

TRACY CITY COUNCIL

REGULAR MEETING AGENDA

**Tuesday, June 5, 2012, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

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

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

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

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

**Addressing the Council on Items not on the Agenda** – The Brown Act prohibits discussion or action on items not on the posted agenda. 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](http://www.ci.tracy.ca.us)

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

PRESENTATIONS – Employee of the Month

- Tracy Police Officers Association – First Annual Scholarship Award
- Tracy Volunteer Caregivers – 10<sup>th</sup> Anniversary
- Proclamation – “CoolCalifornia Cities”
- Proclamation – “United States Army Month”
- D.A.R.E Graduates

1. CONSENT CALENDAR

- A. Minutes Approval
- B. Annual Review of City’s Investment Policy and Recommendation to Accept this Policy with No Changes
- C. Authorization of an Agreement Between City of Tracy and US Bureau of Reclamation for Long-Term Water Banking at Semitropic Water Storage District Water Banking Project and Authorization for the Mayor to Execute the Agreement; and Authorization for the City Manager to Execute Water Agreements for Operational Functions
- D. Acceptance of the Lincoln Park and Gazebo Renovation Project - CIPs 78123 & 78126, Completed by Goodland Landscape Construction of Tracy, California, and Authorization for the City Clerk to File the Notice of Completion
- E. Approval of the San Joaquin Council of Governments (SJCOG) Annual Financial Plan for Fiscal Year (FY) 2012-2013
- F. Approve a Professional Services Agreement with Kleinfelder Inc., of Stockton California, to Provide Materials Testing and Geotechnical Services for Fiscal Years 2012-2014 with the Option to Amend the Agreement to Extend Testing Services for an Additional Two Years 2014-2016, and Authorize the Mayor to Execute the Agreement and Authorize the City Manager to Execute an Extension if Needed
- G. Acceptance of the Police Firearms Practice Range Improvements – CIP 71072, Completed by Robert Burns Construction of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion
- H. Adopt a Resolution Approving an Agreement Between the City of Tracy and Pacific Gas & Electric Company to Collaborate on Implementing Sustainability Efforts in the City of Tracy to Help Facilitate New Development and to Meet State Requirements and Authorize the City Manager to Sign the Agreement
- I. Acceptance of the Traffic Signal Coordination – Grant Line Road (CCTV Installation) Project – CIP 72076 (Federal Project No. CML 5192-031), Completed by W. Bradley Electric, Inc., of Novato, California, and Authorization for the City Clerk to File the Notice of Completion

- J. Approve Annual Ground Lease Rate Increase by 2.6 Percent for Privately-Owned Hangars at Tracy Municipal Airport Effective July 1, 2012
  - K. Adopt Resolution to Authorize the City Manager to be the Authorized Agent of the City of Tracy and to Execute any Actions Necessary for the Purpose of Obtaining Proposition 1B Funds in the Amount of \$217,941 for the Construction of a Fiber Optic Line from City Hall to the Tracy Transit Station and Appropriate the Funds to CIP 77545
  - L. Acceptance of the Traffic Signal at Lammers Road and Byron Road Project – CIP 72041 (Federal Project No. CML 5192-032), Completed by Pacific Excavation, Inc., of Elk Grove, California, and Authorization for the City Clerk to File the Notice of Completion
  - M. Authorization to Extend the Agreement with All City Management Services, Inc., for School Pedestrian Crossing Guard Services through June 30, 2014 and Authorization for the Mayor to Execute the Extension Agreement
  - N. Adopt Resolutions Regarding the Election Process, General Municipal Election to be Held on November 6, 2012
  - O. The City Council of the City of Tracy Acting as the Governing Body of the Successor Agency for the Community Development Agency of the City of Tracy Approving the Recognized Obligations Payment Schedule (ROPS)
  - P. Award a Construction Contract to Knife River Construction of Stockton, California, for the Corral Hollow Road Widening Between Grant Line Road and the East Entry of the West Valley Mall Entry - CIP 73014 (Federal Project Number STPL 5192(030)), Authorize an Appropriation of Grant Funds and Transfer of Funds from CIP's 74096, 75112, and 72050 to CIP 73014, Authorize Amendment 4 to the Professional Services Agreement (PSA) with Schack and Company to Provide Design Support During Construction and Authorize the Mayor to Execute the Construction Contract and Amendment 4 to the PSA
2. ITEMS FROM THE AUDIENCE
3. CONDUCT TWO PUBLIC HEARINGS AND CONSIDER OTHER MATTERS ASSOCIATED WITH THE ADOPTION OF THE FISCAL YEAR 2012-2013 CITY BUDGET
- A. PUBLIC HEARING OF THE CITY COUNCIL TO CONSIDER ADOPTION OF THE ANNUAL BUDGET FOR THE CITY OF TRACY FOR FISCAL YEAR 2012-2013 AND APPROPRIATE FUNDS
  - B. CONDUCT A PUBLIC HEARING TO ADOPT A RESOLUTION APPROVING THE UPDATED MASTER FEE SCHEDULE
  - C. ADOPTION OF THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2012-2013 FOR THE CITY OF TRACY

4. PUBLIC HEARING TO CONSIDER INTRODUCING AN ORDINANCE OF THE CITY OF TRACY: (1) ADDING A NEW SECTION 1.08.140 TO CHAPTER 1.08 OF THE TRACY MUNICIPAL CODE RELATING TO COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAW; AND (2) ADDING A NEW SECTION 10.08.3195 TO CHAPTER 10.08 OF THE TRACY MUNICIPAL CODE CLARIFYING THAT MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION ARE NOT PERMITTED USES
5. PUBLIC HEARING TO CONSIDER ADOPTION OF A PRECISE PLAN LINE (ALIGNMENT) FOR VALPICO ROAD FROM TRACY BOULEVARD TO MACARTHUR DRIVE
6. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE (TMC CHAPTER 10.08) AFFECTING FAMILY DAY CARE HOMES – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0003
7. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE SIGN REGULATIONS (TMC CHAPTER 10.08) AFFECTING CITY CIVIC ORGANIZATION SIGNS – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0002
8. INTRODUCTION OF A PROPOSED ORDINANCE WHICH RESCINDS ORDINANCE 506, AND UPDATES CERTAIN REQUIREMENTS FOR CANDIDATES IN GENERAL MUNICIPAL ELECTIONS
9. SECOND READING AND ADOPTION OF ORDINANCE 1169 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TRACY LEVYING A SPECIAL TAX WITHIN CITY OF TRACY 580 BUSINESS PARK COMMUNITY FACILITIES DISTRICT NO. 1
10. ITEMS FROM THE AUDIENCE
11. COUNCIL ITEMS
  - A. Appointment of City Council Member to Participate on the Oversight Committee to Review the Governance Structure for the Provision of Fire Services to the City of Tracy and Surrounding Area
  - B. Consider an Item for Discussion on a Future City Council Agenda Related to Zoning Along I-205
  - C. Consider Naming the Plaza at City Hall after a Former Mayor of Tracy
12. ADJOURNMENT



TRACY CITY COUNCIL

REGULAR MEETING MINUTES

**January 17, 2012, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

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

The invocation was offered by Pastor Zacchaeus Dunham, Jr., of Agape Baptist Church.

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

Mayor Ives presented a Certificate of Recognition to outgoing Commissioner Barbara Howard, Certificates of Appointment to new Commissioners Grace Paget and Nicole McClain, and Certificates of Reappointment to Mercedes Silveira-Gouveia and Anne Marie Fuller, Tracy Arts Commission.

1. CONSENT CALENDAR - Following the removal of item 1-E by Andrew Malik, Development Services Director, it was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
  - A. Minutes Approval – Closed session minutes of January 3, 2012, were approved.
  - B. Approval of a Professional Services Agreement No. DE 1 with Dokken Engineering to Provide Professional Services to Prepare Project Study Report/Project Development Support (PSR/PDS) Documents for the I-205/Chrisman Road New Interchange Project CIP 73109, Federal No. HPLULN-5192 (034). For a Not to Exceed Amount of \$218,068, Authorization for the Mayor to Execute the Agreement, Authorize the Development and Engineering Services Director to Approve Amendments to this Agreement for Additional Services if Needed Up to an Amount of \$21,807 – Resolution 2012-011 approved the agreement and amendments for additional services.
  - C. Acceptance of the HVAC Replacement – Parks & Community Services Building Project - CIP 78119, Completed by Champion Industrial Contractors, Inc., of Modesto, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2012-012 accepted the project.
  - D. Adoption of the Mitigated Negative Declaration as Required Per California Environmental Quality Act (CEQA) for the Replacement of the 11th Street East Tracy Overhead Bridge - CIP 73063, and Federal Project No. BHLS-5192(020) – Resolution 2012-013 approved the mitigated negative declaration.
  - E. Approve Amendment 1 to the Deferred Improvement Agreement with Patillo Development Partners, LLC to Exclude Certain Improvements Already Constructed by the Developer and Authorization for the Mayor to Execute the

Agreement, and Authorization for the City Clerk to File the Agreement with the San Joaquin County Recorder – Item to be brought back at a later date.

- F. Appropriate \$80,000 from Fund 301 for Emergency Repairs to the FBO Building at the Tracy Municipal Airport – Resolution 2012-014 approved the appropriation.
  - G. Approve Memorandum of Understanding (MOU) with California State University, Stanislaus; and Authorize the Mayor to Execute the MOU – Resolution 2012-015 approved the MOU.
2. ITEMS FROM THE AUDIENCE – Carene Brandrup, 939 Tokay Place, Manteca, on behalf of Barbosa Cabinets, asked why item 1-E had been postponed. Andrew Malik, Director of indicated one of the parties had not signed the agreement.

Mayor Ives stated Agenda item 4 would be heard out of order.

DEVIATION

4. APPROVE A JOINT RESOLUTION OF CITIES, COUNTY, AND OTHER SAN JOAQUIN COUNTY STAKEHOLDERS REGARDING LAND USE, WATER, AND OTHER DELTA RELATED ISSUES - Andrew Malik, Development Services Director, presented the staff report. Mr. Malik requested that Council adopt a joint resolution in coordination with other cities, the county, and other stakeholders in San Joaquin County in support of an initiative for joint action, advocacy, and mutual interests on issues concerning the Sacramento-San Joaquin River Delta (Delta). Other County and regional stakeholders include, but are not limited to representatives of San Joaquin County, other cities within the county, San Joaquin Council of Governments, Port of Stockton, San Joaquin Farm Bureau, Delta Counties Coalition, Delta Protection Commission, reclamation/flood control districts/agencies, water districts/agencies, select non-governmental environmental and resource conservation organizations, San Joaquin Partnership, Business Council, Building Industry Association of the Delta, and major developers.

The purpose of this process is to facilitate a coordinated and collaborative response, with other affected stakeholders in opposition to the Delta Stewardship Council's proposed Draft Delta Plan and corresponding DPEIR, the BDCP, and other related Delta plans or programs that may adversely affect economic development and sustainability in the City of Tracy and San Joaquin County.

Mr. Malik further stated that staff would be bringing to Council, an opportunity to participate in a concerted advocacy effort aimed at communicating to the state legislature and the region's federal legislative delegation vital information regarding the interests of this broad coalition of Delta stakeholders, and potentially facilitating future legislation. This effort will involve the retention of an advocate for this purpose, likely by the City of Stockton, with the financial burden of that retention and the ensuing advocacy effort shared amongst the stakeholders.

In November 2009, the California Legislature enacted Senate Bill X7 1 (The Delta Reform Act). It established the Delta Stewardship Council (DSC) an independent State agency, and requires that the DSC develop, adopt, and implement by January 1, 2012, the Delta Plan, a legally enforceable, comprehensive, long-term management plan for the Sacramento-San Joaquin Delta and the Suisun March (Delta) that achieves the

“coequal goals” as specified in California Water Code Section 85300(a). The coequal goals are the two goals of providing a more reliable water supply for California and protecting, restoring and enhancing the Delta ecosystem. The coequal goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, nature resource and agricultural values of the Delta as an evolving place” (Water Code section 85054). Achieving the coequal goals is a preliminary and fundamental purpose of the Delta Plan. The DSC has issued several staff drafts of the Delta Plan, the most recent being the Fifth Staff Draft, which is the “project” or “program” analyzed in the recently released Draft Program Environmental Impact Report for the Delta Plan.

The Fifth Staff Draft Delta Plan generally covers five topic areas and goals, including increased water supply reliability, restoration of the Delta ecosystem, improved water quality, reduced risks of flooding in the Delta, and protection and enhancement of the Delta as an evolving place. Although the DSC, through the Delta plan, does not propose or contemplate constructing, owning, or operating any facilities related to these five topic areas, the Delta Plan sets the regulatory policies, and recommendations, that seek to influence the actions, activities and projects of cities, counties, State, Federal, regional and other local agencies toward meeting the goals in the five topic areas. In other words, local public agencies such as the City of Tracy will be required to conform their actions to the policies in the Delta plan and to the regulatory and appeal procedures established to implement the Plan.

City staff has monitored the development of the draft Delta Plan and provided comments and coordinated with San Joaquin and other affected parties. The City and other agencies are concerned with the scope and extent of proposed regulatory and review authority that the DSC is considering for adoption. The City continues to encourage the DSC to create a Delta Plan that helps achieve California’s coequal goals of providing reliable water supplies and restoring the Delta habitat while recognizing and protecting the Delta as a place where people work and live. The proposed Delta plan, in its current form, continues to threaten the ability of local communities to grow and prosper, takes away local decision making, and provides an appointed body with the authority to veto local land use and other decisions based upon subjective criteria.

City staff has attended periodic coordination meetings with representatives of San Joaquin County and the City of Stockton in the establishment and coordination of stakeholder meetings to facilitate a collaborative and uniform effort to address mutual concerns with the proposed adoption and implementation of the Delta Plan, the Program EIR, and with related Delta plans and programs such as the Bay Delta Conservation Plan (BDCP). Presently, the stakeholder group is preliminary known as the “San Joaquin County Delta Initiative Coalition Stakeholders”. Currently, the stakeholders include representatives of the City of Tracy, representatives of San Joaquin County (including Board of Supervisors Larry Ruhstaller and County staff), the City of Stockton, City of Ripon (including Mayor Elden Nutt), City of Lodi (including Bob Johnson), City of Escalon (including Mayor Fox), San Joaquin Council of Governments, Port of Stockton, San Joaquin Farm Bureau, non-governmental environmental and resource conservation organizations (Restore the Delta and CA Sports fishing Protection Alliance), and representatives of the Delta Protection Commission, Central Delta Water Agency, Business Council Inc., of San Joaquin County, Building Industry Association of the Delta, AG Spanos Companies, and the Grupe Company. The intent is to expand this group to include other affected San Joaquin County cities and interested parties with mutual

concerns to improve our negotiating position with the DES and with legislators in Sacramento and Washington, D.C.

On November 4, 2011, the DSC released a 2,200 page Draft Program Environmental Impact Report for the Delta Plan (DPEIR) and established a 60-day public review period. On November 8, 2011, the City of Stockton submitted a letter requesting that the review period be extended an additional 90 days to April 2, 2011. However, at their meeting on November 17, 2011, the DSC only extended the public review period by an additional 30 days ending on February 2, 2012.

City staff members are in the process of reviewing the DPEIR and are coordinating efforts with the aforementioned stakeholder group to develop a comment letter and to finalize the above-referenced separate joint stakeholder comment letter expressing shared concerns and overarching issues regarding the DPEIR. Those letters will be submitted on or prior to the February 2, 2012, deadline.

Staff requested that the Council adopt the above-referenced joint resolution in coordination with other stakeholders in San Joaquin County in support of an initiative for joint action, advocacy, and mutual interests on issues concerning the Sacramento-San Joaquin River Delta (Delta).

Staff will periodically update the City Council as significant developments occur and as further direction is necessary.

There is no immediate fiscal impact to the City's General Fund resulting from this item. However, at a future meeting, the Council will be given the opportunity to decide whether to participate in the stakeholder advocacy effort, which would require some financial commitment.

Staff recommended that the Council adopt a joint resolution of Cities, County, and other San Joaquin County stakeholders regarding land use, water, and other Delta related issues.

