverage to TLL shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- f. Insurance Certificate. TLL shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City, no later than five (5) days after the execution of this Agreement.
- g. Substitute Certificates. No later than thirty (30) days prior to the policy expiration date of any insurance policy required by this Agreement, TLL shall provide a substitute certificate of insurance.
- h. TLL's Obligation. Maintenance of insurance by the TLL as specified in this Agreement shall in no way be interpreted as relieving the TLL of any responsibility whatsoever (including indemnity obligations under this Agreement), and the TLL may carry, at its own expense, such additional insurance as it deems necessary.

**SECTION 5. INDEMNIFICATION.** TLL shall indemnify, defend, and hold harmless the City (including its elected officials, officers, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from or arising out of the performance of the Future Lease or its activities at or on the Property.

CITY shall indemnify, defend, and hold harmless TLL (including its board members, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from or arising out of CITY's activities at or on the Property.

**SECTION 6. NOTICES.** Any and all notices related to this MOU or required by law to be served on or given to either party by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail, first class, postage prepaid, addressed to:

CITY OF TRACY  
Rod Buchanan, Director  
Parks and Community Services  
400 East 10<sup>th</sup> Street  
Tracy, CA 95376

TRACY LITTLE LEAGUE  
Board President  
Tracy Little League  
P.O. Box 104  
Tracy, CA 95376

With a copy to:  
City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

**SECTION 7. SIGNATURES.** The individuals executing this MOU represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this MOU on behalf of the respective legal entities of TLL and the City. This MOU shall inure to the

benefit of and be binding upon the parties thereto and their respective successors and assigns.

**CITY OF TRACY**

\_\_\_\_\_  
Brent H. Ives  
Mayor

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Sandra Edwards  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Daniel G. Sodergren  
City Attorney

**TRACY LITTLE LEAGUE**

  
\_\_\_\_\_  
Paul Zwickey  
President

Date: 2/21/2011





RESOLUTION \_\_\_\_\_

APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND TRACY LITTLE LEAGUE, INC. RELATING TO THE LEASE OF PROPERTY AND CONSTRUCTION AND MAINTENANCE OF YOUTH SPORTS FIELDS AT THE HOLLY SUGAR SPORTS COMPLEX

WHEREAS, The City of Tracy is finalizing the design and construction documents for the proposed Holly Sugar Sports Complex, and

WHEREAS, The City of Tracy is interested in developing youth sports playing fields at the proposed Holly Sugar Sports Complex; and

WHEREAS, The Tracy Little League (TLL) has expressed and interest in constructing youth baseball fields at the Holly Sugar Sports Complex; and

WHEREAS, The City of Tracy and TLL have agreed to a design for these youth baseball fields and a specific area within the Holly Sugar Sports Complex for construction of these baseball fields; and

WHEREAS, The City of Tracy and TLL agree to timely negotiate and finalize a lease agreement as identified in the Memorandum of Understanding.

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves a Memorandum of Understanding between the City of Tracy and Tracy Little League, Inc. relating to the development and maintenance of youth baseball fields at the Holly Sugar Sports Complex.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the City Council of the City of Tracy on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

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

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF TRACY AND TRACY BABE RUTH  
FOR DEVELOPMENT AND OPERATION OF A YOUTH SPORTS FACILITY**

This MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into this 1st day of March, 2011, by and between the CITY OF TRACY, a municipal corporation ("CITY") and TRACY BABE RUTH, a California non-profit corporation ("TBR").

**RECITALS**

- A. CITY owns approximately 20 acres of property on Tracy Boulevard, north of the City, in unincorporated San Joaquin County, contained within the area commonly referred to as the Holly Sugar Sports Fields ("Property");
- B. CITY has initiated and approved an Environmental Impact Report for a youth sports facility on and nearby the Property;
- C. CITY intends to construct infrastructure improvements and design construction documents for sports fields to be located at the Property ("Infrastructure Improvements and Design Standards");
- D. TBR is a California non-profit corporation formed as a youth sports organization in the City of Tracy, California;
- E. The parties desire to enter into a future ground lease or use agreement ("Future Lease"), under which TBR will construct five baseball fields and certain other improvements ("Facility Improvements");
- F. Under the Future Lease, TBR will maintain and operate the Property as a youth sports facility; and
- G. The purpose of this MOU is to set forth the general agreement and understanding of the parties related to key terms of the Future Lease.

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

**SECTION 1. INFRASTRUCTURE IMPROVEMENTS AND DESIGN STANDARDS.** The planned area for the Future Lease is shown in greater detail in Exhibit "A", but is subject to such reasonable deviation as may be needed as more facts are known as to the condition of Property.

CITY will use its best efforts to complete the following Infrastructure Improvements and Design Standards by August, 2012:

- a. Provide infrastructure to the Property, which includes:
  - 1. Gravel parking lot(s);
  - 2. Main utility lines stubbed out to the Property (potable water, irrigation main line(s), sanitary sewer, electric, gas and telephone);
  - 3. Widened Tracy Boulevard frontage;
  - 4. Paved access road;
  - 5. Mass grading of Property; and
  - 6. Construction documents (such as design, etc.) for the five baseball

fields, conceptually shown in Exhibit "B", that TBR will be obligated to build under the Future Lease.

**SECTION 2. TERMS OF LEASE.** The Future Lease for the Property will include, but not be limited to, the following terms:

- a. After the Future Lease is fully executed by all parties, TBR will:
  1. Pay City approximately \$150 per acre annually as rent, for the entire agreed upon leased area, with payment beginning when fields are ready for league construction;
  2. Construct fields and substantiality complete related facilities, substantially adhering to the conceptual layout shown in Exhibit "B" attached hereto and made a part hereof, subject to such reasonable deviation as may be needed as more facts are known, and also adhering to City standards which will include the construction documents for the sports fields within 10 years after execution of the Future Lease, including such related items as installation of irrigation systems, turf, paved pathways and sports fixtures such as bleachers, backstop, etc.;
  3. Obtain and pay any required fees for permits, licenses and inspections for such construction as it is obligated to do under the Future Lease with the exception that the City of Tracy shall pay the costs for any City permit, inspection and license fees that are required as a portion of its consideration of the ground lease;
  4. Operate and schedule leased fields in an effort to meet community sport field needs;
  5. Properly repair and maintain sports fields, sport fixtures and associated landscaping in a timely fashion or contract out services;
  6. Timely pay all possessory interest taxes associated with lease;
  7. Arrange for and pay costs associated with any necessary temporary restroom facilities;
  8. Maintain status as a legal entity entitled to do business (e.g., enter into contracts, be insured, etc.) with the Office of the State of California Secretary of State;
  9. Pay any connection, service and monthly fees associated with utilities (e.g. electric and, water for consumption costs, etc.);
  10. Keep the leased property free of trash and weeds and immediately adjacent areas free and clear of trash and weeds;
  11. Allow the City use of the leased property several days each year, upon reasonable notice from the City so as to not unduly interfere with TBR's planned activities; and
  12. Allow public access to, from, and across parking and concession areas.
- b. After the Future Lease is fully executed by all parties, City will:
  1. Pay for maintaining irrigation wells or pumps (if needed) and cost of electricity associated with such wells or pumps (if needed);
  2. Pay for ongoing maintenance of roadways, public landscape areas and parking lots; and
  3. Allow TBR to:
    - i. Temporarily name facilities/complexes and erect signs identifying those names during the term of the lease, and only on the leased property, and collect fees associated with naming rights. All applicable regulations will apply;
    - ii. Charge fees to any individual to use the fields, including parking fees under arrangement with City for specified spaces provided that access to adjacent properties/fields will be allowed at no charge;

- iii. Rent the leased property and charge fees for the purpose of hosting youth sports functions;
  - iv. Install storage sheds, concession stands, restrooms, etc. upon City approval; and
  - v. Sell concessions during events subject to applicable laws and regulations.
- c. The term of the lease will be one ten-year period with one ten-year extension period if fields are timely built under the terms of the Future Lease.
    1. The Future Lease will outline an accelerated lease renewal option based on agreed upon performance criteria.
    2. Starting in year five, the rent will be increased annually based on the CPI, not to exceed 3% annually, for term of lease including any renewals.

**SECTION 3. ESTABLISHMENT OF FUTURE LEASE.** CITY and TBR shall negotiate in good faith to establish the remaining terms of the Future Lease. The parties shall use their best efforts to establish the remaining terms of, and execute, the Future Lease by June of 2012. In the event the parties are unable to timely establish the remaining and final terms of the Future Lease, CITY may further improve and/or use the Property at its sole discretion. The Future Lease terms shall include such items as:

- a. Construction standards (derived from the construction plans and other City standards);
- b. A phasing plan for development and completion of agreed upon Facility Improvements, which plan may include lease options for the land on which the fields will not be constructed within two years of execution of Future Lease;
- c. A description of how the facility will be made available and accessible to the public and to other youth sports organizations in the City of Tracy;
- d. An operations plan detailing TBR's planned operations and TBR's maintenance responsibilities and standards; and
- e. TBR's documented financial ability to complete its obligations under the Future Lease; and
- f. First right of refusal at terms acceptable to both parties to lease two adjacent baseball fields in a future phase, as shown in Exhibit B. Such first right of refusal shall be exercisable if TBR completes construction of the initial five baseball fields within a reasonable time defined in the Future Lease.

**SECTION 4. INSURANCE.**

- a. General. TBR shall, throughout the duration of this Agreement, maintain insurance to cover TBR, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
- b. Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- c. Endorsements. TBR shall obtain endorsements to the commercial general liability with the following provisions:
  1. The CITY (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
  2. For any claims related to this Agreement, TBR's coverage shall be primary insurance with respect to the CITY. Any insurance maintained by the CITY shall be excess of the TBR's insurance and shall not contribute with it.

- d. Notice of Cancellation. TBR shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days prior written notice to the CITY should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- e. Authorized Insurers. All insurance companies providing coverage to TBR shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- f. Insurance Certificate. TBR shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City, no later than five (5) days after the execution of this Agreement.
- g. Substitute Certificates. No later than thirty (30) days prior to the policy expiration date of any insurance policy required by this Agreement, TBR shall provide a substitute certificate of insurance.
- h. TBR's Obligation. Maintenance of insurance by the TBR as specified in this Agreement shall in no way be interpreted as relieving the TBR of any responsibility whatsoever (including indemnity obligations under this Agreement), and the TBR may carry, at its own expense, such additional insurance as it deems necessary.

**SECTION 5. INDEMNIFICATION.** TBR shall indemnify, defend, and hold harmless the City (including its elected officials, officers, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from or arising out of the performance of the Future Lease or its activities at or on the Property.

CITY shall indemnify, defend, and hold harmless TBR (including its board members, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from or arising out of CITY's activities at or on the Property.

**SECTION 6. NOTICES.** Any and all notices related to this MOU or required by law to be served on or given to either party by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail, first class, postage prepaid, addressed to:

CITY OF TRACY  
Rod Buchanan, Director  
Parks and Community Services  
400 East 10<sup>th</sup> Street  
Tracy, CA 95376

TRACY BABE RUTH  
Board President  
Tracy Babe Ruth  
P.O. Box 624  
Tracy, CA 95378

With a copy to:  
City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

**SECTION 7. SIGNATURES.** The individuals executing this MOU represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this MOU on behalf of the respective legal entities of TBR and the City. This MOU shall inure to the

benefit of and be binding upon the parties thereto and their respective successors and assigns.

