

Tuesday, August 2, 2011, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

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

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

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

Addressing the Council on Items not on the Agenda – The Brown Act prohibits discussion or action on items not on the posted agenda. Members of the public addressing the Council should state their names and addresses for the record, and for contact information. The City Council's Procedures for the Conduct of Public Meetings provide that "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. Each member of the public will be allowed a maximum of five minutes for public input or testimony. However, a maximum time limit of less than five minutes for public input or testimony may be set for "Items from the Audience" depending upon the number of members of the public wishing to provide public input or testimony. The five minute maximum time limit for each member of the public applies to all "Items from the Audience." Any item not on the agenda, brought up by a member of 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 members of the public address the Council, they should be as specific as possible about their concerns. If several members of the public 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

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL
PRESENTATION – PROCLAMATION “NATIONAL NIGHT OUT”

1. CONSENT CALENDAR

- A. Minutes Approval
- B. Award a Professional Services Agreement (PSA) with De Novo Planning Group to Provide Services to Prepare Environmental Documentation (CEQA/NEPA) for the Macarthur Drive Widening Project between Valpico Road and Schulte Road – CIP 73126, and Authorize the Mayor to Execute the Agreement
- C. Approve Amendment 1 to the Professional Services Agreement with Bay Computing Group, Inc., to Finalize the New City Website, Authorize the Mayor to Execute the Agreement and Authorize a Supplemental Appropriation of \$23,572 from Fund 353 (RSP) to CIP 79404
- D. Approve a Loan Modification Agreement between Daniel G. Hobbs and the City of Tracy, and Authorize the Mayor to Execute Associated Loan Documents on Behalf of the City
- E. Approval of Permit for the Consumption of Alcoholic Beverages on City Streets for the Tracy Chamber of Commerce “2011 Dry Bean Festival” on September 10 and 11, 2011
- F. Award a Construction Contract to Top Grade Construction Company of Livermore, California, for the Pond Removal – Greenleaf # 1 Project - CIP 76058, and Authorize the Mayor to Execute the Contract
- G. Find that it is in the Best Interest of the City to Forego the Formal Bid Process and Award the Purchase of Four Crown Victoria Police Interceptor Vehicles to Downtown Ford of Sacramento, California
- H. Authorize Amendment of the City’s Classification Plan by Approving Revisions to the Classification Specification of Division Fire Chief in the Fire Department
- I. Adoption of a Resolution Designating Muniservices as an Authorized City Representative to Examine Sales and Use Tax Records
- J. Adopt a Resolution Amending the Department Heads Compensation and Benefits Plan to Reflect that the Benefits for the Position of Police Chief will now be Governed by an At-Will Employment Agreement
- K. Adopt Resolution Approving an Employment Agreement between Gary Hampton and the City of Tracy to Serve as Police Chief
- L. Authorize Amendment to the City’s Compensation Plan to Eliminate the Salary Range for Police Chief

2. ITEMS FROM THE AUDIENCE
3. ADOPT A RESOLUTION DECLARING THE CITY'S INTENT TO PROVIDE THE TRACY EXPRESS SOFTBALL, ASOCIACION DE CLUBS UNIDOS SOCCER LEAGUE, SOCCER XTAR LIGA, ITIFAQ AFGHAN SOCCER CLUB, TRACY RAIDERS, TRACY COUGARS, TRACY BUCCANEERS AND ALTERNATIVO FUTBOL CLUB WITH PRIORITY TO ENTER INTO PROPERTY LEASES FOR THE PURPOSE OF CONSTRUCTING, MAINTAINING AND OPERATING YOUTH SPORTS FIELDS AT THE HOLLY SUGAR SPORTS COMPLEX IF AND WHEN FUTURE PHASES ARE AVAILABLE FOR SUCH FIELD DEVELOPMENT
4. ITEMS FROM THE AUDIENCE
5. STAFF ITEMS
 - A. Receive an After Action Report on the Sale and Discharge of Safe and Sane Fireworks for 2011
6. COUNCIL ITEMS
 - A. Consider Cancellation of the Regular City Council Meeting Scheduled for Tuesday, August 16, 2011
 - B. Council Designation of Voting Delegate and Up to Two Voting Alternates for the League of California Cities 2011 Annual Conference Business Meeting
 - C. Appointment of City Council Subcommittee to Interview Applicants for Vacancy on the Tracy Arts Commission
7. ADJOURNMENT

May 17, 2011, 5:45 p.m.

City Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

1. Call to Order - Mayor Ives called the special meeting of the Tracy City Council to order at 5:49 p.m.
2. Roll Call - Roll call found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives present.
3. Items from the Audience - None.
4. CONDUCT A CITY COUNCIL WORKSHOP TO REVIEW THE PROPOSED FY 11-12 OPERATING BUDGET – Zane Johnston, Director of Finance and Administrative Services, presented the staff report and used a power point in his presentation.

The City's total budget consists of the Operating budget of \$111,782,350, the Capital budget of \$43,698,390, which was reviewed on March 15, 2011, and the Debt budget of \$26,259,100 which comprises debt associated with the assessment districts and Mello Roos. Mr. Johnston concentrated on reviewing the General Fund budget of \$48,456,150 which is part of the Operating budget. Mr. Johnston added no action would be taken at the workshop although any revisions to the budget would be brought back to Council on June 7, 2011 when the FY 11-12 budget will be presented for adoption.

City governments throughout California have been seriously impacted by the recession since most rely heavily on property tax and sales tax which have been the most severely impacted. In Tracy, combined property and sales tax peaked at \$33.4 million in FY 06-07. In FY 10-11 these two tax revenues will total just \$25 million, almost \$9 million less.

The City has responded by reducing expenses primarily through a reduction in employees, and wage and benefit concessions. Despite a reduction in the number of FTEs from 558 in FY 07-08 to 466 FTEs in FY 11-12 the City has managed to maintain service levels.

The General Fund budget has anticipated revenues of \$47 million and expenses of \$48.4 million. The deficit of \$1.4 million from reserves is the smallest in five years. Measure E has anticipated revenue of \$4.6 million in FY 11-12 which will help; however, the City has an existing structural deficit of \$5 million, plus \$1 million in new costs for FY 11-12 for a total of \$6 million. Subtracting \$4.6 million of Measure E tax money results once again in a \$1.4 million deficit.

Property tax and sales tax comprise almost 93% of all General Fund tax revenue and are the primary sources of payment for public safety. This year the City expects a 2.5% decrease in property tax which equates to a decline of \$500,000 since FY 10-11. Property taxes have declined almost 30% in the past four years.

Sales tax peaked at \$13.3 million in FY 06-07. In FY 11-12 sales tax is estimated at just under \$11 million. Sales tax numbers have shown improvement three quarters in a row over the previous years' quarters which indicate a positive trend.

Most labor contracts are currently in negotiation or are close to expiring. The FY 11-12 budget does not include any savings from negotiations. Furloughs are expected to continue for those already in the process, but that will depend on the outcome of the negotiations. There will be some offset savings. Historical data shows not every penny of every line item in the budget is spent resulting in a projected \$1.2 million in savings. Organizational changes will continue with another wave of retirements expected by December 31, 2011. Not all of the vacated positions will be filled.

Mr. Johnston used a graph to show how the gap between revenues and expenditures is narrowing, and stated the ultimate challenge will be to maintain that balance five years from now when Measure E expires.

Mr. Johnston referred to some concerns particularly in regard to state budget actions and added there will be about a \$1 million increase to all funds. Since Redevelopment Agencies have not yet been eliminated by the state, the proposed budget anticipates redevelopment funds continuing. The City has \$690,000 in staff expenses which are funded by the Community Development Agency.

VLF fees are set to expire and, as a result, there will be no revenue source to fund jail booking fees or COPS grants. The City has added \$130,000 to the proposed budget in anticipation of the expiration of VLF fees.

PERS rates will increase due to stock market losses in 2008 and longer life spans for males, and consequently, public safety personnel. In FY 11-12 PERS contributions will increase by 3.20% for public safety and 2.20% for miscellaneous employees. And, while there are concerns with funding public pensions, many of those concerns are not applicable to Tracy. Another cost concern is medical insurance.

Moving forward the economy is slowing coming out of recession. Job growth is slow and there have been fundamental changes in consumer behavior.

With regard to the Fire Department budget, while the City can fund increased labor expenses because of multiple funding sources, Tracy Rural cannot, because all it has is static and/or declining property taxes. Mr. Johnston recommended delaying adoption of the Fire budget until September when the City will have more complete numbers.

Leon Churchill, City Manager, stated that despite the current economic situation there are opportunities to address community needs as they are identified. Consequently, in FY 10-11 and FY 11-12 the City will provide \$7,500 for public education of Fire related items including drowning prevention safety, and \$125,000 for gang related issues. In addition, \$20,000 has been added to the budget to expand the graffiti abatement program. The current program addresses graffiti in the redevelopment area, but the program will be expanded citywide to include paint and vouchers for abatement of private property. The City does a good job in removing graffiti on public property, typically within 1-2 days; however, this program is being expanded so property owners can abate private property as well.

Mr. Churchill commented on the "GREAT" program, an extension of the City's gang related efforts, which will be offered through the Tracy Unified School District. Mr. Churchill indicated funding for this program will be included in the FY 11-12 Police budget. Another \$75,000 is proposed for special events in the downtown area to expand activities over 11 additional weekends. The Downtown Specific Plan is now being discussed at Planning Commission level as to what the mechanisms are for vitalization of the downtown. One theory is to increase the level of activity through special events.

Mr. Churchill concluded by stating that \$10,000 has been included in the budget to cover algebra tuition for middle school students. This is part of the City's economic development effort to encourage students to pursue higher education.

Mr. Johnson stated the City began receiving increased sales tax from Measure E on April 1, 2011. Funds from Measure E are estimated at \$4.6 million for FY 11-12 and will be used proportionally on General Fund tax supported services. Measure E will expire on March 31, 2016, and the Council recently approved a plan to balance the budget when Measure E expires.

Mr. Johnston concluded his presentation by stating that with regard to reserves, the City is now in the fourth year of declining property taxes and the fifth year of having to utilize the City's reserves. However, the City is managing well, even though reserves have been reduced from approximately \$38 million in FY 2008-09 to just less than \$25 million in FY 11-12. The City has a budget of \$48 million with almost \$25 million in reserves. This equals a 50% reserve; the City's policy is for a 20% reserve.

Council Member Rickman enquired if the City attempts to recoup costs for graffiti abatement either from the court, or in the case of minors, from the parents. Mr. Churchill responded the City does go after costs where possible.

Council Member Rickman stated the total operating budget has increased 5.8 percent over last year's budget and inquired where the increase came from. Mr. Johnston stated the increase is mainly from utilities, water and wastewater, possibly water purchases, and the equipment acquisition fund. Council Member Rickman inquired as to the length of the water acquisition contracts. Mr. Johnston stated the City purchases water from several sources of water, one of which is SSJID. Next year the City proposes to purchase more water from SSJID so it can rely less on groundwater. The City also contracts with the federal government for water and with various irrigation districts. The contracts are usually long term although they do vary.

Council Member Abercrombie stated Tracy Rural is providing only two firefighters at their stations because of budget issues, and asked how that would impact the City in the event of a major incident or if Tracy Rural is the second unit on scene. Al Nero, Fire Chief, responded an additional unit would have to be sent in.

In response to a question from Council Member Abercrombie regarding the replacement of Engine 92, Chief Nero stated the Fire Department is in the process of conducting a thorough analysis of the entire fleet and will hold off on any replacements until the analysis has been completed.

Council Member Abercrombie commented on the \$125,000 budgeted for police overtime and asked what mark the patrol has to hit before overtime is authorized, and if five was

the minimum staffing on the street. Captain Espinoza responded the \$125,000 is for overtime to deploy resources for gang suppression. The City has six geographical beats up from the original four, mainly for accountability and to focus on neighborhood issues. Five officers will overlay the City; the minimum staffing level is five, although sometimes there are six and even seven officers, plus a supervisor. Different shifts might have additional gang units, traffic officers and administrative personnel.

Council Member Abercrombie stated the budget calls for staffing to be reduced by one patrol officer and suggested that instead of eliminating the position it remain unfilled. Mr. Churchill responded that is a possibility although it had been agreed the position would be trimmed through attrition. Council Member Abercrombie stated he was concerned the attrition was proposed pre-Measure E which was intended to maintain services, including public safety. Council Member Abercrombie suggested freezing the position and re-evaluating the situation throughout the year.

Mr. Johnston stated the Police Department had submitted a revised organizational structure that was not reflected in tonight's agenda. The Police Department could be moving positions around so that there is one less administrator and one more in patrol. It doesn't affect the overall budget numbers, its still the same Police Department budget but there is a proposal to spend the money slightly differently. Council Member Abercrombie stated he wasn't concerned with how officers were deployed just that the number of officers remains the same. Mr. Johnston added the models previously provided to Council contained an agreement with the TPOA which included the attrition schedule.

Council Member Abercrombie asked for an update on a phone tree for the Police Department. Captain Espinoza stated there had been problems but the issues have been resolved and the project is moving forward.

Council Member Elliott questioned the \$75,000 budgeted for additional events in the downtown. Mr. Churchill stated 11 events have been added throughout the summer on weekends when nothing was planned. The discussions are ongoing and feedback is positive. A measure of success is trying to generate traffic so the shops want to expand their hours. Council Member Elliott suggested public outreach will be the key to success.

Mayor Pro Tem Maciel inquired if funding for the additional downtown events would come from the General Fund. Mr. Churchill stated it would. Mayor Pro Tem Maciel added that as far as maintaining the levels of service during Measure E, the City's commitment does not necessarily equate the number of employees in any department to levels of service. If the Police Department can maintain levels of service by civilianizing a position it would indicate a net reduction in the number of sworn officers, but the City would still be maintaining levels of service. That could apply to other departments as well since the City's goal is to seek efficiencies wherever possible.

Council Member Abercrombie inquired if the City had figured out a process for educating nonprofits and schools regarding waste reduction. Kevin Tobeck, Director of Public Works, responded whenever there is an opportunity the City submits grant applications and continues to work with schools to help them with their programs. The City has a multi-family grant program for larger apartment complexes to give them an opportunity to

recycle. In addition, the City has approximately \$5,000 in grant money schools can apply for to help with programs in some of their classes.

Council Member Abercrombie inquired who would be responsible for providing education to elementary school children on building construction hazards, public nuisance and graffiti. Andrew Malik, Director of Development and Engineering Services, stated Ana Contreras, Code Enforcement Manager, and Kevin Jorgensen, Chief Building Official, will visit schools and educate children on the importance of getting permits.

Council Member Rickman asked if staff is taking steps to reduce costs to the prior year's level and pointed to the increased costs for equipment acquisitions. Council Member Rickman suggested allowing increased mileage on City vehicles before they are replaced. Mr. Johnston responded about 18 months ago the City completed a fleet utilization study and reduced the City's fleet as a result. The Equipment Acquisition fund gets money by charging the various departments for the equipment they have. These charges have been suspended for two years. As a result not as much money comes into the fund so the equipment has to last longer. Although the City has been spending less money from the Equipment Acquisition fund, more will be spent this year even though the City is trying to make the equipment last longer. Council Member Rickman stated the City needs to do the best it can with what it has and added he wanted to be sure that all departments were being reviewed to ensure the City is spending its money wisely.

Mayor Ives asked if information would be available on the Police organizational reconstruct by the time the budget is adopted on June 7. Mr. Johnston stated probably not, but it will not affect the amount for the Police Department included in the budget which Council will be asked to approve on June 7. Mr. Johnston added that the Council also grants the City Manager authority to move money within the department budget if needed. Mayor Ives stated the proposed changes within the budget should keep service levels at the current level or make them better. Mr. Churchill added information on the reorganization would be provided.

Robert Tanner, 1371 Rusher Street, stated it was understood Measure E would save jobs as well as programs. A reduced head count in the Police Department indicates the community voted for something it did not get. Mr. Tanner added there was no expectation of any reductions in police or fire.

Mr. Tanner stated the budget estimate for sales tax revenue for FY 10-11 is approximately \$10.3 million. The budget for FY 11-12 is \$10.9 million and this amount includes a full year of Measure E which is anticipated to be \$4.6 million. Mr. Tanner added that means other sales tax revenue amounts to only \$6.3 million, and inquired why that amount isn't much greater than the estimate of \$10.3 million for FY 10-11. Mr. Johnston stated a new line category has been created for the \$4.6 million from Measure E so it won't be confused with the regular sales tax. The \$10.9 million is the one cent only sales tax, without Measure E. Mr. Tanner asked if the combination of \$10.9 million in regular sales tax and \$4.6 million from Measure E would put the City in the position of not having to use the reserves. Mr. Johnston stated no. After all the organizational changes made in the last few years the City had a \$5 million structural deficit. Measure E plugged almost all of that with \$4.6 million. However, even if the City didn't have \$1 million in new costs it would still have about \$400,000-\$500,000 less revenue than expenses, even with Measure E.

Mr. Tanner stated with regard to property taxes the City was receiving 14% but after 1996 the percentage was reduced to 4.6%. Mr. Tanner asked if the City would eventually receive the difference. Mr. Johnston responded no. The County has the power in property tax relationships. In order for LAFCO to approve an annexation there must be a property tax sharing agreement in place that the County agrees with otherwise the City wouldn't be able to annex land. Starting in 1996 the County began demanding more property tax. The City's share was reduced from 35% of the local share to in some cases 5% of the local share. In the Gateway annexation the County will get 95% of the local property tax and the City will get 5% of the local share which equals approximately 1.7 cents of every property tax dollar paid.

5. Adjournment – Mayor Ives adjourned the meeting at 6:59 p.m.

The above agenda was posted at the Tracy City Hall on May 12, 2011. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST

City Clerk

May 17, 2010, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

Mayor Ives called the meeting to order at 7:05 p.m. and led the Pledge of Allegiance.

The invocation was provided by Pastor Kal Waetzig, Saint Paul's Lutheran Church.

Roll call found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives present.

Dele Peterson, Fire Engineer, provided a presentation regarding drowning prevention.

Mayor Ives presented a proclamation to Kevin Tobeck, Director of Public Works, in recognition of National Public Works Week, May 15 – 21, 2011.

Mayor Ives recognized D.A.R.E. graduates from the following schools: New Jerusalem Elementary, Bella Vista Christian Academy, Saint Bernard's Catholic School and West Valley Christian Academy.

1. CONSENT CALENDAR - Following the removal of item 1-A by Mayor Pro Tem Maciel, it was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - B. Authorize a Professional Services Agreement with Drake Haglan & Associates of Sacramento, CA, for a Not to Exceed Amount of \$398,102 to Provide Professional Engineering Services for the Preparation of Environmental Documents, Plans, Specifications and Cost Estimates for the Intersection Improvements at Eleventh Street and MacArthur Drive (Western) Project - CIP 72069, and Authorize the Mayor to Execute the Agreement – Resolution 2011-096 authorized the agreement.
 - C. Approval of Permit for the Consumption of Alcoholic Beverages on City Streets for the TCCA "Downtown Spring Wine Stroll" Event on June 3, 2011 – Resolution 2011-097 approved the permit.
 - A. Minutes Approval - Council Member Maciel stated certain information included in the minutes of March 1, 2011 was not accurate. The City Clerk had reviewed the staff report and tape recording of the meeting and the minutes as written are accurate. However, the information presented at the meeting indicating D.A.R.E. funding had been reduced due to economic conditions (page 6, last sentence regarding D.A.R.E. funding), was not factual. Council Member Maciel suggested an asterisk be placed at the end of the sentence and a footnote inserted stating the reason D.A.R.E. funding had been reduced from \$60,000 to \$45,000 was a result of a staff recommendation based on the fact that D.A.R.E. expenses had been reduced by \$20,000 due to the elimination of D.A.R.E. personnel costs.

Mayor Pro Tem Maciel added the Council did not direct the funding reduction and worsening economic conditions were not a consideration.

Council Member Abercrombie stated the minutes reflect what was said at the meeting and disagreed with adding what Council thinks should have been said or adding asterisks to minutes. Council Member Abercrombie indicated staff's original recommendation was \$60,000 and after a Council Member pulled the item off calendar it came back with a reduced amount.

Dan Sodergren, City Attorney, indicated the Council does have discretion regarding what is reflected in the minutes. The rules of procedure are ". . .that the City Clerk's office shall be responsible for the preparation and distribution of City Council minutes. The minutes shall be summary minutes and shall reflect the sense of the discussion, any action taken or recommendation made with respect to each item considered at the meeting".

Mayor Pro Tem Maciel reiterated his understanding of the discussion.

Mayor Ives asked the Clerk if the tape was reviewed for the minutes. The City Clerk stated yes.

Mayor Ives invited members of the public to address Council on the item.

Dave Helm, 1000 Central Avenue, stated rewriting history was inappropriate.

Tom Benigno, 2473 Angora Court, stated he was concerned with any direction to change the minutes.

Council Member Elliott asked if the question was what was in the staff report and not the minutes. Mayor Ives indicated there was one paragraph that was re-stated at the meeting. Council Member Elliott stated the minutes should reflect what was actually said.

Mayor Pro Tem Maciel stated the idea was not to change the minutes, but to adopt them as written, adding a footnote with the correct information at the bottom of the page.

Mayor Ives asked Mr. Sodergren if there was any precedent for footnotes in the minutes. Mr. Sodergren indicated he was not sure.

Mayor Ives stated the minutes from this meeting should reflect the intent and understanding of what was correct.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Elliott to adopt the minutes March 1, 2011. Voice vote found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE - Dave Helm, 1000 Central Avenue, addressed Council regarding a possible violation of the Brown Act when Mayor Pro Tem Maciel responded to his comments at a previous meeting. Mr. Helm indicated he had asked for a couple of items to be placed on the agenda for discussion and 30 days have elapsed and the

items have not appeared on the agenda. Mr. Helm voiced concerns regarding the investigation of Chief Thiessen, Council members writing letters to the editor of a local newspaper stating opinions, safety issues with a shortage of police staff, lack of corrective action taken on City staff, and amending minutes.

Mayor Ives read the policy regarding items from the audience being placed on the agenda.

Mr. Helm asked that a Council Member or members sponsor the items for a future agenda item.

3. CONTINUED PUBLIC HEARING TO AWARD A FACILITY FINANCING CONTRACT (DESIGN-BUILD) TO RENEWABLE INTEGRATOR, INC., OF TRACY, CALIFORNIA FOR THE CIVIC CENTER SOLAR PANEL INSTALLATION PROJECT – CIP 71068
Kul Sharma, City Engineer, presented the staff report. Mr. Sharma stated that the agenda item is a continuation of the public hearing held on May 3, 2011, related to awarding a Facility Financing Contract for installation of solar panels on Civic Center buildings. The item was continued because the deadline of the Request for Proposals (RFP) was extended by 10 days in order to receive qualified and competitive proposals.

The City has received an EECBG grant for \$571,600 from the Department of Energy to install solar panels on Civic Center buildings. Of this amount \$514,440 is allocated for design and construction and the remaining \$57,160 is for the City's project management expenses. To expedite completion of design and installation of the solar panels the services of an experienced and qualified design and construction firm are required.

The State of California Government Code Section 4217-13 allows public agencies to enter into Facility Financing Contracts with qualified individuals or firms to develop energy conservation plans and to complete design and construction. This process is available if repayment of funds used for design, construction, and operation of an energy conservation facility are projected to be available from such facility that otherwise would have been used for the purchase of electricity or energy required by the public agency in the absence of an energy conservation facility.

Prior to the award of such a contract, the public agency must make the certain findings consistent with Section 4217.12 and 4217.13 of the Government Code at a regularly scheduled public hearing with the public notice given at least two weeks in advance.

A RFP for installation of solar panels was mailed to proposers and posted on the City's website on April 5, 2011. The proposer is required to be an experienced design consultant and licensed contractor or a licensed contractor with an in-house design consultant to complete this work. The RFP includes the selection criteria with appropriate weight given to the total kW electricity generated within the budgeted amount and the life cost cycle analysis of the solar panels.

The selected proposer will enter into a Facility Financing Contract and will provide similar insurance and securities which are normally required by the City from other design consultants and construction contractors.

The following proposals were received on May 5, 2011 - Integrated Engineering of Santa Clara; Sun Light & Power of Berkeley, and Renewable Integrated of Tracy.

Following a review of the proposals and based on the established criteria, Renewable Integrator Inc., of Tracy was found to be the most qualified proposer who met the requirements of the RFP to design and install solar panels on the Civic Center buildings. The proposer has not taken any exceptions to the requirements of the proposal and has provided the required securities. Renewable Integrator Inc. has satisfactorily completed installation of solar panels for Tracy Interfaith Ministries and other projects. Staff has verified that Renewable Integrator Inc., holds the proper licensing necessary for this type of construction. Staff also negotiated with the proposer to include installation of additional solar panels on Civic Center buildings within the budgeted amount of \$514,440.

The negotiated proposal includes design and installation of solar panels on the following buildings which are most cost effective and energy efficient among all the buildings in the Civic Center area:

- Flat roof areas of new City Hall and Council Chambers
- Western and southern roof areas of the Police Department building

The proposer also provided an alternate proposal to provide solar panels on the flat roof of the old City Hall building and the Parks & Community Services buildings instead of the sloped roof of the Police building. However, this alternate proposal is not recommended by staff since the remaining life of the existing roofs on those buildings is less than the life of the solar panels (20 year roof life vs. 30 year solar panel life).

Staff recommended the Council open the public hearing continued from May 3, 2011, receive testimony, make the following findings in the best interest of the City, and award the Facility Financing contract for the solar panel installation project to Renewable Integrator, Inc., of Tracy, California, in the amount of \$514,440:

1. Funds for the repayment of the cost of design, construction, and operation of the Civic Center energy conservation facility, as required by the contract, are projected to be available from funding that otherwise would have been used to purchase electrical energy required by the City in absence of this energy conservation facility within 19.5 years and these findings required under Sections 4217.12 and 4217.13 are made on projections for electrical rates from PG&E which provides electrical energy to the City of Tracy.
2. That the proposal from Renewable Integrator Inc., provides repayment of funds consistent with the requirement of the State of California Code Section 4217.3, and award of the Facility Financing Contract to Renewable Integrator Inc. for the Civic Center Solar Panel Installation Project – CIP 71068.

The break down of the EECBG grant fund is as follows:

- Funding for Design & Construction (design-build) \$514,400
- City Project Management \$ 57,160

Mr. Sharma noted that the City had received two protest letters and that staff's recommendation did not change based on the protests.

Council Member Elliott asked for clarification regarding funding and if the City would repay this cost. Mr. Sharma stated the City would recover its costs based on the savings from PG&E within approximately 19 years.

Mayor Pro Tem Maciel referred to the protest filed by Integrated Engineering Services and asked if it was normal to interview companies that submit bids. Mr. Sharma stated if time allows or the proposal is unclear a bidder may be asked to clarify items in the proposal. Mr. Sharma stated in this case exceptions were taken by two proposers. The proposal from the local firm was clear without exceptions so staff chose to negotiate with them.

Mayor Pro Tem Maciel referred to the protest from Sun Light and Power and asked if they had the experience and qualifications necessary to do the job. Mr. Sharma stated staff had checked their references and believes they can complete the project.

Council Member Abercrombie asked if Tracy Interfaith was contacted. Mr. Sharma stated yes.

Mayor Ives opened the public hearing. As there was no one wishing to address Council the public hearing was closed.

It was moved by Council Member Abercrombie and seconded by Mayor Pro Tem Maciel to adopt Resolution 2011-098 awarding a Facility Financing Contract (design-build) to Renewable Integrator, Inc., of Tracy, California, for the Civic Center solar panel installation project – CIP 71068. Voice vote found all in favor; passed and so ordered.

4. PUBLIC HEARING FOR THE APPROVAL OF THE URBAN WATER MANAGEMENT PLAN UPDATE - Vanessa Carrera, Management Analyst, presented the staff report. Ms. Carrera stated that a draft Urban Water Management Plan had been prepared. The plan includes: past, present, and projected water use; reliability of the water supply; wastewater treatment and water recycling; water efficiency and drought contingency. The plan has been coordinated with the water conservation plan, water shortage contingency plan, groundwater management policy, recycled water ordinance, as well as the draft water master plan.

The notice for the preparation of the plan was published in the Tri Valley Herald on January 25, 2011. The notice for the public hearing was published in the Tri Valley Herald on February 28 and March 7, 2011. The draft document was posted on the City's website on April 18, 2011. Draft hardcopies were made available at the Tracy Public Library and the Public Works Department as of April 15, 2011. After adoption by the City, the plan will be submitted to the State. The plan is required to be updated every five years.

The plan includes water demand estimates. In 2007, the City used 19,176 acre-feet of water. Since then water demand has trended lower, due to conservation efforts and vacant homes. The 2010 water demand was 16,603 acre-feet. The projected water demand by 2035 is estimated to be 33,600 acre-feet/year.

Currently, the City has water entitlements of up to a maximum of 31,833 acre-feet/year. These are subject to reduction in dry years and the projected available supply in multiple dry years is 23,600 acre-feet/year. To increase reliability in dry years, the plan includes

acquisition of stored water supplies through an aquifer storage and recovery program, and water banked with the Semitropic Water Storage District in Kern County. Native groundwater use will be reduced in future years to improve the aesthetic quality of the water delivered to the customer and to meet future wastewater regulatory requirements. The groundwater will be available in the event of an emergency.