Mayor Ives welcomed Frank L. Ruhstaller, San Joaquin Board of Supervisors, who thanked staff for their involvement in the stakeholder group. Mr. Ruhstaller explained the threat to the cities because of the proposed Delta Plan. Mr. Ruhstaller asked Council for their support.

Mayor Pro Tem Maciel asked who was on the Delta Stewardship Council and how does someone get on the Council. Supervisor Ornellas stated it was formed in 2009 when the legislation came into being and outlined the various members of the Council.

Council Member Elliott asked for clarification regarding the power of the Delta Stewardship Council. Supervisor Ornellas stated the hardest thing to get out of the agencies is the actual Plan.

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

Council Member Elliott stated it looked as though this was an example of an appointed, not elected set of bureaucrats making decisions. Council Member Elliott suggested the Council should not stand by and let it happen.

Mayor Pro Tem Maciel stated he was in support of the resolution.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-016 in support of cities, county, and other San Joaquin County stakeholders regarding land use, water, and other Delta related issues. Voice vote found all in favor; passed and so ordered.

5. THAT COUNCIL DISCUSS AND ACCEPT THIS UPDATE REPORT BY THE POLICE DEPARTMENT STAFF REGARDING THE ANNUAL PROGRESS OF THE VIOLENT CRIME AND GANG SUPPRESSION PLAN - Lt. Greg Farmanian presented the staff report. Lt. Farmanian stated that the Police Department has sustained the program throughout 2011 as previously outlined to Council. The four prong approach focused on improving Enforcement, Intervention, Education, and Communication remains a priority.

Since January of 2011, the Police Department has:

- Reshaped the Directed Patrol Unit to consist of a 6 Patrol Officer team
- Directed Patrol Team (DPU) formed a direct link with Gang And Narcotics Enforcement Team (GNET) as a liaison to patrol
- Increased the number of gang related contacts and documentation
- Trained 3 V.I.P.S. to update and manage Cal Gang files
- 477 Cal Gang files have been created or updated by the V.I.P.S.
- Purged and updated the internal gang files at the police department
- Scheduled monthly meeting with Mayor's Community Youth Support Network (MCYSN), School Resource Officers, Gang & Narcotics Enforcement Team and Crime Prevention
- Coordinated and scheduled semi-monthly meetings with adult and juvenile probation in an effort to streamline communication and enforcement efforts
- Organized a team of instructors to train and teach Gang Resistance Education titled T.A.G. (Tracy Against Gangs)
- Crime Analyst provides weekly updates and temporal maps on gang related contacts and enforcement activity
- Juvenile probation is posting weekly updates to the juvenile probation list through the Police Department's Intranet
- GNET and General Investigations Unit (GIU) conducted 12 presentations to schools and service providers
- Implemented an addendum to the suppression plan in November 2011, to increase enforcement and suppression efforts through the remainder of 2011.

Through this plan, the Tracy Police Department has taken a number of steps to increase its overall efforts to interdict violent crime and criminal gang activity and discourage conduct that interferes with quality of life in the City of Tracy. 2011 contacts with documented gang members represent the total number of contacts by both the Directed Patrol Unit and Patrol Officers. Contacts resulting in an arrest were stable throughout the year and averaged a 26% arrest to contact ratio.

The Tracy Police Department's internal database on documented gang members was updated and out of date information purged in compliance with Department of Justice guidelines. The Department of Justice requires agencies to purge any gang intelligence

files if an individual has not had a gang related contact within a five year period; therefore, these numbers are constantly fluctuating.

The database contains the names of 802 individuals that have come in contact with Tracy Police Officers over the past five years. Each of these individuals had at least one validated gang contact with Tracy Police during this time period. Of the 802 documented gang members, 97 were juveniles and 705 were adults. While these individuals were contacted in Tracy and were entered into the City's database, this information should not be construed as being the number of documented gang members who actually reside in Tracy. The actual number of gang members residing in Tracy at the time of their contact during the past five years is 588.

The mission of the Violent Crime and Gang Suppression Operation remains the same - to provide high police visibility, strong enforcement, and regular contacts with individuals suspected of committing crimes of violence or involved in gang-related activity. Long-term goals will continue to focus on education and intervention as well as continually improving communication with all stakeholders.

Staff members from the Tracy Police Department met with representatives from the community, DARE, MCYSN, and the Tracy Unified School District to begin the process of implementing an educational program targeting positive life skills and gang resistance training to 5<sup>th</sup> grade students. The program is designed to deliver three or four lesson plans at the completion of DARE instruction to 5<sup>th</sup> grade students. The team, titled TAG (Tracy Against Gangs), has developed a curriculum and is in the process of refining the program through pilot program presentations. The program will be evaluated at the completion of the pilot program to assess the viability of sustaining a long term commitment to presenting TAG lessons.

First and second quarter fiscal year 11/12 costs are an accurate reflection of the actual costs of the program. These funds are primarily designed to cover costs associated with suppression deployment and training. Based on data since the beginning of fiscal year 11/12 the Police Department has utilized approximately \$40,000 of the \$125,000 dedicated to the Violent Crime and Gang Suppression Operation.

Staff recommended that the Council accept the updated report as it relates to the violent crime and gang suppression plan and provide direction to staff regarding future briefings.

Mayor Pro Tem Maciel referred to the fluctuations over the course of the year and asked if information was available. Lt. Farmanian mentioned the spike and indicated it was due to operation Gateway - a decrease has been shown after that event.

Council Member Elliott asked for clarification regarding the definition of a contact. Lt. Farmanian explained the definition and process.

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

Brian Benning, Hamilton Drive, asked if contacts fall off the list because they move. Lt. Farmanian indicated the Tracy Police Department works with Cal Gangs and explained how the process works.

Robert Tanner, 1371 Rusher Street, asked about the increase in the number of contacts, and asked how many contacts dropped off the list. Lt. Farmanian indicated he did not have that number available.

Dave Helm asked for clarification of a gang member who has been incarcerated for over 5 years. Lt. Farmanian explained if there has been no contact, they would drop off the list. Chief Hampton indicated an incarcerated individual who continues gang activity while incarcerated could remain on the list; it depended on their conduct while in prison.

Council Member Abercrombie referred to the slide that represents where gang members live and asked how much contact Tracy has with gang units from the other cities. Lt. Farmanian indicated they work with Cal Gangs and the City of Hayward, but not with other cities in the Bay Area. Chief Hampton indicated the County has a gang taskforce, but a Tracy police officer is not currently assigned to the taskforce.

Mayor Ives stated it was important to train the VIPS to update the data base and keep the City on the cutting edge with the ability to manage the information received from Cal Gangs.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to accept the report regarding the Annual Progress of the Violent Crime and Gang Suppression Plan. Voice vote found all in favor; passed and so ordered.

6. CITY COUNCIL DIRECTION REGARDING SIGN ORDINANCE AMENDMENTS RELATED TO ELECTRONIC MESSAGEBOARDS AND ELECTRONIC READER BOARD SIGNAGE ON PRIVATE SCHOOL PROPERTY - Bill Dean, Assistant DES Director, presented the staff report. 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 signs in Tracy that do utilize electronic scrolling as a component of their signage. These signs are located on Tracy Unified School District property and advertise various school-related events and activities. The signs are not subject to conformance with the TMC because (in very general terms) the TMC does not apply to public school district property (Government Code Section 53090 and following).

Pursuing the Council's direction in an effort to allow the same sign type enjoyed by the public school district on private school property, an require an amendment to the TMC.. Accordingly, a draft TMC Amendment has been prepared for discussion, and was attached to the staff report.

In order to achieve the same type of sign on private school property as the existing public school signs the sign ordinance would have to be amended in four areas, as follows:

- The first area of amendment relates to the language on prohibited signs. Section 10.08.4510(i) would be amended to add an additional exception to the prohibition

on signs that change copy/color to include/allow private schools to utilize this sign type;

- The second area of amendment would be to create standards (now non-existent) related to how a sign can change color, mainly related to the intensity or brightness of the signs, and the speed or frequency of the message changes;
- The third area of amendment would relate to where such signs could be allowed in Tracy, for example, in which zone districts. Private schools are located throughout Tracy across numerous zone districts (Attachment A suggests that changeable copy be allowed at schools with grades 1 through 12, on sites greater than one acre, regardless of which zone the school is in. This, of course, could create challenges regarding the status of the sign if the school closes or relocates.).
- The fourth area of amendment would be to allow Freestanding Signs (a type of sign, up to 15 feet high and 100 square feet in area) in a wider range of zone districts, or possibly in any zoning district where a qualifying school was located. Otherwise, the schools would be limited to a Monument Sign (a sign typically 6 feet tall and 24 square feet for retail uses, and 4 feet tall and 12 square feet for other uses); Freestanding Signs are the type of sign currently used by several public schools to accommodate their scrolling message boards.

Staff suggested that if a TMC amendment be approved in the future for this type of signage, the process should require approval of a Conditional Use Permit (CUP) from the Planning Commission. The CUP process would enable the City to apply reasonable conditions of approval on the project (sign) related, for example, to potentially the hours of operation and ability to have the sign illumination moderated given its proximity or adjacency to residences and other uses that might be disturbed by the brightness or hours of operation. This is similar to the City's longstanding conditions of project approval that require, for example, parking lot lights to be downward pointing and capable of shielding against light spillage onto adjacent areas.

Staff has drafted an ordinance that would allow scrolling message boards on signs similar to existing public school signs. In considering the amendments, staff requested Council direction on the following:

- Confirm that this amendment would apply to "public or private schools located on property of one acre or more";
- Whether the amendment would include allowing Freestanding Signs (up to 15 feet high) as well as Monument Signs (4-6 feet high);
- Confirm that the amendment be limited to scrolling message boards similar to today's public schools.

Based on Council's direction, staff would proceed with an amendment to the TMC Sign Ordinance and conduct public hearing(s) at the Planning Commission before bringing a draft ordinance to the City Council. The amendment could be before the Planning Commission within two months.



There is no fiscal impact in pursuing a sign ordinance amendment other than the cost associated with staff time.

Staff recommended that the Council provide direction regarding sign ordinance amendments related to electronic message board signage on private school property.

Mayor Pro Tem Maciel indicated he was concerned that the cost may be prohibitive. Mayor Pro Tem Maciel indicated a lot of the private schools are affiliated with churches and asked how the size of the property was determined. Mr. Dean explained staff looked at schools with grades 1-2 and most schools were larger than 1 acre. Mr. Dean stated the aim was to make it as wide-spread as possible. Mayor Pro Tem Maciel indicated that would be his preference.

Council Member Elliott asked if there were schools in Tracy that are less than 1 acre. Mr. Dean indicated he was referring to K-12 schools; there are many home schools or daycare sites that would not be included.

Council Member Rickman asked if residential settings were being taken into account. Mr. Dean stated yes.

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

Council Member Abercrombie indicated he would support staff moving forward and liked the direction staff was pursuing. Council Member Elliott agreed.

Mayor Pro Tem Maciel indicated he would like to keep the cost of the conditional use permit to a minimum and would like grades K-8 included. Mayor Pro Tem Maciel stated he did not believe it would be appropriate to include private day care. Council agreed.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to direct staff to continue working on sign ordinance amendments related to electronic message board signage on private school property. Voice vote found all in favor; passed and so ordered.

8. RECEIVE UPDATE AND PROVIDE INPUT ON AIRPORT IMPROVEMENT OPTIONS - Ed Lovell, Management Analyst, presented the staff report. 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 addressing various issues at the Airport was presented to Council for consideration. Many 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 (attached to the staff report) 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 for further vetting and approval. Each item shows a time frame for starting and completing the project, depending on other factors that may or may not occur such as funding availability or the completion of other projects.

To date staff has completed the design and engineering documents. The project is expected to cost approximately \$2.12 million and staff has been working to secure funding from various means including bond sales, a State loan, and private loans. Staff has been unsuccessful thus far in securing funding for the project primarily because of the current financial condition of the Airport Fund. Staff is preparing a final bid package that will be published in February which will determine actual costs for establishing the needed funding.

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. Within the next 60 days, staff intends to bring a proposal to Skyview for the construction of a restaurant/café at the airport. If negotiations are unsuccessful after a period of 45 days, then the City will enter into negotiations with Tracy Air Center. If an agreement cannot be reached with Tracy Air Center, then a Request for Proposals will be sent out in order to proceed with the construction of a restaurant/café at the airport.

In July 2008, Council authorized the submittal of four grant applications for runway repair and fencing projects at the New Jerusalem Airport. The applications were accepted by the State and the funds were awarded. Currently, the design and engineering work is complete and is being reviewed by Caltrans. Upon completion of Caltrans' review, staff will go out to bid on the project. It is anticipated construction will start in July 2012.

Pavement core samples have been taken in various locations throughout the airport runways and taxiways. The samples are currently being analyzed to determine their composition. A report will be generated stating the make-up of the existing pavement along with potential options to address the current condition. Staff should have the report by the end January 2012. Based on the findings in the report, staff will meet with the City Attorney's Office and the FAA to discuss courses of action. Staff will bring the results of the report back to Council along with the recommended course of action to address the current runway condition. Staff will request funding from the FAA as necessary to complete the work. It is anticipated the runway repairs should be completed within six months from the receipt of funding.

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.

Since this item will be key to realizing any future growth and sustainability at the airport, staff asked Council to provide input on the potential fund balance strategies relative to the Airport Operating Budget. By ensuring the success of the Airport Operating Budget, the Airport Fund will be in a better position to be a viable funding source for many of the Short Term items.

Currently, the Airport Enterprise Fund operates at an annual deficit and has done so for many years. In FY 2011/12, the airport budget will realize a deficit of approximately \$103,000. The deficit has accumulated over the years to a current fund balance of \$525,000.

In addition to the operating budget, the Airport Fund has five outstanding loans which continue to have a negative impact on the fund. The Airport Fund has more financial obligations than revenue generation. In order to reverse this trend, staff proposed a five step fund balance strategy which will bring the operating budget into a position of annual positive cash flow by the end of FY 2015/2016. Each of the five steps is critical in providing a means for the Airport to grow and implement many of the improvement options that were presented to Council.

The Airport Enterprise Fund has four loans from the Water Fund, which it has not been able to pay as anticipated, and needs to renegotiate terms. Many of the loans do not have concrete terms or interest rates, with one being silent in both areas. Restructuring the existing loans would result in making the Water Fund whole. The Water Fund will benefit by entering into new loan terms that can be repaid by the Airport Fund

There is a total of 1.92 FTEs in the Airport Operating Budget. Due to a recent Fuel Service Operator agreement approved by the Council, and the recent reorganization throughout the City, the FTE count could be reduced by as much as 0.75 FTEs in a few years through attrition and restructuring of current positions. Further analysis will be necessary to evaluate impacts as retirements occur.

In addition to reducing expenses in the budget, increasing revenues will help achieve financial stability. The primary source of revenue for the Airport Enterprise Fund is hangar rentals. One project approved by Council is the construction of 42 new hangars at a cost of approximately \$2.2 million. To increase annual revenue, a request to the FAA to sell a portion of the New Jerusalem Airport property could be made. For example, selling 200 acres of the property at approximately \$5,000 per acre would result in \$1,000,000 for the hangar project which would result in a lower loan amount and lower annual payments. Under this scenario the City would still be required to keep the airport operational. There is an existing farm lease on the property which brings in approximately \$50,000 in revenue per year. Selling a portion of the property would result in a lesser amount of revenue. It is estimated that a farm lease on the remaining property would bring in approximately \$10,000. Revenue from the new hangars would offset the new loan payment and bring in net revenue of approximately \$85,000.

Applying for a partial release is a viable option because a partial release would be easier to obtain from the FAA than a full release. However, it is important to note that the FAA may not approve the funds from any such sale to be used in this manner. If the FAA were to not approve the partial release, or use of the funds, the hangar project would be put on hold until alternative funding could be identified.

There has been interest by outside parties in the construction of both a restaurant and corporate hangars at the Tracy Airport. By negotiating an agreement to move forward with both of these projects, it is anticipated that an additional \$10,000 in revenue could be generated through ground leases.

While the previous four steps take care of the immediate need for financial reform, long term planning must be taken into consideration to maintain financial viability and growth. A number of ideas fall into this fifth strategy. One idea would be to restructure the airport leases for privately owned hangars at the airport. All leases are approximately 20 years old and need to be revised. In addition, the exploration of a farm lease at Tracy Municipal Airport and the potential for revenue from advertising on the hangars could be completed. 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 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 will be to identify current runway lengths.

