

TRACY CITY COUNCIL

REGULAR MEETING AGENDA

Tuesday, May 1, 2012, 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

PRESENTATIONS – Employee of the Month

- Proclamation – “Older Americans Month”
- Proclamation – “Bike to Work Week”
- Swearing In – Police Captain Jeremy Watney

1. CONSENT CALENDAR

A. Minutes Approval

B. Acceptance of the Offsite Public Improvements Completed by AMB Corporation, LLC, for Chabot Commerce Center - Tract 3019

C. Authorize an Appropriation of \$10,739 from the 2012 Edward Byrne Memorial Justice Assistance Grant (JAG) Program for the Purchase and Installation of Enhanced Technology for the Tracy Police Department's Law Enforcement Programs

2. ITEMS FROM THE AUDIENCE

3. PUBLIC HEARING TO CONSIDER A PRELIMINARY AND FINAL DEVELOPMENT PLAN TO PERMIT THE DEVELOPMENT OF THREE NEW INDUSTRIAL BUILDINGS TOTALING 989,717 SQUARE FEET, THE EXPANSION OF AN EXISTING INDUSTRIAL BUILDING BY 288,770 SQUARE FEET, AND THE EXTENSION OF CHABOT COURT TO TURN WEST AND INTERSECT WITH PARADISE ROAD ON A 70.49-ACRE SITE, LOCATED ADJACENT TO PARADISE ROAD, SOUTH OF GRANT LINE ROAD AND ADJACENT TO AND WEST OF THE EXISTING CHABOT COURT - APPLICANT IS PROLOGIS, AND OWNERS ARE AMB HOLD CO, LLC AND PROLOGIS, L.P.- APPLICATION D12-0003
4. PUBLIC HEARING TO CONSIDER A GENERAL PLAN LAND USE DESIGNATION AMENDMENT OF A 10-ACRE SITE IN THE EASTLAKE AND ELISSAGARAY RANCH SUBDIVISIONS FROM PUBLIC FACILITIES TO RESIDENTIAL LOW. THE APPLICANT IS CHRIS TYLER AND THE PROPERTY OWNER IS TVC TRACY HOLDCO, LLC. APPLICATION NUMBER GPA10-0004
5. PUBLIC HEARING TO CONSIDER ADOPTION OF A MITIGATED NEGATIVE DECLARATION AND A GENERAL PLAN AMENDMENT, PREZONING AND ANNEXATION TO THE CITY OF TRACY FOR THE TRACY DESALINATION AND GREEN ENERGY PROJECT, CONSISTING OF APPROXIMATELY 241 ACRES LOCATED EAST OF TRACY BOULEVARD IN THE VICINITY OF SUGAR ROAD, ASSESSOR'S PARCEL NUMBERS 212-160-05, 212-160-09, AND 212-160-11. THE APPLICANT IS TRACY RENEWABLE ENERGY LLC. THE PROPERTY OWNER IS THE CITY OF TRACY. APPLICATION NUMBERS GPA11-0004 AND A/P11-0001

6. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE I-205 CORRIDOR SPECIFIC PLAN MODIFYING THE CRITERIA FOR WALL SIGNS IN EXCESS OF 100 SQUARE FEET. APPLICATION NUMBER SPA12-0001
7. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE SIGN REGULATIONS (TMC CHAPTER 10.08) AFFECTING SIGNS ON SCHOOL SITES – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0001
8. PUBLIC HEARING TO AUTHORIZE, BY IMPLEMENTING RESOLUTION, THE ADOPTION OF THE UPDATED DEVELOPMENT IMPACT FEES FOR THE NORTHEAST INDUSTRIAL (NEI) PHASE I AND II DEVELOPMENT AREAS RESULTING IN A NET DECREASE IN ROADWAY AND STORM DRAINAGE FEES
9. ACCEPT MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND THE GRAND FOUNDATION IN SUPPORT OF THE GRAND THEATRE CENTER FOR THE ARTS AND AUTHORIZE THE MAYOR TO SIGN THE MOU
10. ACCEPT GRAND FOUNDATION (FORMERLY ARTS LEADERSHIP ALLIANCE AKA ALA) 2011-12 ANNUAL UNDERWRITING SUPPORT FOR PROGRAMMING AND OPERATIONS AT THE GRAND THEATRE CENTER FOR THE ARTS
11. RECEIVE UPDATE AND PROVIDE INPUT ON AIRPORT IMPROVEMENT OPTIONS
12. REQUEST AUTHORIZATION TO NEGOTIATE MODIFICATIONS TO A DEVELOPMENT AGREEMENT WITH SURLAND COMMUNITIES LLC, APPLICATION DA11-0002, FOR PROPERTY LOCATED AT THE NORTHWEST CORNER OF LINNE ROAD AND CORRAL HOLLOW ROAD
13. SECOND READING AND ADOPTION OF ORDINANCE 1166 AN ORDINANCE OF THE CITY OF TRACY, CALIFORNIA, ADOPTION OF REVISED GROUNDWATER MANAGEMENT PLAN PURSUANT TO WATER CODE SECTION 10750 AND REPEALING EXISTING GROUNDWATER MANAGEMENT PLAN ORDINANCE 511
14. ITEMS FROM THE AUDIENCE
15. STAFF ITEMS
 - A. Receive a Presentation Regarding the Governance Model for the Provision of Fire Services to the City of Tracy and Surrounding Area, Receive an Overview of the Proposed Process, Discuss and Provide Feedback to Staff
16. COUNCIL ITEMS
 - A. Consider an Item for Discussion on a Future City Council Agenda Related to Naming the Plaza at City Hall After a Former Mayor of Tracy
17. ADJOURNMENT

November 21, 2011, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

The meeting was called to order at 5:03 p.m. by Leon Churchill, Jr., City Manager.

Mr. Churchill greeted everyone in attendance.

Roll call found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel, and Mayor Ives present. Also present were Planning Commissioners Johnson, Ransom, Mitracos, Chair Manne; Chamber of Commerce members Juana Dement, Ray Morales; Tracy City Center Association members Jan Courtier, Dino Margaros, and Dan Schack.

Mr. Churchill invited members of the public to address the Council/Planning Commission with any items not listed on the agenda. There was no one wishing to address Council.

Mr. Churchill provided a recap of the key items discussed at the previous Downtown workshop held on October 4, 2011.

Commissioner Ransom indicated they also spoke about the size of the Downtown at the last meeting.

Council Member Rickman indicated he wanted to hear more from the business and property owners.

Chair Ives indicated public safety and the feel for Downtown needed to be discussed.

Mr. Morelos stated the group needed more input from the property owners.

Question 1: Should the city increase the potential for new housing and higher densities within a half mile of the Downtown?

Question 2: To what degree should the City limit what happens on Eleventh Street for the benefit of the Downtown?

Commissioner Mitracos indicated he would like to hear discussion on parking in Downtown.

Commissioner Johnson stated that as a Planning Commissioner his job was to ensure conformation to the General Plan which includes making the Downtown a priority. Commissioner Johnston added that he wants to see housing, businesses, foot traffic, community spaces, etc.

Mayor Pro Tem Maciel asked how the City can get ambitious about making plans over property it doesn't own or control. Mayor Pro Tem Maciel indicated the plan has been to purchase property from the railroad; however, the railroad is not willing to work with the City. Mayor Pro Tem Maciel asked if the property would be available in the foreseeable future and if not, where

housing would be located. Mayor Pro Tem Maciel asked why anyone would invest in the old housing downtown when there is plenty of newer housing available in the city. Mayor Pro Tem Maciel added that affordable housing for downtown was a great concept, but that it appeared the City was chasing its tail.

Mayor Ives stated infill and the downtown were priority projects. Mayor Ives added he was interested in what the magic pills were to making Downtown into what the City wants it to be, and indicated housing might not be the answer. Mayor Ives suggested residents of cities with successful downtowns have a much higher level of disposable income than what Tracy currently has. People need to have a reason to live downtown. Mayor Ives stated he was not sure how much more the city could do outside of not creating onerous zoning.

Juana Dement stated the condition and age of the housing downtown make it difficult to receive loans for investment property. The private sector would be inclined to invest more which will create a lot of rental property which will throw off the balance. Ms. Dement further indicated it was not necessarily up to the city to help fund improvements to downtown properties. Ms. Dement stated homes in other areas near downtowns were better kept up and in better condition.

Commissioner Manne asked for input regarding housing above retail vs. current housing in Downtown and a historical district around the downtown.

Ms. Dement stated she is not usually involved in the Downtown but added housing usually has a better value if it has a historical element. Ms. Dement further stated the City needed to look at prime locations within the Downtown.

Commissioner Manne suggested the Downtown may be too large. Ms. Dement stated she didn't believe it was necessarily the size of the Downtown, but rather the ownership and ownership potentials.

Commissioner Manne indicated the General Plan may need to look at this in a broader sense.

Steve Nicolau, 445 W. Eleventh Street, stated he agreed with Mayor Pro Tem Maciel regarding the Bowtie area. Mr. Nicolau stated since we know the land is contaminated has the City considered pursuing legal action to have it cleaned up. Mr. Churchill stated the City has not declared the property a nuisance.

A member of the public suggested private development is on investors and property owners and asked what incentive would be for them.

Mayor Ives suggested it may not be a per capita issue and suggested there was something else.

Mr. Churchill asked if housing and a greater disposable income were the same or separate issues. Mayor Ives stated in general terms they were the same issue.

Debbie George stated a historical area was not a viable solution for the Downtown. Ms. George indicated individuals who purchased property in the Downtown are investors and the houses are not suitable for families that are buying in Tracy. The City has to make Downtown the hot spot if it wants people to live there.

Nicholas Boothman indicated he was concerned with any comments that suggest eminent domain. Mr. Boothman stated he would like to see if people use the Downtown residential area as commercial and would like to see what older cities say. Mr. Boothman added he believed it was a great idea to have higher density housing in the Mt. Oso area. Mr. Boothman agreed that the City should be heavy handed in dealing with the railroad to clean up the Bowtie area and also keeping rail service running through town/downtown.

A member of the audience asked if the City was thinking foot traffic would increase with more residential housing in the downtown. Mr. Churchill stated it was a theory.

Mayor Ives stated that if thoughtful decisions were not made now, another group will be discussing this in 25 years.

Ms. Dement indicated there is a need to talk to the owners of the properties in Downtown, because if they are not interested in getting on board, what is the use of all these efforts.

Christine Frankel stated she had looked at the Downtown Specific Plan and heard the discussion regarding housing and indicated it's not a draw, it's an anchor. Ms. Frankel pointed out towns that don't have housing downtown are not successful (Stockton). Ms. Frankel further stated there needs to be a mix to create that anchor downtown. The problem Tracy has now is low density housing. Ms. Frankel further indicated there were funds available that tie to improving housing and increasing density through sustainability.

Commissioner Ransom asked how the City prioritized housing, signs, etc., and added she would like to avoid putting the cart before the horse.

Mr. George stated that if the City doesn't have the jobs so the people have a choice of buying a condo or a house, then the City will be stuck with commuters who move here for affordable housing only. Mr. George stated until the City gets to the point where it has jobs that will sustain the population, there is not much that can be done with the Downtown problem.

A member of the audience asked what Tracy was doing regarding economic development and colleges.

Mr. Churchill indicated the City has an economic development strategy and a job strategy and a lot of time is spent on job diversity.

Mayor Ives indicated the City has spent years developing property for businesses to move to Tracy and one of the keys is having developable property available for when businesses are looking to move.

Council Member Rickman stated that when he talks to people, they do know where Downtown is, but that there are no shops where they want to shop. Council Member Rickman stated the City can't do everything; it is going to involve public/private partnerships.

Mr. Churchill stated the City was in the process of developing 17,000 acres of industrial land which could add 30,000 jobs.

Council Member Elliott indicated an essential part of that quest (higher education) should be trying to attract a 4-year college to Tracy. Council Member Elliott indicated the City needs to provide a way for individuals to be better educated. What the City can do for Downtown is to

promote those items that will draw people Downtown, along with economic development and a college.

Ms. Dement indicated the Chamber was working with the school districts on the Hire Me First Program which prepares students for part-time jobs.

Council Member Rickman asked if the Downtown would be decorated for the holidays. Jan Couturier stated there were plans for decorations Downtown this year.

Ray Morelos stated approximately 25 years ago he served on a committee called "Main Street". Mr. Morelos stated the Downtown doesn't have an identity; we have to get an identity for Downtown. Mr. Morelos asked what is going to attract people to the Downtown.

Mr. George stated he attended various events that were held Downtown and he didn't see the same people at each event. Mr. George suggested if the City continues those efforts, it will bring people Downtown.

Mr. Churchill stated there needs to be a marketing effort but who does the marketing is still the question. The block party was a \$75,000 effort with \$15,000 spent on advertising and promotion.

Ms. George indicated continuity was the key. Ms. George suggested that if people know something is going on Downtown, they will go.

A member of the public indicated business owners do play a big part in the energy downtown, and if it's closed down at 5 p.m. and not decorated, it's not festive.

Ms. Couturier asked if the individual meant business owners or property owners. The individual indicated business owners.

Question Two: To what degree should the City limit what happens on Eleventh Street for the benefit of Downtown?

Mr. Churchill indicated there was less concern on the land use and more on design and architecture.

Chair Mitracos indicated he had a problem with the question since the way it is worded, it benefits everyone.

Mayor Pro Tem Maciel asked if it was clear to the members of the public; what restrictions are imposed or exist. Mr. Churchill stated the only land use control that is debated at this time is the issue of restaurants and where they can locate. Mr. Churchill provided a couple of scenarios regarding restaurants.

George Riddle stated he had attended several Planning Commission meetings suggesting the Commission doesn't want walk-in restaurants and if a restaurant is vacant for more than six months they want to push walk-in restaurants onto Tenth Street and fast food onto Eleventh Street.

Mayor Ives asked if the City was being more prescriptive with Eleventh Street because the City is considering it as part of the Downtown district.

Mayor Pro Tem Maciel asked what parts of Eleventh Street were being considered for the Downtown. Mr. Churchill indicated we can make it what the community wants it to be; we have to figure out what that is.

Commissioner Ransom asked if Mr. Churchill could explain the purpose of zoning and why it is being considered for Eleventh Street. Commissioner Ransom clarified that the Planning Commission meeting Mr. Riddle referred to was a Downtown workshop and many thoughts were thrown out for consideration.

Jan Couturier indicated she did not believe it was communicated that the Downtown workshops were community events.

Mayor Ives indicated our consultant already told us that our Downtown was too big as currently defined.

Mr. Margaros stated he believed the problem was perception and not necessarily that you are taking from Eleventh Street. Mr. Margaros stated he didn't want it to be an "us vs. them" situation.

Mayor Ives indicated maybe this should be designed from the inside out; maybe the Eleventh Street discussion should be put off and focus placed on the downtown core.

An Eleventh Street property owner stated that according to Michael Freedman, the Downtown was too big yet the plan is to expand it. If you want people Downtown, then why is the Christmas tree at City Hall. Ms. Couturier explained. The property owner stated Tracy was an island while Livermore and Pleasanton draw from nearby cities. The property owner indicated he didn't understand why Eleventh Street was being expanded.

Christine Frankel stated the simple question is "What is the benefit of being Downtown?" That should be guiding the discussion.

An Eleventh Street property owner stated he was concerned that there are 12 non-conforming uses, and if the plan goes through there will be 32 non-conforming uses. The property owner stated he agreed that people who have homes there should be able to continue to live there. The property owner indicated he was told that Eleventh Street was going to be left out; it's a vehicular corridor and conducive to automotive uses.

Pete Navarro, representing property at Eleventh and F Streets, stated they would like to be out of the plan completely. Mr. Navarro stated Eleventh Street was structurally different from Tenth Street. Eleventh Street was auto oriented and would never be pedestrian oriented. Mr. Navarro indicated Eleventh Street could be architecturally upgraded. Regarding zoning, Mr. Navarro would like it to remain as is – out of the specific plan. Mr. Navarro believed Tracy was heading in the right direction and added he liked the idea of push vs. pulling. Mr. Navarro indicated a structural sustainable change to improve the business structure Downtown needs to include more bodies and a larger population and encouraged higher density housing Downtown.

Mr. Boothman indicated an easement needs to be kept open for commuter rail traffic. Mr. Boothman stated that if the City is going to have commuters they might as well come through the Downtown and the Downtown Specific Plan should be built around that.

Mr. Scott stated 1) commuters will come Downtown if you get their kids to come Downtown; 2) Eleventh Street made him realize that every aspect is represented there – farming, business, housing, etc; 3) he loves Downtown.

Mr. Churchill stated everyone needs to be a cheerleader for Downtown.

Commissioner Manne indicated he would like to see history repeat itself stating rail brought people to Tracy/Downtown and that having Ace rail come Downtown will bring people there.

Mayor Pro Tem Maciel indicated it was his understanding that the ACE station would be moved Downtown. Mayor Pro Tem Maciel further indicated that the the rails could not be used to bring the station Downtown.

Mayor Ives stated since day one it has always been a goal to bring ACE through Downtown Tracy. Mayor Ives stated the City has asked the Council of Government for ACE to have its own alignment over the Altamont to aim for Downtown Tracy. Mayor Ives indicated they are lobbying every year for \$450,000 for that project.

Commissioner Ransom stated the rail is a good opportunity but that it could take years, maybe decades and would like to put that item on the table, and focus on what we do control.

Mayor Ives asked Mr. Churchill what he saw as the next step. Mayor Ives suggested they have reached a reasonable consensus on the boundaries and tightening them up.

Mr. Churchill stated the logical next steps would be to use the comments in some refinement, of these ideas which will lead to an adopted Downtown Specific Plan. Mr. Churchill provided various dates for Planning Commission study sessions.

Mr. Overalls stated he had heard that the Westside Market was going to be turned into a parking lot and added he was extremely opposed to the idea. Chair Mitracos clarified that you don't eliminate parking Downtown, you move it a little further away.

Mr. Churchill summarized: Regarding property owners - when cities have to take the lead Downtown, something is wrong; the best Downtowns happen when the business community along with property owners get together, something is going right. When business owners organize and come to the city, a far superior situation is created.

Mr. Churchill indicated efforts will continue.

The above agenda was posted at the Tracy City Hall on November 17, 2011. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

April 17, 2012, 6:30 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Pro Tem Maciel called the meeting to order at 6:30 p.m. for the purpose of a closed session to discuss the items outlined below.
2. ROLL CALL – Roll call found Council Members Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel present; Mayor Ives absent.
3. ITEMS FROM THE AUDIENCE – None
4. CLOSED SESSION -
Labor Negotiations (Gov. Code, section 54957.6)
 - Employee Organizations:
Tracy Firefighters' Association
Teamsters Local 439, IBT
Tracy Mid-Managers' Bargaining Unit
Confidential Management Unit
Technical and Support Services Unit

City's designated representative: R. Leon Churchill Jr., City Manager
5. MOTION TO RECESS TO CLOSED SESSION – Council Member Abercrombie motioned to recess the meeting to closed session at 6:31 p.m. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered.
6. RECONVENE TO OPEN SESSION – Mayor Pro Tem Maciel reconvened the meeting into open session at 6:44 p.m.
7. REPORT OF FINAL ACTION – None.
8. ADJOURNMENT – It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adjourn. Voice vote found all in favor; passed and so ordered. Time: 6:44 p.m.

The agenda was posted at City Hall on April 12, 2012. The above are action minutes.

Mayor Pro Tem Maciel

ATTEST:

Assistant City Clerk

AGENDA ITEM 1.B

REQUEST

ACCEPTANCE OF THE OFFSITE PUBLIC IMPROVEMENTS COMPLETED BY AMB CORPORATION, LLC, FOR CHABOT COMMERCE CENTER - TRACT 3019

EXECUTIVE SUMMARY

AMB Corporation, a Delaware limited partnership, the developer for Chabot Commerce Center - Tract 3019, has completed the offsite street frontage improvements on Grant Line Road east of Paradise Road within the Northeast Industrial (NEI) development area in accordance with the approved Offsite Improvement Agreement, project plans, and specifications. Staff recommends Council accept the improvements as completed to enable the City to release the developer's bond.

DISCUSSION

On June 15, 2010, City Council approved a New Assignment and Assumption Agreement for Chabot Commerce Center - Tract 3019, to AMB Corporation, a Delaware limited partnership. With approval of this agreement, AMB Corporation took over the outstanding responsibility of the property owners to complete the frontage street improvements on Grant Line Road east of Paradise Road.

The offsite improvements primarily included construction of street improvements including a traffic signal at the intersection of Chabot Court and Grant Line Road. The Developer was also required to dedicate right-of-way after completion of these improvements.

AMB Corporation, a Delaware limited partnership, has completed all work required to be performed in accordance with the agreement, according to City standards, and has requested acceptance of the off-site public improvements. The estimated cost of the improvements is as follows:

Item Description	Cost
Road Way	\$429,696.75
Water	\$6,400.00
Street Drainage	\$28,425.00
Traffic Signal	\$200,000.00
Total	\$664,521.75

A total of 1.795 acres (78,206 square feet) will be dedicated as part of the public right-of-way. The project carries a one-year warranty for all public improvements.

FISCAL IMPACT

There will be no fiscal impact to the General Fund. The improvements were completed by AMB Corporation, the developer of the property.

STRATEGIC PLAN

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

RECOMMENDATION

That City Council, by resolution, accept the offsite public improvements completed by AMB Corporation, the developer for the Chabot Commerce Center - Tract 3019, for construction of offsite public improvements including a traffic signal at the intersection of Chabot Court and Grant Line Road. The Development Services Department will notify the Developer to prepare and record a Notice of Completion for this work with San Joaquin County. Lastly, the City Engineer will release all bonds in accordance with the terms of the Offsite Improvement Agreement.

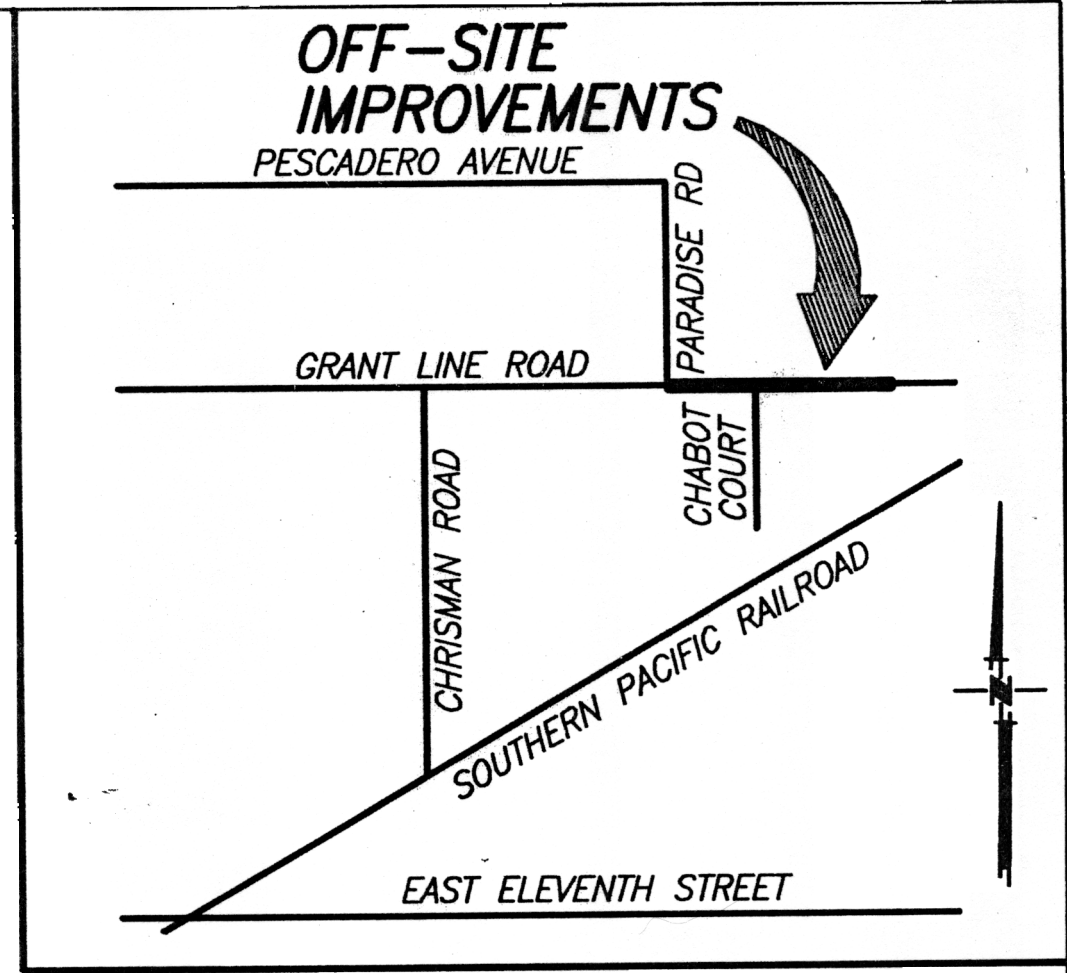
Prepared by: Paul Verma, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

Attachment A - Vicinity Map

CHABOT COMMERCE CENTER
OFF-SITE IMPROVEMENT AGREEMENT



VICINITY MAP
NOT TO SCALE

RESOLUTION _____

ACCEPTING THE OFFSITE PUBLIC IMPROVEMENTS COMPLETED BY AMB CORPORATION, LLC, FOR CHABOT COMMERCE CENTER - TRACT 3019

WHEREAS, On June 15, 2010, City Council approved a New Assignment and Assumption Agreement for Chabot Commerce Center - Tract 3019, to AMB Corporation, and

WHEREAS, AMB Corporation took over the outstanding responsibility of the property owners to complete the frontage street improvements on Grant Line Road east of Paradise Road, and

WHEREAS, AMB Corporation, a Delaware limited partnership, has completed all work required to be performed in accordance with the agreement, according to City standards, and has requested acceptance of the off-site public improvements, and

WHEREAS, The estimated cost of the improvements is as follows:

Item Description	Cost
Road Way	\$429,696.75
Water	\$6,400.00
Street Drainage	\$28,425.00
Traffic Signal	\$200,000.00
Total	\$664,521.75

WHEREAS, A total of 1.795 acres (78,206 square feet) will be dedicated as part of the public right-of-way, and

WHEREAS, There will be no fiscal impact to the General Fund. The improvements were completed by AMB Corporation, the developer of the property;

NOW, THEREFORE BE IT RESOLVED That the City Council hereby accepts the offsite public improvements completed by AMB Corporation, the developer for the Chabot Commerce Center - Tract 3019, including a traffic signal at the intersection of Chabot Court and Grant Line Road. The Development Services Department will notify the Developer to prepare and record a Notice of Completion for this work with San Joaquin County. Lastly, the City Engineer will release all bonds in accordance with the terms of the Offsite Improvement Agreement.

* * * * *

Resolution _____
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The foregoing Resolution No. _____ was adopted by the City Council of the City of Tracy on the 1st day of May 2012, 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

AUTHORIZE AN APPROPRIATION OF \$10,739 FROM THE 2012 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FOR THE PURCHASE AND INSTALLATION OF ENHANCED TECHNOLOGY FOR THE TRACY POLICE DEPARTMENT'S LAW ENFORCEMENT PROGRAMS

EXECUTIVE SUMMARY

The City of Tracy has been awarded \$10,739 from a federal Justice Assistance Grant (JAG) Program for the purchase and installation of equipment to enhance the surveillance and evidence collection. The City of Tracy may accept the grant and authorize an appropriation of \$10,739 to the police department budget for FY 12-13.

DISCUSSION

The Edward Byrne Justice Grant (JAG) Program (42 U.S.C. 3751(a)) is the primary provider of federal criminal justice funding to state and local jurisdictions. JAG funds support all components of the criminal justice system by improving the effectiveness and efficiency of criminal justice systems, processes and procedures.

Agencies are allowed to use this grant to support a broad range of activities to prevent and control crime based upon their own local needs and conditions. The Tracy Police Department has determined the most appropriate use of this grant is to purchase and install several components of technology to enhance the safety of citizens.

The Tracy Police Department intends to purchase electronic surveillance equipment, surveillance technology, Crime Scene Identification Kits, and Data collecting hardware and software to assist with investigating criminal activity and processing crime scenes.

Surveillance Monitoring Equipment **\$5,000**

General Investigations Unit will install surveillance monitoring equipment to include computer processors, monitors and accessories.

Surveillance Equipment **\$2,000**

General Investigations Unit will obtain updated Surveillance technology to enhance criminal investigations.

Total Station Scene Reconstruction hardware and software **\$3,000**

Software and hardware to assist with the accurate reconstruction of collisions scenes by the Traffic Unit.

Crime Scene Identification Kits **\$739**

Provide officers with crime scene processing equipment and tools.

STRATEGIC PLAN

The agenda item supports the Public Safety Strategic Plan and specifically impacts the following goals and objectives:

Goal 3: *Empower the residents with the tools needed to maintain a safe quality of life. This grant will purchase equipment rather than extra personnel to enhance the officer's ability through the use of technology.*

FISCAL IMPACT

The City of Tracy will receive \$10,739 from the 2012 federal JAG Program. There is no negative impact to the current fiscal budget as no city match is required. Accepting this grant funding requires the funds to be appropriated from the federal JAG Program and \$10,739 added to the Police Department's Operating Budget.

RECOMMENDATION

That the City Council, by resolution, authorize the acceptance of the grant and the appropriation of \$10,739 from the federal JAG Program to the Police Department's Operating Budget for the purchase and installation of the electronic surveillance equipment, Crime Scene Identification Kits, and Data Collecting hardware and software.

Prepared by: Lani Smith, Division Manager

Reviewed by: Chief Gary R. Hampton

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION _____

**AUTHORIZING AN APPROPRIATION OF \$10,739 FROM
THE 2012 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG)
PROGRAM FOR THE PURCHASE AND INSTALLATION OF ENHANCED
TECHNOLOGY FOR THE TRACY POLICE DEPARTMENT'S
LAW ENFORCEMENT PROGRAMS**

WHEREAS, the United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance coordinates the annual Edward Byrne Justice Assistance Grant (JAG) Program that makes available federal public safety funds to local jurisdictions, and

WHEREAS, The City of Tracy is eligible to receive \$10,739 for calendar year 2012 under a pre-designated grant formula, and

WHEREAS, The Tracy Police Department intends to use the appropriation of \$10,739 to purchase and install electronic surveillance equipment, surveillance technology, Crime Scene Identification Kits, and Data Collecting hardware and software.

NOW THEREFORE BE IT RESOLVED, That the City Council hereby authorizes the appropriation of \$10,739 from the 2012 Edward Byrne Memorial Justice Grant (JAG) Program for the purchase and installation of electronic surveillance equipment, surveillance technology, crime scene identification kits, and data collecting hardware and software to improve and enhance the Tracy Police Department's Law Enforcement Programs.

* * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 1st day of May, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 3

REQUEST

PUBLIC HEARING TO CONSIDER A PRELIMINARY AND FINAL DEVELOPMENT PLAN TO PERMIT THE DEVELOPMENT OF THREE NEW INDUSTRIAL BUILDINGS TOTALING 989,717 SQUARE FEET, THE EXPANSION OF AN EXISTING INDUSTRIAL BUILDING BY 288,770 SQUARE FEET, AND THE EXTENSION OF CHABOT COURT TO TURN WEST AND INTERSECT WITH PARADISE ROAD ON A 70.49-ACRE SITE, LOCATED ADJACENT TO PARADISE ROAD, SOUTH OF GRANT LINE ROAD AND ADJACENT TO AND WEST OF THE EXISTING CHABOT COURT - APPLICANT IS PROLOGIS, AND OWNERS ARE AMB HOLD CO, LLC AND PROLOGIS, L.P.- APPLICATION D12-0003

EXECUTIVE SUMMARY

This agenda item would allow for the construction of three new industrial buildings and one industrial building expansion totaling 1,278,487 square feet within the Northeast Industrial (NEI) Concept Development Plan Area and for the extension of Chabot Court to the west and north, intersecting with Paradise Road, to facilitate circulation through the project site.

DISCUSSION

Background and Summary

In 1996, the City Council adopted the Northeast Industrial Areas Concept Development Plan (NEI) within which the project area is located. The site is Zoned Planned Unit Development (PUD), and is designated Industrial by the General Plan, and Light Industrial by the Concept Development Plan.

In accordance with Tracy Municipal Code Section 10.08.1830, the Planning Commission and the City Council shall review all Planned Unit Development Preliminary and Final Development Plans.

A number of Preliminary and Final Development Plans (PDP/FDPs) have been approved for the project site over time. Two PDP/FDPs in combination resulted in the construction of the existing Chabot Court, and the two existing buildings (one vacant and one housing the Best Buy warehouse) on Chabot Court. Another PDP/FDP approved the existing 312,770-square foot Barboza Cabinets building, and caused the construction of some of the existing portion of Paradise Road.

The current proposal is a new PDP/FDP to allow for three additional industrial buildings in the vicinity of the three existing buildings on the site, as well as an expansion of an existing building.

Site and Project Area Description

The project site is located on the south side of Grant Line Road, at Chabot Court and Paradise Roads (Attachment A). The site is designated Light Industrial by the Northeast Industrial (NEI) Concept Development Plan. The adjacent parcels to the north and west are also designated Light Industrial by the Concept Development Plan. To the south and east of the project is land outside of the current City Limits.

The proposed project would approve a new PDP/FDP in order to allow for three new buildings totaling 989,717 square feet to be constructed, along with a 288,770 square foot addition to the existing Barbosa Cabinets building (Attachment B). The three proposed new buildings and the expansion are shown on the site plan as follows:

- Building 16 – 120,799 square feet, fronting Paradise Road
- Building 17 – 603,278 square feet, fronting Paradise Road
- Building 18 – 265,640 square feet, fronting both Chabot Court and Paradise Road
- Building 19 – 288,770 square feet, at 2020 E. Grant Line Road

Building 18 is proposed in a location that currently is divided into three separate parcels. A recommended condition of approval would require a lot line adjustment or lot merger be completed to consolidate those parcels into one parcel prior to the issuance of a building permit for that building.

The proposed additional PDP/FDP for the project site is well suited for the location, as the site is located within the Light Industrial area of the NEI Concept Development Plan in an area where roadways and infrastructure have been designed for industrial development. The surrounding sites are planned for or have existing similar uses.

Architecture

Buildings 16, 17 and 18, as proposed, consist of concrete tilt-up construction, with base and accent colors. Attachment C shows the architectural features of the buildings as well as the proposed colors and materials. The buildings are enhanced with several reveals and varying materials, including glass storefront office areas and accent colors, as well as glass accents high on the building. Variation in rooflines, as well as the façade breaks at the office areas help to add visual interest to the large buildings. The variation of architectural features adds visual interest to the buildings from each elevation view, as the reveals and accent colors have been carried around the rear and sides of the buildings. The rooflines of the buildings vary in height, with vertical relief added by false parapets being stepped up and down in numerous locations. The proposed architecture for these new buildings matches the existing architecture of the two existing Crate and Barrel Buildings located at 1605 and 1705 Chrisman Road, to the southwest of the project site.

The proposed expansion of the Barbosa Cabinets building (Building 19) will reflect architecture matching the existing building façade (Attachment D).

Landscape Areas

As shown on the site plan (Attachment B), the landscape areas proposed will meet the requirements of Tracy Municipal Code Section 10.08.3560, and the requirements of the Northeast Industrial Areas Concept Development Plan.

A combination of trees, shrubs and groundcover are proposed for the landscape areas. A recommended condition of approval requires the developer to submit a detailed landscape and irrigation plan for approval by the Development Services Director prior to the issuance of any building permits. All landscape and irrigation improvements are to be designed and installed in compliance with the requirements of the Water Efficient Landscape Guidelines, Tracy Municipal Code, Northeast Industrial Areas Concept Development Plan, and all other applicable City standards. In addition, a recommended condition of approval requires that prior to the issuance of any building permits, an Agreement for Maintenance of Landscape and Irrigation Improvements is to be executed, and financial security submitted to the Development Services Department. The agreement will ensure maintenance of the on-site landscape and irrigation improvements for a period of two years.

Parking and Circulation

The proposed project will change the current circulation patterns in the project area by changing the existing Chabot Court. Currently, Chabot Court is a public street that extends due south from East Grant Line Road and ends in a cul-de-sac bulb approximately 1,300 feet from Grant Line Road, in front of the building located at 2000 Chabot Court. Part of the project proposal is to extend Chabot Court, curving to the west, then to the north to intersect with Paradise Road. The applicant is also proposing to convert Chabot Court into a private street, to be owned and maintained as private property. The proposed configuration of the roadways will allow for Grant Line and Paradise Roads to be the truck routes to the project area, with Chabot providing an efficient internal circulation route within the project site. The two access points from East Grant Line Road will be at Paradise Road and Chabot Court, with numerous driveway access points from both streets for each of the existing and proposed buildings on the project site.

Parking is distributed throughout the project site to accommodate the parking needs of the proposed new and expanded buildings. The project proposes 648 auto parking spaces to serve the new buildings, which is greater than the number of parking spaces that would be required per to the NEI Concept Development Plan. The site plan provides for adequate circulation movements on the site for employee and customer parking, as well as truck traffic (Attachment C).

Planning Commission Discussion

The Planning Commission held a public hearing to evaluate the proposed project on April 11, 2012 and discussed the reasons for changing Chabot Court from a public to a private street, as well as the available access points and circulation patterns to the proposed buildings. The Planning Commission voted unanimously to recommend City Council approval of the project, as proposed and conditioned.

Environmental Document

The project is consistent with the Environmental Impact Report (EIR) that was prepared for the Northeast Industrial Areas Concept Development Plan and certified in 1996. In accordance with CEQA Guidelines Section 15183, no further environmental assessment is required. An analysis of the project shows that there will be no significant on or off-site impacts as a result of this particular project that were not already discussed in the Northeast Industrial Areas Concept Development Plan EIR. There is also no evidence of any significant impacts to occur off-site as a result of the project, as traffic, air quality, aesthetics, land use and other potential cumulative impacts have already been considered within the original environmental documentation. No new evidence of potentially significant effects has been identified as a result of this project.

FISCAL IMPACT

This agenda item will have no fiscal impact.

STRATEGIC PLAN

This agenda item will assist in the implementation of the Economic Development Strategic Plan by furthering Goal number 1, which is creating jobs that match with the skill set of Tracy residents.

RECOMMENDATION

Staff and the Planning Commission recommend that the City Council approve the Preliminary and Final Development Plan to permit the development of three new industrial buildings and one building expansion totaling 1,278,487 square feet on a 70.49-acre site, located adjacent to Paradise Road, south of Grant Line Road, west of and adjacent to Chabot Court, Application Number D12-0003, subject to the conditions and based on the findings contained in the City Council Resolution dated May 1, 2012.

Prepared by: Victoria Lombardo, Senior Planner

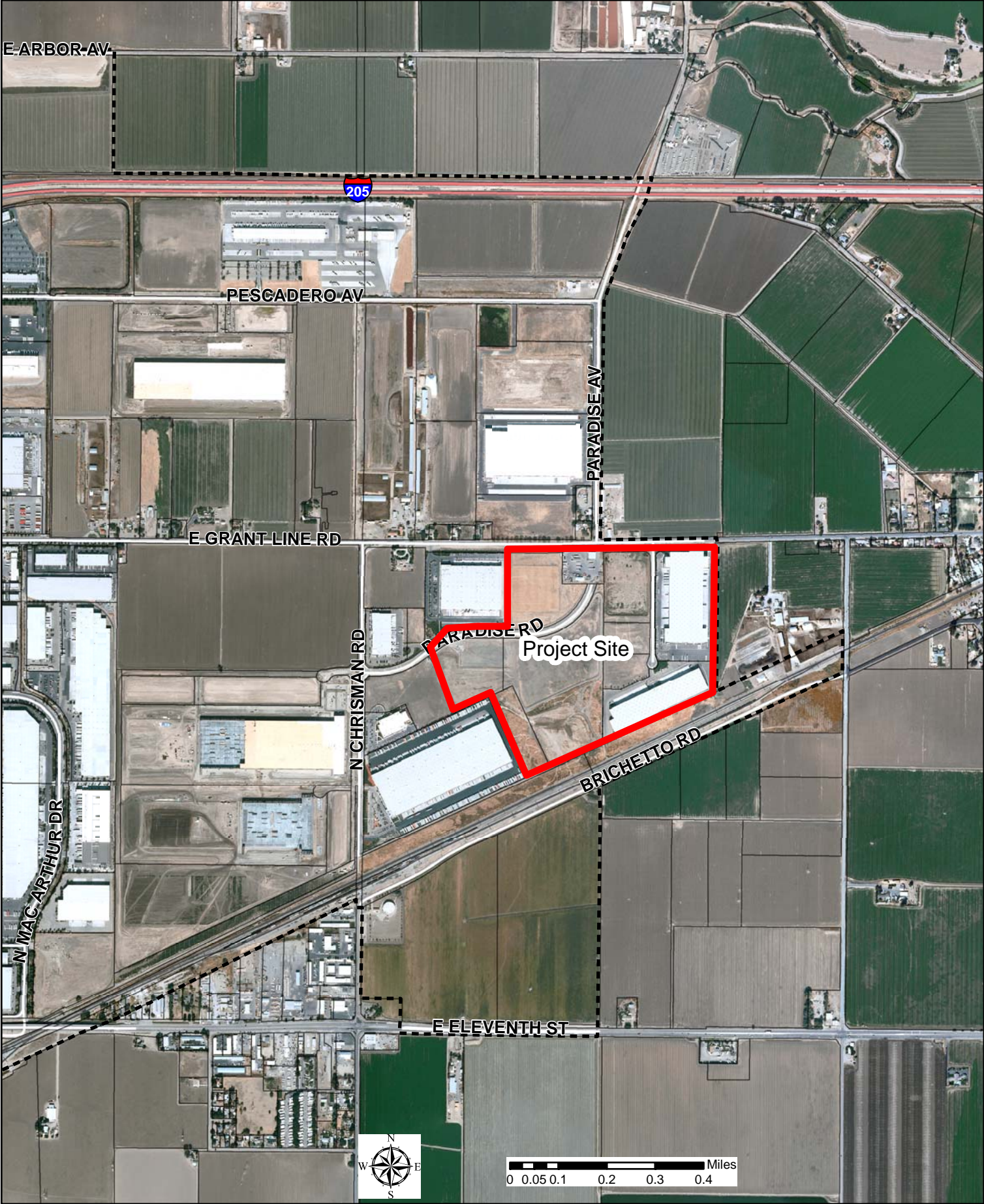
Reviewed by: Bill Dean, Assistant Development Services Director

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

ATTACHMENTS

- A— Location Map
- B— Site Plan, Floor Plan and Architectural Rendering (provided separately)
- C— Color Architectural Renderings (provided separately)
- D— Barbosa Cabinets Rendering (provided separately)

Location Map



RESOLUTION _____

APPROVING A PRELIMINARY AND FINAL DEVELOPMENT PLAN TO PERMIT THE DEVELOPMENT OF THREE NEW INDUSTRIAL BUILDINGS AND EXPANSION OF ONE EXISTING INDUSTRIAL BUILDING, TOTALING 1,278,487 SQUARE FOOT LOCATED ON A 70.49-ACRE SITE, AND THE EXTENSION OF CHABOT COURT TO TURN WEST AND INTERSECT WITH PARADISE ROAD, LOCATED ADJACENT TO PARADISE ROAD, SOUTH OF GRANT LINE ROAD AND ADJACENT TO AND WEST OF THE EXISTING CHABOT COURT ASSESSOR'S PARCEL NUMBERS 250-030-19, 26, 27, 28 and 250-280-6, 7, 8, 9, 10 APPLICATION NUMBER D12-0003

WHEREAS, The subject property was annexed to the City of Tracy in 1996, received a zoning designation of Planned Unit Development, is designated Light Industrial in the Northeast Industrial Concept Development Plan, and is consistent with the General Plan designation of Industrial, and

WHEREAS, Prologis, on behalf of AMB Hold Co, LLC and Prologis LLP, submitted an application for a Planned Unit Development Preliminary and Final Development Plan Amendment (Application Number D12-0003) for the extension and Chabot Court, and to construct three new industrial buildings and one building expansion totaling 1,278,487 square feet industrial on March 19, 2012, and

WHEREAS, The subject property is located within the Northeast Industrial Concept Development Plan area, with a land use designation of Light Industrial, within which industrial land uses are permitted, and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the application on April 11, 2012, and by adoption of a resolution recommended City Council approval of the project, and

WHEREAS, the City Council conducted a public hearing to review and consider the application on May 1, 2012;

NOW, THEREFORE BE IT RESOLVED, That the Tracy City Council does hereby approve the Preliminary and Final Development Plan to permit the development of PDP/FDP consisting of the extension of Chabot Court to Paradise Road, and the construction of three industrial buildings and one building expansion totaling 1,278,487 square feet, Application No. D12-0003, subject to the conditions contained in Exhibit 1 to this Resolution, and based on the following findings:

1. The establishment, maintenance, and operation of the proposed land use and associated structures is compatible with the land use, design, and operational characteristics of the neighboring properties. It will not, under the circumstances of the particular case or as conditioned, be injurious or detrimental to the health, safety, or general welfare of persons or property in the vicinity of the proposed use and its associated structures, or to the general welfare of the City because the project is consistent with the land use, design, and other elements of the Northeast Industrial Concept Development Plan, the City of Tracy General Plan, and applicable requirements of Chapter 10.08 of the Tracy Municipal Code, including, but not limited to, Article 26, Off-Street Parking Requirements, and Article 30, Development Review.

- 2. The project will not adversely affect or impair the benefits of occupancy, most appropriate development, property value stability, or the desirability of property in the vicinity because the architectural elements of the project as designed and conditioned are a quality addition to the vacant parcels, and will not adversely visually impair the benefits of the properties in the vicinity. The project also includes greater setbacks than the required minimum, vertical and horizontal variation in the building faces, and significant landscape improvements both adjacent to the buildings and in the parking areas.

- 3. The project, as designed and conditioned, will not cause any significant environmental impact, because it is consistent with the Northeast Industrial Concept Development Plan and its Environmental Impact Report as adopted by the City Council in 1996. The project is consistent with the land use, design, and other elements of the Northeast Industrial Areas Concept Development Plan, the City of Tracy General Plan, and applicable requirements of the Tracy Municipal Code.

The foregoing Resolution _____ was adopted by the City Council on the 1st day of May, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 4

REQUEST

PUBLIC HEARING TO CONSIDER A GENERAL PLAN LAND USE DESIGNATION AMENDMENT OF A 10-ACRE SITE IN THE EASTLAKE AND ELISSAGARAY RANCH SUBDIVISIONS FROM PUBLIC FACILITIES TO RESIDENTIAL LOW. THE APPLICANT IS CHRIS TYLER AND THE PROPERTY OWNER IS TVC TRACY HOLDCO, LLC. APPLICATION NUMBER GPA10-0004

EXECUTIVE SUMMARY

This agenda item is a proposal to change the General Plan land use designation of an undeveloped property from the Public Facilities designation to the Residential Low designation. This proposal is concerning the General Plan land use designation only and does not include a specific development proposal or other entitlements that would be required prior to development of the property.

DISCUSSION

Background and Project Location

In 1995 and 1996, the City annexed the Eastlake and Elissagaray Ranch development areas respectively and designated both properties Residential Low in the General Plan. In 1998 and 1999, the City approved the Eastlake and Elissagaray Ranch Planned Unit Developments (PUD) respectively for single-family residential subdivisions. The PUDs serve as the zoning for each subdivision to implement the policies of the General Plan.

The subject property is an approximately 10-acre site comprised of a 5-acre lot in the Eastlake subdivision (Assessor's Parcel Number 252-050-24) and a 5-acre lot in the Elissagaray Ranch residential subdivision (Assessor's Parcel Number 252-260-01) (Attachment A). The subject 10-acre site has been designated for a public school based on the request of the Tracy Unified School District (TUSD). To date, a school has not been built.

In 2006, the City updated the General Plan and designated the subject 10-acre site and other planned or developed public school sites citywide as Public Facilities. The land use designation of Public Facilities was carried forward in the citywide General Plan amendment in 2011, consistent with TUSD's previous request.

Project Description and Analysis

At the time the Eastlake and Elissagaray Ranch subdivisions were developed, the subject 10-acre site was anticipated to be needed for a K-6 school. The site has not yet been developed and is currently under private ownership.

The property owners submitted an application to the City requesting that the General Plan land use designation of the subject property be amended to Residential Low. Uses permitted in the Public Facilities designation include public schools, civic, cultural, recreational, community, and health facilities (Attachment B). The property owners are requesting to change the land use designation to Residential Low, which permits uses including single-family homes, places of worship, schools, parks and recreational facilities, fire stations, libraries, day care facilities, and community centers. Public schools are permitted under both land use designations. Should the land use designation request be approved, a public school may still be built at the subject site.