Legislation approved in 2009 requires the State to reduce urban per capita water use by 20 percent by 2020. The City's 10-year base daily water use for 1995-2004 is 227 gallons per capita per day. The 2020 conservation target is 20% less or 182 gallons per capita per day. It is anticipated that the future use of recycled water will assist in attaining this conservation goal. The City has a diverse and reliable portfolio of water resources that should ensure an adequate, high quality water supply to City customers.

There is no fiscal impact associated with the adoption of the Urban Water Management Plan. Eler & Kalinowski, Inc. prepared the Plan for a fee \$40,000. The cost was charged to the Water Enterprise Fund.

Staff recommended the Council adopt the Urban Water Management Plan.

Mayor Pro Tem Maciel asked how long the City will consider the aquifer storage program on an experimental basis. Ms. Carrerra stated the City is in the pilot ASR project and currently in an injection cycle that will run several more weeks after which the water will be tested. The test results go to the State Boards to see if the City goes under another pilot project or if it can move forward with a full ASR program.

Mayor Ives asked if there was anything in this plan that precludes the City from using up to 9,000 acres of ground water if it needs to. Ms. Carrerra stated should the City need it the water is available in the ground water.

Tom Benigno, 2473 Angora Court, addressed Council regarding placing water into the aquifer. Mr. Benigno stated the water is not clean, and he believes it's a violation to put contaminated water into the drinking water. Mr. Benigno stated he wanted to make sure this was not a plan to get more water to build more houses.

Mayor Ives asked staff to discuss the aquifer. Ms. Carrerra stated the water to be injected into the City's underground aquifer was pristine Stanislaus water treated through the South San Joaquin Irrigation District. Kevin Tobeck, Public Works Director, stated there are strict regulations that must be followed by the State to be able to inject water into the aquifer.

Mr. Benigno stated the City still hasn't proved that the water is pristine.

Mayor Ives clarified that the City was putting drinking water into the aquifer, not recycled water.

As there was no one further wishing to address Council on the item, the public hearing was closed.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-099 approving the Urban Water Management Plan Update. Voice vote found all in favor; passed and so ordered.

5. APPROVAL OF WAYFINDING SIGN SYSTEM PHASING PLAN AND AUTHORIZE STAFF TO PREPARE BID DOCUMENTS FOR PHASE 1 - Ursula Luna-Reynosa, Economic Development Director, provided the staff report. The City Council has appropriated \$75,000 for design of a wayfinding sign system (the "System") in the FY 2009-10 adopted budget. On January 19, 2010, a professional services agreement with the Consultant was approved by the Council. The goal is to provide vehicular and pedestrian (where appropriate) signage to direct the public to regional serving public and private facilities including regional serving retail centers. An appropriation of \$360,000 has been approved as a CIP project for the fabrication and installation of the System.

On June 1, 2010, the Council selected a design option for the System and directed staff to determine cost estimates associated with the fabrication and installation. Preliminary estimated costs for the entire System are approximately \$821,453 - \$1,076,923. Since the CIP budget is only \$360,000, staff recommended a phasing plan with the cost of phase 1 not to exceed the currently budgeted CIP amount.

In terms of number of signs and signs that facilitate the main goal of the project, the Trailblazer Signs are the most important component of the System. The high range for this component is less than the CIP amount budgeted for this project.

City staff is working with Cal Trans staff to determine, which (if any), of the Cal Trans Signs will be replaced at Cal Trans' expense. The estimated price range for the Cal Trans Signs are estimates provided by Cal Trans if the City were to pay in the entirety for all of the Cal Trans Signs. The Cal Trans Signs are important particularly for those not familiar with Tracy. Traffic counts for I-205 show 110,000 annual daily trips. Freeway signage that helps commuters access, and encourage spending external dollars within, Tracy is an important component to attaining project objectives.

The System proposes two Primary Gateway Signs located off I-205 that will be visible as commuters are driving on the freeway. However, unlike the Cal Trans Signs these signs can be personalized to elicit an emotional connection and positively influence the perception of Tracy. The Primary Gateway Signs will communicate that all exits located between the two signs on I-205 are located within the City of Tracy. The cost estimate provided for the Primary Gateway Signs includes the design and construction for both signs, but does not include land acquisition costs or costs associated with bringing utilities to the sites. Also because the unique art piece has not yet been selected there may be some additional costs associated with this component of the project.

The System also proposes two Secondary Gateway Signs; one located on Eleventh Street just at the City's eastern limit to the east of Chrisman Road. This sign has been incorporated as part of the MacArthur Drive overpass bridge project and is oriented toward commuters entering Tracy that are traveling southbound on I-205 and exit Eleventh Street. The other Secondary Gateway Sign is located near the intersection of Corral Hollow Road and Linne Road and is oriented toward commuters that are entering Tracy off I-580 at the Corral Hollow Road exit. The cost estimate provided for this component of the System is based on fabrication and installation of Sign G4 only, as Sign G3 has been incorporated as part of the Mac Arthur Drive overpass project and funded separately.

Painting the two water towers are additional signage opportunities that could be incorporated into the System. Some water towers display noteworthy town

accomplishments, such as winning a sports championship or being the “home of” someone or something famous. Water towers often have their city or town names painted on them. This simple gesture can help travelers know exactly where they are located and can help elicit an emotional connection with the town.

The System also proposes Downtown Kiosks and Banners. Downtown revitalization has been a priority for Tracy for many years. Providing a means to help visitors navigate their way to downtown was a key catalyst for moving the design of the System forward. An effective way to help downtown stand out as a unique shopping and dining environment is to add kiosks to the downtown. It is envisioned that once fully implemented, the System will contain six, three-sided kiosks. One side will be dedicated as a directory, one side to historic photos of downtown, and the third side will be dedicated to the Tracy City Center Association (the “TCCA”) to program and market their events. Each kiosk will contain three independent touch-screens and computers for easy updating.

Banners will also provide a special detail to downtown and a branding opportunity for the TCCA. Staff will work with the TCCA to ensure banner opportunities are coordinated. Finally, the use of banners at the intersection of Eleventh Street and Central Avenue can be strategically placed to act as a gateway into downtown. The combined elements of kiosks and banners will help to define downtown as a retail district.

Without Trailblazer signs the System lacks a skeleton and is not functional; therefore, staff recommended that Phase I include the Trailblazer signs. The estimate for this component of the System is \$215,000 - \$316,000, below the \$360,000 available under the existing CIP budget. If the Trailblazer signs come in at the low end then \$145,000 is available for additional signage, if the Trailblazer signs come in at the high end then \$44,000 is available for additional signage.

Staff prioritized the remaining System components in the following order:

1. Cal Trans Signs; 2. Secondary Gateway Sign; 3. Water Tower Signs; 4. Downtown Kiosks; 5. Downtown Banners and 6. Primary Gateway Signs.

The rationale for ranking the Cal Trans Signs as the next highest priority is because they serve a similar purpose as the Primary Gateway Signs and are significantly less expensive. Staff is working with Cal Trans to see if they will pay for any of the proposed Cal Trans Signs. The Secondary Gateway Sign is next because it is relatively inexpensive and will provide a welcome sign for visitors exiting I-580. Also, as a result of the other Secondary Gateway Sign being incorporated into the MacArthur Drive overpass bridge project, only one other Secondary Gateway sign is needed to complete this component of the System. The Water Tower Signs were selected as the next highest priority due to their high visibility relative to their cost. They will also serve as iconic landmark signs. This item could be partitioned to incorporate only one Water Tower Sign initially, with the second Water Tower Sign completed at some point in the future. The Downtown Kiosks and Downtown Banners may be eligible for Community Development Block Grant funds and, therefore, have been made a lesser priority. Finally, the Primary Gateway Signs have been listed last because they are expensive and have additional land acquisition and utility costs that will complicate the effort.

If Council agrees with the recommended listing of priorities, one approach is to move forward with the Trailblazer Signs by preparing bid documents and soliciting bids. The

balance of the CIP budget would be used in order of priority until there is not enough money to complete the next component. If there is not enough money to complete the next component but there is enough money to complete the component that is next on the list, then staff would pursue that item so that as many of the components can be implemented within the existing \$360,000 budgeted (collectively, "Option 1"). Items that do not get implemented will have to compete for CIP funding in future years.

Another option is to augment the existing \$360,000 budget with Residential Specific Plan funds to complete the System (or desired components of the System) ("Option 2").

A final alternative is to not move forward with the fabrication and installation of any components of the System and the project will have to compete for CIP funding in future years ("Option 3").

Staff recommended that the Council proceed with Option 1: Approve the Way Finding Sign System Phasing Plan and authorize staff to prepare bid documents for Phase 1 and incorporate as many components of the System as possible within the \$360,000 approved CIP budget based on priority and availability of funds to complete each component.

Council Member Abercrombie referred to page 3 regarding staff prioritizing vs. the slide show presented. Ms. Luna Reynosa stated the staff report was correct.

Council Member Abercrombie stated he believed the Cal Trans Signs were more important and asked if there had been discussion regarding identifying the auto mall on these signs. Mr. Luna-Reynosa stated yes, along with signs for the mall, the outlets and downtown.

Council Member Abercrombie asked what staff saw as their maintenance. Ms. Luna-Reynosa stated the City would maintain the signs. Kevin Tobeck, Director of Public Works, added that he had been involved in the discussions and that vines or vegetation had been recommended to eliminate tagging opportunities.

Council Member Abercrombie asked if this would affect the military banners downtown. Mr. Luna-Reynosa stated there was an existing ordinance allowing banners downtown.

Council Member Elliott asked if staff was having regular dialog with the downtown merchants regarding wayfinding signs and if so, what type of feedback was being received. Ms. Luna-Reynosa stated the merchants were very supportive of the signs.

Council Member Abercrombie asked if the merchants agreed with the prioritization. Ms. Luna-Reynosa stated they have not discussed prioritization with the merchants.

Council Member Elliott reiterated keeping up the dialogue and outreach with the downtown merchants. Ms. Luna-Reynosa referred to a newspaper article which quoted Pete Mitracos.

Mayor Pro Tem Maciel indicated he appreciated staff prioritizing the items and identifying the funding sources. Mayor Pro Tem Maciel asked if it would be cheaper if the kiosks were not lit. Ms. Luna-Reynosa stated for six kiosks, it seemed inexpensive. Mayor Pro Tem Maciel indicated he preferred electronic kiosks.

Council Member Rickman asked if there was any before and after information about other communities that had undertaken wayfinding signs. Ms. Luna-Reynosa stated she did not have that information, but added she had spoken with Mr. Tung who is working on the Downtown Specific Plan and he was in support of the signs.

Council Member Abercrombie asked if Livermore put the signs in prior to revitalizing the downtown. Ms. Luna-Reynosa stated Livermore did not have a comprehensive sign program and that she was not sure when Livermore installed their signs although she suspected it was part of their revitalization efforts.

Mayor Ives stated any merchant will tell you signage is critical. Mayor Ives invited members of the public to address Council on the item.

Marvin Rothschild, 1652 Waverly Court, stated he was concerned with the cost to paint the hotel, the landscaping, Eleventh and Central since he did not see it in the budget. Mr. Rothschild indicated there has to be more variety otherwise signs are not noticed.

Don Sader, 16214 Redondo Drive, asked what the current tax dollars are for the downtown and what would they be with this signage, questioning the return on investment. Mr. Sader stated he liked the look of the signs and added he believed the Cal Trans Signs were the most important to get people off the freeway and into town.

Ms. Luna-Reynosa indicated the sales tax numbers for downtown are significantly less than other areas which was another reason for the focus. Ms. Luna-Reynosa stated it was an investment for the future; creating gathering places and a place to celebrate.

Mayor Ives asked if incentivizing Cal Trans would work. Ms. Luna-Reynosa stated she was not convinced that Cal Trans would be encouraged. Ms. Luna-Reynosa stated the reason Cal Trans is not number one is because the City has no control over what they do.

George Riddle, 1850 Harvest Landing, asked if this was "nice to have" or "need to have," and asked if the merchants were contributing.

Robert Tanner, 1371 Rusher, indicated this was the first he had heard about a million dollar price tag. Mr. Rusher suggested using the water towers instead of Trail Blazer Signs.

Rhodesia Ransome asked what the cost of maintenance would be for the electrical. Ms. Luna-Reynosa stated she did not have that information. Ms. Luna-Reynosa stated she has had discussions with the Public Works Department, but that an annual cost had not been determined.

Council Member Abercrombie stated he hoped that the City would be able to work out any problems with Cal Trans. Council Member Abercrombie was concerned with the Downtown area between 8 p.m. and midnight and added there needed to be businesses Downtown first to draw the public. Council Member Abercrombie added he was concerned with the costs of the signs.

Council Member Rickman asked how long until other phases were implemented. Ms. Luna-Reynosa stated the staff recommendation was to start with Phase 1 (Trail Blazer

Signs). Ms. Luna-Reynosa stated staff would get as many of the priorities taken care of as possible without going over \$360,000. Mr. Churchill added additional phases could be added as funding became available.

Council Member Elliott stated it was his understanding that the money for the wayfinding program was not part of the General Fund. Mr. Churchill stated it was a general capital fund that originates from the general fund; general tax dollars that have been earmarked for capital purposes.

Mayor Ives asked if it was already budgeted. Zane Johnston, Director of Finance, stated yes.

Council Member Elliott stated he agreed that the Cal Trans Signs were important.

Mayor Pro Tem Maciel asked if the money originated from the general fund and moved to the Capital Improvement Project fund. Mr. Johnston stated yes, and was a one time only expense.

Mayor Pro Tem Maciel indicated the input he had received from the business community was very supportive. Mayor Pro Tem Maciel stated he believe it was important that Council move forward and do what can be done with the money available.

Mayor Ives stated he saw this as one of those items where money should be spent wisely. Mayor Ives stated it is Council's top priority to bring the City along in economic development and that the first phase deserved its attention and is one of the Council's priorities.

Council Member Abercrombie asked if staff was still working on the Cal Trans portion. Ms. Luna-Reynosa stated yes.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Elliott to adopt Resolution 2011-100 approving the Wayfinding Sign System Phasing and authorizing staff to prepare bid documents for Phase 1. Voice vote found Council Members Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Abercrombie opposed. Motion carried 4:1.

Mayor Ives called for a recess at 9:13 p.m. The meeting was reconvened at 9:21 p.m.

6. **ACCEPT REPORT ON THE CITY MANAGER'S WORKFORCE READINESS INITIATIVE**
Maria Hurtado, Assistant City Manager, presented the staff report. Over the last several years, staff has addressed the City's structural budget deficit by utilizing five workforce reduction principals which consisted of (1) reducing complexity and consolidating similar services where possible, (2) de-layering of management and supervision levels, (3) increasing span of control for all levels in the organization, (4) automating routine and back office functions where viable, and (5) contracting out where feasible. This resulted in spending cuts of over \$5 million dollars, eliminating 16% of the workforce. The \$5 million dollar reduction in expenditures included employee concessions equal to \$3 million dollars, one-half million of which came from top management. In addition to these expenditure reductions, revenue increase efforts resulted in the successful passage of Measure E, the one-half cent sales tax approved by voters in November, 2010, resulting in an estimated increase in revenue of \$4.6 million per year.

On February 15, 2011, during the budget workshop, the five-year budget and fiscal projection highlighted two key factors that contribute to increased expenses for the current level of service. These factors include the (1) increase in PERS Employer rate over the next 3 years from 24% to 27.2% in public safety and 11.6% to 13.8% for all other employees, and (2) provisions in current labor contracts, which include an increase in health insurance costs, step increases, and educational and training incentives.

Six strategies on how to address the ongoing budget challenges were also presented during February's budget workshop. The variety of options that contribute to the ultimate solution to long-term and sustainable fiscal health will include some, all, or a combination of (1) new labor contracts; (2) contracting out services; (3) continuation of the City's organizational restructure; (4) reprioritization of existing expenditures; (5) elimination or reduction in non-essential services, and (6) an improved economy that could demonstrate a modest growth in revenues over the next five years.

The Council also modified two of the 13 budget principles to address the City's structural budget deficit, giving consideration to the recent contributing factors outlined above that impact the City's five-year plan to address the structural budget deficit. One budget principal modification extended the requirement to present a "balanced budget" by the end FY 12/13 to FY 14/15, allowing for a smoother transition without significant interruption of desired services. In conjunction with this change the existing 15% reserve level was increased to 25%. Finally, an additional budget principle was added which requires staff to bring, with any future funding appropriation or augmentation request, a corresponding budget reduction in another area for a cost neutral proposition.

The strategies and actions outlined above taken over the last several years puts the City in a position to simultaneously now focus on the future of the existing workforce. The City Manager's Workforce Readiness Initiative purposefully positions the City to prepare for anticipated retirements and address any potential talent gap within the organization.

In order to ensure services continue to be offered without disruption or decline in quality now and in the future, it is critical to prepare for the potential loss of institutional knowledge and transfer it to the next generation of professionals within the City organization. To this end, the Workforce Readiness Initiative supports the Council's strategic focus on organizational efficiency by anticipating future retirements, moving beyond position replacement to developing the next generation of leaders within the organization and helping create a culture of learning and talent development, which are key to enhancing the organizational capacity in the face of declining resources.

The staff report focuses on key elements of the Workforce Readiness Initiative and presents the (1) results of the Tracy's workforce analysis, (2) results of the retirement survey, (3) results of an assessment tool "Developing Our Organization's Talent", and (4) the goals and plan for the City's Leadership Development Team.

An analysis of Tracy's workforce revealed that the current employees' average age is 46, with a total average of 11 years of service. Each department was examined and a comparison of retirement eligibility by department in 2011 and in 2016 revealed that three departments are particularly vulnerable. For example, when assessing the potential for retirement of all employees within the Development and Engineering Services (DES) Department, 48% of the total DES employees are age and service eligible in 2011. That figure jumps to 60% in 2016. In the Public Works department, 46% of the employees are

retirement eligible in 2016 vs. only 27% in 2011. Both departments have pivotal or high-leverage positions that may be difficult to fill, like utility managers, operators or engineering professionals. Knowing this potential vulnerability can help the City better prepare for any future talent gap in these areas.

After the workforce analysis was completed, a retirement survey for the organization was administered by Data Cycles. Three primary objectives were identified when administering the retirement survey: (1) estimate the impact of retirement wave changes within the organization, (2) assess interest in early retirement options, and (3) seek advice from employees to help the City optimize business continuity through the retirement wave. This information will help the City organization fine tune any organizational structure changes going forward. There was good participation by employees with 70% of the workforce responding to the retirement survey. Key findings are as follows: When assessing the overall engagement of the existing employees, over 80% stated they would recommend their department as an employer to a friend who was currently seeking employment. The survey also revealed that one in four employees plan to retire in the next 5 years. When asked whether they would be interested in an early retirement option, 60 employees said yes or maybe, which is 78% of the total respondents who are eligible to retire within the next two years. An additional question regarding which potential window of time they would be interested in and, almost half, 45% of employees stated August- October of 2012, 25% stated October-December of 2011, and 16% stated March-May of 2012.

The survey also assessed the potential disruption of these retirements by department with Finance, Development and Engineering Services, and Public Works being the most impacted. A subsequent question asked whether employees felt there were any employees in their division prepared to advance and whether their managers thought they were well prepared. Sixty one percent of employees thought they were well prepared or totally prepared to advance. When asked whether they thought their managers thought they were well prepared, 49% thought their managers felt they were well prepared or totally prepared.

Several risk factors were identified in the survey that should be considered. These included the length of time it would take to transition job duties, with 29% of employees stating it would take 9 to 12 months. When asked how well the critical tasks of the job were documented, 58% thought they were very well or mostly documented, 32% stated they were somewhat documented, 10% stated they were poorly or not at all documented.

When asked what barriers they saw to career development within the organization, 37% stated they were too busy and did not have enough time, 23% stated the event schedule was inconvenient, 21% stated their supervisor did not authorize participation, and 18% stated other reasons. Finally, when asked how Tracy as an organization could help employees advance within the organization, seven key themes emerged:

- Focus on succession planning;
- Offer job rotation and cross-training opportunities;
- Training courses and seminars (i.e. manager skills and leadership training; providing funding and time to participate);
- Publicize training and advancement opportunities;
- Give high priority to internal promotions;
- Reimburse more of tuition expenses, and
- Mentor and coach for success

In summary, approximately 60 employees throughout the organization are interested and eligible to retire over the next couple of years, half of which are interested in doing so by the end of 2011. City management will now need to assess whether those positions are “pivotal” or “high-leveraged” positions, which can be eliminated and/or whether there will be a significant “talent” challenge for those that may require replacements. The three vulnerable departments are Finance, Development and Engineering and Public Works. Although only 10% responded stating critical tasks were poorly or not at all documented, special attention will be placed on ensuring critical tasks are well documented in the appropriate divisions to capture the institutional knowledge prior to retirements. The fact that 80% of employees who responded would recommend the City as an employer of choice is a good sign that the employees are committed to and satisfied with this organization. The various recommendations offered by employees via this survey regarding how the City can intentionally assist with talent development opportunities will be considered and evaluated by the Leadership Development Team.

An internal development assessment tool was administered to the Department Heads and Mid-Managers to obtain base line data on their assessment of the “*Organizational*” efforts in preparing the next generation of leaders in and across all departments. The first ten questions were designed to hear their assessment of how the City, as an organization is doing in developing the talent within the organization. The assessment tool also asked Department Heads and Mid-Managers to rate “*themselves*” as talent developers. The last five questions asked them to “*self-assess*” and rate how they are doing as a talent developer in developing talent within the organization. Thirty nine percent of Department Heads and Mid-Managers responded to this survey.

Overall, the results show that respondents rated the organization’s efforts in developing and retaining talent on the low end, ranging from “poor performers” to doing “okay”. When respondents rated themselves as talent developers, the majority of respondents thought they were doing “okay”. The preliminary data results will be compared a year from now when the assessment tool is administered post-implementation of the various talent development programs, providing City administration the opportunity to re-assess its efforts and employee perception.

In preparation for the potential retirement wave of professional staff leaving the organization, the City Manager formed the Leadership Development Team to implement and evaluate leadership development programs on an ongoing basis. The Leadership Development Team includes a diverse group of Department Head, mid-manager, early and mid-career employees, labor representatives, and administrative support staff representatives. This 25 member team aims to:

- Assist the Tracy organization in accelerating the growth and development of leaders in order to fill critical positions as they become vacant and where a need exists to fill;
- Create leaders at all levels of the organization;
- Help promote a culture of talent development in the organization;
- Ensure a continued level of quality service to the community despite the “retirement wave” of seasoned professional staff;
- Capture and transfer institutional knowledge before it leaves the organization, and
- Enhance the organization’s ability to attract talent.

This Leadership Development Team has top management support from the City Manager and Department Directors. With the assistance of Dr. Frank Benest, International City Manager's Association (ICMA) lead for Preparing the Next Generation, this team is convened by the City Manager and Assistant City Manager, who will in turn; ensure coordination with the Executive Team. This team will meet on a regular basis and, via a work group structure, will develop an action plan to execute a number of program ideas, including a structured leadership and/or multi-track learning academy, institutionalizing annual development plans for employees, creating opportunities for special assignments, and talent exchange programs within divisions, departments and/or other local government agencies where possible, among others.

The initial five work groups will focus on: (1) *Branding and Key Messages* to develop the key messages about the Workforce Readiness Initiative to be delivered to employees as well as overall brand for the initiative; (2) *Outreach to Departments and Employees* to inform the employees about the Workforce Readiness Initiative and get their feedback; (3) the *Intranet Content* to inform employees about resources, training opportunities, articles, the Leadership Development Team (LDT) action plan, results of workforce analysis, special assignment opportunities; (4) *Collaboration Opportunities with other local governments* to research training/talent exchange opportunities with adjacent jurisdictions and assess potential for regional training opportunities, and (5) the *Employee Value Proposition* to determine what makes Tracy the "Employer of Choice" and how to enhance the employee value proposition for the City of Tracy.

In conclusion, the Workforce Readiness Initiative purposefully and strategically prepares the organization for the potential retirement wave that will occur in the next couple of years. This initiative strategically identifies key talent within the organization while developing key talent-development opportunities. The goal is to ensure that quality service delivery remains at the forefront as budget reduction efforts continue. In order to do that, a focus on establishing an organizational culture of learning and talent development is necessary, particularly as the City has down-sized and reduced it's workforce by 16% over the last couple of years.

It is important to note that employees' abilities will be pushed and stretched as they perform new tasks and receive special assignments, potentially resulting in missteps. The executive team and mid-managers understands that allowing for mistakes as we put employees in a position to grow and learn is a key element of the process and their commitment to coach and mentor is expected.

This initiative is an extremely important part of the City's expenditure reduction plan, as it is expected that not all positions that become open through early retirement options will need to be replaced. It is estimated that an average of \$100,000 savings per position could be realized (this cost includes salary and benefits). The total savings related to the early retirement options will be refined over the next couple of months as pivotal positions are evaluated.

Additionally, a \$15,000 appropriation request for talent development activities and programs will be included prior to the June 1, budget adoption.

Staff recommended that Council accept the report on the Workforce Readiness Initiative.

Mayor Pro Tem Maciel asked what the talent development activities included. Ms. Hurtado stated staff was in the process of identifying those activities and provided a few examples.

Council Member Elliott stated by cross-training and providing opportunities for people to do other jobs, he hoped that the responsible department head would maintain a certain amount of counseling and coaching so that mistakes could be kept at a minimum. Ms. Hurtado stated senior staff has made a commitment to mentor and coach those individuals assigned special projects.

Mayor Ives invited members of the public to address Council on the item. There was no one wishing to address Council on the item.

Council accepted the report on the Workforce Readiness Initiative.

7. INTRODUCE ORDINANCE AMENDING TRACY MUNICIPAL CODE REGARDING FEES, AND ADOPT RESOLUTION APPROVING MASTER FEE SCHEDULE - Zane Johnston, Finance and Administrative Support Services Director, presented the staff report. The City-wide Master Fee Schedule replaces multiple Council resolutions adopted over many years, from different departments and on different topics. The benefits of this consolidated approach include: a the record of fees, reports and resolutions will exist in one place and can more readily be found; provides better public information; and will allow for consistent updating of fees in the future.

Council was asked to take two related actions. First, introduce the ordinance amending and repealing various sections of the Municipal Code; second, adopt a resolution approving the Master Fee Schedule. The proposed ordinance does three things:

- Primarily, it amends several Code sections where a specific fee dollar amount was set forth in the Code itself. In these cases, the amendment removes the specific dollar amount and states the fee will be "in the amount set by resolution of the City Council." (Proposed Ordinance SECTIONS 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 14.) This makes it simpler to update fees by resolution in the future, because it does not require amending the Code (by ordinance) every time a fee amount changes.
- Repeals current Chapter 4.36, Regulations Pertaining to Amusement Machine Businesses, on the recommendation of the Police Department, since these regulations are out of date and no longer used. (Proposed Ordinance, SECTION 5.)
- Adds a new section 5.08.185, Owner surrender of live animals, to provide legal authority for the charges that are imposed for this type of surrender. (Proposed Ordinance, SECTION 13.)

The Resolution approving the Master Fee Schedule will take effect immediately. However, (1) the DES fees will not take effect until July 1, 2011 (because a 60-day delay is required by state statute); and (2) the new fireworks related fees will not take effect until the new Fireworks ordinance takes effect.

Except for minor modifications shown on this Master Fee Schedule, the fees are unchanged from those currently in effect as a result of prior City Council resolutions. The intention is for the Master Fee Schedule to be updated annually, in March or April of

each year. At that time, the Council may consider, fee increases to bring the fees closer in line with the actual costs of providing a particular service. This could be done based on a cost-of-living adjustment calculated since the fee was last set (using CPI or other inflationary index). As it is now, most of the fees have not been updated for many years and do not reflect the actual costs, resulting in less-than-full-cost-recovery to the City. If the Council is interested in bringing the fees more in line with current costs, the next annual update of the Master Fee Schedule would be a good time to do this.

In preparing this Schedule, the City Attorney's Office has worked with a representative of each department to bring together all of the fees affecting that department. Once the first Master Fee Schedule is approved, the Finance Department "fee coordinator" will be responsible for annually updating the fees at the same time each year. The proposed fee schedule includes fees charged for City services, but it does not include the following types of fees and charges:

- development impact fees adopted under the Mitigation Fee Act;
- mitigation fees (i.e. habitat mitigation, agricultural mitigation fees);
- business license fees (taxes);
- enterprise fund charges (water, sewer, stormwater, airport, transit);
- fees adopted under franchise agreements (cable franchise under TMC Chapter 8.10; franchise contractor for collection of solid waste, yard waste and recycling under TMC Chapter 5.20);
- landscape maintenance districts;
- fines (imposed as penalties);
- leases of City property; and
- rates established by separate agreements (i.e. Tracy Unified School District).

In the long term, the consolidated Master Fee Schedule should facilitate regular updating of fees.

Staff recommended that Council (1) introduce the ordinance amending the Municipal Code, and (2) adopt the resolution approving the Master Fee Schedule.

Mayor Ives invited members of the public to address Council on the item.

Marvin Rothschild stated he did not see any mention of business licenses. Mr. Johnston stated it was not considered a fee and was contained in the business license ordinance.

Mr. Rothschild stated the City cannot charge a Veteran any business license fee for peddling and indicated he did not believe Ms. Chaparro had been educated on this law.