**CITY OF TRACY**

\_\_\_\_\_  
Brent H. Ives  
Mayor

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Sandra Edwards  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Daniel G. Sodergren  
City Attorney

**TRACY BABE RUTH**

  
\_\_\_\_\_  
Troy Camacho  
President

Date: 2-22-11





Phase 1 Babe Ruth Total Area Of  
 Babe Ruth Fields - 23.6 AC



# Babe Ruth League Baseball Fields

## Exhibit B - Holly Sugar Sports Complex

### Site Master Plan - City of Tracy



Date: 02/08/11 Project #: 0909400-0739

MISSION STATEMENT  
 SPORT PLANNING & DESIGN  
 3455 The Oaks, Suite 200  
 San Jose, CA 95132  
 Tel: 408.431.7200  
 Fax: 408.431.7202  
 www.nolteverde.com

RESOLUTION \_\_\_\_\_

APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND TRACY BABE RUTH, INC. RELATING TO THE LEASE OF PROPERTY AND CONSTRUCTION AND MAINTENANCE OF YOUTH SPORTS FIELDS AT THE HOLLY SUGAR SPORTS COMPLEX

WHEREAS, The City of Tracy is finalizing the design and construction documents for the proposed Holly Sugar Sports Complex, and

WHEREAS, The City of Tracy is interested in developing youth sports playing fields at the proposed Holly Sugar Sports Complex; and

WHEREAS, The Tracy Babe Ruth (TBR) has expressed an interest in constructing youth baseball fields at the Holly Sugar Sports Complex; and

WHEREAS, The City of Tracy and TBR have agreed to a design for these youth baseball fields and a specific area within the Holly Sugar Sports Complex for construction of these baseball fields; and

WHEREAS, The City of Tracy and TBR agree to timely negotiate and finalize a lease agreement as identified in the Memorandum of Understanding.

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves a Memorandum of Understanding between the City of Tracy and Tracy Babe Ruth, Inc. relating to the development and maintenance of youth baseball fields at the Holly Sugar Sports Complex.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the City Council of the City of Tracy on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

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

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF TRACY AND TRACY YOUTH SOCCER LEAGUE  
FOR DEVELOPMENT AND OPERATION OF A YOUTH SPORTS FACILITY**

This MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into this 1st day of March, 2011, by and between the CITY OF TRACY, a municipal corporation (“CITY”) and TRACY YOUTH SOCCER LEAGUE, a California non-profit corporation (“TYSL”).

**RECITALS**

- A. CITY owns approximately 20 acres of property on Tracy Boulevard, north of the City, in unincorporated San Joaquin County, contained within the area commonly referred to as the Holly Sugar Sports Fields (“Property”);
- B. CITY has initiated and approved an Environmental Impact Report for a youth sports facility on and nearby the Property;
- C. CITY intends to construct infrastructure improvements and design construction documents for sports fields to be located at the Property (“Infrastructure Improvements and Design Standards”);
- D. TYSL is a California non-profit corporation formed as a youth sports organization in the City of Tracy, California;
- E. The parties desire to enter into a future ground lease or use agreement (“Future Lease”), under which TYSL will construct four soccer fields and certain other improvements (“Facility Improvements”);
- F. Under the Future Lease, TYSL will maintain and operate the Property as a youth sports facility; and
- G. The purpose of this MOU is to set forth the general agreement and understanding of the parties related to key terms of the Future Lease.

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

**SECTION 1. INFRASTRUCTURE IMPROVEMENTS AND DESIGN STANDARDS.** The planned area for the Future Lease is shown in greater detail in Exhibit “A”, but is subject to such reasonable deviation as may be needed as more facts are known as to the condition of Property.

CITY will use its best efforts to complete the following Infrastructure Improvements and Design Standards by August, 2012:

- a. Provide infrastructure to the Property, which includes:
  - 1. Gravel parking lot(s);
  - 2. Main utility lines stubbed out to the Property (potable water, irrigation main line(s), sanitary sewer, electric, gas and telephone);
  - 3. Widened Tracy Boulevard frontage;
  - 4. Paved access road;
  - 5. Mass grading of Property; and
  - 6. Construction documents (such as design, etc.) for the four soccer fields, conceptually shown in Exhibit “B”, that TYSL will be obligated to build

under the Future Lease.

**SECTION 2. TERMS OF LEASE.** The Future Lease for the Property will include, but not be limited to, the following terms:

- a. After the Future Lease is fully executed by all parties, TYSL will:
  1. Pay City approximately \$150 per acre annually as rent, for the entire agreed upon leased area, with payment beginning when fields are ready for league construction;
  2. Construct fields and substantiality complete related facilities, substantially adhering to the conceptual layout shown in Exhibit "B" attached hereto and made a part hereof, subject to such reasonable deviation as may be needed as more facts are known, and also adhering to City standards which will include the construction documents for the sports fields within 10 years after execution of the Future Lease, including such related items as installation of irrigation systems, turf, paved pathways and sports fixtures such as bleachers, backstop, etc.;
  3. Obtain and pay any required fees for permits, licenses and inspections for such construction as it is obligated to do under the Future Lease with the exception that the City of Tracy shall pay the costs for any City permit, inspection and license fees that are required as a portion of its consideration of the ground lease;
  4. Operate and schedule leased fields in an effort to meet community sport field needs;
  5. Properly repair and maintain sports fields, sport fixtures and associated landscaping in a timely fashion or contract out services;
  6. Timely pay all possessory interest taxes associated with lease;
  7. Arrange for and pay costs associated with any necessary temporary restroom facilities;
  8. Maintain status as a legal entity entitled to do business (e.g., enter into contracts, be insured, etc.) with the Office of the State of California Secretary of State;
  9. Pay any connection, service and monthly fees associated with utilities (e.g. electric and, water for consumption costs, etc.);
  10. Keep the leased property free of trash and weeds and immediately adjacent areas free and clear of trash and weeds;
  11. Allow the City use of the leased property several days each year, upon reasonable notice from the City so as to not unduly interfere with TYSL's planned activities; and
  12. Allow public access to, from, and across parking and concession areas.
  
- b. After the Future Lease is fully executed by all parties, City will:
  1. Pay for maintaining irrigation wells or pumps (if needed) and cost of electricity associated with such wells or pumps (if needed);
  2. Pay for ongoing maintenance of roadways, public landscape areas and parking lots; and
  3. Allow TYSL to:
    - i. Temporarily name facilities/complexes and erect signs identifying those names during the term of the lease, and only on the leased property, and collect fees associated with naming rights. All applicable regulations will apply;
    - ii. Charge fees to any individual to use the fields, including parking fees under arrangement with City for specified spaces provided that access to adjacent properties/fields will be allowed at no charge;

- iii. Rent the leased property and charge fees for the purpose of hosting youth sports functions;
  - iv. Install storage sheds, concession stands, restrooms, etc. upon City approval; and
  - v. Sell concessions during events subject to applicable laws and regulations.
- c. The term of the lease will be one ten-year period with one ten-year extension period if fields are timely built under the terms of the Future Lease.
- 1. The Future Lease will outline an accelerated lease renewal option based on agreed upon performance criteria.
  - 2. Starting in year five, the rent will be increased annually based on the CPI, not to exceed 3% annually, for term of lease including any renewals.

**SECTION 3. ESTABLISHMENT OF FUTURE LEASE.** CITY and TYSL shall negotiate in good faith to establish the remaining terms of the Future Lease. The parties shall use their best efforts to establish the remaining terms of, and execute, the Future Lease by June of 2012. In the event the parties are unable to timely establish the remaining and final terms of the Future Lease, CITY may further improve and/or use the Property at its sole discretion. The Future Lease terms shall include such items as:

- a. Construction standards (derived from the construction plans and other City standards);
- b. A phasing plan for development and completion of agreed upon Facility Improvements, which plan may include lease options for the land on which the fields will not be constructed within two years of execution of Future Lease;
- c. A description of how the facility will be made available and accessible to the public and to other youth sports organizations in the City of Tracy;
- d. An operations plan detailing TYSL's planned operations and TYSL's maintenance responsibilities and standards;
- e. TYSL's documented financial ability to complete its obligations under the Future Lease; and
- f. First right of refusal at terms acceptable to both parties to lease four adjacent soccer fields in a future phase, as shown in Exhibit B. Such first right of refusal shall be exercisable if TYSL completes construction of the initial four soccer fields within a reasonable time defined in the Future Lease.

**SECTION 4. INSURANCE.**

- a. General. TYSL shall, throughout the duration of this Agreement, maintain insurance to cover TYSL, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
- b. Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- c. Endorsements. TYSL shall obtain endorsements to the commercial general liability with the following provisions:
  - 1. The CITY (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
  - 2. For any claims related to this Agreement, TYSL's coverage shall be primary insurance with respect to the CITY. Any insurance maintained by the CITY shall be excess of the TYSL's insurance and shall not contribute with it.

- d. Notice of Cancellation. TYSL shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days prior written notice to the CITY should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- e. Authorized Insurers. All insurance companies providing coverage to TYSL shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- f. Insurance Certificate. TYSL shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City, no later than five (5) days after the execution of this Agreement.
- g. Substitute Certificates. No later than thirty (30) days prior to the policy expiration date of any insurance policy required by this Agreement, TYSL shall provide a substitute certificate of insurance.
- h. TYSL's Obligation. Maintenance of insurance by the TYSL as specified in this Agreement shall in no way be interpreted as relieving the TYSL of any responsibility whatsoever (including indemnity obligations under this Agreement), and the TYSL may carry, at its own expense, such additional insurance as it deems necessary.

**SECTION 5. INDEMNIFICATION.** TYSL shall indemnify, defend, and hold harmless the City (including its elected officials, officers, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from or arising out of the performance of the Future Lease or its activities at or on the Property.

CITY shall indemnify, defend, and hold harmless TYSL (including its board members, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from or arising out of CITY's activities at or on the Property.

**SECTION 6. NOTICES.** Any and all notices related to this MOU or required by law to be served on or given to either party by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail, first class, postage prepaid, addressed to:

CITY OF TRACY  
Rod Buchanan, Director  
Parks and Community Services  
400 East 10<sup>th</sup> Street  
Tracy, CA 95376

TRACY YOUTH SOCCER LEAGUE  
Board President  
Tracy Youth Soccer League  
P.O. Box 187  
Tracy, CA 95376

With a copy to:  
City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

**SECTION 7. SIGNATURES.** The individuals executing this MOU represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this MOU on behalf of the respective legal entities of TYSL and the City. This MOU shall inure to the benefit

of and be binding upon the parties thereto and their respective successors and assigns.