The project applicant has not submitted an application for further development of the site. According to the applicant, there are no immediate development plans for the site; however, low density residential similar to the existing neighborhoods would be the most likely development should a school not be built (Attachment D). This General Plan amendment is the first step toward single-family residential or other development of the site. If the developer pursues residential or other development of the site, amendments to the Eastlake and Elissagaray Ranch PUDs (zoning) and other entitlement applications, such as a subdivision maps, would be necessary prior to the issuance of building permits. This application solely requests an amendment to the General Plan land use designation of the site from Public Facilities to Residential Low.

Environmental Review

The project is exempt from the California Environmental Quality Act per Section 15162 pertaining to projects with a certified Environmental Impact Report (EIR) where the project does not propose substantial changes that will result in a major revision of the previous EIR. On February 1, 2011, the City of Tracy adopted the General Plan. The associated EIR (SCH# 1992 122 069) was certified February 1, 2011. The project does not propose new significant changes to the environment that was not analyzed in the General Plan EIR, including the areas of traffic, air quality, and aesthetics.

TUSD and Neighborhood Outreach

According to the applicant, the TUSD has not begun the process to purchase the property or provided details regarding when a school might be built. City staff contacted the TUSD regarding their interest in the property. According to TUSD staff, the TUSD does not have immediate plans to build the school and does not oppose the General Plan amendment request (Attachment C). Follow-up conversations between City staff and TUSD staff revealed that TUSD was unsure if and when an additional school would be needed. According to TUSD, if, at the time an additional school is needed, and the subject site has been developed for other uses, there are other potential sites where a school could be constructed.

Residents of the Eastlake and Elissagaray Ranch subdivisions have the potential to be impacted by the proposed land use change. Staff asked the applicant to meet with the residents prior to public hearings on the project to explain his request and gather their input. The applicant held three neighborhood meetings to explain the project and answer questions. In addition, the public hearing notices for public hearings to consider the project were sent to all property owners in each subdivision. In summary, concerns raised by the residents were the desire for no high-density housing to be built at the site, that a school is still desired and preferred over residential development, and the desire for more frequent weed and pest control of the site.

Planning Commission Recommendation

As previously mentioned, the Planning Commission discussed the proposed General Plan amendment on February 22, 2012 (Attachment E). TUSD staff was present and explained that they do not need an additional elementary school at this time and reaffirmed they are not opposed to the land use designation change. Residents of the subdivisions raised concerns that if residential development will be built, it should be consistent in density and architecture to the existing neighborhoods. Some residents preferred single-family homes to a school, while others preferred a school over residential development. Staff reiterated that any proposed development of the site would come back to the residents, Planning Commission, and City Council, and the applicant echoed his intentions to involve the residents should he move forward with developing the site. The Commission unanimously voted to recommend approval of the General Plan amendment to the City Council.

FISCAL IMPACT

This project does not require the expenditure of any City funds. When development occurs on the site, it would be subject to infill fees.

STRATEGIC PRIORITY

This agenda item is not related to the City's Strategic Priorities.

RECOMMENDATION

Staff and the Planning Commission recommend that the City Council approve an amendment to the General Plan land use designation of the 10-acre site in the Eastlake and Elissagaray Ranch subdivisions from Public Facilities to Residential Low.

Prepared by: Kimberly Matlock, Assistant Planner
Reviewed by: Bill Dean, Assistant DES Director
Approved by: Andrew Malik, Development Services Director
Leon Churchill, Jr., City Manager

ATTACHMENTS

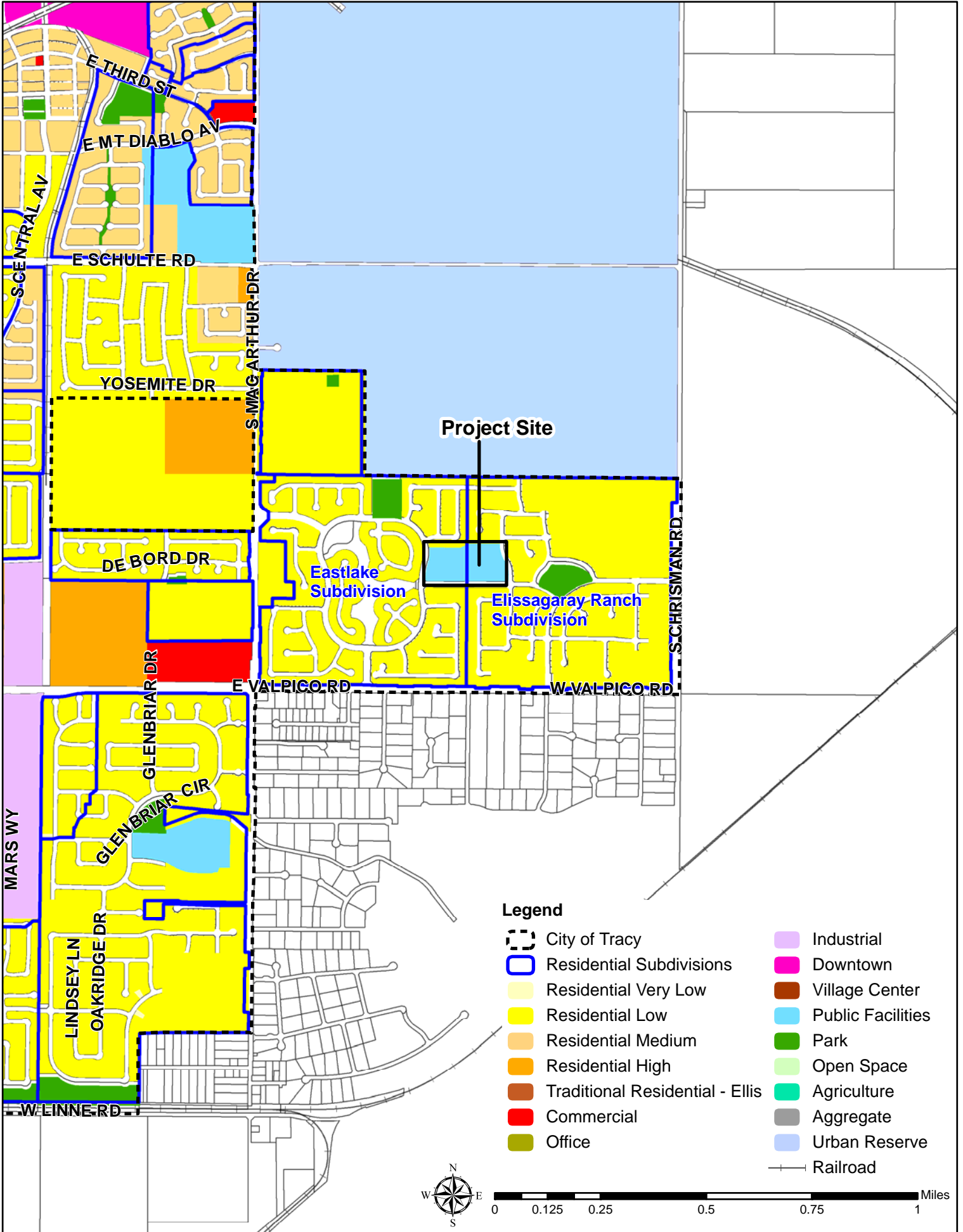
Attachment A – Location Map

Attachment B – Excerpt from the General Plan Land Use Element for Public Facilities and Residential Low

Attachment C – Letter from TUSD dated August 17, 2010

Attachment D – Applicant letter to Elissagaray Ranch resident dated December 4, 2011

Attachment E – Draft Planning Commission Minutes



Excerpt from the General Plan Land Use Element

8. Public Facilities (Pub)

The purpose of this designation is to provide locations for uses that support government, civic, cultural, recreational, health, and infrastructure aspects of the community. Uses that are recognized to be consistent with this land use designation include public educational institutions (including colleges and schools, and their administrative offices), community and group meeting centers, fire stations, parks, cemeteries and libraries. Private schools are not included in this designation; rather, private schools, when not associated with places of worship, are designated as commercial uses.

This designation also includes large-scale public facilities such as the Tracy Municipal Airport, stormwater detention/retention facilities, water treatment plants, solid waste transfer stations, recycling facilities, multi-modal facilities, transit station, corporation yards, cemeteries, landfill sites, which need to be in satellite locations to take advantage of natural environmental characteristics such as topography or winds and to avoid conflict with other land uses.

Public facilities may also be located in other land use designations. The central location of the Downtown is the most appropriate location for many public uses, such as City Hall, museums, an art center, administrative offices, court house, police and fire headquarters, main post office and transit offices. Other appropriate locations for these public uses are Village Centers.

Pg. 2-26 through 2-27

1. Residential (VL, L, RM, RH and TR)

The five residential land use categories allow for residential uses ranging from very low-density single-family homes to multi-family buildings of several stories. Residential land should be developed with well-designed mix of single- and multi-family uses forming neighborhoods that are oriented around a focal point, which is a public space such as a park or school. Neighborhoods should be physically connected to one another via a series of roadways, bikeways and pedestrian paths, and all residents should be within a short walk, bike ride or drive of retail and other services. Commercial uses and Village Centers, as described later in this Element, may be located at the periphery of neighborhoods and should be integrated with, rather than separated from, residential uses. When developing residential neighborhoods, emphasis should be placed on high quality construction and innovative architecture that reinforces the City's small-town feel. All neighborhoods should be designed to provide a "sense of place" and preserve the City's hometown feel while offering a choice of densities and costs. Many of the goals, objectives, policies and actions necessary to achieve this sense of place are found in the Community Character Element.

Residential land use designations may also allow for other land use types that serve residents of the community. Examples of uses that may be allowed include places of worship, schools, parks and recreation facilities, fire stations, libraries, day care facilities and community centers. The precise location of such facilities will be determined upon the submittal of detailed plans for individual properties.

Residential land uses are divided into five designations to provide for development of a full range of housing types.

- ◆ **Residential Very Low (RVL) and Residential Low (RL).** Single-family dwelling units are the principal type of housing stock allowed in these areas. Attached units, zero lot line and clustered housing are also permissible and are encouraged within the overall framework of each community. These housing types can help to meet the City's desire to create unique neighborhoods and enhance the character of the community. Allowable densities are from 0.1 to 2.0 dwelling units per gross acre in the Residential Very Low designation and 2.1 to 5.8 units per gross acre in the Residential Low designation.



TRACY
UNIFIED SCHOOL DISTRICT

August 17, 2010

RECEIVED

AUG 19 2010

CITY OF TRACY
D.E.S.

Mr. Bill Dean
Assistant Director
Development and Engineering Services Department
333 Civic Center Plaza
Tracy, CA 95376

Subject: Assessor's Parcel Numbers 252-050-24 and 252-260-01
General Plan Amendment Application Number GPA10-0004 to
change land use designation from Public Facilities to Residential Low

Dear Mr. Dean:

The District is in receipt of your July 20, 2010 letter regarding an application received by the City of Tracy from the property owner of the Eastlake/Elissagary school sites, requesting an amendment to the General Plan Land Use Designation from Public Facilities to Residential Low.

It is our understanding that the applicant, TVC Tracy Holdco, LLC, is aware that TUSD is in the process of conducting a master plan facilities analysis to determine our future school site needs and is requesting this amendment to parallel track TUSD's study process. It is also our understanding that a general plan amendment from Public Facilities to Residential Low for these two parcels will not preclude TUSD's use of the site as a potential school site.

Based upon these facts, the School District does not oppose the applicants request for a General Plan Amendment from Public Facilities to Residential Low for these parcels.

Sincerely,

Bonny Carter
Director of Facilities and Planning

Dr. James C. Franco
Superintendent
(209) 830-3201
(209) 830-3204 Fax

Dr. Casey J. Goodall
*Associate Superintendent
of Business Services*
(209) 830-3230
(209) 830-3234 Fax

Dr. Sheila Harrison
*Assistant Superintendent
of Educational Services &
Human Resources*
(209) 830-3202
(209) 830-3209 Fax

1875 W. Lowell Avenue
Tracy, CA 95376
www.tracy.k12.ca.us

The logo for Terravest, featuring the word "TERRAVEST" in a serif font inside a rectangular border with a textured background.

December 4, 2011

Ms. Kelli Goble
1201 Citadelle
Tracy, CA 95304

Dear Kelli-

Following the meeting with the Elissagaray neighbors on November 16, 2011, you asked that I specify my intentions for the vacant ten acre site in writing. While, the current general plan amendment application to the City of Tracy would not in and of itself confer any development rights for the site and would simply restore the pre-2006 general plan land use designation to the site, it is understandable that the neighbors would be concerned about the type and quality of future development which may occur on the site. It is primarily this concern that I would like to address.

I filed the existing general plan amendment application with the City of Tracy as a means to formally ask two questions of the city. First, is there still a possibility that a school may be developed on the site, and, secondly, could the planning commission and city council envision a residential use on the site?

What I have come to understand through my two meetings with neighborhood groups is that many neighbors have had their own conversations with the Tracy Unified School District and are resigned that a school will not in fact be built on the site. I would concur that the likelihood of a school being constructed seems remote since it has been twelve years since the final map for Elissagaray was approved and since the neighborhood children have been accommodated elsewhere in the school system. Rather than dwelling on the school vs. no school issue, neighbors seemed more concerned with the unknowns and maintenance issues associated with having a large vacant parcel within their neighborhood. The site is home to many ground squirrels and other pests and, despite being fenced off, is prone to trespassing, causing safety and security concerns for adjacent residences. Maintenance of the site has also been an issue, particularly over the last two years when tumbleweed outcroppings re-emerged.

With home values that have declined substantially in the last four years, neighbors were particularly keen to obtain assurance that any residential project developed on the site be high quality and conform to the neighborhood so as not to cause any further devaluation of home values. In particular, there was considerable angst that the site might be developed for townhomes, apartments, or other form of high-density development in conflict with the surrounding low density uses.

December 4, 2011
Page 2

The two community outreach meetings I have had with neighbors have provided very valuable feedback and I am grateful to have established a means by which to communicate and work collaboratively with interested parties. Now for the statement of intention you requested.

Assuming the City Council approves the requested general plan amendment and assuming it still appears unlikely that a school would be developed on the site, then it would be my intention, as a subsequent action, to proceed with an application to amend the Elissagaray Ranch and Hidden Lake Planned Unit Developments' zoning to allow for a single family residential project on the ten acre site.

This subsequent zoning amendment process would involve formulating a specific development proposal which would be used to amend the two zoning documents which currently control zoning and development standards for the neighborhoods. They are the Elissagaray Estates Concept Development Plan and Eastlake Concept Development Plan.

This zoning amendment process to alter these controlling documents would also involve public hearings and participation and I would look forward to developing a plan which calls for a high-quality project to be built on the site. In formulating a plan for residential development, it would be my intention that the site be developed into single family home lots, and that the lots be equal in size and similar in configuration as those already developed at Hidden Lake/ Elissagaray. In developing amendments to the Concept Development Plans, I am willing to commit to developing specific architectural standards to which builders must comply when building on the ten acre site. The essence of these standards would be that new home design and construction would be required to be of equal or greater quality to that of existing homes. I note that both of the original homebuilders, Pulte and Suncrest, retain rights to repurchase the site if I decide to sell at any time. This contractual right may provide natural architectural consistency, but nevertheless will not be relied upon.

This zoning amendment process and tentative map application would require public hearings. The public would have the opportunity to see and comment on the proposed neighborhood layout, lot size, yard setbacks, architectural design and standards, and streetscape. It is my every intention to work collaboratively with the neighbors before the actual public hearings to arrive at an agreeable project design that would blend in and conform with the style and quality of the existing neighborhood.

Thank you for taking the time to meet. Please do not hesitate to call me at 925-383-9066 if you have any concerns. I am looking forward to working with you in a collaborative and constructive manner.

Sincerely,



Chris Tyler

Cc: Kimberly Matlock, Assistant Planner, City of Tracy

B. PUBLIC HEARING TO CONSIDER A GENERAL PLAN LAND USE DESIGNATION AMENDMENT OF A 10-ACRE SITE IN THE EASTLAKE AND ELISSAGARAY RANCH SUBDIVISIONS FROM PUBLIC FACILITIES TO RESIDENTIAL LOW. THE APPLICANT IS CHRIS TYLER AND THE PROPERTY OWNER IS TVC TRACY HOLDCO, LLC. APPLICATION NUMBER GPA10-0004

Kimberly Matlock, Assistant Planner provided the staff report. Mrs. Matlock indicated the item was for a proposed General Plan Land Use Designation amendment. Mrs. Matlock stated the site was a ten acre site located within the Elissagaray Ranch and Eastlake residential subdivisions. Mrs. Matlock stated the subject site was originally designated residential low, and in 2006-2011 General Plan update it was re-designated as Public Facilities to match other sites in the City that had been set aside as school or other public facility uses. Mrs. Matlock stated the proposal was to change the designation from Public Facilities to Residential Low which would allow schools and other public facilities, single family homes, parks, places of worship, recreational uses, and other community centers. Mrs. Matlock stated public school was an allowable use in both land use designations. Mrs. Matlock indicated the application did not include any development proposal. Mrs. Matlock stated staff did recognize the school districts importance in this issue, and had reached out to the Tracy Unified School District (TUSD) on the application. Mrs. Matlock stated staff was told the school district had no commitment to build a school on this site at the current time, and was not opposed to the proposal. Mrs. Matlock indicated staff had reached out to a much larger radius for the public hearing notice. Mrs. Matlock stated staff had received several comments regarding the application in which the primary concerns were regarding high density residential, and low income housing. Mrs. Matlock stated staff recommended approval of the application.

Chair Manne asked for clarification that if the application was approved, it did not preclude TUSD from building a school on the site. Mrs. Matlock answered that it did not.

Commissioner Mitracos asked for information regarding consistency standards regarding the development of the site. Mrs. Matlock stated the General Plan specified a density range for the Low Density Residential, and on the 10 acre site there could be a range of 21 to 58 homes. Mrs. Matlock stated the lot sizes would be similar to what is in the surrounding area, and architecture would be of the same standards or higher as the City does have adopted architectural standards for residential development. Commissioner Mitracos stated the neighborhood was built to the lower density range, and it could go the higher range. Mr. Dean stated the designation of residential low would allow up to 5.8 units per acre which was consistent with its surroundings. Commissioner Mitracos stated once the zoning was there, there would not be any Planning Commission review. Mr. Dean stated the application was the first step in the process, and step two would be to look at the zoning of the site and ensure it was consistent with the General Plan, in this case PUD. Mr. Dean stated after that, in order to go through with the development of houses on the site, the project would have to go through the subdivision process which is where the Commission was accustomed to reviewing the architecture, and the lay-out of the neighborhood. Mr. Dean stated should an application come before staff, it would be evaluated against City Standards, and the standards of the existing neighborhood. Commissioner Mitracos stated his concern was that the neighbors would be surprised by what is developed, but staff was saying there would still be an opportunity for public review. Mr. Dean stated that was correct.

Commissioner Mitracos stated he had spoken to representative of TUSD regarding the letter dated August 17, 2010 which references a Master Plan Facilities Analysis which was evidently still not complete. Commissioner Mitracos indicated the representative had stated there was a time constraint regarding how long TUSD could hold the property, and asked for information on the time constraint. Mr. Dean stated he did not have the exact numbers in mind; however there was a time limit in which the School District could have a hold on the land unless they have entered into an agreement with the private property owner. Commissioner Mitracos asked if in the future the site does not get developed, and the school district decided to go ahead and build the site, would the site have to be rezoned again. Mr. Dean answered no; it would be an allowable use in the Residential Low designation.

Chair Manne opened the public hearing.

Chris Tyler, 3208 Wycliffe Drive, Modesto addressed the Commission as the applicant and representative of the property owner. Mr. Tyler stated the entitlements of the subdivisions were in the early 1990s and the original designation was Residential Low. In 2006 the City changed the proposed school site to Public Facilities. Mr. Tyler stated at that time there was still a development agreement which extended until 2007. Mr. Tyler indicated that it was clear from his correspondence with TUSD that they were not sure yet if the school was needed, and if it was, there was a variety of other viable sites that were available for the school. Mr. Tyler stated he had discussions with the neighbors in the area, and was surprised that the feedback he received was not concern about not building the school, but rather was they wanted something of quality to be built at the site.

Commissioner Mitracos asked for clarification of a statement Mr. Tyler made in the letter he had written. Mr. Tyler stated that what he meant by that statement was there was a contractual obligation to go back to the original home builders to ask if they wish to buy the site back, and there would naturally be some consistency in the design if they were to buy it; however he would not rely on that, and would keep the design standards for any design of the property.

Commissioner Johnson commended Mr. Tyler on his effort to do community outreach, and willingness to include his intentions on the letter to Ms. Goble.

Commissioner Alexander asked if TUSD had expressed why they chose not to go forward with a school at this site. Mr. Tyler stated at the time they felt they would need a school in the area given the student generation rates that were projected; however they had found a way to accommodate the students elsewhere, and growth was happening more on the west side of Tracy.

Kelli Goble, 1201 Citadelle Street, addressed the Commission. Mrs. Goble stated her house backs up to the dirt lot. Mrs. Goble stated they had purchased the home with the hope that school would be built, but that ship had sailed. Mrs. Goble stated she would like to see something built there, and her concern was that there would not be 58 units. Mrs. Goble stated she wanted to see something similar to what was in the area and that it would not bring down the value of her home further. Chair Manne asked if Mrs. Goble would rather see a school built on the lot, or homes similar to hers. Mrs. Goble answered she would rather see homes built, as her children were older and in high school, and there were not enough young children in the area to warrant the school being built now.

Ubbo Coty, 738 Harold Smith Drive addressed the Commission. Mr. Coty stated he was at the meeting where Mr. Tyler came to the Hidden Lake Homeowner's Association. Mr. Coty stated he asked Mr. Tyler what was his definition of a home and Mr. Tyler would not answer. Mr. Coty stated he was disturbed by that. Mr. Coty stated that he did not want to see more homes there, to bring down the value of the homes. Mr. Coty stated Hidden Lake prided itself on the lake, and he was concerned by the fact that a new development may use the name Hidden Lake. Mr. Coty further stated he was concerned by speeding traffic in the area, and wanted to know if there would be a traffic study in the area. Mr. Dean stated that the infrastructure in the area was designed to accommodate a lot more traffic than was currently in the area. Mr. Dean further stated traffic from a school site would have been more than the traffic from homes being developed on the site. Mr. Dean indicated speeding was a separate issue from the need for a traffic study which addressed the width of the street and other issues, and speeding traffic was more of traffic calming and could be addressed through Ripon Bhatia, Traffic Engineer.

Vice Chair Ransom asked if the zoning should have always been Residential Low as opposed to being changed to Public Facilities. Mr. Dean stated he appreciated the question and at the point in time it was accurate as to the intended land use for the property. Mr. Dean stated he wanted to make a comment about the nature of the quality of development. Mr. Dean stated that what was unique about the Planned Unit Development Zone was the standards were embodied in the project you are approving, and if at some point in the future, when an application gets approved for architecture and site layout that becomes fixed and becomes the zoning for the site. Vice Chair Ransom asked the applicant to verify that there were no immediate development plans for the site. Mr. Tyler stated there were no plans for the site, and this was just a step in the process. Mr. Tyler stated he was not opposed to a school and would like to still ask TUSD if they were interested in the site, but in his opinion that was not likely to happen.

Casey Goodall, Associate Superintendent for Business of TUSD at 1875 West Lowell Avenue, addressed the Commission. Mr. Goodall stated he came to TUSD in 1994 and at that time the issue was growth or too much growth. Mr. Goodall stated at the time, Bohn School did not appear to be able to handle the growth of the new development, but what happened was the growth in the Bohn area went down as this development went up; and Poet Christian was in the same area and had about the same capacity. Mr. Goodall further stated there was a five year timeline to protect citizens from School Districts tying up all the property. Mr. Goodall further stated that as much as they would like to build the school, it didn't appear that it would be needed at this time. Mr. Goodall stated the school boundaries for elementary schools were smaller than those for the high schools, and there would not be a lot of growth within the elementary school boundaries.

Shelly Simonich of 1407 Aldacourrou Street addressed the Commission. Mrs. Simonich stated she lived near the park on Dominique Street and was a real estate agent in the City. Mrs. Simonich stated her concern was the value of the homes. Mrs. Simonich stated the builder of a home was very important to the value of the homes, and if KB homes were built in the Pulte Homes area, the value of the area would go way down. Mrs. Simonich stated she is asking that there be more detail in the specs for the homes that may be built on the site. Mrs. Simonich further stated the lot size should be large like the homes surrounding the lot. Vice Chair Ransom indicated Mr. Dean stated that until there was a project, there would be no information available, and further that the City could not discriminate on who the builder is or what options would be offered. Mr. Dean stated the City had no authority on who could develop the land or what goes on inside the home. Mrs. Simonich asked about lot size. Mr. Dean stated that lot size was a land use issue, and would be regulated with the development application. Mrs. Simonich stated that the lot size was important to the value of a home.

Edward Thomas of 2606 Ozark Drive addressed the Commission. Mr. Thomas stated that he had heard TUSD held an option on the property and he had not heard how long the option was for. Mr. Goodall stated the 5 year option expired about 12 years ago. Mr. Thomas asked why the owner had to wait for 12 years to do something. Mr. Dean stated the application had just been submitted 2 years ago,

Mariah, a resident of Elissagaray Ranch addressed the Commission. Mariah stated she had purchased the home hoping the school would be built. Maria stated she felt the reason why Bohn School was not overfilled because a lot of the residents wanted to transfer into Jefferson School District. Maria further stated she did not want to see the lot sizes go down, and devalue her home.

Vice Chair Ransom asked for clarification that if this application was approved, a school could still be built on the site. Mr. Dean stated the application was to rezone to Residential Low, and schools were an allowed use for that designation. Mariah stated she would personally like to see a school built on the site.

Ubbo Coty addressed the Commission and stated he wanted to clarify that if the owner was allowed to rezone the property and sell the property for a profit, there was nothing to prevent them from the new owner from building whatever they wished. Mr. Coty further stated the new owner may want to build Section-8 housing. Chair Manne stated that if anything were to be built it would have to be approved by staff and Planning Commission, and maybe by City Council.

Lynda Gadd of 2689 Garazi Court addressed the Commission. Mrs. Gadd stated she wanted to bring up crime in the area. Mrs. Gadd stated the area was like an island and there had been an increase of crime in recent years. Mrs. Gadd stated she felt having something built there would be good, but she was concerned with what was coming into the neighborhood.

Mariah, a citizen of Elissagaray Ranch asked what the possibility was to have a rezoning for Jefferson School District. Mr. Dean stated that was a school district issue and staff could not comment on that.

Don Abris, 1145 Dahlia Court addressed the Commission stated he shared the comments of the previous commenters. Mr. Abris stated when he bought his home, he expected the school to be built. Mr. Abris stated Bohn School was not rated well, and he had to take his children to Manteca. Mr. Abris asked if the applicant had considered building a private school instead of a public school.

Commissioner Mitracos stated he appreciated that Mr. Tyler had made the effort to contact the residents. Commissioner Mitracos stated it was hard to predict the numbers for schools, and he felt this application made sense, and it did not preclude a school being built.

Commissioner Johnson stated he appreciated the input. Commissioner Johnson stated he was confident that the Commission would protect the interest of the citizens.

Chair Manne stated he appreciated the citizens coming out for the issue, and he had a similar issue in his neighborhood. Chair Manne stated this particular issue only affected the property owner at this point. Chair Manne stated the concerns which were raised needed to be brought back when there was a development application.

It was moved by Vice Chair Ransom and seconded by Commissioner Alexander that the Planning Commission recommend that the City Council approve an amendment to the General Plan land use designation of the 10-acre site in the Eastlake and Elissagaray Ranch subdivisions from Public Facilities to Residential Low. Voice vote found all in favor; passed 5-0-0.

RESOLUTION 2012-_____

APPROVING A GENERAL PLAN LAND USE DESIGNATION AMENDMENT OF A 10-ACRE SITE IN THE EASTLAKE AND ELISSAGARAY RANCH SUBDIVISIONS FROM PUBLIC FACILITIES TO RESIDENTIAL LOW. THE APPLICANT IS CHRIS TYLER AND THE PROPERTY OWNER IS TVC TRACY HOLDCO, LLC., APPLICATION NUMBER GPA10-0004

WHEREAS, The subject property consists of a 5-acre parcel in the Eastlake Planned Unit Development area and a 5-acre parcel in the Elissagaray Ranch Planned Unit Development, area and the total 10-acre site is designated for a public school, and

WHEREAS, The subject property has a General Plan land use designation of Public Facilities, which permits uses such as public schools, civic, cultural, recreational, community, and health facilities, and

WHEREAS, A school has not been built on the subject property, and

WHEREAS, The City received a request to amend the General Plan land use designation of the subject site from Public Facilities to Residential Low, which permits uses such as single-family homes, places of worship, schools, parks and recreational facilities, fire stations, libraries, day care facilities, and community centers, and

WHEREAS, A public school is permitted under the Public Facilities and Residential Low General Plan land use designations, and

WHEREAS, No applications for development was submitted for the subject site, and

WHEREAS, Development of the site for uses other than a public school will require amendments to the Eastlake and Elissagaray Ranch PUDs and other entitlement applications, and

WHEREAS, The project is exempt from the California Environmental Quality Act per Section 15162 pertaining to projects with a certified Environmental Impact Report where the project does not propose substantial changes that will result in a major revision of the previous Environmental Impact Report, and the project does not propose additional environmental impacts that were not analyzed in General Plan Environmental Impact Report certified on February 1, 2011;

WHEREAS, The Planning Commission conducted a public hearing to review the project on February 22, 2012 and recommended approval of the project, and

WHEREAS, The City Council conducted a public hearing to review and consider the application on May 1, 2012;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby approves an amendment to the General Plan land use designation of the 10-acre site in the Eastlake and Elissagaray Ranch subdivisions from Public Facilities to Residential Low.

Resolution 2012-_____

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The foregoing Resolution 2012-_____ was adopted by the City Council on the 1st day of May, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

May 1, 2012

AGENDA ITEM 5

REQUEST

PUBLIC HEARING TO CONSIDER ADOPTION OF A MITIGATED NEGATIVE DECLARATION AND A GENERAL PLAN AMENDMENT, PREZONING AND ANNEXATION TO THE CITY OF TRACY FOR THE TRACY DESALINATION AND GREEN ENERGY PROJECT, CONSISTING OF APPROXIMATELY 241 ACRES LOCATED EAST OF TRACY BOULEVARD IN THE VICINITY OF SUGAR ROAD, ASSESSOR'S PARCEL NUMBERS 212-160-05, 212-160-09, AND 212-160-11. THE APPLICANT IS TRACY RENEWABLE ENERGY LLC. THE PROPERTY OWNER IS THE CITY OF TRACY. APPLICATION NUMBERS GPA11-0004 AND A/P11-0001

EXECUTIVE SUMMARY

This request is to annex 241 acres to the City of Tracy for the construction and operation of a desalination plant that would remove salt from treated effluent that is being processed by the City's Wastewater Treatment Plant to a level that meets the State's standards for discharge into the Sacramento San Joaquin Delta. The project would also include a biomass energy component that would produce approximately 16.4 megawatt-hours of electricity. City Council actions on this agenda item include consideration of a Mitigated Negative Declaration, General Plan Amendment, Prezoning and Annexation.

BACKGROUND

On April 20, 2010, City Council authorized Combined Solar Technologies (CST) to conduct a Green Energy Pilot Project at Tracy's Wastewater Treatment Plant (WWTP). The pilot project demonstrated how thermal desalination can be used to remove salt from Tracy's wastewater, by means of the same technology that CST has utilized at the Musco Family Olive Company's Tracy facility.

On April 19, 2011, City Council authorized an Exclusive Negotiating Rights Agreement (ENRA) with CST for a Green Energy and Thermal Desalination Project Feasibility Study. The applicant on this agenda item, Tracy Renewable Energy LLC (TRE), is a company that CST has established to develop the Tracy Desalination and Green Energy Project.

DISCUSSION

Project Overview

The project site consists of approximately 241 acres of City-owned land located within the City's Sphere of Influence, immediately north of the Tracy City limits (Attachment A: Location Map). The project site is bounded by Tracy Boulevard to the west, Arbor Avenue and industrial uses to the south, agricultural lands to the north, and the City's WWTP to the southeast. The project site is bisected by Sugar Road, which runs in an east-west direction. The project site includes Assessor's Parcel Numbers 212-160-05, 212-160-09 and 212-160-11.

The primary purpose of the proposed project is to construct and operate an approximately 1,200,000 gallon per day (gpd) desalination plant (Plant) in the City of Tracy. The Tracy WWTP currently processes approximately 9,000,000 gpd of effluent. The WWTP discharges this treated effluent directly into the Delta. The WWTP's discharge currently contains salt in amounts that exceed the State's Delta salinity standards. Project implementation would effectively remove salt from approximately 13 percent of the WWTP's effluent. The treated desalination water would then be blended back into the remaining WWTP effluent prior to discharge into the Delta. The newly blended and treated effluent will have a quality that is suitable for discharge into the Sacramento San Joaquin Delta (Delta) and meets State standards for water quality discharge.

Operation of the desalination plant will require a heat energy supply. The proposed project includes a biomass cogeneration energy production component. The biomass energy component would utilize available sources of biomass, primarily agricultural residuals (such as almond and walnut shells) and urban wood waste, ideally within a 50-mile radius of the site. The biomass energy component would generate approximately 16.4 megawatt-hours (MW/hr) of electricity, 15 MW/hr of which would be distributed and sold to the local energy grid.

Land Use Actions

The proposed project includes actions to annex the entire 241-acre project site into the City of Tracy, a General Plan Amendment to designate the entire project site as Industrial, and rezoning of the site to Light Industrial (M1). These proposed actions are described in greater detail below. The project would also involve multiple agreements between the City of Tracy and TRE, which would be brought to City Council for consideration at a future date. These agreements would likely include land lease, power purchase, wastewater treatment, and marketing agreement.

Mitigated Negative Declaration

In accordance with the California Environmental Quality Act (CEQA) regulations and CEQA Guidelines, the City prepared an Initial Study for the Tracy Desalination and Green Energy Project. Based on the findings and mitigation measures contained within the Initial Study, a Mitigated Negative Declaration (MND) was prepared. The MND was circulated for public review from December 1, 2011 until December 30, 2011 and extended until January 24, 2012 (Attachment B: Mitigated Negative Declaration and Initial Study).

A total of four comment letters were received regarding the MND and Initial Study (Attachment C: Public Comments on the MND and Initial Study). Letters were received from Caltrans, San Joaquin County Department of Public Works, San Joaquin Air Pollution Control District, and the Regional Water Quality Control Board. Each of these letters is summarized below. None of the letters received challenged the adequacy of the environmental analysis in the MND, and none of the letters raised any issues or concerns that would warrant changes to the MND, or a recirculation of the MND.

1. Caltrans commented that the cumulative conditions of the proposed project may contribute to the degradation of the level of service on the State Highway System, and recommended that the City collect a transportation impact mitigation fee on a proportional share basis from the applicant to be applied to future improvements to the I-205/North MacArthur Drive interchange.

As described in the MND, the project would not generate significant volumes of traffic, and no traffic impacts were identified. Caltrans has not indicated that they disagree with the MND's traffic analysis or less than significant impact conclusions.

2. The San Joaquin County Department of Public Works commented that the entire County portions of Holly Road, Sugar Road, and Arbor Road should be annexed into the City of Tracy. The City is planning to include the entirety of the adjacent roadways in the annexation area.

The County commented that the structural section of the remaining piece of Arbor Road within the County is unknown, but the condition is poor. As described in the MND, the proposed project would not result in any significant traffic or circulation impacts. The existing condition of the pavement of Arbor Road is not expected to deteriorate significantly as a result of project implementation. No changes to the MND analysis or mitigation measures are warranted.

The County provided suggested language edits regarding the 100-year Floodplain description. These comments are noted; however, the revised language proposed by the County would not materially alter the analysis or conclusions contained in the MND, nor is any additional analysis or mitigation warranted.

3. The Air Pollution Control District stated that they agreed with the MND's conclusion that project emissions of criteria pollutants would not exceed District significance thresholds and that the project would not result in any significant impacts to air quality. The District agreed that the project is not subject to District Rule 9510 (Indirect Source Review) but is subject to Rule 2201 (New and Modified Stationary Source Review). The District also noted that the project may be subject to a range of Rules geared towards reducing construction-related emissions, which are standard for most projects constructed within the Air District's boundaries. Overall, the District endorsed the analysis in the MND related to air quality.
4. The Regional Water Quality Control Board provided a letter that summarized a range of permits that may be required for the proposed project. The letter did not specifically address the MND or the adequacy of the environmental analysis. The project would not impact any wetlands or jurisdictional Waters of the U.S. City staff will ensure that the project complies with all applicable water quality permit requirements related to construction and operation, and the appropriate Best Management Practices are implemented.

The description of the project boundary, which was published in the Initial Study and MND, indicated that approximately 13-acres of APN 212-160-11 were included in the

project area proposed for annexation. The project boundary has been changed to indicate that the entire 17.1-acre area of APN 212-160-11 is included in the area proposed for annexation (Attachment A: Location Map). LAFCo policies require that annexation boundaries conform to property boundary lines.

The area being added to the project boundary is the location of the former Holly Sugar Administrative Buildings (City-owned). The addition of this approximately 4.1-acre area to the project boundary does not result in any new significant or potentially significant environmental impacts, nor does it increase the severity of any previously identified environmental impacts or require any changes to mitigation measures included in the Initial Study/MND because the majority of this area is paved or covered in gravel road base, and contains the former administrative building and associated support structures historically used for equipment and vehicle storage; and because the proposed Tracy Desalination and Green Energy Project would not result in the alteration of this portion of the project area. The proposed change only involves inclusion of this portion of APN 212-160-11 into the area proposed for annexation.

Therefore, the proposed revision to the project boundary does not constitute a “substantial revision” as defined by CEQA Guidelines Section 15073.5(b). The proposed change to the project boundary does not result in any new or increased significant effects. The proposed change to the project boundary is considered new information which merely clarifies, amplifies, or makes insignificant modifications to the MND. As such, recirculation of the document is not required as specified by CEQA Guidelines Section 15073.5(c).

General Plan Amendment

The City of Tracy’s General Plan currently designates approximately 224 acres of the Tracy Desalination and Green Energy Project site as Agriculture and approximately 17 acres as Industrial. For the portion of the site that is currently designated Agriculture, a General Plan Amendment (both to the text and the Land Use Designation Map) is proposed to change the General Plan designation from Agriculture to Industrial (Attachment D: Proposed General Plan Amendment).

Pre-Zoning / Annexation

This agenda item involves a proposal to annex the Tracy Desalination and Green Energy Project site to the City of Tracy. Corporate City limit changes, including property annexation, are completed at Local Agency Formation Commission (LAFCo) based on a City application (petition to LAFCo). The application to LAFCo would be prepared by City staff based on City Council direction related to the Mitigated Negative Declaration, General Plan Amendment and rezoning. Upon annexation, the Tracy Desalination and Green Energy Project site would be zoned Light Industrial (M1), and the Light Industrial (M1) zone district would be the rezoning for the application to LAFCo (Attachment E: Proposed Rezoning and Annexation). Public facilities for the Tracy Desalination and Green Energy Project site have been identified and documented in the Mitigated Negative Declaration and Initial Study.

Planning Commission Review

On March 14, 2012, the Planning Commission conducted a public hearing to review the project. The Planning Commission recommended that the City Council adopt the Mitigated Negative Declaration and approve the General Plan Amendment, rezoning and annexation to the City of Tracy for the 241-acre Tracy Desalination and Green Energy Project site.

STRATEGIC PLANS

This agenda item supports the Livability Strategic Plan and specifically implements the following goal:

Goal 3: A city balanced with sustainability

FISCAL IMPACT

There is no fiscal impact to the City's General Fund with approval of this project. The project would involve multiple agreements between the City of Tracy and TRE, which would be brought to City Council for consideration at a future date. These agreements would likely include land lease, power purchase and wastewater treatment. TRE proposes to construct the facility at no cost to the City and charge approximately \$1.5 million per year to operate the wastewater treatment portion of the project. An increased operating cost to the rate payers of this amount will result in the need to adjust wastewater rates upwards on the order of 10%.

RECOMMENDATION

Staff and Planning Commission recommend that the City Council take the following actions:

1. Adopt a resolution approving the Mitigated Negative Declaration for the 241-acre Tracy Desalination and Green Energy Project, Application Numbers GPA11-0004 and A/P11-0001;
2. Adopt a resolution approving a General Plan Amendment to designate the 241-acre Tracy Desalination and Green Energy Project site as Industrial, Application GPA11-0004;
3. Adopt a resolution authorizing the petition to LAFCo for annexation of the 241-acre Tracy Desalination and Green Energy Project site to the City of Tracy, Application A/P11-0001; and
4. Introduce an ordinance rezoning the 241-acre Tracy Desalination and Green Energy Project site as Light Industrial (M1), Application A/P11-0001.

Agenda Item 5
May 1, 2012
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Prepared by: Scott Claar, Associate Planner

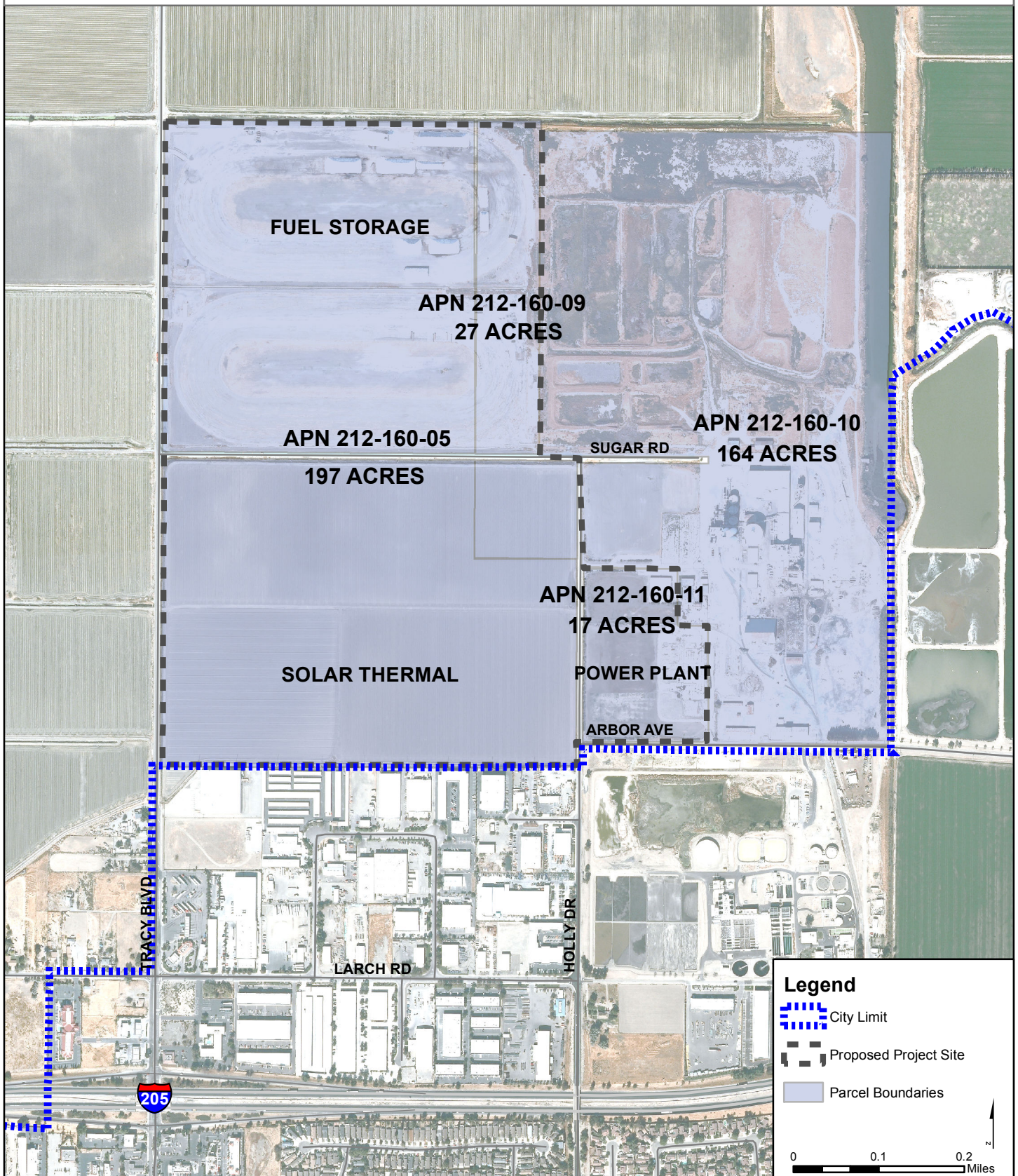
Reviewed by: Bill Dean, Assistant Development Services Director

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

ATTACHMENTS

- A: Location Map
- B: Mitigated Negative Declaration and Initial Study
- C: Public Comments on the Mitigated Negative Declaration and Initial Study
- D: Proposed General Plan Amendment
- E: Proposed Rezoning and Annexation

Tracy Desalination & Green Energy Project Location Map



**CITY OF TRACY
DRAFT MITIGATED NEGATIVE DECLARATION**

Project Name: Tracy Desalination and Green Energy Project

Project Location: The project site consists of approximately 241 acres located within the City's Sphere of Influence, immediately north of the Tracy City limits. The project site is bounded by Tracy Boulevard to the west, Arbor Avenue and industrial uses to the south, agricultural lands to the north, and the City's WWTP to the southeast. The project site is bisected by Sugar Road, which runs in an east-west direction. The project site includes Assessor's Parcel Numbers 212-160-05, 212-160-09 and 212-160-11.

Project Description: The primary purpose of the proposed project is to construct and operate an approximately 1,200,000 gallon per day (gpd) desalination plant (Plant) in the City of Tracy. The desalination plant would process treated effluent currently generated by the Tracy WWTP to a quality that is suitable for discharge into the Sacramento San Joaquin Delta (Delta) and meets State standards for water quality discharge. The Tracy WWTP currently processes approximately 9,000,000 gpd of effluent. The WWTP discharges this treated effluent directly into the Delta. The WWTP's discharge currently contains salt in amounts that exceed the Delta salinity standards. Salinity in water is generally measured in Total Dissolved Solids (TDS). Project implementation would effectively remove salt from approximately 13 percent of the WWTP's effluent. The treated desalination water would then be blended back into the remaining WWTP effluent prior to discharge into the Delta. The newly blended and treated effluent will have lower salinity and will assist the City in compliance with all applicable Delta salinity standards.

The operation of the desalination plant will require a heat energy supply. The proposed project includes a biomass cogeneration energy production component. The biomass energy component would utilize available sources of biomass, primarily agricultural residuals and urban wood waste, within a 50-mile radius of the site. The biomass energy component would generate approximately 16.4 megawatt-hours (MW/hr) of electricity, 15 MW/hr of which would be distributed and sold to the local energy grid. The Plant will have one 250 MMBTU/hr igniter that will operate approximately 60 hours per year. The burner will operate for approximately 14 hours per start-up with an expected start-up occurring every 2.5-3 months.

The proposed project also includes actions to annex the entire project site into the City of Tracy, a General Plan Amendment to

designate the entire project site Industrial, and pre-zoning of the site to Light Industrial (M1). The project would also involve three agreements between the City of Tracy and Tracy Renewable Energy LLC (TRE) related to the project. These agreements include a land lease/purchase agreement, a power purchase agreement and a water treatment agreement.

Project Proponent: Tracy Renewable Energy LLC
860 Kennedy Place
Tracy, CA 95377

Finding: Although the proposed project could potentially have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described in the attached Initial Study have been added to the project.

INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION

FOR THE

TRACY DESALINATION AND GREEN ENERGY PROJECT

SCH# _____

DECEMBER 2011

Prepared for:

City of Tracy
Department of Development and Engineering Services
333 Civic Center Plaza
Tracy, CA 95676

Prepared by:

De Novo Planning Group
4630 Brand Way
Sacramento, CA 95819
(916) 949-3231

D e N o v o P l a n n i n g G r o u p

A Land Use Planning, Design, and Environmental Firm

INITIAL STUDY AND MITIGATED NEGATIVE DECLARATION

FOR THE

TRACY DESALINATION AND GREEN ENERGY PROJECT

SCH# _____

DECEMBER 2011

Prepared for:

City of Tracy
Department of Development and Engineering Services
333 Civic Center Plaza
Tracy, CA 95676

Prepared by:

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Sacramento, CA 95819
(916) 949-3231

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INITIAL STUDY CHECKLIST

PROJECT TITLE

Tracy Desalination and Green Energy Project

LEAD AGENCY NAME AND ADDRESS

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

CONTACT PERSON AND PHONE NUMBER

Scott Claar, Associate Planner
Development and Engineering Services Department
City of Tracy
(209) 831-6400

PROJECT SPONSOR'S NAME AND ADDRESS

Tracy Renewable Energy LLC
860 Kennedy Place
Tracy, CA 95377

PURPOSE OF THE INITIAL STUDY

An Initial Study (IS) is a preliminary analysis which is prepared to determine the relative environmental impacts associated with a proposed project. It is designed as a measuring mechanism to determine if a project will have a significant adverse effect on the environment, thereby triggering the need to prepare a full environmental Impact Report (EIR). It also functions as an evidentiary document containing information which supports conclusions that the project will not have a significant environmental impact or that the impacts can be mitigated to a "Less Than Significant" or "No Impact" level. If there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, the lead agency shall prepare a Negative Declaration (ND). If the IS identifies potentially significant effects, but: (1) revisions in the project plans or proposals would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and (2) there is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment, then a Mitigated Negative Declaration (MND) shall be prepared.