Mayor Ives asked staff to follow up with Mr. Rothschild.

Mr. Johnston stated there were two additions; 1) the fireworks permit fee added; and 2) Parks & Community Services now allows inflatable structures (jumpy houses) in parks.

The Clerk read the title of Proposed Ordinance 1159.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to waive reading of text. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to introduce Ordinance 1159. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-101 approving the Master Fee Schedule. Voice vote found all in favor; passed and so ordered.

8. SECOND READING AND ADOPTION OF ORDINANCE 1158 AN ORDINANCE OF THE CITY OF TRACY ADDING CHAPTER 3.04, ENTITLED "FIREWORKS", TO THE TRACY MUNICIPAL CODE

The Clerk read the title of Proposed Ordinance 1158.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to waive the reading of the text. Voice vote found all in favor; passed and so ordered.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Elliott to adopt Ordinance 1158. Roll call vote found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Abercrombie opposed. Motion carried 4:1.

9. ADOPTION OF A RESOLUTION PROVIDING A LOTTERY PROCESS FOR THE SELECTION OF NON-PROFIT ORGANIZATIONS TO OBTAIN A SAFE AND SANE FIREWORKS SALES PERMIT FOR JULY 4, 2011 - Al Nero, Fire Chief, presented the staff report. Chief Nero stated that on May 3, 2011, Council introduced Ordinance 1158 entitled "Fireworks" which, when effective, will legalize, and codify requirements for the sale, use and discharge of Safe and Sane Fireworks within the City. The ordinance includes provisions for Council, by resolution, to determine a lottery process for selection of non-profits that will be eligible to apply for a permit to sell and store Safe and Sane Fireworks. Section 3.04.050 "Maximum Number of Safe and Sane Fireworks Permits Issued" of the introduced ordinance, provides that prior to June 8, 2011, the Council shall provide the process, by City Council resolution, for selection of non-profit organizations that will be eligible to apply for permits to sell and store Safe and Sane Fireworks. After July 5, 2011, the Council shall again provide, by City Council resolution, a process for a lottery to determine which non-profit organizations will be eligible to apply for an annual permit to sell and store Safe and Sane Fireworks. Given the time constraints of the "Fireworks" ordinance in relation to July 4, 2011, the resolution attached to the staff report provides an expedited process for selecting non-profit organizations this year.

Under Ordinance 1158, the number of Safe and Sane Fireworks Sales Permits issued to non-profit organizations will be determined by the resident population of the City. The "Fireworks" ordinance specifies one Safe and Sane Fireworks Sales Permit per 10,000 residents or fraction thereof. With the City's current population in excess of 80,000 residents, nine such permits will be issued to non-profit organizations in Tracy. Due to the number of non-profits exceeding the number of permits available, it is necessary to provide an equitable, objective process by which eligible non-profits may receive the Safe and Sane Fireworks Sales Permit.

The expedited lottery process includes an aggressive timeline for both City staff and the applicants. The process includes application submission and screening, lottery processing and drawing, permitting process, safety seminar and permit issuance. If Council adopts the proposed resolution, a two year limit will be put in place for each nonprofit organization if they are drawn in subsequent years, after which the organization will have to sit out a year before submitting another Safe and Sane Fireworks application. The fees associated with the "Fireworks" ordinance are included in the City's Master Fee Schedule which is up for the consideration at this meeting.

Administrative costs for application processing, lottery administration, safety seminars and sales booth inspections will be recovered through the Safe and Sane Fireworks Sales Permit fee as indicated in the City's Master Fee Schedule. It is anticipated that the City will receive approximately \$2,205 in Safe and Sane Fireworks Sales permit revenue and \$650 in temporary use permit revenue for a total of \$2,855.

Staff recommended that Council adopt a lottery process for the selection of non-profit organizations to obtain a Safe and Sane Fireworks Sales Permit for July 4, 2011.

Council Member Elliott asked staff if the fees charged would cover all the costs for overtime for fire and police as a result of the sale of the fireworks. Chief Nero stated they did take into consideration the cost of the sales of the safe and sane fireworks. Chief Nero added a separate issue was the costs related to enforce the existing ban on illegal fireworks. Chief Nero stated close records of all costs would be kept relative to the administration of the program and if adjustments were needed for subsequent years it would be brought to Council for their consideration.

Mayor Pro Tem Maciel asked if there was a general fee application. Chief Nero stated only for those selected.

Chief Nero outlined the process for obtaining permits to be a distributor/seller of safe and sane fireworks.

Mayor Ives invited members of the public to address Council on the item.

Marvin Rothschild asked where individuals pick up the applications. Chief Nero stated all applications can be obtained at Fire Administration, 835 Central Avenue.

Mr. Rothschild stated he was concerned that about the number of booths and the number of non-profits that will want to take advantage.

Dennis Rovellet, Rovellet Communications, thanked the Chief and staff for their work. Mr. Rovellet stated he was in support of the resolution; that it was not a perfect document, but was workable. Mr. Rovellet encouraged staff to amend the administrative fine to permit for illegal fireworks.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2011-102 approving a lottery process for the selection of non-profits to obtain a safe and sane fireworks sales permit for July 4, 2011. Voice vote found Council Members Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Abercrombie opposed. Motion carried 4:1.

10. ITEMS FROM THE AUDIENCE – None.
11. COUNCIL ITEMS - Council Member Abercrombie requested a future discussion item regarding the police firing range. Council Member Abercrombie stated he would like a meeting with TCCA, the Chamber, downtown businesses, and downtown property owners to discuss how to improve the downtown area.

Council Member Abercrombie reminded everyone that Saturday, May 21, 2011, was the first Guns and Hoses Benefit basketball game for only \$2. The event will be held at West High at 7:15 p.m.
12. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adjourn. Voice vote found all in favor; passed and so ordered. Time 10:03 p.m.

The above agenda was posted at the Tracy City Hall on May 12, 2011. The above are summary minutes. A tape recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

June 7, 2011, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

Mayor Ives called the meeting to order at 7:00 p.m., and led the Pledge of Allegiance.

The invocation was given by Pastor Tim Heinrich of Crossroads Baptist Church.

Roll call found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives present.

Mayor Ives presented a proclamation to Staff Sergeant Timothy Tabellija, Tracy Station Commander, proclaiming June 11 through June 17, 2011, as United States Army Week in Tracy.

1. **CONSENT CALENDAR** – It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - A. Minutes Approval – Special meeting minutes of February 15, 2011, regular meeting minutes of March 15, 2011, and April 19, 2011, and closed session minutes of May 3, 2011, and May 17, 2011, were approved.
 - B. Adoption of the Appropriations Limit for Fiscal Year 2011-2012 for the City of Tracy – Resolution 2011-103 established the Appropriations Limit.
 - C. Approval of the San Joaquin County Council of Governments' (SJCOG) Annual Financial Plan for Fiscal Year (FY) 2011-2012 – Resolution 2011-104 approved the SJCOG's annual financial plan.
 - D. Annual Review of City's Investment Policy and Approval of Revisions – Resolution 2011-105 approved the annual review and revisions.
 - E. Authorization to Remove a "No Parking" Zone on the North Side of Ninth Street Between the Two Driveways Accessing the Parks and Community Services South Parking Lot to Allow Parking Spaces and Establishment of "No Stopping Anytime" Zones on Both Sides of Ninth Street between East Street and School Street, Excluding the Existing Parking West of North School Street – Resolution 2011-106 authorized removal of the "No Parking" Zone and establishment of "No Stopping Anytime" Zones.
 - F. Award a Professional Services Agreement with RBF Consulting to Provide Topographic Surveying Services for MacArthur Drive Widening Project Between Valpico Road and Schulte Road – CIP 73126, and Authorize the Mayor to Execute the Agreement – Resolution 2011-107 awarded an agreement for an amount not to exceed \$29,800 to RBF Consulting.

- G. Award a Construction Contract to Zim Industries of Fresno, California, for the Construction of the Lincoln Park Well & Production Well #1 Rehabilitation Project – CIP 75076, Approve a Supplemental Appropriation of \$251,000 from Water Fund (F513), and Authorize the Mayor to Execute the Construction Contract – Resolution 2011-108 awarded the contract and approved the appropriation.
 - H. Reject All Bids for the HVAC Replacement – Parks And Community Services Building Project - CIP 78119 and Authorize Staff to Update the Project Specifications and Contract Documents and Re-Advertise the Project for Construction Bids – Resolution 2011-109 rejected all the bids.
 - I. Approval of an Offsite Improvement Agreement (OIA), for the Construction of Public Improvements Along the Frontage of the Proposed American Custom Meats Meat Processing Facility to be Located on 4276 North Tracy Boulevard, and Authorization for the Mayor to Execute the Agreement – Resolution 2011-110 approved the agreement.
 - J. Approve Amendment Number 4 to the Professional Services Agreement with MV Transportation to Increase the Not to Exceed Amount by \$25,000 for Fiscal Year 2010/2011 and Authorize the Mayor to Sign the Amendment – Resolution 2011-111 approved the amendment.
2. ITEMS FROM THE AUDIENCE - Nanette Martin, Vice President of the San Joaquin County Fair Board, invited Council and residents to the San Joaquin County Fair running June 15 through June 19, 2011. Admission is free and parking costs \$5. Ms. Martin outlined many of the features the fair offers this year, and provided Council with a packet of information.

Tom Benigno, 2473 Angora Court, addressed Council regarding water issues in California and San Joaquin County. Mr. Benigno read from a flyer he received in his utility bill regarding water and encouraged residents to read the flyer.

Brent Rodriguez, Phantom Fireworks, commended Council and staff on how quickly and efficiently they had completed the process required for the sale and use of Safe and Sane Fireworks in Tracy. Mr. Rodriguez indicated the process normally takes up to 6 months, but Tracy was able to accomplish the process in approximately 6 weeks.

Craig Saalwaechter, 4083 Peyton Lane, thanked Council for supporting the sale and discharge of Safe and Sane Fireworks in the City, and encouraged everyone to join in the 4th of July parade. Mr. Saalwaechter commended Council for approving the CDBG grant for the Senior Center, and thanked Jayne Pramod for opening the Transit Station on a cold day during a senior event. Mr. Saalwaechter discussed the proposed roundabout at Chrisman and Eleventh Street and urged staff, residents, and the Council to attend the meeting to protest this proposal.

Dave Helm, 1000 Central Avenue, addressed Council regarding a previous discussion on Council minutes and the D.A.R.E. program. Mr. Helm stated he believed Mayor Pro Tem Maciel's letters to the Editor were a violation of the Brown Act. Mr. Helm provided a history of concerns regarding various staff members.

Nancy Young thanked Council for attending the Tracy African American Association event held last weekend.

Brian Van Lehn, 541 Winston Court, addressed Council regarding noise issues with Leprino Foods. Mr. Van Lehn voiced frustration that there has been no resolution to his issues.

3. JOINT PUBLIC HEARING OF THE CITY COUNCIL AND THE COMMUNITY DEVELOPMENT AGENCY TO CONSIDER ADOPTION OF THE ANNUAL BUDGET FOR THE CITY OF TRACY AND THE TRACY COMMUNITY DEVELOPMENT AGENCY FOR FISCAL YEAR 2011-2012 AND APPROPRIATE FUNDS

Mayor Ives called the Community Development Agency to order at 7:48 p.m.

Roll Call found Agency Members Abercrombie, Elliott, Maciel, Rickman, and Chairman Ives present.

Zane Johnston, Director of Finance and Administrative Services, presented the staff report. Mr. Johnston stated the proposed operating budget for Fiscal Year 2011-12 (FY 2011-12) was presented to the Council at a budget workshop on May 17, 2011. The focus of the operating budget is the General Fund. As presented at the budget workshop the proposed General Fund expenditure budget was \$47,285,150. However, revenues are not sufficient to cover expenses resulting in a draw on reserves (budget deficit) of \$1,555,230.

The budget is identical to that presented at the workshop as the Council did not request any changes. However, further review by staff indicated the additional \$125,000 for Police overtime for gang intervention had inadvertently been excluded in the published figures. This has been corrected. Also, at the budget workshop it was noted that the Police Department had proposed a different organizational structure and program budget to what was published in the proposed budget. Although the total appropriation of \$22,430,850 to the department remains the same, its allocation to the 14 programs has been slightly modified.

All labor agreements with City labor units (except Police) have either expired or will expire on June 30, 2011. The possible outcome from these negotiations may lessen the budget deficit. The Police labor contract does not expire until June 30, 2012.

The proposed capital budget for FY 2011-12 was presented to the Council at a workshop on March 17, 2011. No changes were requested.

Sections 1 and 2 of the resolution authorize the appropriations and interfund transfers for FY 2011-12. Section 3 provides for all investment earnings and gains in FY 10-11 and FY 11-12 for funds with General Fund derived cash balances and the City's internal services funds will be allocated to the General Fund 101. Section 4 appropriates any un-appropriated proceeds of taxes to contingency reserves although none are anticipated. This section provides for a formal statement of the practice as policy for purposes of Gann Limit compliance. Also, it sets a targeted fund balance of \$18,985,100 for the City's General Fund 101, and authorizes staff to maintain this targeted fund balance at fiscal year-end, by transferring monies in or out of the General Fund 101 with the Economic Uncertainty Fund 299.

Section 5 specifies there is no uncommitted development impact fee monies held by the City from prior fiscal years. All fees collected to date have either been spent on capital projects or are committed to projects scheduled in the City's Capital Improvement Plan. Section 6 provides that any over expenditures in the current FY 10-11 operating budget as amended at the fund and department level will be offset by an equal reduction for the same fund and department in the new adopted budget for FY 11-12. It is not anticipated that any department will exceed their FY 10-11 amended budget.

Section 7 deals with fee revenues that are projected to cover program costs. If actual revenues are less than projected, actual program expenses should also decrease by an equal amount. This section provides that any expenditure of unrealized revenues will also be offset by an equal amount if over by 5%.

The proposed budget will allow for funding of substantial efforts to meet all of the Council's strategic plans. If a certain item within one of these plans cannot be accomplished within the proposed budget, such matter will be identified for the Council at a later date.

As projected, there will be sufficient resources to cover all proposed expenditures. Most funds have sufficient reserves and/or revenues to cover expenditures. In a few cases, short-term loans will be required for these funds.

Staff recommended that the Council adopt the Budget and Appropriations Resolution for Fiscal Year 2011-2012; and that the Agency Board of Directors adopt the Community Development Agency Budget and Appropriations Resolutions for Fiscal Year 2011-2012.

Council Member Abercrombie asked what full time regular position was deleted from the Police Department. Mr. Johnston indicated the overall reduction in the police department equaled one full time equivalent (FTE) and stated the budget was catching up on those reductions. Mr. Johnston added the information in the staff report was reflective of the organization's structure and was not coming from an "officer on the street". Leon Churchill, Jr., City Manager, stated the budget reflects the current situation in the Police Department. Mr. Churchill added he wanted to pursue a distinction between staffing for operational purposes versus staff for support functions and administrative functions. Mr. Churchill indicated no detrimental decisions would be made regarding police operations.

Council Member Abercrombie reiterated his understanding that there was an agreement with the Tracy Police Officers Association to reduce the number of police officers by four. Council Member Abercrombie asked if those were sworn officer positions. Mr. Johnston stated yes, but an administrative position could be included.

Council Member Abercrombie asked if two positions had been eliminated. Janet Thiessen, Chief of Police, stated the agreement was to eliminate seven positions and four have already been eliminated.

Council Member Abercrombie stated the budget calls for the elimination of a position and asked where that position was coming from. Chief Thiessen indicated the additional positions that are coming up are through attrition, and another position will be coming off the books as well. Regarding first responder strength, Chief Thiessen stated they were shifting resources.

Council Member Abercrombie asked for clarification regarding the number of districts. Chief Thiessen stated the numbers have remained the same (5 officers with 1 sergeant) per district. Chief Thiessen stated when staffing is down to the minimum, beats 4 and 5 share the calls with beat 6 and back-fill with overtime.

Council Member Abercrombie was concerned that the City may not be able to provide the service needed if staff is reduced further. Mr. Johnston indicated this was the same number of police officers that existed last October and that the budget count reflected the number of officers on the street since before Measure E.

Mr. Churchill stated the Council has charged the city manager with financial goals to meet and the ability for decision makers to fill a position or not at any particular time. Mr. Churchill stated the desire to maintain services should not be confused to mean that that decision making ability goes away.

Council Member Elliott asked if the street presence of officers has remained the same and if the current organization has caused any reduction in response times. Chief Thiessen indicated the City is maintaining the same response times, but that some things are being done differently.

Council Member Rickman asked how many officers. Chief Thiessen stated 84. Council Member Rickman asked if this budget included the same number of sworn officers. Mr. Johnston stated yes.

Mayor Ives stated a correct set of metrics to show how the city is meeting its commitment for service was needed.

Council Member Elliott asked for clarification on the handout, section 7, regarding any expenditure being offset by an equal amount. Mr. Johnston explained staff could not exceed the total expenditure, but had flexibility to move within the expense area.

Council Member Rickman asked if the \$75,000 and \$125,000 was money that was specifically for gang officers on the street for overtime. Chief Thiessen stated it was for gang suppression and for overtime needed to update the gang files. Council Member Rickman stated he would like to see exactly where the money was going.

Mayor Ives opened the public hearing.

Goldie Pappas, 950 W. Eaton, addressed Council indicating whatever the city can do to allow what the Police Department needs to do to keep the community safe should be taken seriously.

As there was no one further wishing to address Council, the public hearing was closed.

Mayor Pro Tem Maciel stated there is a difference between level of service and the number of officers and the focus should be on maintaining minimum staffing on a patrol team and not going below that.

Council Member Abercrombie asked if this budget had the same number of officers from last October until June 2012. Mr. Johnston stated Council would be approving the number.

Council Member Elliott stated Council needed to keep their eye on the other goal to balance the budget and to use all the tools to ensure that it continues toward that goal.

Council Member Rickman asked if the City did internal audits in all departments. Mr. Churchill stated operations are reviewed on a regular and continuing basis, along with quarterly reviews with management. Mr. Churchill added that all departments were about to re-design their operations.

Mayor Pro Tem Maciel asked if all departments still receive grey sheets. Mr. Johnston stated each department receives budget updates monthly.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-112 adopting the annual budget and appropriations for the City of Tracy for FY 2011-2012. Voice vote found all in favor; passed and so ordered.

Mayor Ives called for the Council to recess at 8:29 p.m.

It was moved by Agency Member Abercrombie and seconded by Agency Member Elliott to adopt Resolution 253 adopting the annual budget and appropriations for the Community Development Agency for the City of Tracy for Fiscal Year 2011-2012. Voice vote found all in favor; passed and so ordered.

Mayor Ives reconvened City Council at 8:29 p.m.

4. JOINT ITEM APPROVING A PURCHASE AND SALE AGREEMENT BY AND BETWEEN THE CITY OF TRACY AND FAHD OLOMARI, OLOMARI PROPERTIES LLC, AND OLOMARI ENTERPRISES, INC. FOR PROPERTY LOCATED AT 729 AND 741 CENTRAL AVENUE AND AUTHORIZE THE AGENCY BOARD TO ACCEPT THE ASSIGNMENT OF THE PURCHASE AND SALE AGREEMENT – Ursula Luna-Reynosa, Economic Development Director, presented the staff report. Ms. Luna-Reynosa stated the City and Seller have been negotiating for the purchase of the Property. City staff and the Seller have tentatively agreed to a purchase price of \$650,000 (the "Purchase Price") for the Property (approximately \$59 per square foot). The Property consists of an approximately 11,017 square feet of leasable space on a 10,500 square foot lot. It is staff's opinion that the Purchase Price represents the fair market value of the Property based on utilizing the income approach for the analysis. The income approach is a common approach to value commercial real estate based on net operating income and the market cap rate.

There are currently two tenants occupying the Property, including the Affiliated Tenant and Jack Elliot, d.b.a. Jack Elliot Productions (the "Unaffiliated Tenant"). The Seller intends to cause the Affiliated Tenant to vacate the Property not later than 60 days from the close of escrow in accordance with the short term lease agreement (the "Short Term Lease"). The Short Term Lease is between the City and the Affiliated Tenant.

The City will inherit the lease agreement with the Unaffiliated Tenant. The term is November 1, 2010 through August 31, 2013 with the following rent schedule:

Rent from 11/01/10 to 12/31/10 to be rent free.
Rent from 01/01/11 to 06/30/11 to be \$1,200 per month.
Rent from 07/01/11 to 12/31/11 to be \$2,400 per month.

Rent from 01/01/12 to 12/31/12 to be \$2,700 per month.

Rent from 01/01/13 to 08/31/13 to be \$3,000 per month.

The Unaffiliated Tenant has a two-year option which includes the following rent schedule:

Rent from 09/01/13 to 08/31/14 to be \$3,250 per month.

Rent from 09/01/14 to 08/31/15 to be \$3,500 per month.

The City and Community Development Agency of the City of Tracy (the "Agency") entered into a Public Improvements Grant and Cooperation Agreement (the "Cooperation Agreement") on January 17th 2011. The Cooperation Agreement included a list of public improvements to be funded by the Agency but for the City to cause the installation of such public improvements. Acquisition of real property and assistance for public improvements and related public-private improvements to eliminate blight and revitalize downtown was included in the list. Therefore, the funding source for the acquisition of the Property will come from tax increment funds.

Under the terms of the Agreement, the City has the authority to assign its rights, duties and obligations to any person or entity. It may be determined that it is in the best interest of the City to assign the Agreement to the Agency. In the case that this determination is made, staff is recommending that the City approve such assignment and that the Agency Board assume the Agreement. The specific approvals for such actions are outlined below in the Recommendation section of this staff report.

The approval of the Purchase and Sale Agreement is exempt from the California Environmental Quality Act ("CEQA") pursuant to Title 14 of the Code of California Regulations sections 15332 (In-Fill Development Projects) and 15061(b)(3) (there is no possibility that the activity may have a significant effect on the environment).

The execution of the Agreement will cost \$650,000 plus any title and escrow fees associated with the transaction. There will be further costs associated with inspections that will also be incurred as part of the due diligence period.

Staff recommended that the City take the following actions:

1. Authorize and direct the City Manager to file a Notice of Exemption with respect to the Agreement in accordance with the applicable provisions of CEQA;
2. Authorize the use of \$650,000 of the funds provided to the City pursuant to the Cooperation Agreement to fund acquisition of the Property;
3. Approve the Agreement and authorize and direct the Mayor to execute the Agreement on behalf of the City and to make all approvals and take all actions necessary or appropriate to carry out and implement the Agreement and to administer the City's obligations, responsibilities and duties to be performed under the Agreement;
4. Approve the assignment of the Agreement of the Agency, if such assignment is determined to be in the best interest of the City by the City Manager, and direct the City Manager to make such approvals and take all actions necessary to effectuate such assignment; and
5. Amend the City FY 10-11 Budget or the FY 11-12 Budget to the extent necessary to carry out the City's obligations pursuant to the Agreement.

Staff recommends that the Agency take the following actions:

1. Authorize and direct the Agency's Executive Director to file a Notice of Exemption with respect to the Agreement in accordance with the applicable provisions of CEQA;
2. Consent to the City's authorization to use \$650,000 of the funds provided to the City pursuant to the Cooperation Agreement to fund acquisition of the Property;
3. Approve the assignment of the Agreement to the Agency, if such assignment is determined to be in the best interest of the Agency by the Agency's Executive Director, and direct the Agency's Executive Director to make such approvals and take all actions necessary to effectuate such assignment; and
4. In the event the Agency assumes the Agreement from the City, authorize and direct the Agency's Executive Director to make all approvals and take all actions necessary or appropriate to carry out and implement the Agreement and to administer the Agency's obligations, responsibilities and duties to be performed under the Agreement.

Mayor Ives opened the public hearing. As there was no one wishing to address Council on the item, the public hearing was closed.

Council Member Rickman asked if this was a friendly purchase. Ms. Luna-Reynosa stated it was a voluntary acquisition. Ms. Luna-Reynosa added the Redevelopment Agency does not have power of eminent domain and the City is only able to acquire property for public purposes (i.e., a public street or public building).

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2011-113 authorizing the execution of a Purchase and Sale Agreement for the acquisition of certain real property located in the Redevelopment Project Area. Voice vote found all in favor; passed and so ordered.

Mayor Ives called for City Council to recess at 8:35 p.m.

It was moved by Agency Member Abercrombie and seconded by Agency Member Rickman to adopt Resolution 254 of the Board of the Community Development Agency consenting to the execution of a Purchase and Sale Agreement for the acquisition of certain real property located in the Redevelopment Project Area. Voice vote found all in favor; passed and so ordered.

Chairperson Ives called for the Agency to adjourn at 8:35 p.m. Mayor reconvened the City Council meeting at 8:35 p.m.

5. REVIEW AND APPROVE TRACY ARTS COMMISSION'S RECOMMENDATIONS FOR THE LANDMARK FEATURE OF THE DOWNTOWN PARK PLAZA - William Wilson, Gallery Supervisor, Grand Theatre, presented the staff report. Mr. Wilson stated that Council provided direction on the conceptual design alternatives for the Downtown Park Plaza on June 15, 2010. At that time the Council opted to wait on providing direction for the landmark feature in order to consider recommendations provided through the Civic Art Program.

As part of the Capital Improvement Project (CIP) for the Downtown Park Plaza, located at Central Avenue and 6th Street, staff explored the incorporation of a civic art project as a prominent landmark feature at a cost not to exceed \$200,000. A Request for Proposals was issued in July, 2010. Over 100 artists/artist collectives were solicited for interest, with 19 individual artists and 3 artist teams submitting a total of 29 proposals.

A project subcommittee was formed to review the artists' proposals, solicit and review public feedback, and provide a finalist recommendation to the Tracy Arts Commission. The Downtown Park Plaza Landmark Civic Project Subcommittee included: Tracy Arts Commissioners Michael Hays, Barbara Howard, and Marlene Jones; Transportation Advisory Commissioner and Architect Christina Frankel, Planning Commissioner and Member of the West Side Pioneers Pete Mitracos, Local Sculptor and Member of the Tracy Art League Frank Cameron, Downtown Business Owners Ray Morelos and Melody Potter.

All 29 proposals met the required criteria and were placed on public display from September 15th to November 6th at the Grand Theatre Center for the Arts. The public was invited, via media release, email announcement and flyers, to rate interest and provide commentary. The public was asked to consider the Artistic Excellence/Creativity (design concepts that are creative and demonstrate quality of work) and Strength of Content (considerations of the project, the community, and users) in order to provide useful data and comments. 190 public surveys were collected and quantified.

The Subcommittee reviewed the proposals to identify questions/concerns for the artists, toured the Downtown Park Plaza site, reviewed public feedback, discussed the proposals in depth, and then submitted evaluation worksheets and made finalist recommendation. The Subcommittee and the public both preferred the same proposal.

The Tracy Arts Commission reviewed the Subcommittee's recommendation on November 9, 2010. Commissioners discussed the historical significance of the project location, the public use of the transit station, plaza and roundabout, the site lines and scale of the artwork in relationship to the streetscape and architecture of the area, the durability of materials, and the desire for a low-maintenance artwork. The Commission unanimously agreed that the success of the landmark is dependent upon linking the history of Tracy and the community to the artwork.

The recommended proposal would integrate a large format sculpture in the center of the roundabout. This project celebrates Tracy's historic themes of labor, transportation and agriculture in the form of a monumental bronze figure. The sculpture forms an image of symbiotic strength and action. The highly recognizable, regional subject matter in a richly textured, impressionistic style make this sculpture a symbol of the importance of Tracy's past and future.

Upon Council approval, staff will negotiate with the artist to provide a revised itemized budget and for an initial contract in the amount of \$500 to provide a final design that could be referenced by project engineers to provide the proper infrastructure, such as concrete footings and electrical components, in the roundabout to accommodate future potential installation of the sculpture. The working budget below incorporates production, foundry casting, artist's fee and installation, as well as any known or suggested revisions to the project. In addition, a 10% contingency is established for required signage and fluctuating market-driven expenses.

The Artist will be asked to submit final scale model and/or drawings of project upon the Council's approval of the finalist recommendation. As the compensation for final design is nominal in this project, the expense of \$500 can be incurred from the Cultural Arts Division's budget, which includes the operations of the Tracy Arts Commission and the Civic Art Program.

With project approval staff can begin to research funding sources for any expenses needed to execute project completion outside of the Downtown Park Plaza Capital Improvement Project.

If future funding is identified to pay for this project, and upon Council approval, staff will negotiate a contract with the artist to include all aspects of fabrication and installation that follows the guidelines of the Civic Art Plan in the best interests of the City. Such contract will also be subject to Council approval as it will likely exceed the \$50,000 amount that the City Manager may authorize.

The fiscal impact is \$500, which is General Fund support for the Cultural Arts Division allocated in the FY10-11 budget. There is no additional General Fund impact.

Staff recommended that the Council approve the Tracy Arts Commission's finalist recommendation for a civic art project in the form of a landmark feature in the proposed roundabout at the new Downtown Park Plaza.

Council Member Elliott asked if the cost for the project was already in the budget. Andrew Malik, Development and Engineering Services Director stated staff would be coming back to Council on June 28, 2011. Mr. Wilson stated staff anticipated that there would be significant cost savings for the project.