**CITY OF TRACY**

\_\_\_\_\_  
Brent H. Ives  
Mayor

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Sandra Edwards  
City Clerk

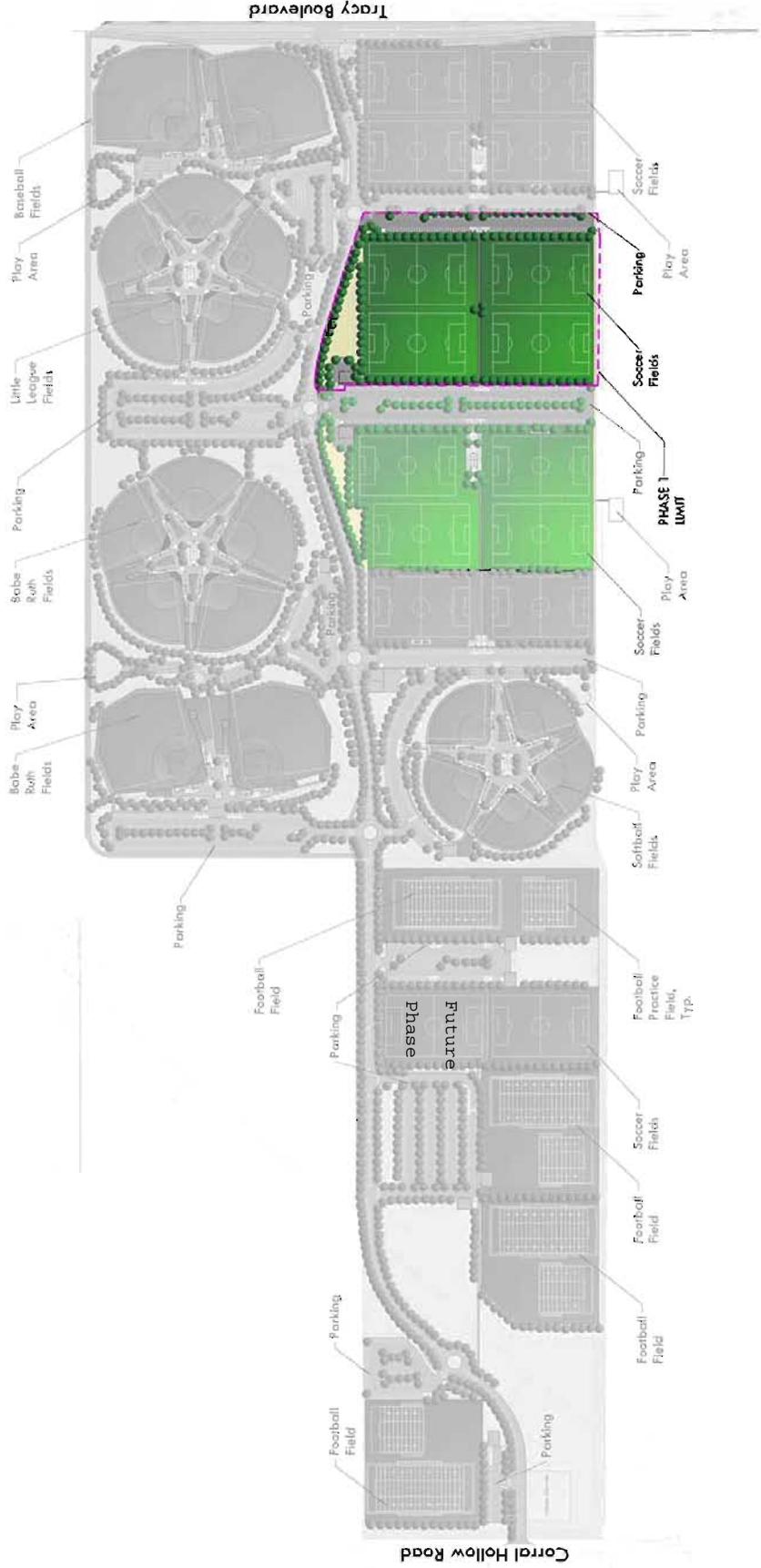
Approved as to Form:

\_\_\_\_\_  
Dan Sodergren  
City Attorney

**TRACY YOUTH SOCCER LEAGUE**

*Shirley Thompson*  
\_\_\_\_\_  
Shirley Thompson  
President

Date: 2/14/2011



--- PHASE 1 LIMIT



# Holly Sugar Sports Complex

## Exhibit A - Tracy Youth Soccer League Fields

### City of Tracy



Date: 02/07/11 Project #: 0909400-0739

Total Area of Tracy Youth Soccer League Fields  
 Soccer League Soccer Fields - 15.8 ac. Phase I  
 Fields - 9.8 ac.  
 Eight 70 YD x 110 YD Soccer Fields



# Tracy Youth Soccer League Fields Exhibit B - Holly Sugar Sports Complex Site Master Plan - City of Tracy



VERDE DESIGN

Date: 02/08/11 Project #: 0909400-0739

LANDSCAPE ARCHITECTURE  
 CIVIL ENGINEERING  
 2455 The Alameda, Ste. 200  
 San Jose, CA 95128  
 Tel: 408.857.2000  
 www.verdedesign.com

RESOLUTION \_\_\_\_\_

APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND TRACY YOUTH SOCCER LEAGUE, INC. RELATING TO THE LEASE OF PROPERTY AND CONSTRUCTION AND MAINTENANCE OF YOUTH SPORTS FIELDS AT THE HOLLY SUGAR SPORTS COMPLEX

WHEREAS, The City of Tracy is finalizing the design and construction documents for the proposed Holly Sugar Sports Complex, and

WHEREAS, The City of Tracy is interested in developing youth sports playing fields at the proposed Holly Sugar Sports Complex; and

WHEREAS, The Tracy Youth Soccer League (TYSL) has expressed and interest in constructing youth soccer fields at the Holly Sugar Sports Complex; and

WHEREAS, The City of Tracy and TYSL have agreed to a design for these youth soccer fields and a specific area within the Holly Sugar Sports Complex for construction of these soccer fields; and

WHEREAS, The City of Tracy and TYSL agree to timely negotiate and finalize a lease agreement as identified in the Memorandum of Understanding.

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves a Memorandum of Understanding between the City of Tracy and Tracy Youth Soccer League, Inc. relating to the development and maintenance of youth soccer fields at the Holly Sugar Sports Complex.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the City Council of the City of Tracy on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

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

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE CITY OF TRACY AND TRACY FUTBOL CLUB  
FOR DEVELOPMENT AND OPERATION OF A YOUTH SPORTS FACILITY**

This MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into this 1st day of March, 2011, by and between the CITY OF TRACY, a municipal corporation ("CITY") and TRACY FUTBOL CLUB, a California non-profit corporation ("TFC").

**RECITALS**

- A. CITY owns approximately ten acres of property on Tracy Boulevard, north of the City, in unincorporated San Joaquin County, contained within the area commonly referred to as the Holly Sugar Sports Fields ("Property");
- B. CITY has initiated and approved an Environmental Impact Report for a youth sports facility on and nearby the Property;
- C. CITY intends to construct infrastructure improvements and design construction documents for sports fields to be located at the Property ("Infrastructure Improvements and Design Standards");
- D. TFC is a California non-profit corporation formed as a youth sports organization in the City of Tracy, California;
- E. The parties desire to enter into a future ground lease or use agreement ("Future Lease"), under which TFC will construct four soccer fields and certain other improvements ("Facility Improvements");
- F. Under the Future Lease, TFC will maintain and operate the Property as a youth sports facility; and
- G. The purpose of this MOU is to set forth the general agreement and understanding of the parties related to key terms of the Future Lease.

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

**SECTION 1. INFRASTRUCTURE IMPROVEMENTS AND DESIGN STANDARDS.** The planned area for the Future Lease is shown in greater detail in Exhibit "A", but is subject to such reasonable deviation as may be needed as more facts are known as to the condition of Property.

CITY will use its best efforts to complete the following Infrastructure Improvements and Design Standards by August, 2012:

- a. Provide infrastructure to the Property, which includes:
  - 1. Gravel parking lot(s);
  - 2. Main utility lines stubbed out to the Property (potable water, irrigation main line(s), sanitary sewer, electric, gas and telephone);
  - 3. Widened Tracy Boulevard frontage;
  - 4. Paved access road;
  - 5. Mass grading of Property; and
  - 6. Construction documents (such as design, etc.) for the four soccer

fields, conceptually shown in Exhibit "B", that TFC will be obligated to build under the Future Lease.

**SECTION 2. TERMS OF LEASE.** The Future Lease for the Property will include, but not be limited to, the following terms:

- a. After the Future Lease is fully executed by all parties, TFC will:
  1. Pay City approximately \$150 per acre annually as rent, for the entire agreed upon leased area, with payment beginning when fields are ready for league construction;
  2. Construct fields and substantiality complete related facilities, substantially adhering to the conceptual layout shown in Exhibit "B" attached hereto and made a part hereof, subject to such reasonable deviation as may be needed as more facts are known, and also adhering to City standards which will include the construction documents for the sports fields within 10 years after execution of the Future Lease, including such related items as installation of irrigation systems, turf, paved pathways and sports fixtures such as bleachers, backstop, etc.;
  3. Obtain and pay any required fees for permits, licenses and inspections for such construction as it is obligated to do under the Future Lease with the exception that the City of Tracy shall pay the costs for any City permit, inspection and license fees that are required as a portion of its consideration of the ground lease;
  4. Operate and schedule leased fields in an effort to meet community sport field needs;
  5. Properly repair and maintain sports fields, sport fixtures and associated landscaping in a timely fashion or contract out services;
  6. Timely pay all possessory interest taxes associated with lease;
  7. Arrange for and pay costs associated with any necessary temporary restroom facilities;
  8. Maintain status as a legal entity entitled to do business (e.g., enter into contracts, be insured, etc.) with the Office of the State of California Secretary of State;
  9. Pay any connection, service and monthly fees associated with utilities (e.g. electric and, water for consumption costs, etc.);
  10. Keep the leased property free of trash and weeds and immediately adjacent areas free and clear of trash and weeds;
  11. Allow the City use of the leased property several days each year, upon reasonable notice from the City so as to not unduly interfere with TFC's planned activities; and
  12. Allow public access to, from, and across parking and concession areas.
- b. After the Future Lease is fully executed by all parties, City will:
  1. Pay for maintaining irrigation wells or pumps (if needed) and cost of electricity associated with such wells or pumps (if needed);
  2. Pay for ongoing maintenance of roadways, public landscape areas and parking lots; and
  3. Allow TFC to:
    - i. Temporarily name facilities/complexes and erect signs identifying those names during the term of the lease, and only on the leased property, and collect fees associated with naming rights. All applicable regulations will apply;

- ii. Charge fees to any individual to use the fields, including parking fees under arrangement with City for specified spaces provided that access to adjacent properties/fields will be allowed at no charge;
  - iii. Rent the leased property and charge fees for the purpose of hosting youth sports functions;
  - iv. Install storage sheds, concession stands, restrooms, etc. upon City approval; and
  - v. Sell concessions during events subject to applicable laws and regulations.
- c. The term of the lease will be one ten-year period with one ten-year extension period if fields are timely built under the terms of the Future Lease.
1. The Future Lease will outline an accelerated lease renewal option based on agreed upon performance criteria.
  2. Starting in year five, the rent will be increased annually based on the CPI, not to exceed 3% annually, for term of lease including any renewals.

**SECTION 3. ESTABLISHMENT OF FUTURE LEASE.** CITY and TFC shall negotiate in good faith to establish the remaining terms of the Future Lease. The parties shall use their best efforts to establish the remaining terms of, and execute, the Future Lease by June of 2012. In the event the parties are unable to timely establish the remaining and final terms of the Future Lease, CITY may further improve and/or use the Property at its sole discretion. The Future Lease terms shall include such items as:

- a. Construction standards (derived from the construction plans and other City standards);
- b. A phasing plan for development and completion of agreed upon Facility Improvements, which plan may include lease options for the land on which the fields will not be constructed within two years of execution of Future Lease;
- c. A description of how the facility will be made available and accessible to the public and to other youth sports organizations in the City of Tracy;
- d. An operations plan detailing TFC's planned operations and TFC's maintenance responsibilities and standards; and
- e. TFC's documented financial ability to complete its obligations under the Future Lease.

**SECTION 4. INSURANCE.**

- a. General. TFC shall, throughout the duration of this Agreement, maintain insurance to cover TFC, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
- b. Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- c. Endorsements. TFC shall obtain endorsements to the commercial general liability with the following provisions:
  1. The CITY (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
  2. For any claims related to this Agreement, TFC's coverage shall be primary insurance with respect to the CITY. Any insurance maintained by the CITY shall be excess of the TFC's insurance and shall not contribute with it.
- d. Notice of Cancellation. TFC shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days prior written notice to the

CITY should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.

- e. Authorized Insurers. All insurance companies providing coverage to TFC shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- f. Insurance Certificate. TFC shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City, no later than five (5) days after the execution of this Agreement.
- g. Substitute Certificates. No later than thirty (30) days prior to the policy expiration date of any insurance policy required by this Agreement, TFC shall provide a substitute certificate of insurance.
- h. TFC's Obligation. Maintenance of insurance by the TFC as specified in this Agreement shall in no way be interpreted as relieving the TFC of any responsibility whatsoever (including indemnity obligations under this Agreement), and the TFC may carry, at its own expense, such additional insurance as it deems necessary.

**SECTION 5. INDEMNIFICATION.** TFC shall indemnify, defend, and hold harmless the City (including its elected officials, officers, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from or arising out of the performance of the Future Lease or its activities at or on the Property.

CITY shall indemnify, defend, and hold harmless TFC (including its board members, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from or arising out of CITY's activities at or on the Property.