This Initial Study has been prepared consistent with CEQA Guidelines Section 15063, to determine if the proposed Tracy Desalination and Green Energy Project (project) may have a significant effect upon the environment. This Initial Study also includes an analysis of the project's consistency with the Tracy General Plan and General Plan EIR to determine if the project would result in environmental impacts that were not addressed in the Tracy General Plan and General Plan EIR. Based upon the findings and mitigation measures contained within this report, a Mitigated Negative Declaration (MND) will be prepared.

PROJECT LOCATION AND SETTING

PROJECT LOCATION

The project site consists of approximately 237 acres located within the City's Sphere of Influence, immediately north of the Tracy City limits. The project site includes APN 212-160-05 (197 acres), APN 212-160-09 (27 acres), and a 13-acre area of APN 212-160-11.

The project site is bounded by Tracy Boulevard to the west, Arbor Avenue and industrial uses to the south, and agricultural lands to the north. Agra Trading, a biomass fuel recycling and trading company, is located on a portion of the project site. The site is bisected by West Sugar Road, which runs in an east-west direction. The project's regional location is shown in Figure 1 and the project area and site boundary are shown in Figure 2.

EXISTING SITE USES

The southwestern portion of the project site is currently in active agricultural production. The northern half of the project site consists of asphalt paved drying beds that were historically used for drying sugar beets. These drying beds are currently used for storage of biomass, silage and for drying agricultural byproducts. The project site was previously used by the Holly Sugar Company as a syrup production facility, and all that remains of the previous structures are the building foundations. An irrigation canal, used to convey non-potable water, is located between the drying beds and an agricultural drainage ditch is located along the northern boundary of the project site. The project site is within an area of land owned by the City of Tracy, locally known as the Holly Sugar property.

SURROUNDING LAND USES

The northern and western boundaries of the project site are adjacent to agricultural lands in active agricultural production. The southern boundary of the project site is adjacent to primarily industrial uses with some commercial uses. These uses include, but are not limited to a mini-storage facility, an equipment rental facility, and automotive repair facilities. The City of Tracy Wastewater Treatment Plant (WWTP) is located immediately southeast of the project site. Lands to the east of the project site are currently used for industrial operations. An existing rail spur is located immediately east of the project site and terminates on the project site.

GENERAL PLAN AND ZONING DESIGNATIONS

The majority of the project site is designated as Agricultural (AG) by both the City of Tracy General Plan Land Use Designations Map and the San Joaquin County General Plan Land Use Designations Map. A portion of APN 212-160-11, located on 13 acres in the southeast portion of the site is designated Industrial by the City and General Industrial by the County General Plan Land Use Maps.

The County zoning designation for the majority of the project site is Agriculture (AG-40), and General Industrial for the 13 acres southeast portion of the site. The project site does not have

an assigned zoning designation from the City of Tracy, as the project site is currently located outside of the City limits.

PROJECT DESCRIPTION

OVERVIEW

The following discussion provides an overview of the various components of the proposed project. Each project component and action is described in greater detail below.

The primary purpose of the proposed project is to construct and operate an approximately 1,200,000 gallon per day (gpd) desalination plant (Plant) in the City of Tracy. The desalination plant would process treated effluent currently generated by the Tracy WWTP to a quality that is suitable for discharge into the Sacramento San Joaquin Delta (Delta) and meets State standards for water quality discharge. The Tracy WWTP currently processes approximately 9,000,000 gpd of effluent. The WWTP discharges this treated effluent directly into the Delta. The WWTP's discharge currently contains salt in amounts that exceed the Delta salinity standards. Salinity in water is generally measured in Total Dissolved Solids (TDS). Project implementation would effectively remove salt from approximately 13 percent of the WWTP's effluent. The treated desalination water would then be blended back into the remaining WWTP effluent prior to discharge into the Delta. The newly blended and treated effluent will have lower salinity and will assist the City in compliance with all applicable Delta salinity standards.

The operation of the desalination plant will require a heat energy supply. The proposed project includes a biomass cogeneration energy production component. The biomass energy component would utilize available sources of biomass, primarily agricultural residuals and urban wood waste, within a 50-mile radius of the site. The biomass energy component would generate approximately 16.4 megawatt-hours (MW/hr) of electricity, 15 MW/hr of which would be distributed and sold to the local energy grid. The Plant will have one 250 MMBTU/hr igniter that will operate approximately 60 hours per year. The burner will operate for approximately 14 hours per start-up with an expected start-up occurring every 2.5-3 months.

The proposed project also includes actions to annex the entire project site into the City of Tracy, a General Plan Amendment to designate the entire project site Industrial, and pre-zoning of the site to Light Industrial (M1). The project would also involve three agreements between the City of Tracy and Tracy Renewable Energy LLC (TRE) related to the project. These agreements include a land lease/purchase agreement, a power purchase agreement and a water treatment agreement. These three agreements are described in greater detail below.

Land Lease/Purchase Agreement

The land lease/purchase agreement is an agreement to lease or sell up to 237 acres of City property to TRE. Approximately 13 acres would be leased or sold for construction of the biomass plant and water treatment facilities. This site is the property on the corner of Holly Drive and Arbor Drive, APN 212-160-11. This site is currently zoned Industrial and is vacant industrial land.

Approximately 80 acres would be leased or sold for fuel storage. This site is the property on the corner of Tracy Boulevard and Sugar Road, and includes portions of APNs 212-160-09 and 212-160-05. This site is currently zoned Agriculture and is currently used for biomass storage. The current tenants, Agra Trading and the Arnaudo Brothers, lease this property from the City. Agra Trading is interested in leasing this property for a longer term, either directly or as a sub-lease to TRE.

Approximately 144 acres would be leased or sold for a solar thermal project. This site is located between Holly Drive and Tracy Boulevard, and south of Sugar Road. This site includes a portion of APN 212-160-05. This site is currently zoned Agriculture and is currently an alfalfa field. The timing of the need for the solar thermal component of the project will be determined at a later date, after the biomass plant is in operation. The solar thermal component would provide an additional heat source for the project.

Power Purchase Agreement

The agreement will provide for the City to purchase up to 1 megawatt of electrical power generated by TRE. This power would be transmitted to the City's wastewater treatment plant (WWTP) by direct connection and would not utilize any PG&E facilities. The power would meet the electrical demand of the Tracy WWTP. It is anticipated that this power would be purchased at less than market rates to provide a benefit to City ratepayers.

Water Treatment Agreement

TRE will process up to 1.2 million gallons per day of City wastewater and return approximately 80% of this amount as distilled water. The distilled water would be used to dilute the City WWTP effluent in order to reduce salinity.

SYSTEM DESCRIPTION

The City of Tracy has recognized a technology developed by CST as an economically viable and commercially available solution to the salinity problem at the City's WWTP. The CST SteamBoy® process will intercept the effluent from the WWTP before it reaches the Delta and process it to near potable standards. The cleaned water will be returned to the WWTP to be blended with remaining WWTP effluent thereby reducing the TDS concentration.

In addition to purifying water from the WWTP, the project will also generate approximately 16.4 MW/hr of electricity, of which 15 MW/hr will be distributed to the grid where it will be purchased by the City of Tracy and a joint powers authority (JPA), which would include the Banta Carbona Irrigation District (BCID) and/or other entities. Power Purchase Agreements are currently being negotiated with both the City and JPA for the electrical output as well as an off-take agreement with the City for processing the WWTP effluent.

The Plant will deliver the electricity from a substation on the property to a 115 kva power line that crosses the project site. As of the date of this document preparation, the application to deliver the power to the line has been submitted to the California Independent System Operators (CAISO). CAISO is a non-profit public benefit corporation charged with operating the

majority of California's high-voltage wholesale power grid. The project applicant will contract with Pacific Gas and Electric (PG&E) to deliver the electricity needs of the Plant, both during construction and initial operation as well as the delivery of the electricity generated by the Plant to the City and JPA.

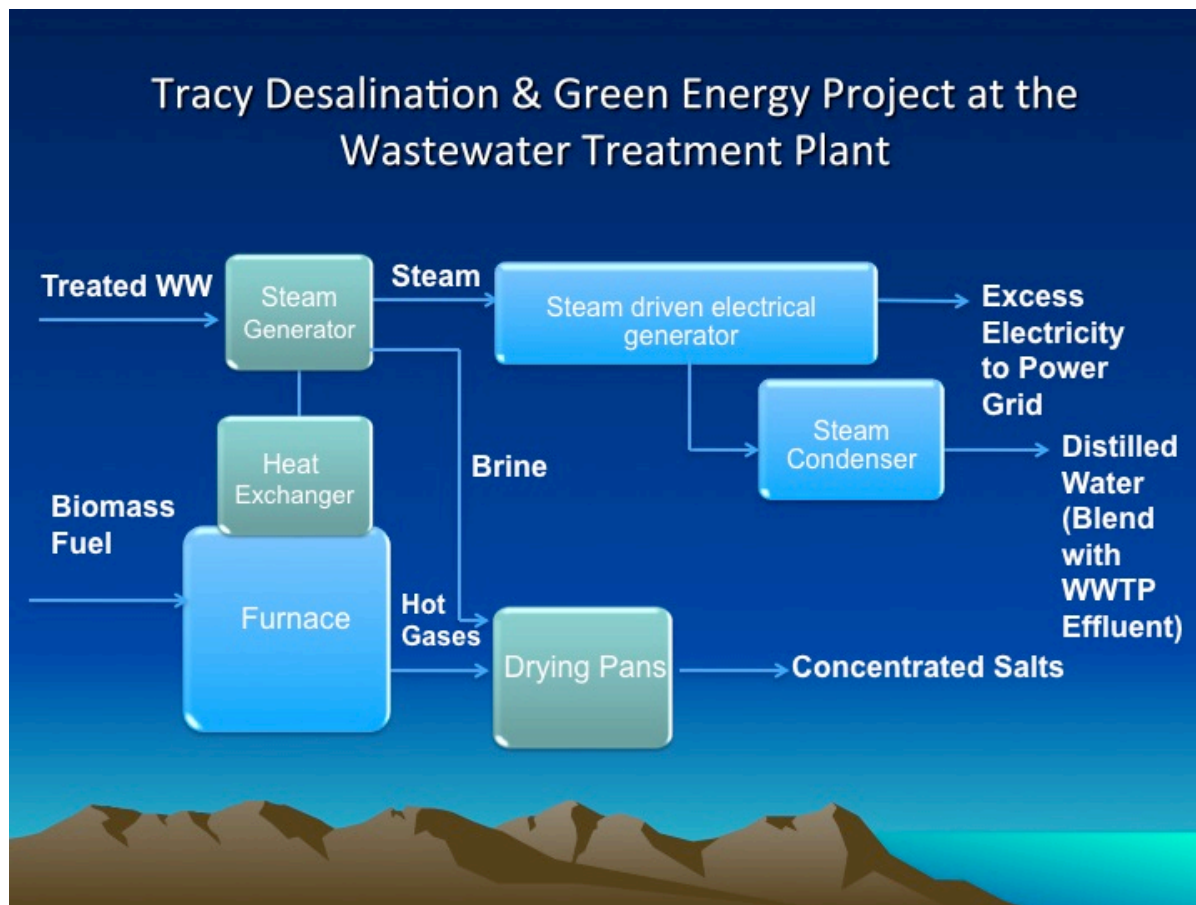
The Plant will be designed using the latest commercially available components and equipment. The Plant will be very much like a modern biomass facility with the exception of the SteamBoy® steam generator system that allows for the use of the WWTP effluent as feed water. This advantage brings a new element to the production of electricity whereas conventional biomass plants consume large amounts of water for the production of electricity, the proposed Plant will produce large amounts of clean water in the process of making electricity.

A byproduct of the desalination process will be salt extracted from the treated effluent. It is anticipated that up to 1,400 tons per year of solid salt would be generated during project operations. This solid salt would be stored on-site in salt storage units, and would be removed from the project site via truck or rail on a monthly basis and delivered to commercial users and/or producers of salt and salt products.

THE CST PROCESS

The CST Plant will produce clean water and on-demand electricity by processing biomass fuel. The biomass is fed into the combustion unit where it gives up its heat to the heat exchanger. The heat exchanger transfers the combustion heat to a heat transfer oil that is continually circulated through the SteamBoy® steam generators. The SteamBoy® steam generators will produce the pressurized steam that is then directed to the electric generation units which produce electricity. The exhaust steam is then directed to either the cooling towers for condensation or to the drying pans where its heat is used to dry the solids that are extracted from the treated wastewater. This process is depicted in Exhibit 2-1 below.

EXHIBIT 2-1



The heart of the CST system is the SteamBoy® steam generators. The patent pending design of the SteamBoy® steam generators allow for the use of wastewater as a feed water source without the normal fouling associated with standard boilers. The SteamBoy® steam generators have the ability to separate the water from the solids in a way that allows for the solids to be removed easily from the boilers. The resulting distilled water is allowed to leave the top of the boilers as clean pressurized steam that is directed to electrical generation units before it is condensed back into distilled water. The distilled water will be returned to the WWTP. The process is continuous and can process the treated water to near potable clean water standards. CST SteamBoy steam generators are built for CST by Victory Energy, Inc of Collinsville, Oklahoma. All SteamBoy® products are inspected and ASME (American Society of Mechanical Engineers) certified. The CST biomass burner system is ultra clean firing. Recent source testing of the CST system at the Musco Olive Plant showed that the emissions from the CST system are the lowest of any bio-mass fired system in California.

FUEL SUPPLY

The Plant would burn woody biomass material as a heat source for project operations. It is anticipated that up to 200,000 bone-dry tons (BDT) of woody biomass fuel would be consumed

by the project on an annual basis. Biomass fuel used by the proposed project would come from four distinct biomass fuel sources:

- Agricultural byproducts, primarily almond and walnut shells;
- Urban/industrial wood waste;
- Tree service debris; and
- Orchard removals and prunings.

The project applicant estimates that the fuel mix will consist of approximately 30% almond shells, 30% walnut shells, and 40% wood (urban/industrial, tree service debris, and orchard removals/prunings).

Agricultural byproducts include nutshells (primarily almond and walnut), fruit pits and grape pomace generated during the processing of agricultural products.

Urban/Industrial wood waste consists of used lumber, trim, shipping pallets and other wood debris from construction and demolition activities and commercial and industrial wood recycling activities.

Tree service debris includes pruned branches, stumps and whole trees from municipal street and park maintenance activities, and well as materials from private sector tree removal and pruning services.

Orchard removals and prunings are generated on an annual or semi-annual basis throughout the project region. Mature orchards are regularly removed as crop yields decrease, and are replaced with young orchard stock or alternative orchard species.

All of the biomass fuel materials described above would be generated within a 50-mile radius of the project site. The project applicant has commissioned the preparation of a Biomass Fuel Survey, which indicates that there is a supply of 1.6 million dry tons annually of existing biomass fuel within a 50-mile radius of the proposed project.

The fuel supplies identified above represent existing fuel supplies that are currently generated and/or would continue to be generated regardless of the demand for biomass fuel generated by the proposed project. Project implementation would not result in the generation of additional biomass fuels or result in increased activities such as tree removal, construction/demolition, or increased generation of agricultural byproducts.

Forest materials such as slash, thinnings, or other in-forest biomass materials would not be used as a fuel supply for the proposed project. The proposed project would not burn wastes and residues such as animal wastes, remains or tallow, food wastes, recycled cooking oils, pure vegetable oils, or sludge derived from organic matter. Additionally, the proposed project would not burn tires, railroad ties or plastic, and the use Authority to Construct (ATC) permit for this facility, issued by the San Joaquin Valley Air Pollution Control District (SJVAPCD) will be

conditioned accordingly. Natural gas would be the only non-biogenic fuel used as necessary for starting up and shutting down the Plant and for flame stabilization.

FUEL DELIVERY

As described above, all biomass fuel for the proposed project would be procured from within a 50-mile radius of the project site. Fuel would be delivered to the project site via truck. In the future, there is the potential that rail may also be utilized for fuel deliveries.

It is anticipated that approximately 20 truck trips per day would be generated by fuel deliveries to the project site. Trucks delivering fuel to the project site would utilize eastbound and westbound Interstate 205, and exit on North MacArthur Drive to access the site via Arbor Avenue as shown on Figure 2.

All of the biomass fuel for the proposed project would be delivered by Agra Trading, which is an existing biomass fuel recycler and distributor, located on the project site. Fuel delivered from Agra Trading would either be delivered via truck, or via an on-site electric conveyor belt, which may be installed as a future phase of the proposed project.

FUEL STORAGE

The proposed project includes plans to store up to 200,000 BDT of woody biomass material in the northwestern portion of the project site where the Agra Trading operations currently occur. The biomass fuel would be stored in open piles and would be transported to the boiler on a continuous basis via truck and heavy machinery. Biomass fuel is currently stored on the site by Agra Trading, and project implementation is not anticipated to result in significant changes to the existing onsite biomass fuel storage volumes or practices.

UTILITIES

The project site currently has direct access to a 115 Kva power line that would be used for the distribution of excess electricity back to the local electrical grid. The site also currently has a 6-inch medium pressure natural gas line, which will supply natural gas to be used during startup of the boiler and for flame stabilization during operation. Vehicular access to the site would be provided via Arbor Avenue, located along the southeastern boundary of the site.

PROPOSED STRUCTURES

The site plan for the proposed Plant is shown in Figure 3. Figure 3 shows each proposed structure and component of the project and depicts the location and orientation of each Plant component.

SOLAR THERMAL ARRAYS

The proposed project includes plans for an alternate thermal heat energy supply that may be implemented in the future. While it is not currently known if solar thermal arrays would be used to supply thermal heat and energy for the proposed project, this future alternative is considered reasonably foreseeable, and is therefore addressed in this environmental document.

Approximately 100 acres of land, located immediately west of the Plant and south of the fuel storage area may be used to develop a solar thermal array system to provide heat and energy for the desalination plant. The solar thermal array would be constructed of approximately 4,011 mirrors that would direct sunlight and heat to a receiver that would heat the heat transfer oil, which would then be directed to the steam generators to fuel the desalination process. Each mirror would be approximately 17' wide and 20' long, and would be oriented along 320' rows. The maximum mirror height would be 10'.

REQUESTED ENTITLEMENTS AND OTHER APPROVALS

The City of Tracy will be the Lead Agency for the proposed project, pursuant to the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), Section 15050.

This document will be used by the City of Tracy to take the following actions:

- Adoption of the Mitigated Negative Declaration (MND)
- Adoption of the Mitigation Monitoring and Reporting Program (MMRP)
- Approval of a General Plan Amendment to the Industrial (I) land use designation
- Approval of site rezoning / zoning to Light Industrial (M-1)
- Site Annexation to the Tracy City Limits
- Development review
- Land sale or lease agreement between the City of Tracy and CST
- Power purchase agreement between the City of Tracy and CST
- Water treatment agreement between the City of Tracy and CST
- Other related agreements

The following agencies may be required to issue permits or approve certain aspects of the proposed project:

- San Joaquin Local Agency Formation Commission (LAFCO) - Approval of annexation request.
- Central Valley Regional Water Quality Control Board (CVRWQCB) - Storm Water Pollution Prevention Plan (SWPPP) approval prior to construction activities.
- San Joaquin Valley Air Pollution Control District (SJVAPCD) - Approval of construction-related air quality permits and the Authority to Construct (ATC) permit.

- San Joaquin Council of Governments (SJCOG)- Approval of project application to include project within the boundaries of the San Joaquin County Multi-Species Habitat, Conservation, and Open Space Plan (SJMSCP).

PROJECT GOALS AND OBJECTIVES

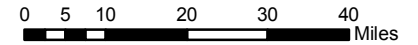
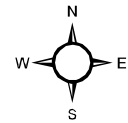
The City of Tracy has identified the following goals and objectives for the proposed project:

1. Develop and operate a desalination plant that will effectively remove salt from treated effluent generated by the Tracy WWTP to a level that will facilitate compliance with Delta salinity standards.
2. Develop a supply of renewable energy that is consistent with California's AB 32 Scoping Plan and California's Renewables Portfolio Standard.
3. Effectively utilize existing sources of biomass waste generated within 50 miles of the City of Tracy as fuel for the generation of a renewable energy supply.



Tracy Desalination and Green Energy Project

Fig. 1: Regional Map

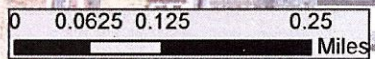
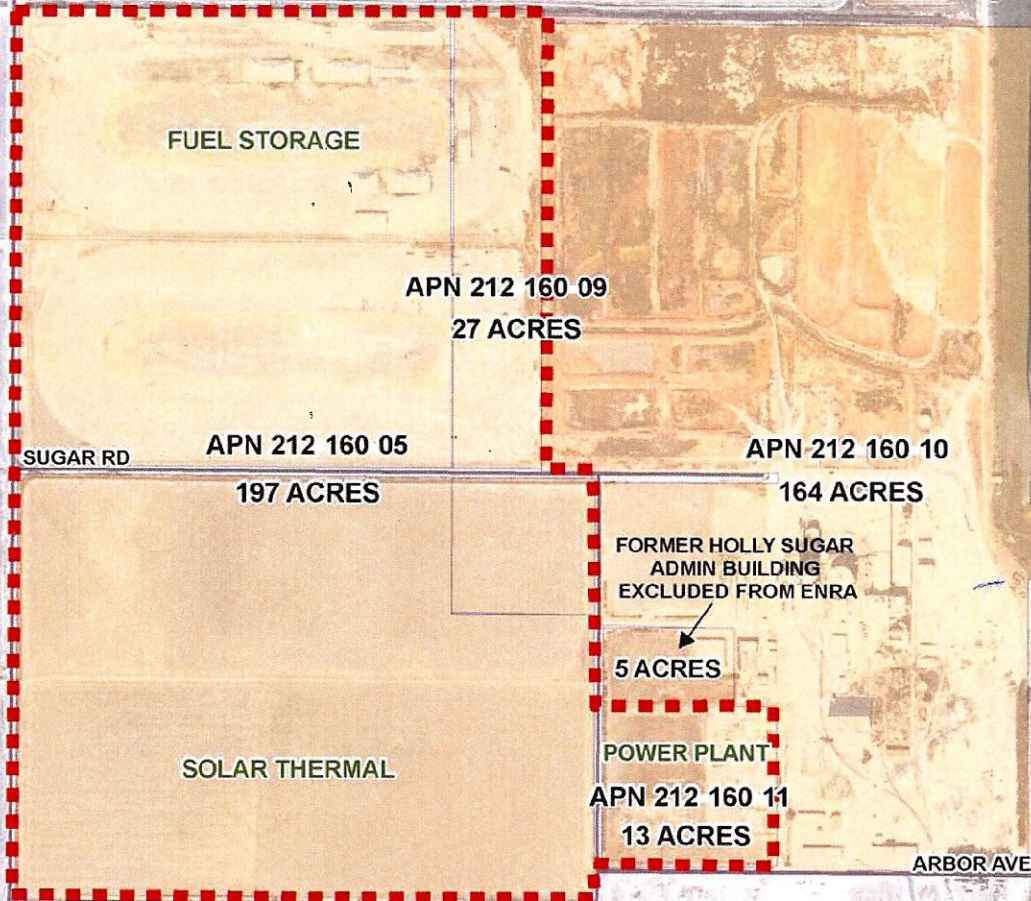
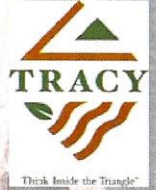



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
Data source: California Spatial Information Library
 Map date: October 26, 2011.

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City of Tracy Green Energy & Thermal Desalination Project Location Map/ Exhibit A



 Proposed Green Energy Project

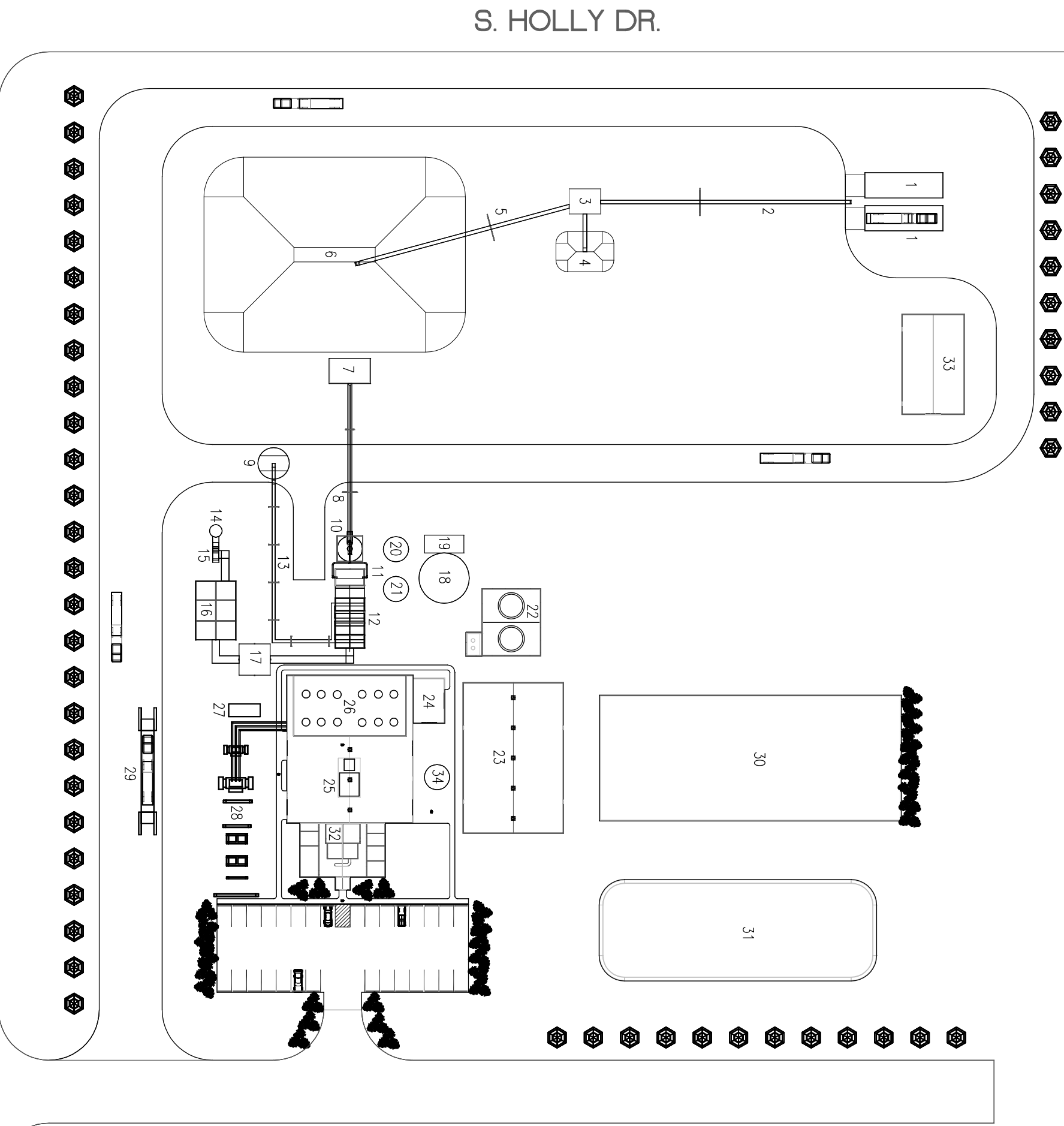
 APN Parcels

Vanessa Carrera 2.2011



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FIGURE 3




LEGEND

1. TRUCK UNLOADING STATION
2. RECEIVING CONVEYOR
3. TRANSFER HOUSE
4. OVERS PILE
5. STACKOUT CONVEYOR
6. FUEL STORAGE PILE
7. FUEL CONVEYOR LOADING PIT
8. MAIN FUEL CONVEYOR
9. ASH SILO
10. FUEL FEED SILO
11. FLUIDIZED BED HOT OIL HEATER #1
12. FLUIDIZED BED HOT OIL HEATER #2
13. FLYASH CONVEYOR
14. STACK
15. ID FAN
16. BAGHOUSE
17. SCR
18. FIRE/SERVICE WATER STORAGE TANK
19. FIRE PUMP HOUSE
20. HIF STORAGE TANK
21. FEEDWATER STORAGE TANK
22. COOLING TOWER
23. DRYING PANS
24. WORK SHOP
25. STEAM TURBINE GENERATOR
26. BOILERS #1-#12
27. DIESEL GENERATOR
28. SWITCHYARD
29. TRUCK SCALE
30. DRYING BEDS
31. RETENTION POND
32. OFFICE/ADMIN AREA
33. MAINTENANCE SHOP
34. PRODUCT WATER STORAGE TANK

**PRELIMINARY
NOT FOR CONSTRUCTION**

REV.	DESCRIPTION	BY	CHK	APP'D	DATE
B	ISSUED FOR REVIEW	JLS	LRB	RES	09/09/11
A	ISSUED FOR REVIEW	JLS	LRB	RES	08/26/11

COMBINED SOLAR TECHNOLOGIES, INC.
TRACY DESALINATION PLANT


BIBB
 ENGINEERS
 ARCHITECTS
 CONSULTANTS
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 Suite 207, Fremont, CA 94538
 (925) 436-1111
 www.bibb-engineers.com

PROJECT NO. 1101001
 DWG. TITLE SITE GENERAL ARRANGEMENT SINGLE COMBUSTOR/TURBINE
 DWG. NO. GA101B

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ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

	Aesthetics		Agriculture and Forest Resources		Air Quality
	Biological Resources		Cultural Resources		Geology/Soils
	Greenhouse Gasses		Hazards and Hazardous Materials		Hydrology/Water Quality
	Land Use/Planning		Mineral Resources		Noise
	Population/Housing		Public Services		Recreation
	Transportation/Traffic		Utilities/Service Systems		Mandatory Findings of Significance

DETERMINATION:

On the basis of this initial evaluation:

	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
X	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
	I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

Date

EVALUATION INSTRUCTIONS:

- 1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analysis Used. Identify and state where they are available for review.
 - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
 - c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances).

- Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
 - 8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
 - 9) The explanation of each issue should identify:
 - a) The significance criteria or threshold, if any, used to evaluate each question; and
 - b) The mitigation measure identified, if any, to reduce the impact to less than significance

EVALUATION OF ENVIRONMENTAL IMPACTS:

In each area of potential impact listed in this section, there are one or more questions which assess the degree of potential environmental effect. A response is provided to each question using one of the four impact evaluation criteria described below. A discussion of the response is also included.

- Potentially Significant Impact. This response is appropriate when there is substantial evidence that an effect is significant. If there are one or more "Potentially Significant Impact" entries, upon completion of the Initial Study, an EIR is required.
- Less than Significant With Mitigation Incorporated. This response applies when the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact". The Lead Agency must describe the mitigation measures and briefly explain how they reduce the effect to a less than significant level.
- Less than Significant Impact. A less than significant impact is one which is deemed to have little or no adverse effect on the environment. Mitigation measures are, therefore, not necessary, although they may be recommended to further reduce a minor impact.
- No Impact. These issues were either identified as having no impact on the environment, or they are not relevant to the Project.

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ENVIRONMENTAL CHECKLIST

This section of the Initial Study incorporates the most current Appendix "G" Environmental Checklist Form, contained in the CEQA Guidelines. Impact questions and responses are included in both tabular and narrative formats for each of the 18 environmental topic areas.

I. AESTHETICS -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Have a substantial adverse effect on a scenic vista?			X	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?				X
c) Substantially degrade the existing visual character or quality of the site and its surroundings?			X	
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?		X		

RESPONSES TO CHECKLIST QUESTIONS

Response a): Less Than Significant. The southern half of the project site is currently in active agricultural production. The northern half of the project site is occupied by Agra Trading, and contains open storage piles of biomass fuel and other industrial uses to support the existing biomass storage and distribution operations. An irrigation canal, used to convey non-potable water, is located along the northern boundary of the project site. The project site is within an area of land owned by the City of Tracy, known as the Holly Sugar property.

The project site is bounded by Tracy Boulevard to the west, Arbor Avenue and industrial uses to the south, and agricultural lands to the north. The site is bisected by West Sugar Road, which runs in an east-west direction.

The northern and western boundaries of the project site are adjacent to agricultural lands in active agricultural production. The southern boundary of the project site is adjacent to primarily industrial uses with some commercial uses. These uses include, but are not limited to a mini-storage facility, an equipment rental facility, and automotive repair facilities. The City of Tracy Wastewater Treatment Plan (WWTP) is located immediately southeast of the project site. Lands to the east of the project site are currently used for industrial operations, including biomass fuel storage and distribution. An existing rail spur is located immediately east of the project site and terminates on the project site.

The project site is not designated as a scenic vista by the City of Tracy General Plan or the San Joaquin County General Plan, nor does it contain any unique or distinguishing features that would qualify the site for designation as a scenic vista.

Implementation of the proposed project would not significantly change the existing visual character of the site, as much of the project site and the areas immediately adjacent to the site are used for agricultural and industrial purposes. Impacts related to a change in visual character are largely subjective and very difficult to quantify. People have different reactions to the visual quality of a project or a project feature, and what is considered “attractive” to one viewer may be considered “unattractive” to other viewers. The areas surrounding the City of Tracy to the north consist primarily of agricultural lands and industrial lands. Agricultural lands provide visual relief from urban and suburban developments, and help to define the character of a region. The loss of agricultural lands can have a cumulative impact on the overall visual character and quality of a region.

While the project would result in the removal of some agricultural lands in the project region, and the construction of the biomass power desalination facility, there are numerous industrial developments and activities located in the immediate vicinity of the project site, including the City’s Wastewater Treatment Plant and the Agra Trading biomass fuel recycling and trading company. Implementation of the proposed project would introduce additional industrial development to the project area, and would be generally consistent with the surrounding industrial development. Therefore, this impact is considered **less than significant**.

Response b): Less Than Significant. As described in the Tracy General Plan EIR, there are two Officially Dedicated California Scenic Highway segments in the Tracy Planning Area, which extend a total length of 16 miles. The first designated scenic highway is the portion of I-580 between I-205 and I-5, which offers views of the Coast Range to the west and the Central Valley’s urban and agricultural lands to the east. Part of this scenic highway passes through the existing City limits. The second scenic highway is the portion of I-5 that starts at I-205 and continues south to Stanislaus County, which allows for views of the surrounding agricultural lands and the Delta-Mendota Canal and California Aqueduct.

In addition to State-designated scenic highways, the Scenic Highway Element of the 1978 San Joaquin County General Plan designated the seven-mile portion of Corral Hollow Road that runs southwest from I-580 to the County line as a scenic road.

The project site is not visible from any of the above-referenced scenic highways. Development of the proposed project would not result in the removal of any trees, rock outcroppings, or buildings of historical significance, and would not result in changes to any of the viewsheds from the designated scenic highways in the vicinity of the City of Tracy. There is **no impact**.

Response c): Less than Significant. As described under Response a), above, the proposed project would add additional industrial uses to an area that currently contains numerous industrial uses. The proposed project would be visually compatible with the surrounding land

uses and would not significantly degrade the existing visual quality of the site or the surrounding area. This is a **less than significant** impact.

Response d): Less than Significant with Mitigation. Daytime glare can occur when the sunlight strikes reflective surfaces such as windows, vehicle windshields and shiny reflective building materials. The proposed Plant would introduce new structures into the project site, however, reflective building materials are not proposed for use in the project, and as such, the Plant would not result in increases in daytime glare.

However, as described in the project description, the proposed project may involve the installation of a solar array in the western portion of the site in the future, in order to provide an alternate source of thermal heat. The parabolic mirrors would focus the sun's rays on the heat collection element of the solar array system, which is a pipe located at the focal point of the parabola. The parabolic shape of the mirrors would cause the rays to be reflected directly onto the side of the heat collection element facing the mirrors. Thus, the potential for glare at offsite locations would be limited to stray reflections that were not focused on the heat collection element of the solar array.

Secondary reflections that could occur between the sun-reflecting mirrors and off-site locations would be reduced to a thin line, due to the mirrors' extruded parabolic shape. The solar array field would be oriented in a north-south direction, and the mirrors would rotate in an east-west direction to track the sun as it moves across the sky during the day. As a result there is no potential for reflection or glare off of the solar mirrors to the north or south of the project site. Glare-producing reflections from the solar array mirrors would only be possible when the sun's position in the sky is behind the viewer. The sun's position in the sky is a function of both the time of day and the time of year. The proposed solar mirrors would not exceed 10 feet in height, and would be specifically designed and engineered to direct sunlight directly to the heat collection element. There exists the limited potential for glare from the mirror arrays to stray onto parcels located immediately east and west of the project site. Lands to the east and west of the project site are primarily agricultural and industrial, and there are no residences or other sensitive receptors located to the east or west of the project site. Due to the limited potential for stray glare to leave the project site, and the lack of sensitive receptors in the project vicinity, this is considered a **less than significant** impact.

The project would not result in significant increases in the number of vehicles traveling to the project site at any given time. It is estimated that a maximum of 20 additional truck trips per day may be generated by the proposed project, and that the project would result in the need to add up to 28 employees split between rotating shifts. The small increase in the number of vehicles accessing the project site as a result of project approval would not result in a significant increase in daytime glare from vehicle windshields.

The newly proposed structures for the Plant would include exterior lighting to allow for nighttime operations, worker safety and security. The installation and use of exterior lights may increase light spillage onto adjacent land uses and may increase ambient nighttime lighting in the project vicinity, which is considered to be a **potentially significant** impact.

The City of Tracy Standard Plan #154 establishes minimum requirements for light illumination. The City addresses light and glare issues on a case-by-case basis during project approval and typically adds requirements as a condition of project approval to shield and protect against light spillover from one property to the next. Title 10.08.4000 of the Tracy Municipal Code requires that the site plan and architectural package include the exterior lighting standards and devices, and be reviewed by the Development and Engineering Services Department.

The implementation of Mitigation Measure 1 requires the preparation of a lighting plan, which must demonstrate that exterior project lighting has been designed to minimize light spillage onto adjacent properties to the greatest extent feasible. The implementation of Mitigation Measure 1 would reduce this impact to a **less than significant** level.

Mitigation Measures

Mitigation Measure 1: *A lighting plan shall be prepared prior to the issuance of a building permit and installation of the project's exterior lighting. The lighting plan shall demonstrate that the exterior lighting systems have been designed to minimize light spillage onto adjacent properties to the greatest extent feasible. The lighting plan shall include the following:*

- *Design of site lighting and exterior building light fixtures to reduce the effects of light pollution and glare off of glass and metal surfaces;*
- *Lighting shall be directed downward and light fixtures shall be shielded to reduce upward and spillover lighting;*
- *Where it is not feasible to fully shield light fixtures from light pollution, the lighting shall be directed downward and of the minimum wattage and height suitable for illuminating the areas to be secured and exterior work areas for worker safety.*

II. AGRICULTURE AND FOREST RESOURCES: WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?		X		
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?			X	
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 1222(g)) or timberland (as defined in Public Resources Code section 4526)?				X
d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?			X	

RESPONSES TO CHECKLIST QUESTIONS

Response a): Less than Significant with Mitigation. Approximately 93 acres of the project site is designated as Unique Farmland by the California Department of Conservation, and approximately 24 acres are designated as Prime Farmland. The southwestern portion of the project site, where the solar arrays may eventually be located, is currently in active agricultural production. Implementation of the proposed project may permanently remove approximately 117 acres of land from agricultural production if the solar array system is eventually installed. This is considered a **potentially significant** impact.

According to the City of Tracy General Plan, there are a total of 39,781 acres of land identified as Prime Farmland, Unique Farmland, Farmland of Statewide Importance and Farmland of Local Importance within the City's Planning Area, SOI and City limits combined. Of this amount, 4,890 acres are located within the City limits, 10,268 acres are within the SOI outside City limits, and 24,263 acres are located in the Tracy Planning Area outside the SOI. Farmland on the project site represents less than 0.3% of the important farmland within the City's Planning Area.

The City of Tracy General Plan identifies the project area as being within the City's 10-year planning horizon for the Sphere of Influence. Future development and urbanization of the project area was analyzed and considered in the City's General Plan EIR. Additionally, Chapter 13.28 of the Tracy Municipal Code requires the payment of Agricultural Mitigation Fees to offset the loss of prime and unique farmland. Fees collected under this program are pooled with other

local and regionally collected agricultural mitigation fees, and used to purchase agricultural conservation easements that protect prime and unique farmland within San Joaquin County in perpetuity. Mitigation Measure 2 requires the City to collect Agricultural Mitigation Fees, as required by Chapter 13.28 of the Tracy Municipal Code. This mitigation would help preserve County-wide agricultural resources, helping to preserve the agricultural economy and lessen long-term, cumulative impacts to Important Farmland. The implementation of the mitigation measure described below would reduce the severity of the agricultural resource impacts associated with implementation of the project to a **less than significant** level.

Mitigation Measures

Mitigation Measure 2: *Prior to site grading activities for the solar array component of the project, or any site grading activities that would disturb Prime Farmland or Unique Farmland, as defined by the California Department of Conservation, the City shall determine and require payment of the appropriate Agricultural Mitigation Fee to offset the loss of Prime and Unique Farmland, as specified in Chapter 13.28 of the Tracy Municipal Code.*

Response b): Less than Significant. The project site is not under a Williamson Act Contract, nor are any of the parcels immediately adjacent to the project site under a Williamson Act Contract. Therefore, implementation of the proposed project would not conflict with a Williamson Act Contract. The proposed project includes annexation of the site into the City of Tracy, designating the site Industrial (I) on the City's General Plan Land Use Map, and zoning/pre-zoning the site Light Industrial (M-1). Project approval would remove existing agricultural zoning designations from the project site. As such, the proposed project would not conflict with any agricultural zoning. This is a **less than significant** impact.

Response c) and d): No Impact. The project site is located in an area predominantly consisting of industrial development and limited agricultural operations. There are no forest resources on the project site or in the vicinity of the project site. Therefore, there is **no impact**.

Response e): Less than Significant. As described under Response (a) above, the proposed project is required to pay Agricultural Mitigation Fees, which would reduce potential impacts to agricultural resources and important farmlands to a less than significant level. Additionally, the project site contains existing industrial uses, and is adjacent to existing industrial uses. Project approval would not result in impacts to agricultural lands, beyond what has been described above under Response (a). This is a **less than significant** impact.

III. AIR QUALITY -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Conflict with or obstruct implementation of the applicable air quality plan?		X		
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?		X		
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?		X		
d) Expose sensitive receptors to substantial pollutant concentrations?			X	
e) Create objectionable odors affecting a substantial number of people?			X	

EXISTING SETTING

The project site is located within the boundaries of the San Joaquin Valley Air Pollution Control District (SJVAPCD). This agency is responsible for monitoring air pollution levels and ensuring compliance with federal and state air quality regulations within the San Joaquin Valley Air Basin (SJVAB) and has jurisdiction over most air quality matters within its borders. Prior to project implementation, the project is required to receive an Authority to Construct (ATC) from the SJVAPCD. The project is subject to the requirements of SJVAPD Rule 2201.

As stated under Section 1.0 of Rule 2201:

1.0 Purpose

The purpose of this rule is to provide for the following:

1.1 The review of new and modified Stationary Sources of air pollution and to provide mechanisms including emission trade-offs by which Authorities to Construct such sources may be granted, without interfering with the attainment or maintenance of Ambient Air Quality Standards; and

1.2 No net increase in emissions above specified thresholds from new and modified Stationary Sources of all nonattainment pollutants and their precursors.

2.0 Applicability

This rule shall apply to all new stationary sources and all modifications to existing stationary sources which are subject to the District permit requirements and after construction emit or may emit one or more affected pollutant. The requirements of this rule in effect on the date the application is determined to be complete by the Air Pollution Control Officer (APCO) shall apply to such application except as provided in Section 2.1.

RESPONSES TO CHECKLIST QUESTIONS

Responses a), b), c): Less than Significant with Mitigation. Air quality emissions would be generated during construction of the proposed project and during operation of the proposed project. Construction-related air quality impacts and operational air quality impacts are addressed separately below.

Construction-Related Emissions

The SJVAPCD's approach to analysis of construction impacts is to require implementation of effective and comprehensive control measures, rather than to require detailed quantification of emission concentrations for modeling of direct impacts. PM10 emitted during construction can vary greatly depending on the level of activity, the specific operations taking place, the equipment being operated, local soils, weather conditions, and other factors, making quantification difficult. Despite this variability in emissions, experience has shown that there are a number of feasible control measures that can be reasonably implemented to significantly reduce PM10 emissions from construction activities. The SJVAPCD has determined that compliance with Regulation VIII for all sites and implementation of all other control measures indicated in Tables 6-2 and 6-3 of the Guide for Assessing and Mitigating Air Quality Impacts (as appropriate) would constitute sufficient mitigation to reduce PM10 impacts to a level considered less than significant.

Construction would result in numerous activities that would generate dust. The fine, silty soils in the project area and often strong afternoon winds exacerbate the potential for dust, particularly in the summer months. Grading, leveling, earthmoving and excavation are the activities that generate the most particulate emissions. Impacts would be localized and variable. Construction impacts would last for a period of several months. The initial phase of project construction would involve the installation of the Plant and associated improvements such as parking area improvements and supporting infrastructure.

For the purposes of this analysis, it is assumed that the entire 13-acre Plant site would be constructed by 2012, and the future solar array fields of approximately 144 acres would be completed by 2015.

Construction activities that could generate dust and vehicle emissions are primarily related to grading and other ground-preparation activities in order to prepare the project site for the installation of the various structures and improvements proposed.

Control measures are required and enforced by the SJVAPCD under Regulation VIII. The SJVAPCD considers construction-related emissions from all projects in this region to be mitigated to a less than significant level if SJVAPCD-recommended PM10 fugitive dust rules and equipment exhaust emissions controls are implemented.

Implementation of Mitigation Measures 3 and 4, in addition to compliance with all applicable measures from SJVAPCD Rule VIII would reduce construction-related impacts associated with dust and construction vehicle emissions to a **less than significant** level.

Mitigation Measures

Mitigation Measure 3: *Prior to the commencement of grading activities, the City shall require the contractor hired to complete the grading activities to prepare a construction emissions reduction plan that meets the requirements of SJVAPCD Rule VIII. The construction emissions reductions plan shall be submitted to the SJVAPCD for review and approval. The City of Tracy shall ensure that all required permits from the SJVAPCD have been issued prior to commencement of grading activities. The construction emissions reduction plan should include the following requirements and measures:*

- *Properly and routinely maintain all construction equipment, as recommended by manufacturer's manuals, to control exhaust emissions.*
- *Shut down equipment when not in use for extended periods of time, to reduce exhaust emissions associated with idling engines.*
- *Encourage ride-sharing and of use transit transportation for construction employees commuting to the project site.*
- *Use electric equipment for construction whenever possible in lieu of fossil fuel-powered equipment.*
- *Curtail construction during period of high ambient pollutant concentrations.*
- *Construction equipment shall operate no longer than eight cumulative hours per day.*
- *All construction vehicles shall be equipped with proper emission control equipment and kept in good and proper running order to reduce NOx emissions.*
- *On-road and off-road diesel equipment shall use aqueous diesel fuel if permitted under manufacturer's guidelines.*
- *On-road and off-road diesel equipment shall use diesel particulate filters if permitted under manufacturer's guidelines.*
- *On-road and off-road diesel equipment shall use cooled exhaust gas recirculation (EGR) if permitted under manufacturer's guidelines.*
- *Use of Caterpillar pre-chamber diesel engines or equivalent shall be utilized if economic and available to reduce NOx emissions.*
- *All construction activities within the project site shall be discontinued during the first stage smog alerts.*
- *Construction and grading activities shall not be allowed during first stage ozone alerts. (First stage ozone alerts are declared when ozone levels exceed 0.20 ppm for the 1-hour average.)*

Implementation of this mitigation shall occur during all grading or site clearing activities. The SJVAPCD shall be responsible for monitoring.