Craig Saalwaechter, 4083 Peyton Lane, stated he has seen the artist's work previously, and indicated the proposal was an excellent piece of work he would love to see it in the downtown. Mr. Saalwaechter indicated staff needed to keep pressure on the railroad regarding replacing the Bowtie area.

Council Member Abercrombie asked if the budget would include maintenance. Mr. Malik stated staff has discussed the item with Kevin Tobeck, Director of Public Works.

Mayor Pro Tem Maciel asked if the portion of the project was part of the bid. Mr. Malik stated no.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2011-114 approving the Tracy Arts Commission's finalist recommendation for the landmark feature of the Downtown Park Plaza. Voice vote found all in favor; passed and so ordered.

6. INTRODUCTION OF AN ORDINANCE TO UPDATE SECTION 3.16 OF THE MUNICIPAL CODE WHICH REGULATES TAXICABS AND AUTOMOBILES FOR HIRE
Ed Lovell, Management Analyst, presented the staff report. Mr. Lovell stated that the regulation of taxicabs was created by Ordinance 189 adopted in February 1943. It has been amended once by Ordinance 238 in October 1968. Since then, there have been changes in State law that now require local agency regulation of taxi drivers and taxi companies operating within its jurisdiction to include among other things, drug testing of

drivers and safety checks of vehicles. Due to the extensive changes needed, the proposed ordinance deletes existing Section 3.16 in its entirety and replaces it with new regulations and requirements.

After researching ordinances from other cities in the surrounding area, staff has drafted a proposed ordinance that is similar to other cities and meets the requirements of State law. Staff has met with the existing cab companies currently doing business in Tracy and all were in agreement with the language contained in the new ordinance.

The proposed ordinance requires that the Council establish limits on the number of taxicabs allowed to do business in the City, as well as limits on the number of vehicle permits allowed for any one business. The action to establish these limits will be brought to the City Council after the ordinance has been adopted. The establishment of the various fees listed in the new ordinance will also be brought to the Council as a separate action item at a later date.

There will be an increase in the revenue collected by the Police Department and the Parks and Community Services Department as a result of the annual permit fees established by the ordinance. Revenues collected by the Police Department will go to the General Fund and revenues collected by the Parks and Community Services Department will go to the Transit Fund.

Staff recommended that the Council introduce an ordinance to update and replace Section 3.16, "Taxicabs and Automobiles for Hire," of the Tracy Municipal Code.

Mayor Ives invited public comment. There was no one wishing to address Council on the item.

Mayor Pro Tem Maciel asked if there were restrictions for a cab driver from a surrounding city to drop off a person in Tracy. Mr. Lovell stated other cabs are allowed to drop off passengers in the City limits.

The Clerk read the title of proposed Ordinance 1160

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to waive the reading of the text. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to Introduce Ordinance 1160. Voice vote found all in favor; passed and so ordered.

7. SECOND READING AND ADOPTION OF ORDINANCE 1159 AN ORDINANCE OF THE CITY OF TRACY AMENDING AND REPEALING VARIOUS SECTIONS OF THE TRACY MUNICIPAL CODE AS A COMPREHENSIVE CLEAN-UP ORDINANCE RELATING TO THE ESTABLISHMENT OF A CITY MASTER FEE SCHEDULE: SECTIONS 3.16.030, 3.16.040, 3.20.060, 3.20.070, Chapter 4.36 (repealed), 4.20.040, 4.20.060, 4.20.110, 4.20.160, 4.20,180, 4.24.060, 5.08.130(n), 5.08.185 (new), 5.08.240

The Clerk read the title of proposed Ordinance 1159.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to waive reading of the text. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Ordinance 1159. Roll call vote found all in favor; passed and so ordered.

8. ITEMS FROM THE AUDIENCE – none.

9. COUNCIL ITEMS

- A. Consider an Item for Discussion on a Future City Council Agenda Regarding the Police Firing Range - Council Member Abercrombie stated he would like staff to bring back an item for Council consideration outlining the possibilities for updating the range to make it a revenue generating range. Council Member Abercrombie further stated he would like to see what the City's goals are for the range.

Mayor Ives invited members of the public to address Council on the item.

Don Sader, 16214 Redondo Drive, encouraged Council to consider the request. Mr. Sader stated he believed there were opportunities for the police range to generate revenue, as well as adding a few additional jobs in the City.

George Riddle, 1950 Harvest Landing Lane, stated he believed it was a great opportunity for the community to become familiar with the police community.

Mayor Ives asked if staff could provide an estimate on how much time it would take to provide the requested information. Leon Churchill, Jr., City Manager, stated an item could be brought back within 60-90 days.

Mayor Pro Tem Maciel stated he was not sure Council needed to be involved until a proposal was provided.

Mr. Churchill indicated at some point staff may request Council to consider adding it as a Capital Improvement Project.

It was moved by Council Member Rickman and seconded by Council Member Elliott to direct staff to bring back an item for Council consideration. Voice vote found all in favor; passed and so ordered.

- B. Consider an Item for a Future City Council Agenda Related to Scheduling a Workshop to Discuss Downtown Issues - Council Member Abercrombie stated he would like to have a workshop with the Planning Commission, Chamber Board, TECA, and downtown business owners, etc., to see what the vision is for downtown.

Mayor Pro Tem Maciel asked staff if the City was currently having workshops on downtown projects. Mr. Churchill stated yes. Mayor Pro Tem Maciel suggested waiting until those meetings are concluded.

Leon Churchill, Jr., City Manager, stated he would highly encourage the Council to meet with the Planning Commission to ensure they are in line with public goals and to make sure others have input.

Mr. Churchill stated there are six workshops scheduled over the next several months.

Mayor Ives invited members of the public to comment on the item. There was no one wishing to address Council on the item.

Mayor Ives stated getting the collective vision in line was important to move projects forward for downtown.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to direct staff to organize a workshop to discuss downtown issues to be placed on a future Council agenda. Voice vote found all in favor; passed and so ordered.

- C. Consider Placing an Item on a Future Agenda to Reconsider Council's Prior Decision Authorizing the Wayfinding Sign System Phasing Plan –Council Member Rickman indicated the reason for bringing this item up was that he liked the Cal Trans freeway signs. Council Member Rickman stated he was struggling with the trail blazer signs and the cost of \$316,000. Council Member Rickman stated there was no evidence that it will provide an economic investment for the community. Council Member Rickman stated he was asking Council and the Mayor to sit with the downtown merchants to discuss their public/private partnership. Council Member Rickman referred to the Capital Improvement Project priority ranking for FY 09/10 where wayfinding signs were listed at #44. Council Member Rickman questioned what made the wayfinding signs a priority all of a sudden.

Mayor Ives invited members of the public to comment on the item.

Linda Jiminez, P.O. Box 1065, stated she fully supported the downtown and agreed with Council Member Rickman's comments and concern. Ms. Jiminez stated let's wait, get our plan, get it developed, then direct people downtown.

George Riddle, 1850 Harvest Landing Lane, stated he agreed with the previous speaker and Council Member Rickman.

Council Member Elliott stated it was not a concern to re-consider a past decision, but believed it would be a good idea to re-consider the item after the workshop with the groups discussed under the last Council discussion item.

Mayor Ives stated he believed that once Council made a decision, to re-consider so soon gives staff confusing guidance. Mayor Ives stated his previous points relative to wayfinding signs adding they are for economic development. Mayor Ives stated he would not change his vote and that it was fiscally responsible to make investments downtown. Mayor Ives stated the project should continue on the path that has been provided.

Mayor Pro Tem Maciel indicated the signs are not just for downtown, but for various retail and governmental sites as well. Mayor Pro Tem Maciel stated he was not interested in re-visiting the item.

It was moved by Council Member Rickman and seconded by Council Member Abercrombie to direct staff to place a future agenda item to reconsider Council's prior decision authorizing the Way Finding Sign System Phasing Plan. Voice vote found Council Member Rickman and Council Member Abercrombie in favor; Mayor Pro Tem Maciel and Mayor Ives opposed; Council Member Elliott abstained. The motion failed.

Council Member Abercrombie thanked Fire Engineer Paul O Neal and Police Officer Richard Graham for organizing the Guns and Hoses event.

Mayor Ives indicated he would bring an item to Council for discussion regarding Items from the Audience and moving the business on the agenda along more quickly.

Council Member Elliott indicated the planned workshop with downtown stakeholders should include a discussion of how the downtown merchants feel about Wayfinding signage.

10. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Mayor Pro Tem Maciel to adjourn. Voice vote found all in favor; passed and so ordered. Time: 9:17 p.m.

The above agenda was posted at the Tracy City Hall on May 27, 2011. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

June 24, 2011, 1:00 p.m.

Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

1. Call to Order – Mayor Pro Tem Maciel called the meeting to order at 1:00 p.m.
2. Roll Call - Roll call found Council Members Abercrombie, Rickman, and Mayor Pro Tem Maciel present; Council Member Elliott and Mayor Ives absent
3. Items from the Audience – None
4. AWARD A CONSTRUCTION CONTRACT TO KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA FOR COMPLETION OF THE DOWNTOWN PLAZA PROJECT – CIP 78117, AND AUTHORIZE AN APPROPRIATION OF \$3.5 MILLION FROM FUND 317 – Andrew Malik, Development and Engineering Director, presented the staff report. On June 15, 2010, the Community Development Agency (CDA) approved the concept design of the Downtown Plaza Project with minor modifications.

On January 17, 2011, the CDA entered into a Public Improvement Grant and Cooperation Agreement with the City for the purpose of installing certain public improvements within the CDA project area. The agreement allows the City to acquire rights-of-way (if needed), and to design and construct CDA projects.

The project involves reconfiguration of the existing street and landscaping, installation of a water feature, and a traffic circle on the City's right-of-way along Sixth Street between the Tracy Transit Center and existing restaurant buildings to the north east of Central Avenue. The City's in-house engineering staff completed the street design, landscaping, specifications and contract documents. The specialty design for the water feature and traffic circle were completed by consultants after approval of Professional Services Agreements by Council on May 10, 2011.

This project is categorically exempt from the California Environmental Quality Act (CEQA) as established in Section 15332 pertaining to infill projects.

The project was advertised for construction bids on June 7 and June 14, 2011. A total of five bids were received on June 22, 2011 as follows:

<u>Contractors</u>	<u>Bid Amounts</u>
Knife River Construction, Stockton CA	\$2,300,200.00
Robert A. Bothman, Inc., San Jose CA	\$2,497,602.00
Diede Construction, Inc., Woodbridge CA	\$2,568,153.16
Apple Gate Johnson, Inc., Modesto CA	\$2,967,000.00
Dale A. Cose, Tracy CA	\$2,988,745.00

Knife River Construction of Stockton, California, submitted the low bid. The bid analysis indicates that the low bid is responsive and the bidder is responsible. Knife River Construction has good references and has completed similar projects satisfactorily for the City and other agencies.

The total construction cost of the project and status of funding is as follows:

Bid Amount	\$2,300,200
Contingency at 20%	\$ 460,040
Design Cost \$ 260,000 (outside consultants \$141,260)	
Design support during construction	\$ 120,000
Inspection and Construction management	\$ 345,030
City-wide management	<u>\$ 327,725</u>
 Total Construction Cost	 \$3,812,995
 Total available funds for this project	 \$3,813,000

Construction is anticipated to start in July 2011, and to be completed by February 2012.

A total of \$3.813 million is available from CDA funds for construction of the project. The project includes \$3.5 million available from funds provided to the City pursuant to the Cooperation Agreement entered on January 17, 2011. This amount needs to be appropriated from Fund 317. In addition, \$313,000 of unused funding is available in the CIP. There is an impact to the General Fund for annual maintenance of the Downtown Plaza in the amount of \$18,000.

Staff recommended that Council by resolution, award a construction contract to Knife River Construction of Stockton, California for construction of the Downtown Plaza Project – CIP 78117, in the amount of \$2,300,200, and authorize an appropriation of \$3.5 million from Fund 317.

Council Member Abercrombie asked what projects Knife River Construction had completed for the City. Binh Nguyen, Associate Civil Engineer, responded that Knife River Construction had completed downtown streetscape projects.

Council Member Abercrombie asked from which fund the estimated \$18,000 for annual maintenance for the Downtown Plaza will be appropriated. Leon Churchill, Jr., City Manager, responded that question could not be answered until construction is complete. Mr. Churchill added that the impact on the Public Works Department will mostly be maintenance and time, and may not be a cash outlay.

Mayor Pro Tem Maciel stated some of the downtown businesses will endure months of construction. Mayor Pro Tem Maciel asked how much of the construction will affect the intersection and east of the intersection. Mr. Malik responded that it was discussed at the last City and Chamber of Commerce meeting to phase in some of the improvements. The actual roundabout could be constructed after the Bean Festival. The Chamber was agreeable to the commencement of the work on the east side of the roundabout.

Mayor Pro Tem Maciel asked if there would be a plan to minimize interruption to those businesses fronting the plaza. Mr. Malik responded absolutely.

Mayor Pro Tem Maciel asked for confirmation that the successful bid included all the amenities and the water feature. Mr. Malik responded yes.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2011-129 awarding a construction contract to Knife River Construction of Stockton, California for completion of the Downtown Plaza Project – CIP 78117, and authorizing an appropriation of \$3.5 million from Fund 317. Voice vote found all in favor; passed and so ordered.

5. 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 1:08 p.m.

The above are summary minutes. The above agenda was posted at Tracy City Hall on June 23, 2011.

Mayor Pro Tem

Attest:

City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

July 19, 2011, 6:00 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Ives called the meeting to order at 6:07 p.m. for the purpose of a closed session to discuss the items outlined below.
2. ROLL CALL – Roll call found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives present.
3. ITEMS FROM THE AUDIENCE - None
4. CLOSED SESSION -
 - Pending Litigation (Gov. Code, section 54956.9(b))
 - *Christopher Bosch v. City of Tracy, et al.*
(San Joaquin County Superior Court Case No. 39-2010-00252419-CU-OE-STK)
 - *Patricia Gomez v. City of Tracy, et al.*
(San Joaquin County Superior Court Case No. 39-2011-00265024-CU-OE-STK)
 - *TRAQC v. City of Tracy, et al.*
(San Joaquin County Superior Court Case No. 39-2008-00201854-CU-WM-STK)
 - Claim of Juan “John” Espinoza
5. MOTION TO RECESS TO CLOSED SESSION – Council Member Abercrombie motioned to recess the meeting to closed session at 6:07 p.m. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered.
6. RECONVENE TO OPEN SESSION – Mayor Ives reconvened the meeting into open session at 6:48 p.m.
7. REPORT OF FINAL ACTION – In the matter of Patricia Gomez v. City of Tracy, et al., San Joaquin County Superior Court Case No. 39-2011-00265024-CU-OE-STK, it was moved by Council Member Abercrombie to authorize the City to defend the individually named employee. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered.
8. ADJOURNMENT – Council Member Abercrombie moved to adjourn the meeting. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered. Time: 6:49 p.m.

The agenda was posted at City Hall on July 14, 2011. The above are summary minutes.

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.B

REQUEST

AWARD A PROFESSIONAL SERVICES AGREEMENT (PSA) WITH DE NOVO PLANNING GROUP TO PROVIDE SERVICES TO PREPARE ENVIRONMENTAL DOCUMENTATION (CEQA/NEPA) FOR THE MACARTHUR DRIVE WIDENING PROJECT BETWEEN VALPICO ROAD AND SCHULTE ROAD – CIP 73126, AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT

EXECUTIVE SUMMARY

The City of Tracy is receiving Federal funds for the design and construction of the MacArthur Drive Widening Project between Valpico Road and Schulte Road – CIP 73126. It is necessary to prepare environmental documentation complying with State and Federal requirements for federally funded projects. Due to the specialty of the CEQA/NEPA environmental documentation, services of an experienced consultant are needed for this work necessitating award of this PSA.

DISCUSSION

The widening of MacArthur Drive from Schulte Road to Valipco Road is an approved Capital Improvement Project with an estimated cost of \$5,638,900. The project is partly funded from Infill and Industrial Area Specific Plan development impact fees and a Federal Tea Grant. A recent award of a Federal TEA grant in the amount of \$542,900 has facilitated the design and acquisition of rights-of-ways for this project. The project has also received approval for additional funding from a Federal grant for \$1,146,000 due in FY 2012-13. The remaining funding for completion of this project will be from Infill development impact fees and gas tax. Additional funding will also be solicited from Federal grants. Depending on the availability of funds, the project may be completed in multiple phases. However, the project design needs to be completed now. Before design and acquisition of rights-of-ways can begin on a federally funded project, it is necessary to complete the CEQA/NEPA documents.

The CEQA/NEPA federally funded projects need to be in compliance with Federal and Cal Trans requirements and services of experienced consultants are needed to complete this work.

On March 18, 2011, the City issued a Request for Proposals (RFP) to qualified consultants to provide professional engineering services related to the preparation of environmental documentation. The RFP was also posted on the City's website.

On April 14, 2011 six proposals were received as follows:

1. LSA Associates, Rocklin, CA
2. ICF International, Sacramento, CA
3. Ascent Environmental, Inc., Sacramento, CA
4. PMC, Rancho Cordova, CA
5. Sycamore Environmental Consultants, Inc., Sacramento, CA
6. De NOVO Planning Group, Sacramento, CA

Staff evaluated the proposals and found De NOVO Planning Group of Sacramento, California, to be the most qualified consultant to complete this work. De NOVO Planning Group has proposed highly experienced staff to provide the required services, and have also successfully completed similar projects for the City of Tracy and other public agencies.

Staff negotiated with the De NOVO Planning Group to provide the required services for this project on a time and material basis for an amount not to exceed \$124,637.24. Staff recommends that City Council approve this Professional Services Agreement.

STRATEGIC PLAN

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

FISCAL IMPACT

There will be no fiscal impact to the General Fund. Funds for the professional services agreement will be paid from Federal TEA Fund 313.

RECOMMENDATION

That City Council, by resolution, award a Professional Services Agreement with De NOVO Planning Group of Sacramento, California, on a time and material basis for an amount not to exceed \$124,637.24, to provide professional services for the preparation of environmental documentation for the MacArthur Drive Widening Project – CIP 73126, and authorize the Mayor to execute the Agreement.

Prepared by: Zabih Zaca, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer
Andrew Malik, Development and Engineering Services Director

Approved by: Leon Churchill, Jr., City Manager

Attachment: Exhibit A – Professional Services Agreement

**CITY OF TRACY
PROFESSIONAL SERVICES AGREEMENT
FOR
PREPARATION OF ENVIRONMENTAL DOCUMENTS (CEQA/NEPA)
FOR THE MACARTHUR DRIVE WIDENING BETWEEN SCHULTE ROAD AND
VALPICO ROAD, CIP 73126, FEDERAL PROJECT NO. STPL 5192(033)**

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter "Agreement") is made and entered into by and between the CITY OF TRACY, a municipal corporation (hereinafter "CITY"), and De NOVO PLANNING GROUP (hereinafter "CONSULTANT").

RECITALS

- A. A. CONSULTANT services are needed to provide an Environmental Analysis and Documentation for the MacArthur Drive widening between Schulte Road and Valpico Road. ("PROJECT").
- B. On March 18, 2011, CITY issued a Request For Proposals (RFP) for the PROJECT. The City received six (6) proposals. After a competitive process including oral interviews, CONSULTANT'S proposal was determined to be the most responsive to the City's RFP. After negotiations between CITY and CONSULTANT, the parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement. On August 2, 2011 the City Council authorized the execution of this Agreement, pursuant to Resolution No. 2011-__.
- C. CONSULTANT represents it has the qualifications, skills and experience to provide these services and is willing to provide services according to the terms of this Agreement.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **SCOPE OF SERVICES.** CONSULTANT shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference. The services shall be performed by, or under the direct supervision of, CONSULTANT's Authorized Representative: Steve McMurtry. CONSULTANT shall *not* replace its Authorized Representative, nor shall CONSULTANT replace any of the personnel listed in Exhibit "B," nor shall CONSULTANT use any subcontractors or subconsultants, without the prior written consent of the CITY.
2. **TIME OF PERFORMANCE.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. CONSULTANT shall commence performance, and shall complete all required services no later than the dates set forth in Exhibit "C." Any services for which times for performance are not specified in this Agreement shall be commenced and

CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT
MacArthur Drive Widening between Schulte Road and Valpico Road
CIP 73126, Federal No. STPL 9152 (033)
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completed by CONSULTANT in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the CONSULTANT. CONSULTANT shall submit all requests for extensions of time to the CITY in writing no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. CITY shall grant or deny such requests at its sole discretion.

- 3. INDEPENDENT CONTRACTOR STATUS.** CONSULTANT is an independent contractor and is solely responsible for all acts of its employees, agents, or subconsultants, including any negligent acts or omissions. CONSULTANT is not CITY's employee and CONSULTANT shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless the CITY provides prior written authorization to CONSULTANT. Contractors and CONSULTANTS are free to work for other entities while under contract with the CITY. Contractors and CONSULTANTS are not entitled to CITY benefits.
- 4. CONFLICTS OF INTEREST.** CONSULTANT (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. In the event that CONSULTANT maintains or acquires such a conflicting interest, any contract (including this Agreement) involving CONSULTANT's conflicting interest may be terminated by the CITY.
- 5. COMPENSATION.**

 - 5.1.** For services performed by CONSULTANT in accordance with this Agreement, CITY shall pay CONSULTANT on a time and expense basis, at the billing rates set forth in Exhibit "D," attached hereto and incorporated herein by reference. CONSULTANT's fee for this Agreement is Not To Exceed \$124,677.24. 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.
 - 5.2.** CONSULTANT shall submit monthly invoices to the CITY describing the services performed, including times, dates, and names of persons performing the service.
 - 5.3.** Within thirty (30) days after the CITY's receipt of invoice, CITY shall make payment to the CONSULTANT based upon the services described on the invoice and approved by the CITY.
- 6. TERMINATION.** The CITY may terminate this Agreement by giving ten (10) days written notice to CONSULTANT. Upon termination, CONSULTANT shall give the CITY all original documents, including preliminary drafts and supporting documents, prepared by CONSULTANT for this Agreement. The CITY shall pay CONSULTANT

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MacArthur Drive Widening between Schulte Road and Valpico Road
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for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

7. **OWNERSHIP OF WORK.** All original documents prepared by CONSULTANT for this Agreement, whether complete or in progress, are the property of the CITY, and shall be given to the CITY at the completion of CONSULTANT's services, or upon demand from the CITY. No such documents shall be revealed or made available by CONSULTANT to any third party without the prior written consent of the City.
8. **ATTORNEY'S FEES.** In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
9. **INDEMNIFICATION.** CONSULTANT shall indemnify, defend, and hold harmless the CITY (including its elected officials, officers, agents, volunteers, 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 CONSULTANT's performance of services under this Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of the CITY.
10. **BUSINESS LICENSE.** Prior to the commencement of any work under this Agreement, CONSULTANT shall obtain a City of Tracy Business License.
11. **INSURANCE.**
 - 11.1. **General.** CONSULTANT shall, throughout the duration of this Agreement, maintain insurance to cover CONSULTANT, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
 - 11.2. **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.
 - 11.3. **Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") "claims made" coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
 - 11.4. **Workers' Compensation** coverage shall be maintained as required by the State of California.
 - 11.5. **Professional Liability** "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of CONSULTANT in an amount not less than \$1,000,000 per claim.

CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT
MacArthur Drive Widening between Schulte Road and Valpico Road
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- 11.6. Endorsements.** CONSULTANT shall obtain endorsements to the automobile and commercial general liability with the following provisions:
- 11.6.1** The CITY (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
- 11.6.2** For any claims related to this Agreement, CONSULTANT's coverage shall be primary insurance with respect to the CITY. Any insurance maintained by the CITY shall be excess of the CONSULTANT's insurance and shall not contribute with it.
- 11.7. Notice of Cancellation.** CONSULTANT 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.
- 11.8. Authorized Insurers.** All insurance companies providing coverage to CONSULTANT 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.
- 11.9. Insurance Certificate.** CONSULTANT 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.
- 11.10. Substitute Certificates.** No later than thirty (30) days prior to the policy expiration date of any insurance policy required by this Agreement, CONSULTANT shall provide a substitute certificate of insurance.
- 11.11. CONSULTANT's Obligation.** Maintenance of insurance by the CONSULTANT as specified in this Agreement shall in no way be interpreted as relieving the CONSULTANT of any responsibility whatsoever (including indemnity obligations under this Agreement), and the CONSULTANT may carry, at its own expense, such additional insurance as it deems necessary.
- 12. ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated, without the written consent of the CITY. Any attempt to assign or delegate this Agreement without the written consent of the CITY shall be void and of no force and effect. A consent by the CITY to one assignment shall not be deemed to be a consent to any subsequent assignment.
- 13. NOTICES.**
- 13.1** All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective party as follows:

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MacArthur Drive Widening between Schulte Road and Valpico Road
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To CITY:

City of Tracy
Attn: ZabihZaca
Senior Civil Engineer
333 Civic Center Plaza
Tracy, CA 95376

To CONSULTANT:

De Novo Planning Group, Inc.
Attn: Steve McMurtry
Principal Planner
4630 Brand Way
Sacramento, CA 95819

- 13.2 Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated above, or (2) three working days following the deposit in the United States Mail of registered or certified mail, sent to the address designated above.
14. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
15. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
16. **SEVERABILITY.** In the event any term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
17. **JURISDICTION AND VENUE.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.
18. **ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed for this project. This Agreement supersedes all prior negotiations, representations, or agreements.
19. **COMPLIANCE WITH THE LAW.** CONSULTANT shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
20. **STANDARD OF CARE.** Unless otherwise specified in this Agreement, the standard of care applicable to CONSULTANT's services will be the degree of skill

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and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.


21. SIGNATURES. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONSULTANT and the CITY. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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

CITY OF TRACY

CONSULTANT
De Novo Planning Group, Inc.

By: Brent H. Ives
Title: Mayor
Date: _____



By: Steven McMurtry
Title: Principal
Date: 7/20/11
Fed. Employer ID No. 26-2962235

Attest:

By: Sandra Edwards
Title: CITY CLERK
Date: _____

Approved As To Form:

By: Daniel G. Sodergren
Title: CITY ATTORNEY
Date: _____

EXHIBIT "A"
SCOPE OF SERVICES
WORK PLAN AND DELIVERABLES

Task 1- Project Description and Purpose and Need Statement

The first critical task for this project will be to develop a clear and comprehensive project description and purpose and need statement for the project. The De Novo team review all available engineering and technical reports/plans that relate to the proposed project. We will work collaboratively with City/Caltrans staff to develop a project description suitable for use in the CEQA/NEPA document and technical studies.

Estimated Fee for Task 1: \$240.00

Task 2 - Prepare Traffic Study

Fehr & Peers conducted a preliminary analysis using the City of Tracy travel demand forecasting (TDF) model to identify locations that would most likely be affected by the MacArthur Drive widening under both existing and year 2035 conditions. According to the existing conditions analysis, the study segment of MacArthur Drive (with two lanes) and the surrounding roadways operate under capacity; therefore, the added capacity provided by the Project is not be expected to divert trips from parallel facilities onto MacArthur Drive. However, under 2035 conditions, the Project is expected to divert trips from Chrisman Road onto MacArthur Drive. The following intersections are most likely to be affected by the Project and will be analyzed in the study: MacArthur Dr/Schulte Rd, MacArthur Dr/Yosemite Dr, MacArthur Dr/Eastlake Dr, MacArthur Dr/Debord Dr, MacArthur Dr/Valpico Rd, Chrisman Rd/Schulte Rd, and Chrisman Rd/Valpico Rd.

Data Collection: Fehr & Peers will collect turning movement counts along with vehicle classification at the study intersections listed above during the morning (7:00 to 9:00 AM) and evening (4:00 to 6:00 PM) peak periods. In addition, 24-hour machine counts will be collected on MacArthur Drive south of Schulte Road to obtain existing daily volumes. Fehr & Peers will also conduct a field reconnaissance of the study area to verify intersection geometries, traffic signal operations, in addition to transit, bicycle and pedestrian facilities.

Existing Conditions Analysis: Based on the data collected in Task 1, Fehr & Peers will calculate peak-hour levels of service (LOS) at the study intersections. The LOS calculations will be performed using the Synchro software package for weekday morning (AM) and evening (PM) peak hour conditions. In addition, Fehr & Peers will document the transit, bicycle and pedestrian systems within the study area and make qualitative observations about the condition of these systems and their level of use.

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Existing Plus Project Conditions Analysis: Fehr & Peers will use the data collected and include the Project roadway improvements to calculate peak hour LOS at the intersections. Using the LOS thresholds defined in the General Plan and other environmental documents, potential project impacts will be identified. Mitigation measures will be recommended to reduce the significance of each potential impact to a less-than-significant level. Potential impacts to the bicycle, pedestrian, and transit systems will also be identified, along with feasible mitigation measures. Fehr & Peers will conduct a review of the roadway design to identify areas of concern.

Cumulative Conditions Analysis: Fehr & Peers will develop Cumulative Conditions traffic forecasts for the study intersections using the 2035 version of the Tracy TDF model that was utilized for the recent City of Tracy Roadway Master Plan project. Traffic operations at the study intersections will be analyzed using the Synchro software package.