**SECTION 6. NOTICES.** Any and all notices related to this MOU or required by law to be served on or given to either party by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail, first class, postage prepaid, addressed to:

CITY OF TRACY  
Rod Buchanan, Director  
Parks and Community Services  
400 East 10<sup>th</sup> Street  
Tracy, CA 95376

TRACY FUTBOL CLUB  
Board President  
Tracy Futbol Club  
1680 Reyes Lane  
Tracy, CA 95376

With a copy to:  
City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

**SECTION 7. SIGNATURES.** The individuals executing this MOU represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this MOU on behalf of the respective legal entities of TFC and the City. This MOU shall inure to the

benefit of and be binding upon the parties thereto and their respective successors and assigns.

CITY OF TRACY

\_\_\_\_\_  
Brent H. Ives  
Mayor

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Sandra Edwards  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Daniel G. Sodergren  
City Attorney

TRACY FUTBOL CLUB

Harry Bourassa  
Harry Bourassa  
President

Date: 2-22-11



Total Area of Tracy  
 Futbol Club Soccer Fields  
 9.8 ac  
 Four 70 YD x 110 YD  
 Soccer Fields



# Tracy Futbol Club Soccer Fields Exhibit B - Holly Sugar Sports Complex Site Master Plan - City of Tracy



JANISCH ARCHITECTURE  
 10001 FLORENCE  
 1400 The Meadows, Ste. 200  
 Santa Clara, CA 95050  
 Tel: 408.982.7200  
 www.janisch.com

Date: 02/08/11 Project #: 0909-400-07-39

RESOLUTION \_\_\_\_\_

APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND TRACY FUTBOL CLUB, INC. RELATING TO THE LEASE OF PROPERTY AND CONSTRUCTION AND MAINTENANCE OF YOUTH SPORTS FIELDS AT THE HOLLY SUGAR SPORTS COMPLEX

WHEREAS, The City of Tracy is finalizing the design and construction documents for the proposed Holly Sugar Sports Complex, and

WHEREAS, The City of Tracy is interested in developing youth sports playing fields at the proposed Holly Sugar Sports Complex; and

WHEREAS, The Tracy Futbol Club (TFC) has expressed an interest in constructing youth soccer fields at the Holly Sugar Sports Complex; and

WHEREAS, The City of Tracy and TFC have agreed to a design for these youth soccer fields and a specific area within the Holly Sugar Sports Complex for construction of these soccer fields; and

WHEREAS, The City of Tracy and TFC agree to timely negotiate and finalize a lease agreement as identified in the Memorandum of Understanding.

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves a Memorandum of Understanding between the City of Tracy and Tracy Futbol Club, Inc. relating to the development and maintenance of youth soccer fields at the Holly Sugar Sports Complex.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the City Council of the City of Tracy on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

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

ATTACHMENT G

**AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT  
DESIGN SERVICES FOR THE HOLLY SUGAR SPORTS COMPLEX (CIP 78115)**

This Amendment No. 1 (hereinafter "Amendment") to the Professional Services Agreement is made and entered into by and between the City of Tracy, a municipal corporation (hereinafter "CITY"), and Nolte Associates Inc., a California Corporation (hereinafter "CONSULTANT").

**RECITALS**

- A. CITY and CONSULTANT entered into a Professional Services Agreement (hereinafter "Agreement") for the Holly Sugar Sports Complex which was approved by the CITY's City Council on July 20, 2010, pursuant to Resolution No. 2010-114
- B. At the request of the CITY and in compliance with the term of the Agreement, on January 5, 2011, CONSULTANT submitted a proposal to perform the services as described in this Amendment 1 to the referenced Professional Service Agreement. After negotiations between CITY and CONSULTANT, the parties have reached an agreement for the performance of the services in accordance with the term set forth in this Amendment. On March 1, 2011, the CITY's City Council adopted Resolution No. 2011-\_\_\_\_, which authorized the execution of this Amendment.

**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:**

- A. Subsection a. of Section 1. Scope of Work of the Agreement is hereby amended to read as follows:

"CONSULTANT shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference and in Exhibit "1" attached to Amendment No. 1 to this Agreement and incorporated herein by reference. The services shall be performed by, or under the direct supervision of, CONSULTANT's Authorized Representative: **Parag Mehta**. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT replace any of the personnel listed in Exhibit "A" of the Agreement and Exhibit "1" of Amendment No. 1 to the Agreement, nor shall CONSULTANT use any subcontractors or subconsultants, without the prior written consent of the CITY."

- B. A new subsection c. is hereby added to Section 5.1, COMPENSATION, of the Agreement to read as follows:

"c. For services performed by CONSULTANT in accordance with Amendment No. 1 to this Agreement, CITY shall pay CONSULTANT on a time and expense basis, at

CITY OF TRACY

Amendment No. 1 to Professional Services Agreement with Nolte Associates

Page 2 of 3

the same hourly fee schedule and billing rates set forth in the original Agreement. CONSULTANT's fee for services provided under Amendment No. 1 shall not exceed Eighty Three Thousand Dollars (\$83,000). CONSULTANT's billing rates shall cover all costs and expenses of every kind and nature for CONSULTANT's performance of this Agreement. No work shall be performed by CONSULTANT in excess of the Not To Exceed amount without the prior written approval of the CITY."

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.
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 Subdivider and 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 H. Ives  
Title: Mayor

Date: \_\_\_\_\_

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

Date: \_\_\_\_\_

Approved as to form

By: \_\_\_\_\_  
Daniel G. Sodergren  
Title: City Attorney

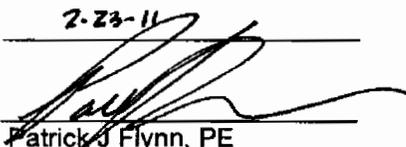
Date: \_\_\_\_\_

CONSULTANT

Nolte Associates, Inc

By:   
David Richard, PE  
Title: Vice President

Date: 2-23-11

By:   
Patrick J. Flynn, PE  
Title: Senior Vice President

Date: 2-23-11

**EXHIBIT 1**

**SCOPE OF WORK FOR AMENDMENT 1 TO PROFESSIONAL SERVICES  
AGREEMENT WITH NOLTE ASSOCIATES FOR  
THE HOLLY SUGAR SPORTS COMPLEX**

On July 20, 2010, City Council approved a Professional Services Agreement with Nolte Associates to complete design and construction documents for the Phase I of the Sports Complex for an approximately 60 acres site (14 soccer fields, 7 baseball diamonds and 3 parking lots).

Since the award of this agreement, Nolte team has conducted meetings with staff, Parks and Community Services Commission and local youth sports organizations to receive input on the Design Development Package for the Complex. As a result, the original Phase I site was revised to meet the user's needs and stay within available project funding.

The new proposed first phase would encompass approximately 70.2 acres of the project site. The newly expanded phase one area would include a total of 12 baseball fields, along with 8 soccer fields and four parking lots to accommodate facility users. The original phase one was to include 7 baseball fields and 14 soccer fields.

The scope of services for this amendment is to perform field design services for the the proposed increase in the size of the first phase and the increase in the number of baseball fields. The newly expanded phase one area would include a total of 12 baseball fields, along with 8 soccer fields and four parking lots to accommodate facility users.

This task will include design and preparation of improvement plans, construction documents including construction specifications of 5 additional baseball fields to be built by sports leagues. The detail design services tasks for this amendment will be consistent with the tasks 6.1 of the original scope of services.

RESOLUTION \_\_\_\_\_

APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH NOLTE ASSOCIATES FOR ADDITIONAL DESIGN AND CONSTRUCTION RELATED SERVICES FOR THE HOLLY SUGAR SPORTS COMPLEX IN THE AMOUNT OF \$83,000 AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT

WHEREAS, On July 20, 2010 Council adopted Resolution Number 2010-114 authorizing the Mayor to execute an agreement between the City of Tracy and Nolte Associates, Inc. for design services for the Holly Sugar Sports Complex; and

WHEREAS, Since the execution of this agreement, representatives of Nolte Associates, Inc. City staff, the Parks and Community Services Commission and interested community youth sports organizations have provided input on the Design Development Package; and

WHEREAS, These revisions have created a change in scope which requires an amendment to existing agreement between the City and Nolte Associates, Inc. to perform these services.

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves Amendment Number 1 to the Professional Services Agreement with Nolte Associates, Inc. for additional design and construction related services for the Holly Sugar Sports Complex in the amount of \$83,000 -CIP 75115, and authorizes the Mayor to execute the Amendment on behalf of the City.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the City Council of the City of Tracy on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

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

March 1, 2011

AGENDA ITEM 4

REQUEST

**SEEK CITY COUNCIL DIRECTION ON THE DRUG ABUSE RESISTANCE EDUCATION (DARE) PROGRAM PROFESSIONAL SERVICES AGREEMENT WITH THE TRACY UNIFIED SCHOOL DISTRICT (TUSD) AND WHETHER AND HOW TO PHASE OUT OF CITY FUNDING THE DARE PROGRAM**

EXECUTIVE SUMMARY

The City Council has already discussed and approved the allocation of \$45,000 to the Police Department to fund the DARE program for School Year 2010-11, but Council wanted certain items evaluated before a new Professional Services Agreement to provide DARE service is signed with the Tracy Unified School District (TUSD). This report provides staff evaluation of each item, including the logistics of implementing such items, and staff seeks direction on Council's desire on which items it wants incorporated into a Professional Services Agreement with TUSD.

DISCUSSION

At its July 20, 2010 council meeting, Council concluded that the DARE program has a value to the Tracy community and endorsed its continuance in the Tracy schools. The worsening economic climate prompted the City to reduce its financial support for the DARE program from \$60,000 to \$45,000 for the 2010-11 Fiscal Year.

The Council discussed and asked that six items be brought back to Council for discussion before a new Professional Services Agreement is signed with TUSD. The items to be evaluated are the following:

- 1) Because the City provides funding, Council wanted a voice on the DARE board
- 2) The desire to have accounting reported on calendar versus fiscal year
- 3) The desire to have greater accountability for expenditures
- 4) The feasibility of reducing storage fees through use of school facilities
- 5) How Tracy police officers can become more involved in the DARE program
- 6) Evaluate a phase out schedule to eliminate the reliance on City funding

In preparing this report, staff spoke with members of the DARE board of directors, the Kiwanis Club board of directors, the TUSD DARE liaison, Mr. Paul Hall, and Police Department command staff to explore the feasibility of implementing each item and making a recommendation. Everybody was cooperative and candid with their input.

**1) Because the City provides funding, Council wanted a voice on the DARE board**

The DARE Board is comprised of volunteers representing a cross section of our community with backgrounds in education, law enforcement, business, and community service. According to the DARE board, members are not appointed to any fixed terms and can serve on the board as long as they have the energy and are willing to commit the time to promote DARE. The board states they work collaboratively and they vote on who

will serve as their board officers and what policy direction the program will take. New members are selected when there is a vacancy and all candidates must show a commitment to furthering the objectives of the DARE program and educating the youth of Tracy before they are selected. Board members are required to put in the time needed to actively solicit fundraising to support the program, to prepare for and attend DARE graduations, and to attend regular and ad hoc meetings based on the needs of the DARE program.

The DARE board stated it had no objection to a City representative serving on the board of directors, but they did state they would require the designated City representative to pass the same screening standards and fulfill the same commitments as any other candidate seeking to serve on the board of directors. That is, the candidate will be interviewed and voted on by the existing board members for membership and then be required to fully participate in promoting the DARE program through active fundraising, regular and ad hoc meeting participation, and preparation and attendance at the DARE events. Because DARE board membership is a voluntary service, the DARE board would not pay for any City employee labor costs and the City would be responsible for the time or the City employee must be willing to donate their personal time and energy in furtherance of the DARE objectives. The board feels that, because they put in so much time and energy to support the program, it would be unfair to other board members if the City wanted to assign a member to the board of directors, have a voice, and vote in program direction without being involved.