Mitigation Measure 4: *The following mitigation measures, in addition to those required under Regulation VIII of the SJVAPCD, shall be implemented by the Project's contractor during all phases of project grading and construction to reduce fugitive dust emissions:*

- *Water previously disturbed exposed surfaces (soil) a minimum of three-times/day or whenever visible dust is capable of drifting from the site or approaches 20 percent opacity.*
- *Water all haul roads (unpaved) a minimum of three-times/day or whenever visible dust is capable of drifting from the site or approaches 20 percent opacity.*
- *All access roads and parking areas shall be covered with asphalt-concrete paving or water sprayed regularly.*
- *Dust from all on-site and off-site unpaved access roads shall be effectively stabilized by applying water or using a chemical stabilizer or suppressant.*
- *Reduce speed on unpaved roads to less than 15 miles per hour.*
- *Install and maintain a trackout control device that meets the specifications of SJVAPCD Rule 8041 if the site exceeds 150 vehicle trips per day or more than 20 vehicle trips per day by vehicles with three or more axles.*
- *Stabilize all disturbed areas, including storage piles, which are not being actively utilized for construction purposes using water, chemical stabilizers or by covering with a tarp, other suitable cover or vegetative ground cover.*
- *Control fugitive dust emissions during land clearing, grubbing, scraping, excavation, leveling, grading or cut and fill operations with application of water or by presoaking.*
- *When transporting materials offsite, maintain a freeboard limit of at least six inches and over or effectively wet to limit visible dust emissions.*
- *Limit and remove the accumulation of mud and/or dirt from adjacent public roadways at the end of each workday. (Use of dry rotary brushes is prohibited except when preceded or accompanied by sufficient wetting to limit visible dust emissions and the use of blowers is expressly forbidden.)*
- *Remove visible track-out from the site at the end of each workday.*
- *Cease grading activities during periods of high winds (greater than 20 mph over a one-hour period).*
- *Asphalt-concrete paving shall comply with SJVAPCD Rule 4641 and restrict use of cutback, slow-sure, and emulsified asphalt paving materials.*

Implementation of this mitigation shall occur during all grading or site clearing activities. The SJVAPCD shall be responsible for monitoring.

Operational Emissions

Emissions generated from operation of the proposed biomass boiler would be the primary source of stationary emissions from the proposed project. The project is subject to the requirements of SJVAPCD Rule 2201. The project would also result in increased vehicle trips to the project site from employees and from trucks transporting biomass materials. As described in the project description, the project would generate up to 28 additional employee trips per day and 20 heavy truck trips per day for biomass fuel deliveries.

Emissions estimates for the proposed Plant were calculated based on actual source testing emissions that were monitored and collected from the Musco Olive Products 3 MW Biomass Fired System, which employs the exact same technology as that proposed for the project. The Musco emissions tests were collected in April 2011, and have been verified by the SJVAPCD. The emissions levels for the Musco Plant were used as the basis for the emissions calculations for this project, and were adjusted upward to reflect the proposed 16.4 MW biomass plant.

Mobile source emissions generated by the project were calculated using the industry standard URBEMIS 2007 Version 9.2.4. Mobile and stationary source emissions generated by the proposed project are shown in Table 1, below.

TABLE 1: BIOMASS COGENERATION PLANT EMISSIONS

Pollutant	Biomass Combustion (Tons/Year)	Mobile Sources (Tons/Year)	Total	Offset Threshold (tons/year)	Offset Required?	Major Source Threshold (tons/year)	Is Source a Major Source?
NOx	6.31	1.6	7.91	10	No	10	No
PM10	7.67	0.53	8.2	14.6	No	70	No
SOx	1.53	NA	1.53	27.38	No	70	No
CO	24.53	1.42	25.95	100	No	100	No
VOC	7.67	NA	7.67	10	No	10	No

Source: BEST Environmental, 2011 and De Novo Planning Group, 2011.

As shown in the table above, the proposed project does not meet the thresholds to be classified as a major emissions source for any of the criteria pollutants that would be generated by the project, as defined by SJVAPCD Rule 2250. Additionally, the proposed project does not meet the SJVAPCD thresholds requiring offsets, as specified in Table 4-1 of SJVAPCD Rule 2201, which governs stationary emissions sources.

As further described in the project description, the proposed CST biomass burner system is ultra clean firing. Recent source testing of the CST system at the Musco Olive Plant, conducted in April 2011, showed that the emissions from the CST system are the lowest of any biomass fired system in California. As shown in the table above, the proposed project would not exceed the applicable SJVAPCD thresholds requiring mitigation for emissions. Additionally, as further described under the greenhouse gas analysis later in this report, the proposed project would provide approximately 15 MW/hr of electricity for distribution back to the local power grid, which is assumed to offset electricity currently generated by sources including coal and natural gas. The project's offsets of emissions from coal and natural gas derived electricity would further reduce the project's net increases in emissions. Regardless of this potential to reduce emissions from other electricity sources, the proposed project's emissions are below the thresholds of significance established by the SJVAPCD. Therefore, this is a **less than significant** impact and no mitigation is required.

Response d): Less than Significant. Sensitive receptors are those parts of the population that can be severely impacted by air pollution. Sensitive receptors include children, the elderly, and

the infirm. The project site is surrounded by agricultural and industrial uses, and is not in the vicinity of any sensitive receptors. The nearest sensitive receptors to the project site are existing residences located approximately 0.5 miles to the south of the site.

As described under Response a) – c) above, the proposed project would not generate significant concentrations of air emissions. Impacts to sensitive receptors would be negligible and this is a **less than significant** impact.

Response e): Less than Significant. Operation of the proposed project would not generate odors directly. No noticeable odors would be emitted from the boiler. The primary purpose of the proposed project is to decrease salinity levels in treated wastewater from the Tracy WWTP. The Tracy WWTP is located immediately south of the project site, and is an existing source of odors in the project vicinity. Given the industrial nature of the project, the project itself would not be impacted by existing odors currently generated by the WWTP.

The only notable potential for the creation of odors associated with the project is the potential for biomass fuel for the project to generate odors if it is left to rot or decay. One hundred percent of the biomass fuel for the project would be provided by Agra Trading, which currently operates a biomass receiving and distribution operation on the project site. Biomass is stored in open piles, and is rotated on a continuous basis to avoid rot and decomposition. The storage and management of biomass materials on the project site is an existing environmental condition, and has not historically been a source of odors in the project area. The increased fuel demands generated by the project may result in increased deliveries of biomass fuel to Agra Trading, and may result in increased volumes of biomass stored on the site by Agra Trading. However, given the lack of historical odor problems associated with this existing operation, as well as the relatively high levels of ambient odors in the project vicinity generated by the Tracy WWTP, the proposed project would result in a **less than significant** impact related to odors, and no mitigation is required.

IV. BIOLOGICAL RESOURCES -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?		X		
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?			X	
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			X	
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			X	
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?		X		
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?		X		

RESPONSES TO CHECKLIST QUESTIONS

Response a): Less than Significant with Mitigation. Special-status invertebrates that occur within the San Joaquin County region include: longhorn fairy shrimp, vernal pool fairy shrimp, and midvalley fairy shrimp, which requires vernal pools and swale areas within grasslands; and the valley elderberry longhorn beetle, which is an insect that is only associated with blue elderberry plants, oftentimes in riparian areas and sometimes on land in the vicinity of riparian areas. The project site does not contain essential habitat for these special status invertebrates. Furthermore, evidence of these species was not encountered during the field survey. Implementation of the proposed project would have a **less than significant** impact on these species. No mitigation is necessary.

Special-status reptiles and amphibians that occur within the region include: the western pond turtle, which requires aquatic environments located along ponds, marshes, rivers, and ditches;

the California tiger salamander, which is found in grassland habitats where there are nearby seasonal wetlands for breeding; the silvery legless lizard, which is found in sandy or loose loamy soils under sparse vegetation with high moisture content; San Joaquin whipsnake, which requires open, dry habitats with little or no tree cover with mammal burrows for refuge; the Alameda whipsnake, which is restricted to valley-foothill hardwood habitat on south-facing slopes; the California horned lizard, which occurs in a variety of habitats including, woodland, forest, riparian, and annual grasslands, usually in open sandy areas; the foothill yellow-legged frog, which occurs in partly shaded and shallow streams with rocky soils; the California red legged frog, which occurs in stream pools and ponds with riparian or emergent marsh vegetation; and the western spadefoot toad, which requires grassland habitats associated with vernal pools.

The project site contains irrigation and drainage ditches along the northern project boundary. At the time of the field survey the ditches contained varying levels of water ranging from a few inches to a few feet. These ditches dry up, or have limited water from irrigation runoff during the hot summer months. Additionally, it should be noted that the irrigation ditches located along the northern boundary of the project site had limited vegetation as a result of ditch maintenance activities.

The project site does not contain appropriate habitat for the silvery legless lizard, Alameda whipsnake, California tiger salamander, foothill yellow-legged frog, western pond turtle, California red legged frog, or western spadefoot toad, nor where these species or evidence of the species found during the site visit. These species and their essential habitats are not present. Implementation of the proposed project would have a **less than significant** impact on these species. No mitigation is necessary.

The southwest portion of the project site is frequently disturbed from active agricultural activities and does not contain high quality habitat for the San Joaquin whipsnake and California horned lizard. Agricultural fields can provide habitat for these species between disturbance activities. There are no documented occurrences of these species within a five-mile radius, nor were they not encountered during the field survey. Implementation of the proposed project would have a **less than significant** impact on these species. No mitigation is necessary.

Numerous special-status plant species are known to occur in the region. Many of these special status plant species require specialized habitats such as serpentine soils, rocky outcrops, slopes, vernal pools, marshes, swamps, riparian habitat, alkali soils, and chaparral, which are not present on the project site. The project site is located in an area that was likely valley grassland prior to human settlement, and there are several plant species that are found in valley and foothills grasslands areas. These species include large-flowered fiddleneck, bent-flowered fiddleneck, big-balsamroot, big tarplant, round-leaved filaree, Lemmon's jewelflower, and showy golden madia. Human settlement has involved a high frequency of ground disturbance associated with the historical farming activities in the region, including the project site.

There is the potential for several special status plants to grow within the irrigation ditches due to the mesic conditions that are present during specific times. These include the Mason's

lilaeopsis, Suisun Marsh aster, and Delta button celery, two of which are documented within a five mile radius of the project site. There are no documented occurrences of special status plants on the project site or within the irrigation ditches on adjacent properties that are interconnected. Special status plants were not observed during site visits and no activities or disturbances within the irrigation ditches are proposed. This is considered a **less than significant** impact.

Special-status birds that occur within the region include: tricolored blackbird, Swainson's hawk, northern harrier, and bald eagle, which are associated with streams, rivers, lakes, wetlands, marshes, and other wet environments; loggerhead shrike, and burrowing owl, which lives in open areas, usually grasslands, with scattered trees and brush; and raptors that are present in varying habitats throughout the region.

Swainson's Hawk. There were a variety of raptors observed flying over the project site including a Swainson's hawk, white-tailed kite, and red-tailed hawk. The Swainson's hawk is threatened in California and is protected by the CDFG and the MBTA. Additionally, Swainson's hawk foraging habitat is protected by the CDFG. Swainson's hawks forage in open grasslands and agricultural fields and commonly nest in solitary trees and riparian areas in close proximity to foraging habitat. The foraging range for Swainson's hawk is ten miles from its nesting location. There are numerous documented occurrences of Swainson's hawk within ten miles of the project site. Although no nesting habitat for this species occur onsite, the cropland habitat on the project site is considered suitable foraging habitat for this species.

Construction on the project site could adversely affect Swainson's hawk foraging habitat. The Swainson's hawk is a species covered by the SJMSCP. The proposed project is considered an Unmapped Land Use Project by the SJMSCP, which includes annexations of land into the incorporated limits of a city. As required by Mitigation Measure 5, below, the City must submit an application to SJCOG to request coverage of the project site under the SJMSCP as an Unmapped Land Use Project. Coverage of a project under the SJMSCP is intended to reduce impacts to biological resources, including Swainson's hawk, resulting from a project. Once the project site has successfully received coverage under the SJMSCP, the City is required to pay the appropriate fee established by the SJMSCP and to incorporate all Incidental Take Minimization Measures identified by SJCOG into the project design. SJCOG will use the mitigation fee to purchase habitat for Swainson's hawk to be protected in perpetuity. No additional mitigation measure is required, and the project's coverage under the SJMSCP ensures that this impact would be **less than significant**.

Burrowing Owls. The southwestern portion of the project site is largely in active agricultural use. The irrigation ditches along the northern project boundary contain suitable habitat for burrowing owls, and burrowing owls have been observed in the immediate project vicinity during recent biological site visits conducted for the adjacent Holly Sugar Sports Park project. Burrowing owls are a California Species of Special Concern and are protected by the CDFG and the MBTA. Burrowing owls forage in open grasslands and shrublands and typically nest in old ground squirrel burrows. Based on the frequency of disking on the majority of the project site, it is unlikely that burrowing owl would nest within the cropland area. However, the presence of

ground squirrel burrows along the banks of the ditches constitutes suitable nesting habitat for burrowing owl and burrowing owls may be present prior to the onset of construction activities, whenever they may occur. It should also be noted that there are documented occurrences of burrowing owl on properties to the east, southeast, southwest, and west of the project site. The proposed project would have a potentially significant impact on burrowing owls. Implementation of the following mitigation measure would reduce the impact to a **less than significant** level.

Mitigation Measures

Mitigation Measure 5: *Prior to ground disturbance, the City of Tracy and/or the project applicant shall arrange for the preparation of a biological resources assessment for the project, and shall seek and obtain coverage under the SJMSCP from SJCOG.*

Mitigation Measure 6: *The City of Tracy shall comply with measures contained within the SJMSCP and shall consult with SJCOG biologists and the TAC prior to any site disturbing activities. The City shall implement the requirements of the SJMSCP to ensure that impacts to burrowing owls are avoided. The details of the avoidance measures shall be dictated by the TAC, and may include the following:*

- *To the extent feasible, construction should be planned to avoid the burrowing owl breeding season.*
- *During the non-breeding season (September 1 through January 31) burrowing owls occupying the project site should be evicted from the project site by passive relocation as described in the California Department of Fish and Game's Staff Report on Burrowing Owls (Oct., 1995)*
- *During the breeding season (February 1 through August 31) occupied burrows shall not be disturbed and shall be provided with a 75 meter protective buffer until and unless the TAC, with the concurrence of the Permitting Agencies' representatives on the TAC; or unless a qualified biologist approved by the Permitting Agencies verifies through non-invasive means that either: 1) the birds have not begun egg laying, or 2) juveniles from the occupied burrows are foraging independently and are capable of independent survival. Once the fledglings are capable of independent survival, the burrow can be destroyed.*

Implementation of this mitigation shall occur prior to grading or site clearing activities. The City of Tracy shall be responsible for monitoring and a qualified biologist shall conduct surveys and relocate owls as required.

Responses b), c): Less than Significant. Riparian natural communities support woody vegetation found along rivers, creeks and streams. Riparian habitat can range from a dense thicket of shrubs to a closed canopy of large mature trees covered by vines. Riparian systems are considered one of the most important natural resources. While small in total area when compared to the state's size, they provide a special value for wildlife habitat.

Over 135 California bird species either completely depend upon riparian habitats or use them preferentially at some stage of their life history. Riparian habitat provides food, nesting habitat, cover, and migration corridors. Another 90 species of mammals, reptiles, invertebrates and amphibians depend on riparian habitat. Riparian habitat also provides riverbank protection, erosion control and improved water quality, as well as numerous recreational and aesthetic values.

A wetland is an area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Wetlands are defined by regulatory agencies as having special vegetation, soil, and hydrology characteristics. Hydrology, or water inundation, is a catalyst for the formation of wetlands. Frequent inundation and low oxygen causes chemical changes to the soil properties resulting in what is known as hydric soils. The prevalent vegetation in wetland communities consists of hydrophytic plants, which are adapted to areas that are frequently inundated with water. Hydrophytic plant species have the ability to grow, effectively compete, reproduce, and persist in low oxygen soil conditions.

Below is a list of wetlands that are found in the Tracy planning area:

- **Farmed Wetlands:** This category of wetlands includes areas that are currently in agricultural uses. This type of area occurs in the northern portion of the Tracy Planning Area.
- **Lakes, Ponds and Open Water:** This category of wetlands includes both natural and human-made water bodies such as that associated with working landscapes, municipal water facilities and canals, creeks and rivers.
- **Seasonal Wetlands:** This category of wetlands includes areas that typically fill with water during the wet winter months and then drain enough to become ideal plant habitats throughout the spring and summer. There are numerous seasonal wetlands throughout the Tracy Planning Area.
- **Tidal Salt Ponds and Brackish Marsh:** This category of wetlands includes areas affected by irregular tidal flooding with generally poor drainage and standing water. There are minimal occurrences along some of the larger river channels in the northern portion of the Tracy Planning Area.

The project site contains irrigation/drainage ditches along the northern property boundary that may be subject to USACE and CDFG jurisdiction. Any activities that would require removal, filling, or hydrologic interruption of the irrigation ditches would be subject to the federal Clean Water Act Section 404 and California Fish and Game Code Section 1601 (Streambed Alteration Agreement). Under these regulations, a formal wetland delineation would need to be prepared

and verified by the USACE prior to any activities that would involve the irrigation/drainage ditches.

However, these irrigation/drainage ditches are not planned to be adversely affected; instead they are planned to be retained for drainage purposes and no improvements or construction activities are proposed within or immediately adjacent to the existing irrigation canals. Additionally, there is no riparian habitat present on the project site. For these reasons, this is a **less than significant** impact and no mitigation is required.

Response d): Less than Significant. The CNDDDB record search did not reveal any documented wildlife corridors or wildlife nursery sites on or adjacent to the project site. Furthermore, the field survey did not reveal any wildlife corridors or wildlife nursery sites on or adjacent to the project site. The irrigation/drainage ditches may serve as a corridor for movement of wildlife in the region; however, the project plans include retention of these ditches for drainage, which provides an ancillary benefit of retaining the ditches for wildlife. Implementation of the proposed project would have a **less than significant** impact. No mitigation is necessary.

Responses e), f): Less than Significant with Mitigation. The project site is located within the jurisdiction of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (“Plan” or “SJMSCP”) and is located within the Central/Southwest Transition Zone of the SJMSCP. The San Joaquin Council of Governments (SJCOG) prepared the Plan pursuant to a Memorandum of Understanding adopted by SJCOG, San Joaquin County, the United States Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG), Caltrans, and the cities of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton, and Tracy in October 1994. On February 27, 2001, the Plan was unanimously adopted in its entirety by SJCOG. The City of Tracy adopted the Plan on November 6, 2001.

According to Chapter 1 of the SJMSCP, its key purpose is to “provide a strategy for balancing the need to conserve open space and the need to convert open space to non-open space uses, while protecting the region’s agricultural economy; preserving landowner property rights; providing for the long-term management of plant, fish and wildlife species, especially those that are currently listed, or may be listed in the future, under the Federal Endangered Species Act (ESA) or the California Endangered Species Act (CESA); providing and maintaining multiple use Open Spaces which contribute to the quality of life of the residents of San Joaquin County; and, accommodating a growing population while minimizing costs to project proponents and society at large.”

In addition, the goals and principles of the SJMSCP include the following:

- Provide a County-wide strategy for balancing the need to conserve open space and the need to convert open space to non-open space uses, while protecting the region’s agricultural economy.
- Preserve landowner property rights.

- Provide for the long-term management of plant, fish, and wildlife species, especially those that are currently listed, or may be listed in the future, under the ESA or the CESA.
- Provide and maintain multiple-use open spaces, which contribute to the quality of life of the residents of San Joaquin County.
- Accommodate a growing population while minimizing costs to project proponents and society at large.

In addition to providing compensation for conversion of open space to non open space uses, which affect plant and animal species covered by the SJMSCP, the SJMSCP also provides some compensation to offset impacts of open space conversions on non-wildlife related resources such as recreation, agriculture, scenic values and other beneficial open space uses. Specifically, the SJMSCP compensates for conversions of open space to urban development and the expansion of existing urban boundaries, among other activities, for public and private activities throughout the County and within Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton, and Tracy.

Participation in the SJMSCP is voluntary for both local jurisdictions and project applicants. Only agencies adopting the SJMSCP would be covered by the SJMSCP. Individual project applicants have two options if their project is located in a jurisdiction participating in the SJMSCP: mitigating under the SJMSCP or negotiating directly with the state and/or federal permitting agencies. If a project applicant opts for SJMSCP coverage in a jurisdiction that is participating under the SJMSCP, the following options are available, unless their activities are otherwise exempted: pay the appropriate fee; dedicate, as conservation easements or fee title, habitat lands; purchase approved mitigation bank credits; or, propose an alternative mitigation plan.

Responsibilities of permittees covered by the SJMSCP include, collection of fees, maintenance of implementing ordinances/resolutions, conditioning permits (if applicable), and coordinating with the Joint Powers Authority (JPA) for Annual Report accounting. Funds collected for the SJMSCP are to be used for the following: acquiring Preserve lands, enhancing Preserve lands, monitoring and management of Preserve lands in perpetuity, and the administration of the SJMSCP. Because the primary goal of SJMSCP to preserve productive agricultural use that is compatible with SJMSCP's biological goals, most of the SJMSCP's Preserve lands would be acquired through the purchase of easements in which landowners retain ownership of the land and continue to farm the land. These functions are managed by San Joaquin Council of Governments.

The proposed project is an annexation of land into an existing incorporated city limits and is located immediately adjacent to the boundaries of the defined community, which falls into the category of "Unmapped Land Use Project" under the SJMSCP. Projects in this category are subject to a case-by-case review by a Technical Advisory Committee (TAC) to ensure that the biological impacts of the proposed project are within the parameters established by the SJMSCP and the Biological Opinion.

"Unmapped Land Use Projects" that seek coverage under the SJMSCP are required to complete the "*Section 8.2.1(10) Checklist for Unmapped SJMSCP Projects*" with supporting documentation

for SJCOG to review and confirm that the proposed project is consistent with the SJMSCP and the Biological Opinion. If the TAC confirms that the proposed project is consistent with the SJMSCP, they will recommend to the Joint Powers Authority that the project receive coverage under the SJMSCP. As required by Mitigation Measure 5, the City must submit a Biological Assessment and SJMSCP Coverage Application to the San Joaquin Council of Governments (SJCOG) to include the project site in the SJMSCP. Compliance with this required would ensure that the project has a **less than significant** impact related to this environmental topic.

V. CULTURAL RESOURCES -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Cause a substantial adverse change in the significance of a historical resource as defined in '15064.5?		X		
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to '15064.5?		X		
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?		X		
d) Disturb any human remains, including those interred outside of formal cemeteries?		X		

RESPONSES TO CHECKLIST QUESTIONS

Response a), b), c), d): Less than Significant with Mitigation. A review of literature maintained by the Central California Information Center of the California Historical Resources Information System at California State University, Stanislaus identified that no previously identified prehistoric period cultural resources are known within, or within a 1/4 mile radius of the project site. Additionally, there are no known unique paleontological or archeological resources known to occur on, or within the immediate vicinity of the project site. Therefore, it is not anticipated that site grading and preparation activities would result in impacts to cultural, historical, archaeological or paleontological resources. There are no known human remains located on the project site, nor is there evidence to suggest that human remains may be present on the project site

However, as with most projects in California that involve ground-disturbing activities, there is the potential for discovery of a previously unknown cultural and historical resource or human remains. This is considered a **potentially significant** impact.

The implementation of Mitigation Measure 7 would require appropriate steps to preserve and/or document any previously undiscovered resources that may be encountered during construction activities, including human remains. Implementation of this measure would reduce this impact to a **less than significant** level.

Mitigation Measures

Mitigation Measure 7: *If any prehistoric or historic artifacts, human remains or other indications of archaeological resources are found during grading and construction activities, an archaeologist meeting the Secretary of the Interior's Professional Qualifications Standards in prehistoric or historical archaeology, as appropriate, shall be consulted to evaluate the finds and recommend appropriate mitigation measures.*

- *If cultural resources or Native American resources are identified, every effort shall be made to avoid significant cultural resources, with preservation an important goal. If significant sites cannot feasibly be avoided, appropriate mitigation measures, such as data recovery excavations or photographic documentation of buildings, shall be undertaken consistent with applicable state and federal regulations.*
 - *If human remains are discovered, all work shall be halted immediately within 50 meters (165 feet) of the discovery, the County Coroner must be notified, according to Section 5097.98 of the State Public Resources Code and Section 7050.5 of California’s Health and Safety Code. If the remains are determined to be Native American, the coroner will notify the Native American Heritage Commission, and the procedures outlined in CEQA Section 15064.5(d) and (e) shall be followed.*
 - *If any fossils are encountered, there shall be no further disturbance of the area surrounding this find until the materials have been evaluated by a qualified paleontologist, and appropriate treatment measures have been identified.*

VI. GEOLOGY AND SOILS -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			X	
ii) Strong seismic ground shaking?			X	
iii) Seismic-related ground failure, including liquefaction?		X		
iv) Landslides?			X	
b) Result in substantial soil erosion or the loss of topsoil?		X		
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?		X		
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?		X		
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?				X

RESPONSES TO CHECKLIST QUESTIONS

Responses a.i), a.ii): Less than Significant. The project site is not located within an Earthquake Fault Zone, as defined by the State Geologist. The nearest mapped active fault (Carnegie/Corral Hollow) is located approximately 11 miles southwest of the project site. However, due to the proximity of the project site to numerous inactive and active faults in the surrounding region, the project site has the potential to experience groundshaking. The impact of groundshaking to people or property caused by seismic activity on nearby faults would be increased as a result of site development.

In order to minimize potential damage to the proposed structures caused by groundshaking, all construction would comply with the latest California Building Code standards, as required by

the City of Tracy Municipal Code 9.04.030. Implementation of the California Building Code standards, which include provisions for seismic building designs, would ensure that impacts associated with groundshaking would be less than significant. Building new structures for human use would increase the number of people exposed to local and regional seismic hazards. Seismic hazards are a significant risk for most property in California.

The Safety Element of the Tracy General Plan includes several goals, objectives and policies to reduce the risks to the community from earthquakes and other geologic hazards. In particular, the following policies would apply to the project site:

SA-1.1, Policy P1: Underground utilities, particularly water and natural gas mains, shall be designed to withstand seismic forces.

SA-1.1, Policy P2: Geotechnical reports shall be required for development in areas where potentially serious geologic risks exist. These reports should address the degree of hazard, design parameters for the project based on the hazard, and appropriate mitigation measures.

SA-1.2, Policy P1: All construction in Tracy shall conform to the California Building Code and the Tracy Municipal Code including provisions addressing unreinforced masonry buildings.

Implementation of the requirements of the California Building Code and the Tracy General Plan would ensure that impacts on humans associated with seismic hazards would be **less than significant**. No additional mitigation is required.

Responses a.iii), c), d): Less than Significant with Mitigation. Liquefaction normally occurs when sites underlain by saturated, loose to medium dense, granular soils are subjected to relatively high ground shaking. During an earthquake, ground shaking may cause certain types of soil deposits to lose shear strength, resulting in ground settlement, oscillation, loss of bearing capacity, landsliding, and the buoyant rise of buried structures. The majority of liquefaction hazards are associated with sandy soils, silty soils of low plasticity, and some gravelly soils. Cohesive soils are generally not considered to be susceptible to liquefaction. In general, liquefaction hazards are most severe within the upper 50 feet of the surface, except where slope faces or deep foundations are present (CDMG Special Publication 117, 1997).

Expansive soils are those that undergo volume changes as moisture content fluctuates; swelling substantially when wet or shrinking when dry. Soil expansion can damage structures by cracking foundations, causing settlement and distorting structural elements. Expansion is a typical characteristic of clay-type soils. Expansive soils shrink and swell in volume during changes in moisture content, such as a result of seasonal rain events, and can cause damage to foundations, concrete slabs, roadway improvements, and pavement sections.

Available data indicates the groundwater table fluctuates between an elevation of +2.8 msl and -6.7 msl, or approximately 2 to 12 feet below the ground surface in the project vicinity. The groundwater levels near the project site are considered to be relatively high, and the project

site is underlain by Holocene alluvial and flood basin deposits, and is located within a seismically active area. These conditions indicate that a risk of seismic settlement and liquefaction exist.

The surface and near-surface soils at the project site are variable and contain significant thickness of clays. Laboratory tests of collected surface soils near the project site indicate these clays possess a medium expansion potential that can develop swelling pressures with increases in soil moisture content. Special preparation during site grading and deepening of foundations, accompanied with presaturation of the soil subgrade prior to floor slab placement and reinforcement of floor slabs, may be required to help mitigate the effects of expansive soils.

The Safety Element of the General Plan includes Objective SA-1.1, Policy 1, which requires that geotechnical engineering studies be undertaken for any development in areas where potentially serious geologic risks exist. The implementation of this policy would reduce the potential risk of liquefaction and hazards associated with expansive soils. Given the soils types present on the project site and the relatively high groundwater table, the risk for seismic settlement and/or liquefaction is considered to be a **potentially significant** impact.

Mitigation Measure 8 requires the preparation of a design-level geotechnical engineering study to identify and address potential soil hazards prior to project construction. Additionally, Mitigation Measure 9 includes requirements for soil treatments and possibly replacements during subsurface construction activities, prior to the placement of building foundations. Implementation of these mitigation measures would reduce impacts associated with liquefaction and expansive soils to a **less than significant** level.

Mitigation Measures

Mitigation Measure 8: *In accordance with the California Building Code (Title 24, Part 2) Section 1804A.3 and A.5, and the requirements of Tracy General Plan Objective SA-1.1, Policy 1, liquefaction and seismic settlement potential shall be addressed in the design level geotechnical engineering investigations. The City's Building Division of the Development and Engineering Services Department shall ensure that all the pertinent sections of the California Building Code shall be adhered to in the construction of buildings and structures on site, and that all appropriate measures are implemented in order to reduce the risk of liquefaction and seismic settlement prior to the issuance of a Building Permit.*

Mitigation Measure 9: *During excavation activities and prior to the placement of fill on the site, a certified geotechnical engineer shall be retained by the City and/or project applicant to evaluate subgrade soils for the extent of their expansive potential in areas where buildings or structures are proposed. For areas found to contain soft, potentially expansive clays, the soil shall be removed (i.e., over excavated) and/or stabilized prior to the placement and compaction of fill. Stabilization techniques may include, but are not limited to, the placement of 18 inches of ½-inch to ¾-inch crushed rock over stabilization fabric (such as Mirafi 500X or equivalent), placement of larger, angular stabilization rock (1-inch to 3-inch, clean) and use of chemical treatments such as lime to*

reduce the soil's expansive potential. In addition, building construction alternatives, such as the use of alternative foundation types (i.e., post-tension, piles, etc.) versus end-bearing foundations, shall be considered and implemented where appropriate. Final techniques shall be (a) developed by a certified geotechnical engineer or engineering geologist and (b) reviewed and approved by the City prior to issuance of building permits for each stage of project construction.

Responses a.iv): Less than Significant. The project site is relatively flat and there are no slopes in the vicinity of the project site. As such, the project site is exposed to little or no risk associated with landslides. This is a **less than significant** impact and no mitigation is required.

Response b): Less than Significant with Mitigation. Construction and site preparation activities associated with development of the project site include clearing existing agricultural, native and non-native vegetative ground cover prior to site grading for the installation of the proposed Plant, supporting structures, and facilities. During the construction preparation process, existing vegetation would be removed to grade and compact the project site, as necessary. As construction occurs, these exposed surfaces could be susceptible to erosion from wind and water. Effects from erosion include impacts on water quality and air quality. Exposed soils that are not properly contained or capped increase the potential for increased airborne dust and increased discharge of sediment and other pollutants into nearby surface water sources. Risks associated with erosive surface soils can be reduced by using appropriate controls during construction and properly revegetating exposed areas. Mitigation Measures 3 and 4 requires the implementation of various dust control measures during site preparation and construction activities that would reduce the potential for soil erosion and the loss of topsoil. Additionally, Mitigation Measure 11 would require the implementation of various best management practices (BMPs) that would reduce the potential for disturbed soils and ground surfaces to result in erosion and sediment discharge into adjacent surface waters during construction activities. The implementation of these required mitigation measures would reduce these impacts to a **less than significant** level and no additional mitigation is required.

Response e): No Impact. The project site would be served by public wastewater facilities and does not require an alternative wastewater system such as septic tanks. Implementation of the proposed project would have **no impact** on this environmental issue.

XII. GREENHOUSE GAS EMISSIONS – WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			X	
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gasses?				X

RESPONSES TO CHECKLIST QUESTIONS

Response a): Less than Significant. Once operational, the proposed project would burn agricultural residuals and woody biomass material to generate thermal heat. The combustion of this biomass material would result in the release of CO₂ emissions. CO₂ is the most common and prolific type of greenhouse gas. As described in the project description, the CST biomass burner system is ultra clean firing. Recent source testing of the CST system at the Musco Olive Plant showed that the emissions from the CST system are the lowest of any bio-mass fired system in California.

CO₂ emissions for the Plant were estimated using the set of emission factors published by the EPA in 40 CFR Part 90. The factor considered most similar to the anticipated fuel stream for the Plant is associated with wood and wood residuals. Using this factor, it is estimated that the proposed project would generate approximately 36.2 tons of CO₂ per hour, or 870 tons per day. The proposed Plant would generate approximately 16.4 MW/hr of electricity, and would result in approximately 0.45 tons of CO₂ per MW/hr. As a comparison, electricity produced from coal generates approximately 1.3 tons of CO₂ per MW/hr, and electricity produced from natural gas generates approximately 0.7 tons of CO₂ per MW/hr.

Of the 16.4 MW/hr of electricity produced by the Plant, approximately 15 MW/hr would be distributed to the local power grid and utilized by the City of Tracy and other local electricity users. It is assumed that the energy produced by the Plant would offset the use of energy produced from sources such as coal and natural gas, both of which generate higher levels of CO₂ per MW/hr. It is not known exactly what percentage of the existing electricity used in the project area comes from coal and natural gas. However, it is assumed that coal and natural gas generated electricity would be offset by electricity provided by the proposed project. While some portion of the electricity in the project area undoubtedly comes from renewable sources, such as solar, which generates little to no CO₂ per megawatt hour, it is assumed that energy provided by the project would not replace energy sources that generate less CO₂ per megawatt hour than the proposed project. The basis for this assumption is rooted in the requirements of Executive Order S-14-08, which requires that all retail sellers of electricity shall serve 33 percent of their load with renewable energy by 2020.

It is further noted that SB 1368 requires the California Energy Commission (CEC) and the California Public Utilities Commission (CPUC) to set a global warming emissions standard for electricity used in California — regardless of whether it's generated in-state or purchased from plants in other states. The new standard applies to any new long-term financial contracts for base load electricity, and applies both to investor-owned utilities and municipal utilities. The standard for baseload generation owned by, or under long-term contract to publicly owned utilities, is an emissions performance standard (EPS) of 1,100 lbs CO₂ per megawatt hour, which is equal to 0.55 tons of CO₂ per megawatt hour. It is noted that the project would emit 0.45 tons of CO₂ per megawatt hour, which is below the established EPS. It is further noted that the CPUC has determined that biomass generation of electricity is EPS compliant because alternative means of disposing biomass such as open air burning and landfill deposition have the potential to generate greater concentrations of greenhouse gas in the atmosphere, including methane.

Therefore, while the proposed project would result in the direct emissions of up to 870 tons per day of CO₂, the project would offset a greater amount of CO₂ by displacing the use of energy from sources that generate higher levels of CO₂ per MW/hr. Overall, the project is anticipated to result in a net reduction of GHGs in the project region, and would result in positive impacts associated with GHGs.

Additionally, as further described in the project description, the proposed project would not utilize any forest materials or result in the loss or removal of any vegetation or biomass material that would not otherwise be disposed of. The project would utilize agricultural woody biomass, such as tree prunings and removed crops, as well as urban wood waste and waste from urban tree removal activities. All fuel for the project would be generated and sourced from within 50 miles of the project site. The use of these fuel types would not remove any trees or other living biomass vegetation that provide positive carbon sequestration benefits.

It is further noted that the proposed project includes plans to eventually install a large solar thermal mirror system in the southwestern portion of the project site. The solar thermal mirror system may eventually supplement the use of biomass as a thermal heat source for the proposed desalination plant. Thermal heat energy derived from solar sources does not directly generate GHGs. However, it is not known when, or with certainty if, the solar array system will be installed and operational. Therefore, this analysis is based on a worst-case scenario, and discloses direct GHG emissions that would be generated by the project if only biomass fuel were used to generate thermal heat for the Plant.

The project would also generate limited volumes of CO₂ associated with vehicle trips. Vehicle trips associated with the project include up to 28 new employees. The GHGs emitted from 28 employee trips per day would be negligible, and would not significantly contribute additional sources of GHGs to the atmosphere. The project may also generate up to 20 truck trips per day associated with deliveries of biomass fuel to the project site. As described in the project description, all fuel for the project site would originate within 50 miles of the Plant. Agra Trading, which is located on the project site, would provide 100% of the biomass fuel for the project. Agra Trading currently provides biomass fuel to clients throughout the region, including areas not within the immediate vicinity of the project site. As such, the 20 additional

vehicle trips generated by the project would be considerably shorter in distance, and may actually result in a reduction of GHGs from truck trips delivering biomass fuel throughout the region. It is estimated that employee trips and truck trips combined would generate fewer than 520 tons/year of CO₂.

As described above, the proposed project would generate new direct sources of GHGs. However, the project is anticipated to offset an even higher level of existing GHGs that are generated through energy production from sources such as coal and natural gas. Therefore, the project would not result in a net increase in atmospheric CO₂. This is a **less than significant** impact, and no mitigation is required.

Response b): No Impact. There are numerous local and state-level programs and plans in place that aim to reduce GHG levels in California and the City of Tracy. State-level programs include, but are not limited to:

Bioenergy Action Plan – Executive Order #S-06-06

Executive Order #S-06-06 establishes targets for the use and production of biofuels and biopower and directs state agencies to work together to advance biomass programs in California while providing environmental protection and mitigation. The executive order establishes the following target to increase the production and use of bioenergy, including ethanol and biodiesel fuels made from renewable resources: produce a minimum of 20% of its biofuels within California by 2010, 40% by 2020, and 75% by 2050. The executive order also calls for the state to meet a target for use of biomass electricity, including biomass cogeneration facilities.

California Executive Orders S-3-05 and S-20-06, and Assembly Bill 32

On June 1, 2005, Governor Arnold Schwarzenegger signed Executive Order S-3-05. The goal of this Executive Order is to reduce California's GHG emissions to: 1) 2000 levels by 2010, 2) 1990 levels by 2020 and 3) 80% below the 1990 levels by 2050.

In 2006, this goal was further reinforced with the passage of Assembly Bill 32 (AB 32), the Global Warming Solutions Act of 2006. AB 32 sets the same overall GHG emissions reduction goals while further mandating that ARB create a plan, which includes market mechanisms, and implement rules to achieve "real, quantifiable, cost-effective reductions of greenhouse gases." Executive Order S-20-06 further directs state agencies to begin implementing AB 32, including the recommendations made by the state's Climate Action Team (CAT). Each CAT working group will develop a Near-term Implementation Plan (CATNIPs) for the specific climate change mitigation measures and adaptation strategies being addressed by the working group. These will be the measures and strategies that will be underway or completed by the end of 2010. The CATNIP will include a brief description of the measures and strategies, the steps to be taken in implementation, the agency/department responsible, and the timeline for completion. The Energy Working Group of the Climate Action Team focuses its efforts on both green house gas emission reduction and adaptation actions affecting the energy sector.

CARB, which is part of Cal-EPA, develops air quality regulations at the state level. The state regulations mirror federal regulations by establishing industry-specific pollution controls for criteria, toxic, and nuisance pollutants. California also requires areas to develop plans and strategies for attaining state ambient air quality standards as set forth in the California Clean Air Act of 1988. In addition to developing regulations, CARB develops motor vehicle emission standards for California vehicles.

Assembly Bill 32- Climate Change Scoping Plan

On December 11, 2008 ARB adopted its *Climate Change Scoping Plan* (Scoping Plan), which functions as a roadmap of ARB's plans to achieve GHG reductions in California required by AB 32 through subsequently enacted regulations. The Scoping Plan contains the main strategies California will implement to reduce CO_{2e} emissions by 169 million metric tons (MMT), or approximately 30%, from the state's projected 2020 emissions level of 596 MMT of CO_{2e} under a business-as-usual scenario. (This is a reduction of 42 MMT CO_{2e}, or almost 10%, from 2002–2004 average emissions, but requires the reductions in the face of population and economic growth through 2020.) The Scoping Plan also breaks down the amount of GHG emissions reductions ARB recommends for each emissions sector of the state's GHG inventory. The Scoping Plan calls for the largest reductions in GHG emissions to be achieved by implementing the following measures and standards:

- improved emissions standards for light-duty vehicles (estimated reductions of 31.7 MMT CO_{2e}),
- the Low-Carbon Fuel Standard (15.0 MMT CO_{2e}),
- energy efficiency measures in buildings and appliances and the widespread development of combined heat and power systems (26.3 MMT CO_{2e}), and
- a renewable portfolio standard for electricity production (21.3 MMT CO_{2e}).

The Cal-EPA 2011 Greenhouse Gas Reduction Report Card (January, 2011) reported that in 2009, the date for which the most current data are available, California had achieved a reduction of 1.3 MMT CO_{2e} compared to 2007 levels from implementation of the RPS program.

Senate Bill 1368

SB 1368 requires the California Energy Commission (CEC) and the California Public Utilities Commission (CPUC) to set a global warming emissions standard for electricity used in California — regardless of whether it's generated in-state or purchased from plants in other states. The new standard applies to any new long-term financial contracts for base load electricity, and applies both to investor-owned utilities and municipal utilities. The standard for baseload generation owned by, or under long-term contract to publicly owned utilities, is an emissions performance standard (EPS) of 1,100 lbs CO₂ per megawatt-hour (MWh). However, the CPUC has determined that biomass generation of electricity is EPS compliant because alternative means of disposing biomass such as open air burning and landfill deposition have the potential to generate greater concentrations of greenhouse gas in the atmosphere, including methane.

Senate Bills 1078 and 107 and Executive Order S-14-08

SB 1078 (Chapter 516, Statutes of 2002) requires retail sellers of electricity, including investor-owned utilities and community choice aggregators, to provide at least 20% of their supply from renewable sources by 2017. SB 107 (Chapter 464, Statutes of 2006) changed the target date to 2010. In November 2008, Governor Schwarzenegger signed Executive Order S-14-08, which expands the state's Renewable Energy Standard to 33% renewable power by 2020.

California Renewables Portfolio Standard (RPS)

Established in 2002 under Senate Bill 1078 and accelerated in 2006 under Senate Bill 107, California's Renewables Portfolio Standard (RPS) is one of the most ambitious renewable energy standards in the country. The RPS program requires electric corporations to increase procurement from eligible renewable energy resources by at least 1% of their retail sales annually, until they reach 20% by 2010. Biomass generated electricity is considered an eligible renewable energy source for the RPS program.

The proposed project is consistent with all of the applicable Statewide programs to reduce GHGs described above.

Additionally, the City of Tracy recently adopted the Tracy Sustainability Action Plan. The Sustainability Action Plan includes programs and measures to reduce GHGs through community and municipal operations. Programs and measures contained in the Sustainability Action Plan that relate to the proposed project include:

Measure E-1(k): Develop a public-private partnership to provide incentives for co-generation projects for commercial and industrial facilities using outside funds.

Measure E-1(l): Encourage the development of alternative energy projects and conduct a review of City policies and ordinances to address alternative energy production. Develop protocols for alternative energy storage, such as biodiesel, hydrogen, and/or compressed air. Continue to research the location needs for alternative energy producers and send direct, targeted marketing pieces to alternative energy producers that are appropriate for Tracy. Identify possible City-owned sites for production of local renewable energy sources such as solar, wind, small hydro, and biogas.

Measure E-1(m): Encourage the inclusion of alternative energy facilities that are a secondary use to another project. Identify the best means to avoid noise, aesthetic, and other potential land use compatibility conflicts for alternative energy facilities (e.g. installing tracking solar PV or angling fixed solar PV in a manner that reduces glare to surrounding land uses). Identify and remove regulatory or procedural barriers to producing renewable energy as a secondary use to another project, such as updating codes, guidelines, and zoning.

The proposed project would assist the City of Tracy with implementation of the Sustainability Action Plan, and is consistent with the measures described above.

As described above, the proposed project is consistent with all applicable local and State programs and measures aimed at reducing GHG levels. There is **no impact**.

VIII. HAZARDS AND HAZARDOUS MATERIALS -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?		X		
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?		X		
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?			X	
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?			X	
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?			X	
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?				X
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?			X	

RESPONSES TO CHECKLIST QUESTIONS

Responses a), b): Less than Significant with Mitigation. The proposed project would include a Selective catalytic reduction (SCR) system to reduce emissions of nitrogen oxide gas (NO_x). SCR systems inject ammonia into boiler flue gas and pass it through a catalyst bed where the ammonia and NO_x react to form nitrogen and water vapor. In the United States, SCR systems are often the technology of choice for meeting air emissions regulations that govern the amount of NO_x emissions that can be released into the atmosphere. Other technologies for NO_x reduction include low NO_x burners, staged combustion, gas recirculation, low excess air firing, and selective non-catalytic reduction (SNCR).

Selective catalytic reducers (SCR) work in a manner similar to the way a catalytic converter works to reduce automobile emissions. A gaseous or liquid reductant (generally ammonia or urea) is added to the exhaust gases before they exit a smokestack. The mixed gases travel through several catalytic layers, causing a reaction between the NO_x emissions and the ammonia injection. The reaction converts the NO_x emissions into pure nitrogen and water vapors. The benign elements are then released into the air.

The project's SCR system will require the transport, storage, and use of aqueous ammonia at the project site. Aqueous ammonia is a hazardous substance and toxic chemical, classified by the U.S. Department of Transportation and the Occupational Safety and Health Administration (OSHA) as a hazardous material, and by the U.S. EPA as an "extremely hazardous substance." At low concentrations in the air, ammonia causes irritation to the eyes, nose and throat. At higher concentrations, it causes coughing, bronchial spasms, conjunctivitis, laryngitis, and pulmonary edema.

Anhydrous ammonia delivered to the project site would arrive in pressurized tank trucks, and would be stored on site in a pressurized steel tanks subject to 29 CFR 1919.111 and built in accordance with ASME Boiler and Vessel Code, and rated to 250 pound-force per square in gauge, and equipped with protections and sensors. It is estimated that approximately 3,000 pounds of anhydrous ammonia would be stored on site for use in the SCR system. The facility would install a 600-gallon pressure vessel to store the anhydrous ammonia. At 90% full, the tank capacity is 540 gallons, or 2,780 pounds. It is estimated that the tank would be refilled approximately once per month.

Anhydrous Ammonia (ammonia) (CAS No. 7664-41-7) is subject to the California Accidental Release Prevention Program (CalARP) regulations (Title 19, CCR, Chapter 4.5). The threshold quantity of storage that triggers the CalARP program is 500 pounds of anhydrous ammonia. At 10,000 pounds, the Federal Risk Management Program is triggered.

A Risk Management Plan (RMP) is required when a facility uses a regulated substance in excess of the CalARP threshold quantity, as is the case with the proposed project. An RMP must be completed and submitted to the San Joaquin County Environmental Compliance Division, the Administering Agency for the CalARP Program, in accordance with the California Health and Safety Code, Division 20, Chapter 6.95, Article 2 and the California Code of Regulation (CCR) Title 19 Division 2, Chapter 4.5, Articles 1 through 11.

The RMP summarizes the facility's accidental release prevention program implementation activities, including: Maintenance, Hazard Review, Operating Procedures, Training, Offsite Consequence Analysis, Incident Investigation, Emergency Response Program, and Compliance Audit. The RMP is required to be updated at least every five years, and the facility is required to be inspected by the San Joaquin County Environmental Compliance Division at least once every three years.

Implementation of Mitigation Measure 10 requires the project applicant to prepare and submit an RMP to the San Joaquin County Environmental Compliance Division for review and approval

prior to operation of the SCR system. Compliance with the RMP requirements would reduce risks associated with the accidental release of ammonia to a less than significant level.

Mitigation Measures

Mitigation Measure 10: *The project applicant shall prepare a Risk Management Plan (RMP) for the use and storage of anhydrous ammonia that meets the requirements of California Health and Safety Code, Division 20, Chapter 6.95, Article 2 and the California Code of Regulation (CCR) Title 19 Division 2, Chapter 4.5, Articles 1 through 11. The RMP shall be submitted to the San Joaquin County Environmental Compliance Division for review and approval prior to operation of the SCR system.*

Response c): Less than Significant. The project site is not located within ¼ mile of an existing or proposed school, and would therefore, not result in the exposure of any school site to any hazardous materials that may be used or stored at the project site. As described under Response a), above, the project is subject to mitigation measures that would reduce potential impacts associated with the use or storage of hazardous materials on the project site that would reduce this impact to a less than significant level. However, since there are no schools in the immediate vicinity of the project site, this impact is considered **less than significant** and no additional mitigation is required.