In total a net realization of approximately \$132,000 of additional funds could be brought into the Airport Enterprise Fund annually. This would eliminate the need for the General Fund to cover any deficit created from the existing condition of the Airport Enterprise Fund. These actions will stop the negative cash flow in the Airport Fund. The next steps for these fund balance strategies are for Council to provide direction and for staff to bring back options on achieving step 1.

There no impact to the General Fund for this item. Currently the Airport Enterprise Fund is operating at a deficit which is carried by the General Fund. Future actions may have positive budgetary impacts to the General Fund.

Staff recommended that Council accept the report and provide input on Airport Improvement Options.

Council Member Abercrombie asked what year the seal coat was put on the runway. Mr. Lovell stated in 2007.

Council Member Abercrombie asked if the report would indicate why the runway broke down. Mr. Lovell responded core samples were being taken which would determine if they met the specifications in the bid documents and what course of action if any could be taken.

Council Member Abercrombie asked if the FAA signed off on the runway project. Mr. Buchanan stated Caltrans, FAA, and city inspectors would inspect and sign off on the project. Mr. Buchanan added a tolerance level of the materials would not usually occur; that the contractor is expected to follow the scope of work and specifications.

Mayor Pro Tem Maciel asked if there were any restrictions on selling part of the New Jerusalem Airport. Mr. Buchanan stated it required the same release process.

Mayor Pro Tem Maciel asked how much of the New Jerusalem Airport would be fenced. Mr. Buchanan stated the access points would be gated immediately and then the airport property.

Council Member Elliott stated it was his understanding that the General Fund was contributing \$103,000 yearly to the airport. Mr. Buchanan stated the General Fund was carrying the balance until the airport had a positive cash flow.

Council Member Elliott agreed the budget needed to be balanced and asked if some of these steps were mutually exclusive. Mr. Buchanan indicated the strategy would be refined along the way, but one could not be done without the other.

Council Member Elliott asked what the fallback plan was if the City was not able to sell the New Jerusalem Airport. Mr. Buchanan stated staff would explore other funding options. Once the loans were under a certain structure, CalTrans would again talk to the City about a loan.

Council Member Elliott asked if staff expected to receive funding from the FAA for the seal coat. Mr. Buchanan stated staff would talk to the city attorneys about any remedies, and that they were meeting with the FAA in person. Mr. Buchanan stated it was likely that it would be funded.

Council Member Rickman asked if there was a market for advertising at the airport, and if staff was maximizing opportunities. Mr. Buchanan stated there might be a market for advertising. Mr. Buchanan added staff would look at all five projects at one time and will see if the FAA would fund this plan. Mr. Buchanan stated the key was to stop the negative cash flow problem.

Council Member Rickman asked about grant opportunities. Mr. Buchanan stated there was currently \$600,000 waiting for the City to apply for.

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

Dave Anderson, Vice President of the Airport Association, thanked staff for their efforts in getting the runway issue resolved. Mr. Anderson offered his support to work with the FAA and CalTrans to determine the cost of the runway repair.

George Riddle, 1850 Harvest Landing Lane, referred to item S17 stating he believed it was a key item that needs to be worked on first. Lower gas prices and available hangars available would be necessary to keep the airport viable. Mr. Riddle thanked Council and staff for their efforts in seeing these items come to fruition.

Mayor Ives indicated he agreed with Mr. Riddle on item S17B; the pavement has to be stable. Mayor Ives asked if discussions were still taking place with the FAA regarding runways and lengths. Mr. Buchanan indicated it is one of the points that would be discussed.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to accept the report and provide input on Airport Improvement Options. Voice vote found all in favor; passed and so ordered.

9. APPROVE CONSOLIDATION OF AIRPORT ENTERPRISE FUND LOANS - Ed Lovell, Management Analyst, presented the staff report along with a recap of all Water Fund loans.

Resolution 97-399 authorized a \$70,000 loan from the Water Fund. This loan specified no interest rate and no annual payment, resulting in a current loan balance of \$70,000.

Resolution 98-275 authorized a \$275,000 loan from the Water Fund. This loan specified an interest rate of 6% and annual payments of \$20,000. The Airport Enterprise Fund has made the required annual payments, resulting in a loan balance of \$ 253,921.

Resolution 98-299 authorized a \$250,000 loan is from the State of California. This loan has a specified interest rate of 4.9874% and annual payments of \$23,165. The Airport Enterprise Fund has made the required annual payments, resulting in a loan balance of \$91,541.

Resolution 99-279 authorized a \$470,000 loan from the Water Fund. This loan was issued on the assumption that the sale of the New Jerusalem Airport was imminent and that the loan would be repaid with proceeds from the sale. Any future sale of the New Jerusalem airport property will be contingent on the FAA releasing the City from deed restrictions, and in that release, the FAA will stipulate that sales-proceeds be used only for the funding of new improvements at the Tracy Municipal Airport. The FAA will not allow the proceeds to be utilized to pay off any existing airport loans. Although an interest rate of 6% was specified, no loan payments were required and none have been made, resulting in a current loan balance of \$ 892,201 (interested accrued increases total loan balance by \$422,201 to date.)

Resolution 2009-190 authorized a \$47,500 loan from the Water Fund. This loan specified interest at the Local Agency Investment Funds (LAIF) interest rate, but no annual loan payment. Repayment has not yet started on this loan as the project has not yet been completed.

The Airport Enterprise Fund is going further into debt each year given the inability of sufficient revenue to fund payments against loan balances. Many of the loans do not have concrete terms or interest rates, with one being silent in both areas. Restructuring the existing loans would result in making the Water Fund whole. The Water Fund will benefit by entering into new loan terms that can be repaid by the Airport Fund. In order to provide the Water Fund with the guarantee of repayment, staff recommended the Council consider consolidation of the Water Fund loans.

Staff proposed that all four Water Fund loans be consolidated into one new loan equaling a combination of the original principle for each of the four loans. The new loan amount would total \$862,500 and the interest and principle paid to date to the Water Fund would be retained by the Water Fund.

The new loan amount will be the total of:

\$70,000 (Loan 1)
\$275,000 (Loan 2)
\$470,000 (Loan 4)
<u>\$47,500 (Loan 5)</u>
\$862,500 Total – New Consolidated Water Fund Loan

There is no impact to the General Fund for this item. There will be a modification to the Water Fund and Airport Enterprise Fund. The interest of 2.42% is recommended due to experienced LAIF rates over the last 10 years (range from 0.46% to 5.15%; average 2.42%). By allowing an interest rate of 2.42% for the existing loans, the Water Fund can be made whole and the Airport Fund will be in a better position to eventually eliminate current debt.

Under the new loan consolidation, the first three years' payments will be interest only payments of \$20,872.50. Beyond 3 years, once Loan 3 to the State has been paid off, annual payments of \$40,770 will be made for the next 30 years at which time the balance to the Water Fund will be paid off.

Staff recommended that City Council approve the Airport Enterprise Fund loan consolidation.

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

Dave Anderson stated he believed it was in the best interest of the fund and requested Council support the request.

George Riddle urged Council to restructure the loans in order to move on with the Airport and make it a centerpiece of our municipal area.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-017 approving consolidation of Airport Enterprise Fund Loans in the amount of \$862,500. Voice vote found all in favor; passed and so ordered.

10. **AUTHORIZE AMENDMENT OF THE CITY'S CLASSIFICATION AND COMPENSATION PLANS AND POSITION CONTROL ROSTER BY ESTABLISHING OR AMENDING CLASSIFICATION SPECIFICATIONS AND SALARY RANGES AND REALLOCATING VARIOUS POSITIONS AS PART OF THE CITY'S CONTINUING REORGANIZATION EFFORTS** - Maria Olvera, Human Resources Director, presented the staff report. Ms. Olvera stated that over the past two years, the City has implemented ongoing rightsizing and reorganization efforts, aimed at reducing fiscal expenditures to ensure the organization retains an appropriate workforce size and pool of talent. In October 2011, Council authorized an Incentivized Workforce Reduction which will eliminate 18 positions by early 2013 and reclassify a number of positions to a lower level. Approximately 90 positions were eliminated in FY 2009-10, which required City services to be provided by remaining staff with resulting impacts on their job duties and classifications.

In assessing the impact of the many changes which have occurred in the workforce, a number of classification studies indicate that various positions have changed significantly. These changes warrant the establishment of new classification(s) or amendment of existing classifications, and reallocation of incumbents into retitled and/or different positions.

In making determinations regarding whether or not an existing classification is appropriate for a particular set of duties, allocation factors must be considered. These include factors such as nature and type of knowledge required; scope of responsibility in terms of nature and variety of assignments; judgment and initiative involved in achieving work objectives; types of problems solved; impact of decision making; and types, nature, and purpose of interpersonal contacts including the policy and organizational impact.

The following information provides detail on the affected departments and positions, a brief explanation of the organizational changes that have occurred, and the recommended actions.

**City Manager's Office - Cultural Arts Division** - In FY 2009-10, three regular, permanent full-time equivalents (FTEs) and two additional FTEs were eliminated as part of the City's rightsizing efforts. The manager and supervisory levels in the Cultural Arts Division were compressed into one level after the Arts Program Manager position was vacated. The decision to eliminate the position resulted in a significant change in organizational structure as well as a significant change in the duties of the Gallery Supervisor and Technical Theatre Supervisor, as Arts Program Manager duties and responsibilities were shifted to the two subordinate supervisor positions.

As a result, the classification study found that the classification specifications of the Gallery Supervisor and the Technical Theatre Supervisor are no longer appropriate. The organizational changes have redefined the focus, and the original purpose of the two positions, in terms of duties and their levels of responsibility based on characteristics such as scope, difficulty, and impact of decision-making.

Establish Classification Specification and Salary Range: Cultural Arts Manager – Visual Arts; Cultural Arts Manager – Performing Arts

It is recommended that a new classification of Cultural Arts Manager be used in place of the original classifications of Gallery Supervisor, Technical Theatre Supervisor, and Arts Program Manager. One Cultural Arts Manager would oversee Visual Arts, one would oversee Performing Arts. This recommendation is based on findings of a significant shift from the original organization structure and classification concepts due to the City's rightsizing and de-layering efforts. A broad classification provides flexibility in assigning and sharing management, supervisory, and administrative duties across the entire Cultural Arts Division as changing needs at various times may necessitate, while also providing for specifically recruiting and hiring arts professionals in either the Visual Arts or the Performing Arts areas as needed.

The recommended title of the expanded classifications is based on industry standards for positions with similar duties and responsibilities. The recommended salary range of the position would remain equivalent to that of the Gallery Supervisor salary range, or \$6,207.54 to \$7,545.31 per month. The increased cost associated with this recommendation is approximately \$24,374 per year.

Establish Classification Specification and Salary Range: Arts Education Coordinator

The Arts Education Coordinator is a Limited Service Employee Compensation and Benefit Plan classification reporting to the proposed Cultural Arts Manager - Visual Arts. It is responsible for coordinating a variety of Arts Education Programs, evaluating and developing curriculum for the Grand Theatre Center's Arts Education Program, including programming in dance, drama, music, and visual arts for children, teens, and adults. The position will also oversee part-time arts program staff, volunteers and contractors/consultants, as well as work with artists and local arts groups and commissions.

Although the classification was specified as a Recreation Coordinator upon creation, this occurred prior to the opening of the Grand Theatre. The position has evolved into a highly specialized position. While the Grand Theatre had staffing of 9.1 FTEs in FY 2009-10, it has decreased its full-time, regular staffing by three positions since that time. This position will be part-time only and will add a key professional element to the existing team. Moreover, the establishment of the Arts Education Coordinator classification



facilitates the organizational change to occur in the City Manager's Office/Cultural Arts Division and ensures that the arts programs provided at the Grand Theatre are esteemed and sustainable. The Grand Theatre remains integral to the history and business strategy of the Tracy downtown area's revitalization plans.

Currently, the City is utilizing half of a full-time, regular position from the Parks and Community Services (PCS) Department to perform arts education duties. These hours will be returned to the PCS Department as part of the City's future organizational structure approved by Council on October 4, 2011. It is recommended that the hourly salary range for the part-time Arts Education Coordinator be \$19.81 to \$24.08 per hour. In filling the position at .75 FTE, the annual cost is estimated at approximately \$41,340.

**Development and Engineering Services Department** - In FY 2009-10, the City's right-sizing plan called for streamlining fire prevention services to coincide with the Building Division plan review and inspection program. All activities are now staffed within the Development and Engineering Services Department (DES). The move has allowed for greater efficiencies, as inspection staff is being trained to obtain the necessary skill sets to perform compliance duties in connection with both building and fire inspection.

Amend Class Specification and Salary Range: Supervising Building and Fire Inspector

An evaluation of the Supervising Building Inspector classification found that, due to the elimination of the Fire Marshall position and streamlining of fire prevention services, the Supervising Building Inspector has functioned as the supervisor of both building inspection and fire inspection services. This consolidation requires additional skills and abilities, including State required certifications. Staff recommended that the classification be amended to reflect the increased responsibilities and required certification and that the compensation be increased to allow not only for market equity, but to alleviate compaction that has occurred.

The new salary range recommended is \$6,168.34 to \$7,497.66 per month. The increased cost is estimated to be approximately \$11,042 annually.

**Finance and Administrative Services Department** - In FY 2009-10, the Information Systems Manager position was eliminated, which placed an increased level of responsibility on the Information Systems Administrator position. It was noted at the time that, while this action would provide needed cost savings and could work in the short-term (2-3 years) with minimal impact, it was unlikely to continue effectively long-term, as the elimination would reduce time available for planning and implementation of future significant projects in the information systems arena.

Establish Classification Specification and Salary Range: Information Technology Manager

A recent analysis of the Information Systems Administrator concluded that the position has changed significantly since the rightsizing of FY 2009-10. The position had been responsible for performing system analysis, programming operations, and providing support to departments and ensuring integration of all systems with citywide information systems functions. It has also been responsible for the development of overall Information technology strategies and departmental information systems, including enterprise class server, storage and network security architecture, GIS and other

telecommunication systems, and research and analysis of emerging industrial technology trends. The position has assumed more responsibility for preparing and administering the division budget, forecasting costs, and procuring systems and supplies. The position also provides technical leadership and facilitates workflow and work products. Moreover, the position has transitioned from liaison and managing information systems, to developing and implementing management information systems. The new salary range recommended is \$8,030.80 to \$9,761.50 per month. The increased cost is estimated to be approximately \$7,530 annually.

**Parks and Community Services Department** - The Parks and Community Services Department operates nine successful recreation program sections. In FY 2009-10, the Department reduced staffing by 4.57 FTEs. A vacant Deputy Director position was eliminated as were two full-time, regular Recreation Program Coordinator positions. Classification analyses have found that these actions have significantly impacted the duties and scope of responsibilities of one of the Recreation Services Supervisor positions, as well as one of the Recreation Program Coordinator positions. In addition, recent adoption of the City's future organizational structure will change the Parks and Community Services Department to a Division of the City Manager's Office. This organizational change will provide for the elimination of the Director position and further increase the span of control of the positions identified.

#### Establish Classification Specification and Salary Range: Recreation Services Program Manager

It is recommended that a new classification of Recreation Services Program Manager be established. Since the right-sizing of FY 2009-10, a shift has occurred in which duties of one of the Recreation Services Supervisors has changed significantly with regard to the level and complexity of recreational programs managed, oversight of major City-wide special events, and implementation of a larger scope of services both directly and through subordinates. A classification study indicates that the position provides a greater scope and higher level of professional assistance to the Department Head and/or other executive level management, represents the Department to Boards, Commissions and community groups, and is responsible for developing funding sources. The recommended salary range of the new position is \$6,828.30 to \$8,299.84 per month. The increased costs associated with this recommendation are approximately \$12,223 per year.

#### Amend Recreation Program Coordinator Classification and Salary Range: Recreation Program Coordinator I/II

Also as a result of the right-sizing, the Recreation Program Coordinator position responsible for supervising the Senior Center has also significantly changed. The position now has some responsibility for administering grants and helping to develop funding sources, as well as managing a much broader range of programs, which currently includes After School Programs, Youth and Teen Programs, and Senior Center operations. Each program is multi-faceted and has distinctly different operational models. In overseeing these programs, the position is required to exercise a higher level of decision-making and independent action to carry out assignments.