Cumulative Plus Project Conditions Analysis: Fehr & Peers will use the 2035 Tracy TDF model to forecast the changes to travel patterns related to the construction of the MacArthur Drive Project under Cumulative Conditions. AM and PM peak hour forecasts will be developed for the study intersections and ADT volumes will be estimated for the new widened segment of MacArthur Drive. Potential Project-related impacts will be identified using the impact thresholds defined in Task 3. Mitigation measures will be recommended to reduce the significance of each potential impact to a less-than-significant level.

Fehr & Peers will use the results of the intersection LOS analysis to determine appropriate study intersection lane configurations and turn pocket storage lengths to refine the Project design.

VMT Analysis: Fehr & Peers will perform an Existing and year 2035 peak hour and daily VMT analysis for the study area using the Tracy TDF model. VMT will be summarized by speed bin for No Project and Plus Project conditions.

Documentation: The results of the transportation analysis will be documented in a report format study for review by the Project team and City Staff. It is anticipated that the results of the study will be incorporated into the environmental documentation for the Project. This proposal includes up to four hours for response to comments on the draft traffic study.

Meetings: Fehr & Peers will attend one meeting with the City Staff and the Project team to discuss the results of the study. Additional meetings will be attended, as requested, and billed on a time-and-materials basis according to our current billing rates.

Deliverable: Five (5) hard copies of 1st administrative draft Traffic Study, one electronic copy. Five (5) hard copies of 2nd administrative draft Traffic Study, one electronic copy. Five (5) hard copies of final Traffic Study, one electronic copy.

Estimated Fee for Task 2: \$30,038.14

Task 3 - Prepare Noise Study Report and NADR

j.c. brennan & associates, Inc. will prepare a Noise Study in accordance with the FHWA/Caltrans Protocol. j.c. brennan & associates will address the noise study as follows:

Data Collection: Consistent with the recommendations of the Caltrans/FHWA Protocol and general requirements of the City of Tracy, background noise level measurements will be conducted along the project boundaries at the adjacent noise sensitive areas. The noise measurement data will be used to quantify the existing peak hour noise levels, and the 24-hour average (Ldn) noise levels. Both short-term and continuous 24-hour noise level measurements will be used to determine background noise levels. The collected noise level data will be used to determine existing noise levels and for comparison to the proposed project noise levels. Locations of sensitive receptors will be noted as well as locations and heights of existing sound walls for inclusion into the FHWA TNM sound model.

Analysis: An analysis of the proposed project alternative under the existing, future no project, and future + project traffic noise levels will be determined for the project. If analysis of additional project alternatives is desired, such analyses would be conducted based upon a time and materials basis.

The FHWA TNM Model will be used for analysis of traffic noise levels consistent with the Caltrans/FHWA Protocol procedures. The TNM traffic noise model is required by Caltrans and FHWA for determining the overall traffic noise levels. Traffic noise levels will be determined for specific land uses which have been determined to be of concern. Primarily, these will include any noise-sensitive uses including residential, schools and church uses. It is important to note that the new TNM model which is required by Caltrans and the FHWA is a very accurate and detailed tool for assessing traffic noise impacts. However, the amount time and effort required for the model set-up and analysis is extensive and labor intensive.

Mitigation Measures: j.c. brennan & associates, Inc. will analyze potential noise mitigation measures where noise impacts are identified. Mitigation measures will be evaluated according to Caltrans guidelines. Where mitigation measures may be required, they will be included in the report. For the Caltrans/FHWA analysis, a preliminary determination of reasonableness will be conducted for mitigation measures. Where significant impacts are identified, mitigation measures will be recommended. If impacts cannot be mitigated to a less than significant level, the residual impacts will be identified.

Report Preparation: j.c. brennan & associates, Inc. will prepare a technical noise analysis in accordance with the Caltrans/FHWA Protocol procedures for areas which

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require Caltrans and FHWA review. In addition, the analysis will address the City's General Plan Noise Element criteria.

Response to Comments: This scope of work will include responding to comments on the Draft Report, and to comments on the Final Report. Additionally, we will provide assistance to the project engineer during preparation of the NADR.

Deliverable: Five (5) hard copies of 1st administrative draft Noise Study Report, one electronic copy. Five (5) hard copies of 2nd administrative draft Noise Study Report, one electronic copy. Five (5) hard copies of final Noise Study Report, one electronic copy.

Estimated Fee for Task 3: \$27,054.24

Task 4 - Prepare Air Quality Report

The Air Quality Report will include an air quality and climate change analysis, as well as a project-level conformity analysis. The air quality analysis will utilize URBEMIS and/or EMFAC, as appropriate, to quantify criteria pollutants generated from traffic. Our analysis will be based on the traffic forecasts provided by the project engineer. A CALINE analysis for the intersection will be performed if warranted based on the traffic engineer's level of service analysis.

The GHG emissions analysis will follow the Caltrans protocols as provided in the SER and document templates, as well as the SJCOG regional GHG analysis, to ensure that GHG emissions are appropriately considered and addressed under CEQA. The Air Quality analysis will describe the federal, state, and local regulatory environment and existing air quality conditions impacting the region, and will describe emission sources, regional emission estimates, vehicle use, and construction emissions associated with implementation of the project. The analysis will conclude with a consistency analysis, cumulative impact analysis, and a discussion of feasible mitigation measures that should be implemented to reduce impacts on air quality and to ensure air quality conformity with the State Implementation Plan (SIP).

Deliverable: Five (5) hard copies of 1st administrative draft Air Quality Report, one electronic copy. Five (5) hard copies of 2nd administrative draft Air Quality Report, one electronic copy. Five (5) hard copies of final Air Quality Report, one electronic copy.

Estimated Fee for Task 4: \$4,700.00

Task 5 - Prepare Initial Site Assessment

The ISA will be prepared by a Registered Environmental Assessor from Adanta, Inc. The ISA will consist of those assessment activities necessary to comply with Caltrans ISA Standards, the ASTM E1527-05, and the AAI standard. For the purposes of this proposal, Adanta assumes we will review files for the five listed release sites, and conduct full site walks including interior spaces for 10 parcels in addition to the roadway right-of-way and adjacent areas.

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Adanta will conduct physical observations of the Site to assess its current and historical uses. Observations will be made to find evidence of contamination and the presence of hazardous substances. Adanta will observe adjacent sites for indications of potential environmental concern, and will characterize the general land use and topography within about ¼ mile. An attempt to view the neighboring sites will be done from publically accessible locations. If parts of the Site are abandoned, AAI requires that Adanta contact individuals at neighboring sites and conduct interviews of tenants or owners of those sites.

Adanta will provide a third-party computer search of government environmental databases to locate sites within designated distances of the Site that have a potential to affect the environmental quality of the Site. The database search will include those records specifically called out by U.S. EPA in the AAI standard.

The report will be prepared by an environmental specialist and Environmental Professional (EP) meeting the U.S. EPA AA requirements. The report will be reviewed by the EP and their professional qualifications will be included with the report.

Deliverable: Five (5) hard copies of 1st administrative draft ISA, one electronic copy. Five (5) hard copies of 2nd administrative draft ISA, one electronic copy. Five (5) hard copies of final ISA, one electronic copy.

Estimated Fee for Task 5: \$5,510.00

Task 6 - Prepare Visual Impact Assessment

David Evans Associates will prepare a VIA in accordance with the FHWA's Visual Impact Assessment protocols. The VIA will be structured as a streamlined VIA that would analyze the change in visual quality through a qualitative discussion. The VIA document will include recommendations to reduce visual impacts, if they are deemed necessary.

Deliverable: Five (5) hard copies of 1st administrative draft VIA, one electronic copy. Five (5) hard copies of 2nd administrative draft VIA, one electronic copy. Five (5) hard copies of final VIA, one electronic copy.

Optional Tasks. If requested by the City we can provide photographic simulations. The selection of potential viewpoints would be determined by Caltrans and/or the Project Development Team.

Estimated Fee for Task 6: \$13,333.00

Task 7 - Prepare Cultural Studies (APE, ASR, HPSR, HRER)

Peak and Associates will prepare the cultural studies in accordance with the Caltrans SER. We will prepare the Area of Potential Effect Map. A Senior Archeologist will initiate a Sacred Lands check through the Native American Heritage Commission (NAHC), and send initial letters to Native American groups and individuals identified by the NAHC.

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This will be followed by a second round of consultation after completion of the field study.

The Senior Archeologist will conduct a record search for the APE and surrounding area through the Central California Information Center of the California Historical Resources Information System. This step will provide information on previous surveys in the area, and nearby recorded cultural resources.

The Senior Archeologist will complete a field survey of the proposed APE. If sites are found, this will be reported immediately to the City, and the sites will be discussed with Caltrans if it appears that the presence of the resources could require further studies. All buildings and/or building complexes in the APE over 45 years in age will be recorded.

The Principal Investigator, with the assistance of the Senior Archeologist, will then begin preparation of the required DPR form and reports: Historic Property Survey Report (HPSR), Archeological Survey Report (ASR), Historic Resources Evaluation Report (HRER).

Assumptions: arrangements for access of the property will be made by the City/Caltrans, the City will assist in obtaining the building construction dates, 11 buildings/building complexes in the potential APE that will require recordation.

Deliverable: Five (5) hard copies of 1st administrative draft APE/ASR/HPSR/HRER, one electronic copy. Five (5) hard copies of 2nd administrative draft APE/ASR/HPSR/HRER, one electronic copy. Five (5) hard copies of final APE/ASR/HPSR/HRER, one electronic copy.

Estimated Fee for Task 7: \$9,875.00

Task 8 - Prepare Technical Memos, and FEMA Maps

De Novo will prepare a Relocation Impact Memo, Land Use/Community Impacts Memo, and Farmland Memo (Form 1006). These memos will be prepared following the Caltrans SER and will serve as the technical document for use in the CEQA/NEPA analysis. We understand that the Caltrans staff biologist will provide a Biological Memo for our use in the environmental document. De Novo will coordinate this effort. We will prepare a FEMA Map using utilizing ArcGIS.

Deliverable: Five (5) hard copies of each of the 1st administrative draft memos, one electronic copy. Five (5) hard copies of each of the 2nd administrative draft memos, one electronic copy. Five (5) hard copies of each of the final memos, one electronic copy.

Estimated Fee for Task 8: \$6,315.00

Task 9 - Prepare CEQA/NEPA Documents

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De Novo will prepare a joint CEQA/NEPA document utilizing the Caltrans SER templates. The appropriate document will be an Initial Study/Environmental Assessment, which includes a Mitigated Negative Declaration and Finding of No Significant Impact (FONSI). This work effort will utilize the technical studies that are presented in tasks above, and the technical studies provided to us directly by the project engineer as a basis for analysis. The work plan and schedule will follow the Caltrans review timelines. We will submit an administrative review copy of these documents to the City and Caltrans for review and comment, which will include an external quality control form. We will revise the document based on the comments received and provide the City and Caltrans with a second administrative draft with a response to comments and external quality control form. Once the environmental document is approved for circulation we will prepare a public draft with the appropriate public notices. We will submit 15 hard copies to the State Clearinghouse for State Review. Additionally, we will provide the City of Tracy with twenty-five hard copies that can be distributed to local agencies at the City's discretion. Lastly, we will provide the City of Tracy with an electronic copy of the notice that can be posted with a newspaper of regional distribution, and an electronic copy of the environmental document that can be posted on the City's website.

Deliverable: Five (5) hard copies of the 1st administrative draft IS/EA, one electronic copy. Five (5) hard copies of each of the 2nd administrative draft IS/EA, one electronic copy. Fifteen (15) hard copies public draft IS/EA hand delivered to the State Clearinghouse, twenty-five (25) hard copies mailed to the City for distribution to the appropriate local/regional agencies, one public notice delivered to the County Clerk for posting, one electronic notice emailed to the City to be circulated in a newspaper of regional distribution.

Estimated Fee for Task 9: \$12,180.00

Task 10 - Project Management/Meetings

De Novo will attend up to ten (10) PDT meetings. We anticipate that the Project Manager will be required for each meeting. Technical support from other members may be required on occasion and will be accommodated as necessary on a time and materials basis.

Estimated Fee for Task 10: \$6,881.86

Task 11 - Prepare Section 4F Evaluation

If the cultural analysis reveals a Section 4(f) resource within the project limits, we will prepare a Section 4(f) Evaluation that will be incorporated into the EA as an appendix. The evaluation will follow the reporting requirements as outlined in the Caltrans Environmental Handbook.

Estimated Fee for Task 11: \$4,000.00

**Task 12 - Prepare Biological Technical Memo or Natural Environmental Study MI
(Minimal Impacts)**

If the Caltrans Biologist does not provide a Biological Technical Memo or Natural Environmental Study MI, De Novo Planning Group's staff biologist will prepare a Natural Environmental Study Minimal Impacts (NES) for the project. The NES will follow the requirements in the Caltrans Environmental Handbook Volume 3 Biological Resources. The preparation of the NES will involve the following:

- **Background Research:** De Novo will conduct a background data search to determine biological resources known to occur in biological study area. These data will be obtained from the Inventory of Rare and Endangered Vascular Plants of California (California Native Plant Society, 2001), the California Department of Fish and Game (CDFG) Natural Diversity Data Base (CNDDB), lists from CDFG and U. S. Fish and Wildlife Service, and biological inventories conducted on adjacent properties.
- **Issue Identification/Scoping:** De Novo will coordinate with the Project Engineer to determine the limits of the project study area, including the footprint of the completed project, new right of way limits, areas needed for utility relocation, construction access roads, driveway realignments, and construction easements. We will evaluate the direct and indirect effects of the project and, if necessary, will identify the Area of Direct Effect and the Area of Indirect Affect.
- **Field Survey:** De Novo will compile lists of potential sensitive resources likely to occur within the vicinity of the project study area and conduct a reconnaissance-level field survey to develop an accurate description of the project study area, determine the presence of sensitive habitats and species, and evaluate the impacts of the project on the project study area. If it is determined that the presence of some sensitive resources may require multiple field surveys or sampling over more than one season then a scope modification would be required for the additional time.
- **Mapping:** De Novo will map the vegetation types within the survey area using GPS overlaid on an aerial photo at a scale large enough to show vegetation types and important biological features such as habitat for sensitive species, wetlands, and unique plant assemblages. We will use a combination of aerial photo interpretation and ground truthing to delineate vegetation types and estimate the total acreage, the dominant plant species, and the relative sensitivity of the vegetation type. The mapping will identify each species observed to the extent necessary to determine whether it is threatened or endangered as well as natural communities whose status is being tracked by the CNDDB.
- **Evaluating Impacts and Significance:** De Novo will evaluate the effects of the project on the biotic resources in the project study area. The evaluation will investigate the direct and indirect effects, the long-term and/or short-term impacts, and the cumulative impacts. We will conclude with a determination of the impact level of significance.

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- **Mitigation Measures:** De Novo will coordinate with the Project Engineer to develop biological mitigation measures for the project.

Deliverable: five (5) hard copies of the NES, one (1) electronic copy.

Estimated Fee for Task 12: \$3,600.00

Task 13 - Perform Protocol-level Plant Survey

If the Caltrans Biologist does not provide a Biological Technical Memo or Natural Environmental Study MI, and also determines that a protocol-level plant survey is required, then De Novo can perform the survey. However, the City should note that this plant survey is time sensitive and is required to be performed during the blooming season, which is generally March-May for plants common to the Central Valley. If the Caltrans Biologist was to require this it would impact the ability of De Novo to complete the project according to schedule.

The protocol for the special-status plant surveys will follow the California Department of Fish and Game's "*Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*" (DFG 2009). This methodology requires plant surveys to be performed during the blooming season, which is generally March-May for plants common to the Central Valley. All plants encountered during the surveys will be identified to the highest taxonomic level necessary for a rare plant determination. Nomenclature will follow *The Jepson Manual: Higher Plants of California* (Hickman 1993, ed.). The results of the plant survey would be included in the NES.

Estimated Fee for Task 13: \$950.00

Total Estimated Fees for Task 1 to 13: \$124,677.24

EXHIBIT "B"
LIST OF PERSONS WORKING ON PROJECT

B-1 De Novo Planning Group

Steve McMurtry	Project Manager/Principal
Ben Ritchie,	Principal Planner
Beth Thompson	Principal Planner
Jen DeMartino	GIS Analyst
Kevin Kiser	Accountant

B-2 Fehr and Peers

Jane A. Bierstedt, P.E.,	Principal
Ellen M. Poling, P.E.,	Project Manager
Francisco J. Martin, E.I.T	Transportation Engineer/Planner

B-3 J.C. brennan & associates

Jim Brennan	Principal Consultant
Luke Saxelby	Senior Consultant
Lisa Tena	Administrative Support Staff

B-4 Adanta

Kimberly Pantz, REA	Environmental Scientist/Principal
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B-5 Peak Associates

Melinda Peak,	Principal Investigator
Bob Gerry	Senior Investigator

B-6 David Evans and Associates

Kim S. Rhodes, LA 3867	Principal Landscape Architect
James B. Brands, LA 5318	Project Manager, Landscape Architect
Angie Jun,	Landscape Designer/Graphics

EXHIBIT "C"
PROJECT SCHEDULE

Project Task	Start Date	End Date	Duration
Notice to Proceed	Aug. 1, 2011	Aug. 1, 2011	1 day
Prepare Project Description, Purpose and Need, and APE for Caltrans Review	Aug 1, 2011	Aug 10, 2011	10 days
Deliverable: Project Description, Purpose and Need, and APE	Aug 10, 2011	Aug 10, 2011	1 day
Caltrans Review of Project Description, Purpose and Need, and APE	Aug 10, 2011	Aug 24, 2011	15 days
Prepare Traffic Study, NSR, ISA, ASR, HPSR, HRER, AQR, and technical memos - 1st Administrative Draft for Caltrans Review	Aug 1, 2011	Oct 1, 2011	60 days
Deliverable: Traffic Study, NSR, ISA, ASR, HPSR, HRER, AQR, and technical memos - 1st Administrative Draft	Oct 1, 2011	Oct 1, 2011	1 day
Caltrans Staff Review of Traffic Study, NSR, ISA, ASR, HPSR, HRER, AQR, and technical memos - 1st Administrative Draft	Oct 1, 2011	Oct 15, 2011	15 days
Prepare Traffic Study, NSR, ISA, ASR, HPSR, HRER, AQR, and technical memos - 2nd Administrative Draft	Oct 15, 2011	Oct 25, 2011	10 days
Deliverable: Traffic Study, NSR, ISA, ASR, HPSR, HRER, AQR, and technical memos - 2nd Administrative Draft	Oct 25, 2011	Oct 25, 2011	1 day
Caltrans Staff Review of Traffic Study, NSR, ISA, ASR, HPSR, HRER, AQR, and technical memos - 2nd Administrative Draft	Oct 25, 2011	Nov 7, 2011	12 days
Prepare 1st Administrative Draft IS/EA	Nov 7, 2011	Nov 22, 2011	15 days
Deliverable: 1st Administrative Draft IS/EA	Nov 22, 2011	Nov 22, 2011	1 day
Caltrans Staff 1st Administrative Draft IS/EA Review	Nov 22, 2011	Dec 22, 2011	30 days
Prepare 2nd Administrative Draft IS/EA	Dec 22, 2011	Jan 7, 2011	15 days
Deliverable: 2nd Administrative Draft IS/EA	Jan 7, 2011	Jan 7, 2011	1 day
Caltrans Staff 2nd Administrative Draft IS/EA Review	Jan 7, 2011	Jan 22, 2011	15 days
Prepare Public Draft IS/EA	Jan 22, 2011	Feb 7, 2011	15 days
Deliverable: Public Draft IS/EA	Feb 7, 2011	Feb 7, 2011	1 day
*Statutory 30-day Public Review Period	Feb 7, 2011	March 7, 2011	30 days

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Prepare Response to Comments and CEQA Findings	March 7, 2011	March 17, 2011	10 days
Deliverable: Response to Comments and CEQA Findings	March 17, 2011	March 17, 2011	1 day
Staff Review Findings	March 17, 2011	April 7, 2012	20 days
Schedule Approval Hearing	April 7, 2012	April 17, 2012	10 day
Hearing to Approve the IS/EA	April 17, 2012	April 17, 2012	1 day
Deliverable: File Notice of Determination	April 18, 2012	April 18, 2012	1 day

EXHIBIT "D"
COSTS AND BILLING RATES

B-1 De Novo Planning Group

Project Manager/Principal	\$120/hour
Principal Planner	\$105/hour
GIS Analyst	\$75/hour
Accounting	\$65/hour

B-2 Fehr and Peers

Principal	\$284.10/hour
Project Manager	\$155.67/hour
Engineer/Planner	\$92.55/hour
Graphics/Admin	\$88.97/hour

B-3 J.C. brennan & associates

Senior Consultant	\$130/hour
Principal Consultant	\$150 / hour
Senior Consultant	\$130 / hour
Consultant	\$115 / hour
Principal Consultant - Legal Work	\$300 / hour
Senior Consultant - Legal Work	\$220 / hour
Technical Support Staff	\$80 / hour
Administrative Support Staff	\$65 / hour
Mileage	\$0.60 / mile
Sound Level Meter Charge	\$200 / day / meter

B-4 Adanta

Environmental Scientist	\$110/hour
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B-5 Peak Associates

Principal Investigator	\$110/hour
Senior Investigator	\$100/hour

B-6 David Evans and Associates

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Principal Landscape Architect	\$178/hour
Landscape Architect/Project Manager	\$140/hour
Landscape Designer/Graphics	\$80/hour

Expenses

Direct Expenses: printing, mileage, etc. are included at the total proposed Fees.

RESOLUTION 2011-_____

AWARDING A PROFESSIONAL SERVICES AGREEMENT (PSA) WITH DE NOVO PLANNING GROUP TO PROVIDE SERVICES TO PREPARE ENVIRONMENTAL DOCUMENTATION (CEQA/NEPA) FOR THE MACARTHUR DRIVE WIDENING PROJECT BETWEEN VALPICO ROAD AND SCHULTE ROAD – CIP 73126, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, The widening of MacArthur Drive from Schulte Road to Valipco Road is an approved Capital Improvement Project, and

WHEREAS, The project is partly funded from Infill and Industrial Area Specific Plan development impact fees and a Federal Tea Grant, and

WHEREAS, Before design and acquisition of rights-of-ways can begin on a federally funded project, it is necessary to complete the CEQA/NEPA documents, and

WHEREAS, On March 18, 2011, the City issued a Request for Proposals (RFP) to qualified consultants to provide professional engineering services related to the preparation of environmental documentation, and

WHEREAS, On April 14, 2011 six proposals were received, and

WHEREAS, Staff evaluated the proposals and found De NOVO Planning Group of Sacramento, California, to be the most qualified consultant to complete this work, and

WHEREAS, Staff negotiated with the De NOVO Planning Group to provide the required services for this project on a time and material basis for an amount not to exceed \$124,637.24, and

WHEREAS, There will be no fiscal impact to the General Fund; funds for the professional services agreement will be paid from Federal TEA Fund 313;

NOW, THEREFORE, BE IT RESOLVED That City Council awards a Professional Services Agreement with De NOVO Planning Group of Sacramento, California, on a time and material basis for an amount not to exceed \$124,637.24, to provide professional services for the preparation of environmental documentation for the MacArthur Drive Widening Project – CIP 73126, and authorizes the Mayor to execute the Agreement.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 2nd day of August 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

APPROVE AMENDMENT 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH BAY COMPUTING GROUP, INC., TO FINALIZE THE NEW CITY WEBSITE, AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT AND AUTHORIZE A SUPPLEMENTAL APPROPRIATION OF \$23,572 FROM FUND 353 (RSP) TO CIP 79404

EXECUTIVE SUMMARY

On February 2, 2010, City Council approved a Professional Services Agreement with Bay Computing Group, Inc., for the design of a new City website. An amendment to the Professional Services Agreement is needed in order to ensure the full vision of the new City website is implemented.

DISCUSSION

During the Fiscal Year 2009-2010 budget planning process, an interdepartmental Capital Improvement Program (CIP) Budget Review Team was established to review the list of general City projects which had been identified and submitted for funding for that year. The team reviewed each project and subsequently evaluated and ranked each according to priority. Realizing that the City's current website is outdated and difficult to navigate, the website replacement project was given the highest priority by the CIP Budget Review Team.

On February 2, 2010, City Council approved a Professional Services Agreement (Agreement) with Bay Computing Group, Inc., (Consultant) for the design of a new City website for a not-to-exceed amount of \$72,780. Over the past several months the Consultant, along with several departmental staff members, has been working diligently on the design and development of a new website.

The development of an entirely new website is a great undertaking, especially a municipal website where multiple audiences must be kept in mind. It is for this reason that the Consultant took a great amount of time to interview department staff to understand who the City's customers are and the reasons they visit the City's website. As the process has moved forward in finalizing a site map for the new website, it has become apparent that the original scope of work for the website needs to be expanded over what was anticipated in the original scope of work.

In order to complete the website, staff has negotiated an amendment to the Agreement with the Consultant for a not-to-exceed amount of \$23,572. The additional funding is to compensate the Consultant for items not included in the original scope of work, including: 1) adding up to 400 additional pages of content to the website; 2) developing an alternate document management system since existing City software cannot be used due to licensing and security concerns; and 3) integrating new 3rd party applications to enable additional online services to residents.

A website is an important marketing tool and is usually the first resource for any resident, business or visitor of a city. It is imperative that the City of Tracy website reflect the

community of Tracy in the greatest extent possible, and that it provide all the information and services that people have come to expect from websites. In addition, an informative website is a community's most important business recruitment tool. Economic development focused conferences and workshops all point to a city's website as being the best tool for attracting new businesses. Staff has taken an incredible amount of time to ensure that the new website is well designed, easy to navigate, and full of useful information. The additional cost for the requested services is necessary to ensure that the full vision of the new City website is implemented.

Typically, CIPs contain a contingency to cover unanticipated costs such as this, but a contingency was not included as part of this project, therefore a supplemental appropriation is necessary. If the requested amendment and appropriation are approved, it is anticipated that the final City website will be launched to the public by September 1, 2011.

STRATEGIC PLAN

This agenda item supports the Organizational Efficiency strategic plan and specifically implements the following goal and objectives:

Goal 3: Integrate current and new processes and systems into business operations of the City of Tracy.

Objective 3: Replace website to improve customer satisfaction.

FISCAL IMPACT

There is no impact to the General Fund; however, a supplemental appropriation in the amount of \$23,572 is needed from Fund 353 (RSP). The RSP Fund was selected because the website project is essential to the City's economic development efforts.

RECOMMENDATION

It is recommended that the City Council, by resolution, approve Amendment 1 to the Professional Services Agreement with Bay Computing Group, Inc., to finalize the new City website in an amount not to exceed \$23,572, authorize the Mayor to execute the Amendment and authorize a supplemental appropriation in the amount of \$23,572 from Fund 353 to CIP 79404 to pay for this amendment.

Prepared by: Amie Mendes, Economic Development Management Analyst

Reviewed by: Andrew Malik, Development and Engineering Services Director

Approved by: Leon Churchill Jr., City Manager

Attachments:

Exhibit A – Professional Services Agreement

**AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES
AGREEMENT BETWEEN BAY COMPUTING GROUP, INC. AND
THE CITY OF TRACY FOR WEBSITE DESIGN SERVICES**

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 BAY COMPUTING GROUP, INC., a California Corporation (hereinafter "CONSULTANT").

RECITALS

- A. The CITY and CONSULTANT entered into a Professional Services Agreement for the design of a new City website which was approved by the City Council on February 2, 2010, pursuant to Resolution No. 2010-013.
- B. As the process has moved forward in finalizing a site map for the new website, it has become apparent that the original scope of work for the website needs to be expanded over what was anticipated in the original scope of work.
- C. After negotiations between CITY and CONSULTANT, the parties have reached an agreement for the performance of supplemental services.

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.**

The following language is hereby added to the end of Section 5.1 of the Agreement:

"In addition, CONSULTANT shall perform the supplemental services set forth in Attachment "1" to this Agreement, which is hereby made a part of this Agreement by reference. In accordance with said Attachment "1", CITY shall pay CONSULTANT on a lump sum basis, TWENTY THREE THOUSAND FIVE HUNDRED SEVENTY TWO DOLLARS (\$23,572). These supplemental services are in addition to the scope of work set forth in Exhibit "A" to this Agreement. CONSULTANT's billing rates shall cover all costs of this Agreement. No work shall be performed by CONSULTANT in excess of the amount for the supplemental services without the prior written approval of the CITY."

CITY OF TRACY
Amendment No. 1 to Professional Services Agreement
Website Design Project, CIP 79404
Page 2 of 6

- 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 CONSULTANT 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

BAY COMPUTING GROUP, INC.