Response d): Less than Significant. According to the California Department of Toxic Substances Control (DTSC) there are no Federal Superfund Sites, State Response Sites, or Voluntary Cleanup Sites on, or in the vicinity of the project site. The DTSC Envirostor Database identifies three cleanup sites in the vicinity of the City of Tracy. The cleanup site nearest the project site is located at the corner of Tracy Blvd. and Beechnut Ave., over two miles south of the project site. A search of the State Water Resources Control Board Geotracker Database revealed a leaking underground storage tank on the project site. According to the Geotracker Database, gasoline leaked from an underground storage tank, and cleanup activities were completed in January 2011. Cleanup activities were verified, and the case was formally closed in July 2011. Therefore, the project site does not contain any known hazardous materials, and this is a **less than significant** impact.

Responses e), f): Less than Significant. The Federal Aviation Administration (FAA) establishes distances of ground clearance for take-off and landing safety based on such items as the type of aircraft using the airport. The San Joaquin County Airport Land Use Commission (ALUC) is an advisory body that assists local agencies with ensuring the compatibility of land uses in the vicinity of airports. The County ALUC reviews proposed development projects for consistency with airport land use compatibility. The General Plan presents a policy that is designed to ensure that new development is consistent with setbacks, height and land use restrictions as determined by the Federal Aviation Administration and the San Joaquin County Airport Land Use Commission, as well as the policies of the City's Airport Master Plan.

The Tracy Municipal Airport is the closest airport to the project site, located approximately eight miles south of the site. The Airport is a general aviation airport owned by the City and managed by the Parks and Community Services Department. The Tracy Airport Master Plan

shows that the project site is not located within a flight zone and the proposed project is not considered an incompatible land use. Implementation of the proposed project would have a **less than significant** impact with regards to this environmental issue.

Response g): No Impact. The General Plan includes policies that require the City to maintain emergency access routes that are free of traffic impediments (Objective SA-6.1, P1 and A2). The proposed project does not include any actions that would impair or physically interfere with an adopted emergency response plan or emergency evacuation plan. Furthermore, the proposed project would not result in population growth that would increase the demand for emergency services during disasters. Implementation of the proposed project would result in **no impact** on this environmental topic.

Response h): Less than Significant. The risk of wildfire is related to a variety of parameters, including fuel loading (vegetation), fire weather (winds, temperatures, humidity levels and fuel moisture contents) and topography (degree of slope). Steep slopes contribute to fire hazard by intensifying the effects of wind and making fire suppression difficult. Fuels such as grass are highly flammable because they have a high surface area to mass ratio and require less heat to reach the ignition point, while fuels such as trees have a lower surface area to mass ratio and require more heat to reach the ignition point.

The City has areas with an abundance of flashy fuels (i.e. grassland) in the outlying residential parcels and open lands that when combined with warm and dry summers with temperatures often exceeding 100 degrees Fahrenheit create a situation that results in higher risk of wildland fires. Most wildland fires are human caused, so areas with easy human access to land with the appropriate fire parameters generally result in an increased risk of fire.

The California Department of Forestry has designated the western and southern edge of the City as having a moderate wildland fire potential. This is predominately a result of the hills and grassland habitat that persists. The proposed project is located on the northern edge of the City in an area that is actively farmed or used for industrial uses. This area is considered lower risk to wildfires when compared to the hilly area on the south side of the City.

The General Plan includes a variety of policies that are designed to minimize wildfire risk. These standard policies include the use of fire-resistant plants, ground cover, and roofing materials, and clearing areas around structures of potential fuel (Objective SA-3.1, P1 and P4). The General Plan also establishes fire flow and hydrant standards to facilitate fire-fighting in the event of a fire (Objective SA-3.1, P3).

Biomass fuel for the proposed project would be sourced from the existing Agra Trading company operations on the project site. Agra Trading currently maintains biomass fuel stock on the site, and the proposed project would not result in significant changes to the existing baseline environmental conditions. Fuel piles are actively managed and rotated on a continuous basis to reduce risks associated with combustion that may occur if biomass piles were left to decompose. This risk of wildland fires at the project site is considered a **less than significant** impact.

IX. HYDROLOGY AND WATER QUALITY -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Violate any water quality standards or waste discharge requirements?			X	
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?			X	
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?		X		
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?		X		
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?		X		
f) Otherwise substantially degrade water quality?		X		
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?			X	
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?			X	
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?			X	
j) Inundation by seiche, tsunami, or mudflow?			X	

RESPONSES TO CHECKLIST QUESTIONS

Responses a): Less than Significant. As described above in the project description, the primary purpose of the proposed project is to construct and operate an approximately 1,200,000 gallon per day (gpd) desalination plant in the City of Tracy. The desalination plant would process treated effluent currently generated by the Tracy WWTP to a quality that is suitable for discharge into the Sacramento San Joaquin Delta (Delta) and meets State standards for water quality discharge. The Tracy WWTP currently processes approximately 9,000,000 gpd of effluent. The WWTP discharges this treated effluent directly into the Delta. The WWTP's discharge currently contains salt in amounts that exceed the Delta salinity standards. Salinity in water is generally measured in Total Dissolved Solids (TDS). Project implementation would effectively remove salt from approximately 13 percent of the WWTP's effluent. The treated desalination water would then be blended back into the remaining WWTP effluent prior to discharge into the Delta. The newly blended and treated effluent will have lower salinity and will assist the City in compliance with all applicable Delta salinity standards. Overall, the proposed project would have result in significantly beneficial impacts to water quality. For the purposes of this analysis, this is a **less than significant** impact, and no mitigation is required.

Responses b): Less than Significant. The proposed project would treat wastewater generated at the Tracy WWTP plant to reduce salinity levels. No groundwater would be used by the proposed project, and the project would not increase existing levels of groundwater pumping. Groundwater recharge occurs primarily through percolation of surface waters through the soil and into the groundwater basin. The addition of significant areas of impervious surfaces (such as roads, parking lots, buildings, etc) can interfere with this natural groundwater recharge process. The project will include areas of impervious surfaces, such as the proposed parking lots and various structures. However, given the relatively large size of the groundwater basin in the Tracy area, the areas of impervious surfaces added as a result of project implementation will not adversely affect the recharge capabilities of the local groundwater basin. The largest area of the project site that may be disturbed would be the southwestern portion of the site where the solar arrays would be located. The ground cover beneath the solar arrays would not be paved, and therefore, the proposed project would not impair the ability of this area of the project site to absorb surface waters, primarily rainfall. Given the relatively small area of new impervious surfaces that would be constructed by the project, the project would not significantly impair groundwater recharge in the area. This is a **less than significant** impact and no mitigation is required.

Responses c), d), e), f): Less than Significant with Mitigation. When land is in a natural or undeveloped condition, soils, mulch, vegetation, and plant roots absorb rainwater. This absorption process is called infiltration or percolation. Much of the rainwater that falls on natural or undeveloped land slowly infiltrates the soil and is stored either temporarily or permanently in underground layers of soil. When the soil becomes completely soaked or saturated with water or the rate of rainfall exceeds the infiltration capacity of the soil, the rainwater begins to flow on the surface of land to low lying areas, ditches, channels, streams, and rivers. Rainwater that flows off of a site is defined as storm water runoff. When a site is in

a natural condition or is undeveloped, a larger percentage of rainwater infiltrates into the soil and a smaller percentage flows off the site as storm water runoff.

The infiltration and runoff process is altered when a site is developed with urban uses. Houses, buildings, roads, and parking lots introduce asphalt, concrete, and roofing materials to the landscape. These materials are relatively impervious, which means that they absorb less rainwater. As impervious surfaces are added to the ground conditions, the natural infiltration process is reduced. As a result, the volume and rate of storm water runoff increases. The increased volumes and rates of storm water runoff may result in flooding if adequate storm drainage facilities are not provided.

Development of the project site would place a limited amount of impervious surfaces on an approximately 13-acre portion of the project site where the Plant would be constructed. Development of the project site would potentially increase local runoff production, and would introduce constituents into storm water that are typically associated with urban runoff. These constituents include heavy metals (such as lead, zinc, and copper) and petroleum hydrocarbons. Best management practices (BMPs) will be applied to the proposed site development to limit the concentrations of these constituents in any site runoff that is discharged into downstream facilities to acceptable levels. It is anticipated that stormwater flows from the project site would be directed to the irrigation canals located to the north of the project site.

In order to ensure that stormwater runoff from the project site does not adversely increase pollutant levels in adjacent surface waters and stormwater conveyance infrastructure, Mitigation Measure 11 requires the preparation of a Stormwater Pollution Prevention Plan (SWPPP). As described below, the SWPPP would require the application of best management practices (BMPs) to effectively reduce pollutants from stormwater leaving the site during both the construction and operational phases of the project. The implementation of this mitigation measure would reduce this impact to a **less than significant** level. Additionally, the project is subject to the requirements of Chapter 11.34 of the Tracy Municipal Code – Stormwater Management and Discharge Control. The purpose of this Chapter is to *“Protect and promote the health, safety and general welfare of the citizens of the City by controlling non-stormwater discharges to the stormwater conveyance system, by eliminating discharges to the stormwater conveyance system from spills, dumping, or disposal of materials other than stormwater, and by reducing pollutants in urban stormwater discharges to the maximum extent practicable.”*

This chapter is intended to assist in the protection and enhancement of the water quality of watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Federal Water Pollution Control Act (Clean Water Act, 33 USC Section 1251 et seq.), Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.) and National Pollutant Discharge Elimination System (“NPDES”) Permit No. CAS000004, as such permit is amended and/or renewed.

Mitigation Measures

Mitigation Measure 11: *The project shall prepare a Storm Water Pollution Prevention Plan (SWPPP) that includes specific types and sources of stormwater pollutants, determine the location and nature of potential impacts, and specify appropriate control measures to eliminate any potentially significant impacts on receiving water quality from stormwater runoff. The SWPPP shall require treatment BMPs that incorporate, at a minimum, the required hydraulic sizing design criteria for volume and flow to treat projected stormwater runoff. The SWPPP shall comply with the most current standards established by the Central Valley RWQCB. Best Management Practices shall be selected from the City’s Manual of Stormwater Quality Control Standards for New Development and Redevelopment according to site requirements and shall be subject to approval by the City Engineer and Central Valley RWQCB.*

Responses g), h): Less than Significant. The 100-year floodplain denotes an area that has a one percent chance of being inundated during any particular 12-month period. The risk of this area being flooded in any century is one percent but statistically the risk is almost 40 percent in any 50-year period.

Floodplain zones are determined by the Federal Emergency Management Agency (FEMA) and used to create Flood Insurance Rate Maps (FIRMs). These tools assist cities in mitigating flooding hazards through land use planning. FEMA also outlines specific regulations for any construction, whether residential, commercial, or industrial within 100-year floodplains.

The project site is located within flood zone AE at an elevation of approximately 11 feet (based upon FEMA FIRM Map No. FM0602990570C). Lands within the FEMA-designated 100-year floodplain or Zone A are subject to mandatory flood insurance purchase as required by FEMA. The insurance rating is based on the difference between the base flood elevation (BFE), the average depth of the flooding above the ground surface for a specific area, and the elevation of the lowest floor. Because Tracy participates in the National Flood Insurance Program, it must require development permits to ensure that construction materials and methods will mitigate future flood damage. New construction and substantial improvements of residential structures are also required to “have the lowest floor (including the basement) elevated to or above the base flood level.” Non-residential structures must have their utility systems above the BFE or be of flood-proof construction.

There are no residences or residential structures proposed as part of the project. The project would place non-residential structures within the 100-year flood zone, as mapped by FEMA.

The purpose of Chapter 9.52 of the Tracy Municipal Code –Floodplain Regulations – is to: *“Promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed: (a) To protect human life and health; (b) To minimize expenditure of public money for costly flood control projects; (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; (d) To minimize prolonged business interruptions; (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard; (f) To help maintain a*

stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas; (g) To ensure that potential buyers are notified that property is in an area of special flood hazard; and (h) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.” (Prior code Section 9-13.03)

The chapter includes methods and provisions for restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazard or which result in damaging increases in flood height or velocities; requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction; controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters; controlling filling, grading, dredging, and other development which may increase flood damage; and preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. This chapter applies to all areas of special flood hazards within the jurisdiction of the City, and includes areas of special flood hazards as identified by the FEMA Flood Insurance Study of the City of Tracy, dated June 18, 1987.

The proposed project would not impact or impede the flow of any surface water resources (rivers or streams) during a flood event. While the project site and the associated structures may be subject to water damage during a flood event, project implementation would not increase the risk of flooding offsite during a storm event. The project must comply with the regulations and standards set forth in Chapter 9.52 of the Tracy Municipal Code. Compliance with these requirements would reduce potential flood damage to structures on-site and would reduce this impact to a **less than significant** level. No additional mitigation is required.

Responses i), j): Less than Significant. The project site is located within the inundation risk area for San Luis Reservoir and New Melones Dam. The safety of dams in California is stringently monitored by the California Department of Water Resources, Division of Safety of Dams. In the unlikely event of a dam failure, there is the potential that the project site could become inundated with water. However, there are no residences proposed within the project site that would place people or residential structures at risk of dam failure. As described above, the project site is located within the 100-year flood zone, compliance with the requirements of Chapter 9.52 of the Tracy Municipal Code would ensure that the elevations of all on-site building pads are elevated above flood levels or that the structures are developed to be otherwise protected from flood waters. The Tracy General Plan EIR (2006) concluded that the risk associated with dam failure within the planning area was less than significant. Implementation of the proposed project would not increase the risk of exposure to dam failure, place new residences within a dam failure inundation zone, nor would it expose people to significant risk of dam failure.

There are no significant bodies of water near the project site that could result in the occurrence of a seiche or tsunami. Additionally, the project site and the surrounding areas are essentially flat, which precludes the possibility of mudflows occurring on the project site. This is a **less than significant** impact and no mitigation is required.

X. LAND USE AND PLANNING - Would the project:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Physically divide an established community?				X
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?			X	
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?		X		

RESPONSES TO CHECKLIST QUESTIONS

Responses a): No Impact. The project site is surrounded by agricultural and industrial lands. Implementation of the proposed project would not divide an established community. There is **no impact** and no mitigation is required.

Responses b): Less than Significant. Implementation of the proposed project would require annexation of the project site into the City of Tracy, a General Plan Amendment (GPA) to designate portions of the site as Industrial (I), and rezoning of the project site to Light Industrial (M-1) to accommodate the proposed uses. The first action that the City of Tracy will take with respect to consideration of the proposed project would be to annex the site into the City limits, approve the GPA and rezone the site to Light Industrial (M-1). Prior to any land use changes, the project site would be under the City's jurisdiction. Therefore, the proposed project is not reviewed for consistency with the policies and objectives of the San Joaquin County General Plan.

As described in the Tracy General Plan, specific uses allowed in the industrial category range from flex/office space to manufacturing to warehousing and distribution. Industrial parcels should have a maximum FAR of 0.5. Ancillary uses, such as restaurants and consumer services, may be allowed to serve the daily needs of the workers. Industrial uses are located to provide proper truck access, buffering from incompatible uses and proximity with rail corridors and transit links. The proposed project would be an allowed use within the Industrial land use designation, and would not conflict with the City's General Plan.

The project would require annexation approval from the San Joaquin Local Agency Formation Commissions (LAFCO). The San Joaquin LAFCO is a state-mandated local agency responsible for: the oversight of boundary changes to cities and special districts; the formation of new agencies, including incorporation of new cities; and the consolidation of existing agencies. The broad goals of LAFCO are to ensure the orderly formation of local government agencies, to preserve agricultural and open space lands, and to discourage urban sprawl.

Annexation Policies and Procedures

The following policies govern LAFCO determinations regarding annexations. In some cases, these policies are summarized.

1. **Spheres and Municipal Service Reviews:** The annexation must be consistent with the internal planning horizon of the SOI and shall normally lie within the first planning increment boundary. The MSR and SOI Plan must demonstrate that adequate services can be provided.
2. **Plan for Services:** Every proposal must include a plan for services consistent with Section 56653 of Government code and the Municipal Services Review demonstrating that the need for services can be met.
3. **Contiguity:** Territory proposed to be annexed must be contiguous to the annexing city or district unless specifically allowed by statute. Territory is not contiguous if the only connection is a strip of land more than 300 feet long and less than 200 wide, that width to be exclusive of highways. A proposed annexation must not result in areas that are difficult to serve.
4. **Development Within Jurisdiction:** Development of vacant or non-prime agricultural lands within the existing City or SOI is encouraged before approval of any proposal which would lead to development outside the SOI of existing open space lands for non-open space uses.
5. **Progressive Urban Pattern:** Annexations shall be progressive steps toward filling in the territory designated by the SOI with growth from inner toward outer areas.
6. **Piecemeal Annexation Prohibited:** Annexations must be consistent with the schedule for annexation that is contained in the agency's Sphere of Influence Plan. LAFCO will modify small piece-meal or irregular annexations, to include additional territory in order to promote orderly annexation and logical boundaries, while maintaining a viable proposal. In such cases, detailed development plans may not be required for those additional areas but compliance with CEQA is required.
7. **Annexation to Eliminate Islands:** This policy is not applicable because the proposed Project would not involve annexation of an island of unincorporated land.
8. **Annexations that Create Islands:** An annexation must not result in the creation of an island of unincorporated territory or otherwise distort existing boundaries. LAFCO may approve such an annexation if the application of this policy would be detrimental to the orderly development of the community and a reasonable effort has been made to include the island in the annexation but that inclusion is not feasible. This policy is not applicable because the proposed Project would not create an island of unincorporated land.

9. **Substantially Surrounded:** The subject territory of an annexation proposal shall be deemed “substantially surrounded” if it is within the sphere of influence of the affected city and two-thirds (66-2/3%) of its boundary is surrounded by the affected city. This policy is not applicable to the proposed Project because it pertains to island annexations.
10. **Definite and Certain Boundaries:** All boundaries shall be definite and certain and conform to lines of assessment or ownership.
11. **Service Requirements:** This policy is not applicable to the proposed project because it pertains to annexations to provide services.
12. **Adverse Impacts of Annexation of Other Agencies:** LAFCO will consider any significant adverse effects upon other service recipients or other agencies serving the area and may condition any approval to mitigate such impacts.
13. **District’s Proposal to Provide New, Different, or Divestiture of a Particular Function of Class of Services:** This policy is not applicable to the proposed Project because it pertains to districts that provide services.

The Project proposes to annex the Project site into the City. At the time LAFCO considers the annexation application, it must be consistent with LAFCO policies. The proposed Project would be consistent with Policy 1, which requires annexations to be within the internal planning horizon of the Sphere of Influence. It also stipulates that approval of the annexation is dependent on demonstration in the Municipal Service Review (MSR) and Sphere of Influence (SOI) Plan that adequate services can be provided to the annexed area. The Project site is within the first planning increment boundary of the City’s existing SOI. LAFCO is currently in receipt and is reviewing but has not yet adopted the City’s MSR or SOI Update. However, these documents would be in place prior to consideration of the annexation request and would demonstrate that adequate services would be provided.

Policy 2 requires annexation proposals to include a Plan for Services. When the application for annexation is submitted to LAFCO, it would include a Plan for Services that addresses the items identified in Section 56653 of the California Government Code.

The proposed Project would also be consistent with Policy 3, which requires the annexation to be contiguous to the City. The project site is immediately contiguous to the City of Tracy along its southern boundary. Policy 4 requires development of urban uses within the existing jurisdiction or Sphere of Influence before development of existing open space for non-open space uses is allowed outside the jurisdiction or existing Sphere of Influence. The proposed project would develop land that is contiguous to existing urban development within the City and is within the City’s Sphere of Influence.

The Project would result in progressive steps toward filling in the territory designated by the City’s Sphere of Influence for future development and would not represent piece meal annexation, consistent with Policies 5 and 6. The proposed annexation would also conform to

the lines of assessment and property ownership, consistent with Policy 10. Finally, pursuant to Policy 12, the proposed annexation would not result in impacts on other service recipients or agencies serving the area.

As described above, the proposed project would be consistent with LAFCO requirements and the City's General Plan. This is considered a **less than significant** impact and no mitigation is required.

Response c): Less than Signification with Mitigation. The project site is located within the jurisdiction of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan ("Plan" or "SJMSCP") and is located within the Central/Southwest Transition Zone of the SJMSCP. The San Joaquin Council of Governments (SJCOG) prepared the Plan pursuant to a Memorandum of Understanding adopted by SJCOG, San Joaquin County, the United States Fish and Wildlife Service (USFWS), the California Department of Fish and Game (CDFG), Caltrans, and the cities of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton, and Tracy in October 1994. On February 27, 2001, the Plan was unanimously adopted in its entirety by SJCOG. The City of Tracy adopted the Plan on November 6, 2001.

According to Chapter 1 of the SJMSCP, its key purpose is to "provide a strategy for balancing the need to conserve open space and the need to convert open space to non-open space uses, while protecting the region's agricultural economy; preserving landowner property rights; providing for the long-term management of plant, fish and wildlife species, especially those that are currently listed, or may be listed in the future, under the Federal Endangered Species Act (ESA) or the California Endangered Species Act (CESA); providing and maintaining multiple use Open Spaces which contribute to the quality of life of the residents of San Joaquin County; and, accommodating a growing population while minimizing costs to project proponents and society at large."

In addition, the goals and principles of the SJMSCP include the following:

- Provide a County-wide strategy for balancing the need to conserve open space and the need to convert open space to non-open space uses, while protecting the region's agricultural economy.
- Preserve landowner property rights.
- Provide for the long-term management of plant, fish, and wildlife species, especially those that are currently listed, or may be listed in the future, under the ESA or the CESA.
- Provide and maintain multiple-use open spaces, which contribute to the quality of life of the residents of San Joaquin County.
- Accommodate a growing population while minimizing costs to project proponents and society at large.

In addition to providing compensation for conversion of open space to non open space uses, which affect plant and animal species covered by the SJMSCP, the SJMSCP also provides some

compensation to offset impacts of open space conversions on non-wildlife related resources such as recreation, agriculture, scenic values and other beneficial open space uses. Specifically, the SJMSCP compensates for conversions of open space to urban development and the expansion of existing urban boundaries, among other activities, for public and private activities throughout the County and within Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton, and Tracy.

Participation in the SJMSCP is voluntary for both local jurisdictions and project applicants. Only agencies adopting the SJMSCP would be covered by the SJMSCP. Individual project applicants have two options if their project is located in a jurisdiction participating in the SJMSCP: mitigating under the SJMSCP or negotiating directly with the state and/or federal permitting agencies. If a project applicant opts for SJMSCP coverage in a jurisdiction that is participating under the SJMSCP, the following options are available, unless their activities are otherwise exempted: pay the appropriate fee; dedicate, as conservation easements or fee title, habitat lands; purchase approved mitigation bank credits; or, propose an alternative mitigation plan.

Responsibilities of permittees covered by the SJMSCP include, collection of fees, maintenance of implementing ordinances/resolutions, conditioning permits (if applicable), and coordinating with the Joint Powers Authority (JPA) for Annual Report accounting. Funds collected for the SJMSCP are to be used for the following: acquiring Preserve lands, enhancing Preserve lands, monitoring and management of Preserve lands in perpetuity, and the administration of the SJMSCP. Because the primary goal of SJMSCP to preserve productive agricultural use that is compatible with SJMSCP's biological goals, most of the SJMSCP's Preserve lands would be acquired through the purchase of easements in which landowners retain ownership of the land and continue to farm the land. These functions are managed by San Joaquin Council of Governments.

The proposed project is an annexation of land into an existing incorporated city limits and is located immediately adjacent to the boundaries of the defined community, which falls into the category of "Unmapped Land Use Project" under the SJMSCP. Projects in this category are subject to a case-by-case review by a Technical Advisory Committee (TAC) to ensure that the biological impacts of the proposed project are within the parameters established by the SJMSCP and the Biological Opinion.

"Unmapped Land Use Projects" that seek coverage under the SJMSCP are required to complete the "*Section 8.2.1(10) Checklist for Unmapped SJMSCP Projects*" with supporting documentation for SJCOG to review and confirm that the proposed project is consistent with the SJMSCP and the Biological Opinion. If the TAC confirms that the proposed project is consistent with the SJMSCP, they will recommend to the Joint Powers Authority that the project receive coverage under the SJMSCP. As required by Mitigation Measure 5, the City must submit a Biological Assessment and SJMSCP Coverage Application to the San Joaquin Council of Governments (SJCOG) to include the project site in the SJMSCP. Compliance with this required would ensure that the project has a **less than significant** impact related to this environmental topic.

XI. MINERAL RESOURCES -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?			X	
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?			X	

RESPONSES TO CHECKLIST QUESTIONS

Responses a), b): Less than Significant. As described in the Tracy General Plan EIR, the main mineral resources found in San Joaquin County, and the Tracy Planning Area, are sand and gravel (aggregate), which are primarily used for construction materials like asphalt and concrete. According to the California Geological Survey (CGS) evaluation of the quality and quantity of these resources, the most marketable aggregate materials in San Joaquin County are found in three main areas:

- ◆ In the Corral Hollow alluvial fan deposits south of Tracy
- ◆ Along the channel and floodplain deposits of the Mokelumne River
- ◆ Along the San Joaquin River near Lathrop

Figure 4.8-1 of the General Plan EIR identifies Mineral Resource Zones (MRZs) throughout the Tracy Planning Area. The project site is located within an area designated as MRZ-1. The MRZ-1 designation applies to areas where adequate information indicates that no significant mineral deposits are present or where it is judged that little likelihood exists for their presence. Therefore, the project would not result in the loss of availability of a known mineral resource. In the event that mineral resources were determined in the future to be present on the project site, implementation of the project would not preclude the ability to extract these resources in the future. Therefore, this impact is considered **less than significant**

XII. NOISE -- WOULD THE PROJECT RESULT IN:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			X	
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?			X	
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?			X	
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?				X

RESPONSES TO CHECKLIST QUESTIONS

Responses a), c): Less than Significant. Generally, a project may have a significant effect on the environment if it will substantially increase the ambient noise levels for adjoining areas or expose people to severe noise levels. In practice, more specific professional standards have been developed. These standards state that a noise impact may be considered significant if it would generate noise that would conflict with local planning criteria or ordinances, or substantially increase noise levels at noise-sensitive land uses.

There are no existing noise sensitive land uses adjacent to the project site. The project site is located in an agricultural and industrial area that generally has a relatively high level of ambient background noise throughout the day. There nearest noise sensitive land uses are residences located approximately 0.5 miles to the south of the site.

A review of noise studies conducted for comparable facilities indicated that the project would be expected to generate average hourly daytime noise levels of less than 65 dBA at the property line. This noise level is within the thresholds established by the Tracy General Plan, and would not constitute a significant increase in ambient noise levels. The Tracy General Plan establishes

noise levels for district zones. The project site is surrounded by industrial and agricultural zones, each of which have established 75 dBA as the maximum hourly average noise level.

Project implementation would result in an increase in daily vehicle and truck trips to the project site. However, these trips would be dispersed throughout the day, and are not anticipated to generate more than 7 additional trips in any given hour throughout the day. The majority of new vehicle trips generated by the project would occur during the daytime, when sensitivity to noise is reduced (when compared to nighttime noise sensitivity). The project site is located within an area designated and zoned for industrial uses, and the ambient background noise levels are relatively high under existing conditions.

This increase in daily vehicle trips would not significantly increase the ambient traffic noise levels in the project vicinity and would not result in a violation of any established noise thresholds in the project vicinity.

Due to the project's projected noise levels' compliance with the General Plan, and the lack of sensitive receptors in the project vicinity, this impact is considered **less than significant** and no mitigation is required.

Responses b), d): Less than Significant. Operation of the proposed project would not result in groundborne vibrations. Construction of the project may result in temporary increases in ambient noise levels from the use of heavy machinery and equipment used during construction. Pile driving or blasting would not be required for project construction, and therefore, groundborne vibration would not occur during construction activities. Additionally, as described above, the project site is not located near any sensitive noise receptors. Construction activities associated with the project are required to occur during the daytime hours between 7:00 a.m. and 7:00 p.m., which would ensure that construction noise does not increase ambient nighttime noise levels in the project vicinity. Additionally, construction noise would be temporary, and limited to the time needed to complete site preparation activities. This is considered a **less than significant** impact and no mitigation is required.

Responses e) and f): No Impact. The project site is not located within two miles of a public airport or a private airstrip. There is **no impact**.

XIII. POPULATION AND HOUSING -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			X	
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?			X	
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?			X	

RESPONSES TO CHECKLIST QUESTIONS

Responses a), b), c): Less than Significant. Implementation of the project would not directly result in population growth, nor would it convert any land use designations to a use that would allow for the construction of housing. The proposed project will not generate a significant number of new jobs which could lead indirectly to population growth.

The project would not extend water, wastewater and electrical infrastructure to an area that could result in indirect population growth as a result of new infrastructure, as the lands surrounding the site would remain under their current agricultural and industrial designations, and the extension of infrastructure to the site would not facilitate the construction of housing in an area that is not currently served by infrastructure.

There are no homes or residents currently located on the project site, and therefore, no homes or people would be displaced as a result of project implementation. These impacts are considered **less than significant** and no mitigation is required.

XIV. PUBLIC SERVICES

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i) Fire protection?			X	
ii) Police protection?			X	
iii) Schools?			X	
iv) Parks?			X	
v) Other public facilities?			X	

*RESPONSES TO CHECKLIST QUESTIONS***Response a): Less than Significant.****Fire Protection and Emergency Medical Services**

The Tracy Fire Department, as a member agency of the South County Fire Authority, provides fire protection, life safety, and emergency response services to 167 square miles of the southern part of San Joaquin County. In 1999, the South County Fire Authority was established to more effectively and efficiently serve the City of Tracy, the Tracy Rural Fire Protection District (FPD), and the Mountain House Community Services District (CSD).

The Fire Authority currently operates seven fire stations and an administrative office. Twenty-four hour-a-day staffing is provided with five paramedic engine companies, two basic life support engine companies, and one ladder truck company. Three fire stations are within the incorporated area of the City of Tracy, three are in the surrounding rural Tracy area, and one is located in the planned Community of Mountain House.

Medical transport is provided by private ambulance. American Medical Response is the exclusive emergency ambulance service provider in San Joaquin County.

The Tracy Fire Department has 74.94 full-time equivalent (FTE) fire fighters/ fire station staff, and an additional 4.30 FTE civilian staff. The 2010 ratio of fire fighters per 1,000 population was 0.9 certified fire fighters per 1,000 population.

The Tracy Fire Department conducted a Standards of Response Coverage study in late 2007. Findings of the study indicated that the Department has challenges in meeting its established response time objectives in the areas of the West Valley Mall and Downtown Tracy utilizing existing resources. The Department is currently in the process of mitigating the deficiency in the area of the West Valley Mall through the potential relocation of an existing fire station. Future development will create a need for expanded fire and emergency medical services.

Currently the Department is working on a plan to expand its ability to deliver Advanced Life Support services from all seven Fire Department facilities. Since November 2008, the Fire Department has expanded its provision of Advanced Life Support Services to six of the seven fire stations; there are plans to provide these services from the final station upon successful relocation of the facility, which is expected to be completed in fiscal year 2012/2013. Emergency medical services in Tracy and the surrounding areas are reported to be good, as Tracy is one of only three fire departments in San Joaquin County that provide Advanced Life Support services, and there are no reported concerns about the level of service provided.

Recognizing the potential need for increases in fire protection and emergency medical services, the City's General Plan includes policies to ensure that adequate related facilities are funded and provided to meet future growth (Objective PF-1.1, P1). This policy will be implemented through the review of all new projects within the SOI, prior to development, and through the collection of development impact fees for the funding of facilities,

The project site and the surrounding area is served by Fire Station #96, which is currently located at 301 West Grantline Road, approximately 1 mile south-southwest of the project site. The Tracy Fire Department is currently in the process of relocating Station #96 to 1800 West Grantline Road, which is approximately 1.5 miles southwest of the project site. The City owns the land at the new site of Station #96, and has identified the relocated fire station as a Capital Improvement Project (CIP 71061). The contract to begin improvements on the site was approved by the Tracy City Council on August 2, 2011. The relocated Station #96 will be operated by the same staff as the existing Station #96 and is scheduled to begin operating in 2013. The project site is located within the Fire Department's 5-minute response zone.

Implementation of the proposed project would not adversely impact existing fire and emergency services within the City, and would not require the construction of new fire protection facilities.

In order to provide adequate fire protection and suppression services to the project site, the Tracy Fire Department must have access to adequate onsite hydrants with adequate fire-flow pressure available to meet the needs of fire suppression units. The final site plans and development specifications developed for the proposed project will indicate the location and design specifications of the fire hydrants that will be required within the project site.

Police Protection

The Tracy Police Department provides police protection services to the City of Tracy. Its headquarters are located at 1000 Civic Center Drive, and there are no satellite offices or plans

to construct any in the near future (General Plan Draft EIR, 2006). The Department currently employs 91 officers, and responded to over 72,500 calls for service in 2008. The Department also has 43 non-sworn positions, which include both full- and part-time administrators, communications dispatchers, community services personnel, animal control, crime scene technicians, and a records superintendent. The City has a goal of a 5-minute response time for Priority 1 calls (life threatening situations).

The police station is located approximately 2.25 miles from the project site. The Department divides calls for service into three categories:

- Priority 1 calls are defined as life threatening situations.
- Priority 2 calls are not life threatening, but require immediate response.
- Priority 3 calls cover all other calls received by the police.

The average response time for Priority 1 calls within the City limits is approximately seven to nine minutes. Response time for Priority 2 and 3 calls is, on average, between 20 and 30 minutes. The Tracy Police Department provides mutual aid to the San Joaquin County Sheriff's office, and vice versa, when a situation exceeds the capabilities of either department. Mutual aid is coordinated through the San Joaquin County Sheriff.

It is not anticipated that implementation of the proposed project would result in significant new demand for police services. Project implementation would not require the construction of new police facilities to serve the project site, nor would it result in impacts to the existing response times and existing police protection service levels.

Schools, Parks and Other Public Facilities

The proposed project would not result in population growth in the City of Tracy. Since the project would not result in population growth, implementation of the project would not result in increased enrollment in area schools, which could lead to impacts, nor would the project increase demand for parks or other public facilities.

As described above, the proposed project would not increase demand for fire, police or emergency services. Nor would the project increase demand for schools, parks or other public facilities. This is a **less than significant** impact and no mitigation is required.

XV. RECREATION

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

RESPONSES TO CHECKLIST QUESTIONS

Responses a), b): No Impact. The proposed project would not increase the use of existing recreational facilities, nor would it include the construction of new recreational facilities. There is **no impact**.

XVI. TRANSPORTATION/TRAFFIC -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?			X	
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?			X	
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?				X
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?				X
e) Result in inadequate emergency access?				X
f) Result in inadequate parking capacity?			X	
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?				X

RESPONSES TO CHECKLIST QUESTIONS

Response a), b): Less than Significant. The proposed project would result in minimal increases in traffic in the project area. The Plant would operate 24 hours per day, and would utilize seven to nine employees per shift. Additionally, the project may require up to 20 truck trips per day associated with biomass fuel deliveries. These trips are anticipated to occur throughout the day, and would not be concentrated during peak travel hours. A worst-case scenario is that the project could generate up to 14 additional vehicle trips in any given hour (nine employee trips and five truck trips). The addition of 14 additional vehicle trips in an hour does not constitute a significant increase in traffic, nor would it result in a decreased level of service on area roadways or intersections. This is considered a **less than significant** impact and no mitigation is required.

Response c): No Impact. The project site is not located in the vicinity of a public airport or private airstrip. Project implementation would have **no impact** on air traffic patterns.

Responses d) and e): No Impact. There are no roadway design improvements proposed as part of the project, and therefore, no changes to the area roadways would occur. Emergency access to the project site would be provided to the project site from Arbor Avenue. As described above, the project would result in minimal traffic impacts, and would not increase area traffic to a point where emergency access would be impeded. There is **no impact**.

Response f): Less than Significant. Implementation of the proposed project would not result in a significantly increased demand for parking at the project site. Vehicle trips to the project site include employee trips and trucks carrying biomass fuel. The project site plans will include adequate parking for employee vehicles, and a fuel delivery area will be maintained that will allow for adequate truck access. This is a **less than significant** impact and no mitigation is required.

Response g): No Impact. The project would have no impact on any existing plans or policies related to alternative transportation. There is **no impact**.

XVII. UTILITIES AND SERVICE SYSTEMS -- WOULD THE PROJECT:

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?				X
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?			X	
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?				X
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the projects projected demand in addition to the providers existing commitments?				X
f) Be served by a landfill with sufficient permitted capacity to accommodate the projects solid waste disposal needs?				X
g) Comply with federal, state, and local statutes and regulations related to solid waste?				X

RESPONSES TO CHECKLIST QUESTIONS

Responses a): No Impact. The primary objective and purpose of the proposed project is to reduce salinity levels in the wastewater treated at the adjacent Tracy WWTP. The proposed project would effectively treat the wastewater to near potable levels, which would assist the Tracy WWTP in meeting water quality standards for discharges to the Delta. The proposed project would result in a beneficial impact to wastewater treatment, and as such, there is **no impact**.

Responses b): Less than Significant. As described throughout this document, the proposed project would be constructed and operated to further treat wastewater treated at the Tracy WWTP. The potential environmental impacts associated with the construction of new wastewater treatment facilities has been addressed throughout this document, and mitigation measures have been included that would reduce all potential project impacts to a **less than significant** level.

Responses c): Less than Significant. The proposed project would result in the limited increase of impervious surfaces on the project site, and would not require the construction of stormwater or drainage infrastructure beyond the project site boundaries. Potential impacts associated with construction activities on the project site have been addressed throughout this document, and mitigation measures to protect water quality and reduce environmental impacts have been required. This is a **less than significant** impact and no additional mitigation is required.

Responses d): No Impact. The primary objective and purpose of the proposed project is to reduce salinity levels in the wastewater treated at the adjacent Tracy WWTP. The proposed project would effectively treat the wastewater to near potable levels, which would assist the Tracy WWTP in meeting water quality standards for discharges to the Delta. The proposed project would not result in increased demand for potable water, and as such, there is **no impact**.

Responses e): No Impact. The primary objective and purpose of the proposed project is to reduce salinity levels in the wastewater treated at the adjacent Tracy WWTP. The proposed project would effectively treat the wastewater to near potable levels, which would assist the Tracy WWTP in meeting water quality standards for discharges to the Delta. The proposed project would not result in the increased generation of wastewater, and as such, there is **no impact**.

Responses f), g): No impact. The proposed project would not generate significant volumes of solid waste. The proposed project would burn biomass fuels in the form of agricultural woody waste, urban wood waste and other biomass such as urban tree trimmings. It is likely that a portion of this biomass fuel stream might otherwise be disposed of in landfills if it were not used as fuel for the project. Therefore, the proposed project would likely result in a net reduction in solid waste sent to landfills. The only residual byproduct generated by the project, other than electricity and clean water, is salt, which would be removed from the treated wastewater. The project applicant intends to sell or distribute the accumulated salt to commercial enterprises for use on the open market. Salt may be disposed of in landfills in limited quantities, but would not result in any conflicts related to the disposal of solid waste or exceed the permitted capacity of a landfill. There is **no impact**.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE --

	<i>Potentially Significant Impact</i>	<i>Less Than Significant with Mitigation Incorporation</i>	<i>Less Than Significant Impact</i>	<i>No Impact</i>
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?			X	
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?			X	
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?			X	

RESPONSES TO CHECKLIST QUESTIONS

Responses a), b), c): Less than Significant. As described throughout the analysis above, the proposed project would not result in any significant impacts to the environment. The proposed project is required to implement mitigation measures that would reduce any potentially significant impacts to a less than significant level. The project would not result in any cumulative impacts, impacts to biological resources or impacts to cultural and/or historical resources. These are **less than significant** impacts.

DEPARTMENT OF TRANSPORTATION

P.O. BOX 2048 STOCKTON, CA 95201
(1976 E. CHARTER WAY/1976 E. DR. MARTIN
LUTHER KING JR. BLVD. 95205)
TTY: California Relay Service (800) 735-2929
PHONE (209) 941-1921
FAX (209) 948-7194



*Flex your power!
Be energy efficient!*

December 21, 2011

10-SJ-205, PM 2.92
Tracy Desalination & Green Energy
SCH #2011122004

Scott Claar
Development & Engineering Services Department
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

Dear Mr. Claar,

The California Department of Transportation (Department) appreciates the opportunity to comment on the Initial Study/Mitigated Negative Declaration for the **Tracy Desalination and Green Energy** project. The project site is bounded by Tracy Blvd to the west, Arbor Ave and industrials uses to the south, and agricultural lands to the north. It proposes to construct and operate a desalination treatment plant in the City of Tracy to treat wastewater generated by the Tracy Wastewater Treatment Plant.

Upon review of the project, the Department has the following comments:

The cumulative impacts of the proposed land use development will contribute to the degradation of the level of service on the State Highway System, which will eventually require improvements to accommodate the increase in traffic volumes along mainline and intersection portions. Therefore, the Department recommends that the Lead Agency collect a transportation impact mitigation fee on a "proportional share" basis from the developer to hold until the fee can be contributed towards the local portion of funding for future improvements to the I-205/North MacArthur Drive interchange.

If you have any questions, please contact Sinarath Pheng at (209) 942-6092 ([e-mail: Sinarath_Pheng@dot.ca.gov](mailto:Sinarath_Pheng@dot.ca.gov)) or myself at (209) 941-1921.

Sincerely,

A handwritten signature in black ink that reads "Sinarath Pheng".

for TOM DUMAS, CHIEF
OFFICE OF METROPOLITAN PLANNING

c Scott Morgan, State Clearinghouse



California Regional Water Quality Control Board

Central Valley Region

Katherine Hart, Chair

Attachment C



Matthew Rodriquez
Secretary for
Environmental Protection

11020 Sun Center Drive, #200, Rancho Cordova, California 95670-6114
(916) 464-3291 • FAX (916) 464-4645
<http://www.waterboards.ca.gov/centralvalley>

Edmund G. Brown Jr.
Governor

12 December 2011

RECEIVED

DEC 13 2011

CITY OF TRACY
D.E.R.

CERTIFIED MAIL
7010 3090 0000 5045 2996

Scott Claar, Associate Planner
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

COMMENTS TO DRAFT MITIGATED NEGATIVE DECLARATION, TRACY DESALINATION AND GREEN ENERGY PROJECT, SCH NO. 2011122004, SAN JOAQUIN COUNTY

Pursuant to the State Clearinghouse's 1 December 2011 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Draft Mitigated Negative Declaration* for the Tracy Desalination and Green Energy Project, located in San Joaquin County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

Construction Storm Water General Permit

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml

California Environmental Protection Agency

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits¹

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/

Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml.

Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed for the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916) 557-5250.

Clean Water Act Section 401 Permit – Water Quality Certification

If an USACOE permit, or any other federal permit, is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

¹ Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

Tracy Desalination and Green Energy Project -3-
SCH No.2011122004
San Joaquin County

12 December 2011

Waste Discharge Requirements

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project will require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/

If you have questions regarding these comments, please contact me at (916) 464-4745 or gsparks@waterboards.ca.gov.



Genevieve (Gen) Sparks
Environmental Scientist
401 Water Quality Certification Program

cc: State Clearinghouse Unit, Governor's Office of Planning and Research, Sacramento



San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

Attachment C



HEALTHY AIR LIVING™

December 13, 2011

Scott Claar
City of Tracy
Development & Engineering Services
333 Civic Center Plaza
Tracy, CA 95376

RECEIVED

DEC 14 2011

**CITY OF TRACY
D.E.S.**

Project: MND/IS – Tracy Desalination & Green Energy Project
District CEQA Reference No: 20110547

Dear Mr. Claar,

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the project referenced above consisting of constructing and operating a 1.2 million gallons per day (gpd) desalination plant, located at Holly Drive and Arbor Avenue, in Tracy, CA. The District offers the following comments:

1. Based on information provided to the District, project specific emissions of criteria pollutants are not expected to exceed District significance thresholds of 10 tons/year NOX, 10 ton/year ROG, and 15 tons/year PM10. Therefore, the District concludes that project specific criteria pollutant emissions would have no significant adverse impact on air quality.
2. The District has reviewed the information provided and has determined this is a development project for a facility whose primary functions are subject to Rule 2201 (New and Modified Stationary Source Review Rule) or Rule 2010 (Permits Required) pursuant to District Rule 9510, Section 4.4.3. Therefore, the District concludes that the proposed project is not subject to District Rule 9510 (Indirect Source Review).
3. The proposed project may be subject to District Rules and Regulations, including: Regulation VIII (Fugitive PM10 Prohibitions), Rule 4102 (Nuisance), Rule 4601 (Architectural Coatings), and Rule 4641 (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). In the event an existing building will be renovated, partially demolished or removed, the project may be subject to District Rule 4002 (National Emission Standards for Hazardous Air Pollutants). The above list of rules is neither exhaustive nor exclusive. To identify other District rules or regulations that apply to this project or to obtain information about District permit requirements, the applicant is strongly encouraged to contact the District's Small Business Assistance Office at (559) 230-5888. Current District rules can be found online at: www.valleyair.org/rules/1ruleslist.htm

Seyed Sadredin
Executive Director/Air Pollution Control Officer

Northern Region
4800 Enterprise Way
Modesto, CA 95356-8718
Tel: (209) 557-6400 FAX: (209) 557-6475

Central Region (Main Office)
1990 E. Gettysburg Avenue
Fresno, CA 93726-0244
Tel: (559) 230-6000 FAX: (559) 230-6061

Southern Region
34946 Flyover Court
Bakersfield, CA 93308-9725
Tel: 661-392-5500 FAX: 661-392-5585

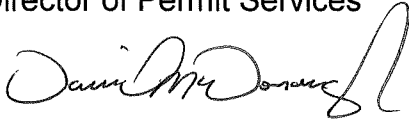
District CEQA Reference No. 20110547

4. The District recommends that a copy of the District's comments be provided to the project proponent.

If you have any questions or require further information, please call David McDonough, at (559) 230-5920.

Sincerely,

David Warner
Director of Permit Services



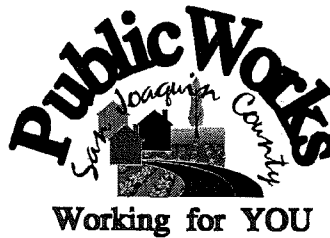
For,
Arnaud Marjollet
Permit Services Manager

DW: dm

Cc: File



THOMAS M. GAU
DIRECTOR



P. O. BOX 1810
1810 E. HAZELTON AVENUE
STOCKTON, CALIFORNIA 95201
(209) 468-3000 FAX (209) 468-2999

FRITZ BUCHMAN
DEPUTY DIRECTOR

MICHAEL SELLING
DEPUTY DIRECTOR

STEVEN WINKLER
DEPUTY DIRECTOR

ROGER JANES
BUSINESS ADMINISTRATOR

DATE: January 3, 2012

TO: City of Tracy
Scott Claar, Associate Planner
Department of Development and Engineering Services
333 Civic Center Plaza
Tracy, CA 95376

SUBJECT: Notice of Intent to Adopt a MND/Initial Study for the Tracy Desalination and Green Energy Project

The San Joaquin County Department of Public Works has reviewed the above-referenced document and has the following concerns:

Public Services Comments:

1. The entire SJC portion of Holly Road & Sugar Road should be annexed into the City of Tracy.
2. The entire SJC portion of Arbor Road should be annexed into the City of Tracy.
3. We will be making comments regarding the remnant piece of Sugar Road during LAFCo referral process.
4. The easterly terminous of Sugar Road will essentially become a private interior drivelane within APN 212-160-10 owned by Spreckels Sugar.

Design Engineering Comments:

1. The structural section for the remaining piece of Arbor within the County is unknown but the condition is poor. Twenty trucks per day may impact the condition. The ISMND should acknowledge what mitigation may be necessary for the structural adequacy of the pavement.

Flood Management Comments:

1. Page 62 – Responses to g), h), change “The 100-year floodplain denotes an area that has a one percent chance of being inundated during any particular 12-month period” to the following: “the 100-year floodplain denotes an area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year”.
2. Page 62 – Responses to g), h), the first sentence of the third paragraph shall be changed to read as follows: “The project site is located within flood zone AE with a base flood elevation of approximately 13 feet referenced to the North American Vertical Datum of 1988 (based upon FEMA FIRM Map No. 06077C0595F, effective October 16, 2009).”
3. Page 62 – Responses to g), h), change the last sentence of the third paragraph to read as follows: “Non-residential structures, including the proposed facilities, shall either be elevated to a minimum of one foot above the 100-year base flood elevation or, in the alternative, together with attendant utility

and sanitary facilities shall be floodproofed (watertight) to at least one foot above the 100-year base flood elevation."