Finally, the position may serve as liaison with select Boards and Commissions as directed. It is recommended that the classification specification be amended to provide

for a second tier, allowing for Recreation Program Coordinator I and Recreation Program Coordinator II classifications, with the aforementioned Recreation Program Coordinator position being reallocated to a Recreation Program Coordinator II and the incumbent reclassified.

The recommended salary range of the Recreation Program Coordinator I position will remain at the current range of \$4,292.74 to \$5,217.84 and the Recreation Program Coordinator II position will be \$4,722.00 to \$5,739.62, reflecting a 10% increase. The increased costs associated with this action are approximately \$8,453 annually.

**Public Works Department** - As part of the rightsizing of FY 2009-10, one Public Works Maintenance and Operations Superintendent was left vacant upon the incumbent's retirement. Since that time, the Landscape District Maintenance Supervisor has been managing additional responsibilities related to Streets, Sidewalks, and Traffic. These additional duties have increased his supervision from six to 17 direct reports. He is responsible for managing approximately 40 budgets. The position is now responsible for evaluating operations, recommending improvements and modifications, developing new programs, assisting in establishing goals and objectives and interacting with both the public and City staff to a much greater degree. It is recommended that the Landscape District Maintenance Supervisor position be reallocated to Public Works Maintenance and Operations Superintendent and the incumbent reclassified. The additional costs associated with this action are approximately \$9,019 annually.

The City addressed its structural budget deficit by utilizing various workforce reduction principals. Actions taken during the FY 2009-10 rightsizing resulted in a reduction of 16% of the workforce as well as reduced personnel expenditures of over \$5 million. In addition, recent action to incentivize a further reduction in workforce will net estimated savings of over \$2 million annually. The increase in costs associated with implementing the recommended changes in this report is approximately \$113,981 annually.

Staff recommended that the Council authorize the Human Resources Director to amend the City's classification and compensation plans and the Budget Officer to amend the position control roster by approving the establishment or amendment of classification specifications and salary ranges and reallocating various positions as part of the City's continuing reorganization efforts.

Council Member Elliott asked if the total increase in costs annually was based on the new salaries. Ms. Olvera stated it was based on the maximum that could be seen.

Council Member Elliott asked if this took care of all of the reclassifications that we can see. Ms. Olvera stated this should be an end to the last two waves of changes in the organization.

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

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-018 amending the City's Classification and Compensation Plans and Position Control Roster by establishing or amending classification specifications and salary ranges and reallocating various positions as part of the City's continuing reorganization efforts. Voice vote found all in favor; passed and so ordered.

14. A. Consider an Item for Discussion on a Future City Council Agenda Related to Creating a Code of Conduct for Elected Officials - Mayor Pro Tem Maciel indicated many municipalities have guidelines and roles for elected officials regarding how items are presented to staff and at what point Council removes themselves from the process.

Council Member Elliott indicated the subject sounded like a standard operating procedure vs. how to conduct yourself honorably. Mayor Pro Tem Maciel stated it was guidelines for officials and staff regarding their roles and what is expected.

Mayor Ives indicated he has worked on developing such standards or protocols and outlined various scenarios on the process. Mayor Ives suggested having a workshop or discussion of the roles.

Council Member Rickman asked what happened if someone doesn't abide by the procedures/guidelines, and agreed a workshop would be of benefit. Council Member Abercrombie indicated one item to address would be when the entire Council receives a complaint from one person.

Mayor Ives indicated he sensed that Council was not opposed to having a workshop on the item. Mayor Ives directed staff to begin working on some best practices to present to Council for discussion sometime in the reasonable future, possibly within the next 3 months.

Mayor Ives invited members of the public to address Council.

Dave Helm indicated it would be nice to have a handbook that Council could agree upon, but stated he was concerned that if he sees a Council Member on the street, that member should be able to look into a situation without triggering a major staff event.

Robert Tanner indicated he did not want to see a wall set up before a resident can contact a staff member or Council for resolution of a problem. Mr. Tanner further indicated he would like the workshop open to the public.

Linda Jiminez, POB 1065, indicated she wanted assurance that when someone has an issue and comes to Council, that the Council Member listens to what they have to say, discusses it and then moves forward.

Susan Goulding, Egret Drive, President of Tracy Little League, suggested the citizens of Tracy elect Council Members because they already had those sensibilities, and indicated it may not be a wise use of staff time.

Nancy Young indicated she believed it was a good idea and having a standardized way of handling situations would be an important investment.

It was Council consensus to direct staff to present discussion items at a future workshop.

Mayor Ives called for a recess at 8:58 p.m., and excused himself from the remainder of the Council meeting. The meeting reconvened at 9:06 p.m.

3. PUBLIC HEARING AND ALLOCATION TO REVIEW THE POLICE DEPARTMENT'S RECOMMENDATION TO APPROPRIATE \$100,000 RECEIVED FROM CITIZENS OPTIONS FOR PUBLIC SAFETY "COPS" GRANT PROGRAM TO THE POLICE DEPARTMENT BUDGET TO PURCHASE EQUIPMENT FOR ENHANCED TRAINING AND DEPLOYMENT AND TO FUND DIRECTED AND SATURATION OVERTIME  
Police Chief Hampton presented the staff report. Chief Hampton stated that the Citizens' Option for Public Safety (COPS) program provides grants to every city and county that provide law enforcement services in proportion to population which is allocated to county Supplemental Law Enforcement Services Funds (SLESF). Government Code 30061 specifies In order to utilize these funds, under California Government Code Section 30061(c)(2), "...the city council shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with the written requests submitted by the chief of police..." These written requests shall be acted upon by the city council at a public hearing.

The Police Department intends to use the funds to purchase equipment that will assist with firearms training, support the need to increase the Patrol unit's rifle inventory and fund directed overtime.

Beyond the firearms simulator training, this system uses video scenarios and varied potential conclusions to test the officer's critical decision making skills on force options during ever evolving scenarios in real time. This purchase will allow the department to train more effectively and economically by finding an alternative to training with live ammo. This purchase includes "on-site" training and set-up of the equipment along with a 4-year warranty.

The department will purchase 15 Colt AR-15 semi-automatic rifles equipped with Surefire lights and EOTech sights to supplement the current inventory of eight rifles. The department has POST certified instructors to train officers in the use of these firearms and currently has qualified 30 patrol officers to carry these rifles. This purchase will enhance the patrol unit's much needed demand to outfit patrol officers with these firearms.

As issues arise in the community the department will conduct extra patrols to aggressively deal with those involved in criminal behavior. This will assist in funding overtime to continue gang and violent crime suppression efforts into FY 2012-13.

Objective: Directed and saturation overtime addresses and implements the safety and quality of life issues in our community.

The City will receive \$100,000 from the State COPS Grant for FY 2012-13. There is no immediate impact to the current fiscal budget.

Staff recommended that following the public hearing Council approve the request to appropriate and expend the COPS Grant funds for the aforementioned purchases.

Council Member Rickman asked if all funds were from grants. Chief Hampton stated yes and added the COPS funds came at the expense of the City by withholding a certain amount of vehicle license fees.

Mayor Pro Tem Maciel referred to the force option simulator and asked about possible enhancements to the range. Chief Hampton stated it was the device, but because it was not yet budgeted, it could be funded from this grant.

Council Member Rickman asked if the resources were adequate for the Police Department. Chief Hampton stated yes.

Council Member Elliott asked if the City could count on this type of funding every year. Chief Hampton stated no. Chief Hampton explained that it was complicated because of the language and could not even be budgeted for.

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

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-019 approving the Police Department's recommendation to appropriate \$100,000 received from the State "Cops" Grant Program to the Police Department budget to purchase equipment and enhanced training and service delivery improvements and to fund directed and saturation overtime. Voice vote found Council Member Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1

7. ESTABLISH A PROCESS TO RECOGNIZE THE CONTRIBUTIONS OF MEMBERS OF THE COMMUNITY FOR THEIR MILITARY SERVICE WITH A CERTIFICATE OF COMMENDATION UPON THEIR HONORABLE SEPARATION FROM THE ARMED FORCES - Rod Buchanan, Parks and Community Services Director, presented the staff report. Currently, the City has a variety of documents it issues upon request to recognize the contributions and/or actions of members of the community. Qualifying acts include exceptional accomplishments or contributions to the community, acts of heroism, academic or sporting achievements, etc.

In light of the long history of Tracy residents serving their country through military service, it is appropriate to establish a process to specifically recognize Tracy veterans. Current policy states that a Certificate of Commendation may be issued for "Acts of heroism." Staff recommended that this would be the appropriate level of recognition available to any Tracy resident who is honorably discharged from the Army, Navy, Air Force, Marines, Coast Guard and the reserve components of those services or the National Guard. "Tracy resident" would be defined as anyone residing in Tracy either at the time of discharge or enlistment into military service.

Qualified individuals would submit an application to the City that lists the applicant's name, address (or other qualifying connection to Tracy), branch of the military, rank upon discharge, term of service, type of duties performed, theaters served in and any awards or decorations. The application will be supported by copies of proof of residency, military discharge documents (DD 214), etc.

In addition to the City's usual methods of public outreach, local veterans groups and veteran support organizations would be enlisted to make separating veterans aware of this available recognition. When desired, the Certificate of Commendation would be presented during City Council meetings.

A minimal amount of staff time will be needed to review and verify requests and there will be a modest expense to print certificates. There is no additional fiscal impact.

Staff recommended that Council approve an amendment to Resolution 2010-059 to establish a process for Tracy veterans to apply for a Certificate of Commendation upon their honorable discharge from military service.

Council Member Abercrombie asked if it was retroactive. Mr. Buchanan stated it could be if that was Council's direction. Council Member Abercrombie suggested some time frame be considered.

Mayor Pro Tem Maciel stated if someone showed up with the appropriate credentials, then he did not have a problem recognizing them.

Council Member Elliott suggested the definition of a Tracy resident when they enlisted or were discharged covered the situations.

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

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-020 approving an amendment to Resolution 2010-059 to establish a process for Tracy Veterans to apply for a Certificate of Commendation upon their honorable discharge from military service. Voice vote found Council Member Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

11. CITY COUNCIL AFFIRMS ITS INTENT TO SERVE AS THE SUCCESSOR AGENCY OF TRACY COMMUNITY DEVELOPMENT AGENCY, PURSUANT TO HEALTH AND SAFETY CODE SECTIONS 34171 (j) AND 34173, AND TO CONSIDER WHETHER TO ELECT TO RETAIN THE HOUSING ASSETS AND FUNCTIONS PREVIOUSLY PERFORMED BY THE TRACY COMMUNITY DEVELOPMENT AGENCY, PURSUANT TO HEALTH AND SAFETY CODE SECTION 34176 - Andrew Malik, Development Services Director, presented the staff report. Mr. Malik stated that between June 28 and June 30, 2011, the Governor approved the State Budget for FY 2011/12, and signed a number of implementing trailer bills, including ABX1 26 ("Dissolution Act") and ABX1 27 ("Alternative Redevelopment Program Act"). These bills suspended a redevelopment agency's ability to issue debt or enter into new obligations until October 1, 2011, at which time the redevelopment agency would dissolve, unless the city enacts an ordinance to participate in the Alternative Redevelopment Program and make certain required contributions to local schools and special districts.

On December 29, 2011, the California Supreme Court delivered its decision in the *California Redevelopment Association v. Matosantos* case, finding the Dissolution Act constitutional and Alternative Redevelopment Program Act unconstitutional. Additionally, the Court extended the compliance time period contained in the Dissolution Act by four months. The Court's bifurcated decision means that all California redevelopment agencies, including the CDA, will be dissolved under the Dissolution Act on February 1, 2012, and none will have the opportunity to opt into continued existence under the unconstitutional Alternative Redevelopment Program Act.

The Dissolution Act provides that the city that authorized the creation of the redevelopment agency shall be the “successor agency” to the dissolved redevelopment agency unless the city elects not to serve as the successor agency under Section 34173(d)(1) of the Redevelopment Law. Staff requested that the Council affirm that the City will serve as the successor agency.

The actions of the successor agency will be monitored, and in some cases approved, by an Oversight Board, which will be composed of seven members including:

- County Board of Supervisors (two members)
- City of Tracy Mayor
- County Superintendent of Education
- Chancellor of California Community Colleges
- Largest special district taxing entity
- A former redevelopment agency employee appointed by the Mayor

The role of the successor agency and Oversight Board would be to wind down the affairs of the Agency including disposing of all assets. Serving as the successor agency, may entitle the City to receive an annual operating budget to defray its administrative costs in an amount up to five percent of the property tax allocated to the successor agency for FY 2011-12 to pay the former CDA’s existing debts, and up to three percent of the property tax allocated to the successor agency each succeeding fiscal year; provided, however, that the annual amount shall not be less than \$250,000. With the City acting as the successor agency, the question of whether the City is interested in retaining the housing assets and functions still needs to be answered as part of the Dissolution Act.

Section 34176(a) of the Redevelopment Law provides that the city that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the former redevelopment agency. While no specific date for such action is set forth in the Dissolution Act, most jurisdictions are adopting resolutions prior to February 1, 2012, at which time redevelopment agencies will dissolve.

Should the City not elect to retain the housing assets and functions, such housing functions and all related assets will be transferred to the local Housing Authority. If the City does elect to retain the housing assets and functions, it will continue to fulfill existing housing obligations and will be able to exercise Redevelopment Law housing powers to fulfill such obligations. It is important to note that no new housing programs or assets will be funded; rather, all on-going functions will be limited to preserving or selling assets and maintaining existing functions, such as loans etc.

With regard to housing assets, the CDA does not currently own any physical assets (land or buildings etc.). As such, the entity (City or Housing Authority) ultimately responsible for the housing assets and functions will not be burdened with the requirement to sell off physical assets. The CDA does, however, have various housing, down payment and rehabilitation loans with affordability covenants secured by the various housing projects. These loans are monitored monthly for program compliance and payments. It is estimated that between 10 – 15 hours a week is spent maintaining existing housing functions. If the City elects to retain these housing functions, the costs could be funded by the \$250,000 minimum administrative revenue allowed by the Dissolution Act.



The two options for Council consideration are:

1. Allow the San Joaquin Housing Authority to retain the agency housing assets and functions

*Advantage:* It would free up City staff from having to perform loan compliance and maintenance functions relative to affordable housing, down payment assistance and rehabilitation loans.

*Disadvantage:* The City would lose local control over its existing housing, down payment and rehabilitation loans. The City would have to share the administrative funding allowed within the Dissolution Act with the SJ County Housing Authority.

2. City to retain the agency housing assets and functions

*Advantage:* City maintains local control over existing housing loans. City has access to full share of administrative costs allowed within the Dissolution Act.

*Disadvantage:* Loan compliance and maintenance functions continue with potentially fewer staff.

In order to maintain local control over the City's existing housing loans and to access maximum administrative costs allowed within the Dissolution Act, staff recommended that the City elect to retain the housing assets and functions previously performed by the former redevelopment agency.

Senator Alex Padilla is working with the League of California Cities SB 659 which would postpone the February 1, 2012 deadline when redevelopment agencies will be dissolved. According to the League "postponement will allow time for the Legislature and Governor to develop a new job creation and neighborhood renewal program, and to develop a solution that ensures that schools and the State budget receive the funding intended by the Legislature when they passed the redevelopment budget legislation last year." However, in order for the bill to take effect before the February 1<sup>st</sup> deadline, it would have to be passed as an urgency measure requiring a 2/3rds vote in both the Assembly and Senate.

In September of 2011, the City of Cerritos, along with nine other cities and their redevelopment agencies, filed a separate lawsuit against the state challenging the Dissolution Act (*City of Cerritos, et al. v. State of California, et al.* (Sacramento Superior Court Case 34-2011-80000952). The Plaintiffs in this lawsuit are raising other legal arguments that the California Supreme Court refused to consider in its opinion in the *California Redevelopment Association v. Matosantos* case. These include other constitutional arguments, that the Act impairs contracts, and was passed in violation of legislative procedure. The judge in the *Cerritos* case put the matter on hold pending the California Supreme Court's consideration of the *Matosantos* case. Now, that the California Supreme Court has taken action in that case, the Plaintiffs in the *Cerritos* case have asked the judge for an order immediately staying the Dissolution Act. There is a hearing on the request set for January 27, 2012.