By: _____
Brent H. Ives
Title: Mayor

By: 
Kirk Harding
Title: Chief Executive Officer

Date: _____

Date: 7-19-11

Federal Employer ID No.
20-1887657

Attest:

By: _____
Sandra Edwards
Title: City Clerk

By: 
Kirk Harding
Title: Chief Financial Officer

Date: _____

Date: 7-19-11

Approved as to form

By: _____
Daniel G. Sodergren
Title: City Attorney

ATTACHMENT "1"
SUPPLEMENTAL SCOPE OF SERVICES

CONSULTANT SHALL COMPLETE ALL WORK SHOWN IN THE SCOPE OF SERVICES ATTACHED TO THE AGREEMENT AS EXHIBIT "A" FOR THE NOT TO EXCEED AMOUNT STATED IN THE AGREEMENT FOR SUCH SERVICES. IN ADDITION, CONSULTANT SHALL PROVIDE THE FOLLOWING SUPPLEMENTAL SERVICES FOR THE LUMP SUM NOT TO EXCEED AMOUNT STATED IN THE AGREEMENT FOR SUCH SUPPLEMENTAL SERVICES:

COMPLETION OF CORE SITE DESIGN

- 1. CONSULTANT shall develop the remaining design layouts and graphics to complete the core City of Tracy website which include:**
 - a) Sitemap
 - b) News & Events landing page
 - c) Online Form layouts (2)
 - d) Portal Page icon identification and purchase not to exceed \$400 in licensing fees

COMPLETION OF WEBSITE APPLICATION DEVELOPMENT

2. Core Site Development

The development and implementation of the remaining pages and features are needed in order to complete the core website. CONSULTANT shall provide the following:

- (1) Dynamically Generated Sitemap
- (2) Dynamically Generated News & Events landing pages
- (3) Two (2) Online Form implementations

3. Calendar with Helios (3rd Party Application)

With the software successfully installed, two paths are available for completing

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Amendment No. 1 to Professional Services Agreement
Website Design Project, CIP 79404
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the Helios calendar solution:

- a. CITY staff will perform all the system set up and configurations such as admin configurations, account setup and event data migration/integration as well as interface customization and RSS feed customizations.

Or, at CITY's City Manager's sole option,

- b. CONSULTANT shall perform the interface design and layout customizations based on the new design look and feel as well as the RSS feed customizations and integration to the website.

4. Site Search

CONSULTANT shall implement site search with the base functionality that is available directly out of the CMS and only requires minimal front-end layout. The feature that is not available with this solution is the ability to index 3rd party content (such as calendar events) and binary files (such as the contents of a pdf file).

5. RSS and Email Subscriptions with MailChimp (3rd Party Application)

CITY desires to move the RSS subscription management and distribution from Feedburner to MailChimp in order to expand capabilities for e-mail marketing as well as to take advantage of the versatility, flexibility and branding capabilities that is offered by the MailChimp service.

After CITY has created the MailChimp account and imported the existing subscriber list, CONSULTANT shall assist with the design of the subscriber components and email template as well as the setup of the RSS feeds for the new website.

CONTENT INTEGRATION

6. Content Integration

While much of the content has been integrated in the site, the following areas are still incomplete and shall be integrated by the CONSULTANT staff.

- a. Portal pages
- b. News items/articles

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Amendment No. 1 to Professional Services Agreement

Website Design Project, CIP 79404

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- c. eCare news items
- d. Public Notices
- e. Bid/RFP Notices
- f. Council Meeting Agendas and Minutes
- g. City Manager's Office
- h. DES-Building
- i. DES-Code Enforcement
- j. DES-Engineering
- k. DES-Planning
- l. Finance & Administrative Services
- m. Fire Department
- n. Human Resources
- o. Parks and Community Services
- p. Police Department
- q. Public Works
- r. About Us
- s. RSS Feeds index page
- t. Image placement in content areas throughout website

CONSULTANT shall complete the content integration as follows:

- *Integration of remaining content not to exceed 400 pages of content OVER the 400 pages of content that was included in the original scope of work.*
- *Placement of images in content areas not to exceed 35 images. Images to be provided by the City of Tracy.*

7. **3rd Party Customizations**

CONSULTANT shall integrate the following 3rd party solutions:

- a. **Municode** – create graphic banner and supply to 3rd party provided for integration
- b. **LoopNet** – integrate into website within an iFrame.
- c. **Leightronix** (Channel 26 schedule) – complete integration of the channel 26 schedule in collaboration with Gregg and IT (Matt and Ryan).
- d. **NeoGov** – complete implementation of NeoGov solution with the NeoGov development team.
- e. **Government Outreach** – after customizations are completed by CITY and Government Outreach, CONSULTANT will integrate within an iFrame.

CITY staff will customize 3rd party solutions that are within their capability. These include:

- a. **CopLogic** – customization details as provided by CopLogic can be fwd'd to CITY
- b. **Government Outreach** – customizations to be completed directly with Government Outreach
- c. **eCare** – Harris Computer has provided customization options to Matt Engen on 4/6/10
- d. **StaReg** – customizations are all completed through Admin that is under CITY's control
- e. **eTRAKiT** – customizations are all completed through Admin that is under CITY's control

DEPLOYMENT

8. User Acceptance Testing

User acceptance testing is the process which the City of Tracy reviews the site and provides feedback on the content that has been integrated as well as the overall functionality. CONSULTANT shall provide 32 hours of resource time to implement and manage changes. City of Tracy will help manage this time by prioritizing changes by order of what must be completed before launch (Bay Computing Group, Inc.) and what can be accomplished after launch (CITY staff).

9. Training

CONSULTANT shall provide onsite training limited to one full day of onsite training and eight hours of post-launch support.

RESOLUTION _____

APPROVING AMENDMENT 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH BAY COMPUTING GROUP, INC., TO FINALIZE THE NEW CITY WEBSITE, AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION OF \$23,572 FROM FUND 353 (RSP) TO CIP 79404

WHEREAS, On February 2, 2010, City Council approved a Professional Services Agreement (Agreement) with Bay Computing Group, Inc. (Consultant) to provide services for designing a new City of Tracy website; and

WHEREAS, Over the past several months the Consultant, along with several department staff members, has been working diligently on the design and development of a new website; and

WHEREAS, As the process has moved forward in finalizing a site map for the new website, it has become apparent that an increased scope of work is needed than what was anticipated in the original scope of work; and

WHEREAS, In order to complete the website, staff has negotiated an amendment to the Agreement with the Consultant for a not-to-exceed amount of \$23,572; and

WHEREAS, An amendment to the Agreement and additional funding is necessary to complete the project and compensate the Consultant for items not included in the original scope of work; and

WHEREAS, There is no impact to the General Fund, however a supplemental appropriation in the amount of \$23,572 to CIP 79404 is needed from Fund 353 (RSP) to pay for this amendment.

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves Amendment 1 to the Professional Services Agreement with Bay Computing Group, Inc., to finalize the new City website in an amount not to exceed \$23,572, authorizes the Mayor to execute the Amendment and authorizes a supplemental appropriation of \$23,572 from Fund 353 to CIP 79404.

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 2nd day of August, 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

APPROVE A LOAN MODIFICATION AGREEMENT BETWEEN DANIEL G. HOBBS AND THE CITY OF TRACY, AND AUTHORIZE THE MAYOR TO EXECUTE ASSOCIATED LOAN DOCUMENTS ON BEHALF OF THE CITY

EXECUTIVE SUMMARY

This item is for the City Council to consider adopting a resolution to approve a Loan Modification Agreement between Daniel G. Hobbs and the City of Tracy to extend the term of the home loan for an additional thirty (30) year period at an interest rate of 4%, and authorizing the Mayor to execute the associated loan documents on behalf of the City.

DISCUSSION

As part of the original employment agreement between the City and former City Manager Daniel G. Hobbs, dated March 22, 2005, the City agreed to provide a loan, secured by a first trust deed, to allow Mr. Hobbs to purchase a home in the City. The original loan amount was \$600,000 amortized over a 30 year period.

The loan was due and payable upon the sale of the home, or within one year of Mr. Hobbs' effective date of termination, whichever occurred first. The original interest rate for the loan was one-half point above the Local Agency Investment Fund ("LAIF") rate for the 12 month period immediately preceding the date of the loan, which was to be adjusted annually to reflect the average monthly LAIF rate for the previous 12 months.

On May 16, 2006, Mr. Hobbs and the City entered into Amendment No. 1 to the employment agreement, which modified the terms of the loan. Under this amendment, the principal amount of the loan was adjusted to \$595,000 and the interest rate on the loan was capped at 2.38%.

On October 18, 2007, when Mr. Hobbs resigned from the City, Mr. Hobbs and the City entered into Amendment No. 2 to the employment agreement to again modify the terms of the loan. Under this amendment, the first deed of trust on the home was to be repaid no later than October 17, 2008 (one year later). However, the amendment provided that, at the request of Mr. Hobbs, the City would allow him to continue to make payments on the first deed of trust for a maximum of one year after October 17, 2008, at the then applicable LAIF rate, plus 1.5%. The amendment also provided that Mr. Hobbs could not rent or lease the home to any third party, or further encumber the property with any mortgage or lien, without the express written consent of the City.

In 2009, the City and Mr. Hobbs entered into another Loan Modification Agreement, which: (1) extended the term of the loan until October 17, 2013 at an interest rate of 5%; and (2) removed the restriction on Mr. Hobbs leasing or renting the home to a third party. As mentioned above, Mr. Hobbs is now requesting that the loan with the City be converted to a 30 fixed rate financing loan with a 4% interest rate.

Given the state of the housing market, staff believes it is in the best interest of the City to grant Mr. Hobbs' request. The current outstanding principal on the loan is approximately \$530,589. Staff estimates the home is worth somewhere between \$268,000 and \$340,000. Therefore, if Mr. Hobbs was to default on the loan, thus forcing the City to foreclose on the home at this time, the City could lose a significant portion of its investment.

The requested 4% interest rate is also much higher than the 2.4% interest rate the City currently receives on its investment portfolio. Additionally, since the inception of the loan, Mr. Hobbs has always made timely payments to the City.

Consequently, Staff recommends that the City Council authorize the Mayor to sign a Loan Modification Agreement between Daniel G. Hobbs and the City of Tracy, including associated loan document (amended Promissory Note), which would extend the term of the loan for an additional thirty (30) year period, at a fixed interest rate of 4%.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no negative impact to the General Fund for extending the loan. Extending the loan for 30 additional years at an interest rate of 4% can be viewed as a positive investment given the City's current investment portfolio is 2.4%. All interest paid on the loan is General Fund revenue. In addition, Mr. Hobbs has already paid back principle on the loan of about \$65,000.

RECOMMENDATION

That the City Council adopt the proposed resolution approving the Loan Modification Agreement between Daniel G. Hobbs and the City of Tracy to extend the term of the home loan for an additional thirty (30) year period at an interest rate of 4%, and authorizing the Mayor to execute the associated loan documents on behalf of the City.

Prepared by: Daniel G. Sodergren, City Attorney
Zane Johnston, Director of Finance and Administrative Services

Attachments: A - March 3, 2011 letter to Daniel Sodergren from Robert N. Tafoya
B - Proposed Loan Modification Agreement
C - Proposed Amendment to Promissory Note



316 West 2nd Street Ste. 1000
Los Angeles, CA 90012
Tel: 213.617.0600
Fax: 213.617.2226

March 3, 2011

VIA FACSIMILE ONLY

209.831.6137

Dan Sodergren, Esq.
City of Tracy
City Attorney Office
333 Civic Center Plaza
Tracy, California 95376

Dear Mr. Sodergren:

I write to request a telephonic meeting to discuss Dan Hobbs' City of Tracy loan regarding Mr. Hobbs' home in Tracy, California. Due to the continuing deteriorating housing market and the fact that Mr. Hobbs has not been able to find gainful employment, I must ask that you consider an extension and amendment of the current agreement. Mr. Hobbs respectfully requests that his current agreement be amended to allow the current loan of \$520,000 to be converted to a 30 year fixed rate financing loan with a 4% interest rate.

As you may know, Mr. Hobbs formally retired from CalPERS in July, 2010 and is now on a fixed income. Despite his many efforts, Mr. Hobbs has not been able to find employment which is causing a financial hardship for him. Mr. Hobbs' income has gone down significantly over the past two years and his house payment has gone up over 30% in that same amount of time. What was a Tracy house payment of \$2,314 per month is now a payment of \$3,092 per month. With Homeowner Association dues and taxes, it now totals \$3,621.86 monthly.

March 3, 2011

Page 2 of 2

Mr. Hobbs desires to stay in the house permanently and to meet his obligations to the City of Tracy. However, with a substantially reduced income and a housing market that has not improved, Mr. Hobbs cannot refinance to allow him to meet his obligations. Mr. Hobbs fears that without an amendment to the current agreement, the financial strain will become so great it would jeopardize his ability to timely repay this loan.

The house is terribly underwater. The house is valued somewhere between \$341,000 and \$380,000. Mr. Hobbs paid \$700,000 for it in 2005. This was a terrible deal for Mr. Hobbs, but he made it and wants to keep his promise to the City of Tracy. But, he needs your help.

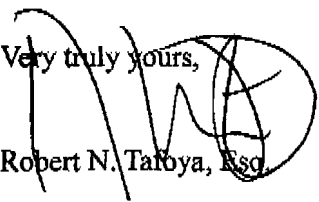
Despite significant efforts, Mr. Hobbs is currently unable to secure bank financing because his house is currently worth less than the outstanding loan amount. However, even if that were not the case, his retirement status also presents a refinancing obstacle.

Finally, Mr. Hobbs is planning on having his 92 year old mother, in poor health, and his retired sister from Ohio, who also has health problems, move in with Mr. Hobbs. But, before doing so, he wants to make sure that he will be able to stay in this house long term and live out his retirement years in Tracy.

I believe that converting Mr. Hobbs' current financing to a 30 year fixed rate would serve the City's business interests by enabling Mr. Hobbs to afford to continue to meet his repayment obligations.

In addition, it appears as though the LAIF rate is under 1%. A 4% interest rate loan would garner the City substantially more than investing it at the LAIF rate. I look forward to speaking with you about this request.

Very truly yours,


Robert N. Taroya, Esq.

**LOAN MODIFICATION AGREEMENT
BETWEEN
DANIEL G. HOBBS AND
THE CITY OF TRACY
(Amendment No. 3)**

This Agreement ("Agreement") is made and entered into by and between the City of Tracy, a municipal corporation ("City") and Daniel G. Hobbs, an individual ("Hobbs").

Recitals

- A. On March 22, 2005, City and Hobbs entered into an Employment Agreement ("Employment Agreement"); and
- B. The Employment Agreement was amended on May 16, 2006 ("Amendment No. 1") and October 18, 2007 ("Amendment No. 2"); and
- C. Pursuant to the terms of the Employment Agreement, as amended, City provided Hobbs with a home loan in a principal amount of \$595,000.00 ("Loan"), which was required to be repaid no later than October 17, 2009; and
- D. Effective October 1, 2009, the City amended the loan agreement to extend the term of the loan until October 17, 2013 at a fixed rate of 5%. In addition, the restriction from renting or leasing the residence was eliminated; and
- E. Hobbs has requested that the terms of the Loan be modified to allow an extended term of thirty (30) years from the date of approval, and that payments be amortized and allowed to be paid over the thirty (30) year term, and that the interest rate be adjusted to a fixed rate of 4%.

NOW, THEREFORE, the parties agree as follows:

- 1. The Loan will be extended for an additional 30 year period, which will be due and payable no later than September 1, 2041. Interest on the Loan will be compounded monthly at an interest rate of four percent (4%) per annum. To insure payment of principal, interest, taxes, homeowners association fees, and any other liens on the home, Hobbs shall continue to pay monthly into an impound account the amount billed to him by City and City will disburse funds from the impound account to the various lien holders. Hobbs shall not further encumber the property with any mortgage or lien, without the express written consent of City. However, Hobbs may rent or lease the home to a third party without the consent of City.
- 2. This Agreement supersedes the Employment Agreement, as amended, only as it relates to the Loan.

3. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
4. If any provision of this Agreement is held unconstitutional, invalid or unenforceable, that invalidity shall not affect any other provisions which could be given effect without the invalid provision.
5. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Hobbs.
6. This Agreement does not change, impact, or in any way impair the priority status or security evidenced by the Deed of Trust as recorded against the subject property in the San Joaquin County Recorder's Office.
7. This Agreement shall take effect on September 1, 2011.

CITY OF TRACY

HOBBS

~~R. Dean Churchill, City Manager~~

Brent H. Ives, Mayor

Dated: _____



Daniel G. Hobbs

Dated: July 12, 2011

Attest:

Sandra Edwards, City Clerk

Dated: _____

Approved as to form:

Daniel G. Sodergren, City Attorney

**AMENDMENT TO PROMISSORY NOTE
(Former City Manager Housing Financing)
EXECUTED BY DANIEL G. HOBBS AND IRMA J. HOBBS
IN FAVOR OF THE CITY OF TRACY**

This Amendment (hereinafter "Amendment") to the May 31, 2005 Promissory Note is made and entered into by and between the City of Tracy, a municipal corporation (hereinafter "City"), and Daniel G. Hobbs and Irma J. Hobbs, husband and wife as joint tenants (hereinafter "Borrowers").

RECITALS

- A. On or about May 31, 2005, Borrowers executed a Promissory Note (the "Note") in favor of the City for the principal sum of \$595,000.
- B. Section 18 of the Note provides that the Note may only be amended or modified in a writing executed by both City and Borrowers.
- C. The City and Borrowers want to amend the Note to change the interest rate and to extend repayment of the loan as set forth herein.

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 Note, unless specifically modified by this Amendment. All terms and conditions set forth in the Note which are not specifically modified by this Amendment shall remain in full force and effect.
- 2. **Terms of Amendment.** Section 2 "Interest." is hereby amended to read as follows: "2. Interest. Interest on the unpaid balance shall be compounded monthly and accrue at an interest rate of four percent (4%) per anum. The loan will be amortized over a thirty (30) year period with payments reflecting the amended interest rate commencing on September 1, 2011 and will be due and payable upon the sale of the home or upon full payment of the loan, whichever occurs first, but in no event later than September 1, 2041.
- 3. **Terms of Amendment.** The Section titled "Repayment." is hereby amended to read as follows: "4. Repayment. The Note shall be repaid as set forth in the Loan Modification Agreement between Daniel G. Hobbs and the City of Tracy. Copies of the Contract and said Loan Modification Agreement between Daniel G. Hobbs and the City of Tracy are attached hereto and made a part hereof."
- 4. **Amendment to be attached to the Note.** After this Amendment is executed by all parties, City shall attach an original fully executed copy of this Amendment to the

Amendment to Promissory Note
(City Manager Housing Financing)
Page 2 of 2

Note and City and Borrowers agree that this Amendment shall be made a part of the Note.

5. **Deed of Trust.** This Amendment does not change, impact, or in any way impair the priority status or security evidenced by the Deed of Trust as recorded against the subject property in the San Joaquin County Recorder's Office.
6. **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.
7. **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.
8. **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 themselves in the case of Borrowers and the legal entity of the City in the case of the City. This Amendment shall inure to the benefit of and be binding upon the parties thereto and their respective successors and assigns.

IN WITNESS WHEREOF the parties do hereby agree to amend the Note as set forth above.

CITY OF TRACY

BORROWERS

By: _____

By: *Daniel G. Hobbs*
Daniel G. Hobbs

Title: Mayor

Date: *July 12, 2011*

Date: _____

Approved as to form

By: *Irma J. Hobbs*
Irma J. Hobbs

By: _____
Daniel G. Sodergren

Title: City Attorney

Date: *July 12, 2011*

Date: _____

RESOLUTION _____

A RESOLUTION OF THE CITY OF TRACY APPROVING A LOAN MODIFICATION AGREEMENT BETWEEN DANIEL G. HOBBS AND THE CITY OF TRACY, AND AUTHORIZING THE MAYOR TO EXECUTE THE ASSOCIATED LOAN DOCUMENTS

WHEREAS, As part of the original employment agreement between the City and former City Manager Daniel G. Hobbs, dated March 22, 2005, the City agreed to provide a loan, secured by a first trust deed, to allow Mr. Hobbs to purchase a home in the City. The original loan amount was \$600,000 amortized over a 30 year period; and

WHEREAS, The loan was due and payable upon the sale of the home, or within one year of his effective date of termination, whichever occurred first. The original interest rate for the loan was one-half point above the Local Agency Investment Fund ("LAIF") rate for the 12 month period immediately preceding the date of the loan, which was to be adjusted annually to reflect the average monthly LAIF rate for the previous 12 months; and

WHEREAS, On May 16, 2006, Mr. Hobbs and the City entered into Amendment No. 1 to the employment agreement, which modified the terms of the loan. Under this amendment, the principal amount of the loan was adjusted to \$595,000 and the interest rate on the loan was capped at 2.38%; and

WHEREAS, On October 18, 2007, when Mr. Hobbs resigned from the City, Mr. Hobbs and the City entered into Amendment No. 2 to the employment agreement to again modify the terms of the loan. Under this amendment, the first deed of trust on the home was to be repaid no later than October 17, 2008 (one year later). However, the amendment provided that, at the request of Mr. Hobbs, the City would allow him to extend payments on the first deed of trust for a maximum of one year after October 17, 2008, at the then applicable LAIF rate, plus 1.5%. The amendment also provided that Mr. Hobbs could not rent or lease the home to any third party, or further encumber the property with any mortgage or lien, without the express written consent of the City; and

WHEREAS, In 2009, the City and Mr. Hobbs entered into another Loan Modification Agreement, which: (1) extended the term of the loan until October 17, 2013 at an interest rate of 5%; and (2) removed the restriction on Mr. Hobbs leasing or renting the home to a third party; and

WHEREAS, Mr. Hobbs is now requesting that the loan with the City be converted to a thirty (30) year fixed rate financing loan with a 4% rate; and

WHEREAS, Given the state of the housing market, staff believes it is in the best interest of the City to grant Mr. Hobbs' request. The current outstanding principal on the loan is approximately \$530,589. Staff estimates the home is worth somewhere between \$268,000 and \$340,000. Therefore, if Mr. Hobbs was to default on the loan, thus forcing the City to foreclose on the home at this time, the City could lose a significant portion of its investment; and

WHEREAS, The requested 4% interest rate is also much higher than the 2.4% interest rate the City currently receives on its investment portfolio. Additionally, since the inception of the loan, Mr. Hobbs has always made timely payments to the City.

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy does hereby authorize the Mayor to sign a Loan Modification Agreement between Daniel G. Hobbs and the City of Tracy, including associated loan documents (i.e., Amended Promissory Note), which will extend the term of the loan an additional thirty years (new 30 year loan term), effective September 1, 2011, at a fixed interest rate of 4%.

* * * * *

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.E

REQUEST

APPROVAL OF PERMIT FOR THE CONSUMPTION OF ALCOHOLIC BEVERAGES ON CITY STREETS FOR THE TRACY CHAMBER OF COMMERCE "2011 DRY BEAN FESTIVAL" ON SEPTEMBER 10 AND 11, 2011

EXECUTIVE SUMMARY

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

DISCUSSION

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

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

At the present time, the Parks and Community Services Department is coordinating a request for an alcohol permit in conjunction with the community event, the "2011 Dry Bean Festival" being conducted by the Tracy Chamber of Commerce. In conjunction with this event, a request for an alcohol permit, to allow alcoholic beverages to be served as a component of the event, is being presented for approval.

The Tracy Chamber of Commerce is requesting a permit to serve alcoholic beverages at its annual Dry Bean Festival event on September 10, 2011, from 10:00 a.m. to 7:00 p.m., and on September 11, 2011, from 10:00 a.m. to 6:00 p.m., along Central Avenue between 6th and 11th Streets, along 10th Street between A Street to East Street, and along 9th Street between C Street and D Street. Four locations within this event's footprint will serve alcoholic beverages in the public right-of-way.

To protect against excessive alcoholic consumption, the Tracy Chamber of Commerce will have several measures in place at the Bean Festival. As required by law, the Chamber has obtained an ABC License from the California Department of Alcoholic

Beverage Control for each of the four locations serving alcohol beverages. Fencing at the Bean Festival will be in place to create a finite number of entry and exit points during the event. Security is placed at these locations to prevent alcohol from entering or leaving the event. All alcohol purchased at the Bean Festival must be consumed within the fenced area of the event. Vendors will be serving alcohol in open cups to allow security to easily identify alcohol that was purchased at the festival. In addition, those purchasing alcohol will have to show ID, proving that they are 21 years old or over, in order to receive a wrist band which will help security to identify those who are allowed to consume alcohol. Finally, the Tracy Police Department will be present to monitor overall conduct of Bean Festival patrons; and to handle any obviously intoxicated patrons, or patrons that are under aged.

STRATEGIC PLAN

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

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

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

FISCAL IMPACT

There is no impact on the General Fund.

RECOMMENDATION

It is recommended that City Council, by resolution, authorize and approve the permit described above for consumption of alcoholic beverages within the above-described designated areas for the Tracy Chamber of Commerce "2011 Dry Bean Festival" on September 10 and 11, 2011.

Prepared by: Mark Honberger, Recreation Services Supervisor

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

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION _____

APPROVING PERMITS FOR THE CONSUMPTION OF ALCOHOLIC BEVERAGES ON CITY STREETS FOR A SPECIAL EVENT IN THE CITY OF TRACY ON SEPTEMBER 10 AND 11, 2011 (TRACY CHAMBER OF COMMERCE "2011 DRY BEAN FESTIVAL)

WHEREAS, The Tracy Chamber of Commerce has requested a permit to conduct a special event in the City of Tracy on September 10 and 11, 2011, that requires the authorization of the City Council for a permit for the consumption of alcoholic beverages in public places; and

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

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

NOW, THEREFORE, BE IT RESOLVED, That the City Council does hereby authorize the issuance of a permit for the possession and consumption of alcoholic beverages within the boundary of the above described Special Event, as further described in the staff report accompanying this resolution, to be conducted in the Downtown Business District of Tracy to: The Tracy Chamber of Commerce on September 10, 2011, between 10:00 a.m. and 7:00 p.m., and on September 11, 2011, between 10:00 a.m. and 6:00 p.m.

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.F

REQUEST

AWARD A CONSTRUCTION CONTRACT TO TOP GRADE CONSTRUCTION COMPANY OF LIVERMORE, CALIFORNIA, FOR THE POND REMOVAL – GREENLEAF # 1 PROJECT - CIP 76058, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT

EXECUTIVE SUMMARY

With completion of the West Side Storm Drainage System, the existing detention pond located at 1800 West Grant Line Road is no longer needed and is a site proposed for Fire Station 96. Award of this project will facilitate filling of this detention pond by connecting the storm drainage line south of this pond directly into the main storm drainage line on Grant Line Road – CIP 76058. After filling the pond, settlement of earthwork will be allowed for six months and monitored to comply with the geotechnical requirements enabling construction of the proposed Fire Station #96 at this site.

DISCUSSION

The existing pond located on 1800 West Grant Line Road was built as part of the Greenleaf subdivision as an interim storm drainage detention pond until the City's West Side Storm Drainage System was completed. The West Side Storm Drainage System is now complete and drainage from the Greenleaf Subdivision can be connected directly to the main storm drainage line on Grant Line Road constructed as part of the West Side Storm Drainage System by eliminating the existing detention pond.

This project involves removal of the existing detention pond and connecting the Greenleaf storm drainage directly to the Grant Line Road storm line. This detention pond site is a proposed future site for Fire Station 96. The detention pond will be filled with engineered fill material and monitored to comply with the geotechnical requirements to prepare this site for construction of the proposed Fire Station 96. The project plans and specifications for this project were prepared as part of the Fire Station 96 Project by Shah Kawasaki Architects (SKA) of Oakland, California.

The project was advertised for competitive bids on June 23 and June 30, 2011. The following 12 bids were received for the project and publicly opened on July 19, 2011 with the following results.

Bidder	Location	Total Bid
Top Grade Construction, Inc	Livermore, CA	\$265,765
Asta Construction Company, Inc	Rio Vista, CA	\$276,113
Granite Construction Company	Stockton, CA	\$303,985
Tucker Engineering	Campbell, CA	\$311,129
Evans Brother Inc.	Livermore, CA	\$319,000
MCI Engineering	Stockton, CA	\$331,000
Robert Burn Construction	Stockton, CA	\$377,793
Knife River Construction	Stockton, CA	\$378,500
RJ Gordon Construction, Inc	Pleasant Hill, CA	\$395,080
Tiechart Construction, Inc	Stockton, CA	\$421,200
Fanfa Inc.	San Lorenzo, CA	\$461,500
Jedco Consulting Eng	Berkeley, CA	\$499,000

Top Grade Construction Inc., of Livermore, California, is the lowest monetary bidder. The bid analysis indicates that the bid is responsive and the bidder is responsible. The contractor has good references and has completed similar projects for the City and other agencies.

The estimated cost of construction of this project, if awarded to Top Grade Construction is as follows:

	Base Bid
Construction Bid	\$265,765
Contingency (10%)	\$ 26,600
Design Support during Construction	\$ 3,000
Special Geo technical Inspections	\$ 15,000
Inspection (5%)	\$ 13,500
City wide Project Management	<u>\$ 24,750</u>
Total Construction Cost	\$348,615
Total Project Budget	\$350,000

If the project is awarded to Top Grade Construction, construction will commence by August 22, 2011 and completion is expected by the end of March 2012.

STRATEGIC PLAN

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

FISCAL IMPACT

There will be no fiscal impact to the General Fund. CIP 76058 is an approved project funded from the Infill Storm Drainage Fund (F312) for FY10-11.

RECOMMENDATION

That City Council, by resolution, award a construction contract to Top Grade Construction, Inc., of Livermore, California, in the amount of \$265,765 for the Pond Removal Greenleaf # 1, Project - CIP 76058, and authorize the Mayor to execute the contract.