Recommendation: Staff recommends the City's role in the DARE program oversight remain as is and has been in recent years whereby the Command Officer overseeing the Police Department budget serves as the staff liaison to the DARE board of directors and to TUSD. Adding a Council member designee to the DARE Board of Directors may have Brown Act requirement implications and subject the non-profit board to the same noticing and agenda requirements as the City has for its Boards and Commissions and would not be recommended. The City Manager, administratively, always retains the right to assign a staff liaison to represent the City to any contracting agency if such involvement is in the best interest of the City.

## **2) The desire to have accounting reported on calendar versus fiscal year**

The DARE board states that it currently reports financials on a fiscal year basis and no adjustment can be made in its financial statement reporting schedules. The DARE board falls under the dual umbrella of Kiwanis International for its insurance and 501(c)4 status and of Good Samaritan for its 501(c)3 status and as such is obliged to report their financial statements in a fiscal year of July 1 through June 30. The DARE board is compelled to comply with Kiwanis International and Good Samaritan's rules and by-laws or it will lose its insurance and non-profit status. However, the DARE board stated if the City was willing to indemnify the Board and help it obtain their own tax-exempt status, then the DARE board could change to a calendar year reporting.

Recommendation: Staff recommends leaving accounting reporting on a calendar year as is.

### **3) The desire to have greater accountability for expenditures**

The parameters for which invoices are paid is clearly delineated in the Professional Services Agreement between the City and TUSD and those guidelines have evolved over the years. The review and approval process currently in use to audit the expenditure of City funds to ensure compliance with the intended purpose from Council has a triple review and confirmation process on all submitted expenses, backed with itemized receipts, before any payment is made by the City. The triple check on expenses is as follows:

- 1) All DARE receipts are reviewed by the DARE board treasurer for compliance with the guidelines set forth under the City of Tracy and Tracy Unified School District. These receipts are then shared with the Kiwanis Club Board of Directors as part of its financial report and it approves the submission to the TUSD. Tracy Kiwanis is the subcontractor to the TUSD and it is the fiscal agent for the DARE board.
- 2) All DARE receipts are reviewed by TUSD's DARE Liaison, Paul Hall, Director of Student Services, for compliance with the Professional Services Agreement. Mr. Hall then forwards the receipts to TUSD Finance Department staff for another review and preparation of the invoicing to be forwarded to the Police Department
- 3) All DARE receipts are reviewed by the Tracy Police Department's staff member responsible for billing and invoices to again ensure compliance for appropriateness. After all these reviews, all invoices and receipts are forwarded to the Command Officer who oversees the Police Department budget for final approval and sign off for payment. The invoices are forward to the City of Tracy Finance Department for payment to TUSD.

Recommendation: Triple review of the expenditures is already in place to ensure the public's funds are appropriately used. Over the years, the scrutiny on expenditures has created a better contract and items that were once allowed were removed. Staff believes the auditing system currently in place is sufficient and recommends leaving as is. It is recommended, however, that Council receive a semi-annual status update report on performance and budget in January/February and July/August.

### **4) The feasibility of reducing storage fees through use of school facilities**

The DARE board stated it was open to any storage alternatives, provided the space was securable to protect all purchased items from theft/loss and the elements and the space was accessible by their volunteer group, usually after hours or on weekends. The concept of finding alternative storage at TUSD and saving the monthly expenditure for storage fees was explored and determined to be impractical. TUSD staff stated they had a two prong problem in accommodating this request;

- a) No isolated and securable location that could house the purchased DARE items is available such that TUSD can guarantee security from potential loss or damage.
- b) Due to liability issues, even if TUSD could locate a secure area on TUSD property, it could not give a key and/or access to any non-TUSD person to come onto TUSD property without escort and retrieve DARE items whenever they wanted. Because most items would be accessed at nights or weekends, the DARE program would have

to be charged an overtime rate for a TUSD employee to be summoned to escort them to the storage area to open it and escort them around the TUSD facility.

Recommendation: Staff has determined that neither TUSD option is practical and paying money to access their supplies would result in a different type of program expense, much less the inconvenience associated with the practice.

### **5) How Tracy police officers can become more involved in the DARE program**

The Tracy Police Department used to solely teach the DARE program with its own sworn officers. However, it became too costly to continue using TPD's sworn officers so the decision was made to outsource its teaching. Today, TUSD subcontracts with the Kiwanis Club to find a qualified DARE instructor to teach the program and the DARE board serves under the Kiwanis Club umbrella. From a cost-benefit analysis, the outsourcing of the program has been a good fiscal decision. The decision has allowed a good service delivery model to be implemented at a lesser per student cost than using our own staff and it has allowed the Police Department to allocate the former DARE officer position to other law enforcement needs for the community.

More recently the Police Department has visibly supported the DARE program by having sworn police officer staff, including Command Officers, attend and participate in the DARE graduations. Staff has discussed how an even greater Tracy police officer presence could be used within the DARE program. An idea was to have "on duty" uniformed patrol staff participate in the DARE program by visiting DARE classroom during certain sessions, particularly the ones dealing with topics like "consequences," "role models," and "gangs." While a good idea, the operational concern would be that these same uniformed patrol officers would be subject to patrol duty responses. The Police Department's emphasis is to keep uniformed patrol officers available and focused on addressing street and gang related events. Thus, the certainty with which the officers could be in the classroom was questionable. Given the negative impact on the students and teachers if the officer did not show up as expected, how it would undermine TPD's credibility, and the emphasis is on high visibility uniformed patrol as a deterrent to gang activity on the street, the use of uniformed patrol officers for this outreach effort would not be the best option.

However, in order to have Tracy Police Department personnel involvement in the program, staff recommends "uniformed" police presence include command staff, gang officers, sergeants or lieutenants in order to provide more flexibility based on availability of staff so the burden is lifted from a sole reliance on uniformed patrol. For example, gang officers could attend certain sessions to speak about the dangers of gang membership. Gang officers already make community presentations and their work schedules can be more readily adjusted to fulfill commitments as they are not the primary responders to immediate calls for service. Likewise, personnel not assigned to primary patrol functions, like detectives and sergeants could occasionally be put into uniforms for school presentations. Even command officers can adjust their schedules and participate in the community presentations. Patrol personnel can be used when possible and as calls for service permit. The combined organizational effort should allow for sufficient Tracy Police Department presence in support of the DARE program without additional expense.

Recommendation: Staff recommends Council accept the Police Department's new strategy for incorporating more Tracy Police Department personnel into the DARE classrooms as a supplement to the lessons already taught by the DARE instructor. While the logistics of who will attend which specific classrooms and when have yet to be worked out, those outcomes will be included in a planned semi-annual performance report to Council. Police staff will also continue attending the DARE graduations.

#### **6) Evaluate a "phase out" schedule to eliminate the reliance on City funding**

Through the Professional Service Agreement with the TUSD, the City's current funding allocation ensures the DARE program is taught to all public school fifth grade classes within the City limits (including two Jefferson School District schools). The estimate is over 2000 students per year. At the July 20, 2010 Council meeting, members of the Council discussed a desire to phase out City funding of the DARE program and encourage the DARE board to increase its donation gathering efforts to continue the program. Council agreed that the DARE program in Tracy was valued by and well received in the community.

The DARE Board of Directors was asked to offer its input on the rate at which they could sustain a phase out strategy to eliminate the need for continued City financial support. Given the poor economy, like all other non-profits, the DARE board is spending significant amounts of time and resources soliciting donations and the capacity of donors to give money has diminished. The DARE board could not offer any definitive time frame and stated that whatever time they are given by the City, they will simply have to adjust to keep some semblance of the DARE program going.

The DARE board asked the following three points be returned to the City Council in determining any phase out timeline.

- a) Consideration of increasing the city contribution for the DARE program back to its original \$60,000 amount and allow for the use of City funds to go toward salary or compensation to instructors.
- b) Retaining the \$45,000 per year contribution going forward without a phase out. DARE board members stated that, like many non-profits, board members are having to put more hours into fundraising because fewer people have disposal income. Any loss of funds would make their fundraising efforts that much more difficult.
- c) If the City wanted a phased out approach, the DARE board stated it would do all it could to raise funds to continue and support the DARE program in the City. The DARE board also recognized that if it fell short of its target objectives, it would then have to make the difficult choice of which schools would have DARE programs eliminated because of financial shortfalls.

Recommendation: Staff recommends sustaining the current funding level of \$45,000. Staff also recommends sending a semi-annual performance report to Council on the DARE program's accomplishments.

The Council has already approved the reduced City contribution from \$60,000 to \$45,000 for this 2010-11 Fiscal Year and these funds will be used to pay for bills on supplies and

expenses, less any salaries. Staff recommends that Council maintain the current financial contribution level of \$45,000 per year for the upcoming fiscal year 2011-2012 as little time is left to sufficiently ramp up any donation efforts to overcome funding reductions.

If Council would like to implement a phase out schedule, staff recommends the topic be discussed as part of the City's FY 12-13 budget preparation discussions. This would allow the DARE board to be better positioned to evaluate the likelihood of obtaining more donation dollars to become wholly self-sufficient or to evaluate what reductions in service delivery to the number of classrooms reductions would create.

### STRATEGIC PLAN

This agenda item supports the Public Safety strategic plan and specifically implements the following goal and objectives:

Goal 3: Empower the residents with the tools needed to maintain a safe quality of life. As DARE is a life skills program, the City would be addressing residents at the age when they are most vulnerable to the dangers and lures of drugs, gangs and anti-social behavior.

### FISCAL IMPACT

There is no immediate impact to the City's FY 2010-11 Budget as \$45,000 has already been approved through Council Resolution for the continued city contribution toward the DARE program. The funds would be added to the Police Department's Operating Budget for reimbursement to the Tracy Unified School District.

Depending on what action the City Council takes on the recommendations, there could be some future impact on the General Fund, either positively or negatively, depending upon which recommendations are selected.

### RECOMMENDATION

That the City Council discuss the recommendations on the six City Council items raised from a previous Council meeting and provide direction to staff on which items they want to be implemented. All direction will be incorporated into a new, revised, Professional Services Agreement (PSA) with the Tracy Unified School District to provide DARE program services and this new PSA will be presented at a later meeting for City Council approval.

Prepared by: John Espinoza, Police Captain

Reviewed by: Janet Thiessen, Chief of Police

Approved by: R. Leon Churchill, Jr., City Manager

AGENDA ITEM 5

REQUEST

**PUBLIC MEETING TO CONSIDER A RESPONSE TO THE STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT REGARDING COMMENTS ON THE DRAFT HOUSING ELEMENT**

EXECUTIVE SUMMARY

This is a public meeting to consider options in response to the State Department of Housing and Community Development's comments on the City's Draft Housing Element regarding Measure A and the Growth Management Ordinance.

DISCUSSION

At the December 21, 2010 City Council meeting, public input was solicited regarding the State Department of Housing and Community Development's (HCD's) comments (Attachment A) on the City's Draft Housing Element. The focus of the discussion was on HCD's comments regarding the City's Growth Management Ordinance (GMO) and the 2000 voter initiative, Measure A. State HCD believes the limit on the number of new residential building permits does not allow the City to meet its RHNA (Regional Housing Needs Allocation), and asserts the Housing Element "must include programs to address and mitigate and/or remove constraints of the GMO." The City's RHNA is 4,888 units from 2007 through 2014 – 1,341 more than could be accommodated by the limits of the GMO.

Representatives from Tracy Region Alliance for a Quality Community (TRAQC) and the Building Industry Association of the Delta (BIA) spoke at the meeting. Attachments B and C are correspondence from TRAQC and the BIA, respectively.

TRAQC, essentially, is asking the City to accommodate the RHNA by obtaining credit for building permits issued during the past two RHNA cycles, dating back to 1993, during a time when the City issued more building permits than the RHNA.

State housing law does not authorize this approach. The RHNA planning cycle is adopted by legislation and the RHNA allocation is specific to that planning cycle. Furthermore, the RHNA is a planning goal, not a production goal. HCD has maintained that the RHNA is a minimum that each jurisdiction must meet through land use planning and zoning, but it is not a maximum.