Thank you for the opportunity to be heard. Should you have questions or need additional information regarding the above comments, please contact me at (209) 468-3085.

Sincerely,

Mark Hopkins
Senior Planner

c: Firoz Vohra, Senior Engineer
Alex Chetley, Senior Civil Engineer
Pete Martin, Engineering Services Manager
John Maguire, Engineering Services Manager

**City of Tracy
General Plan Amendment
Tracy Desalination and Green Energy Project
Application Number GPA11-0004**

(1) The Introduction chapter of the General Plan at page I-8, third paragraph, is hereby amended to read as follows:

- **Holly Sugar.** In 2003, the City purchased the Holly Sugar property, consisting of approximately 1,200 acres, surrounding the former sugar beet processing plant. Whereas only a portion of this property was previously in the SOI, the entirety is now included in the SOI. Approximately 300 acres are designated as Park. [Approximately 241 acres are designated as Industrial.](#) The other approximately [659900](#) acres are designated as Agriculture with provisions to allow for the land application of treated effluent, effluent cooling, and public facilities uses. The portion of the Holly Sugar property being added to the SOI in this General Plan consists of approximately 400 acres.

(2) The Land Use Element of the General Plan at page 2-14, Table 2-2, is hereby amended to read as follows:

Table 2-2 General Plan Land Use Designations

Land Use Designation	City Limits (acres)	SOI (acres)	Total
Industrial	2,282	1,9574,733	4,2394,015
Agriculture	-	692916	692916

Note: The above changes to Table 2-2 show only the rows of the Table to be amended. All other portions of Table 2-2 are to remain the same as existing.

(3) Subsection 7, "Holly Sugar Agricultural Area", of Section D, "Areas of Special Consideration", of the Land Use Element of the General Plan at pages 2-56 and 2-57 is hereby amended to read as follows:

7. Holly Sugar Agricultural Area

The Holly Sugar site was purchased by the City in 2003 and consists of approximately 1,200 acres.

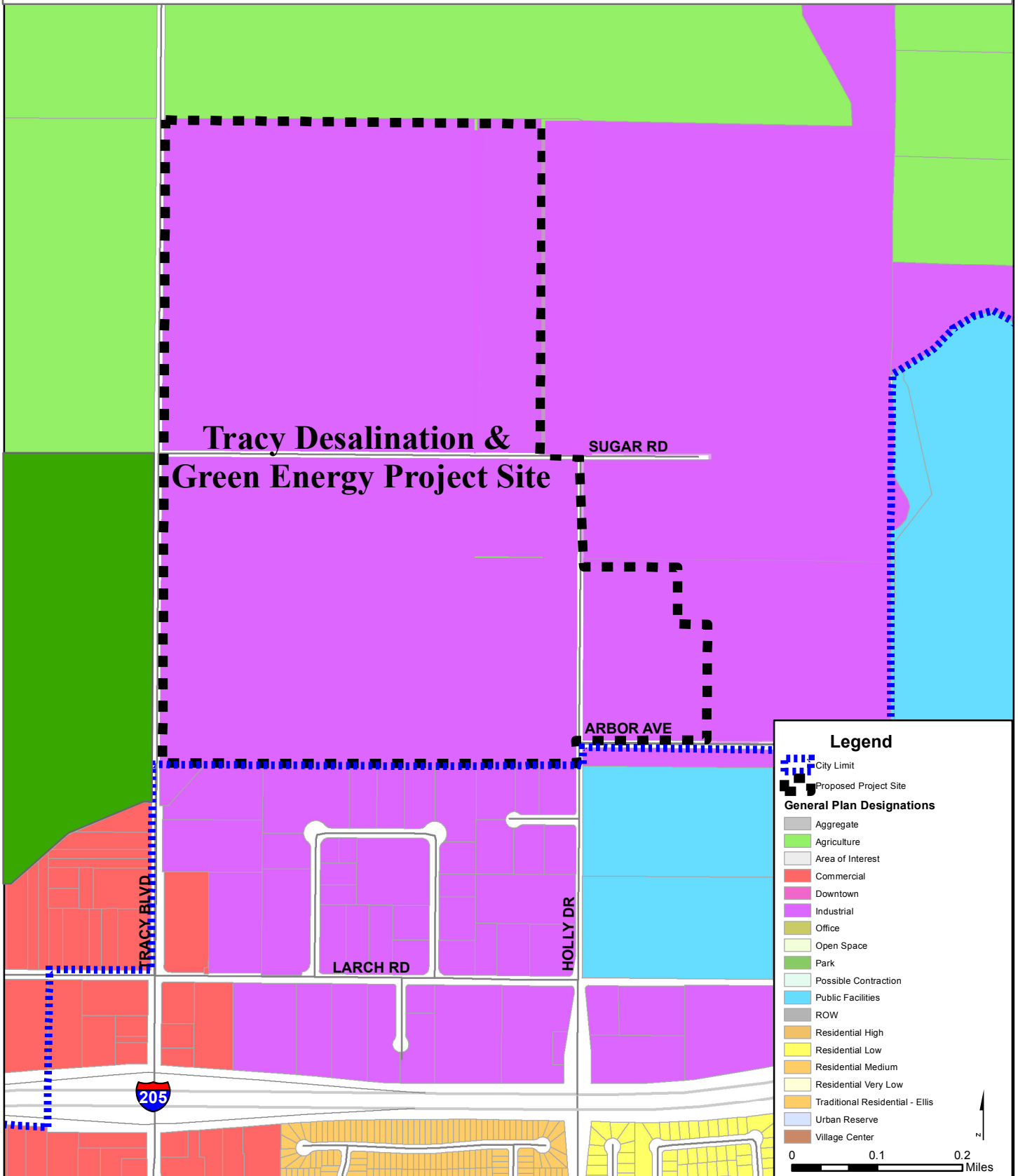
- 7a. Approximately 300 acres are designated as Park. [Approximately 241 acres are designated as Industrial.](#)
- 7b. The other approximately [659900](#) acres are designated as Agriculture with provisions to allow for the land application of treated effluent, effluent cooling, and public facilities uses.
- 7c. The portion of the site with existing structures may be used for public facilities uses such as service yards.

- 7d. The City shall consider using part of this site as a publicly-accessible open space area, as long as public access does not negatively affect adjacent properties, such as levees that support farming operations.
 - 7e. This site shall not be developed with commercial or residential uses.
-

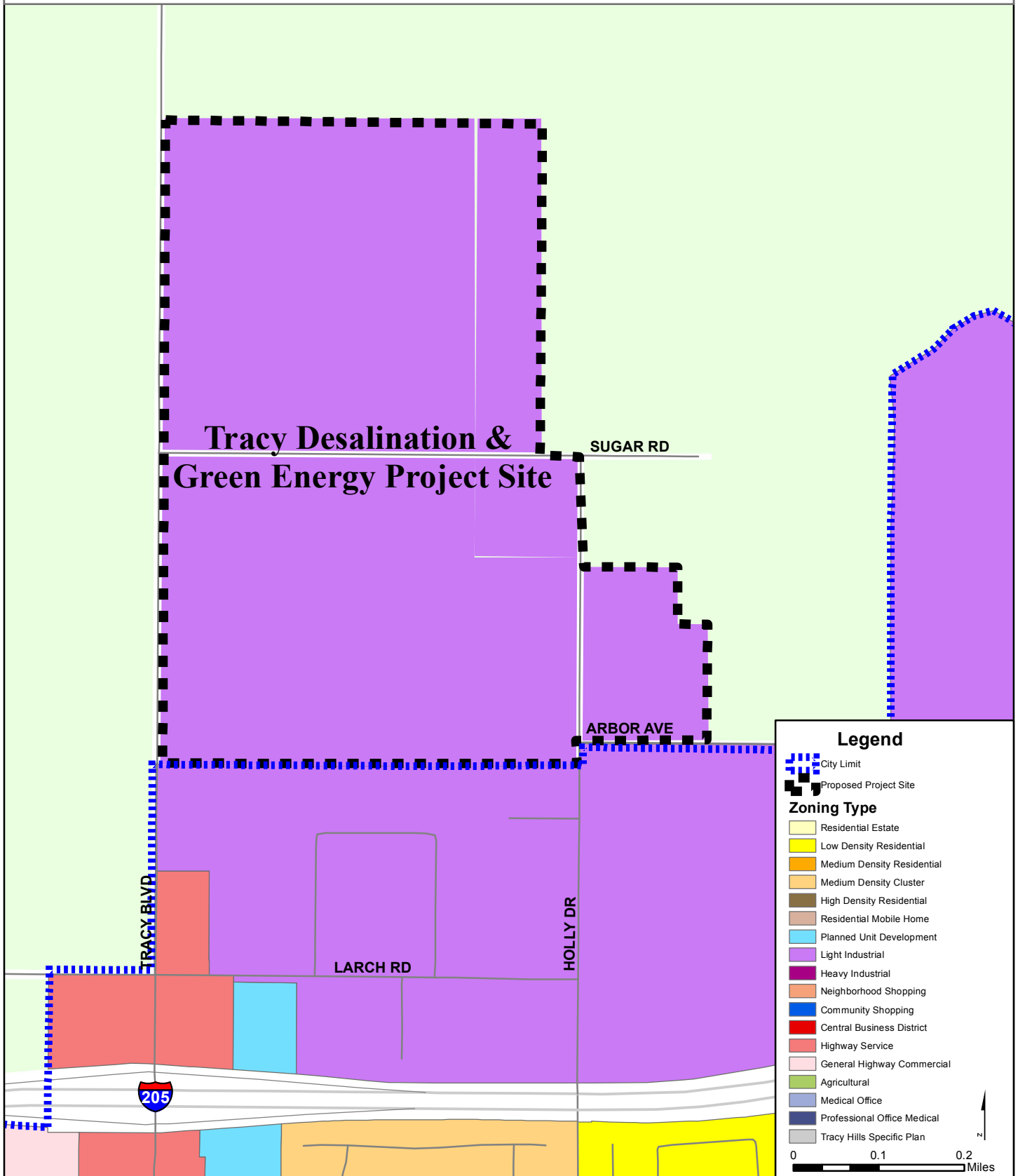
(4) The Land Use Element of the General Plan at page 2-15, Figure 2-2, "General Plan Land Use Designations Map", is hereby amended to change the General Plan designation of the 241-acre Tracy Desalination and Green Energy Project site from Agriculture to Industrial, as shown on the following page:

Proposed Amendment to the General Plan

Land Use Designation



Proposed Pre-Zoning and Annexation



RESOLUTION _____

ADOPTING A MITIGATED NEGATIVE DECLARATION FOR
THE TRACY DESALINATION AND GREEN ENERGY PROJECT
APPLICATION NUMBERS GPA11-0004 AND A/P11-0001

WHEREAS, The Tracy Desalination and Green Energy Project site comprises approximately 241 acres of City-owned land located within the City's Sphere of Influence, immediately north of the Tracy City limits, east of Tracy Boulevard in the vicinity of Sugar Road, Assessor's Parcel Numbers 212-160-05, 212-160-09 and 212-160-11; and

WHEREAS, The Tracy Desalination and Green Energy Project consists of the construction and operation of a desalination plant that would remove salt from treated effluent that is being processed by the City's Wastewater Treatment Plant to a level that meets the State's standards for discharge into the Sacramento San Joaquin Delta; the project would also include a biomass cogeneration energy production component that would produce approximately 16.4 megawatt-hours of electricity; and

WHEREAS, The project includes applications for a General Plan Amendment to designate the 241-acre project site as Industrial, annexation of the 241-acre project site into the City of Tracy, and pre-zoning of the 241-acre project site to Light Industrial (M1), Application Numbers GPA11-0004 and A/P11-0001; and

WHEREAS, In accordance with the California Environmental Quality Act (CEQA) regulations and CEQA Guidelines, the City prepared an Initial Study for the Tracy Desalination and Green Energy Project; and

WHEREAS, Based on the findings and mitigation measures contained within the Initial Study, a Mitigated Negative Declaration was prepared, and is attached to the May 1, 2012 City Council staff report as Attachment B; and

WHEREAS, The Mitigated Negative Declaration was circulated for public review from December 1, 2011 until December 30, 2011 and extended until January 24, 2012; and

WHEREAS, A total of four comment letters were received; none of which challenged the adequacy of the environmental analysis or raised any issues or concerns that would warrant changes to the Mitigated Negative Declaration or a recirculation of the Mitigated Negative Declaration; and

WHEREAS, The comment letters are attached to the May 1, 2012 City Council staff report as Attachment C; and

WHEREAS, The description of the project boundary, which was published in the Mitigated Negative Declaration, indicated that approximately 13-acres of APN 212-160-11 were included in the project area proposed for annexation. The project boundary has been changed to indicate that the entire 17.1-acre area of APN 212-160-11 is included in the area proposed for annexation. LAFCo policies require that annexation boundaries conform to property boundary lines; and

WHEREAS, The area being added to the project boundary is the location of the former Holly Sugar Administrative Buildings (City-owned). The addition of this approximately 4.1-acre area to the project boundary does not result in any new significant or potentially significant environmental impacts, nor does it increase the severity of any previously identified environmental impacts or require any changes to mitigation measures included in the Initial Study/Mitigated Negative Declaration because the majority of this area is paved or covered in gravel road base, and contains the former administrative building and associated support structures historically used for equipment and vehicle storage; and because the proposed Tracy Desalination and Green Energy Project would not result in the alteration of this portion of the project area. The proposed change only involves inclusion of this portion of APN 212-160-11 into the area proposed for annexation; and

WHEREAS, The proposed revision to the project boundary does not constitute a “substantial revision” as defined by CEQA Guidelines Section 15073.5(b). The proposed change to the project boundary does not result in any new or increased significant effects. The proposed change to the project boundary is considered new information which merely clarifies, amplifies, or makes insignificant modifications to the MND. As such, recirculation of the document is not required, as specified by CEQA Guidelines Section 15073.5(c); and

WHEREAS, The Planning Commission held a duly noticed public hearing on March 14, 2012 and recommended that the City Council adopt the Mitigated Negative Declaration for the Tracy Desalination and Green Energy Project; and

WHEREAS, The City Council held a duly noticed public hearing on May 1, 2012 to consider the Mitigated Negative Declaration;

NOW, THEREFORE BE IT RESOLVED that the City Council hereby adopts the Mitigated Negative Declaration for the 241-acre Tracy Desalination and Green Energy Project, Application Numbers GPA11-0004 and A/P11-0001.

* * * * *

Resolution _____
Page 3

The foregoing Resolution No. _____ was adopted by the City Council of the City of Tracy on the 1st day of May 2012, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

RESOLUTION _____

APPROVING A GENERAL PLAN AMENDMENT TO DESIGNATE THE 241-ACRE TRACY DESALINATION AND GREEN ENERGY PROJECT SITE AS INDUSTRIAL AND AUTHORIZING THE PETITION TO LAFCO FOR ANNEXATION OF THE PROJECT SITE INTO THE CITY OF TRACY
APPLICATION NUMBERS GPA11-0004 AND A/P11-0001

WHEREAS, The Tracy Desalination and Green Energy Project site comprises approximately 241 acres of City-owned land located within the City's Sphere of Influence, immediately north of the Tracy City limits, east of Tracy Boulevard in the vicinity of Sugar Road, Assessor's Parcel Numbers 212-160-05, 212-160-09 and 212-160-11; and

WHEREAS, The Tracy Desalination and Green Energy Project consists of the construction and operation of a desalination plant that would remove salt from treated effluent that is being processed by the City's Wastewater Treatment Plant to a level that meets the State's standards for discharge into the Sacramento San Joaquin Delta; the project would also include a biomass cogeneration energy production component that would produce approximately 16.4 megawatt-hours of electricity; and

WHEREAS, The City of Tracy's General Plan currently designates approximately 224 acres of the Tracy Desalination and Green Energy Project site as Agriculture and approximately 17 acres as Industrial; and

WHEREAS, The project includes applications by Tracy Renewable Energy LLC for a General Plan Amendment to designate the 241-acre project site as Industrial (Exhibit 1) and for annexation of the 241-acre project site into the City of Tracy (Application Numbers GPA11-0004 and A/P11-0001); and

WHEREAS, On May 1, 2012, the City Council adopted Resolution No. _____ approving the Mitigated Negative Declaration for the Tracy Desalination and Green Energy Project, in accordance with the requirements of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines; and

WHEREAS, Corporate City limit changes, including property annexation, are completed at Local Agency Formation Commission (LAFCo) based on a City application (petition to LAFCo); and

WHEREAS, The Planning Commission held a duly noticed public hearing on March 14, 2012 and recommended that the City Council approve the General Plan Amendment for the 241-acre Tracy Desalination and Green Energy Project site and authorize the petition to LAFCo for annexation of the 241-acre project site into the City of Tracy; and

WHEREAS, The City Council held a duly noticed public hearing on May 1, 2012 to consider the General Plan Amendment and annexation;

NOW, THEREFORE BE IT RESOLVED that the City Council hereby approves the General Plan Amendment to designate the 241-acre Tracy Desalination and Green Energy Project site as Industrial (Exhibit 1) and authorizes the petition to LAFCo for annexation of the 241-acre project site into the City of Tracy, Application Numbers

Resolution _____
Page 2

GPA11-0004 and A/P11-0001.

* * * * *

The foregoing Resolution No. _____ was adopted by the City Council of the City of Tracy on the 1st day of May 2012, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

ORDINANCE _____

PREZONING THE 241-ACRE TRACY DESALINATION AND GREEN ENERGY
PROJECT SITE AS LIGHT INDUSTRIAL (M1)
APPLICATION NUMBER A/P11-0001

WHEREAS, The Tracy Desalination and Green Energy Project site comprises approximately 241 acres of City-owned land located within the City's Sphere of Influence, immediately north of the Tracy City limits, east of Tracy Boulevard in the vicinity of Sugar Road, Assessor's Parcel Numbers 212-160-05, 212-160-09 and 212-160-11; and

WHEREAS, The Tracy Desalination and Green Energy Project consists of the construction and operation of a desalination plant that would remove salt from treated effluent that is being processed by the City's Wastewater Treatment Plant to a level that meets the State's standards for discharge into the Sacramento San Joaquin Delta; the project would also include a biomass cogeneration energy production component that would produce approximately 16.4 megawatt-hours of electricity; and

WHEREAS, The Tracy Desalination and Green Energy Project includes applications by Tracy Renewable Energy LLC for a General Plan Amendment to designate the 241-acre project site as Industrial, annexation of the 241-acre project site to the City of Tracy, and rezoning of the 241-acre project site to Light Industrial (M1); and

WHEREAS, On May 1, 2012, the City Council adopted Resolution No. _____ approving the Mitigated Negative Declaration for the 241-acre Tracy Desalination and Green Energy Project, in accordance with the requirements of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines; and

WHEREAS, On May 1, 2012, the City Council adopted Resolution No. _____ approving the General Plan Amendment to designate the 241-acre Tracy Desalination and Green Energy Project site as Industrial and authorizing the petition to LAFCo for annexation of the 241-acre project site into the City of Tracy; and

WHEREAS, The proposed rezoning of Light Industrial (M1) would conform with the General Plan designation of Industrial; and

WHEREAS, The proposed uses of the Tracy Desalination and Green Energy Project would be permitted in the Light Industrial (M1) zone; and

WHEREAS, The Planning Commission held a duly noticed public hearing on March 14, 2012 and recommended that the City Council prezone the 241-acre Tracy Desalination and Green Energy Project site as Light Industrial (M1); and

WHEREAS, The City Council held a duly noticed public hearing on May 1, 2012 to consider the application for rezoning (Application Number A/P11-0001);

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRACY DOES
HEREBY ORDAIN AS FOLLOWS:

SECTION 1: The 241-acre Tracy Desalination and Green Energy Project site, located east of Tracy Boulevard in the vicinity of Sugar Road, Assessor's Parcel Numbers

212-160-05, 212-160-09 and 212-160-11 is hereby rezoned Light Industrial (M1) (Exhibit 1). The zoning of said Project site as M1 shall take effect on the same date that annexation of the site occurs.

SECTION 2: This Ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 3: This Ordinance shall be published once in a newspaper of general circulation within fifteen (15) days from and after its final passage and adoption.

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council held on the 1st day of May 2012, and finally passed and adopted by said Council at its regular meeting on the ____ day of _____, 2012, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 6

REQUEST

PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE I-205 CORRIDOR SPECIFIC PLAN MODIFYING THE CRITERIA FOR WALL SIGNS IN EXCESS OF 100 SQUARE FEET. APPLICATION NUMBER SPA12-0001

EXECUTIVE SUMMARY

This agenda item is a proposed amendment to the I-205 Corridor Specific Plan standards to permit walls signs larger than 100 square feet with a Conditional Use Permit on multi-tenant buildings. Staff recommendation is denial.

DISCUSSION

Background

The I-205 Corridor Specific Plan establishes standards for wall signs in the I-205 Corridor Specific Plan area to ensure that signage is designed to be appropriate in scale with the building. The sign criteria states that the area of any single wall sign shall not exceed 100 square feet; however, on single-tenant buildings, a wall sign of up to 250 square feet may be allowed with a Conditional Use Permit.

On March 1, 2012, City Signs submitted an application for a Conditional Use Permit proposing two 157-square foot wall signs to be located on a multi-tenant building in the Tracy Pavilion shopping center at 2471 Naglee Road (Staples, Application Number CUP12-0002). An amendment to the I-205 Corridor Specific Plan is required for the Planning Commission to grant Conditional Use Permit approval for wall signs exceeding 100 square feet on multi-tenant buildings, as these larger signs are currently only allowable on single-tenant buildings.

In an effort to accommodate Staples' request for a larger wall sign, a City-initiated amendment to the I-205 Corridor Specific Plan was proposed to allow larger wall signs on multi-tenant buildings with Conditional Use Permit approval by the Planning Commission.

Project Description and Analysis

From time to time, the City initiates code amendments in response to changes in the economic climate. Upon evaluating the I-205 Corridor Specific Plan commercial area and Staples' proposal, Staff's initial assessment was that wall signs larger than 100 square feet could be appropriate in scale on end cap tenants of multi-tenant buildings, which typically have substantial building frontages. Staff prepared recommended language for an amendment to the specific plan and presented it to the Planning Commission with a recommendation of approval. The recommendation of approval was based on achieving signage appropriate in scale with building faces.

Planning Commission Discussion

Planning Commission reviewed the plans for the proposed Staples wall signs at their meeting on April 11, 2012 and approved the project by unanimous vote based on the elevations provided by the applicant. The elevations only showed the Staples portion of the building and did not show the signs in context with the remainder of the building and the rest of the shopping center.

Based on this information, Planning Commission and staff were comfortable recommending an amendment to the I-205 Corridor Specific Plan and approving a Conditional Use Permit for the signs contingent upon City Council approval of the amendment.

Shortly after the Planning Commission meeting on April 11, the Staples wall signs were installed without a building permit and City Council approval of the specific plan amendment. Upon seeing the signs installed on the building, the Planning Commissioners initiated a discussion at their meeting on April 25 regarding the inappropriateness of the size of the signs in context with the building face and other signs throughout the Tracy Pavilion shopping center. The Planning Commissioners felt that actual sign is not accurately depicted by the drawings provided by the applicant.

Staff Recommendation

Staff had an opportunity to evaluate the erected signs against the proposed plans and agrees with the Planning Commissioner's assessments that they are not appropriate in scale with the building. Upon evaluating other buildings in the I-205 Corridor Specific Plan area, staff determined that wall signs over 100 square feet in size would not be appropriate on any other multi-tenant building. As a result, staff recommends denial of the proposed I-205 Corridor Specific Plan amendment.

FISCAL IMPACT

This agenda item will not require any specific expenditure of funds other than the staff time associated with processing the project.

STRATEGIC PRIORITY

This agenda item supports the *Livability Strategic Priority, Goal 1: A more beautiful city*, by continuing sign criteria that is consistent with the City's adopted Design Goals and Standards for sign design.

RECOMMENDATION

Planning Commission recommends that the City Council approve the I-205 Corridor Specific Plan amendment regarding wall signs in excess of 100 square feet, Application Number SPA12-0001, based on the findings and subject to the conditions contained in the Planning Commission Resolution dated April 11, 2012.

Staff recommends denial of the I-205 Corridor Specific Plan amendment regarding wall signs in excess of 100 square feet, Application Number SPA12-0001, based on the findings contained in the City Council Resolution dated May 1, 2012.

Prepared by: Kimberly Matlock, Assistant Planner
Victoria Lombardo, Senior Planner
Reviewed by: Bill Dean, Assistant Development Services Director
Andrew Malik, Development Services Director
Approved by: Leon Churchill, Jr., City Manager

RESOLUTION _____

DENYING AN AMENDMENT TO THE I-205 CORRIDOR SPECIFIC PLAN MODIFYING
THE CRITERIA FOR WALL SIGNS IN EXCESS OF 100 SQUARE FEET -
APPLICATION NUMBER SPA12-0001

WHEREAS, The I-205 Corridor Specific Plan contains standards for wall signs, such that the area of any single wall sign shall not exceed 100 square feet, except that single-tenant buildings may have a wall sign up to 250 square feet with a Conditional Use Permit subject to certain criteria,

WHEREAS, The City received a proposal for wall signs exceeding 100 square feet on a multi-tenant building on March 1, 2012 (Application Number CUP12-0002), and

WHEREAS, An amendment to the I-205 Corridor Specific Plan is required to permit wall signs exceeding 100 square feet with a Conditional Use Permit on multi-tenant buildings, and

WHEREAS, Wall signs larger than 100 square feet are inappropriate in scale on multi-tenant buildings in the I-205 Corridor Specific Plan area, and

WHEREAS, The project is exempt from CEQA pursuant to Guidelines Section 15270, projects which are disapproved. This exemption pertains to projects which a public agency rejects or disapproves, and

WHEREAS, The Planning Commission conducted a public hearing to review and consider Specific Plan amendment application number SPA12-0001 on April 11, 2012 and recommended that the City Council approve the amendment, and

WHEREAS, The City Council conducted a public hearing to consider the proposed amendment on May 1, 2012, and

NOW, THEREFORE BE IT RESOLVED, that the City Council does hereby denies application number SPA12-0001, an amendment to the I-205 Corridor Specific Plan based on the findings below:

Findings:

The amendment is inconsistent with the goals, actions, and policies of the General Plan and the I-205 Corridor Specific Plan and with its purposes, standards, and guidelines. The City's sign goals established in the Design Goals and Standards aim to only allow for signage that is architecturally integrated with its surroundings in terms of size, shape, color, texture placement, and lighting so that it is architecturally complementary to the overall design of the building. The amendment will result in development of undesirable character, which will be incompatible with the existing and future development in the Specific Plan area, does not contribute to a balance of land uses that will enable local residents to work and shop within the Tracy Planning Area, and does not respect the environmental and aesthetic assets of the community consistent with economic realities. The Specific Plan amendment will be not compatible with existing and proposed neighboring development because it would allow larger signs in the specific plan area only than is allowed city-wide.

Resolution _____

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* * * * *

The foregoing Resolution _____ was adopted by the City Council on the 1st day of May, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 7

REQUEST

PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE SIGN REGULATIONS (TMC CHAPTER 10.08) AFFECTING SIGNS ON SCHOOL SITES – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0001

EXECUTIVE SUMMARY

This is a proposed amendment to the City sign regulations to allow electronic readerboard signs and freestanding signs on school sites in Tracy.

DISCUSSION

Background

Section 10.08.4510(i) of the Tracy Municipal Code (TMC) prohibits electronic readerboard signs and electronic scrolling signs. Specifically, prohibited signs include any sign which “flashes, blinks, moves, changes color, appears to change color, changes intensity, or contains any part of an attachment which does the same, except that barber poles and time and temperature signs shall be permitted in the commercial and industrial zones.”

There are several sites within Tracy, however, that do utilize electronic readerboard signs. These sites are located on Tracy Unified School District property and advertise and announce various school-related events and activities. Under certain circumstances, State law allows public schools to install signs that do not comply with local zoning regulations when the signs are used for school-related information.

On January 17, 2012, the Tracy City Council, at the request of City Council member Mike Maciel, discussed changing City standards to permit signs with scrolling, blinking, or other electronic changeable copy, such as ones installed at Tracy High School and Monte Vista Middle School. By a unanimous vote, the City Council expressed a desire to change City standards and directed staff to prepare an amendment to the Tracy Municipal Code to allow electronic readerboard signs such as LED (light emitting diode) or other electronic media on school sites.

Proposed Sign Standard Amendments

The following amendments to the TMC are recommended to allow electronic readerboard signs on public and private school sites. The proposal contains a definition of “electronic readerboard sign” and provisions to permit them on public and private school sites with Planning Commission approval of a Conditional Use Permit. The proposal is shown in strike-through/underline format of selected, existing code sections to illustrate the proposed changes.

“Section 10.08.4440 Definitions

...
“Electronic readerboard sign” shall mean a changeable, moving message sign consisting of a matrix of lamps, light emitting diodes (LEDs), or similar devices.”

“Section 10.08.4460, Standards by Sign Type

(h) Freestanding Signs

- (1) Maximum height: Fifteen feet (15') feet.*
- (2) Maximum area: One hundred (100) square feet.*
- (3) Calculation of permitted area: One-half square foot of sign area for each lineal foot of parcel frontage.*
- (4) Permitted locations: zones CS, CBD, GHC, M-1, M-2, and HS-; and school sites as described in subsection (7)(v), below.*
- (5) Sign permit needed: Yes.*
- (6) Sign location: No freestanding sign may be erected closer than fifteen (15') feet to any property line or closer than fourteen (14') feet to any driveway, alley, or vehicular access.*
- (7) Freestanding signs may only be permitted on the following sites or conditions:*
 - (i) Shopping centers with four (4) or more individual establishments;*
 - (ii) Office complexes including eight (8) or more suites or exceeding 15,000 square feet of floor area;*
 - (iii) Any parcel with 200 or more feet of street frontage; ~~and~~*
 - (iv) As part of an overall sign program or plan; ~~and~~*
 - (v) Upon issuance of a conditional use permit, a school containing any of grades 1 through 12, where the school site is one-half acre or more, and advertising is only for on-site, non-commercial activities or events.”*

“Section 10.08.4510, Prohibited Signs and Locations.

The following signs shall be absolutely prohibited:

- ...
- (i) Any sign which flashes, blinks, moves, changes color, appears to change color, changes intensity, or contains any part of an attachment which does the same, except ~~that~~ for:*
 - (1) Standard barber poles and time and temperature signs shall be permitted in the commercial and industrial zones; and*
 - (2) Upon issuance of a conditional use permit, one electronic readerboard sign on the property of a public or private school if the site is one-half acre or more and the school contains any of grades 1 through 12, to advertise only non-commercial, on-site activities and events. In evaluating the conditional use permit (TMC Section 10.08.4250 and following), the Commission shall consider appropriate hours of illumination, brightness, size, height, and other sign characteristics as they relate to the sign's location and surrounding land uses. Any electronic readerboard sign or other sign that flashes, blinks, moves, changes color, appears to change color, changes intensity, or contain any part of an attachment which does the same shall be removed within 90 days after the site is no longer used as a qualifying school.”*

For reference, the entire City sign ordinance is contained in Attachment B.

The proposal would allow public and private schools in Tracy to install electronic readerboard signs using flashing or blinking lights or changing copy upon approval of a Conditional Use Permit.

The proposal would also allow schools, regardless of zone district in which they are located, to install a Freestanding Sign, also upon approval a Conditional Use Permit. A Freestanding Sign is one allowed up to 15 feet in height and a maximum size of 100 square feet. Currently, Freestanding Signs are allowed only in non-residential zones. Most schools are located in residential zones. Typically, schools employ shorter and smaller signs, consistent with the standards of a Monument Sign: six feet maximum height and 24 square feet maximum size.

The proposal includes limits on the schools that would qualify for electronic readerboard signs or a Freestanding Sign: a school site must be at least one-half acre in size and it must contain any of grades 1 through 12. There are currently, approximately 28 public and private schools in Tracy that would qualify to install electronic readerboard signs. The size and grade level limits are intended to prevent small sites, such as home schools in residential neighborhoods, from installing electronic readerboards or freestanding signs and to clarify that this proposal would not apply to day care centers or preschools.

The Planning Commission conducted a public hearing to consider the proposal on March 28, 2012 and, by a vote of four to one, recommended that the City Council approve the sign code amendment.

STRATEGIC PLAN

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

FISCAL IMPACT

This agenda item will not require any specific expenditure of funds.

RECOMMENDATION

The Planning Commission recommends that the City Council approve the proposed amendments to the Tracy Municipal Code regarding electronic readerboard signs and Freestanding Signs on school sites.

Prepared by: Alan Bell, Senior Planner

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

Approved by: Andrew Malik, Development and Engineering Services Director

ATTACHMENTS

Attachment A – Tracy Municipal Code Sign Regulations (TMC Chapter 10.08, Article 35)

illumination, and maintenance of all types of signs and sign structures. This article presents criteria indicating whether or not signs conform to such intentions of suitability and safety. (Prior code § 10-2.3500)

10.08.4440 Definitions.

As used in this article:

"Accessory sign" shall mean a sign which serves a directional or informational need.

"Bulletin board" shall mean a permanently constructed sign containing a surface area which may have interchangeable letters, words, or numerals displaying the name of the institution, events conducted upon, and/or the services offered upon such premises.

"Building face" shall mean the exterior surface of any building, regardless of frontage.

"Building frontage" shall mean the building elevations facing a street, plaza, or mall. Where the building contains multiple uses, "building frontage" shall mean the linear frontage of that portion of the building between the occupancy separation walls.

"Business" shall mean any non-residential use.

"Directional sign" shall mean a sign directing pedestrians or vehicles to specific on-site locations, such as parking spaces, special drive-up or walk-up services, public rest rooms, and the like.

"Directory sign" shall mean a sign erected to display the names of occupants engaged in professions or businesses or residing within such premises.

"Freestanding sign" shall mean a sign not attached to a building which sign is constructed upon, or affixed to, the ground by means of columns, poles, or similar structural components.

"Freeway sign" shall mean a freestanding sign designed to be viewed from vehicles travelling upon a freeway and located within 350 feet of the freeway.

"Height of sign" shall mean the distance from the curb grade at the base of the sign to the top of its highest element, including any structural element.

"Illuminated sign" shall mean a sign in which a source of light is used in order to make the message readable. "Illuminated sign" shall include internally and externally lighted signs and reflectorized, glowing, or radiating signs.

"Institution" shall mean all governmental, religious, and charitable organizations.

"Memorial sign or tablet" shall mean a sign or tablet displaying the name of a building and the date of erection when cut into masonry surfaces or constructed of bronze or other incombustible materials.

"Monument sign" shall mean a sign generally located flush with the ground or upon a base but otherwise hav-

Article 35. Signs

10.08.4430 Purpose.

Signs have an obvious impact on the character and quality of the City. As a prominent part of the scenery they attract or repel the viewing public, affect the safety of vehicular traffic, and their suitability or appropriateness helps to set the tone of the neighborhood.

In view of these facts, the City adopts the policy that the sign should serve primarily to identify the general nature of an establishment or to direct attention to a product, activity, place, person, organization, or enterprise. As identification devices, signs shall not subject the citizens of the City to excessive competition for their visual attention. As appropriate identification devices, signs shall harmonize with the building, the neighborhood, and other signs in the area. The City intends to encourage the installation of signs which improve the appearance of the building and the neighborhood and to enhance the economic effectiveness of signs. This article provides standards to safeguard life, health, property, and the public welfare in keeping with the character of the City by regulating the size, height, structural design, quality of materials, construction, location, electrification,

10.08.4440

ing a clearance from the ground of not more than two (2) feet, and supported by a solid base, one or more uprights, braces, columns, poles, or other similar structural components placed on or into the ground, and not attached to a building. Monument signs shall not have more than two (2) faces.

"Off-site monument sign" shall mean a monument sign constructed or maintained off of the parcel on which the business, as identified on the monument sign, is located.

"Permitted nonconforming sign" shall mean a sign which existed as a legal sign prior to January 17, 1978, which is in conflict with the provisions of this chapter and continues to advertise a bona fide business.

"Pitch" (or peak) shall mean the highest point as in the highest point of a roof.

"Primary sign" shall mean a sign which carries the identification of the business name, a primary product, or service.

"Prohibited nonconforming sign" shall mean a sign which existed as a legal sign prior to January 17, 1978, which is in conflict with the provisions of this chapter but no longer advertises a bona fide business or a sign existing after January 17, 1978, which is in conflict with the provisions of this article.

"Projecting sign" shall mean a sign attached to, and projecting from, the face of, or above, or upon the roof of a building, structure, canopy, or marquee and shall include a roof sign.

"Roof sign" shall mean a sign erected upon a roof, or parapet wall of a building, and which is wholly or partially supported by such building.

"Sign" shall mean any medium, including its structure and component parts, which is used, or intended to be used, to attract attention to the subject matter for advertising purposes and shall include every announcement, declaration, demonstration, display, illustration, insignia, surface, or space when erected, painted, or maintained in view of the general public for identification, advertisement, or the promotion of the interests of any person.

"Sign area" shall mean the total surface space within a single continuous perimeter containing words, letters, figures, or symbols, together with any frame, material, or color forming an integral part of the display, but excluding support structures, the face of a building, and incidental parts not drawing attention to the subject matter.

"Sign structure" shall mean a structure which supports a sign.

"Temporary sign" shall mean a sign constructed of expendable material, such as paper, plastic, cloth, or wood, intended to be displayed for a short period of time. Pennants, banners, balloons, and similar devices shall also be included in this category.

"Time and temperature sign" shall mean a sign which displays the current time or outdoor temperature, or both, and which does not display any commercial advertising or identification.

"Under canopy sign" shall mean an identification sign attached to the underside of a canopy or marquee, protruding over public or private sidewalks or rights-of-way.

"Wall sign" shall mean a sign which is attached directly to, and parallel with, the building face or painted upon the wall of a building or structural part thereof.

"Window sign" shall mean a sign painted, printed, attached, glued, or otherwise affixed to a window.

"Flags for new subdivisions" shall mean signs permitted to identify new residential subdivisions.

"Off-site kiosk directional subdivision signs" shall mean signs used for directing the travelling public to new residential subdivisions.

"Regional freeway commercial signs" shall mean signs for commercial developments whose customers travel extended distances to the site on an infrequent basis.

"Temporary project identification signs" shall mean signs allowed on a temporary basis for a commercial development. (Ord. 995 §§ 1—3, 1999; prior code § 10-2.3501)

10.08.4450 General requirements.

The general requirements and limitations shall be as follows:

(a) Construction materials. All permanent signs shall be constructed of wood, metal, plastic, glass, or like material (except wall signs painted upon the building) as approved by the Community Development Director; however, a sign permit may also be required by the Building Division.

(b) Area.

(1) A double-faced sign with parallel planes, back-to-back, not more than twenty-four (24") inches apart, shall count as a single sign, and only one side shall be counted for the total area.

(2) In cases of multi-face signs, add the outer dimensions of all the faces capable of presenting a sign. The sign area shall be the total area of all the faces.

(3) In the event a sign falls under more than one sign definition, the more restrictive sign regulations found in this article shall apply.

(4) Sign face changes which do not structurally alter the sign (including sign area and configuration) shall not require a sign permit, unless the sign is a nonconforming

sign, whereupon the sign face change shall comply with this article.

(5) The total sign area on a parcel shall be calculated as the sum of the sign areas of all types of signs on the parcel, except directional and temporary signs. The total sign area shall not exceed one-half square foot for each lineal foot of building frontage to which the signs pertain, except that individually-lettered wall signs shall be permitted a ratio of one square foot of sign area for each lineal foot of building frontage of business being advertised when individually-lettered wall signs comprise over fifty (50%) percent of the sign area of all sign types at such business being advertised.

(c) Location. All signs, except those so stated by this article, shall be erected upon the premises occupied by the person or business sought to be identified by such sign.

(d) Identification signs along major thoroughfares. Where the public convenience and necessity require, the Community Development Director may grant special use permits allowing identification signs along major thoroughfares entering the City, within 1,000 feet of the City boundaries, identifying the name of the community and the names of various nonprofit or civic organizations, provided the overall sign area is not greater than 100 square feet.

(e) Illumination. Illumination shall be allowed on all signs upon the approval of the Community Development Director, unless otherwise set forth in this article. (Prior code § 10-2.3502)

10.08.4460 Standards by sign type.

(a) Wall signs.

(1) Maximum height: Not to exceed the pitch of the roof.

(2) Maximum area: 100 square feet.

(3) Calculation of area: One-half square foot of sign area per lineal foot of building frontage of business being advertised.

(4) Permitted zones: MO, POM, CS, NS, CBD, GHC, M-I, M-2, and HS.

(5) Sign permit needed: Yes.

(b) Roof signs.

(1) Maximum height: Four (4') feet above the eaves of the roof, but in no case higher than the pitch of the roof.

(2) Maximum area: Forty (40) square feet.

(3) Calculation of permitted area: One-half square foot of sign area for each lineal foot of building frontage of business being advertised.

(4) Permitted zones: MO, POM, CS, NS, CBD, GHC, M-I, M-2, and HS.

(5) Sign permit needed: Yes.

(c) Monument signs.

(1) Maximum height: Six (6') feet in the MO, NS, CS, and GHC Zones and in Use Group 30 in the RE, LDR, MDC, MDR, HDR, and POM Zones and four (4') feet for all other land uses and use groups in the RE, LDR, MDR, HDR, and POM Zones.

(2) Maximum area: Twenty-four (24) square feet in the MO, NS, CS, and GHC Zones and in Use Group 30 in the RE, LDR, MDC, MDR, HDR, and POM Zones and twelve (12) square feet for all other land uses and use groups in the RE, LDR, MDR, and HDR Zones.

(3) Calculation of permitted area: One-half square foot of sign area for each lineal foot of building frontage for which the sign pertains.

(4) Ground clearance: Monument signs will not have a ground clearance exceeding two (2') feet.

(5) Permitted zones: All zones with the exception of agricultural.

(6) Sign permit needed: Yes.

(7) Maximum number of signs permitted: Two (2) per parcel.

(d) Directional signs.

(1) Maximum height: Four (4') feet.

(2) Maximum area: Twenty-four (24) square feet.

(3) Calculation of permitted area with no business logo/theme: Permitted by site plan review to give functional information on directions.

(4) Permitted zones: All zones.

(5) Sign permit needed: No.

(e) Directory signs.

(1) Maximum height: Eight (8') feet.

(2) Maximum area: Fifty (50) square feet.

(3) Calculation of area: One-half foot of sign area for each lineal foot of building frontage to which the directory sign pertains.

(4) Permitted zones: All zones with the exception of agriculture.

(5) Sign permit needed: Yes.

(6) Sign location: No directory sign which is a free-standing sign may be erected closer than fifteen (15') feet to any neighboring property line or to any driveway or other point of ingress/egress.

(f) Political signs.

(1) Maximum height: Six (6') feet.

(2) Maximum area: Thirty-two (32) square feet.

(3) Calculation of area: One-half square foot of sign area for each lineal foot of parcel frontage.

(4) Permitted zones: All zones.

(5) Sign permit needed: No.

(6) Installation: Signs may not be erected sooner than forty-five (45) days preceding an election or political event.

(7) Removal: Signs shall be removed within five (5) days following an election or political event.

(g) Temporary signs.

(1) Maximum height: Not to exceed the roof line of the nearest building or the building affixed to, but in no case higher than thirty (30') feet.

(2) Maximum area: 300 square feet.

(3) Calculation of area for businesses: One-half square foot of sign area for each lineal foot of building frontage of business to which the sign pertains.

(4) Permitted zones: MO, POM, CS, CBD, GHC, M-1, M-2 and HS.

(5) Sign permit needed: No.

(6) Calculation of area for nonprofit organizations: No criteria.

(7) Permitted time: Temporary signs may not be utilized for more than thirty (30) days.

(8) Exceptions: These provisions shall not apply to temporary activity signs as set forth in subsection 10.08.4476(d).

(h) Freestanding signs.

(1) Maximum height: Fifteen feet (15') feet.

(2) Maximum area: 100 square feet.

(3) Calculation of permitted area: One-half square foot of sign area for each lineal foot of parcel frontage.

(4) Permitted zones: CS, CMD, GHC, M-1, M-2, and HS.

(5) Sign permit needed: Yes.

(6) Sign location: No freestanding sign may be erected closer than fifteen (15') feet to any property line or closer than fourteen (14') feet to any driveway, alley, or vehicular access. Freestanding signs may only be permitted on the following sites or conditions:

(i) Shopping centers with four (4) or more individual establishments;

(ii) Office complexes including eight (8) or more suites or exceeding 15,000 square feet of floor area;

(iii) Any parcel with 200 or more feet of street frontage; and

(iv) As part of an overall sign program or plan.

(i) Freeway signs.

(1) Maximum height: Fifteen (15') feet measured from the crown of the nearest freeway or forty-five (45') feet, whichever is less.

(2) Maximum area: 300 square feet per sign face.

(3) Minimum ground clearance: Eight (8') feet from the bottom of the sign.

(4) Permitted sites: The sign and the site(s) being advertised must be within 350 feet of a freeway.

(5) Permitted zones: GHC, CS, M-1, M-2, HS, and as permitted in a PUD zone, subject to first securing a conditional use permit.

(6) Sign permit needed: No. Requires a conditional use permit.

(7) Maximum number of signs permitted: One per parcel, advertising a business on the parcel or immediately adjacent to the parcel. No business may be advertised on more than one freeway sign.

(j) Under canopy signs.

(1) Height: Minimum eight (8') foot clearance under the sign.

(2) Maximum area: Four (4) square feet.

(3) Permitted zones: NS, CS, PUD and CBD.

(4) Maximum number of signs: One per parcel or business.

(k) Standard sign area. For all businesses with lineal building frontages which total less than twenty (20') feet, the maximum sign area shall be ten (10') feet. All other provisions of this chapter shall apply to signs with a standard sign area.

(l) Flags for new subdivisions. New subdivisions are permitted a cumulative total of ten (10) flags with logos (but without sign copy) and are to be located on the model home lots or sales office lot or clustered at the subdivision entryway on private property. Pole height is limited to twenty (20') feet and flag area to be no more than twenty-four (24') square feet per flag. Flags are to be replaced when the fabric is torn or otherwise determined by the City to be in a state of disrepair. No sign permit is required.

(m) Regional freeway commercial signs. A conditional use permit is required.

(1) The sign is for a business that attracts a regional draw of the retail market and is for a single user on a site of thirty-five (35) acres or greater, has an approved building area over 300,000 square feet and a freeway frontage of 1,000 feet or greater;

(2) The site has poor visibility to allow for adequate decision time to enable a safe maneuver from the freeway to a ramp;

(3) The proposed sign height is the lowest necessary to provide continuous visibility given a speed of fifty-five (55)/sixty-five (65) mph based on Caltrans standards for safe merging distances, but no taller than seventy (70') feet;

(4) The proposed sign area (maximum lettering height of six (6') feet) is the smallest necessary to provide visibility based on Caltrans standards and to allow for a safe transition to the exit ramp;

(5) The sign will have reverse pan halo lettering;

(6) The sign is within 350 feet of the freeway, and must have one freeway exit ramp greater than two (2) miles away;

(7) One sign per regional freeway commercial development;

(8) The sign is to be set back no less than the height of the sign from the freeway right-of-way;

(9) The sign shall have one continuous perimeter.

(n) *Off-site kiosk directional subdivision signs.*

(1) Kiosk locations in addition to the ten (10) locations approved below be approved by the Planning Commission by conditional use permit. One kiosk may be constructed per site located on private property only. A second kiosk may be approved by the Planning Commission through the conditional use permit process. The following ten (10) sites (within one-quarter mile radius) are hereby approved as kiosk locations and have their center at the intersections of:

(i) Corral Hollow Road and Grant Line Road;

(ii) Tracy Boulevard and Grant Line Road;

(iii) Tracy Boulevard and I-205;

(iv) I-205 and MacArthur Drive;

(v) MacArthur Drive and Grant Line Road;

(vi) Tracy Boulevard and Eleventh Street;

(vii) Eleventh Street and MacArthur Drive;

(viii) Corral Hollow Road and Cypress Drive;

(ix) Tracy Boulevard and Schulte Road; and

(x) Schulte Road and MacArthur Drive.

(2) Maximum of six (6) panels per subdivision, phase, tract or tentative map throughout the City and four (4) panels total per structure.

(3) Seven-inch minimum letter height, and twelve-inch maximum letter height. Height of structure not to exceed fourteen (14') feet. Sign must have a minimum ground clearance of three (3') feet. Sign area of each panel not to exceed sixteen (16) square feet and no panel is to be greater than eight (8') feet in length. Sign must be nonilluminated.