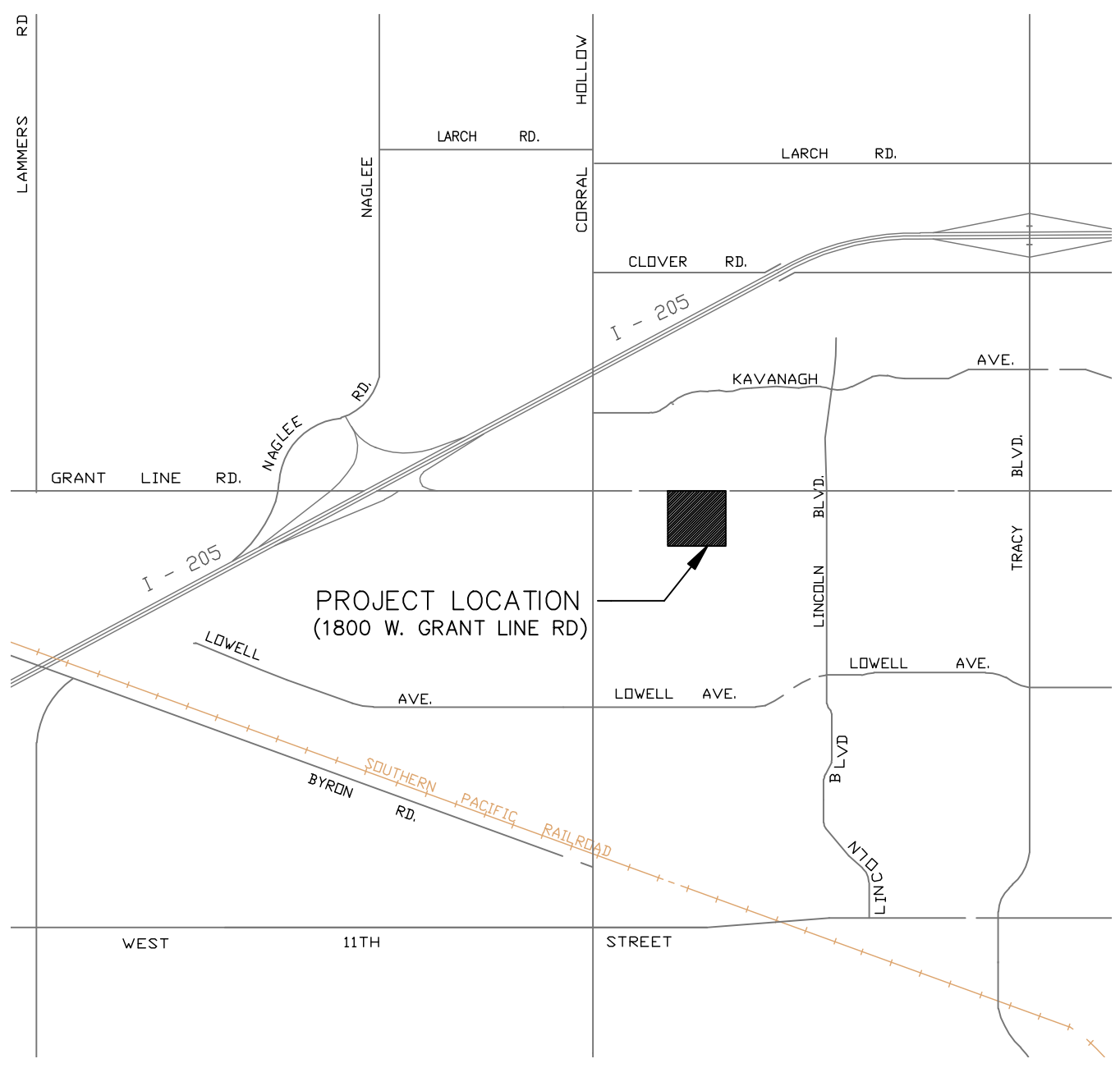
Prepared by: Ripon Bhatia, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

Attachment: Exhibit A – Location Map

EXHIBIT "A"



PROJECT LOCATION
(1800 W. GRANT LINE RD)

POND REMOVAL
GREENLEAF #1
CIP 76058

DESIGNED BY			
RB			
DRAWN BY			
RB			
CHECKED BY			
RB			
SCALE			
N.T.S			

REVISIONS			
SYMBOL	DATE	DESCRIPTION	APPROVED

SHEET 1
OF 1 SHEETS

CITY OF TRACY

APPROVED FOR CONSTRUCTION SUBJECT TO THE DATA SHOWN.
CITY OF TRACY AND THE UNDERSIGNED ARE NOT RESPONSIBLE FOR
ERRORS AND/OR OMISSION THAT MAY BE PRESENT ON THESE PLANS.

KULDEEP SHARMA CITY ENGINEER DATE: _____

RESOLUTION 2011-_____

AWARDING A CONSTRUCTION CONTRACT TO TOP GRADE CONSTRUCTION COMPANY OF LIVERMORE, CALIFORNIA, FOR THE POND REMOVAL – GREENLEAF # 1 PROJECT - CIP 76058, AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT

WHEREAS, The existing pond located on 1800 West Grant Line Road was built as part of the Greenleaf subdivision as an interim storm drainage detention pond, and

WHEREAS, The West Side Storm Drainage System is now complete and drainage from the Greenleaf Subdivision can be connected directly to the main storm drainage line on Grant Line Road, and

WHEREAS, The detention pond will be filled with engineered fill material and monitored to comply with the geotechnical requirements to prepare this site for construction of the proposed Fire Station 96, and

WHEREAS, The project was advertised for competitive bids on June 23 and June 30, 2011, and 12 bids were received for the project and publicly opened on July 19, 2011, and

WHEREAS, The lowest bid is responsive and the bidder is responsible, and

WHEREAS, The estimated cost of construction of this project, if awarded to Top Grade Construction is as follows:

	Base Bid
Construction Bid	\$265,765
Contingency (10%)	\$ 26,600
Design Support during Construction	\$ 3,000
Special Geo technical Inspections	\$ 15,000
Inspection (5%)	\$ 13,500
City wide Project Management	<u>\$ 24,750</u>
Total Construction Cost	\$348,615
Total Project Budget	\$350,000

WHEREAS, There will be no fiscal impact to the General Fund. CIP 76058 is an approved project funded from the Infill Storm Drainage Fund (F312) for FY10-11;

NOW, THEREFORE, BE IT RESOLVED That City Council awards a construction contract to Top Grade Construction, Inc., of Livermore, California, in the amount of \$265,765 for the Pond Removal Greenleaf # 1, Project - CIP 76058, and authorize the Mayor to execute the contract.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 2nd day of August 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

FIND THAT IT IS IN THE BEST INTEREST OF THE CITY TO FOREGO THE FORMAL BID PROCESS AND AWARD THE PURCHASE OF FOUR CROWN VICTORIA POLICE INTERCEPTOR VEHICLES TO DOWNTOWN FORD OF SACRAMENTO, CALIFORNIA

EXECUTIVE SUMMARY

The Police Department needs to replace four existing vehicles in the fleet.

DISCUSSION

In the 2011-2012 fiscal year budget, \$155,000 is designated for replacement of police vehicles, including the purchase and out-fitting of four Ford Crown Victoria Police Interceptor models.

Ford Motor Company has halted production of the Crown Victoria Police Interceptor; March 2011 was the last month Ford was accepting orders for this model. Ford Motor Company will bring to market the next generation police sedan in 2012. It is expected that this new police sedan will have a price tag of about \$5,000 more than the Crown Victoria Police Interceptor and will cost more to outfit with safety equipment because the configuration of this vehicle will not match those of the Crown Victoria Police Interceptor.

Staff was able to obtain quotes from a few dealers that pre-ordered and stocked the 2011 Crown Victoria Police Interceptor models knowing that demand would exist for this vehicle.

Staff received the following quotes from two Sacramento dealers: Downtown Ford, which includes a 5% discount if paid 20 days from delivery, quoted \$102,540.00 and Folsom Lake Ford, which includes a \$500.00 discount per vehicle if paid 20-days from delivery, quoted \$103,540.28. The amounts shown reflects the price after discounts because, if approved, staff will make sure to process payment within 20 days of delivery of the vehicles. Staff also requested a quote from Tracy Ford and were informed that it does not have the Crown Victoria Police Interceptors in stock nor any on order from Ford Motor Company.

Following the formal bidding process here is not in the best interest of the City because of the lack of dealers in the area that have the desired vehicle in stock or on order. As such, staff is requesting that Council find it is in the best interest of the City to forego the formal bid process per Section 2.20.140(b) of the City's purchasing ordinance.

STATEGIC PLAN

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

FISCAL IMPACT

In fiscal year 2011-2012, \$155,000 has been designated for the replacement of Crown Victoria Police Interceptor vehicles and associated emergency equipment. Downtown Ford's bid of \$102,540.00 was within budget.

RECOMMENDATION

Staff recommends the City Council approve, by resolution, the purchase of four Ford Crown Victoria Police Interceptors from Downtown Ford in the amount of \$102,540.00 from Equipment Account number 606-59310-682-E1061.

Prepared by: Diane Manuel, Executive Assistant

Reviewed by: Janet M. Thiessen, Chief of Police

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

RESOLUTION _____

FINDING THAT IT IS IN THE BEST INTEREST OF THE CITY TO FOREGO THE FORMAL BID PROCESS AND AUTHORIZING AWARD OF THE PURCHASE OF FOUR CROWN VICTORIA POLICE INTERCEPTOR VEHICLES TO DOWNTOWN FORD OF SACRAMENTO, CALIFORNIA

WHEREAS, The procurement of four replacement police vehicles including the purchase and out-fitting of all three vehicles with associated emergency equipment has been budgeted in the 2011-12 fiscal year budget in equipment account 606, and

WHEREAS, As of March 2011 Ford Motor Company has halted production of the Crown Victoria Police Interceptor, and

WHEREAS, Quotes were acquired from two dealers that pre-ordered and stocked the 2011 Crown Victoria Police Interceptor, and

WHEREAS, The \$102,540 bid, submitted by Downtown Ford of Sacramento, was the lowest bid; and

NOW, THEREFORE, BE IT RESOLVED That the City Council finds that it is in the best interest of the City to forego the formal bid process and does hereby authorize the purchase of four Ford Crown Victoria Police Interceptor vehicles from Downtown Ford in the amount of \$102,540.

* * * * *

The foregoing Resolution _____ is hereby passed and adopted by the Tracy City Council this _____ day of _____, 2011, by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

MAYOR

ATTEST:

City Clerk

August 2, 2011

AGENDA ITEM 1.H

REQUEST

AUTHORIZE AMENDMENT OF THE CITY'S CLASSIFICATION PLAN BY APPROVING REVISIONS TO THE CLASSIFICATION SPECIFICATION OF DIVISION FIRE CHIEF IN THE FIRE DEPARTMENT

EXECUTIVE SUMMARY

This report recommends revision of the existing Division Fire Chief classification in the Fire Department to more accurately reflect minimum qualifications required.

DISCUSSION

The Human Resources Department regularly reviews City job descriptions prior to beginning a new recruitment in order to ensure that the classification accurately reflects all of the knowledge, skills, and abilities required for the position. The last review and revision of the classification was performed in February 2006.

One of the three (3) incumbent Division Fire Chiefs has announced his retirement effective in September 2011. The job description as originally established was constructed to allow for interchangeability of duties in order to provide maximum flexibility to the Fire Chief when assigning various operational and managerial duties. Amending the classification at this time will ensure that expanding tactical knowledge and skills needed will be sought and secured either at the time of hire or within a short timeframe thereafter.

Proposed revisions include requiring:

- 1) Completion of a minimum of four (4) modules towards a California Chief Officers Certification at time of application.
- 2) Completion of Incident Command System (ICS) 400.
- 3) Achievement of certification as a Strike Team Leader Trainee prior to completion of probation.
- 4) Attainment of a California Chief Officers Certification within two (2) years of appointment.

The Human Resources Department recommends revisions to the job description to reflect the desired knowledge and certification standards that are integral to ensuring the highest level of performance in this classification.

Recruitment to fill the vacant position will begin following approval of this revised class job description.

STRATEGIC PLAN

This agenda item supports the Organizational Efficiency strategic plan and specifically implements the following goal and objectives:

Goal 4: Ensure long-term viability and enhancement of the City's workforce

Objective 4b: Train employees for new roles/responsibilities

FISCAL IMPACT

There is no additional cost associated with this revision. The salary range for the position will remain at approximately \$117,166 to \$142,417.

RECOMMENDATION

That the City Council, by resolution, authorize the Human Resources Director to amend the City's Classification Plan by approving the revised classification specification for Division Fire Chief.

Prepared by: Maria Olvera, Human Resources Director

Reviewed by: Al Nero, Fire Chief

Approved by: Leon Churchill, Jr., City Manager

Attachment: Division Fire Chief Job Description

City of Tracy

DIVISION FIRE CHIEF

Class Title:	Division Fire Chief	Class Code:	30605
Department:	Fire	Bargaining Group:	Confidential Management Group
EEO Code:	75	Effective Date:	06/03/03
FLSA Status:	Exempt "At-Will"	Revision History:	02/07/06, 08/02/11

DESCRIPTION

Under direction of the Fire Chief, the Division Fire Chief is responsible for the administration, management and operation of Fire Department operations, and may be assigned to direct divisional areas, including, but not limited to, Fire Prevention, Fire Suppression and Fire Training. The Division Fire Chief assumes responsibility for assignment, evaluation and supervision of sworn and non-sworn personnel; provides highly complex administrative support to the Fire Chief, participates in departmental policy formulating and general planning, acts as Fire Chief in the Fire Chief's absence and performs other related duties as required.

CLASS CHARACTERISTICS

The Division Fire Chief class is the principal assistant to the Fire Chief, is a member of the Fire Department's Management Team and is an "At-Will" employee. Incumbents are responsible for directing the operations of Fire Prevention, Fire Suppression, Fire Training and Support Services. This class supports the goals, objectives and directives of the City, the Fire Department, and the Fire Chief. Incumbents in this position also exercise direct supervision over subordinate line officers, support division supervisors and Civilian employees while directing day-to-day activities of the Department. Incumbents in this position are directly supervised by the Fire Chief and may exercise direct supervision over sworn, technical and clerical staff. Incumbents may serve as acting Fire Chief in his/her absence.

EXAMPLES OF IMPORTANT AND ESSENTIAL DUTIES

Duties may include, but are not limited to, the following:

Directly supervises the major programs areas of the Department including Fire Operations, Fire Prevention and Fire Training.

Plans, assigns, supervises, evaluates and inspects the work of subordinates, provides specialized support services, research and planning activities.

Supports the Fire Chief in developing, planning, and implementing the goals and objectives of the department; recommend and administer policies and procedures.

Manages other Department programs such as the fleet maintenance program, EMS program and the equipment replacement program.

Maintains a variety of records, performs special studies and investigations of operating procedures, memoranda and correspondence. Assists with the preparation of the departmental budget.

Plans, directs and monitors the daily activities related to Fire Operations including direct supervision of the Fire Suppression Units on one of three shifts.

Acts as Incident Commander during emergency operations by coordinating and supervising field operations to ensure the appropriate actions are taken to mitigate emergency incidents.

Establishes work schedules, trains supervisors, coaches and mentors Fire Captains and oversees the development of annual reports related to emergency operations.

Plans, prepares and presents reports related to Department activities, Division Budgets and annual response activities.

Assists the Fire Chief in the development of short, medium and long-range organizational plans as well as develop annual Department and Division goals and objectives.

Participates in community based programs and initiatives to meet the needs of the community while anticipating future opportunities for providing effective programs and procedures.

Works with representatives from other public and private organizations to develop emergency response and emergency preparedness plans and initiatives.

Acts on behalf of the Fire Chief during his/her absence.

Other duties as assigned by the Fire Chief.

PERSONAL CHARACTERISTICS

A dynamic leader, teacher, mentor, and fire service innovator that is approachable, open, and experienced at developing relationships in a team environment.

An open-minded individual who is able to analyze complex situations and develop workable solutions while working with diverse groups who have varying interests.

Able to direct subordinate staff in planning, scheduling, and reviewing emergency readiness and training activities.

A skilled communicator with the ability to provide clear, concise and accurate information while navigating through difficult situations and maintaining confidentiality when necessary.

A personable individual who is able to work in a team-oriented, learning environment.

MINIMUM QUALIFICATIONS

KNOWLEDGE OF:

Principles and methods of Fire administration including program development and implementation, training, organizational dynamics and supervision.

Current fire suppression, fire prevention, fire training, human resource and budget management principles and practices.

The development of command strategies and tactics at large-scale emergency incidents.

Applicable laws, rules, regulations, ordinances and codes pertaining to fire prevention, inspection, suppression, training, and City and Department policies.

Report writing procedures

Organizational development and human relations.

ABILITY TO:

Utilize professional skills to address a variety of Fire Department needs while developing and recommending practical solutions.

Plan, organize, assign and coordinate activities of employees within the scope of the Fire Department work assignments.

Establish and maintain effective work relationships with other Fire Department managers, co-workers, subordinates, other city representatives and the general public.

Write clear, concise, correspondence and reports. Communicate effectively both orally and in writing.

Interpret applicable regulations and policies.

Prepare, oversee, and administer budgets.

Represent the Fire Department in public meetings including the City Council sessions and community events.

Supervise, coach, train, mentor, and evaluate subordinate employees.

Assist in the development and implementation of Fire Department goals and objectives.

Handle sensitive and/or confidential information.

Operate a personal computer and software including word processing, spreadsheets and maintain statistical data.

Operate a motor vehicle in accordance with local and state laws.

EDUCATION AND EXPERIENCE:

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Education:

Associate of Arts degree or equivalent from an accredited post-secondary institution with major course work in fire service, public administration, business administration, or a closely related field is highly desirable. (Bachelor of Arts desirable)

Experience:

Completion of 8 years of full-time suppression experience in a municipal fire department, and 4 years experience as a full-time paid fire captain in a municipal fire department.

LICENSES AND CERTIFICATES

Completion of a minimum of 4 modules towards a California Chief Officers Certification at time of application.

Completion of Incident Command System (ICS) 400.

Achievement of certification as a Strike Team Leader Trainee prior to completion of probation.

Attainment of a California Chief Officers Certification within two (2) years of appointment.

Maintain an appropriate, valid CPR certification.

Possession of a valid California driver license.

SPECIAL REQUIREMENTS

Candidate must be recommended for position as a result of a pre-employment medical examination, a Psychological/Management evaluation, and a background assessment.

Be willing to work flexible hours and/or shifts as determined by the Fire Chief.

Respond to emergency incident scenes as necessary, or as assigned by the Fire Chief within 30 minutes of notification to respond.

Respond to emergency incident scenes as necessary, or as assigned by the Fire Chief.

Be a non-smoker, in accordance with City policy.

TOOLS AND EQUIPMENT

Ability to use a personal computer with various software programs, standard office equipment including a copier, fax machine and other equipment.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disability to perform the essential functions.

While performing the duties of this job, the employee is frequently required to sit; talk or hear; stand; walk; use hands to finger, handle, feel or operate objects, tools, or controls; and reach with hands and arms. The employee is occasionally required to climb or balance, stoop, kneel, crouch, or crawl; and taste or smell.

The employee must occasionally lift and/or move up to 10 pounds and occasionally lift and/or move up to 100 pounds. Specific vision, depth perception, and the ability to adjust focus.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee occasionally works in outside weather conditions. The employee is occasionally exposed to wet and/or humid conditions, toxic or caustic chemicals.

The noise level in the work environment is usually quiet while in the office, or moderately loud when in the field.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

The job description does not constitute an employment agreement between the City of Tracy and employee and is subject to change by the City as the needs of the City and requirements of the job change.

RESOLUTION _____

AUTHORIZE AMENDMENT OF THE CITY'S CLASSIFICATION PLAN BY APPROVING THE CLASSIFICATION SPECIFICATION OF DIVISION FIRE CHIEF

WHEREAS, The City has a Classification Plan, and

WHEREAS, The City has completed classification reviews to establish classification specifications.

NOW, THEREFORE, BE IT RESOLVED, That the City Council authorizes the Human Resources Director to amend the City's Classification Plan to reflect the revised classification specification for Division Fire Chief.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 2nd day of August, 2011 by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.I

REQUEST

**ADOPTION OF A RESOLUTION DESIGNATING MUNISERVICES AS AN
AUTHORIZED CITY REPRESENTATIVE TO EXAMINE SALES AND USE TAX
RECORDS**

EXECUTIVE SUMMARY

The City currently uses the firm of MuniServices to audit sales and use tax records. This action will extend that authorization to include Measure E half cent sales tax records.

DISCUSSION

Sales tax is collected by businesses on certain transactions and then remitted to the State Board of Equalization (BOE). The City receives 1% of the current sales tax if the transaction occurred within the City limits. Because point of sale determines what agency receives the 1%, it is important to audit sales and use tax information filed with the BOE. The City uses the firm of MuniServices to audit sales and use tax reporting.

In November 2010, Tracy voters approved Measure E which will provide an additional half cent local sales tax to the one cent (1%) the City currently receives. This tax began to be collected by businesses on April 1, 2011. The half cent will be reported separately from the one cent. As such, it is necessary to also authorize MuniServices to examine sales and use tax records for the half cent tax. MuniServices also provides the City quarterly reports showing a variety of useful information including sales tax by category and trends and statewide comparable data. All MuniServices used by the City can be cancelled at any time (30 day).

The City Council previously passed a resolution appointing MuniServices for this purpose (Res. #2010-207). The resolution supplied to Staff in this regard unfortunately was not correct and the BOE has supplied the correct one.

STRATEGIC PLAN

This item is routine and does not pertain to one of the City's seven strategic plans.

FISCAL IMPACT

MuniServices fee is based on a percentage of recovered sales tax revealed by their auditing work with such fees currently included in the FY 11-12 budget.

RECOMMENDATION

It is recommended the City Council adopt the attached resolution designating MuniServices as an authorized representative of the City of Tracy to examine sales and use tax records.

RESOLUTION _____

AUTHORIZING THE EXAMINATION OF TRANSACTIONS (SALES) AND USE TAX RECORDS

WHEREAS, pursuant to Ordinance No. 1151 of the City of Tracy (hereinafter called District) and Section 7270 of the Revenue and Taxation Code, the District entered into a contract with the State Board of Equalization to perform all functions incident to the administration and operation of the Transactions and Use Tax Ordinance, and

WHEREAS, the District deems it desirable and necessary for authorized representatives of the District to examine confidential transactions and use tax records of the State Board of Equalization pertaining to transactions and use taxes collected by the Board for the District pursuant to that contract, and

WHEREAS, Section 7056 of the Revenue and Taxation Code sets forth certain requirements and conditions for the disclosure of Board of Equalization records and establishes criminal penalties for the unlawful disclosure of information contained in or derived from, the transactions and use tax records of the Board;

NOW, THEREFORE BE IT RESOLVED AND ORDERED AS FOLLOWS:

Section 1. That the Finance Director or other officer or employee of the District designated in writing by the City Manager to the State Board of Equalization (hereafter referred to as Board) is hereby appointed to represent the District with authority to examine transactions and use tax records of the Board pertaining to transactions and use taxes collected for the District by the Board pursuant to the contract between the District and the Board. The information obtained by examination of Board records shall be used only for purposes related to the collection of the District's transactions and use taxes by the Board pursuant to the contract.

Section 2. That MuniServices, LLC is hereby designated to examine the transactions and use tax records of the Board of Equalization pertaining to transactions and use taxes collected for the District by the Board. The person or entity designated by this section meets all of the following conditions:

- a) has an existing contract with the District to examine those transactions and use tax records;
- b) is required by that contract to disclose information contained in, or derived from those transactions and use tax records only to the officer or employee authorized under Section 1 (or Section 2) of this resolution to examine the information;
- c) is prohibited by that contract from performing consulting services for a retailer during the term of that contract;
- d) is prohibited by that contract from retaining the information contained in, or derived from those transactions and use tax records after that contract has expired.

BE IT FURTHER RESOLVED that the information obtained by examination of Board records shall be used only for purposes related to the collection of District's transactions and use taxes by the Board pursuant to the contracts between the District and Board.

Resolution _____

Page 2

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

August 2, 2011

AGENDA ITEM 1.J

REQUEST

ADOPT A RESOLUTION AMENDING THE DEPARTMENT HEADS COMPENSATION AND BENEFITS PLAN TO REFLECT THAT THE BENEFITS FOR THE POSITION OF POLICE CHIEF WILL NOW BE GOVERNED BY AN AT-WILL EMPLOYMENT AGREEMENT

EXECUTIVE SUMMARY

The City Manager is recommending that the Department Heads Compensation and Benefits Plan ("Plan") be amended to reflect that the benefits for the position of Police Chief will now be governed by an at-will employment agreement.

DISCUSSION

The City currently has 11 classifications designated as Department Heads, including the classification of Police Chief. The benefits provided to employees in this group are detailed in the Department Heads Compensation and Benefits Plan. On November 20, 2007, the City Council adopted Resolution 2007-262, which established a revised Compensation and Benefits Plans for Department Heads ("Plan").

Rather than having the benefits for the Police Chief governed by the Plan, the City Manager is recommending that the benefits for this position be governed by an at-will employment agreement. Another item on your agenda for August 2, 2011, recommends that the City Council approve an at-will employment agreement with Gary Hampton to serve as Police Chief.

STRATEGIC PLAN

This agenda item supports the Organizational Efficiency strategic plan and specifically promotes the following goal:

Goal 4: Ensure long-term viability and enhancement of the City's workforce

FISCAL IMPACT

The resulting increased cost to the City for employment of Chief Hampton as compared to the previous Chief is approximately \$34,000 per year. This is a General Fund expense; however, this increased expense can be absorbed in the FY 11-12 budget without additional appropriations due to salary savings from other vacant positions.

RECOMMENDATION

That City Council, by resolution, approves the attached amendments to the Department Heads Compensation and Benefits Plan.

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

RESOLUTION _____

AMENDING RESOLUTION 2007-262 RELATING TO
THE DEPARTMENT HEADS COMPENSATION AND BENEFITS PLAN

WHEREAS, On November 20, 2007, the City Council adopted a revised Department Heads Compensation and Benefits Plan (Resolution 2007-262), and

WHEREAS, Resolution 2007-262 has been amended by the City Council from time to time (Resolution Nos. 2007-262, 2010-039, 2010-152, and 2011-092), and

WHEREAS, The City Council wishes to make additional amendments to Resolution 2007-262 to reflect that the benefits for the position of Police Chief will now be governed by an at-will employment agreement;

NOW, THEREFORE, BE IT RESOLVED, That Resolution 2007-262 (Department Heads Compensation and Benefits Plan ("Plan")) is amended as follows:

1. Section 2 (Department Heads Unit Membership) of the Plan is amended to read as follows:

Positions covered by this plan exclusively are as follows:

- Assistant City Manager
- Development and Engineering Services Director
- Economic Development Director
- Finance and Administrative Services Director
- Fire Chief
- Human Resources Director
- Parks and Community Services Director
- Public Works Director

2. Subsection B.2 of Section 5 (Benefits) of the Plan is amended to read as follows:

2. Public Safety Department Head: For the Fire Chief, the City's contract with PERS provides for single highest year and the 3% at 55 benefit formula.

3. Subsection K of Section 5 (Benefits) of the Plan is amended to read as follows:

K. Uniform Allowance. Effective July 1, 2007 the City shall provide the Fire Chief a uniform allowance in the amount of \$1,000 per year.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 2nd day of August 2011, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Resolution _____
Page 2

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.K

REQUEST

ADOPT RESOLUTION APPROVING AN EMPLOYMENT AGREEMENT BETWEEN GARY HAMPTON AND THE CITY OF TRACY TO SERVE AS POLICE CHIEF

EXECUTIVE SUMMARY

The City Manager recommends that the City Council approve an at-will employment agreement with Gary Hampton to serve as Police Chief.

DISCUSSION

The City Manager recommends that the City Council approve an at-will employment agreement with Gary Hampton to serve as Police Chief.

Gary Hampton began his career in police services over 20 years ago, progressing to the rank of Police Chief in the City of Turlock in Stanislaus County for the past five years. During his tenure in Turlock, Chief Hampton served as the Interim City Manager for six months in 2009 and as the Public Safety Director for six months during 2010/2011. Prior to his appointment as Police Chief in the City of Turlock, Chief Hampton was Police Chief with the City of Oakdale for three years. Chief Hampton is no stranger to the City of Tracy as he has nine years of progressive leadership and management experience serving in mid-manager and command level positions with the City of Tracy, including an appointment as Captain where he received a Meritorious Service Medal and Unit Citation Medal.

Chief Hampton is a strong advocate for cutting edge law enforcement services through community policing philosophies and programs and professional standards of conduct and law enforcement that facilitate the success of a department.

Chief Hampton has a Master of Arts in Organizational Leadership and Business Management from Saint Mary's College and a Bachelors of Arts in Public Administration from The Union Institute.

Under the proposed at-will employment agreement, Chief Hampton will:

- begin work on August 15, 2011;
- receive an initial base monthly salary of \$15,208.33;
- receive \$6,000.00, plus 4.5% of his annual salary, annually in a 401 Deferred Compensation Plan;
- receive the same leave and benefits provided to Department Heads (However, he will be credited with 200 hours of vacation leave and will accrue vacation leave at a 10-year service rate of 160 hours per year. After the first year of

- employment, he will accrue vacation leave as provided to management employees having 11 or more years of service in accordance with the Department Heads Compensation and Benefits Plan. He will also be credited with 200 hours of sick leave at the start of employment.);
- receive the single highest year and 3% at 55 benefit formula provided through the Public Employees' Retirement System ("PERS") (He will pay 9% of his salary as the employee's share of the PERS rates and the City will pay the employer's share of the PERS rates.);
- be provided with a uniform allowance in the amount of \$1,000 per year;
- be reimbursed for relocation and moving expenses not to exceed \$5,000; and
- be provided with a vehicle.