It is unclear how these other efforts will ultimately reshape, if at all, the future of redevelopment in the State.

As mentioned above, the Dissolution Act's timelines were modified as part of the California Supreme Court's ruling in the *California Redevelopment Association v. Matosantos* case. Attached is the modified timeline for cities and redevelopment agencies to comply with the Dissolution Act.

The State action to end redevelopment will permit approximately \$400,000 of redevelopment funds in FY 11-12 to be used by the City for administration and only \$250,000 annually thereafter. Currently the CDA has a budget of \$253,270 for general administrative activities and \$341,560 for housing related activities. The total of the two activities is \$594,830 versus just \$250,000 allowed. As such, the City will need to reduce expenditures (primarily staff) by \$344,830 in order to prevent previous redevelopment activities from becoming a City General Fund expense. If the City does not maintain the ongoing housing related activities and instead have these performed by another entity, that entity's costs would also have to come from the \$250,000 allocated for such purposes.

Staff recommended that the Council: (1) affirm that the City will be the successor agency to the CDA; (2) elect to retain the housing functions previously performed by the CDA; and direct staff to file the appropriate notifications of these elections in accordance with the Dissolution Act.

Council Member Elliott asked how the City was going to reduce the budget to \$250,000. Mr. Malik indicated some functions were partially paid and staff was working with Finance on the situation. Leon Churchill, City Manager, stated it was reasonable that staff may be reduced by one person in that area. Mr. Churchill further added it was highly likely that it would be a budget issue in the amount of \$250,000-\$300,000.

Council Member Elliott asked how long the \$250,000 was intended to be allocated to cities. Mr. Malik stated it was provided to wind down the operations of the Agency and theoretically was available as long as there were obligations.

Mayor Pro Tem Maciel asked if the function would eventually disappear. Mr. Malik stated it was unclear, but the dissolution bill was about winding down operations. Mr. Malik stated some portions of staff were funded by Redevelopment.

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

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-021 of the City of Tracy affirming its intent to serve as the successor agency of the Tracy Community Development Agency, pursuant to Health and Safety Code Section 34171(j) and Section 34173, and to elect to retain the housing assets and functions previously performed by the Tracy Community Development Agency, pursuant to Health and Safety Code Section 34176. Voice vote found Council Members Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

12. APPOINT THREE APPLICANTS TO THE PARKS AND COMMUNITY SERVICES COMMISSION - There are three vacancies on the Parks and Community Services Commission due to term expirations. To fill the vacancies the City Clerk's office conducted a recruitment which opened on November 29, 2011, and closed on December 20, 2011. Six applications were received. On January 10, 2012, a Council subcommittee consisting of Council Member Abercrombie and Council Member Rickman interviewed the six applicants. In addition the Council subcommittee may consider two applicants who were placed on an eligibility list following a previous recruitment and interview process. In accordance with Resolution 2004-152, the Council subcommittee will recommend three applicants for appointment. The appointees will serve four year terms, which will end on January 31, 2016. The subcommittee can recommend the Council establish an eligibility list to be used to fill any mid-term vacancy that might occur in the upcoming 12 months.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to approve the subcommittee's recommendation and appoint Linda Jiminez, Gloria Saltzman, and Tim Jayne to the Parks and Community Services Commission to serve four year terms which will end on January 31, 2016. Voice vote found Council Members Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

13. ITEMS FROM THE AUDIENCE – None.

14. COUNCIL ITEMS

- A. Review Appointments to Council Committees - Maria Hurtado, Assistant City Manager presented the staff report. Ms. Hurtado stated that appointments to Council subcommittees are reviewed on an annual basis. The appointments were last reviewed on January 4, 2011.

Committees can be deleted from the list if they are no longer active or if Council participation is no longer required. Likewise, active committees not on the list may need to be added. Council members may be reappointed to the same committees on which they are currently serving, or new assignments can be made upon request.

Staff recommended that the Council delete or add to the list of committees, and make appointments to the remaining committees as appropriate.

Council Member Abercrombie indicated he was fine with his current appointments.

Council Member Rickman indicated he had a conflict with the City Schools committee. Mayor Pro Tem Maciel indicated he would be willing to take on that committee.

Council Member Rickman replaces Mayor Pro Tem as the alternate on the Special City Selection Committee of SJVAPCD.

Council Member Rickman asked for the status of the vacant building and cultivation of marijuana staff reports. Leon Churchill, City Manager, indicated the items would be coming forward in February.

15. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adjourn. Voice vote found Council Members Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1. Time 9:37 p.m.

The above agenda was posted at the Tracy City Hall on January 12, 2012. The above are summary minutes. A recording is available at the office of the City Clerk.

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Mayor

ATTEST:

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City Clerk

**February 21, 2012, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

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

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

The invocation was offered by Pastor Timothy Heinrich of Crossroads Baptist Church.

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

Stephen Qualls, League of CA Cities, provided a presentation on the 2011 Legislative Session.

1. CONSENT CALENDAR - It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt the Consent Calendar. Roll call vote found Council Member Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives present; Council Member Abercrombie absent. Motion carried 4:0:1.
  - A. Minutes Approval – Regular meeting minutes of November 15, 2011, and Closed Session minutes of February 7, 2012 were adopted.
  - B. Acceptance of the Widening of Grant Line Road Project (between Bessie Avenue and Macarthur Drive) - CIPs 73052, 74057, 75A0, & 72067, Completed by Desilva Gates Construction of Dublin, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2012-031 accepted the project.
  - C. Approve an Offsite Improvement Agreement (OIA), for the Construction of Public Improvements along the Frontage of the Proposed RV Storage Facility to be Located on 4180 North Tracy Boulevard, and Authorization for the Mayor to Execute the OIA - Resolution 2012-032 approved the agreement.
  - D. Approve Amendment 7 to the Professional Services Agreement with RBF Consulting, for the Ellis Specific Plan Project – Resolution 2012-033 approved the amendment.
  - E. Approving the 2012 Calendar Year Budget for the Operation of the Tracy Material Recovery Facility and Solid Waste Transfer Station – Resolution 2012-034 approved the budget.
  - F. Authorize the Mayor to Execute a Cooperative Agreement with SJCOG for Proposition 1B PTMISEA Funds in the Amount of \$55,531 for the Purchase of a Transit Bus and Appropriate the Funds to CIP 77542 – Resolution 2012-035 authorized the Mayor to execute the Agreement.

2. ITEMS FROM THE AUDIENCE - Ray Morales, President of the Southside Organization, introduced Jass Sangha, Mercedes Silveira, Rhodesia Ransom, and Walter Goveia, who thanked Captain Espinoza for his service to the community. Mr. Morales presented Captain Espinoza with an award from the Southside Organization.

Leon Churchill, Jr., City Manager, requested that Item 5 be pulled from the agenda at the request of the applicant.

3. PUBLIC HEARING TO CONSIDER A PRELIMINARY AND FINAL DEVELOPMENT PLAN APPLICATION FOR A CALIFORNIA HIGHWAY PATROL FACILITY AND A CONDITIONAL USE PERMIT APPLICATION FOR A TELECOMMUNICATION FACILITY ON A SITE TOTALING APPROXIMATELY 4.7 ACRES ON PESCADERO AVENUE, APPROXIMATELY 2,100 FEET EAST OF MACARTHUR DRIVE, ASSESSOR'S PARCEL NUMBER 213-070-75. APPLICANT IS KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS AND PROPERTY OWNER IS PONY UP TRACY, LLC. APPLICATION NUMBERS D11-0007 AND CUP11-0005 - Council Member Rickman excused himself from consideration of the item due to a possible conflict of interest and left the dais.

Kimberly Matlock, Assistant Planner, presented the staff report. In 1996, the Council adopted the NEI Concept Development Plan within which the project area is located. The site is zoned Planned Unit Development (PUD), is designated Industrial by the General Plan, and Light Industrial by the NEI Concept Development Plan. In accordance with Tracy Municipal Code (TMC) Section 10.08.1830, the Planning Commission and the City Council shall review all Planned Unit Development Preliminary and Final Development Plans (PDP/FDP).

The project site is one parcel of approximately 4.7 acres located on the south side of Pescadero Avenue, approximately 2,100 feet east of MacArthur Drive and directly north of the Home Depot distribution center. A storm water detention basin and dirt stock pile that serves the site will be developed on an approximately 0.9 acre parcel immediately to the east. The basin and pile will remain until permanent storm water infrastructure is constructed to serve the NEI area and the project site.

The proposed project is a CHP facility, comprised of a 16,367 square foot office building, a 4,793 square foot automobile service building, a patrol car fueling station, storage buildings totaling 1,951 square feet, carports with solar panels, and associated onsite parking and landscaping improvements. The proposal includes a 140-foot tall four-legged lattice telecommunication tower with associated antennas, microwave dishes, and ground equipment. In accordance with State requirements, the project has been designed to comply with the Essential Services Seismic Safety Act (ESA) regulated by the California Health and Safety Code. Although not a City requirement, the project is also aiming to achieve Leadership in Energy and Environmental Design (LEED) Gold standard from the United States Green Building Council (USGBC). According to the applicant, the existing CHP office on Grant Line Road will close upon the opening of the new facility.

The proposed CHP facility meets the City's Design Goals and Standards for commercial development. The office and auto service buildings are located adjacent to Pescadero Avenue, which results in a strong architectural presence on the street. A majority of the parking area is located behind the office and auto service buildings so that it is not readily visible from the street. The storage buildings and telecommunication tower are located along the rear of the site. Aside from the telecommunication tower, all ground-mounted equipment will be screened from public view with walls or landscaping. Onsite security fencing, which encloses employee parking areas, CHP vehicle storage areas, auto service areas, equipment storage areas, and the telecommunication tower, is proposed to be constructed of metal posts and masonry columns and walls to match and compliment the building architecture.

The parking area has been designed to provide adequate vehicular and pedestrian circulation as well as security of employee-only areas. The proposed parking area meets the minimum parking and landscaping requirements established in the TMC and NEI plan. Landscaping of parking areas is required for customer and employee parking areas, but is not required for facilities and equipment storage areas, including automobile service areas and storage of CHP vehicles.

The TMC Telecommunications Ordinance defines new freestanding telecommunication facilities as major facilities. Approval of a Conditional Use Permit (CUP) granted by the Planning Commission is required for major facilities. The Development Review for the facility requires Council approval as part of the project PDP/FDP. The Telecommunications Ordinance requires telecommunication facilities taller than thirty-five feet to be monopoles or guyed towers to minimize visibility of the tower from adjacent properties. However, if a self-supporting tower, such as a lattice tower, is required for the capacity or height of the telecommunication use, and evidence is submitted to demonstrate such need, a self-supporting tower may be approved.

The tower is proposed to be a four-legged lattice tower with a total height of 140 feet. The tower has been designed to ESA standards and to accommodate antennas and microwave dishes for CHP and other local, state, and federal agency use. According to the applicant, this can only be achieved with the design and rigidness of a four-legged freestanding tower. Additionally, the microwave dishes operate by line of sight, which is dependent upon strategic vertical and horizontal separation between dishes. A monopole, by comparison, does not provide the rigidity or antenna space needed for CHP's antennas and microwave dishes.

While a freestanding lattice tower of this height and size is not preferred over monopoles, CHP has deemed it necessary for the operation of the CHP facility. On January 11, 2012, the Planning Commission granted a CUP for the telecommunication facility contingent upon Council approval of the PDP/FDP for the facility.

On December 7, 2011, the Planning Commission reviewed and discussed the proposed applications. Planning Commission was generally in favor of the proposed building and site improvements and welcomed CHP to Tracy. The Commission questioned the necessity for the telecommunication tower to be so large and what the tower and site would look like once it is built. The applicant was unable to answer the Commission's questions regarding the technical reasons for the size of the tower. The Commission discussed the aesthetic impact of the telecommunication tower on Tracy and considered the need for a peer review. The agenda item was continued until photographic

examples, photo-simulations, and more information from CHP regarding the tower size could be made available.

The item was heard for a second time on January 11, 2012. CHP staff and engineering consultants were present and provided information on the telecommunication tower. The Tracy CHP facility is part of a statewide public safety network and CHP engineers recommended the proposed tower size to meet the operational needs of the microwave network. They also stated that future telecommunication towers will be built and existing towers will be retrofitted to this height and size. The applicant provided a photographic example and photo-simulations of the proposed tower in the context of the site from multiple perspectives, which some Commissioners felt did not clearly demonstrate how the tower would look once built. After discussion, the Commission voted unanimously to recommend approval of the PDP/FDP to the Council and to approve the CUP application subject to Council approval of the PDP/FDP.

The proposed development is consistent with the Environmental Impact Report (EIR) 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 no significant on or off-site impacts will occur as a result of this particular project that were not already discussed in the Northeast Industrial Areas Concept Development Plan EIR.

The proposed telecommunication facility is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15332, which pertains to certain in-fill development projects. Because the project is consistent with the General Plan and Zoning, no further environmental assessment is necessary.

Staff and the Planning Commission recommended that the Council approve the PDP/FDP for the CHP facility and telecommunication tower located on a 4.7 acre site on Pescadero Avenue, Application Number D11-0007, subject to the conditions and based on the findings contained in the City Council resolution dated February 21, 2012.

Council Member Elliott stated he understood that the telecommunications tower planned for this site would be the model for all future CHP offices. Ms. Matlock indicated that was correct.

Mayor Ives opened the public hearing.

Dave Henderson, Principal of Henderson Architecture, indicated he and others were available for questions and thanked staff for their efforts during the process.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Elliott to adopt Resolution 2012-036 approving the PDP/FDP for the CHP Facility and Telecommunication Tower on Pescadero Avenue, Application Number D11-0007, subject to the conditions and based on the findings contained in the City Council Resolution dated February 21, 2012. Voice vote found Council Member Elliott, Mayor Pro Tem Maciel, and Mayor Ives in favor; Council Member Abercrombie and Council Member Rickman absent. Motion carried 3:0:2.

Council Member Rickman rejoined the Council at 7:27 p.m.



4. PUBLIC HEARING TO ADOPT TAXI RATE FEES EFFECTIVE MARCH 1, 2012 AS RECOMMENDED BY STAFF - Ed Lovell, Management Analyst, presented the staff report. On June 21, 2011, the City Council adopted Ordinance 1160 which updates the City's existing taxi ordinance. As part of the new ordinance, Council must approve the fees that each company may charge. Currently each taxicab company has their own fee that was previously approved by Council. Some existing companies are requesting to be able to increase their fees. Establishing a maximum rate that applies to all taxicab companies provides the flexibility for taxi companies to adjust their fees as necessary in order to remain competitive, without having to go back to Council for approval. In addition, new companies will also have set limits already approved so they can start their business sooner. Currently, each taxi company doing business in Tracy charges \$2.50 for flag drop, \$2.50 per mile, and between \$16 and \$25 for the hourly waiting fee. Staff has researched fees charged by other companies in neighboring cities. Below is a summary of what other cities charge and what is being recommended for Tracy.

<u>FEE TYPE</u>	<u>Pleasanton</u>	<u>Livermore</u>	<u>Stockton</u>	<u>Manteca</u>	<u>Modesto</u>	<u>Tracy</u>
Flag Drop Fee	\$2.50	\$2.50	\$2.50	\$3.50	\$3.75	\$2.50 max
Per Mile Fee	\$2.50	\$2.50	\$2.00	\$2.00	\$2.50	\$2.50 max
Hourly Waiting Fee	\$35.00	\$20.00	\$22.00	\$25.00	\$25.00	\$25.00 max

In order to implement the fees, the Council must first conduct a public hearing. Notice of this hearing was published twice in the Tri-Valley Herald newspaper. The proposed fees are proposed to go into effect March 1, 2012.

There is no impact to the General Fund for this item. The fees listed are collected solely by the taxicab companies.

Staff recommended that City Council conduct a public hearing and adopt the Taxi Rate Fees effective March 1, 2012.

Council Member Elliott asked why the City needs to set fees for taxis. Dan Sodergren, City Attorney, stated that under state law every city is required to have an ordinance that regulates taxis and fees.