(4) A panel shall be removed from the sign structure(s) following close of the on-site sales office.

(5) Copy change or new panels not required to go before the Planning Commission. An administrative sign permit is required.

(6) Sign structure to be removed within sixty (60) days after sign advertises no subdivisions.

(o) *Temporary project identification signs.* Temporary project identification signs may be permitted on a

site after the owner of the site receives a sign permit for the signs. Temporary project identification signs may only be approved under the following:

(1) The site shall be at least thirty-five (35) acres.

(2) The site shall have an approved commercial project by the City for the entire site.

(3) Sign standards:

(i) Maximum area, 800 square feet;

(ii) Maximum height, twenty-five (25') feet;

(iii) No closer than 100 feet to any public right-of-way or property line;

(iv) The sign shall be nonilluminated;

(v) Two (2) signs per project or parcel whichever is less.

(4) Prior to installation of the sign, appropriate construction permit(s) to the satisfaction of the Building Official, shall be obtained.

(5) The temporary project identification sign shall be removed prior to the issuance of the first final inspection or certificate of occupancy for any structure in the project, or after one year from the date of sign permit approval, whichever occurs first. The owner may receive up to a one-year extension of the permit if a final inspection or certificate of occupancy has not been granted for any structure in the project and the owner provides written justification for the extension, to the satisfaction of the Community Development Director.

(6) No temporary project identification sign may be permitted on a site longer than two (2) years after original approval unless a new sign permit application, submitted with appropriate fee, is approved by the Community Development Director pursuant to this article.

(p) *Off-site downtown directional signs.* Up to sixteen (16) off-site directional signs for downtown Tracy shall be permitted at the locations indicated below. Said signs shall be installed in City of Tracy public right-of-way and maintained by the City. The specific siting in the public right-of-way at each location will be determined by normal City standards for traffic control signs regarding visibility, safety, and installation considerations. The design of said signs will be standard City of Tracy green and white street signs, approximately six (6') inches tall by thirty (30') inches wide, mounted approximately seven feet above sidewalk grade, containing the word "DOWNTOWN" with an arrow indicating the direction from the sign to the intersection

of Tenth Street and Central Avenue. The sixteen (16) locations at which signs will be permitted include the following:

- (1) On the westbound off-ramp of I-205 at Grant Line Road, pointing east;
- (2) On the eastbound off-ramp of I-205 at Grant Line Road, pointing east;
- (3) On the westbound off-ramp of I-205 at Tracy Boulevard, pointing south;
- (4) On the eastbound off-ramp of I-205 at Tracy Boulevard, pointing south;
- (5) On the westbound off-ramp of I-205 at MacArthur Drive, pointing south;
- (6) On the eastbound off-ramp of I-205 at MacArthur Drive, pointing south;
- (7) On westbound Pescadero Avenue at MacArthur Drive, pointing south;
- (8) On eastbound Grant Line Road at Tracy Boulevard, pointing south;
- (9) On eastbound Eleventh Street at Corral Hollow Road, pointing east;
- (10) On southbound Tracy Boulevard at Eleventh Street, pointing east;
- (11) On southbound MacArthur Drive at Eleventh Street, pointing west;
- (12) On westbound Eleventh Street at Holly Drive, pointing south;
- (13) On eastbound Eleventh Street at Central Avenue, pointing south;
- (14) On southbound East Street at Tenth Street, pointing west;
- (15) On Tracy Boulevard at the Tracy Municipal Airport directing traffic north;
- (16) On northbound Tracy Boulevard at Eleventh Street, pointing east.

(q) *Off-site monument signs.* Any business may construct and maintain one off-site monument sign if, and only if, all of the following requirements are met:

- (1) The business is not identified on a freeway sign or a freestanding sign; and
- (2) The parcel on which the business is located (the "business parcel") has a recorded easement, or other real property interest recorded against the parcel on which the off-site monument sign is located (the "sign parcel"), which provides: (i) access from the business to the public right-of-way across the sign parcel;

and (ii) the continued maintenance of the off-site monument sign in accordance with all City standards, including this article;

- (3) The off-site monument sign is located within the access easement referenced in subsection (q)(2), above;
- (4) The business is identified on no more than one monument sign on the business parcel, and no more than one off-site monument sign;
- (5) The sign parcel shall have no more than two (2) total monument signs;
- (6) The off-site monument sign is designed in accordance with all City standards, including Tracy Municipal Code section 10.08.4440 and subsection 10.08.4460(c). (Ord. 1027 § 1, 2001; Ord. 995 § 4, 1999; prior code § 10-2.3503) (Ord. No. 1132, § 1, 1-6-2009)

10.08.4465 Banner signs on public property.

(a) *Purpose.* The purpose of this section is to establish the manner by which banners may be displayed on public property to promote the City of Tracy, to promote co-sponsored, community-wide public events, and for beautification of the City.

(b) *Definitions.* For the purpose of this section: "Banner" means either of the following two (2) types:

- (1) "Street light banner" means a banner on a City street light pole, including a light pole on any City-owned property, and which is affixed by brackets.
- (2) "Over-the-street banner" means a banner traversing the public right-of-way at one of three (3) locations as set forth in subsection (d)(2) below.

"City-sponsored" means the City alone (including a City Board or Commission) is sponsoring the public event.

"Co-sponsor" means the City is co-sponsoring a public event in one of the following ways:

- (1) The City has entered into a memorandum of understanding (MOU) with an organization to cooperate in putting on the event (pursuant to Council Resolution No. 2005-076, or the successor co-sponsorship guidelines); or
- (2) The City has made a substantial contribution of money and or City services toward the event.

"Director" means the Director of Development and Engineering Services or his or her designee, unless stated otherwise.

(c) *City banners to promote or beautify the City.* The City may install street light banners throughout the City to promote the City or for beautification of the City. No sign permit is necessary.

(d) *Banners for City-sponsored or co-sponsored, community-wide events.* The City may install banners to advertise an upcoming community-wide event for which the City is a sponsor or co-sponsor. No sign permit is necessary. However, the applicant must obtain a special events permit from the Parks and Community Services Department, and the Parks and Community Services Director is authorized to approve the placement of banners and their conformance to the banner guidelines.

(1) Street light banners for City-sponsored or co-sponsored, community-wide events may be placed in any one or more of the following zones:

(A) *Zone 1:* Eleventh Street between Lammers Road and Corral Hollow Road;

(B) *Zone 2:* Tenth Street between A and East Streets;

(C) *Zone 3:* Central Avenue between Eleventh and Sixth Streets.

These three (3) zones do not include the four (4) street corners at Tenth Street and Central Avenue, which are reserved for City banners.

(2) Over-the-street banners for City-sponsored or co-sponsored, community-wide events may be placed in any one or more of the following locations, once the City has installed appropriate pole structures:

(A) In the center median of Eleventh Street between Lammers Road and Crossroads Drive;

(B) On Central Avenue between Eleventh Street and Tenth Street; and

(C) At Sixth Street and Central Avenue, upon completion of the Downtown Plaza.

(3) The Director shall establish banner guidelines, including banner specifications, length of time banners may be displayed, scheduling and utilization of the special event permit process. The Director may revise the banner guidelines as necessary, as long as they conform to this section.

(4) Banners shall be installed and removed by City staff. (Ord. 1115 § 1, 2008; Ord. 1110 § 1, 2007) (Ord. No. 1145, § 1, 3-16-2010)

10.08.4470 Standards for miscellaneous signs.

(a) *Construction project sign.* "Construction project sign" means a sign erected in conjunction with a construction project for the purpose of publishing the future occupants of a building, the architect, engineer, contractor, or other information pertaining to the construction project. Construction project signs shall not exceed thirty-two (32) square feet in area or eight (8') feet in overall height, unless legally required by governmental contract to be larger.

(b) *Real estate signs on private property.* Notwithstanding any other provision of this chapter, and consistent with California Civil Code section 713, signs advertising property for sale, lease or exchange including, but not limited to, the words "open house", may be placed upon property if the following conditions are met.

- (1) The sign contains the following information:
- (a) That the property is for sale, lease, or exchange by the owner or his or her agent.
 - (b) Directions to the property.
 - (c) The owner's or agent's name.
 - (d) The owner's or agent's address and telephone number.
- (2) Residential property. On residential property of less than one acre, one real estate sign not to exceed six (6) square feet in area is permitted. On residential property of more than one acre, one sign not to exceed thirty-two (32) square feet in area per street frontage is permitted. In cases of properties with more than one frontage, not more than one sign may be placed along each frontage. Such signs shall be placed a minimum of 200 feet apart.
- (3) Commercial property. On a commercial or industrial parcel of less than one acre, one sign of twelve (12) square feet in area plus one square foot of additional sign area for every ten (10) linear feet of street frontage up to, but not exceeding thirty-two (32) square feet in total sign area shall be permitted.
- On a commercial or industrial parcel of one acre or more, one sign per frontage, not to exceed thirty-two (32) square feet in area per sign, is permitted.
- (4) Open house signs. In addition to the signs allowed by subsections (2) and (3) of this subsection, an additional sign, not to exceed six (6) square feet in area or three (3') feet in height, with the words "open house" shall be allowed during daylight hours on a weekend and legal holiday.
- (5) Location. Real estate signs may be located on the property for sale, lease or exchange, or on other property with that property owner's consent. The signs shall not adversely affect public safety, including traffic safety.
- (6) Illumination. Real estate signs shall not be illuminated.
- (7) Removal. Real estate signs shall be removed within seven (7) days of the sale (close of escrow), lease or exchange of the property.
- (8) Number of signs. There shall be no more than four (4) off-site real estate signs for any open house event or property listing.
- (c) Residential subdivision sign. One temporary real estate sign for a residential subdivision may be permitted on each arterial or collector street within a subdivision. When there are no arterial or collector streets within the subdivision, one such sign may be permitted on a local street within the subdivision. Temporary real estate signs shall meet the minimum front yard setback requirements, and shall not exceed 100 square feet in area, or be more than fifteen (15) feet in height. Such signs shall not be

illuminated. Such signs shall be removed immediately after the completion of the sales activity of the property or subdivision by the builder. A sign permit shall be obtained before the placement of such signs.

(d) Temporary activity signs on public property. A sign advertising a temporary activity may be placed in the public right-of-way if the owner complies with all of the following:

(1) Activity. This subsection (d) applies to temporary activity signs such as real estate open house or other activity that is permitted in an "R" residential zone.

(2) Temporary. With respect to subsection (d), "temporary activity sign" means a sign, such as a real estate direction sign to an open house sign, placed during daylight hours on a weekend and legal holiday.

(3) Location. The temporary activity sign may only be located within one mile of the property to which the sign applies, and within the public right-of-way in any residential zoning district in the following locations:

1. Along a major arterial street where there is a public soundwall, landscaping and pedestrian walkway separating the adjacent private property from the roadway.

2. Where the frontage is improved with a monolithic curb, gutter and sidewalk, behind the sidewalk on residential and collector streets.

3. Where the frontage is improved with vertical face curb, parkway and sidewalk, within the parkway between the curb and sidewalk on residential and collector streets.

The sign shall not be located:

- In a median;
- In a city park;
- On a sidewalk or pedestrian walkway;
- In the vehicular travel lane, bicycle lane, parking lane or red zone of the street;
- Within one foot of the curb;
- On a utility pole or fixture;
- On street signs or other public signs.

(5) Number of signs. For each activity, there shall be no more than a total of four (4) signs displayed on public property, and no more than one sign at an intersection. There shall be no more than a total of four (4) signs at any intersection or one sign on each corner.

(6) Size. The sign may not exceed six (6) square feet in area or three (3') feet in height. (Ord. 1027 § 2, 2001: Prior code § 10-2.3504)

10.08.4480 Administration.

Except as otherwise provided in section 10.08.4470 of this article, no sign may be placed or erected without written approval issued by the Community Development Director or his designee. In addition, building permits shall

be required for the erection of signs, except painted, wall, window, or temporary signs, following the issuance of written approval by the Community Development Director. (Prior code § 10-2.3505)

10.08.4490 Sign approval.

(a) Applications: Form. Applications for sign approval shall be made upon forms provided by the Community Development Department in the manner thereon ascribed.

(b) Review of sign applications. Permission for signs shall be issued only after review by, and the approval of, the Community Development Director. The Community Development Director shall approve, disapprove, or conditionally approve the sign application on the basis that it conforms to the purpose and the requirements of this article.

(c) Appeals.

(1) In the event the applicant is not satisfied with the decision of the Community Development Director, the applicant, within ten (10) working days after the decision is rendered, may file an appeal with the Commission. Such an appeal shall be filed in writing with the secretary of the Commission.

(2) In the event the applicant is not satisfied with the decision of the Commission, within ten (10) working days after the decision is rendered, he may file an appeal in writing with the Council. The Council shall render a decision within forty-five (45) days after the filing of such appeal. (Prior code § 10-2.3506)

10.08.4500 Nonconforming signs.

The lawful use of signs existing on January 17, 1978, although such use does not conform with the provisions of this article, may be continued; provided, however, a nonconforming sign which has been abandoned, or the use for which it is advertised has ceased to function for a period of ninety (90) days or more, shall be brought into conformity with the provisions of this article.

(a) No nonconforming sign shall be, in any manner, structurally altered, reconstructed, or moved without being made to comply in all respects with the provisions of this article; however, nothing in this subsection shall prohibit the painting, maintenance, or repairing of such sign, including the face and changing of copy, except that such repairs shall not exceed fifty (50%) percent of the value of such sign within any consecutive five (5) year period.

(b) If at any time any sign in existence or maintained on January 17, 1978, which sign does not conform with the provisions of this article, is destroyed by fire, accident, explosion, or act of God to the extent of more than fifty

(50%) percent of the value thereof, then, without further action of the City, such sign, from and after the date of such destruction, shall be subject to all the provisions of this article. For the purposes of this article, the value of any sign shall be the estimated cost and replacement of the sign in kind as determined by the Building Official. (Prior code § 10-2.3507)

10.08.4510 Prohibited signs and locations.

The following signs shall be absolutely prohibited:

- (a) Any sign designed for emitting sound;
- (b) Any sign mounted or attached to a vehicle parked for the purpose of calling attention to or advertising a special business establishment;
- (c) Any sign or sign structure which has become a public nuisance due to inadequate maintenance, dilapidation, or abandonment;
- (d) Any sign which obstructs in any manner the ingress to, or egress from, a required door, window, fire escape, or other required accessway;
- (e) Any sign containing any obscene matter;
- (f) Any sign unlawfully installed, erected, or maintained;
- (g) Any sign now or hereafter existing which no longer advertises a bona fide business conducted or a product sold as prescribed in this chapter;
- (h) Any sign which encroaches into any City right-of-way or easement, except an under canopy sign or a temporary activity sign provided for under section 10.08.4470(d).
- (i) Any sign which flashes, blinks, moves, changes color, appears to change color, changes intensity, or contains any part of an attachment which does the same, except that standard barber poles and time and temperature signs shall be permitted in the commercial and industrial zones;
- (j) Any freestanding or projecting sign erected at an intersection so as to intrude into a triangle formed by the projection of the curb line (if none, the property line) and an imaginary line twenty-five (25') feet from the intersection of such projecting lines, unless less than two (2') feet or more than eight (8') feet above the curb grade and the support is no more than eighteen (18") inches in diameter;
- (k) Any sign not expressly permitted;
- (l) Any sign located so that it interferes with visibility at an intersection, public right-of-way, driveway, or other ingress/egress;
- (m) Any sign located or displayed on or over public property, except for:
 - (1) A banner sign approved under section 10.08.4465,

(2) A temporary activity sign provided for under section 10.08.4470(d), or

(3) A legally required traffic sign;

(n) Any sign attached to a tree;

(o) Any sign erected or maintained which has less horizontal or vertical clearance from communication lines or energized electrical power lines than that prescribed by the State or rules and regulations duly promulgated by agencies thereof;

(p) Any sign serving as a billboard;

(q) Any sign which, in the opinion of the Community Development Director, is in conflict with the spirit or intent of this article; and

(r) Any sign adversely affecting traffic control or safety. (Ord. 1110 § 2, 2007; Ord. 1027 § 3, 2001; prior code § 10-2.3508)

10.08.4520 Removal of signs.

A sign shall be removed under any of the following conditions:

(a) The sign no longer advertises a bona fide business, and the sign exists ninety (90) days after the cessation of such business;

(b) The sign was installed or painted illegally;

(c) The sign is a nonconforming sign and was destroyed in a manner reducing the value of such sign by fifty (50%) percent or more;

(d) The sign is in violation of any part of this chapter;

(e) The sign endangers the safety or welfare of citizens; and

(f) The sign is dilapidated, decayed, or otherwise neglected. (Prior code § 10-2.3509)

10.08.4530 Nature of removal.

(a) A sign subject to removal shall be removed in a safe manner.

(b) Notification of the removal of a sign shall be furnished in writing to the Building Official forty-eight (48) hours in advance of any removal for any sign requiring a sign permit, unless the sign places the City in immediate peril.

(c) Any accessory structures or foundations or mounting materials which are unsightly or a danger to the safety and welfare of citizens shall be removed at the time of the sign removal. (Prior code § 10-2.3510)

10.08.4540 Scope of responsibilities.

(a) The Community Development Director or his designee shall be responsible for the following functions:

(1) Interpretations of this chapter; and

(2) The review of sign permit applications for conformance with this chapter.

(b) The Building Official or his designee shall be responsible for the following functions:

(1) Inspections of signs and installations of signs;

(2) Inspections of purported violations of this chapter; and

(3) The enforcement of this chapter by issuing final inspection approval of sign installations and issuing notices or citations in the event of nonconformance with this chapter. (Prior code § 10-2.3511)

10.08.4550 Enforcement.

In the event a sign is found to not conform with this chapter, and such sign does not place citizens in immediate danger or peril, the Building Official or his designee shall serve the business owner (or property owner if the business has ceased) a written certified notice explaining the nature of such violation and demand compliance with this chapter (by the modification or removal of such sign) within thirty (30) days after the receipt of such notice. Should the business owner fail to comply with this chapter in the prescribed time, the Building Official shall issue a citation to such business owner and subject such owner to a fine prescribed by resolution, except when during such thirty (30) day notice period the business owner or his designee files a variance application with the Community Development Department. (Prior code § 10-2.3512)

10.08.4560 Signs placing citizens in immediate peril or signs in public rights-of-way and/or easements.

The Building Official or his designee shall immediately cause the removal of any sign which, in the judgment of either the Community Development Director or his designee or the Chief Building Official or his designee, is found to be within the public right-of-way and/or easements or found to place citizens in immediate peril by any or a combination of the following methods, using sound judgment under the circumstances:

(a) The removal or modification of such sign by City staff with the business owner to be billed for time and materials;

(b) Notification orally or in writing to the business owner causing the removal of such sign within a twenty-four (24) hour period or a lesser period of time, as prescribed by the Chief Building Official or his designee; or

(c) The immediate citation of the business owner or party responsible for such sign. (Prior code § 10-2.3513)

ORDINANCE _____

AN ORDINANCE AMENDING SECTIONS 10.08.4440, 10.08.4460, AND 10.08.4510
OF THE TRACY MUNICIPAL CODE
REGARDING FREESTANDING SIGNS AND ELECTRONIC READERBOARD SIGNS FOR
SCHOOLS

WHEREAS, The Tracy Municipal Code (TMC) contains zoning regulations related to signs (TMC Chapter 10.08, Article 35), and

WHEREAS, A number of Tracy public schools have installed Freestanding or Monument Signs using electronic readerboard signs that flash or change color, and

WHEREAS, The City Council wishes to allow schools (whether public or private) to construct Freestanding or other signs containing electronic readerboard displays that flash or change color to advertise on-site, non-commercial activities and events;

NOW, THEREFORE, The City Council hereby ordains as follows:

SECTION 1: Section 10.08.4440, Definitions, of the Tracy Municipal Code, is amended by adding a definition of “electronic readerboard sign” in alphabetical order, to read as follows:

“Section 10.08.4440 Definitions

...

“Electronic readerboard sign” shall mean a changeable, moving message sign consisting of a matrix of lamps, light emitting diodes (LEDs), or similar devices.”

SECTION 2: Section 10.08.4460, Standards by Sign Type, subsection (h), of the Tracy Municipal Code, is amended to read as follows:

“Section 10.08.4460, Standards by Sign Type

(h) Freestanding Signs

(1) Maximum height: Fifteen feet (15') feet.

(2) Maximum area: One hundred (100) square feet.

(3) Calculation of permitted area: One-half square foot of sign area for each lineal foot of parcel frontage.

(4) Permitted locations: zones CS, CBD, GHC, M-1, M-2, and HS-; and school sites as described in subsection (7)(v), below.

(5) Sign permit needed: Yes.

(6) Sign location: No freestanding sign may be erected closer than fifteen (15') feet to any property line or closer than fourteen (14') feet to any driveway, alley, or vehicular access.

(7) Freestanding signs may only be permitted on the following sites or conditions:

(i) Shopping centers with four (4) or more individual establishments;

(ii) Office complexes including eight (8) or more suites or exceeding 15,000 square feet of floor area;

(iii) Any parcel with 200 or more feet of street frontage; ~~and~~

(iv) As part of an overall sign program or plan-; and

(v) Upon issuance of a conditional use permit, a school containing any of grades 1 through 12, where the school site is one-half acre or more, and advertising is only for on-site, non-commercial activities or events."

SECTION 3: Section 10.08.4510, Prohibited Signs and Locations, subsection (i) of the Tracy Municipal Code is amended to read as follows:

"Section 10.08.4510, Prohibited Signs and Locations.

The following signs shall be absolutely prohibited:

...

(i) Any sign which flashes, blinks, moves, changes color, appears to change color, changes intensity, or contains any part of an attachment which does the same, except that for:

(1) Standard barber poles and time and temperature signs shall be permitted in the commercial and industrial zones; and

(2) Upon issuance of a conditional use permit, one electronic readerboard sign on the property of a public or private school if the site is one-half acre or more and the school contains any of grades 1 through 12, to advertise only non-commercial, on-site activities and events. In evaluating the conditional use permit (TMC Section 10.08.4250 and following), the Commission shall consider appropriate hours of illumination, brightness, size, height, and other sign characteristics as they relate to the sign's location and surrounding land uses. Any electronic readerboard sign or other sign that flashes, blinks, moves, changes color, appears to change color, changes intensity, or contain any part of an attachment which does the same shall be removed within 90 days after the site is no longer used as a qualifying school;"

SECTION 4: This Ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 5: This Ordinance shall be published once in the Tracy Press, a newspaper of general circulation, within fifteen (15) days from and after its final passage and adoption.

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 1st day of May, 2012, and finally adopted on the _____ day of _____, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 8

REQUEST

PUBLIC HEARING TO AUTHORIZE, BY IMPLEMENTING RESOLUTION, THE ADOPTION OF THE UPDATED DEVELOPMENT IMPACT FEES FOR THE NORTHEAST INDUSTRIAL (NEI) PHASE I AND II DEVELOPMENT AREAS RESULTING IN A NET DECREASE IN ROADWAY AND STORM DRAINAGE FEES

EXECUTIVE SUMMARY

The proposed update of the NEI Phase I and II roadway and storm drainage fees, results in a reduction of the existing fees. The property owners pay this fee at the time of development. By reducing the Roadway and Storm Drainage fees in these development areas, the City will be more competitive in attracting new development without compromising construction of the required infrastructure.

DISCUSSION

The City regularly updates development impact fees for various development areas in accordance with actual costs incurred or the latest cost estimates for public infrastructure. The fees are based upon the total actual costs incurred on completed projects and updated cost estimates for the incomplete projects distributed among the undeveloped properties.

Generally, development impact fees are updated on an annual basis. However, due to the slow-down of the economy, overall fee programs for NEI Phase I and II have not been updated since 2008. While construction costs for more specialized infrastructure in water, wastewater, and public building areas have not seen much reduction in construction costs, roadway and storm drainage construction costs have seen significant reductions. As part of an effort to be more competitive in attracting new development the City Council approved a reduction in the roadway fees throughout the City in December of 2011. This resulted in a reduction to the NEI Phase I and II roadway fees by 12%. At this time, further reductions in roadways are recommended based on a more comprehensive look at the specific projects funded by NEI. This results in a further reduction in the roadways development impact fees. Cost of the interchange improvements at MacArthur and I-205, which is a part of the NEI Phase II program, is being reduced by \$3.75M since some of the improvements have already been completed by other agencies.

The storm drainage fees were also reviewed and are being reduced at this time. In 2008, at the request of the development community, an escalation factor was added to the storm drainage facilities to reflect the fact that the improvements were not expected to be completed for approximately 5 years. However, due to the economic downturn, construction costs have not risen as was expected. Therefore, by eliminating the escalation factor the storm drainage fees are reduced.

STRATEGIC PLAN

This agenda item relates to the Economic Development Strategic Plan. Specifically, Goal 1 – Job Creation/Business Attraction. This will help incentivize new business attraction efforts.

The existing and new storm drainage and roadways development impact fees for both NEI I and II are shown in attachment A. Attachment B provides comparison of all existing and proposed development impact fees for NEI I and II.

FISCAL IMPACT

There is no fiscal impact to the General Fund as a result of updating the NEI Phase I and II fees since the total cost of required projects have decreased. The City will continue reviewing developments in the construction industry and will update the fees as necessary to ensure the new developments pay the cost of the required roadway infrastructure.

RECOMMENDATION

Staff recommends City Council authorize, by implementing resolution, the adoption of the updated Roadway and Storm drainage fees for the North East Industrial Area Phases I and II resulting in a net decrease in roadway fees and authorize staff to update the Finance and Implementation Plans to reflect these changes.

Prepared by: Kuldeep Sharma, City Engineer
Reviewed by: Andrew Malik, Development Services Director
Approved by: Leon Churchill, Jr., City Manager

Attachment A – NEI Phase I and II Roadway and Storm Drainage Fee Reductions
Attachment B – NEI Phase I Fee Schedule
Attachment C – NEI Phase II Fee Schedule

Attachment A

NEI Phase I and II Roadway and Storm Drainage Per Acre Fee Reductions				
May 2012				
Facility Categories	NEI Phase I		NEI Phase II	
	Current	Proposed	Current	Proposed
Roadways				
Traffic Safety	\$ -	\$ -	\$ 1,412	\$ 1,412
Land/Easement Acquisition	\$ -	\$ -	\$ 19,005	\$ 44,059
Roadway Improvements	\$ 70,835	\$ 65,609	\$ 59,119	\$ 18,721
CFD 89-1	\$ 336	\$ 382	\$ -	\$ -
RSP	\$ 1,306	\$ 1,484	\$ 416	\$ 416
Subtotal	\$ 72,477	\$ 67,475	\$ 79,953	\$ 64,608
Storm Drainage				
Land/Easement Acquisition	\$ -	\$ -	\$ 40,453	\$ 6,593
Improvements	\$ 40,297	\$ 31,763	\$ 8,216	\$ 29,233
CFD 89-1	\$ 176	\$ 176	\$ 271	\$ 271
Subtotal	\$ 40,473	\$ 31,939	\$ 48,940	\$ 36,097

Attachment B
City of Tracy - Northeast Industrial Area Phase I
Fee Schedule

Facility Categories	Fee per Acre
<i>Public Buildings and Services</i>	
General Gov't & Public Safety Facilities	\$ 3,559
Subtotal	\$ 3,559
<i>Roadways</i>	
Roadway Improvements	\$ 65,609
CFD 89-1	\$ 382
RSP	\$ 1,483
Subtotal	\$ 67,474
<i>Wastewater</i>	
Conveyance Upgrades	\$ 8,428
WWTP	\$ 28,617
CFD 89-1	\$ 1,405
Subtotal	\$ 38,450
<i>Water</i>	
Distribution Upgrades	\$ 5,228
Subtotal	\$ 5,228
<i>Storm Drainage</i>	
Upgrade	\$ 31,763
CFD 89-1	\$ 176
Subtotal	\$ 31,939
Total	\$ 146,649

Attachment C
City of Tracy - Northeast Industrial Area, Phase II
Obligation per Light Industrial Acre
Fee Schedule

Facility Categories	Fee per Acre
<i>General Gov't & Public Safety Facilities</i>	
Law Enforcement Facilities	\$ -
Fire Facilities	\$ 1,131
General Government Facilities	\$ 1,423
Public Works Facilities	\$ 250
Subtotal	\$ 2,804
<i>Traffic Safety</i>	
Intersection Improvements	\$ -
Traffic Signals	\$ 1,412
Subtotal	\$ 1,412
<i>Streets & Highways</i>	
Roadway Widening & Upgrades	\$ 44,059
Land/Easement Acquisition	\$ 18,721
Reimbursement to CFD 89-1	\$ -
Reimbursement to RSP	\$ 416
Subtotal	\$ 63,196
<i>Wastewater</i>	
WWTP Improvements	\$ 16,786
Collections System Improvements	\$ 16,494
Land/Easement Acquisition	
Reimbursement to CFD 89-1	\$ 1,431
Subtotal	\$ 34,711
<i>Water</i>	
SCSWSP Supply Interface Facilities	\$ 17,639
Distribution	\$ -
Subtotal	\$ 17,639
<i>Storm Drainage</i>	
Watershed Improvements	\$ 6,593
Land/Easement Acquisition	\$ 29,233
Reimbursement to CFD 89-1	\$ 271
Subtotal	\$ 36,097
Total	\$ 155,860

RESOLUTION _____

ADOPTING THE UPDATED DEVELOPMENT IMPACT FEES FOR THE
NORTHEAST INDUSTRIAL (NEI) PHASE I AND II DEVELOPMENT AREAS
RESULTING IN A NET DECREASE IN ROADWAY AND STORM DRAINAGE
FEES

WHEREAS, The City regularly updates development impact fees for various development areas in accordance with actual costs incurred or the latest cost estimates for public infrastructure, and

WHEREAS, Due to the slow-down of the economy, overall fee programs for NEI Phase I and II have not been updated since 2008, and

WHEREAS, City Council approved a reduction in the roadway fees throughout the City in December of 2011, and

WHEREAS, Further reductions in roadways are recommended based on a more comprehensive look at the specific projects funded by NEI, and

WHEREAS, Storm drainage fees were also reviewed and are being reduced at this time, and

WHEREAS, There is no fiscal impact to the General Fund as a result of updating the NEI Phase I and II fees since the total cost of required projects have decreased;

NOW, THEREFORE BE IT RESOLVED That the City Council hereby adopts the updated Roadway and Storm drainage fees for the North East Industrial Area Phases I and II as outlined in Attachment A, resulting in a net decrease in roadway fees, and authorizes staff to update the Finance and Implementation Plans to reflect these changes.

* * * * *

The foregoing Resolution No. _____ was adopted by the City Council of the City of Tracy on the 1st day of May 2012, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

Attachment A

NEI Phase I and II Roadway and Storm Drainage Per Acre Fee Reductions				
May 2012				
Facility Categories	NEI Phase I		NEI Phase II	
	Current	Proposed	Current	Proposed
Roadways				
Traffic Safety	\$ -	\$ -	\$ 1,412	\$ 1,412
Land/Easement Acquisition	\$ -	\$ -	\$ 19,005	\$ 44,059
Roadway Improvements	\$ 70,835	\$ 65,609	\$ 59,119	\$ 18,721
CFD 89-1	\$ 336	\$ 382	\$ -	\$ -
RSP	\$ 1,306	\$ 1,484	\$ 416	\$ 416
Subtotal	\$ 72,477	\$ 67,475	\$ 79,953	\$ 64,608
Storm Drainage				
Land/Easement Acquisition	\$ -	\$ -	\$ 40,453	\$ 6,593
Improvements	\$ 40,297	\$ 31,763	\$ 8,216	\$ 29,233
CFD 89-1	\$ 176	\$ 176	\$ 271	\$ 271
Subtotal	\$ 40,473	\$ 31,939	\$ 48,940	\$ 36,097

AGENDA ITEM 9

REQUEST

**ACCEPT MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY
AND THE GRAND FOUNDATION IN SUPPORT OF THE GRAND THEATRE CENTER
FOR THE ARTS AND AUTHORIZE THE MAYOR TO SIGN THE MOU**

EXECUTIVE SUMMARY

The City and the Arts Leadership Alliance (ALA) (now Grand Foundation – a non-profit organization) have collaborated in support of the Grand Theatre Center for the Arts since 1998. In 2002, City Council approved a Memorandum of Understanding with the ALA for a term of five years and subsequently renewed for an additional five years, into 2012. As the Grand Theatre Center for the Arts is now an established regional educative fine arts facility, Staff and the Grand Foundation Board of Directors, with community input, have worked to create a new MOU to guide the partnership for years to come.

BACKGROUND

The Arts Leadership Alliance (ALA) was formed to serve as the City's principal fundraiser for the Grand Theatre Center for the Arts. The ALA executed a successful capital campaign and contributed \$1,000,000 towards the \$20,000,000 Capital Improvement Project that built, equipped and furnished the facility. In addition the ALA-GF has served to support the operations and programming of the Grand with annual underwriting contributions since opening in 2007. Working closely with Cultural Arts Division Staff, the ALA-GF underwriting has supported concerts, exhibitions, classes, workshops and special events, in addition to providing arts supplies, art making and technical equipment and hospitality services. In Fiscal Year 2011-12 the ALA provided \$10,000 to the Season Headliner Kellie Pickler Concert and, as the Grand Foundation (ALA-GF) will provide \$20,000 to arts education, exhibitions and marketing support. \$30,000 in FY 10-11 equaled 3.5% of the General Fund support of \$843,000. This public-private collaboration has served both parties well in their commitment to improving the quality of life for Tracy citizens and in the economic development of the City.

In 2009, in response to the economic recession, the City initiated a series of Community Conversations with shareholders to build consensus in an effort to strengthen emotional and financial support of the Grand. The positive results of this effort led to *The Grand Partnership Report – Strengthening the Grand through shared governance* adopted in 2010. Staff and the ALA-GF utilized The Grand Partnership Report as a guide to create the new Memorandum of Understanding (MOU). Through a series of strategic planning meetings across the past two years, the critical issues of the collaborative relationship were examined. This collaboration has positioned the Grand Theatre Center for the Arts strongly, not only to survive the recession, but also to emerge from it positioned for growth.

The Grand is currently celebrating its 5th Anniversary Season as the cornerstone project in the City's ongoing downtown re-development. Now as an acclaimed historic project and innovative arts, entertainment and educative resource in our community and beyond, long-term financial planning is critical. The ALA, originally functioning as a community alliance focusing their efforts on a capital campaign, has evolved into the

Grand Foundation whose efforts will support the growth and preservation of the facility into the future.

DISCUSSION

The new MOU defines the roles and responsibilities of the City and the Grand Foundation with respect to the Grand Theatre Center for the Arts, and to confirm the joint vision and establish the goals to sustain the Center as a regional leader in the arts. The City and the Grand Foundation seek to strengthen their partnership, which will significantly increase the financial support of the Grand, not only with support of operations of programming, but also with the establishment of an endowment fund for long-term health of the project.

Key components include fundraising, annual underwriting support, programming development, membership campaign and volunteer management.

STRATEGIC PLAN

This item secures services that support City of Tracy's Strategic Plan:

Economic Development

- Goal 1: Job Creation
By supporting employment opportunities in the education and creative sectors such as Artists, Contract Instructors and Performers.
- Goal 2: Implement Downtown Revitalization in Accordance with the Downtown Specific Plan (DSP) and the National Main Street Program
By making Downtown look and feel like the "Heart of the City"
- Goal 3: Focus Efforts on projects that will result in an increase to the sales tax and transient occupancy tax revenues
By increasing demand for hospitality, dining and shopping amenities, utilized by and complimentary to, the Grand.

Organizational Efficiency

- Goal 1: Advance City Council's Fiscal Policies
By lowering General Fund support of the Center and supporting revenue generation
- Goal 2: Strengthen Customer Value through ensuring quality and excellent customer service
By delivering services that are welcomed by the community, informing the community of available City services, and promoting excellent customer relations.

Livability

- Goal 2: A City with enticing Arts, Entertainment, and Recreation
By increasing the number of entertaining, cultural, educational, and recreational activities

FISCAL IMPACT

Decreases General Fund support by providing annual underwriting support and endowment fund growth through 2022.

RECOMMENDATION

That City Council, by resolution, accepts the MOU between the City and the Grand Foundation and authorizes the Mayor to execute the MOU.

Prepared by: William Wilson, Cultural Arts Manager – Visual Arts

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

Attachment – Memorandum of Understanding between the City of Tracy and the Grand Foundation regarding the Grand Theatre

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF TRACY
AND
THE GRAND FOUNDATION
REGARDING THE GRAND THEATRE**

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I. PARTIES.

This Memorandum of Understanding (MOU or Agreement) is entered into effective _____, 2012 between the City of Tracy, a municipal corporation (City) and the Grand Foundation, a not-for-profit public benefit California Corporation (Foundation), formerly known as the Arts Leadership Alliance.

II. RECITALS.

A. The City operates the Grand Theatre Center for the Arts (the Grand), located at 715 Central Avenue in the downtown area of the City. The Grand is a 37,000 square foot interdisciplinary educational arts facility which includes:

- a 560-seat theatre, the Eleni Tsakapoulos-Kounalakis (ETK) Theatre
- a 110-seat Studio Theatre
- three art galleries
- a dance studio
- four music studios
- two visual arts studios
- a ceramics studio
- a children's studio
- a cafe and catering service kitchen.

The Grand provides a comprehensive set of programs to meet the community needs identified in the *Cultural Arts Master Plan*, adopted in 1999. The programs encompass a year-round schedule of performances and films in the theaters, gallery exhibitions, and a broad range of arts education classes and workshops in studio classrooms and throughout the Center. The Grand's programs include fine as well as popular arts, professional as well as community groups, and local/regional as well as national and international artists. It serves families, adults and children.

The Grand has three programming areas:

- Arts Education Program
- Exhibitions Program
- Presenting Program

The Grand also helps meet a range of community priorities: supports the City's goals of downtown revitalization, serves as an economic driver, celebrates the Western and railroad heritage and history of the community, promotes a positive community image, fosters arts education for children and adults, provides positive alternatives for young people, connects diverse segments of the community, promotes and develops local arts and cultural resources, and provides professional development and employment opportunities.

B. The Foundation is a community-based, independent not-for-profit organization, formerly the Arts Leadership Alliance (ALA). The original ALA was founded in 1998 to promote the cultural development of the community. Its activities, on behalf of the City, include, but are not limited to, developing and implementing programs which foster the broadest possible public use

of the Center and cooperating with the City of Tracy in promoting the public's use of all of the City's cultural arts programs at the Grand Theatre Center for the Arts.

The City Council recognizes the ALA as the working partner with the City to raise and administer funds for the Grand Theatre Center for the Arts.

The ALA successfully raised funds as part of a capital campaign of the Grand. Its current focus and mission are to provide annual support for the programming and operations at the Center, by supporting and elevating the quality of programs. An additional goal is to create a permanent endowment to support the Grand. The Foundation is to be the community's ongoing voice in maintaining the responsiveness and excellence of the Grand's programs, in addition to being its fundraising arm.

C. The City's Grand Partnership Report, dated August, 2010, outlines recommendations for making the governance structure at the Grand more effective, and evolving the Arts Leadership Alliance (ALA) into a stronger organization that embodies broader community representation and fundraising capacity. This new relationship is referred to as the Grand Partnership.

D. The Foundation has and will serve as the 501(c)(3) fundraising organization for the Grand.

E. The Foundation's office is located on the second floor at the Grand, and the City currently provides office space and certain services to the Foundation without charge to the Foundation.

F. It is the intention of the parties that representatives of the Foundation will serve in a cooperative and advisory capacity to the City staff managing the Grand, and thereby replace the existing Arts Education, Exhibitions and Presenting Program Advisory Committees. City resolutions establishing those committees will be repealed concurrently with the approval of this MOU.

G. The parties previously entered into the *Center for the Arts MOU* in May, 2002. The MOU was for a term of five years and was automatically extended for an additional five years, through June, 2012. This MOU supersedes that prior document.

III. PURPOSE.

The purpose of this MOU is to outline certain roles and responsibilities of the City and the Foundation with respect to the Grand, and to confirm their joint vision and goal to make the Grand a leading regional center for the arts.

IV. FOUNDATION RESPONSIBILITIES.

The Foundation has the following specific responsibilities, within the first year of this Agreement unless stated otherwise:

A. Foundation Board of Directors.

1. Maintain ongoing membership of approximately 20 seats on the Foundation Board. (Grand Partnership Report Recommendation 3.)
2. Include a diverse representation on the Board to reflect the Grand's regional potential, including such categories as new and long-time residents, business leaders, educators, arts community, resident organizations, diverse generations, and ethnic/racial groups. Board selections are intended to create the strongest possible fundraising capacity for the Foundation and to further the missions of the Foundation and the Center. (Grand Partnership Report Recommendation 3.)
3. Create specific, flexible Board member responsibilities and conduct an annual self-assessment. (Grand Partnership Report Recommendation 4.)
4. Be a self-electing Board and offer initial representation to identified stakeholders. (Grand Partnership Report Recommendation 5.)

B. General. Undertake responsibility for: (Grand Partnership Report Recommendation 7.)

1. programming policy; (See Section IV. C below)
2. fundraising; (See Section IV D. below)
3. membership; (See Section IV E. below)
4. community relations (See Section IVF below); and
5. volunteer management. (See Section IV H below).

It is understood that, with future growth, these responsibilities may require that the Foundation hire a part or full time employee.

C. Programming. Develop programming policy, in collaboration with City staff, in the Grand's three major programming areas: Arts Education, Exhibitions and Presenting. City staff and the Foundation will meet periodically to discuss and evaluate past and present programming to collaboratively develop future offerings. This collaborative process will involve an ongoing dialogue between the parties in response to community feedback, growth and needs, as well as programming goals and outcomes. The process will also provide the Foundation with the necessary information and connectivity to staff, program development and program collaborators to undertake fundraising in support of general and specific programming. (Grand Partnership Report Recommendation #10.)

The Board of Directors will select its own committee of five members, representative of the community and having experience and/or expertise in the Grand's programming areas to perform this programming advisory function. It is understood that programming decisions necessarily overlap with other management areas (such as marketing, operations, rentals, box office, etc.) and programming policy decisions will be made with attention to the City Council's and staff's autonomy in those areas, and subject to the City's budget and purchasing ordinance.

D. Fundraising. Operate a comprehensive development program which includes soliciting and managing individual gifts and membership campaigns, corporate sponsorships, private foundation gifts and grants and special events to support the Foundation’s program responsibilities.

- Base fundraising on programming plans (subsection C above). (Grand Partnership Report Recommendation #11.)
- Set realistic fundraising goals. (Grand Partnership Report Recommendation #12.) The Foundation shall provide the following programming and operational support:

Fiscal year	Minimum programming and operational support	Endowment Goal
FY 2011-2012	\$30,000	\$0
FY 2012-2013	\$30,000	\$5,000
FY 2013-2014	\$25,000	\$20,000
FY 2014-2015	\$25,000	\$30,000
FY 2015-2016	\$20,000	\$45,000
FY 2016-2017	\$20,000	\$55,000

(See annual funding process at subsection E below.)

- Establish an endowment for the Grand by January 1st, 2013. (Grand Partnership Report Recommendation #13.) In order to develop long-term sustainability for the Grand Theatre Center for the Arts, the Foundation will establish and manage an endowment account. Annual contribution goals are outlined above in an effort to shift fundraising priorities from annual programming and operational support to endowment growth over time. The Foundation has set a long-term fundraising goal of \$1,000,000, by which the corpus would be maintained to secure fund growth. Investment returns would fund future programming and operational support through annual planning between staff and the Foundation.
- Establish guidelines and pricing, a marketing program and a form contract for naming opportunities at the Grand. The Foundation will work directly with staff and staff will report to City Council as needed.
- Continue as the 501(c)(3) of record for fundraising purposes and shall accept donations on behalf of the City, if donors wish to give to a 501(c)(3) organization, rather than directly to the City. Any such donation may be counted toward the annual Foundation development plan amount. City is free to accept, use, and account for any donations made directly to City.
- Account to the City for all funds received from donors, through an annual report. The Foundation will provide periodic donor updates at monthly Board meetings. (See also Section IX.)

E. Annual funding process. Participate in the annual funding of the Grand and its programs through this annual funding process:

1. Annually, at the August Foundation Board meeting, City Staff shall present an estimated and prioritized set of funding requests for the Foundation's review, for underwriting support.
2. Annually, in September, the Foundation shall present the City with a donation to be used for designated programming and operational expenditures in the current fiscal year, as directed by the Foundation and its donors. These programming and operational purposes may include, but are not limited to: classes, exhibitions, performances, events, marketing, hospitality, supplies, fixtures, furniture, equipment and technology.
3. City Staff shall deposit the donation into corresponding donation/underwriting accounts within the Cultural Arts Division, Grand Theatre Center for the Arts, budget, to provide funding for itemized expenditures in support of specific programming and operational needs. The donation is patron dependent and is intended to provide financial support to supplement the City's General Fund support of the Grand, not to replace any portion of the City's General Fund support.
4. City Staff shall report underwriting support expenditures periodically at Foundation Board meetings. A complete accounting of the annual donations and underwriting shall be included in the Annual Report.
5. Request for special funding. To properly coordinate programming and marketing, any special request by City for funds (not included in the annual fundraising plan) in which the City wishes the Foundation to serve as 501(c)(3) fiscal intermediary, must be submitted in writing to the Foundation Board Chair at least 45 days before the desired fundraising activity. The Chair will convene the Board to consider requests and respond within 15 days of receipt. The Chair shall issue an approval or denial of submission in writing, and, if approved, will send payment to the City within five days.

F. Create advisory channels for the community. (Grand Partnership Report Recommendation #14.) Create advisory channels for the community, including soliciting informal audience comments, conducting focus groups for specific issues, holding periodic and open community meetings at least twice per year.

G. Conduct a membership campaign. By the beginning of the 2012-2013 season, develop a Membership Program for the Grand to foster ongoing relations with the community, engender community ownership, cultivate donors and volunteers, create a feedback channel, and provide a positive public image for the Grand. Being a member means making a minimum annual donation of support and receiving tiered benefits, offered by both the Foundation and the City. The membership should start modestly, with the goal to encompass families, local businesses and higher-level members. (Grand Partnership Report Recommendation #15.) It is anticipated that all Foundation Board members will be members as a gesture of support.

H. Volunteer management. By the beginning of the 2013-2014 season, assume responsibility for recruitment, training and scheduling of volunteers, including ushers, docents and interns. (Grand Partnership Report Recommendation #16.) It is understood that the volunteers will use the standard City application process, and remain City volunteers for insurance purposes. Staff will define the appropriate volunteer jobs and provide supervision.

I. Accounting practices; Reporting.

1. Non-profit status and accounting practices. The Foundation shall maintain its status as a 501(c)(3) organization and shall employ generally accepted non-profit accounting practices, including fund accounting.

2. Annual Report. The Foundation shall comply with the following reporting requirements:

By August 15 of each year, the Foundation will provide an industry standard, annual written report to the City that summarizes the activities of the Foundation for the prior fiscal year (July – June) of fundraising and operations, including:

- a. role;
- b. goals;
- c. activities; and
- d. finances. The finances shall include: the share of funds allocated to City for funding of the Grand and its program needs; the percentage of funds raised which have been used for administrative and fundraising expenses; the amount set aside for an endowment; and the value of the City's in-kind contributions, among other things. (see Section VI.C). (Grand Partnership Report Recommendation #18.)

These items should be representative of industry standard non-profit annual reports. The annual report is a public record, and the Foundation shall exclude confidential information about individual donors who wish to remain anonymous, unless information about the donor is necessary for naming rights, program sponsorship, or other City acknowledgment.

This Annual Report shall be presented to the City Council in September of each year to coincide with the presentation of the City's Annual Report and the Annual Grand Foundation Underwriting Support. The Annual Report will be published on the Grand website.

V. CITY RESPONSIBILITIES.

The City has the following specific responsibilities. The City shall provide staff to fulfill its obligations under this MOU.

A. Operate and maintain the Grand, including operations, personnel, budgeting/financial responsibility, facility maintenance, and other tasks. (Grand Partnership Report

Recommendation #8.) This will include updating its operational plan to reflect significant staff changes, redefining the partnership role with the Foundation and allowing for more flexible operations.

B. Cooperate in developing goals (particularly regarding the membership and volunteer program) and joint three-year plan. (Grand Partnership Report Recommendation #9.)

C. Identify funds received from the Foundation and deposit them into City's cultural arts programs accounts. Account numbers shall be as designated by the Finance Director. Such funds are not intended to displace the City's budgeted support for the Grand and its programming. (See Section IV. E. 4 above.)

D. Provide the Foundation with an annual written report by the Finance Director certifying that Foundation-contributed funds were used for the purposes intended, and were audited as part of the City's customary auditing process.

E. Permit the non-exclusive use of its name (City of Tracy) and the names of the Grand Theatre Center for the Arts, for fundraising purposes.