Under the proposed agreement, Chief Hampton will also receive 12 months severance pay if he is terminated or asked to resign before he reaches the age of 55; or 6 months severance pay if he is terminated or asked to resign after he reaches the age of 55.

Finally, the proposed agreement provides that Chief Hampton will establish residence within the Tracy city limits within one year from the start of employment, and thereafter to maintain residence within Tracy for the duration of his employment as the Police Chief.

STRATEGIC PLAN

This agenda item supports the Organizational Efficiency strategic plan and specifically promotes the following goal:

Goal 4: Ensure long-term viability and enhancement of the City's workforce

FISCAL IMPACT

The resulting increased cost to the City for employment of Chief Hampton as compared to the previous Chief is approximately \$34,000 per year. This is a General Fund expense; however, this increased expense can be absorbed in the FY 11-12 budget without additional appropriations due to salary savings from other vacant positions.

RECOMMENDATION

The City Manager recommends that the City Council adopt a resolution approving an at-will employment agreement with Gary Hampton to serve as Police Chief.

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

Attachment: Proposed Employment Agreement

EMPLOYMENT AGREEMENT BETWEEN
GARY HAMPTON AND THE CITY OF TRACY

This Employment Agreement (“Agreement”) is made and entered into by and between Gary Hampton (“Hampton”) and the City of Tracy, a municipal corporation (“City”).

RECITALS

WHEREAS, City, acting by and through its City Manager, desires to employ Hampton as its Police Chief subject to the terms and conditions set forth in this Agreement; and

WHEREAS, Hampton desires to be employed by the City as its Police Chief subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth below, the parties agree as follows:

1. Employment. City agrees to employ Hampton as Police Chief, in accordance with the following provisions:

(a) Hampton shall serve as Police Chief and shall be responsible for managing and directing the operations of the Police Department.

(b) Hampton shall perform his duties to the best of his ability in accordance with the highest professional and ethical standards of the profession and shall comply with all general rules and regulations established by the City.

(c) Hampton shall not engage in any activity which is or may become a conflict of interest, prohibited contract, or which may create an incompatibility of office as defined under California law. Hampton shall comply fully with his reporting and disclosure obligations under regulations promulgated by the Fair Political Practices Commission.

(d) Hampton agrees to remain in the exclusive employ of the City during the term of this Agreement. Hampton shall dedicate his full energies and qualifications to employment as Police Chief, and shall not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, except as may be specifically approved in writing in advance by the City Manager.

2. Start Date. Hampton shall begin work on August 15, 2011.

3. Duration of Employment. Hampton understands and agrees that he has no constitutionally protected property or other interest in his employment as Police Chief. He understands and agrees that, notwithstanding any provision contained in state law or the City's Personnel Rules and Regulations, he has no right to pre- or post-disciplinary due process or a right to an administrative appeal and expressly waives any such rights that may exist under state law or the City's Personnel Rules and Regulations. He understands and agrees that he works at the will and pleasure of the City Manager and that he may be terminated, or asked to resign, at any time, with or without cause, upon 30 days written notice to Hampton. Hampton may terminate this agreement upon 30 days written notice to the City Manager.

4. Compensation. Hampton shall receive an initial base monthly salary of \$15,208.33, payable in installments at the same time as other employees of the City are paid and subject to legally required withholdings and deductions. Not less than once each year, the City Manager shall meet with Hampton for the express purpose of evaluating the performance of Hampton. Subject to a satisfactory performance evaluation, the City Manager, at his or her sole discretion, may increase the salary of Hampton so long as the increase conforms to the City Council adopted position control roster.

5. Benefits. Hampton shall receive the following benefits:

(a) City shall contribute \$6,000.00, plus 4.5% of Hampton's annual salary, annually to a 401 Deferred Compensation Plan.

(b) Hampton shall receive the same leave and benefits as provided to management employees in accordance with the City Council-approved Department Heads Compensation and Benefits Plan ("Department Heads Plan"), as it may be amended, except as modified by this Agreement.

(c) At the start of employment, Hampton shall be credited with 200 hours of vacation leave and shall accrue vacation leave at a 10-year service rate of 160 hours per year. After the first year of employment, Hampton shall accrue vacation leave as provided to management employees having 11 or more years of service in accordance with the Department Heads Plan.

(d) At the start of employment, Hampton shall be credited with 200 hours of sick leave.

(e) Hampton shall receive the single highest year and 3% at 55 benefit formula provided through the Public Employees' Retirement System ("PERS"). Hampton shall pay 9% of his salary as the employee's share of the PERS rates and the City shall pay the employer's share of the PERS rates. Because Hampton will be paying 9% of his salary as the employee's share of the PERS rates, Hampton will not be required to take unpaid furlough days.

(f) City shall provide Hampton with a uniform allowance in the amount of \$1,000 per year.

(g) City shall reimburse Hampton for relocation and moving expenses not to exceed \$5,000.00.

(h) Hampton's duties as Police Chief, including responding to emergencies, require the personal use at all times during the duration of this Agreement of an unmarked vehicle provided by City. Therefore, in lieu of a car allowance and mileage reimbursement, as contained in the Department Heads Plan, City shall provide Hampton with the exclusive use of an unmarked vehicle at all times during his employment. City shall be responsible for maintaining liability, property damage, and comprehensive insurance, and for the purchase, operation, maintenance, repair, and replacement of the vehicle. Hampton shall not use the vehicle for vacation or recreation trips.

6. Residency. Hampton agrees to establish residence within the Tracy city limits within one year from the start of employment, and thereafter to maintain residence within Tracy for the duration of his employment as the Police Chief.

7. Severance.

(a) If Hampton is terminated, or is asked to resign, while still willing and able to perform the duties of Police Chief, he shall receive the following severance pay:

(i) Twelve (12) months severance pay if Hampton is terminated or asked to resign before he reaches the age of 55; or

(ii) Six (6) months severance pay if Hampton is terminated or asked to resign after he reaches the age of 55.

(b) To be eligible for such severance pay, Hampton shall sign a release of liability for all claims connected with the employment relationship ("Release Agreement") in a form approved by the City Attorney.

(b) "Severance pay" shall include salary and health benefits. Severance pay shall be paid in a lump sum payment to Hampton within 15 working days after the effective date of the Release Agreement, or as agreed to by Hampton and the City. Severance pay shall not be included in final compensation for the purposes of PERS retirement nor shall any payments of the employee's share of the PERS rates be deemed to extend the date of separation past termination or resignation of the employee.

(c) Hampton shall not be entitled to severance pay if he is terminated because he has been convicted of a felony.

8. Notice. All notices required pursuant to this Agreement shall be sent first class mail to the parties as follows:

To City: City of Tracy
City Manager
333 Civic Center Plaza
Tracy, California 95376

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

To Hampton: Gary Hampton
3750 Brookstone Drive
Turlock, California 95382

9. Entire Agreement. This Agreement contains the entire agreement between the parties concerning the subject matter of this agreement. This Agreement shall supersede, and render null and void any and all prior agreements between the parties to this Agreement concerning the subject matter of this Agreement. This Agreement may only be amended by written instrument signed by Hampton and the City Manager and specifically approved by the City Council in open session.

10. Representation by Counsel. Hampton and City acknowledge that they each did, or had the opportunity to, consult with legal counsel of their respective choices with respect to the subject matter of this Agreement prior to signing it.

11. Applicable Law. This Agreement is signed and delivered in the State of California and the rights and obligations of the parties under this Agreement shall be construed and enforced in accordance with the laws of the State of California.

12. Waiver. No waiver by any party of any breach of any term or provision of this Agreement shall be construed to be, nor shall be, a waiver of any preceding, concurrent or succeeding breach of the same or any other term or provision of this Agreement.

13. Interpretation. This Agreement is deemed to have been drafted jointly by the parties to this Agreement. Any uncertainty or ambiguity shall not be construed for or against any party based upon attribution of drafting to any party.

14. Severability. If any provision of this Agreement is held unconstitutional, invalid or unenforceable, that invalidity shall not affect any other provisions which could be given effect without the invalid provision.

15. Counterparts. This Agreement may be executed in several counterparts, and shall be admissible in counterparts. All executed copies are duplicate originals and are equally admissible in evidence.

City of Tracy

Gary Hampton

Brent H. Ives, Mayor

Date: _____

Date: _____

Attest:

By: Sandra Edwards
Title: CITY CLERK

Date: _____

Approved as to Form:

City Attorney

RESOLUTION _____

APPROVING AN EMPLOYMENT AGREEMENT BETWEEN GARY HAMPTON AND THE CITY OF TRACY TO SERVE AS POLICE CHIEF

WHEREAS, The City, acting by and through its City Manager, desires to employ Gary Hampton as its Police Chief subject to the terms and conditions set forth in the Employment Agreement Between Gary Hampton and the City of Tracy ("Agreement"), and

WHEREAS, Gary Hampton desires to be employed by the City as its Police Chief subject to the terms and conditions set forth in the Agreement.

NOW, THEREFORE, BE IT RESOLVED, That the Agreement is approved and the Mayor is authorized to sign the Agreement on behalf of the City.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 2nd day of August 2011, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

August 2, 2011

AGENDA ITEM 1.L

REQUEST

AUTHORIZE AMENDMENT TO THE CITY'S COMPENSATION PLAN TO ELIMINATE THE SALARY RANGE FOR POLICE CHIEF

EXECUTIVE SUMMARY

This report recommends elimination of the Police Chief's Salary Range from the City's Compensation Plan.

DISCUSSION

Section 2.08.060 of the City of Tracy Municipal Code authorizes the City Manager to exercise certain duties and powers, including appointment of specified City employees. Because the appointment of Gary R. Hampton as Police Chief will be done via an employment agreement under a separate agenda item, it is recommended that the salary range for the Police Chief be eliminated from the City's Compensation Plan. Revisions to the City's Compensation Plan can only occur by Council action.

STRATEGIC PLAN

This agenda item supports the Organizational Efficiency strategic plan and specifically promotes the following goal:

Goal 4: Ensure long-term viability and enhancement of the City's workforce

FISCAL IMPACT

The fiscal impact of removing the Police Chief's salary range from the City's Compensation Plan and entering into a separate employment agreement with the Police Chief, results in an increase in cost to the City of approximately \$34,000 per year. This is a General Fund expense that will be absorbed in the FY 11-12 budget without additional appropriations necessary due to salary savings from other vacant positions within the Police Department.

RECOMMENDATION

That the City Council, by resolution, authorize the Human Resources Director to eliminate the salary range for Police Chief from the City's Compensation Plan.

Prepared by: Maria Olvera, Human Resources Director

Reviewed by R. Leon Churchill, Jr., City Manager

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

Attachment: Resolution

RESOLUTION _____

AUTHORIZE AMENDMENT OF THE CITY'S CLASSIFICATION PLAN TO ELIMINATE THE SALARY RANGE FOR POLICE CHIEF

WHEREAS, The City has a Compensation Plan, and

WHEREAS, The City wishes to eliminate the salary range of Police Chief in the City's Classification Plan, given the approval of a separate Employment Agreement between the City of Tracy and Gary R. Hampton for the Police Chief position, and

WHEREAS, The fiscal impact of removing the Police Chief's salary range from the City's Compensation Plan and entering into a separate employment agreement with the Police Chief, results in an increase in cost to the City of approximately \$34,000 per year

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

The City Council authorizes the Human Resources Director to eliminate the salary range for Police Chief from the City's Compensation Plan.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 2nd day of August, 2011, by the following votes:

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 3

REQUEST

ADOPT A RESOLUTION DECLARING THE CITY'S INTENT TO PROVIDE THE TRACY EXPRESS SOFTBALL, ASOCIACION DE CLUBS UNIDOS SOCCER LEAGUE, SOCCER XTAR LIGA, ITIFAQ AFGHAN SOCCER CLUB, TRACY RAIDERS, TRACY COUGARS, TRACY BUCCANEERS AND ALTERNATIVO FUTBOL CLUB WITH PRIORITY TO ENTER INTO PROPERTY LEASES FOR THE PURPOSE OF CONSTRUCTING, MAINTAINING AND OPERATING YOUTH SPORTS FIELDS AT THE HOLLY SUGAR SPORTS COMPLEX IF AND WHEN FUTURE PHASES ARE AVAILABLE FOR SUCH FIELD DEVELOPMENT

EXECUTIVE SUMMARY

On March 1, 2011, the City of Tracy entered into a Memorandum of Understanding (MOUs) with four local youth sports organizations for the rights to enter into property leases for the construction, maintenance and operation of youth sports fields in the first phase of development of the Holly Sugar Sports Complex. Included in the staff report for that action, was information on eight additional local youth sports organizations that had expressed an interest in developing sports at Holly Sugar, but were unable to enter into similar MOUs at that time due to scope of the first phase of the project. The report also indicated that staff would bring an item to Council providing these other organizations with priority in leasing property at the Holly Sugar Sports Complex when and if future phases are developed. Adopting this resolution declares the Council's intent to provide these organizations priority in entering into such future possible agreements.

DISCUSSION

On March 1, 2011, Council approved a Memorandum of Understanding (MOU) with the Tracy Little League, Tracy Babe Ruth, Tracy Youth Soccer League and Tracy Futbol Club for the rights to enter into property leases for the construction, maintenance and operation of youth sports fields in the first phase of development of the Holly Sugar Sports Complex. The approval of these MOUs culminated many years of discussions, negotiations, and planning in an effort to meet the current and future needs for community youth sports fields.

In addition to the four organizations that entered into MOUs for the construction of facilities in the first phase, staff included eight other local youth sports organizations in the discussions and negotiations on the development of facilities at the Holly Sugar site. These other organizations were: The Tracy Express Softball, Asociacion de Clubs Unidos Soccer League, Soccer Xtar Liga, , Itifaq Afghan Soccer Club, Tracy Raiders, Tracy Cougars, Tracy Buccaneers, and Alternativo Futbol Club. The City was unable to enter into similar MOUs with these organizations at that time due to the limited scope of the first phase of the project.

Although the first phase does not include enough amenities to meet the requests of all twelve local youth sports organizations, the first phase does meet a portion of these needs as shown in the chart below:

FIELD TYPE	2015* NEEDS	PHASE 1
Baseball (all sizes)	15	12
Softball (all sizes)	.4	0
Football (all sizes)	3.2	0
Soccer (all sizes)	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 conceptual plan for the entire site does include additional fields. If, and when, future phases of the Holly Sugar Sports Fields are developed, space would be available for additional youth sports organizations to construct and operate their own fields. To formalize the City's intent to give these organizations priority for property leases in future phases, as well as to provide evidence of the City's commitment to the organizations to facilitate fundraising, staff is recommending that Council adopt a resolution declaring these intentions.

STRATEGIC PLAN

This agenda item supports the Community Amenities Priority 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 would be no fiscal impact on the City in adopting this resolution.

RECOMMENDATION

Adopt an resolution declaring the Council's intent to provide the Tracy Express Softball, Asociacion de Clubs Unidos Soccer League, Soccer Xtar Liga, Itifaq Afghan Soccer Club, Tracy Raiders, Tracy Cougars, Tracy Buccaneers and Alternativo Futbol Club with priority to enter into property leases for the purpose of constructing, maintaining, and operating youth sports fields at the Holly Sugar Sports Complex if and when future phases are available for such field development.

Prepared by: Floyd Lewis, Recreation Supervisor, Parks and Community Services
Reviewed by: Rod Buchanan, Parks and Community Services Director
Approved by: R. Leon Churchill, Jr., City Manager

RESOLUTION _____

ADOPTION OF A RESOLUTION DECLARING THE CITY'S INTENT TO PROVIDE THE TRACY EXPRESS SOFTBALL, ASOCIACION DE CLUBS UNIDOS SOCCER LEAGUE, SOCCER XTAR LIGA, ITIFAQ AFGHAN SOCCER CLUB, TRACY RAIDERS, TRACY COUGARS, TRACY BUCCANEERS, AND ALTERNATIVO FUTBOL CLUB, ALL LOCAL YOUTH SPORTS ORGANIZATIONS WITH PRIORITY TO ENTER INTO PROPERTY LEASES FOR THE PURPOSE OF CONSTRUCTING, MAINTAINING AND OPERATING YOUTH SPORTS FIELDS AT THE HOLLY SUGAR SPORTS COMPLEX IF AND WHEN FUTURE PHASES ARE AVAILABLE FOR SUCH FIELD DEVELOPMENT

WHEREAS, On March 1, 2011, Council approved a Memorandum of Understanding (MOU) with the Tracy Little League, Tracy Babe Ruth, Tracy Youth Soccer League and Tracy Futbol Club for the rights to enter into property leases for the construction, maintenance and operation of youth sports fields in the first phase of development of the Holly Sugar Sports Complex; and

WHEREAS, The Tracy Express Softball, Asociacion de Clubs Unidos Soccer League, Soccer Xtar Liga, Itifaq Afghan Soccer Club, Tracy Raiders, Tracy Cougars, Tracy Buccaneers, and Alternativo Futbol, (collective parties), all local youth sports organizations, were not able to enter into such a MOU at that time due to the scope of first phase; and

WHEREAS, The City recognizes and appreciates the dedication, hard work and commitment that the collective parties have demonstrated in serving the community and the youth of the community; and

WHEREAS, The City desires to support the collective parties in their ongoing efforts to meet the athletic and recreational needs of Tracy youth; and

WHEREAS, In future phases of developing the Holly Sugar Sports Complex, additional opportunities may arise that would make available property for the collective parties to construct, maintain and operate youth sports fields.

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby declares the City's intent to provide the Tracy Express Softball, Asociacion de Clubs Unidos Soccer League, Soccer Xtar Liga, Itifaq Afghan Soccer Club, Tracy Raiders, Tracy Cougars, Tracy Buccaneers, and Alternativo Futbol with priority to entering into a Memorandum of Understanding for the development of a property lease to permit these organizations to construct, maintain and operate youth sports fields if and when future phases are available for such field development.

* * * * *

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:

Resolution _____
Page 2

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 5.A

REQUEST**RECEIVE AN AFTER ACTION REPORT ON THE SALE AND DISCHARGE OF SAFE AND SANE FIREWORKS FOR 2011**EXECUTIVE SUMMARY

On May 3, 2011 staff introduced Ordinance 1158 Fireworks to allow the sale and discharge of California State Fire Marshal approved Safe and Sane Fireworks within the city limits of Tracy. Ordinance 1158 Fireworks became effective June 17, 2011. Nine non-profit organizations participated in the sale of approved fireworks from June 28, 2011 through July 4, 2011. This report is a summary of the impact related to permitting the sale and discharge of Safe and Sane fireworks in Tracy.

DISCUSSION

Ordinance 1158 Fireworks permits the sale and discharge of Safe and Sane Fireworks in Tracy and became effective on June 17, 2011. Prior to the adoption of Ordinance 1158, all fireworks were considered unlawful in the City of Tracy. The process to arrive at the point of selling fireworks includes application, review, lottery, selection, permitting, and inspection. Allowing for the sale and discharge of fireworks also increases the need for enforcement of illegal fireworks.

Application and Permitting Process

On May 17, 2011, Council adopted Resolution 2011-102 providing a lottery process for the selection of non-profits to obtain one of 9 available safe and sane fireworks sales permit for July 4, 2011. The fire department received thirty applications for eligibility in the lottery. After review, it was determined there were 7 applicants disqualified and twenty-three applicants were approved for lottery eligibility.

The lottery was conducted on June 1, 2011 where 9 non-profit organizations were selected to continue in the permitting process. There were also 3 alternate non-profit organizations selected in the event one of the 9 selected organizations failed to qualify.

# Drawn	Organization
1	Tracy Community Church
2	Kimball High Athletic Booster Club
3	Tracy Learning Center PTO*
4	Tracy Mount Oso Chapter Demolay International
5	Coalition of Tracy Citizens to Assist the Homeless
6	Sow a Seed Community Foundation
7	Tracy Little League
8	Millennium High School Learning Center
9	Grace Christian Center

**Selected and opted not to apply for permit*

# Drawn	Organization
1	DP Bombers Baseball, Inc.*
2	National Junior Basketball League – Tracy Chapter
3	All American Sports Academy Teams

**First alternate accepted and successfully applied*

Staff spent approximately 97.5 of hours of staff time processing the non-profit organizations from application to the point of physically selling safe and sane fireworks. The fully burdened estimated cost of staff hours spent processing safe and sane fireworks is an estimated \$11,135. Staff time included reviewing applications, verifying non-profit status, permit processing, temporary use permit review, safety seminar, correspondence, and inspection services. All non-profit organizations are required to attend a Safety Seminar provided by the fire department. The safety seminar was held on June 15, 2011 and 132 volunteers from the non-profits attended the meeting.

Department	Staff Hours
Fire	42.5
Development & Engineering Services	53
City Attorney's Office	2
TOTAL	97.5

Success for Non-profit Organizations

The fire department hosted two post July 4th meetings to evaluate the safe and sane fireworks process. Staff met internally with Fire, Police, Development and Engineering Services and the City Attorney's Office to evaluate the 2011 process and identify areas in need of modification or improvement. The fire department also invited all non-profit organizations and the fireworks wholesalers to a meeting on July 14, 2011 to review the process from the customer's perspective.

The July 14, 2011 meeting was attended by the wholesalers and two of the non-profit organizations that received a sales booth. Feedback received from the non-profit organizations in attendance was positive. Organizations mentioned that the running of a safe and sane sales booth was more work than originally anticipated but the end result was "worth it" for their respective organization.

Staff was unable to obtain exact sales figure totals from the fireworks wholesalers however approximate gross sales were obtained verbally. The amount of sales of safe and sane fireworks varied between each organization and the location of their booth. Each non-profit organization has an agreement with their respective wholesaler indicating the terms between each party, which may vary. The amount of revenue ending up in the coffers of each non-profit organization is dependent upon their

individual agreement with their respective wholesaler but is typically less than 50% of gross sales after taxes and expenses.

Fireworks Wholesaler	Approximate Gross Sales (pre-tax)
TNT Fireworks (6 sales stands)	\$390,000*
Phantom Fireworks (3 sales stands)	\$148,000*

**Obtained verbally from Dennis Revell of American Promotional Events, Inc., (TNT Fireworks) and Brent Rodriguez of Phantom Fireworks*

Emergency Response and Enforcement

The Fire Department worked collaboratively with the Police Department to actively enforce against the use of illegal fireworks. Both departments staffed up patrols on July 4, 2011. Fire and Police units received calls directly from Tracy Police Department Communications Center. Combined, Fire and Police units responded to 39 fireworks related calls for service between the hours of 7:00 p.m. and 12:00 midnight on July 4, 2011. The problem nature of these calls was for reports of illegal fireworks including aerial fireworks such as bottle rockets and explosives such as M-80's. There were 9 separate incidents of fireworks confiscation with a total of 328 individual fireworks "Booked for Destruction." Among these confiscated items were Bottle Rockets, Aerial Mortars, Firecrackers, and 3 Homemade Fireworks.

The Fire Department referenced calls for service from June 28, 2011 through July 4, 2011 for the last three years. Overall, the fire department did not see a marked increase of fires in the community during the evaluation period. In fact, the number of total fire incidents had decreased from the two previous year totals. These numbers include fires of all types which include structure, vegetation, vehicle, rubbish and other outside fires. There were fireworks reported or suspected in 7 fire incidents during the evaluation period for 2011. There is no indication as to whether or not the fireworks involved were safe and sane or illegal in nature.

Fires of All types – June 28 through July 4

Year	Number of "Fire" Incidents
2009	23
2010	27
2011	18

There were no injuries reported as a result of fireworks of any type during the evaluation period.

Modifications to Fireworks Ordinance

Staff anticipated the need for potential modification of Ordinance 1158 Fireworks after experiencing the process for 2011. The internal staff meeting and subsequent meeting with the non-profits yielded some suggested modifications to the ordinance. It is

recommended that staff return to Council with the modifications at the September 20, 2011 Council meeting. Should Council decide to implement the proposed changes, a September meeting will provide sufficient time to have a modified ordinance effective prior to the anticipated lottery in December for the 2012 process.

STRATEGIC PLAN

This is an operational item and is not identified in any of the current strategic plans.

FISCAL IMPACT

The fiscal impact to the City of Tracy is based upon staff hours contributed to the administering of the safe and sane fireworks application, permitting and inspection process. The City receives revenue by way of sales tax and permit fees. The sales tax revenue is not yet available. The permit revenue of \$3,523 is derived from the fireworks permits, temporary use permits and storage permits.

It is estimated that staff expended approximately 97.5 hours of staff time specific to safe and sane fireworks program administration. Staff time was calculated at the fully burdened employee hourly rate for an estimated cost of \$11,135.

It is anticipated that the sales tax and permit fees will not yield a significant amount of revenue to the City above program administration costs.

RECOMMENDATION

Staff recommends that Council accept the after action report on the sale and discharge of safe and sane fireworks for 2011.

Prepared by: David A. Bramell, Fire Division Chief

Reviewed by: Alford Nero, Fire Chief

Approved by: Leon Churchill, Jr., City Manager

August 2, 2011

AGENDA ITEM 6.A

REQUEST

**CONSIDER CANCELLATION OF THE REGULAR CITY COUNCIL MEETING
SCHEDULED FOR TUESDAY, AUGUST 16, 2011**

EXECUTIVE SUMMARY

Determine whether or not to cancel the Regular City Council meeting scheduled for August 16, 2011.

DISCUSSION

Currently, there are no agenda items scheduled for the August 16, 2011 Regular City Council meeting. Therefore, staff recommends that this meeting be cancelled. The next regularly scheduled Council meeting will be held on September 6, 2011. Should a situation arise prior to September 6, 2011, which requires Council action, a special Council meeting could be scheduled.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no fiscal impact with this discussion item.

RECOMMENDATION

Staff recommends that Council consider cancelling the regular City Council meeting scheduled for Tuesday, August 16, 2011, due to a lack of agenda items.

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

August 2, 2011

AGENDA ITEM 6.B

REQUEST

COUNCIL DESIGNATION OF VOTING DELEGATE AND UP TO TWO VOTING ALTERNATES FOR THE LEAGUE OF CALIFORNIA CITIES 2011 ANNUAL CONFERENCE BUSINESS MEETING

EXECUTIVE SUMMARY

Staff requests that Council designate a voting delegate and up to two voting alternates for the upcoming League of California Cities Annual Conference Business Meeting.

DISCUSSION

The League of California Cities Annual Conference is scheduled for Wednesday, September 21, 2011, through Friday, September 23, 2011, in San Francisco, California.

An important part of the Annual Conference is the League of California Cities' Annual Business Meeting. At this meeting, the League membership considers and takes action on resolutions that establish League policy. In order to expedite the conduct of business at this policy-making meeting, each City Council should designate a voting delegate and up to two alternates who will be registered at the conference and present at the Annual Business Meeting. A voting card will be given to the City official designated on the Voting Delegate Form.

The League of California Cities has requested the names of the designated delegates be forwarded to them no later than Friday, August 26, 2011.

STRATEGIC PLAN

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

FISCAL IMPACT

None.

RECOMMENDATION

That Council designate a voting delegate and up to two voting alternates for the League of California Cities 2011 Annual Conference Business Meeting.

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

RESOLUTION 2011-

DESIGNATING A VOTING DELEGATE AND UP TO TWO VOTING ALTERNATES FOR THE LEAGUE OF CALIFORNIA CITIES 2011 ANNUAL CONFERENCE BUSINESS MEETING

WHEREAS, The League of California Cities Annual Conference is scheduled for September 21, 2011, through September 23, 2011, in San Francisco, and

WHEREAS, An important part of the Annual Conference is the Annual Business Meeting at which, the League membership takes action on resolutions that establish League policy, and

WHEREAS, In order to expedite the conduct of business at this policy-making meeting, each City Council designates a voting delegate and up to two alternates who will be registered at the conference and present at the Annual Business Meeting.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby designates _____ as the voting delegate, and _____ and _____ as the two alternates for the League of California Cities 2011 Annual Conference Business Meeting.

The foregoing Resolution 2011-____ was passed and adopted by the Tracy City Council on the 2nd day of August, 2011, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

August 2, 2011

AGENDA ITEM 6.C

REQUEST

**APPOINTMENT OF CITY COUNCIL SUBCOMMITTEE TO INTERVIEW
APPLICANTS FOR VACANCY ON THE TRACY ARTS COMMISSION**

EXECUTIVE SUMMARY

Request appointment of subcommittee to interview applicants for vacancy on the Tracy Arts Commission.

DISCUSSION

There is one vacancy on the Tracy Arts Commission due to the resignation of Commissioner Hays. The vacancy has been advertised and the three week recruitment period closed on July 21, 2011. Three applications were received.

In accordance with Resolution 2004-152, a two-member subcommittee needs to be appointed to interview the applicants and make a recommendation to the full Council.

STRATEGIC PLAN

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

FISCAL IMPACT

None.

RECOMMENDATION

That Council appoints a two-member subcommittee to interview applicants for the vacancy on the Tracy Arts Commission.

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