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

It was moved by Council Member Rickman and seconded by Council Member Elliott to adopt Resolution 2012-037 approving the Taxi Rate Fees effective March 1, 2012. Voice vote found Council Member Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Abercrombie absent. Motion carried 4:0:1.

5. CITY COUNCIL DIRECTION RELATED TO AMENDING A DEVELOPMENT AGREEMENT WITH SURLAND COMMUNITIES, APPLICATION DA11-0002

Item was rescheduled to March 6, 2012, at the request of the applicant.

6. ACCEPT THE GENERAL FUND FY 11-12 MID-YEAR FINANCIAL REPORT -

Leon Churchill, Jr., City Manager, provided an introduction to the report. Zane Johnston, Finance and Administrative Services Division, presented the staff report. Mr. Johnston stated the purpose of the mid-year review is to determine if after 6 months of actual experience, whether General Fund budget assumptions related to revenues are holding firm, or whether budget assumptions have eroded to the point that the Council would need to take budget cutting actions to return the budget to its originally adopted status. The mid-year analysis is limited to this sole purpose and, is more conservative and less comprehensive than the annual budget setting process.

The FY 10-11 adopted budget anticipated revenues of \$42,465,470 and expenditures of \$47,277,540 resulting in a deficit of \$4,813,000. The actual budget deficit (to the General Fund) was \$2,548,958. At first glance it appears that the budget deficit was considerably overestimated. However, upon further examination the actual deficit (expenditures over revenues without Measure E) for FY 10-11 was \$4,545,000 – a difference to budget of just \$268,000. Prior to Measure E – and after having cut 90 positions and reduced expenditures by approximately \$5 million – the City was clearly operating in the range of \$4.5 million annual deficits. The first year estimate for Measure E revenue was \$4.6 million thereby stabilizing the City's fiscal situation and avoiding further cuts or substantial additional annual (and unsustainable) draws on reserves.

The budget anticipated yet another year of declining assessed value and the resulting loss to property taxes. This was projected to be a decline of about 2.5% but will be closer to 5% resulting in nearly \$300,000 less in property tax revenue than the FY 11-12 adopted budget. In the past four years property tax revenue to the City has declined a total of 32%. Property tax revenue has historically been the primary source of revenue to pay for public safety services.

Although the FY 11-12 budget was fairly aggressive in anticipating a 6.3% increase to sales tax resulting in anticipated revenues of \$10,927,000, sales taxes have substantially rebounded. It is now estimated that the City will receive \$11,733,770 in sales tax this fiscal year, an increase of \$806,000 over budget.

The increase in sales tax is due to several factors. First auto sales have rebounded. The average vehicle on U.S. roads is now 11 years old, and that is helping boost new-car sales. The low interest rate environment has also helped auto sales. There are eight new car dealers among the City's top 25 sales tax producers. Secondly, gas prices have remained high (\$3.50 per gallon and up) for a substantial period of time. There is a general sales tax on gasoline in addition to gasoline taxes which are restricted to transportation related expenses. Many motorists stop in Tracy to take advantage of the relatively affordable gas prices as compared to Bay Area locations. Six of the top 25 sales tax producers are gas stations. Unlike Safeway, Costco does not break out fuel sales but it is safe to assume that if it did Costco would be in the top 25.

A final leading cause of increased sales tax results from distribution. Although the vast majority of Tracy's many distribution centers do not have an accompanying sales desk, one such facility does and is in the City's top 25. The Crate and Barrel Distribution Center processes on-line orders for one of its catalog departments through the Tracy center. As such, Tracy receives the one-cent share of the tax that goes to point of sale from any California customer ordering such product through this on-line catalog. This center is new within the past 18 months.

The City's sales tax per capita now stands at \$124, compared to Manteca's \$109 and the statewide average of just \$99.

The original first year revenue resulting from Measure E was estimated by the City's sales tax consultant/auditor to be \$4.65 million. After six months of data and extrapolating through the Christmas quarter, FY 11-12 Measure E revenue can be estimated at \$5.53 million, an increase of \$880,000. The original estimate was difficult to compute due to the fact that not all sales transactions occurring in Tracy are subject to Measure E and data did not exist to make other important projections about this tax. One cannot simply take the sales tax coming to the City through the standard local one-cent point of sale share and multiply this by 50% to get the estimate for the City's temporary half-cent sales tax (Measure E).

The half cent temporary sales tax levied by Measure E is not applicable to all auto sales sold by Tracy auto dealers; only for sales in which the car will be registered in Tracy. No data was available prior to Measure E which identified the percentage of overall car sales attributable to a car subsequently registered to an address in Tracy. Conversely, an auto dealer outside of Tracy selling a car to be registered within the City must also collect the half cent tax.

The City's half-cent temporary sales tax is considered a "district" tax and is not applicable when a distribution center is collecting sales tax for an on-line catalog sale from a California customer unless that customer is a City of Tracy resident. Because of these two major differences between the application of the standard one cent sales tax and the City's temporary half-cent sales tax, it was difficult to project such revenue. After receiving actual data from two quarters of the Measure E tax, it appears such tax will result in higher annual revenue than originally estimated. However, staff recommended the City receive four quarters of data before further refining this estimate on an ongoing basis. While greater than projected temporary tax revenue from Measure E is welcome, it is also that much more revenue the City must do without upon the expiration of Measure E at the end of March 2016.

The combination of investment earnings and lease of the City owner property on Schulte Road (the old "antenna farm") was expected to bring in \$990,000 in the fiscal year. Unfortunately, congressional action necessary to allow the City to lease this land has not been secured. The budget anticipated \$250,000 as revenue from such a lease. Also, investment rates have been very low for a prolonged period of time. Much of the higher earning securities in the City's investment pool have matured and the new securities have very low interest rates. As such, it is anticipated the City will receive only \$660,200 from these income sources – a reduction of \$329,800 from the adopted budget.

This revenue will be \$142,000 less than budget due to the State taking the City's portion of vehicle license fees as part of eleventh hour State budget actions. The League of California Cities notes this action is illegal under Proposition 22 but will likely have to sue the State in order to see a return of these funds.

Engineering and building charges as well as Parks and Recreation charges and Capital Improvement Program (CIP) program management charges are all projected to be lower than the FY 11-12 budgeted amounts. In total, these charges could be \$765,000 less in revenue.

The City spends about 98% to 99% of its General Fund Operating Budget. Typically this is just a normal budgeting and fiscal process that will always result in the City not spending its full budget. If the budget was balanced this means there would be some funds left as residual at the end of the year. Such funds would be returned to the General Fund balance. When the budget is not balanced and expenditures exceed revenues resulting in an anticipated draw on reserves, any unspent funds help reduce this projected deficit. In order to try to more accurately predict an actual budget deficit, the City has added a City-wide budget savings to the adopted budget.

In FY 11-12 total department expenditures are budgeted at \$50,581,150 but the City expects that actual expenditures will be \$2,000,000 less than this figure. As such, the City has a "net" expenditure budget of \$48,581,150. Using this \$48.5 million figure, the City's FY 11-12 General Fund budget anticipated a budget deficit of \$1,555,230. If the City had used normal budgeting practices the budgeted deficit would have been \$3,555,230.

There is a degree of risk associated with counting on budget savings. In FY 10-11 the City used a figure of \$1,400,000 as City-wide budget savings. This was increased to \$2,000,000 in FY 11-12 because the City anticipated some additional savings in this fiscal year due to the first wave of early retirements. When the budget was adopted the first wave was going to conclude by December 31, 2011. When adopted in the fall of 2011 however, it was necessary to change this to February 29, 2012. In addition, some employees who initially indicated they would retire in the first phase have amended plans to the second or third phase. Although the overall savings from the early retirement program are expected at full implementation of the program (Phase 3 concludes January 31, 2013), the savings realized in FY 11-12 likely will be less. Therefore, to be conservative at this time, projected City-wide savings in the mid-year budget analysis are being lowered to \$1,742,070.

Actual Fire Department expenditures in FY 10-11 were \$14,058,389. Of this amount \$3,705,230 was the responsibility of Tracy Rural Fire District. The District had just enough revenue to pay for its share. However, revenues to the District will fall slightly in FY 11-12, and the District will not have enough revenue to pay for any increase in the cost of services from what was actually spent in FY 10-11.

The City's adopted Fire Department budget for FY 11-12 was set at \$15,277,710. This was necessary because of increasing labor costs associated with a substantial increase in the PERS employer rate, the expiration of 3% employee contribution to retirement costs, increased health insurance costs and 5% pay increases for employees not yet at "E" step.

Since Tracy Rural would be unable to afford cost increases in FY 11-12 over FY 10-11, the South County Fire Authority Board adopted a FY 11-12 Fire budget "not to exceed costs of FY 10-11". In doing so it was anticipated that the costs could be controlled through a new labor contract. The previous labor contract expired June 30, 2011; however, a new contract has not been reached.

The City of Tracy's budget for the Fire Department and the South County Fire Authority's budget for Fire are in conflict with each other. Department expenditures are on target to spend the full amount of the City budget (\$15.2 million) in FY 11-12 because labor costs have not been controlled. The end result will likely be \$200,000 to \$250,000 in costs that

are the responsibility of Tracy Rural, but which exceed their available revenue for the fiscal year. Previous debt of the District (approximately \$6 million) was converted to a pre-paid service agreement between the City and the District.

In a scheme to raid local government revenue to help balance the State budget, the State ordered the elimination of all redevelopment agencies as of February 1, 2012. For Tracy there will be four impacts of varying degrees as described as follows:

1. **Projects.** Many agencies had funds on hand awaiting future projects. They will likely see the loss of these funds and be forced to abandon and scrap projects for which there is no third party contract. Fortunately, the City of Tracy was able to enter into a third party contract for the construction of the Sixth Street Plaza two days before the Governor signed the legislation to end redevelopment. This obligated most of the remaining construction funds of the City's agency.
2. **Housing.** The City has approximately \$5.2 million in low/moderate income housing set-aside funds from redevelopment. The fate of these funds is not yet known. There is some legislative effort to allow a portion of housing funds to be used for housing projects in the future. Without this, the City is likely to lose these funds.
3. **Future Revenue Stream.** The City's redevelopment agency would have received tax increment revenue in FY 11-12 in the amount of \$8,055,254. From this amount the Agency would have to set aside 20% for low/moderate income housing leaving approximately \$6.4 million for the Agency. Between direct allocations to taxing entities and pass through agreements, plus existing debt service and administrative expenses, the Agency had already tapped out this amount. All of these expenses are enforceable obligations of the Agency and must be paid on an annual basis going forward. As such, other than the housing revenue stream, there will not be any future stream of revenue to be split to taxing agencies until there is significant growth in property values/taxes in the Agency boundaries. This will likely be 5 to 10 years away.
4. **Administrative Expenses.** State legislation allocates \$250,000 a year for administrative expenses (associated with the City serving as the successor agency). In FY 11-12 the Agency had a budget of \$585,000 for all activities including housing. Currently, 4.3 full time equivalent (FTE) employees are funded from redevelopment. Unfortunately, the Housing Program Specialist will need to be laid off, and the Housing Program Inspector will retire. There an opening for an Administrative Assistant which will absorb this person. The remaining positions need to continue, including code enforcement, despite there being no redevelopment funding to cover these expenses. For FY 11-12 it is estimated the General Fund will take a hit of \$200,000. With reduced staff going forward it is estimated this can be reduced to \$100,000 annually thereafter.

The mid-year budget analysis indicates that the assumptions for overall revenue and expenses in the FY 11-12 General Fund budget have not changed significantly enough to necessitate any additional budget actions by the Council at this time. Total revenues remain virtually unchanged as significant increases in sales tax and temporary sales tax have been offset by decreases in various other revenues. It remains a challenge to control expenditures to reach the overall targeted budget savings of \$2 million. Additionally, impacts to the General Fund from the State's termination of redevelopment agencies and unresolved fire services expenses may actually add to the budget deficit. Even with a full year of temporary sales tax revenue from Measure E, the City will once

again experience a General Fund deficit in FY 11-2 as expenses will likely exceed revenues. Albeit smaller than in years past, this would be the fifth consecutive year of deficit spending. It is not possible at this time to make further refinements to the FY 11-12 budget projections as the bulk of expenses are associated with the City's cost of labor. New labor agreements to replace those that expired on June 30, 2011, have not been secured.

There is no fiscal impact associated with acceptance of this report. The financial position of the City's General Fund has been described fully in this report.

Staff recommended the City Council, by motion, action accept the mid-year financial report.

Council Member Rickman inquired if the City was going out to bid for all consultant work including sub-contractors. Leon Churchill, Jr., City Manager, stated generally the City goes out to bid on all expenditures. However, in some case the City does do sole source. Mr. Johnston added not a lot of General Fund money is used on consulting contracts. Council Member Rickman stated he wanted the City to put all projects out to bid in order to get the most bang for our buck.

Council Member Elliott asked for clarification regarding Redevelopment and the ongoing administrative expenses of \$250,000 per year, and asked if it had been factored into the budget. Mr. Johnston stated the State would give the City \$250,000 to ensure bonded debt continues to be paid. However, the question remains as to whether the City gets \$250,000 for FY11/12.

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

Robert Tanner, 1371 Rusher Street, addressed Council regarding the labor contract for the South County Fire Authority and asked if other contracts had been settled. Mr. Churchill stated the contracts have not been settled, but were a priority for the City so FY12/13 can be projected accurately. Mr. Johnston stated the Teamsters, Mid Managers, and un-represented groups did agree to continue the unpaid furloughs through FY11/12.

Jim Thoming, 33600 S. Koster Road, Chairman of the Tracy Rural County Protection and on the South County Fire Authority, addressed Council regarding the shortfall on the fire budget. Mr. Thoming asked Council to get the labor negotiations settled.

It was moved by Council Member Rickman and seconded by Council Member Elliott to accept the General Fund FY 11-12 Mid-Year Financial Report. Voice vote found Council Members Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Abercrombie absent. Motion carried 4:0:1.

7. ACCEPT A REPORT REGARDING ASSUMPTIONS TO COMPILE A 5-YEAR BUDGET FORECAST - Zane Johnston, Finance and Administrative Services Director, presented the staff report.

A five year general fund budget forecast will be presented to Council as part of the Fiscal Year (FY) 12-13 budget adoption process. In preparation for this report, certain assumptions about revenue and future expenses are included and outlined in this report. The five year general fund budget forecast includes FY 12-13 through FY 16-17. These assumptions are based on empirical data, established policy, or trend analysis. It is highly recommend that alternatives to these assumptions be accompanied by compelling information and justification.

Property tax. Based on the (1) the continued decline in property taxes, as confirmed in the actual decline in property tax revenue in the current fiscal year, (2) remaining foreclosure activity, and (3) typical two year lag in property tax revenue as compared to current economic conditions, it is expected that property taxes will decline by 3% in FY 12-13. Because of an anticipated stabilization in home prices the year after, no growth in property taxes is projected for FY 13-14, an increase of 1% is included in FY 14-15 followed by a 2% increase projected in FY 15-16, and another 2% increase projected in FY 16-17.

Sales tax. The City uses MuniServices as its sales tax consulting and auditing firm. MuniServices has provided a 5-year sales forecast for the City's regular sales tax (1 cent) based upon recent trends. This forecast reflects increases of 4.9% in FY 12-13, 4.5% in FY 13-14, 5.9% in FY 14-15, 6.1% in FY 15-16 and 5.7% in FY 16-17.

Temporary half-cent Sales Tax: Measure E. MuniServices also audits Measure E sales tax data and has prepared a 5-year forecast for this temporary half-cent sales tax. Not all sales transactions subject to the standard 1 cent sales tax are applicable to the City's half-cent temporary sales tax. The most notable exceptions are auto sales in Tracy where the auto is not registered to an owner with a City of Tracy address, and internet catalog sales to customers outside of the City of Tracy. MuniServices five year forecast for the temporary half-cent sales tax Measure E estimates include a 7.8% increase in FY 12-13, 5% increase in FY 13-14, 5.6% increase in FY 14-15 and a decline of 20.8% in FY15-16, due to the temporary sales tax Measure E's sunset period, which ends on March 31, 2016. As such, only  $\frac{3}{4}$  of one year's worth of taxes is included in that FY 15/16. Because the temporary sales tax Measure E ends in the later part of FY 15/16, no Measure E revenue is included in FY 16-17. These estimates are subject to further review as such estimates have been derived from only two quarters of actual data from Measure E (quarter ending 6/30/12 and quarter ending 9/30/12).