In HCD's interpretation of the law, there is no "over production" in housing units. If housing production exceeds the RHNA, production is responding to market demands at the time (during that specific Housing Element planning period). Therefore, if a jurisdiction produces building permits (in excess of the RHNA) in one planning period, it does not earn a credit for the next planning period. By the same token, because the RHNA is not a production goal, if the jurisdiction under produces building permits (compared to the RHNA), it does not get penalized by being required to produce more in a later cycle.

The City is obligated under State law to “address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities.”

Specifically, the City must demonstrate, to the satisfaction of the State, that it has mitigated its constraints to housing development. According to HCD comment letters for the 2003 Housing Element and 2009 Housing Element, limiting supply is a constraint to housing development. It is precisely due to this reasoning that the City’s 2003 Housing Element did not receive certification from HCD.

Once a jurisdiction fulfills its planning obligations for the RHNA -- providing adequate sites with appropriate densities and development standards, and mitigating identified constraints to housing development – then regardless of actual production, the RHNA is wiped clean at the end of the planning period, with a new RHNA starting for the next period. The majority of jurisdictions in California do not meet their RHNA in terms of production. However, according to HCD, no jurisdiction can receive certification if it does not adequately accommodate the RHNA through planning.

The BIA, by contrast, is endorsing an approach described as “Option B” in the December 21, 2010 City Council staff report. Basically, Option B would rely on an interpretation and implementation of Measure A that would allow issuance of building permits up to the City’s RHNA. This option is described in more detail below.

As discussed during the December 21, 2010 City Council meeting, HCD certification would decrease the frequency required to update the Housing Element in the future (from once every four years to once every eight years) and increase competitiveness or access to certain State grants or loans. Consultant costs to update the Housing Element are estimated at \$75,000 or more plus staff time for each update.

Two examples of programs affected by Housing Element certification from HCD are a residential project in Long Beach and a State infrastructure loan program. In 2009, the City of Long Beach and a residential developer received \$26 million to help develop a mixed use project in downtown Long Beach consisting of approximately 500 units, including 150 affordable senior housing units. The grant is a Transit Oriented Development grant authorized under California’s Proposition 1C. The project would not have qualified for funding if Long Beach’s Housing Element had not been certified by HCD.

Another example of infrastructure financing affected by Housing Element certification is a loan program offered through the California Infrastructure and Economic Development Bank (I-Bank). An I-Bank loan is a low-interest loan program and one potential source of funding the City could pursue for the upcoming Wastewater Treatment Plant Outfall Project.

### Options

During the December 21, 2010 City Council meeting, City staff identified three options as possible responses to HCD's concerns with Measure A, summarized as follows:

#### A. Submit an Initiative Measure to the Voters

Under the California Elections Code, no ordinance that is adopted by the voters, such as Measure A, may be repealed or amended except by a vote of the people, unless provision is otherwise made in the original ordinance. (Elections Code, section 9217.)

It should be kept in mind that the State Housing Element law provides in relevant part that the City is only required to "[a]ddress and, where appropriate and *legally possible*, remove governmental constraints to the maintenance, improvement, and development of housing for all income levels and housing for persons of disabilities." (Italics added.) (Government Code, section 65583(c)(3).) Therefore, because the City Council cannot legally amend or repeal Measure A on its own, it is not an option that should be included in the Housing Element.

Nevertheless, the City Council could adopt a program in the Housing Element directing the City Council to propose an initiative measure to the voters to repeal or amend Measure A to ensure that the City can meet the RHNA.

#### B. Amend the GMO

Measure A provides in relevant part that:

Nothing in this Initiative Ordinance shall be construed to preclude, prohibit or limit the City from complying with any requirements under state housing law. To the extent that any provision of this Initiative Ordinance can be read to conflict with state housing law, it shall be read to allow for compliance with state housing law, while honoring the intent and purpose of the Initiative Ordinance.

Interpreting and implementing this provision of Measure A, the City Council could adopt a program in the Housing Element directing the City Council to adopt an amendment to the GMO which would allow issuance of building permits up to the City's RHNA in each income category based on HCD criteria.

Should the demand for building permits exceed Measure A limits in a calendar year, the City would issue building permits until the City's RHNA obligation in each income category has been met.

Any building permits issued in excess of Measure A's 600 units-per-year average or 750 in a calendar year would be exempt from the GMO, up to the RHNA. The building permit exemptions to accommodate the RHNA would be available to any project that otherwise qualifies to obtain building permits (complies with all City standards, has approved tentative and final maps, has paid all fees for public services, etc.).

The City of Tracy's RHNA for the 2007 through June 2014 cycle is 4,888, for the four income categories combined: Very Low, Low, Moderate, and Above Moderate. To date, the City has issued 372 building permits during this RHNA cycle, leaving a balance of 4,516. The number of additional units needed to meet the RHNA, by income category, is as follows: Very Low, 907; Low, 582; Moderate, 669; and Above Moderate, 2,357.

C. Suggest No Changes to the GMO at This Time

The City Council could direct staff to respond to HCD that, at this time, the City chooses not to suggest any changes to the GMO (including Measure A) or the GMO Guidelines in the Housing Element.

Whichever option is chosen by the City Council, staff will communicate with and submit implementation details for review by HCD. Any changes requested by HCD would be brought to City Council for consideration and final review.

HCD Review

In accordance with State housing law, all cities are required to submit a draft Housing Element to HCD for review and comment. State HCD is required to determine whether the Draft Housing Element substantially complies with State housing law. State housing law requires each city's Housing Element, generally, to (1) identify and analyze housing needs for all income levels, (2) contain goals and programs to preserve and develop housing, (3) identify adequate sites for housing, and (4) analyze governmental and nongovernmental constraints upon the maintenance and development of housing.

If HCD determines that Tracy's Draft Housing Element substantially complies with State housing law, the City Council may adopt the Housing Element. If HCD determines the Draft Housing Element does not substantially comply with State housing law, the City Council may modify the Draft Housing Element and resubmit to HCD for review, or the City Council may adopt the Housing Element without changes. If the City Council adopts the Housing Element without changes requested by HCD, the City Council shall include findings which explain the reasons the City believes the Housing Element complies with State housing law. Each time HCD reviews a draft Housing Element, housing law provides 60 days for their review. State HCD has 90 days to review and provide comments on the Housing Element eventually adopted by the City Council.

STRATEGIC PLAN

This agenda item is in response to the State Housing Element requirements and does not relate to the Council's seven strategic plans.

FISCAL IMPACT

This agenda item and Draft Housing Element preparation is within the scope of work approved by the City Council for VTA on April 21, 2009 (Resolution 2009-068). No additional expenditure of funds is required. To date, VTA has been paid \$39,076.60 of

the \$75,000 Professional Services Agreement maximum. The source of funding for this CIP was the General Fund.

RECOMMENDATION

Staff recommends that the City Council direct staff to amend the Draft Housing Element to respond to HCD comments and include Option B as a program in the Housing Element as described above.

Prepared by: Alan Bell, Senior Planner

Reviewed by: Bill Dean, Development and Engineering Services Assistant Director

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

ATTACHMENTS

Attachment A – August 19, 2010 HCD Comment Letter  
Attachment B – December 21, 2010 Correspondence from TRAQC  
Attachment C – January 11, 2011 Correspondence from the BIA

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT

ATTACHMENT A

1800 Third Street, Suite 430  
P. O. Box 952053  
Sacramento, CA 94252-2053  
(916) 323-3177 / FAX (916) 327-2643  
www.hcd.ca.gov

August 19, 2010

Mr. Bill Dean, Manager  
Planning Department  
City of Tracy  
333 Civic Center Plaza  
Tracy, CA 95376

RECEIVED

AUG 20 2010

CITY OF TRACY  
D.E.S.

Dear Mr. Dean:

**RE: Review of the City of Tracy's Draft Housing Element**

Thank you for submitting Tracy's draft housing element received for review on June 22, 2010 along with additional revisions received on August 13 and 16, 2010. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(b). A telephone conversation on August 12, 2010 with Ms. Veronica Tam and Ms. Jessica Suimanjaya, of Veronica Tam and Associates, facilitated the review. In addition, the Department considered comments from the Building Industry Association of the Delta pursuant to Government Code Section 65585(c).

The Department commends Tracy for its achievements in partnering with non-profit housing providers to preserve the City's housing stock affordable to lower-income households. The draft element addresses many statutory requirements; however, revisions will be necessary to comply with State housing element law (Article 10.6 of the Government Code). In particular, the element must include a complete land inventory and analysis to accommodate the regional housing need and address potential governmental constraints. The enclosed Appendix describes these and other revisions needed to comply with State housing element law.

The Department is committed to assist Tracy in addressing all statutory requirements of housing element law. If you have any questions or need additional technical assistance, please contact Brett Arriaga, of our staff, at (916) 445-5888.

Sincerely,

*Glen A. Campora*  
Assistant Deputy  
for Cathy E. Creswell  
Deputy Director

Enclosure

APPENDIX  
CITY OF TRACY

The following changes would bring Tracy's housing element into compliance with Article 10.6 of the Government Code. Accompanying each recommended change, we cite the supporting section of the Government Code.

Housing element technical assistance information is available on the Department's website at [www.hcd.ca.gov/hpd](http://www.hcd.ca.gov/hpd). Refer to the Division of Housing Policy Development and the section pertaining to State Housing Planning. Among other resources, the Housing Element section contains the Department's latest technical assistance tool *Building Blocks for Effective Housing Elements (Building Blocks)* available at [www.hcd.ca.gov/hpd/housing\\_element2/index.php](http://www.hcd.ca.gov/hpd/housing_element2/index.php), the Government Code addressing State housing element law and other resources.

**A. Housing Needs, Resources, and Constraints**

1. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

Tracy has a remaining regional housing needs allocation (RHNA) of 4,533 housing units, of which 1,489 are for lower-income households. To address this need, the element relies on vacant sites, including sites in specific plan areas. To demonstrate the adequacy of these sites and strategies to accommodate the City's RHNA, the element must include complete analyses as follows:

Sites Inventory: Many of the parcels are aggregated to include potential unit capacities and sizes. For example, Site O, Map ID numbers 88-91, includes four parcels totaling 33.8 acres with an estimated unit capacity of 676 units. However, the element must also include parcel sizes and potential unit capacity for each identified parcel. This is particularly important in evaluating whether parcels are appropriately sized to facilitate the development of housing for lower-income households.

*For smaller parcels (<1 acre) anticipated to be developed individually and necessary to accommodate the RHNA*: The element should include an analysis demonstrating the potential of smaller sites anticipated to develop individually to accommodate residential development, given necessary economies of scale, particularly for new multifamily rental development affordable to lower-income households. While it may be possible to build housing on a very small parcel, the nature and conditions necessary to construct the units often render the provision of affordable housing infeasible. For example, assisted housing developments utilizing State or federal financial resources typically include 50-80 units. *For parcels anticipated to be consolidated and necessary to accommodate the RHNA*, the element should describe the potential for lot consolidation, including conditions rendering parcels suitable and ready for redevelopment, trends or information on the number of owners and indicating where sites have been assembled.

In addition, the element must also include site-specific information (parcel number, size, zone, General Plan designation and capacity) for sites in specific plan areas as identified (pages 80-82).

Ellis Specific Plan: Residential capacity in the Ellis Specific Plan is still dependent on annexation to be available for development. If using these sites to accommodate the regional housing need, the element must:

- Describe all required entitlement process steps, minimum timelines, and findings to make the sites available in the planning period and indicate what portions of the required process are under the City's control to initiate.
- Describe the status of the San Joaquin Local Area Formation Commission's required findings for annexation of the Ellis Specific Plan area.
- Given the length of time needed for annexation and development approvals, include a realistic estimate of the length of time necessary for annexation into the City and an estimate of the number of units that could be developed in the planning period.