F. Acknowledge in its electronic and media materials, the role of the Foundation as the City's exclusive fundraising organization for the Grand Theatre Center for the Arts and associated programming.

G. Allow the Foundation to establish guidelines and pricing, a marketing program, and to contract for naming opportunities for the elements of the Center in collaboration with staff. Naming opportunities are available as part of the Foundation's recognition system which outlines donor levels in relationship to amenities at the Grand.

H. If donations received by the Foundation are designated to specific purposes or that otherwise have specific terms and conditions, the City will report to the Foundation the City's use of such funds to enable the Foundation to assure those donors that the funds have been spent for the designated purposes.

I. Provide the Foundation with six tickets to each performance in the annual Presenting Season for distribution to donors by the Foundation. Any additional tickets Season performances will be purchased by the Foundation at full retail price.

VI. FOUNDATION USE OF CITY FACILITIES.

A. The City shall permit the Foundation to use City facilities at the Grand as specified here:

1. Office. Shared use of Grand office space, identified as the Grand Foundation Office on the second floor of the Center, at no charge, to house the Foundation's administrative operations. This office use shall include office telephone(s), basic information technology (date services/internet access), fixtures, building maintenance services, and secure access via key and alarm code to the office and kitchen.

The Foundation is responsible for damage, repair and replacement of furnishings, fixtures and equipment in the office. As office space is limited in the complex, Grand staff will also use this office space for administrative operations when needed. (Grand Partnership Report Recommendation #19.)

2. Other facility spaces. Use of the other facility spaces in the Grand for Foundation administrative or fundraising activities, subject to availability of these locations and staff resources. There is no charge for available spaces. There is a charge for staff, if the activity requires staff participation.

B. The Foundation shall schedule its proposed use of the City facilities as set forth here with the Cultural Arts Managers.

C. By September 15 of each year, the City shall provide the Foundation with a schedule of the value of each in-kind contribution to the Foundation. The Foundation shall acknowledge the value of rent, office telephones, utilities, basic information technology and building maintenance services associated with use of space for administrative purposes specified in this section as an in-kind contribution from City to the Foundation.

VII. FUNDRAISING BY CITY AND OTHER ENTITIES.

The City may engage in independent grantwriting/underwriting efforts for the Grand. City and partner sponsors will ensure communication and coordination with the Foundation regarding such activities. As defined in Section V.G, donors seeking naming opportunities must donate through the Foundation, participating in the Foundation's recognition system.

VIII. USE OF TRADEMARKS AND ACKNOWLEDGMENTS.

The City shall acknowledge the role and contributions of the Foundation and major donors in publications and media materials of the Grand Theatre Center for the Arts when applicable. The City grants the Foundation the non-exclusive authority to use the "Grand Theatre Center for the Arts" in its promotional and fundraising publications.

IX. TERM; TERMINATION.

This MOU shall take effect on the first day of the month immediately following its approval by both the City Council and the Foundation Board. It shall terminate on June 30th, 2017. Before the term ends, the City and the Foundation shall confer on whether to continue and/or modify this MOU for a subsequent five-year period from July 1st 2017 through June 30th, 2022.

If the Foundation believes it requires additional time to perform any one of its responsibilities under Section IV, it shall request an extension in writing to the City Manager, stating the reason(s) for the extension. If the City agrees, the parties shall amend this Agreement to reflect any extensions of time.

If either party fails to comply with a provision of this Agreement, the other party shall send written notice of the breach, giving the party in default 30 days to correct the problem. If the breach of the Agreement is not corrected, the Agreement may be terminated.

X. INDEMNIFICATION; INSURANCE.

A. Indemnification. The Foundation shall indemnify, defend and hold harmless the City and its officers, officials, agents, employees and volunteers against any and all liability, claims, actions, causes of action or demands against any of them, including any injury or death or damage to property or other liability of any nature, to the extent the claims arise out of the Foundations use of the City’s facilities or from the Foundation’s performance of this MOU.

B. Insurance. The Foundation shall procure and maintain at its sole cost, for the duration of this MOU, the required insurance listed on Attachment A. If the Foundation hires one or more employees, it shall maintain workers’ compensation insurance and auto liability insurance in the required amounts listed on Attachment A.

XI. MISCELLANEOUS.

A. Independent contractor. For all purposes and activities under this MOU, the Foundation is an independent contractor. As such, the Foundation and its employees, board members and volunteers are not employees or agents of the City.

B. Amendment. This MOU may be amended only by written agreement signed by both parties.

C. No assignment. Neither party may assign or otherwise transfer this MOU or the rights or obligations under this MOU.

D. Entire agreement. This MOU is the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, whether written or oral.

E. Designated representatives. For the purposes of administering this MOU, the Foundation Board President and the City’s Cultural Arts Managers (in consultation with the City Manager) shall act as the representatives for their respective organizations. Any action, notice or request shall be deemed to be given if mailed, personally delivered or emailed to:

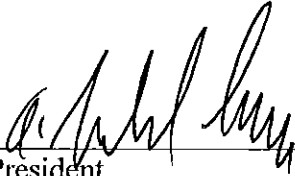
Board President Grand Foundation 715 Central Avenue Tracy, CA 95376 Tel: (209) 835-8330 Email: mike@souzard.com	Cultural Arts Managers Grand Theatre Center for the Arts 715 Central Avenue Tracy, CA 95376 Tel: (209) 831-6858 Email: boxoffice@ci.tracy.ca.us
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XII. SIGNATURES.

The parties have signed this MOU effective on the date set forth in the opening paragraph.

GRAND FOUNDATION

CITY OF TRACY



Board President

Date: _____

Date: 4/18/12

Approved as to form:

City Attorney

Attachment A -- Insurance requirements

Attachment A
Insurance Requirements
(MOU Section X)

1. General. Foundation shall, throughout the duration of this Agreement, maintain insurance to cover Foundation, its agents, representatives, and employees in connection with the performance of services under this MOU at the minimum levels set forth here.
 - a. Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) 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.
 - b. The Foundation shall be required to maintain automobile liability coverage (with coverage at least as broad as ISO form CA 00 01 07 97, for “any auto”) for employees in an amount not less than \$1,000,000 per accident for bodily injury and property damage at such time as the foundation hires one or more employees.
 - c. Workers’ Compensation coverage shall be maintained as required by the State of California.
2. Endorsements. Foundation shall obtain endorsements to the automobile and commercial general liability with the following provisions:
 - a. The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional “insured.”
 - b. For any claims related to this Agreement, Foundation’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Foundation’s insurance and shall not contribute with it.
 - c. Notice of Cancellation. Foundation shall obtain endorsements to all insurance policies by which each insurer is required to provide 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.
3. Authorized Insurers. All insurance companies providing coverage to Foundation 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.
4. Insurance Certificate. Foundation shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City Attorney, no later than five days after the execution of this Agreement.
5. Substitute Certificates. No later than 30 days prior to the policy expiration date of any insurance policy required by this MOU, Foundation shall provide a substitute certificate of insurance.
6. Foundation’s Obligation. Maintenance of insurance by the Foundation as specified in this MOU shall in no way be interpreted as relieving the Foundation of any responsibility whatsoever (including indemnity obligations under this MOU), and the Foundation may carry, at its own expense, such additional insurance as it deems necessary.

RESOLUTION _____

ACCEPTING MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF TRACY AND THE GRAND FOUNDATION REGARDING THE GRAND THEATRE CENTER FOR THE ARTS AND AUTHORIZING THE MAYOR TO EXECUTE THE MOU

WHEREAS, the City and the Arts Leadership Alliance – Grand Foundation have worked in partnership to support the development of the Grand Theatre Center for the Arts since 1998; and

WHEREAS, the Grand Foundation is the fundraising partner of the City for the Grand Theatre Center for the Arts; and

WHEREAS, the Grand Foundation is committed to establishing an endowment fund for the future growth and long-term health of the Grand Theatre Center for the Arts; and

WHEREAS, the City and the Grand Foundation seek to renew their joint commitment to the operations, programming and sustainability of the Grand Theatre Center for the Arts.

NOW, THEREFORE, BE IT RESOLVED, That the City Council accepts the Memorandum of Understanding between the City of Tracy and the Grand Foundation regarding the Grand Theatre Center for the Arts and authorizes the Mayor to execute the MOU.

* * * * *

The foregoing Resolution _____ was passed and adopted by the City Council of the City of Tracy on the 1st day of May, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 10

REQUEST

ACCEPT GRAND FOUNDATION (FORMERLY ARTS LEADERSHIP ALLIANCE AKA ALA) 2011-12 ANNUAL UNDERWRITING SUPPORT FOR PROGRAMMING AND OPERATIONS AT THE GRAND THEATRE CENTER FOR THE ARTS

EXECUTIVE SUMMARY

Staff is requesting that Council accept funding from the Grand Foundation (GF) for approved programming and operational expenditures for FY 2011-12.

DISCUSSION

The City of Tracy, through the Cultural Arts Division, is partnered with the Grand Foundation (formerly known as the Arts Leadership Alliance aka ALA) to provide programming and operational financial support at the Grand Theatre Center for the Arts. The Foundation provides a minimum of \$30,000 annually under the current MOU.

The GF provides underwriting through fundraising and donor relationships to support the programming and operations of the Arts Education, Exhibitions and Presenting Programs at the Center. Each year financial needs are accessed and prioritized by staff and submitted to the GF Board for their consideration in order to supplement the adopted Cultural Arts Division FY budget.

This year, the GF Board has chosen to underwrite \$10,000 in the Arts Education Program, \$2,400 in the Exhibitions Program, \$11,600 in the Presenting Program and \$6,000 in Marketing Support. This funding support will have significant and lasting impact upon the operations of the Center and in the quality and diversity of public programming. The existing adopted FY2011-12 budget reflects these programming priorities and no further action is needed to allocate funds.

Staff has prepared an outline of the estimated itemized budget in collaboration with the GF. Staff will meet monthly with the GF Board to provide expenditure updates. The GF has directly funded the Season Headliner Concert and Meet-n-Greet Reception with Kellie Pickler in the amount \$10,000, and will submit balance in a check to the City in the amount of \$20,000.

STRATEGIC PLAN:

This agenda item supports the Communication/Marketing Strategy:

Goal 1: Provide the community with basic and extended services that offer opportunities to prosper as they live, work and play in Tracy

This agenda item supports the Organizational Effectiveness Strategy:

Goal 2: Strengthen Customer Value through ensuring quality and excellent customer service.

This agenda item also supports the Communication/Marketing Strategy.

Goal 3: Align available resources with marketing objectives to maximize return on investment.

FISCAL IMPACT:

Provide \$30,000 in programming and operational underwriting support from the Grand Foundation to the Cultural Arts Division - Grand Theatre Center for the Arts FY11-12.

RECOMMENDATION:

Staff recommends that Council authorize the acceptance of the annual underwriting funding from the Grand Foundation to support programming and operations of the Grand Theatre Center for the Arts in FY11-12.

Attachment A: Grand Theatre Center for the Arts – GF FY2011-12 Underwriting Support Outline

Prepared by: Jeffrey Haskett, Cultural Arts Manager – Performing Arts

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

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

Attachment A

Grand Theatre Center for the Arts
Grand Foundation FY2011-12 Underwriting Support Outline
Estimated Itemized Expenses

Arts Education Program

Class Underwriting	Youth, Teen & Senior Programming Comprehensive underwriting support of approximately 20 classes, workshops and special events serving: - Special Needs Children & Adults - Youth Ages 4 to 12 - Seniors Age 65+	\$11,600
		----- \$11,600

Exhibitions Program

Catering & Hospitality Services for three Spring/Summer Exhibitions		\$2,400
---	--	----------------

Presenting Program

Anniversary Weekend:	Kellie Pickler Meet-n-Greet & Concert	\$10,000
		----- \$10,000

Marketing Program

Ltd. Edition Promotions	Custom Artist Designed T-Shirts VIP Donor Recognition & Gallery Sales	\$2,000
	Promotional Rackcard Set 6 rackcards promoting feature programs: - Center Features & Services Overview - Arts Education Program - Exhibitions Program - Presenting Program (Presenting Partners) - Rental Program - Volunteer Program	\$4,000
		----- \$6,000

Total FY2011-12 Annual Underwriting Support		\$30,000
--	--	-----------------

RESOLUTION _____

ACCEPTING GRAND FOUNDATION (FORMERLY ARTS LEADERSHIP ALLIANCE AKA ALA)
2011-12 ANNUAL UNDERWRITING SUPPORT FOR PROGRAMMING AND OPERATIONS
AT THE GRAND THEATRE CENTER FOR THE ARTS

WHEREAS, The City of Tracy, through the Cultural Arts Division, has partnered with the Grand Foundation (formerly known as the Arts Leadership Alliance aka ALA) to help provide programming and operational financial support at the Grand Theatre Center for the Arts at a minimum of \$30,000 annually under the current MOU.

NOW, THEREFORE, BE IT RESOLVED, That the City Council authorizes the acceptance of the annual underwriting funding from the Grand Foundation to support programming and operations of the Grand Theatre Center for the Arts in FY10-11.

* * * * *

The foregoing Resolution _____ was adopted by the Tracy City Council on the 1st day of May, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 11

REQUEST

RECEIVE UPDATE AND PROVIDE INPUT ON AIRPORT IMPROVEMENT OPTIONS

EXECUTIVE SUMMARY

On October 18, 2011, the City Council and Transportation Advisory Commission held a joint meeting to discuss future improvements for the Tracy Municipal Airport. All of the items on the Short Term list and two items from the Medium Term list were to be brought back to Council for further vetting and approvals as necessary. As staff proceeds to bring back updates to Council on the status of the various projects, only the items that are being worked on in the current quarter will be reported. Because each of the projects has many segments, current status, immediate next steps, and timelines are included in the update. An update and status of the following projects are being reported to Council: (S-1) Installation of T-hangars, (S-12) Construction of a Restaurant/Café, (S-14) Runway Repairs and Fencing at New Jerusalem Airport, (S-17) Seal coat on Runways and Taxiways, (S-21) Confirm Runway Lengths on Runway 12/30 and (S-22) Balance Airport Operating Budget.

DISCUSSION

On October 18, 2011, the City Council and Transportation Advisory Commission held a joint meeting to discuss future improvements for the Tracy Municipal Airport. During that meeting, a list of items was presented to Council for consideration to address various issues at the airport. Many of the Airport Improvement Options on the Short Term list were presented with the Airport Fund as the potential funding source. In its present state, the Airport Fund would not be able to support any of the options listed without having a negative impact on the operating budget.

Attachment A shows an update of the current projected timeline of each of the Short Term projects and the two Medium Term projects that Council asked to be brought back to them for further vetting and approvals as necessary. Each item shows a range of time that the project may be started and completed depending on other factors that may or may not occur such as funding availability or the completion of other projects.

Additionally, since the last update given to Council, there have been a number of public comments given at various council meetings as well as letters sent to Council and the Mayor regarding issues at the airport. Attachment B gives a summary of each of those comments and letters and a response by staff.

S-1: Install T-hangars

During a recent meeting with the Federal Aviation Administration (FAA), staff proposed to use available entitlement funds for more immediate pavement work which will delay FAA grant contributions to the hangar project. Federal funds will still cover to finalize the hangar design work using a current grant. Since the pavement at the airport is a high priority, the construction of this project will be put on hold until after the pavement project

is complete and additional funding is secured. Concurrently, staff will continue to seek funding options for construction.

S-12: Construction of a Restaurant/Café

On October 18, 2011, Council approved a Fuel Services Operator (FSO) Agreement with Turlock Air Center, doing business as Tracy Air Center, to operate the fuel services at the airport. Tracy Air Center has expressed interest in constructing a restaurant/café at the airport. In the City's current agreement with Skyview Aviation, Skyview has the first right to negotiate for improvements of that nature. Staff has met with Skyview and they provided a written response stating that they are not interested in entering into an agreement to construct a restaurant at the airport. Staff has also met with Tracy Air Center and they have stated their desire to construct a restaurant at the airport. Within the next 30 days Tracy Air Center will provide a conceptual design to staff. Staff will also write up a draft ground lease agreement which will require consideration of approval by Council.

S-14: Runway Repairs and Fencing at New Jerusalem Airport

The project was advertised for bidding with a close date of April 26th. The contract award is scheduled to be approved by Council at the May 15th meeting. It is anticipated that the project will start construction by July 2012.

S-17: Seal Coat on Runways and Taxiways

Pavement core samples have been taken in various locations throughout the airport runways and taxiways. The samples were analyzed to determine their composition. A final report was issued stating that the composition of the core samples did not meet the specifications as stated in the bid documents. Additionally, the report also recommended solutions to repair the pavement. The City Attorney's Office is looking into a potential remedy. Staff is concurrently working with the FAA to request funding as necessary to complete the work. It is anticipated that the runway repairs should be completed by the end of December 2012.

S-21: Confirm Runway Lengths: Completed

There have been some discrepancies as to the actual length of runway 12/30. Confirming the runway lengths is the first step in future planning for the airport as indicated in Step 5 of the Financial Strategies below. A survey has been completed to ascertain the accurate length. The actual length of the runway under current conditions is 3,996. This length will be considered as the base starting point for future airport multi-phase planning effort as well as defining optimal runway lengths to maximize opportunities for the Airport.

S-22: Balance Airport Operating Budget by FY15/16

This item is key to realizing any future growth and sustainability at the airport. When this item was first presented at the January 17th, 2012 Council meeting, Council gave approval to move forward with a five step financial strategy to help the airport achieve financial stability. Updates to each of the five strategies are outlined below.

STEP 1: Debt Service Reconciliation

At the January 17, 2012 City Council meeting, Council approved the consolidation of four loans from the Water Fund to the Airport Fund. This action

allows the Water Fund to be made whole and for the Airport Fund to make reasonable payments in order to do so.

STEP 2: FTE Evaluation

The Airport Operating Budget consists of the following positions: Airport Coordinator (1 FTE), Senior Maintenance Worker (0.5 FTE), Management Analyst II (0.1 FTE), Parks & Community Services Director (0.20 FTE), Transportation Commissioners (0.12 FTE). There is a total of 1.92 FTEs in the Airport Operating Budget. Due to a recent Fuel Service Operator agreement approved by Council, and the recent reorganization throughout the City, after a few years the FTE count can be reduced by as much as 0.75 FTEs through attrition and restructuring of current positions. The first FTE change has already occurred for FY 12/13. The FY 12/13 Airport Fund budget will see a reduction of 0.2 FTE resulting in an annual savings of approximately \$26,000.

STEP 3: Hangar Development

As mentioned earlier in the report, the construction of 42 new T-hangars will be temporarily postponed. Once the pavement issues are addressed, the Airport can then again utilize saved entitlement funds to assist with the construction of the T-hangars.

STEP 4: Capital Improvements

Staff is currently working with Tracy Air Center on negotiating a ground lease for the construction of a restaurant. Tracy Air Center is also interested in building corporate hangars at the airport. Once construction is underway on the restaurant, staff will explore options for a corporate hangar ground lease.

STEP 5: Future Planning

The medium term items M-1 and M-2 are being considered to be combined to conduct a comprehensive study that will identify the optimal runway length that will maximize economic opportunities for the Airport as well as locations that could accommodate an airport with such a runway length. Subsequent actions may include evaluating the feasibility of airport development opportunities and creating a business plan for the airport. The first step in this process was to identify current runway lengths (See S-21) which has been completed. Staff is currently working with the FAA to further define the study that would be appropriate for Tracy to conduct to achieve this purpose.

FBO Repairs

On January 17, 2012, Council approved the expenditure of \$80,000 for the repair of the roof and the installation of a drainage channel at the FBO building. A vendor has been selected for the roof repair. The roof project is expected to be completed by the end of May, 2012. The drainage channel project is currently in the design phase. The project is expected to be completed by the end of June 2012.

FUTURE PROJECTS

The following projects are scheduled to be worked on by staff during FY 12/13. Completion of these items will be dependent on the availability of funding.

S-5: Install Taxiway reflectors or lights

During the latest inspection by Caltrans, it was suggested to install either reflectors or lights on the taxiways in order to increase visibility at night. The estimated cost for this item is \$6,000 and the potential funding source is Caltrans.

S-7: Investigate LED Test Beacon

Determine if there is an LED manufacturer who would be willing to provide an airport beacon which utilizes LED lights for testing purposes at the Tracy Airport. This would be funded by the private company should one be found who would be willing to design such a beacon.

S-8: Remote Control to Open the Gates

Installation of a device which would allow for the opening of the airport gate from inside the airport. This would allow pilots who are landing after business hours to open the gates and allow those who may be coming to meet them to get into the airport. Estimated cost is \$750 and the potential funding source is the Airport Fund.

S-9: Shorten 3 and Remove 1 Obstruction Light

As part of the latest inspection by Caltrans, it was suggested to shorten 3 and remove one of the obstruction lights in the south hangar area. Estimated cost is \$2,000 and the potential funding source is Caltrans.

S-10: Investigate Advertising on Hangars

As a means of generating revenue for the airport, staff will investigate options to solicit advertising space on the hangars at the airport. There is no cost for staff to investigate this item.

S-13: Install a Speaker to Listen to Pilots Over the Radio

Installation of a device that allow for visitors to listen to what pilots say over their radios. The estimated cost for this is approximately \$300. The Tracy Airport Association (TAA) has agreed to pay for the installation of this.

S-16: Relocate Taxiway Adjacent to Fuel Farm

Caltrans recommendation. This would give larger aircraft a wider taxiway around the fuel farm. Estimated cost is \$3,000 and the potential funding source is Caltrans.

S-18: Additional Security Fencing North of Runway 26

There is a gap in the fencing of approximately 600 feet which needs to be closed off for security purposes. Estimated cost is \$9,000 and the potential funding source is Caltrans.

S-19: Removal of Aligned Taxiway

The FAA has required that the aligned taxiways at both ends of runway 08/26 be eliminated. The estimated cost for this is \$100,000 and the potential funding source is the FAA.

S-25: Investigate Installation of a Water Connection from the Water Treatment Plant to the South Side of the Airport

There is currently no water access on the south side of the airport. It is recommended that staff investigate the cost to install a water connection from the Water Treatment

Plant in order to provide water to the south side of the airport. There is no cost to investigate this item.

M-1: Update Airport Master Plan (including a Business Plan and Minimum Standards Document)

See Step 5 under item S-22 above. The City Council approved the Airport Master Plan in 1998. The Airport Master Plan projects aviation activities and facility requirements through 2016. This would result in the hiring of a consultant to update the Airport Master Plan, including a Business Plan for future airport investment strategies. Additionally, adoption of standards for design, rates, and private and general ground lease structure, would assist in setting standards for future development at the airport. The estimated cost for this item is \$400,000 and the potential funding source is from an FAA grant, State grant and the Airport Enterprise Fund.

M-2: Airport Site Study

See Step 5 under item S-22 above. The current airport is somewhat limited in its growth due to the surrounding development. A site study would take into consideration an ideal location for a new airport which could grow much larger and accommodate larger airplanes than the current one. The estimated cost for this item is \$200,000 and the potential funding source is the FAA.

STRATEGIC PLAN

This agenda item supports the Organizational Efficiency strategic priority and specifically contributes to the following goal:

Goal 1: Advance City Council's fiscal policies

FISCAL IMPACT

There no impact to the General Fund for this item. Any project that has a potential funding source as the Airport Fund, will be carefully evaluated to determine the fiscal impact it may have on that fund.

RECOMMENDATION

That City Council accept this report and provide input on Airport Improvement Options.

Prepared by: Ed Lovell, Management Analyst II

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

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

Attachment "A" – Airport Improvement Options Timeline

Attachment "B" – Public Comment and Letters with Staff Response

ATTACHMENT B

Staff Response to recent Public Comments and Letters regarding Tracy Municipal Airport

MARCH 20, 2012 – CITY COUNCIL REGULAR MEETING

Summary of Public Comments regarding Tracy Municipal Airport:

1. Denny Presley

- a. Found out about a proposed windmill project that intrudes into an airport safety zone. Council previously told staff to keep the TAA and the Transportation Advisory Commission posted on anything concerning the airport. He stated Staff did not notify the TAA about this and that the TAA found out during a regular TAA meeting from a Caltrans staff member.

Staff Response: *The notice of the windmill construction was not new and information regarding the project had been previously circulated. Staff did notify the TAA President prior to TAA's regular meeting. Staff has been intentional to encourage two-way communication with those who desire information regarding issues concerning the airport.*

- b. The runways were not paved or restriped according to the Airport Master Plan.

Staff Response: *See item S-17: Seal Coat on Runways and Taxiways in the staff report.*

- c. The length of the runway is intentionally being shortened to accommodate the Ellis project.

Staff Response: *No staff member has intentionally shortened the runway. See item S-21: Confirm Runway Lengths in the staff report. When the upcoming pavement repairs are made, the runways will be remarked appropriately to maximize the available length.*

- d. There needs to be accountability and transparency from City staff.

Staff Response: *Items of concern regarding the airport are brought before the Transportation Advisory Commission on a monthly basis and are brought before Council on a quarterly basis. Staff has been, and is willing to, present the same information to the TAA should they be invited to do so at their regular meetings.*

2. Dave Anderson

- a. Would like clarification of the CIP item for Airport Land Acquisition for \$22 million dollars. It was not presented in front of the TAC.

Staff Response: *The \$22 million is a combination of all of the properties identified in the 1998 Airport Master Plan for land acquisition. Land acquisition was presented as a proposed long term item on the list of proposed Airport Improvement Items, originally presented during a joint meeting between the City Council and the Transportation Advisory Commission on October 18, 2011. A recent Caltrans inspection noted that this one piece of property protrudes into runway safety area. The location of the property for proposed land acquisition is the roughly triangle shaped piece of property at the south west corner of the airport property. It is approximately 22 acres and is one of the properties identified for acquisition in the 1998 Airport Master Plan. It is being proposed that this specific property be the priority to acquire with FAA funding given its proximity to the airport though still part of the long range list.*

APRIL 3, 2012 – CITY COUNCIL SPECIAL MEETING

Public Comment:

1. Dave Anderson

- a. Would like Council to remove item #18 (conduct airport location study) from the CIP list.

Staff Response: See item S-22: Balance Airport Operating Budget, Step 5: Future Planning. The name of the study will be determined during the course of developing the scope of work with the FAA.

- b. Clarify the location of the land acquisition proposed in item #23 from the CIP list.

Staff Response: See response above from 3-20-12 Council meeting, comment 2.a.

- c. Would like the Council and staff to work with the County to have the brick plant property declared as non-conforming and eventually moved.

Staff Response: The land on which the brick plant sits is designated and zoned for industrial use. The brick plant is a legally established business which conforms to the county's current zoning designation. Although the brick plant does not conform to the current ALUP, it has been grandfathered in as an existing land use.

2. Denny Presley

- a. Did not see the CIP for fixing the pavement at the airport on the list. Would like to see if that can be added back to the list.

Staff Response: The CIPs presented during this meeting were those using General Fund money. The CIP is still actively being pursued but with FAA and Airport Fund funding. Since it is something that is funded by the FAA and the Airport Fund, it was not on the list for discussion at this meeting.

LETTER DATED APRIL 9, 2012 FROM: David Anderson

The TAA demands the following:

1. The City immediately stop any and all attempts to reclassify the Tracy Municipal Airport to a small size airport or reduce the size of its runways.

Staff Response: During the recent Airport Land Use Compatibility Plan (ALUCP) update, the City petitioned the San Joaquin Council of Governments, acting as the Airport Land Use Commission (ALUC), to use the airport safety zones for the Tracy Municipal Airport as documented in the 1998 Airport Master Plan. The Tracy airport safety zones in the 1998 Tracy Airport Master Plan is somewhat of a hybrid between a Small and Medium classification in the State of California Land Use Planning Handbook. In the ALUCP, the ALUC did not make a final determination of the classification of the Tracy Airport as either a Small or Medium size airport for the purposes of land use planning. The ALUCP just states the facts regarding the uses in and around the airport and sets the safety zones as deemed appropriate by the ALUCP,

which is very close to those in the 1998 Tracy Airport Master Plan. There have been no other requests from the City of Tracy to the ALUPC regarding reclassification.

2. The City immediately repave to contract and FAA specifications the entire length of runway 12-30 bringing the length from 3,996 feet to its prior paved and approved length of 4,002 feet.

Staff Response: *Staff is currently pursuing funding for runway and taxiway pavement repairs. See item S-17: Seal Coat on Runways and Taxiways and item S-21: Confirm Runway Lengths in the staff report.*

3. The City immediately return the relocated threshold on runway 26 back to a displaced threshold and bring the takeoff length from 3,438 feet to its prior and approved length of 4,005 feet.

Staff Response: *Relocated thresholds on Rwy 8- 26 were mandated by Caltrans and the FAA during the last pavement project. There is approximately 4005 feet of pavement still there, but because of required runway safety areas, Caltrans and the FAA mandated relocated thresholds due to the proximity of Tracy Blvd. and the canal. Staff recently asked FAA again if the relocated thresholds could be changed to displaced thresholds so that pilots could use the full length of runway for take-off. Again FAA denied our request and stated that it was a mandatory requirement. When the runway is repaved and remarked, it will remain at the current length.*

4. The City immediately take action against the contractor for defective work not meeting contract specifications including making a demand on the project bonds to redo the runway paving project.

Staff Response: *The City Attorney's Office is currently evaluating the options for recourse with the contractor. The project bonds were released on February 11, 2010.*

5. The City discontinue negotiations with CPM to repair the airport surfaces and locate another company to complete the repairs that is both competent and capable to perform such work.

Staff Response: *The City Attorney's Office is currently evaluating the options for recourse with the contractor. Once a determination is made, action will be taken to fix the issue, but it is not known at this time whether it will be with the original contractor or a different one.*

6. The City provide a corrected CIP list which does not show airport relocation contract proposal that is undisputedly an error.

Staff Response: *See item S-22: Balance Airport Operating Budget, Step 5: Future Planning. The name of the study will be determined during the course of developing the scope of work with the FAA.*

AGENDA ITEM 12

REQUEST

REQUEST AUTHORIZATION TO NEGOTIATE MODIFICATIONS TO A DEVELOPMENT AGREEMENT WITH SURLAND COMMUNITIES LLC, APPLICATION DA11-0002, FOR PROPERTY LOCATED AT THE NORTHWEST CORNER OF LINNE ROAD AND CORRAL HOLLOW ROAD

EXECUTIVE SUMMARY

This agenda requests City Council direction to negotiate modifications to a Development Agreement (“DA”) between the City of Tracy and Surland Communities LLC (“Surland”).

DISCUSSION

Surland’s Ellis Project

The Ellis project is an approximately 321-acre development proposal located at the northwest corner of Linne and Corral Hollow Roads in San Joaquin County at the southwestern City limit, located within the City’s General Plan Sphere of Influence (intended annexation and City utilities/facilities area). The components of the Ellis project involve annexation to the City and implementing the City’s General Plan with the Ellis Specific Plan, which is a comprehensive zoning document that has design and development standards. The vision of the proposed Ellis Specific Plan is to create a mix of residential, commercial, and recreational facilities centered on a “village center” entrance and a street network that promotes ease of pedestrian and vehicular circulation. Up to 2,250 residential units would be allowed under this zoning.

Background on the DA between the City and Surland

Initial direction to City staff to negotiate and process a DA with Surland occurred on January 17, 2006. A DA was viewed as an appropriate tool to evaluate a potential public-private partnership to fund and construct a Swim Center.

After Planning Commission review, the City Council approved a Development Agreement with Surland on December 16, 2008, along with approvals related to the Ellis Specific Plan and development project.

Subsequent to approving the development agreement, Tracy Alliance for a Quality Community (TRAQC) filed a lawsuit challenging the Ellis project approvals, including the Environmental Impact Report and the DA. Last year, the Superior Court ruled in TRAQC’s favor, vacating all project approvals. Following the ruling, Surland and the City appealed the Superior Court’s ruling, effectively staying the Court’s decision to overturn the approvals.

Background on the DA Request

Surland submitted applications on December 15, 2011 (revised in a memo from Surland received by the City on February 1, 2012, and further revised in a letter received by the City on April 24, 2012) to begin work on “a modified and amended DA for the Ellis Project.” Surland’s request is Attachment A to the staff report, and states the following related to public benefits:

“These benefits include much needed jobs; an additional range of housing opportunities; \$10 million in funding towards the community’s goal towards a much needed aquatic center; and an offer of 16 acres of land for the aquatic center site (if selected through the City aquatic center site selection process).”

Prior to negotiating a DA, the City’s DA Procedures first require City Council authorization (City Council resolution 2004-368). The DA Procedures provide in relevant part as follows:

Staff shall review the application and shall prepare a report and recommendation to the City Council. The Council shall consider the application and determine whether the proposed public benefit warrants undertaking negotiations with the applicant. The Council shall either reject the request or authorize staff to negotiate and process the development agreement application.

Additionally, pursuant to City’s requirements, a Cost Recovery Agreement is required to cover all City costs associated with processing a DA. The City and Surland entered into a Cost Recovery Agreement on February 12, 2012, to cover all project processing costs (prior costs were covered under a previous Reimbursement Agreement).

Environmental Review

The Ellis applications constitute a “project” under CEQA and an EIR will be prepared.

STRATEGIC PRIORITY

This item is not directly related to the Council’s strategic plans.

FISCAL IMPACT

Any application related to the Ellis project, including applications related to Development Agreements is funded by the applicant in accordance with a City approved Cost Recovery Agreement dated February 12, 2012.

RECOMMENDATION

Staff recommends that City Council authorize staff to negotiate a Development Agreement with Surland.

Agenda Item 12
May 1, 2012
Page 3

Prepared by: Bill Dean, Assistant DES Director

Reviewed by: Andrew Malik, Development Services Director

Approved by: Leon Churchill, Jr., City Manager

Attachment: A: Request from Surland Communities LLC

THE SURLAND COMPANIES

RECEIVED

December 14, 2011

DEC 15 2011

CITY OF TRACY
D.E.S.

Residential

Commercial

Mr. Bill Dean
Assistant Director-Department of Engineering Services
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

RE: Request for Development Agreement - Ellis Specific Plan

1024 CENTRAL AVE.

Dear Mr. Dean:

TRACY

With this letter, and attached development application, the Surland Companies requests that the City enter into formal discussions with the Surland Companies for the purpose of reaching mutually agreeable terms for a Development Agreement with the City of Tracy.

CALIFORNIA

95376

TELEPHONE

The proposed Development Agreement would seek mutually beneficial terms addressing infrastructure, residential growth allotments, land dedications, and funding for a proposed City owned family swim center, over a term of twenty five years.

(209)832-7000

FACSIMILE

More specifically, the City of Tracy would benefit from the Agreement by receiving up to \$10 Million dollars of funding toward the design and construction of a family swim center, as well as up to 16 acres of dedicated land within the Ellis Specific Plan for the proposed family swim center site. In return, the project would receive from the City 2,250 RGAs to be used within the Ellis Specific Plan over the term of the Agreement, as well as water and wastewater treatment and capacity in the existing treatment plants; the costs of which are paid for by the Project Proponent.

(209)833-9700

WEBSITE

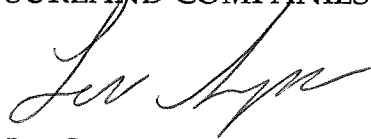
www.surlandcompanies.com

Mr. Bill Dean, City of Tracy
December 14, 2011
Page 2 of 2

We look forward to working together with the City of Tracy in making good things happen in our community for all to enjoy and be proud of.

Sincerely,

SURLAND COMPANIES

A handwritten signature in cursive script, appearing to read "Les Serpa".

Les Serpa
CEO

RECEIVED

FEB 01 2012

CITY OF TRACY
D.E.S.

MEMORANDUM

To: City of Tracy
Development and Engineering Services

From: The Surland Companies

Re: Development Application Dated December 8, 2011 for Revisions to Ellis
Development Agreement

Please find the attached revised project application dated December 8, 2011, which submits an application seeking revisions to the Ellis Development Agreement. It is the applicants' intent that the application shall be treated as an application for amendment and/or revision of the previously approved Ellis Development Agreement in order to provide a framework for a revised project to move forward, pursuant to legally adequate CEQA review, in a manner that will address and cure all legal deficiencies found by the San Joaquin County Superior Court in its October 31, 2011 Judgment, Writ of Mandate, and Statement of Decision in TRAQC v. City of Tracy, et al., Case No. 39-2009-00201854-CU-WM-STK; provided, however, that if the existing Ellis Development Agreement that was the subject of the trial court's decision is set aside, in whole or in part, by a final judgment (no longer subject to judicial review) by a court of competent jurisdiction, then this application shall be treated, and stand independently, as an application for a new development agreement, as described in the application.

With this memorandum, and attached application, the Surland Companies requests the following:

- Amendment/Revision to the Ellis Development Agreement by and between the City of Tracy and Surland Communities

The proposed Ellis Development Agreement would seek mutually beneficial terms addressing infrastructure, residential growth allotments, land dedications, and funding for a proposed City owned family swim center, over a term of twenty five years.

More specifically, the City of Tracy would benefit from the agreement by receiving up to \$10 Million dollars of funding toward the design and construction of a family swim center, as well as up to 16 acres of dedicated land within the Ellis Specific Plan for the proposed family swim center site. In return, the project would receive from the City 2,250 RGAs to be used within the Ellis Specific Plan area over the term of the agreement, as well as water and wastewater transmission, treatment and capacity in the existing systems and treatment plants; the costs of which are paid for by the Project Proponent, through an Ellis Program Finance and Implementation Plan.

Attachment A

MEMORANDUM

Re: Development Application Dated December 8, 2011

Page 2

Thank you in advance for your timely processing of this application. We look forward to working together with the City of Tracy in continually making our community a great place to live and work.

THE SURLAND COMPANIES

MODIFIED D.A. CLARIFICATION LETTER

April 23, 2012

Mayor Brent H. Ives and
Members of the City Council
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

Residential

Commercial

Re: Clarification of the Surland Companies' Request to Enter Into Negotiations for Development Agreement; Application DA 11-0002; Item 2 on the City Council Agenda for May 1, 2012

1024 CENTRAL AVE.

TRACY

CALIFORNIA

95376

TELEPHONE

(209)832-7000

FACSIMILE

(209)833-9700

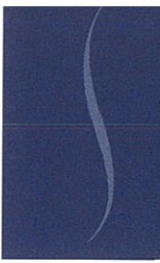
WEBSITE

www.surlandcompanies.com

Honorable Mayor Ives and Members of the Council:

This letter is sent to you to clarify the Surland Companies' ("Project Applicant") request to start Development Agreement negotiations and also to answer questions which arose at the Council's March 8 meeting. Our application, authorized by all owners of property comprising the Ellis specific plan, to enter into negotiations for a modified and amended development agreement for the Ellis project ("Modified and Amended Ellis DA"), was submitted with our December 14, 2011 letter. As explained in a later Memorandum, Surland wishes to modify and amend the original Ellis Development Agreement ("Original Ellis DA"). Our application for the Modified and Amended Ellis DA consists of the application filed with our December 14, 2011 letter; the subsequent Memorandum; additional materials provided and which may be provided in the future at the request of City staff.

Applications for the entitlements required for the Ellis project (the "Original Ellis Entitlements") were filed by the Project Applicant with the City on June 1, 2004 and the City of Tracy/Surland Development Agreement and Ellis Specific Plan Environmental Impact Report (the "Original Ellis EIR") were prepared and certified. The Ellis Entitlements, including the Original Ellis DA, were approved by the City in December, 2008, but were successfully challenged in Superior Court by TRAQC. The Project Applicant and the City subsequently appealed the adverse trial court ruling to



the District Court of Appeal. The appeal operates to stay the effectiveness of the trial court order. Thus, the Original Ellis DA remains in effect during the appeal process, which may take two years or more.

After carefully reviewing the trial judge's written statement of decision, we believe the most timely, efficient and practical way to affirmatively respond to his concerns while preserving the community benefits contained in the Original Ellis DA is to modify and amend the Original Ellis DA and to revise the Original Ellis EIR. By responding this way, in a timely manner, this approach cures the problems identified by the trial judge while retaining the significant community benefits outlined in the Original Ellis DA. These benefits include much needed jobs; an additional range of housing opportunities; \$10 million in funding towards the community's goal towards a much needed aquatic center; and an offer of 16 acres of land for the aquatic center site (if selected through the City aquatic center site selection process). By proceeding this way, we do not need to wait two plus years—until a final appellate court decision—to start providing the community benefits. Given the current economic climate, I cannot imagine any citizen seriously favors postponing job creation opportunities.

In conclusion, we believe modifying and amending the Original Ellis DA and revising the Original Ellis EIR, both in accordance with the direction set out in the trial judge's decision, best accommodates, in the most efficient and timely manner, the twin goals of satisfying the trial judge's concerns about that agreement, the Original Ellis EIR and the Original Ellis Entitlements while retaining the desirable community benefits. Surland looks forward to working with your staff to negotiate a Modified and Amended Ellis DA and producing a revised Ellis EIR that will be acceptable to the City Council. We will be at the Council meeting on May 1, 2012 with representatives to answer any questions you may have.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Les Serpa", written in a cursive style.

THE SURLAND COMPANIES
Les Serpa, CEO

RESOLUTION _____

AUTHORIZING STAFF TO NEGOTIATE MODIFICATIONS TO A DEVELOPMENT AGREEMENT WITH SURLAND COMMUNITIES LLC, APPLICATION DA11-0002, FOR PROPERTY LOCATED AT THE NORTHWEST CORNER OF LINNE ROAD AND CORRAL HOLLOW ROAD

WHEREAS, Initial direction to City staff to negotiate and process a DA with Surland occurred on January 17, 2006, and

WHEREAS, City Council approved a Development Agreement with Surland on December 16, 2008, along with approvals related to the Ellis Specific Plan and development project, and

WHEREAS, Tracy Alliance for a Quality Community (TRAQC) filed a lawsuit challenging the Ellis project approvals, including the Environmental Impact Report and the Development Agreement, and

WHEREAS, Surland and the City appealed the Superior Court's ruling, effectively staying the Court's decision to overturn the approvals, and

WHEREAS, Surland submitted applications on December 15, 2011, revised in a memo from Surland received by the City on February 1, 2012, and further revised in a letter received by the City on April 24, 2012, to begin work on "a modified and amended DA for the Ellis Project", and

WHEREAS, The City and Surland entered into a Cost Recovery Agreement on February 12, 2012, to cover all project processing costs, and

WHEREAS, The Ellis applications constitute a "project" under CEQA and an EIR will be prepared, and

WHEREAS, Any application related to the Ellis project, including applications related to Development Agreements is funded by the applicant in accordance with a City approved Cost Recovery Agreement dated February 12, 2012.

NOW, THEREFORE BE IT RESOLVED That the City Council hereby authorizes staff to negotiate a Development Agreement with Surland.

* * * * *

Resolution _____
Page 2

The foregoing Resolution 2012-_____ was adopted by the City Council of the City of Tracy on the 1st day of May 2012, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 13

REQUEST

SECOND READING AND ADOPTION OF ORDINANCE 1166 AN ORDINANCE OF THE CITY OF TRACY, CALIFORNIA, ADOPTION OF REVISED GROUNDWATER MANAGEMENT PLAN PURSUANT TO WATER CODE SECTION 10750 AND REPEALING EXISTING GROUNDWATER MANAGEMENT PLAN ORDINANCE 511

EXECUTIVE SUMMARY

Ordinance 1166 was introduced at the Council meeting held on April 17, 2012. Ordinance 1166 is before Council for a second reading and adoption.

DISCUSSION

Ordinance 1166 was introduced at the Council meeting held on April 17, 2012, to update the existing Groundwater Management Plan (GMP). In 1996, the City Council adopted Ordinance 511, the existing AB 3030 Groundwater Management Plan, pursuant to Water Code Sections 10750 et seq. New laws adopted by the State Legislature require revisions to the existing GMP. The San Luis & Delta-Mendota Water Authority in coordination with other Delta Mendota Canal northern agencies, including Tracy and the neighboring irrigation districts, prepared an updated GMP. Ordinance 1166 will adopt the updated GMP and repeal Ordinance 511.

Ordinance 1166 is before Council for a second reading and adoption.

STRATEGIC PLAN

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

FISCAL IMPACT

None.

RECOMMENDATION

That Council adopts Ordinance 1166 following its second reading.

Attachment

Prepared by: Adrienne Richardson, Deputy City Clerk

Reviewed by: Carole Fleischmann, Assistant City Clerk

Approved by: Leon Churchill, Jr., City Manager

ORDINANCE 1166

AN ORDINANCE OF THE CITY OF TRACY, CALIFORNIA
ADOPTION OF REVISED GROUNDWATER MANAGEMENT PLAN
PURSUANT TO WATER CODE SECTION 10750 AND
REPEALING EXISTING GROUNDWATER MANAGEMENT PLAN ORDINANCE 511

WHEREAS, In 1996, the City Council adopted Ordinance 511, the existing AB 3030 Groundwater Management Plan pursuant to Water Code Sections 10750 et seq., and

WHEREAS, New laws adopted by the State Legislature require revisions to the existing GMP, and

WHEREAS, An updated GMP was prepared by the San Luis & Delta-Mendota Water Authority in coordination with other Delta Mendota Canal northern agencies, including Tracy and the neighboring irrigation districts, and

WHEREAS, The San Luis & Delta-Mendota Water Authority has requested all northern agencies proceed with a public hearing to adopt the revised GMP, and

WHEREAS, Staff is requesting that the City Council introduce an ordinance adopting the Groundwater Management Plan for Northern Agencies in the Delta-Mendota Service Area and repealing the existing Ordinance 511.

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

SECTION 1: The Groundwater Management Plan for the Northern Agencies in the Delta- Mendota Canal Service Area, dated July 2011, revised November 7, 2011 is hereby adopted.

SECTION 2: Ordinance 511 of the existing City of Tracy, Groundwater Management Plan is hereby repealed.

SECTION 3: The new Groundwater Management Plan Ordinance shall take effect thirty (30) days after its final passage and adoption.

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

THIS AREA WAS INTENTIONALLY LEFT BLANK

The foregoing Ordinance 1166 was introduced at a regular meeting of the Tracy City Council on the 17th day of April, 2012 and finally adopted the _____ day of _____, 2012, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

May 1, 2012

AGENDA ITEM 15.A

REQUEST

RECEIVE A PRESENTATION REGARDING THE GOVERNANCE MODEL FOR THE PROVISION OF FIRE SERVICES TO THE CITY OF TRACY AND SURROUNDING AREA, RECEIVE AN OVERVIEW OF THE PROPOSED PROCESS, DISCUSS AND PROVIDE FEEDBACK TO STAFF

EXECUTIVE SUMMARY

That the City Council receive a presentation on a governance model and overview of the proposed process for the upcoming months. Staff requests that the City Council discuss the process, timeline, and provide staff direction and feedback.

DISCUSSION

One of the goals of the City of Tracy, Tracy Rural Fire and the South County Fire Authority, is to evaluate the current South County Fire Authority governance structure and recommend a structure that streamlines the decision making process and any other related governance barriers to efficient policy implementation of fire services within the South County Fire Authority service area.

A presentation on the governance model and overview of the proposed process will be presented at this meeting. At the June 5, 2012 meeting, staff will return to the City Council to request the appointment of a member of the City Council to sit on an oversight committee to be established in the near future.

FISCAL IMPACT

There is no fiscal impact in receiving and discussing this agenda item.

RECOMMENDATION

Staff recommends that the City Council receive tonight's presentation on a governance model and overview of the proposed process.

Prepared by: Alford Nero, Fire Chief

Approved by: Leon Churchill Jr., City Manager

May 1, 2012

AGENDA ITEM 16.A

REQUEST

CONSIDER AN ITEM FOR DISCUSSION ON A FUTURE CITY COUNCIL AGENDA RELATED TO NAMING THE PLAZA AT CITY HALL AFTER A FORMER MAYOR OF TRACY

EXECUTIVE SUMMARY

Determine whether an item should be placed on a future Council agenda to consider naming the plaza at City Hall after a former Mayor of Tracy.

DISCUSSION

At the State of the City meeting held on March 27, 2012, Mayor Ives proposed naming the plaza at City Hall after Dan Bilbrey, a former Mayor of the City.

The purpose of this agenda item is to provide an opportunity for Council to determine whether staff time and city resources should be devoted to research and outreach, and to decide whether a discussion item related to naming the Plaza at City Hall after Dan Bilbrey, should be placed on a future agenda. An item placed on a future agenda would enable the City Council to discuss the item in detail.

RECOMMENDATION

It is recommended that the City Council discuss and determine whether an item related to naming the plaza at City Hall after Dan Bilbrey, a former Mayor of Tracy, should be placed on a future City Council agenda for discussion.

Prepared by: Carole Fleischmann, Assistant City Clerk

Reviewed by: Maria Hurtado, Assistant City Manager

Approved by: Leon Churchill, Jr., City Manager