These three revenue sources (*Property taxes, sales taxes and temporary half-cent sales tax Measure E*) are the major General Fund revenue sources. All other revenue sources are assumed to have modest growth ranging from 2% to 3%. Some of these other revenue sources are reflective of population and it is not anticipated the City's population will increase substantially during this 5-year forecast.

General Fund expenses are primarily associated with labor costs. For example, Police personnel expenses make up 87% of the Police Department's budget and Fire personnel expenses about 90% of the total Fire Department budget. Given the current status of labor costs, the assumptions that will be included in the five year General Fund budget forecast are as follows:

Labor related expenses: It is assumed that:

- No cost of living adjustments will be included during this five year period through FY 16-17;
- 100% of the costs associated with the increase to the City's PERS employer rate will be included as an expense absorbed by the City for each of the five years;
- City continues to pay cost of employee's share of PERS;
- The costs associated with increases to the employees' health insurance will reflect the current respective labor contract agreements;
- The costs associated with step increases for employees not currently at Step E will be included in this five year forecast;
- The expenses associated with any certifications (i.e. POST), Master Patrol Officer, educational achievements, and others will be included in this five year forecast;
- The savings associated with the current unpaid furloughs for non-safety employees as of 6/30/12 will be eliminated and costs will be reinstated in each of the five year budget forecasts;

This five year General Fund budget forecast will also reflect the organizational changes taken to date to address the City's structural budget deficit. These steps include (1) a reduction in staff due to the early retirement incentive program, and (2) the compaction of nine City departments into six with the resulting reduction in three department director positions. No other staff reductions will be included in this five year general fund budget forecast.

Operational Expenses: Considering the above, Police and Fire and other General Fund expenses would average an increase of about 3% per year during the forecast period.

If Council concurs with these assumptions, staff will prepare a 5-year forecast which will be presented to the Council in May 2012. This forecast would indicate the status of future budgets through FY 16-17 which would be the first full year without Measure E revenue. Such a forecast would indicate what additional expense reductions would be necessary to reach the City's current budget goal of a balanced budget starting with the adoption of the FY 14-15 budget, the maintenance of a 20% General Fund balance, and the additional budgetary impacts necessary to sustain a fiscally sound position without the temporary taxes associated with Measure E.

There is no fiscal impact associated with acceptance of this report. However, the 5-year forecast is critical in establishing financial policy.

Staff recommended that City Council provide direction regarding assumptions to be considered in compiling a five year General Fund budget forecast.

Council Member Elliott asked if the City had not included anything in the assumptions to allow for uncertainty in PERS costs. Mr. Johnston stated that was correct and would be discussed further.

Council Member Elliott asked if expenses were to increase 3%, that these assumptions do not include those adjustments. Mr. Johnston stated that was correct.

Mayor Ives asked if the budget would balance at some time in the future. Mr. Churchill stated the City cannot presume that the result of these assumptions will result in a



balanced budget. However, it would provide an opportunity for Council to re-visit their policies and direct staff to take any necessary action, including action in the FY12-13 budget. Mr. Churchill stated we have to agree on the assumptions and prepare for the results.

Mayor Ives indicated there was ambiguity in the assumptions, including some things that are beyond our control, but that Council has been very direct about obtaining a balanced budget.

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

Steve Nicolaou, 1068 Atherton Drive, commended Mr. Johnston on his presentation. Mr. Nicolaou stated the City should consider the possible oil impacts and problems in Greece which could impact the U.S. economy. Mr. Nicolaou suggested the City needs to be prudent and conservative, assuming the worst.

Dave Helm asked if the Council had considered galvanizing the community to address their representatives.

Council Member Elliott stated it would be a good idea to make some projections so that the budget isn't so rosy. Council Member Elliott echoed the Mayor's comments that the budget needs to be balanced by the time Measure E ends.

Mr. Churchill stated staff could make assumptions on what Cal PERS could do in the future and present a proposal.

Mayor Pro Tem Maciel thanked Mr. Johnston for his financial presentations.

Mayor Ives stated he agreed that it would be great to have a galvanized effort of residents calling their representatives.

It was moved by Council Member Rickman and seconded by Council Member Elliott to accept assumptions related to compiling a 5-Year Budget Forecast. Voice vote found Council Member Elliott, Rickman, Mayor Pro Tem Maciel, and Mayor Ives in favor; Council Member Abercrombie absent. Motion carried 4:0:1.

## 8. ITEMS FROM THE AUDIENCE

Dave Helm suggested a listing of politicians representing the City be provided on the website, along with their voting record.

## 9. STAFF ITEMS

- A. City Council Review and Provide Direction Regarding Staff's Proposal to Expand the Provisions of the Existing Boarding of Buildings with Unsecured Openings Ordinance - Ana Contreras, Code Enforcement Manager, presented the staff report. Ms. Contreras stated that on November 1, 2011, staff provided Council with a discussion item on vacant and abandoned properties in Tracy. That report addressed current code enforcement efforts relative to vacant residential properties. In addition, the report outlined the scope of vacant building problems,

organizational efforts used in addressing vacant, blighted buildings, and innovative approaches used in other cities to address vacant buildings. At that time, staff requested policy direction from Council regarding potential code revisions that would accomplish the following:

1. Amend the existing Boarding of Buildings Ordinance, further limiting the amount of a time a building can remain in a boarded state.
2. Establish a Vacant Building Registry requiring property owners register foreclosures with the City. Such a plan would also require the submittal of a property maintenance plan that outlines a security and maintenance schedule to ensure that vacant buildings are secure and maintained in accordance with applicable state and local codes.
3. Review relevant Tracy Municipal Code sections that deal with property maintenance and consider revamping those sections to better address community values and standards that reflect Tracy's quality of livable neighborhoods.

Following staff's presentation, Council expressed concern regarding the process for abating nuisance properties and the amount of time involved in the abatement process. Council's direction was to move forward with Item No. 1, with future review of Items 2 and 3 incrementally, and at a future time. Additionally, Council requested information on the City's current Boarding of Buildings Ordinance, information on receivership, and best practices currently used by local agencies to combat the nuisances often found on these properties, all of which are addressed below.

Local governments have long standing authority to abate public nuisances. Current City ordinances and state laws allow court actions or administrative hearings to compel the clean-up of property. If the owner ignores these administrative or judicial orders, local government can abate the nuisance with City crews or private contractors and assess/lien the cleanup costs against the property.

Nuisance abatement powers are critical when addressing the community impacts caused by vacant and abandoned properties – the long term, unoccupied structures that pose threats to the public's general health, safety and welfare. Buildings that remain open, unsecured or boarded for long periods of time pose threats to the public's general health, safety and welfare. Historically, in Tracy, vacant, unattended buildings that are either open and unsecured or easily breached pose the following problems as attractive nuisances adversely impacting the quality of life of nearby residents:

- provide habitat for rodents and vermin;
- become a magnet for trash, debris, and illegal dumping; become accessible for squatters and criminal activity, resulting in sanitization concerns;
- become fire hazards due to the use of open flame for lighting, cooking and smoking;

- contribute to blight, depressed market values and drain local agency resources, such as Police, Fire, and Code Enforcement.

Vacant and unsecured properties can have the effect of dis-incentivizing investment and maintenance, which can have a deteriorating effect throughout a neighborhood if they are not effectively addressed. The City has the authority to abate these conditions, which can include removing all trash and debris, repairing, boarding and even demolition of the building (in severe cases), which also has a financial impact on the City.

In 2006, the Council added Chapter 9.60, Boarding of Buildings with Unsecure Openings to the Tracy Municipal Code, requiring temporary boarding of unsecured buildings in accordance with specific standards. This ordinance was adopted to address buildings with unsecured windows and doors and/or inadequately secured through the use insufficient materials. The Tracy Municipal Code maintains protocols for clearing and boarding vacant properties to ensure that buildings – both City and privately owned – are cleaned and boarded as necessary to minimize nuisances, and preserve the health and safety of the community. The provisions of the ordinance apply to all vacant, unsecured properties in the City and complement other requirements of state and local laws. The main provisions of the current Board-Up Ordinance are as follows:

- Windows – ¾” plywood bolted on
- Exterior doors – ¾” plywood bolted on
- Garages – secured doors by nailing them shut
- Painting of boarded surfaces – 1 coat of paint
- Alternate methods – one allows alternate methods to secure buildings

Fees associated with the boarding up of unsecured buildings were established by Council resolution with compliance inspections performed by Code Enforcement staff. This ordinance has been an effective tool in protecting the environment and the public health, safety and welfare by providing staff with the enforcement of the means by which such nuisance conditions may be prevented. Since enacting the Ordinance in 2006, approximately 17 buildings have been brought through the boarding up process.

Vacant, foreclosed properties are also addressed through the requirements of SB 1137, adopted by City Council in October 2008 and effective through January 1, 2013. This bill requires property owners who obtain their property through a foreclosure sale (including financial institutions) to maintain the properties to certain minimum standards to avoid depreciation in surrounding property values. SB 1137 authorizes local agencies to impose fines on property owners if they fail to adequately maintain the foreclosed properties, providing staff with an additional tool for addressing community impacts caused by these vacant properties.

On average, nuisance violations with voluntary compliance are resolved within 30 days. Building code violations and dangerous building cases can take anywhere

from 45 days to several months, depending on the property owner's willingness to comply.

In response to Council's concerns regarding the length of time involved in resolving egregious nuisance cases, staff is establishing internal control processes that would schedule regular, proactive inspections of recidivist properties that consistently become health and safety issues.

The following best practices have been incorporated into code enforcement activities:

- The adoption of nuisance abatement codes for boarded structures;
- Continue use of the City's anti-blight strike team known as the Inter-Departmental Enforcement Alliance, and
- Greater focus on case management of boarded buildings.

Because the current Boarding Ordinance does not impose timeframes for which boarded up properties can remain boarded up, amendments to the ordinance could strengthen the City's enforcement tools pertaining to vacant, boarded up properties. These amendments can be comprehensive in scope to include new provisions in the following areas:

- Property maintenance schedules;
- Posting of emergency contact information;
- Establishing time limits that a building can remain in a boarded up condition, and
- An affirmative accountability plan to return the property to productive use.

Such code provisions would only apply to those properties that are currently or at some point become open, unsecured nuisances. Code Enforcement staff would implement the new code provisions through current case management systems and software, possibly grouping these cases under a Boarded-Up Buildings Monitoring Program.

The City has the authority to abate nuisances under existing code standards. If the owner fails to voluntarily abate a nuisance after being provided with notice and an opportunity to contest the nuisance determination and/or the costs of abatement, the City can abate the nuisance with City crews or private contractors and then hold the property owner responsible for its abatement costs. Along with this tool, the City also has authority to use the receivership process to address boarded, derelict properties when property owners fail to comply with other enforcement measures.

Receivership is a specialized civil remedy that allows a judge to appoint a special agent of the court or a non-profit corporation as the receiver of the property to correct the code violations and manage the property. California Health and Safety Code sections 17980.6 and 17980.7 set forth criteria as to whether a property qualifies for the receivership option.

Properties eligible for receivership are properties that show evidence of the following:

- The building is residential;
- The building is deemed unsafe or dangerous;
- The building is an attractive nuisance (e.g. drug or gang house, transients people are squatting in the building and engaging in unsafe practices, minors are using the building and engaging in unsafe practices, etc.).

The use of receivership is a powerful tool in the abatement of public nuisances. The initial appointment of a receiver by a court does not change the ownership of the property. A receiver's primary goal is to merely abate those nuisance conditions caused by derelict, abandoned and vacant properties. Under close supervision of the court, the receiver can incur costs to repair, board, or in rare cases, demolish the abandoned structure. Throughout the entire receivership process, owners are encouraged to participate in court decisions to minimize costs and even take their own abatement actions with guidance from the court. If the owner fails to repay the abatement costs, state law permits the filing of a nuisance lien that could result in foreclosure and eventual sale of the vacant property. The receivership process also allows, under certain circumstances, the receiver to obtain priority liens on the property, through a court order, to pay for the receiver's services and the costs of abatement. This priority lien ability is especially critical for properties that do not have sufficient equity remaining to conduct necessary repairs. Staff expects that cases requiring receivership would be uncommon and staff's ultimate goal will continue to be to seek voluntary compliance.

Staff recommended that Council review and comment on staff's proposal to expand the provisions of the existing Boarding of Buildings with Unsecured Openings Ordinance to control abandoned properties, to minimize the length of time properties remain boarded, and minimize the harm they do to communities.

Council Member Rickman thanked Ms. Contreras for her time and work on the project. Council Member Rickman asked how many boarded buildings were in existence. Ms. Contreras stated approximately 23 throughout the City.

Council Member Elliott asked if the best practices were working for the department. Ms. Contreras stated staff has begun entering the repeat sites into their data base so they automatically trigger an inspection. Ms. Contreras stated the IDEA team is meeting quarterly to combine efforts to deal with nuisance properties. Council Member Elliott asked if they are seeing positive effects. Ms. Contreras stated yes, except in the mobile home area due to availability of county resources.

Mayor Pro Tem Maciel asked Ms. Contreras to show the properties that were currently boarded and asked if they were eligible for receiverships.

Mayor Pro Tem Maciel asked regarding receivership, how the City can motivate some of these property owners to bring their properties into compliance. Mr. Sartor explained the remedies available if Council directed staff to amend the Ordinance.

Council Member Rickman indicated Council's concern related to vacant and boarded buildings.

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

George Riddle, 1850 Harvest Landing, indicated he agreed that the City should not have blighted buildings and stated there should be time limits.

Steve Nicolaou, 1068 Atherton Drive, asked if the receivership would be available for commercial or industrial properties. Mr. Sartor indicated it could include commercial properties if the other problems were involved too. Mr. Nicolau indicated a time limit should be imposed, suggesting 180 days seemed reasonable.

Byron Bogard, Central Valley Association of Realtors, stated his frustration was that he was here on November 1, and extended their help with this process. Mr. Bogard stated they want to be part of the solution and want to be involved.

Dave Konesky, 403 W. Eleventh Street, asked how a priority would be determined on which properties were addressed. Mr. Konesky indicated vacant lots were also an issue and should be addressed.

Roger Birdsall, 1121 Michelle Avenue, indicated he agreed with the previous speakers and asked why anyone should have to look at an eyesore for two years. Mr. Birdsall stated a timeline was important and needed to be looked at.

Mayor Ives suggested Council direct staff to ask questions in the public workshops about time limits and vacant lots, so that when staff comes back, the proposals should be based on information provided from realtors and property owners.

Council Member Elliott indicated he agreed that community workshops were appropriate; balance property rights with others who are tired of tolerating blight. Council Member Elliott indicated appropriate time lines and general guidelines in modifying the City's Ordinance would be appropriate.

Mayor Pro Tem Maciel stated he would like staff to provide Council with a list of tools they need to do their jobs more effectively. Mayor Pro Tem Maciel stated that with any right also comes responsibility. Mayor Pro Tem Maciel further stated staff needed input and would like to have the ability to amend the Ordinance to become more aggressive.

Council Member Rickman asked how many workshops were envisioned and how long would it take. Ms. Contreras indicated she has had discussions with Mr. Bogard regarding scheduling a presentation with the Realty Association and stated staff would invite property owners of boarded buildings and neighbors of those buildings to a community workshop.

Council Member Rickman indicated he would like to see the issues separated; 1 boarded properties; 2 vacant land.

Mayor Ives summarized Council's recommendations. Mayor Ives indicated the Ordinance needed to be strengthened, identify tools necessary to implement the tools and bring them back separately. Mayor Ives asked what a reasonable time would be to return to Council. Ms. Contreras suggested the second meeting in May.

10. COUNCIL ITEMS

Council Member Rickman received confirmation that the Medical Marijuana Ordinance would be on the agenda for March 6, 2012. Council Member Rickman requested the issue of impact fees per acre be reviewed on a proportional use basis. Mr. Churchill confirmed the item would be rescheduled for a future meeting.

11. ADJOURNMENT - It was moved by Mayor Pro Tem Maciel and seconded by Council Member Elliott to adjourn. Voice vote found Council Members Elliott and Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Abercrombie absent. Motion carried 4:0:1. Time 9:35 p.m.