Downtown Specific Plan: The element indicates the Downtown Specific Plan is pending adoption and does not demonstrate whether zoning is available to accommodate a portion of the regional housing need for lower-income households. The element should identify sites by existing zoning and allowable densities and may also list sites by proposed zoning. If rezoning is necessary to make sites available at appropriate densities, the element may need to add or revise programs pursuant to Government Code Sections 65583(c)(1) and 65583.2(h) and (i).

Large Sites: Appendix B appears to identify very large parcels (Sites G, H, O and P) to accommodate the City's housing need for lower-income households with estimated unit capacities over 500 units. However, the element does not describe how such large parcels can facilitate the development of housing affordable to lower-income households. For example, most developments utilizing State or federal financial resources include 50-150 units. If using larger sites to accommodate the City's share of the regional housing need for lower-income households, the element should include an analysis of the appropriateness of such sites including, for example, a discussion of opportunities for specific-plan development, further subdivision or other methods to facilitate their use for the development of housing affordable to lower-income households.

Realistic Capacity: The element appears to assume 80 percent of maximum densities (Table 53). However, the estimate of potential unit capacity must consider land-use controls and site improvements, including height limits and floor area ratio. As a result, the element must describe the methodology for determining the development capacity of sites listed in Table 53 and Appendix B. For example, the element could include examples of recent residential capacities of developments.

Environmental Constraints: While the element broadly discusses environmental constraints (pages 72-75), it should include a general discussion of how these or other conditions may impact development capacity in the planning period.

2. *Analyze potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7) (Section 65583(a)(5)).*

Land-Use Controls: Growth Management Ordinance (GMO): While the element includes a general and broad overview of the GMO, it must include a specific description and analyses of the ordinance, its requirements and processes. More specifically, the element should address all of the following:

*GMO and the RHNA:* As indicated in the element, the GMO does not allow the City to accommodate the RHNA (page 49). As a result, the element must include programs to address the constraint and accommodate the RHNA.

*GMO Process:* Provide analyses regarding the impacts of the GMO process and limitation of the residential growth allotment (RGA) on the cost, supply, timing and affordability of housing, including, but not limited to:

- The element must describe and analyze the exemption process for projects with an affordable component, including its effectiveness to date in accommodating lower- and moderate-income households. This is particularly important since the exemption requires 55-year deed restrictions for moderate-income housing development while current market sale prices are affordable to this income group.
- Given the GMO prohibits carryover of unused allocations, the element must analyze the impact on the cost, supply and availability of sufficient allocations to accommodate the City's RHNA throughout the planning period.
- Identify and analyze any limit to the number of allocations which could be received by a project in a single year and the process for obtaining allocations for phased projects (multi-year development), and the effect on financing required for infrastructure.
- Length of time for approval of allocations and how the approval process relates to other entitlements, including evaluating cumulative impacts on timing and costs.
- Describe and analyze the impacts of scoring criteria on costs and timing of development. For example, the element does not discuss how criteria for primary and secondary areas are considered and does not list or evaluate the other criteria in the GMO guidelines (page 50).
- Analyze the GMO process on the certainty and predictability of development approval.
- Analyze the impacts of annual limits on the cost and supply of housing, including descriptions and analysis of the effects of five-year rolling averages of RGAs.
- Identify and analyze the relationship of primary and secondary areas and their impacts on identified sites in the inventory.

Fees and Exactions: While the element includes a list of some fees, the analysis should list all applicable fees in the analysis of typical per unit fees for single- and multi-family development. For example, the analysis noting typical fees of \$23,000 per multifamily unit does not list fees comprising the \$23,000 or include planning and other fees assessed from outside entities, such as school fees (page 65). For assistance with this requirement, refer to the *Building Blocks*' website at [http://www.hcd.ca.gov/hpd/housing\\_element2/CON\\_fees.php](http://www.hcd.ca.gov/hpd/housing_element2/CON_fees.php).

## B. Housing Programs

1. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing, mobilehomes, and emergency shelters and transitional housing. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

As noted in the Finding A-1, the element does not include a complete sites inventory or analysis; as a result, the adequacy of sites and zoning has not been established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites and zoning for a variety of housing types. Specifically, the element must include a program to provide sites with zoning that allows owner-occupied and rental multifamily uses by-right sufficient to accommodate the remaining need for lower-income households. Pursuant to Government Code Section 65583.2(i), "by-right" means local government review must not require a conditional use permit (CUP), planned unit development or other discretionary review or approval.

The program must also ensure the adequate sites program provides for:

- minimum of 16 units per site;
- a minimum density of 20 units per acre; and
- at least 50 percent of the lower-income need must be accommodated on sites designated for residential use only.

Program 16 (Emergency Shelters): While the Program describes the City's commitment to amend the MDR and HDR zones to permit emergency shelters without a CUP, it must also commit to only subject emergency shelters to the same development and management standards that apply to other uses within the identified zone.

2. *Describe the amount and uses of fund in the redevelopment agency's Low and Moderate Income Housing Fund (Section 65583(c)).*

While the element identifies a current low- and moderate-income fund balance of \$3,684,804 (page 87), it should also include an estimate of the moneys expected to accrue through the end of the planning period. The City should describe the proposed uses of these funds by approximate amount where possible and relative to the programs described in the element. In addition, Health and Safety Code Section 33413(b)(4) requires a redevelopment implementation plan to be consistent with a community's housing element. The integration of applicable information from the redevelopment agency's current housing implementation plan into the housing element will assist in the development of an effective element. For assistance with this requirement, see the *Building Blocks'* website at [http://www.hcd.ca.gov/hpd/housing\\_element2/OR\\_lowmod.php](http://www.hcd.ca.gov/hpd/housing_element2/OR_lowmod.php).

3. *The housing element shall contain programs which assist in the development of adequate housing to meet the needs of extremely low-, very low-, low- and moderate-income households (Section 65583(c)(2)).*

General: The element must include specific actions to assist in the development of housing for extremely low-, very low-, low-, and moderate-income households, including persons with special needs. This program could commit the City to annually contact nonprofit housing sponsors to coordinate and implement a strategy for developing housing including assisting with site identification, adopt priority processing, fee waivers or deferrals, modify development standards, grant concessions and incentives for housing developments that include units affordable to extremely low- to moderate-income households, and assist, support or pursue funding applications. To assist the City with these efforts, the Department's *Financial Assistance Program Directory* is available at [http://www.hcd.ca.gov/fa/LG\\_program\\_directory.pdf](http://www.hcd.ca.gov/fa/LG_program_directory.pdf).

Extremely Low-Income (ELI) Households: While the element includes Program 16 to conditionally permit single-room occupancy (SRO) units in the MDR and GHC zones which can assist in meeting the needs of single-person ELI households, it does not commit to amend or establish development standards to encourage the development of SROs nor do other programs address the needs of family or larger ELI households. As a result, pursuant to Chapter 891, Statutes of 2006 (AB 2634), existing programs should either be expanded or new programs added to specifically assist in the development of a variety of housing types to meet the housing needs of ELI households. To address this requirement, the element could revise programs to prioritize some funding for the development of rental housing affordable to ELI households, and/or offer financial incentives or regulatory concessions to encourage the development of rental housing which address some of the needs of this income group.

4. *The housing element shall contain programs which address, and where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing (Section 65583(c)(3)).*

As noted in Finding A-2, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the City may need to revise or add programs and address and remove or mitigate any identified constraints. For example, the element may need to add programs to address the GMO process as a constraint.

In addition, the element and as noted in Finding A-2, the City's GMO does not allow it to accommodate its share of the regional housing need (page 49). As a result, the element must include programs to address and mitigate and/or remove constraints of the GMO.

**C. Consistency with General Plan**

*The housing element shall describe the means by which consistency will be achieved with other general plan elements and community goals (Section 65583(c)(7)).*

The City should also note recent statutory changes to Government Code Section 65302 (Chapter 369, Statutes 2007 [AB 162]) which requires amendment of the safety and conservation elements of the General Plan to include analysis and policies regarding flood hazard and management information upon the next revision of the housing element on, or after, January 1, 2009. For additional information, refer to the Department's website at [http://www.hcd.ca.gov/hpd/hrc/plan/he/ab\\_162\\_stat07.pdf](http://www.hcd.ca.gov/hpd/hrc/plan/he/ab_162_stat07.pdf).

TRAQC ANALYSIS OF AFFORDABLE HOUSING AND REQUESTED ALLOCATION BY CATEGORY FOR HOUSING ELEMENT:  
 ALLOCATION OF RGAS WITHIN MEASURE A ONLY TO AFFORDABLE HOUSING TO CORRECT AFFORDABLE HOUSING DEFICIT:  
 Submitted December 21, 2010 to Tracy City Council.

	Construction vs RHNA:			Constructed Post 1/2007	Total Shortage or Surplus:	Fraction of Shortage by category:	Allocation of Measure A Limits: 2009-2014	Surplus or shortage by category for 1993-2014 Planning Period:
	1993-2000	2001-2008	RHNA: 2009-2014					
<b>Affordable:</b>								
Very Low	-1171	-1176	-907	0	-3254	41%	1086	-2168
Low	-794	-826	-632	50	-2202	28%	735	-1467
Moderate	-964	-850	-813	144	-2483	31%	829	-1654
<b>Total Affordable:</b>					-7939		2650	-5289
<b>Market:</b>								
Above Moderate	4081	1,501	-2535	160	3207			3207

Average Number of Building Permits Issued 2007-2010:

Year:	Issued:
2007	23
2008	18
2009	28
2010	16
	<u>85</u>

21

City of Tracy  
Regional Housing Needs Assessment Against Actual/Projected  
1993-2008 (actually goes through part of 2009)

1/15/2005

Housing Period	Legally Defined Affordable Categories			Total Affordable Categories	Above Moderate/Market	Total
	Very Low	Low	Moderate (7)			
1993-2000 RHNA (4)	1,227	848	1,095	3,170	2,042	5,212
Actual Issued as of 12/31/00 (1)	56	54	131	241	6,123	6,364
(Deficit)/Surplus	(1,171)	(794)	(964)	(2,929)	4,081	

2001-2008+ RHNA (4)	1,178	914	1,054	3,146	3,323	6,469
Actual Issued as of 12/04 (1)	2	88	204	294	4,824	5,118
Total Issued '01-'04	2	88	204	294	4,824	5,118
(Deficit)/Surplus	(1,176)	(826)	(850)	(2,852)	1,501	
9/04 Projection/Plan to Correct Imbalance						
Projects w/ RGAs, Issued BPs '05-'08+ (2)			193	193	667	667
Infill '05-'08+ (3)			50	50	500	500
Projected Second Units (8)	18	12	15	45		45
Projected Units Rehabed (9)	180	120		300		300
City Project (10)	108	109	304	521		521
Current MIF/Mixed use sites (5)		2,000		2,000		2,000
Rezoned MIF/Mixed use sites (6)		306	241	3,109	1,167	2,916
Total Projected '05-'08+		308	329	2,766	5,991	8,034
Total 2001-2008+						
Remaining (Deficit)/Surplus (Act+Proj)			(585)	1,712	2,668	1,565

Data Sources:

- (1) Actual permits based on City Building Permit reports for SF and MIF for '93-'04, 12/04. Very Low-Low est from page III-2, Table III-3, Table V-2
- (2) Based on City Building Permit projection reports 12/04
- (3) Infill at 100/year for 5 years or 500 for market rate.

- (4) 1993-2000 RHNA, page V-1, 2001-2008 RHNA, Table II-3, page III-8
- (5) Currently zoned MF sites, Table II-2, Table III-3
- (6) At least 180 infill acres 1120 units at SF density available for housing. Plan to rezone to multifamily minimum of 142 acres plus 18 rezoned from RMD to RHD with GP update, estimated capacity 2000 units. Page VII-2. For this table put all 2000 in Moderate category but will actually be spread out among different affordable categories
- Affordable includes Market Rate Multifamily in Moderate category. All units put into Moderate but will include many in low and very low categories.
- (7) Moderate generally includes Market Rate Multifamily and small units
- (8) Second units page III-8
- (9) Rehabbed units, Table II-1
- (10) City project, Table II-1



## BUILDING INDUSTRY ASSOCIATION OF THE DELTA

315 N. SAN JOAQUIN ST., SUITE 202  
STOCKTON, CA 95202  
209-235-7831 • 209-235-7837 fax

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January 11, 2011

Brent Ives  
City of Tracy  
333 Civic Center Plaza  
Tracy, CA 95376

Mayor Ives,

On behalf of the members of BIA Delta I would like to reiterate my statements from the December 21<sup>st</sup> Council meeting regarding the Draft Housing Element and the offer from BIA Delta to work with the City to comply with California law and achieve an HCD Certified Housing Element.

The City Council is clearly in a no win situation. A voter approved initiative has placed the City in a position of non-compliance with California housing law.

I ask the Tracy City Council to proceed with option "B" as presented in the staff report of December 21<sup>st</sup>. The voter approved initiative contemplated a future conflict with California law and therefore included the provision which allows the Council to make necessary amendments in order to comply with the law. Now is the time for the Council to make those necessary amendments.

Option "A" as presented, is also a viable option to pursue however due to the length of time necessary to place such an item on the ballot and the timing of the next election cycle this option would require the City to remain non-compliant, and with no certainty of coming into compliance, for an undesirably long period of time.

Option "C" as presented would essentially throw down the gauntlet and invite organizations, such as the one which successfully litigated the City of Pleasanton, to come to Tracy and force compliance with California law.

I also would like to address some questions and comments made during the December 21<sup>st</sup> Public Hearing. Questions were raised regarding the similarities of the Pleasanton ordinance and Tracy's ordinance. The Pleasanton ordinance set a numeric cap on the number of residence in the City. The Tracy ordinance sets a numeric cap on the annual number of building permits. Clearly there is a difference between these two

approaches. Tracy's ordinance continues to allow growth to occur while Pleasanton's would at some point in the future prohibit any further growth. While these differences are easily recognizable they are a difference without meaning to HCD or the application of California law.

Government Code 65581 clarifies why both of these ordinances, although different, are still in violation of the law. "It is the intent of the Legislature in enacting this article: (a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal. (b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal."

In both Pleasanton and Tracy the adopted ordinances prohibited the jurisdictions from attaining their portion of the state housing goal. Although the two ordinances prohibit the goals from being met in different ways, the fact remains, both ordinances prohibit state housing goals from being met.

Second, there was the notion that prior building activity can be "banked" over a 20 year period of time and counted as a credit towards future housing needs. Housing Elements have just recently been extended from a five year cycle to an eight year cycle, provided they receive certification from HCD. The Legislature now deems eight years (provided a city is already in compliance) as the maximum length of time to accommodate a growing society through the cyclical nature of construction and economic ebbs and flows. For academic reasons we could discuss the hypothetical situation of "what-if" Tracy's Housing Element cycle covered the period of 1998-2006 or 2000-2008 or even 2006-2014 however these "what-if" scenarios still must be no longer than the eight years as directed by law.

There are those who question the wisdom of this law and especially its application to the City of Tracy. In response I reference Government Code 65580 "The Legislature finds and declares as follows: (a) The availability of housing is of vital statewide importance, and the early attainment of **decent housing and a suitable living environment** for every Californian, including farm workers, is a priority of the highest order. (b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels."

It would be highly prejudicial for the City of Tracy to decide it is above the law and free to deny "decent housing and a suitable living environment" for every Tracy resident. Additionally, in today's economic climate no homes are built unless there is already an approved buyer for

the home. The days of speculative building are over. The homes built today are only going to supply the existing needs of our region.

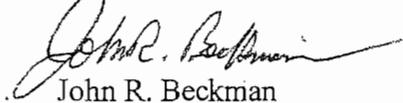
Finally, in an odd contradiction to the notion that Tracy has, over a twenty year period of time, built more than its fair share of housing, another argument was proffered suggesting that Tracy has not built all the homes it "should have built" during that time frame. This argument rests on the notion that the Regional Housing Needs Allocation (RHNA) is a mandate requiring cities to build homes. This argument is a gross mischaracterization of the law.

The legislature understands it's the private sector which builds housing not local jurisdictions and that in some cases the full allotment of RHNA will not be met. "While it is the intent of the Legislature that cities, counties, and cities and counties should undertake all necessary actions to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, it is recognized, however, that future housing production may not equal the regional housing need established for planning purposes" Government Code 65584(2).

The legislature also understands that some jurisdictions choose to avoid their duty to **allow** the private sector to build enough housing to accommodate local need. For this reason the RHNA numbers are not directed at actual homes produced but rather the number of homes **allowed** to be built within the jurisdiction. Government Code 65583.2(a) states "A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584."

Please adopt option "B" as presented by City staff and please consider our offer to work cooperatively towards an HCD Certified Housing Element.

Sincerely,



John R. Beckman  
Chief Executive Officer

AGENDA ITEM 6

REQUEST

**APPROVE THE INCREASE IN BAIL SCHEDULE FOR TRACY MUNICIPAL CODE PARKING AND EQUIPMENT VIOLATIONS TO REFLECT CHANGES IN STATE OF CALIFORNIA FEES AND INTRODUCTION OF AN ORDINANCE TO REMOVE THE TRAFFIC FINE SCHEDULE FROM THE TRACY MUNICIPAL CODE AND ALLOW IT TO BE SET BY COUNCIL RESOLUTION**

EXECUTIVE SUMMARY

Assembly Bill 1617, passed by the State of California Legislature, imposed an additional State surcharge of \$3.00 on parking violations for the State Trial Court Trust Fund. The additional surcharge was effective December 7, 2011. To remain revenue neutral, this additional surcharge should be added to the bail schedule.

DISCUSSION

The State Legislature has increased "surcharges" on a variety of programs. To that end, the State Legislature has passed AB 1617 which imposed an additional State surcharge of \$3.00 on parking violations for the State Trial Court Trust Fund. The State of California is collecting the \$3.00 surcharge on every parking citation paid so local jurisdictions are left with the decision to either pass along the surcharge increase to the persons receiving the parking citation or for the local jurisdiction to absorb the surcharges. To remain revenue neutral, this additional \$3.00 surcharge should be added to the bail schedule.

As fee increases because of state legislative action may continue, it would become easier and more efficient to reflect any bail schedule changes through a resolution passage rather than amending a Tracy Municipal Code ordinance to make any change. All changes to the Municipal Code would require a first reading, then a second reading and a waiting period of 30 days before the ordinance change goes into effect. Plus it would eliminate the need to republish the municipal code to reflect the changes.

FISCAL IMPACT

There are no costs to implementing the increases to the bail schedule. The increase would be revenue neutral.

RECOMMENDATION

Staff recommends the City Council approve, by resolution, the \$3.00 increase in the bail schedule for Tracy Municipal Code parking violations. Staff further recommends that City Council introduce an ordinance to remove the bail schedule from the Tracy

Agenda Item 6  
March 1, 2011  
Page Two

Municipal Code and instead maintain and update the bail schedule through resolution as needed.

Prepared by: John Espinoza, Police Captain  
Reviewed by: Janet M. Thiessen, Chief of Police  
Approved by: Leon Churchill, Jr., City Manager

ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE CITY OF TRACY, CALIFORNIA, AMENDING TITLE 3, CHAPTER 3.08, ENTITLED "TRAFFIC REGULATIONS" TO REPEAL SECTION 3.08.600 ENTITLED "VIOLATIONS OF TRAFFIC REGULATIONS—PENALTIES AND FEES", AND REPLACING IT WITH A NEW SECTION 3.08.600 ENTITLED "VIOLATIONS OF PARKING OR EQUIPMENT REGULATIONS--FINES"

WHEREAS, California Vehicle Code sections 40200 and following provide that the City Council can set fine amounts for certain standing and parking violations.

NOW, THEREFORE, The City Council of the City of Tracy hereby ordains as follows:

SECTION 1: Section 3.08.600 of Tracy Municipal Code Chapter 3.08 is hereby repealed.

SECTION 2: A new Tracy Municipal Code Section 3.08.600 is hereby added to read as follows:

"3.08.600 Violations of traffic regulations—Fines. The City Council shall, by resolution, set the fine amount for violations of parking and standing violations as authorized by California Vehicle Code sections 40200 and following."

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 the San Joaquin Valley Herald, a newspaper of general circulation, within fifteen (15) days from and after its final passage and adoption.

\* \* \* \* \*

The foregoing Ordinance \_\_\_\_\_ was introduced at a regular meeting of the Tracy City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, and finally adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

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

\_\_\_\_\_  
Mayor

ATTEST:

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

RESOLUTION \_\_\_\_\_

APPROVING AN INCREASE IN THE BAIL SCHEDULE FOR TRACY MUNICIPAL  
CODE PARKING AND EQUIPMENT VIOLATIONS TO REFLECT CHANGES IN STATE  
OF CALIFORNIA FEES

WHEREAS, California Vehicle Code Section 40200 establishes that parking violations may be handled administratively rather than through the courts; and

WHEREAS, the City of Tracy, pursuant to the authority delegated by California Vehicle Code Section 40200 and following, desires to revise fines for the administrative fine on standing and parking violations; and

WHEREAS, Through the passage of AB 1617, and effective December 7, 2010, the State of California Legislature has imposed certain State surcharges on parking violations, including an additional three dollars to be deposited into the State Trial Court Trust Fund; and

WHEREAS, It is equitable that this new surcharge be added to the bail schedule and the burden of the additional cost should be borne by the violator, so the effect on the City remains revenue neutral.

NOW, THEREFORE, BE IT RESOLVED, That the following bail schedule will be in effect for the listed violations that occur on or after April 15, 2011:

The administrative fines for the following parking and equipment violations are as follows:

FINE	SECTION	DESCRIPTION
55.00	3.08.260	Driving or parking on sidewalks
43.00	3.08.380	Parallel with curb, 18" from curb
43.00	3.08.380(b)	Parking on wrong side of street
45.00	3.08.390	Over 30 minute parking in alley
28.00	3.08.410	Vehicles over 20' long
53.00	3.08.440(a)	No parking sign
55.00	3.08.440(b)	Parking public or private driveways
40.00	3.08.450	Violation: overtime parking
23.00	3.08.460	Unlawful parking, peddler, vendors
78.00	3.08.480	Violation: emergency parking signs
46.00	3.08.490(a)(1)	Red zone
25.00	3.08.490(a)(2)	Yellow zone: passengers 5 minutes, 7 a.m. to 6 p.m. except Sundays thereafter all times except when closed
25.00	3.08.490(a)(3)	White zone: passengers 5 minutes, materials 30 minutes
25.00	3.08.490(a)(4)	Green zone: time zone 7 a.m. to 6 p.m. except Sundays
346.00	3.08.490	Disabled parking
47.00	3.08.510(a)	Storage of vehicles on street
43.00	3.08.510(b)	Storage of trailer on street
35.00	3.08.510(d)	Vehicles over 6' in height within 100" of intersection
71.00	3.08.520	Overnight parking of commercial vehicles
47.00	4.12.1200(e)	Posted private property

138.00	Vehicle Code § 4000(a)	Expired Registration
153.00	Vehicle Code § 4462(b)	False Tabs
28.00	Vehicle Code § 5200	No License Plate(s)
25.00	Vehicle Code § 5204	Expired Tabs
44.00	Vehicle Code § 22500(a)	Parking in intersections
42.00	Vehicle Code § 22500(b)	Parking in crosswalks
30.00	Vehicle Code § 22500(h)	Parking on roadway side of stopped vehicle
130.00	Vehicle Code § 22500(i)	Parking alongside curb reserved for bus passenger loading or unloading by red curb or sign
44.00	Vehicle Code § 22514	Blocking fire hydrant

\*\*\*\*\*

The foregoing Resolution \_\_\_\_\_ is hereby passed and adopted by the Tracy City Council this 1st day of March, 2011, by the following vote:

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

\_\_\_\_\_  
 Mayor

ATTEST:

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