The above agenda was posted at the Tracy City Hall on February 16, 2012. The above are summary minutes. A tape recording is available at the office of the City Clerk.

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Mayor

ATTEST:

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City Clerk

June 5, 2012

AGENDA ITEM 1.B

REQUEST

**ANNUAL REVIEW OF CITY'S INVESTMENT POLICY AND RECOMMENDATION  
TO ACCEPT THIS POLICY WITH NO CHANGES**

DISCUSSION

The City has an adopted investment policy that provides guidance regarding investment of City funds which is consistent with the State. The current policy is comprehensive and meets all requirements of law. Annually the City Treasurer reviews this policy with support from its registered investment advisors for any changes that would require amendment to the investment policy.

At the April 30, 2012 meeting of the Investment Review Committee the City Treasurer reviewed the City Investment Policy (Council Policy B-6) with the committee and recommended no changes.

FISCAL IMPACT

None.

RECOMMENDATION

The City Treasurer recommends that the City Council, by resolution, accept the existing City Investment Policy (Council Policy B-6) with no changes.

Prepared by: Ray McCray, City Treasurer

Approved by: Zane H. Johnston, Finance & Administrative Services Director

Attachment: Investment Policy



RESOLUTION \_\_\_\_\_

ANNUAL REVIEW OF CITY'S INVESTMENT POLICY AND RECOMMENDATION TO ACCEPT THIS POLICY WITH NO CHANGES

WHEREAS, The City has an adopted investment policy that provides guidance regarding investment of City funds which is consistent with the State, and

WHEREAS, The current policy is comprehensive and meets all requirements of law, and

WHEREAS, Annually the City Treasurer reviews this policy with support from its registered investment advisors for any changes that would require amendment to the investment policy, and

WHEREAS, At the April 30, 2012 meeting of the Investment Review Committee the City Treasurer reviewed the City Investment Policy (Council Policy B-6) with the committee and recommended no changes;

NOW, THEREFORE, BE IT RESOLVED, That the City Council, by resolution, accept the existing City Investment Policy (Council Policy B-6) with no changes.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council 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

City of Tracy

**COUNCIL POLICY**  
**(Formerly Referred to as B-6)**

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SUBJECT: Investment Policy

AUTHORIZATION: Resolution 93-103

EFFECTIVE DATE: April 6, 1993

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**I. STATEMENT OF OBJECTIVES**

Temporarily idle or surplus funds of the City of Tracy shall be invested in accordance with principles of sound treasury management and in accordance with the provisions of California Government Code Section 53600 et seq., the Tracy Municipal Code, and this Investment Policy.

**A. Overall Risk Profile**

The basic objectives of Tracy investment program are, in order of priority:

1. Safety of invested funds;
2. Maintenance of sufficient liquidity to meet cash flow needs; and
3. Attainment of the maximum yield possible consistent with the first two objectives.

The achievement of these objectives shall be accomplished in the manner described below:

1. Safety of Invested Funds

The City shall ensure the safety of its invested idle funds by limiting credit and interest rate risk.

Credit risk is the risk of loss due to the failure of the security issuer or backer. Interest rate risk is the risk that the market value of portfolio securities will fall due to an increase in general interest rates.

- a. Credit risk will be mitigated by:
  - i. Limiting investment to the safest types of securities;
  - ii. By pre-qualifying the financial institutions with which it will be doing business;
  - iii. By diversifying the investment portfolio so that the failure of any one issuer or backer will not place an undue financial burden on the City;
  - iv. By timely monitoring all of the City's investments to anticipate and respond appropriately to a significant reduction of credit worthiness of any of the depositories.

- b. Interest rate risk will be mitigated by:
  - i. Structuring the City's portfolio so that securities mature to meet the City's cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to their maturation to meet those specific needs; and
  - ii. Investing primarily in shorter-term securities, unless it is anticipated that long-term securities can be held to maturity without jeopardizing liquidity requirements.
  - iii. Occasionally restructuring the portfolio to minimize the loss of market value and/or maximize cash flows in income.
- c. The physical security or safekeeping of the City's investments is also an important element of safety. Detailed safekeeping requirements are defined in Section III of this Policy.

## 2. Liquidity

The City's investment portfolio must be structured in a manner, which will provide that securities mature at the same time as cash is needed to meet anticipated demands (static liquidity). Additionally, since all possible cash demands cannot be anticipated, the portfolio should consist largely of securities with active secondary or resale markets (dynamic liquidity). The specific percentage mix of different investment instruments and maturities is described in Section II of the Policy.

## 3. Yield

Yield on the City's investment portfolio is of secondary importance compared to the safety and liquidity objectives described above. Investments are limited to relatively low-risk securities in anticipation of earning a fair return relative to the risk being assumed. While it may occasionally be necessary or strategically prudent for the City to sell a security prior to maturity to either meet unanticipated cash needs or to restructure the portfolio to meet the current market conditions.

## **B. *Time Frame for Investment Decisions***

The City's investment portfolio shall be structured to provide that sufficient funds from investments are available every month to meet the City's anticipated cash needs. Subject to the safety provisions outlined above, the choice of investment instruments and maturities shall be based upon an analysis of anticipated cash needs, existing and anticipated revenues, interest rate trends and specific market opportunities. The average maturity of the investment portfolio will not exceed three years, and no investment will have a maturity of more than five years from its date of purchase, including U.S. Treasury and/or its Government affiliated Agencies.

1. Definitions

- a. "Maturity" shall mean the period from the date of purchase until the final maturity date stated on the instrument.
- b. "Average maturity of the investment portfolio" shall be computed as follows:  
  
$$\frac{\text{Sum of } \$ \times \text{Years}}{\text{Total } \$ \text{ of portfolio}} = \text{Average maturity (years)}$$
- c. "Total dollar amount of portfolio" shall mean all monies of the City excluding proceeds from bond issues.

**C. Definition of Idle or Surplus Funds**

Idle or surplus funds for the purpose of this Policy are all City funds, which are available for investment at any one time, including the estimated checking account float, excepting those minimum balances required by the City's banks to compensate them for the cost of banking services. This policy also applies to the idle or surplus funds of other entities for which the City of Tracy personnel provide financial management services.

**D. Limitations on Reverse Repurchase Agreements**

A reverse repurchase agreement is a transaction in which the City sells securities to a counter party and agrees to repurchase the securities from the counter party at a date certain. Under no circumstances shall the City sell securities through reverse repurchase agreements for the purpose of financing the acquisition of other securities. Except as otherwise authorized by the City Council, the use of reverse repurchase agreements will be limited to those occasions where unanticipated, short-term cash requirements can be met more advantageously by initiating a reverse repurchase agreement than by selling a security into the secondary market prior to its maturity. (For example, if a specific cash requirement precedes the maturity of a security, which had been intended to meet that requirement; it may be advantageous to initiate a reverse repurchase agreement by transferring the security to a counterpart rather than selling the security into the secondary market prior to its maturity. Proceeds from the maturity of the security would then be used to close out the reverse repurchase agreement.) When such a reverse repurchase agreement is being considered it shall be reported to the City Council for Council approval.

**E. Standards of Prudence and Ethics**

Investment officials shall recognize that the investment portfolio is subject to public review and evaluation. The overall portfolio shall be designed and managed with a degree of professionalism worthy of the public trust.

The standard of Prudence to be used by investment officials shall be the prudent investor (see below) and shall be applied in the context of managing an overall portfolio.

**Prudent Investor Standard**

When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency.

**II. INVESTMENT OF IDLE FUNDS**

**A. Eligible Securities**

The City may invest temporarily idle funds through banks, securities dealers, the State Local Agency Investment Fund (LAIF), California Asset Management Plan (CAMP) and other investment instruments as designated by the California State Code.

The following table summarized the authorized investment instruments, and applicable limitations on each. Where this section specifies a percentage limitation for a particular category of investment, that percentage is applicable only at the date of purchase as per California Government Code Section 53601. Consistent with the terms of this policy, no investment is permitted which is not listed on the following table:

	<u>LOCATION</u>	<u>DOLLAR VALUE</u>	<u>MATURITY</u>
<u>CATEGORY ONE:</u>			
Local Agency Investment Fund	California	Per LAIF Limit	On Demand
California Asset Management Program	California	No Limit	On Demand
Safekeeping Services Sweep Accounts	Banks	Per Investment Type	On Demand
US Treasury Issues	-----	No Limit	NTE 5 Yrs
US Government Agency Debenture Issues	-----	Per State Code	NTE 5 Yrs
Insured Deposits Banks	California	Per State Code	On Demand

CATEGORY TWO:

Repurchase Agreements	Banks and Dealers	No Limit	NTE 1 Year
Reverse Repurchase	Banks and Dealers	NTE 20%	NTE 92 days
Certificates of Deposit	Banks in California	30% Portfolio	NTE 1 Year

CATEGORY THREE:

Bankers Acceptances (1)	Domestic US Foreign	30% Portfolio	NTE 6 Mo
Commercial Paper	Domestic US	Per State Code	NTE 9 Mo
Negotiable CDs	Domestic US	Per State Code	NTE 18 Mo
Municipal Securities	Domestic US	30% Portfolio	NTE 5 Yrs
Med Tern Corp Notes	Domestic US	30% Portfolio	NTE 5 Yrs
Money Market Funds	Domestic US	20% Portfolio	On Demand

CODE REFERENCES

STATE GOV'T CODE#

FOOTNOTES

US Treasury & Agencies	53601(b),(f)	(1) Must be dollar denominated
Bankers Acceptance	53601(g)	(2) Money Market funds must be comprised of eligible securities permitted under this policy.
Commercial Paper	53601(h)	
Certificate of Deposits	53638	
Negotiable CDs	53601(i)	
Repurchase Agreements	53601(j) (1), (2)	
Reverse Repo Agreements	53601(j) (3)	
Medium Term Corp Notes	53601(k)	
Money Market Funds	53601(m to o)(2)	
Municipal Securities	53601 (a)	
LAIF	16429(l)	
CAMP	53601(p)	
Active Deposits	53632(b), (c)	

No more than 10% of the total portfolio shall be invested in the issuances of any single institution other than securities issued by the U.S. Government, its affiliated agencies, LAIF and CAMP.

**B. Qualification of Brokers, Dealers and Financial Institutions**

Aside from LAIF, CAMP, insured deposits, and U.S. Treasury and Government Agency issues, investments shall be placed only in those instruments and institutions rated favorably by a nationally recognized statistical-rating organization (NRSRO). For Banker's Acceptances, domestic depositories shall be limited to banks rated "b" or better, and selected major California banks rated "c" or better. Foreign Bankers Acceptances shall be limited to depositories rated 1/11 or better (the equivalent of an A/B domestic rating) and must be dollar-denominated instruments. An information log containing the type of collateral in the acceptance shall be maintained. Negotiable Certificates of Deposit shall be issued by a nationally or state-chartered bank, a savings association or a federal association, a state or federal credit union, or by a state-licensed branch of a foreign bank, provided that the senior debt obligations of the issuing institution are rated A or better by a NRSRO. For Time Deposits over \$250,000, depositories shall be limited to California State banks and financial institutions that have received a minimum overall satisfactory rating for meeting the credit needs of California Communities in its most recent evaluation. Except for insured deposits in California banks, City investment transactions will be conducted only with institutions meeting the tests described above, and/or with dealers from the list of Government Security dealers reporting to the Market Reports Division of the Federal Reserve Bank of New York (Exhibit A) and/or with dealers from the list of Commercial Paper dealers reporting to the Market Reports Division of the Federal Reserve Bank of New York (Exhibit B). Except for investment in Banker's Acceptances and Negotiable Certificates of Deposit, the City will limit its investments in banks to those institutions maintaining offices in the State of California.

The California Government Code restricts cities to investing in commercial paper of the highest rankings provided for by a NRSRO. The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or paragraph (2):

1. The entity meets the following criteria: (i) Is organized and operating in the United States as a general corporation. (ii) Has total assets in excess of five hundred million dollars (\$500,000,000). (iii) Has debt other than commercial paper, if any, that is rated "A" or higher by a nationally recognized statistical-rating organization.
2. The entity meets the following criteria: (i) Is organized within the United States as a special purpose corporation, trust, or limited liability company. (ii) Has program wide credit enhancements including, but not limited to, over collateralization, letters of credit, or surety bond. (iii) Has commercial paper that is rated "A-1" or higher, or the equivalent, by a nationally recognized statistical-rating organization.

The City may not hold more than 5% of an issuing corporation's commercial paper.

The California Government Code restricts cities to investing in medium term corporate notes of a maximum of five years maturity issued by corporations operating within the United States. Securities eligible for investment must be

rated A or better by two of the three largest nationally recognized services. Medium-term corporate notes may not exceed 30% of the City's portfolio.

**C. *Collateralization Requirements***

Uninsured time deposits with banks shall be collateralized in the manner prescribed by law for depositories accepting municipal investment funds.

**D. *Pre-formatted Wire Transfers***

Wherever possible, the City will use pre-formatted wire transfers to restrict the transfer of funds to pre-authorized accounts only. When transferring funds to an account not previously approved, the bank is required to call bank a second employee for confirmation that the transfer is authorized.

**E. *Requirement for Financial Statements***

Each bank, and security dealer, otherwise qualified under the provisions of this policy, who wishes to do business with the City shall submit a copy of its latest financial statement to the City including a balance sheet and profit and loss statement. If the security dealer is a private partnership registered with the SEC, the following shall be required in lieu of a profit and loss statement: 1) disclosure of its excess net capital in the notes to the statement of financial condition, and 2) a separate letter from its CPA firm attesting to the fact that Rule 15c 3-1 has been complied with and the dealer's internal systems and controls have no material inadequacies.

After a review of the financial statement and all other relevant information, the City will determine whether a service agreement should be executed with the institution based on the standards outlined in this Policy. The City requires that an agreement for services be executed prior to entrusting its funds to any dealer or financial institution, and that up-to-date financial statements be sent to the City Treasurer.

**F. *Notice to Dealers***

The City Treasurer shall annually send a copy of the current edition of this Investment Policy to all institutions, which are approved to handle City of Tracy investments. Receipt of the Policy, including confirmation that it has been reviewed by persons handling the City's account, shall be acknowledged in writing within thirty days.

**G. *Requirements for Repurchase Agreements***

A repurchase agreement is a transaction in which a counterpart agrees to transfer to the City securities or financial instruments in exchange for funds with a simultaneous agreement by the City to resell the securities to the counterpart at a date certain. In such cases, the transferred securities shall be U.S. Treasury or Government Agency issues whose market value at the time of transfer is equal to at least 102% of the repurchase agreement's face value. For other than



overnight investments, the securities transferred shall be marked to market on a daily basis and maintained at an amount equal to at least 102% of the repurchase agreement's face value. The market value of the transferred securities may be required to exceed the repurchase agreement's face value by an amount, which is expected to protect against a sudden decrease in the market value of the transferred securities.

The types of securities to be accepted as transferred securities in repurchase agreements in which the City is the buyer shall be limited to the types of eligible U.S. Treasury or Government Agency issues described in Sections II.A and II.B. The maturities of transferred securities shall not be limited as described in Section II.A. Substitutions or transferred securities may not be made without prior approval by the City.

### **III. SAFEKEEPING OF SECURITIES**

#### **A. *Safekeeping Agreement***

Securities purchased from Brokers/Dealers shall be held in third party safekeeping by the trust department of the local agency's bank or other designated third party trust, in local agency's name and control, whenever possible. The City may contract with a bank or banks for the safekeeping of marketable securities, which are transferred to the City under the terms of repurchase agreements.

#### **B. *Handling of City-Owned Marketable Securities & Time Deposit Collateral***

All marketable securities owned by the City shall be held by its safekeeping agent, except the collateral for time deposits in banks. The collateral for time deposits is held by the Federal Home Loan Bank. The collateral for time deposits in banks is held in the City's name in the bank's trust department or with its correspondent bank (if a safekeeping agreement has been executed) or, alternatively, in the San Francisco Federal Reserve Bank.

#### **C. *Handling of Repurchase Agreement Securities***

The securities transferred to the City under the terms of repurchase agreements with banks may be held in the issuing bank's trust department, provided that a master trust agreement has been executed insuring fiduciary separation of these assets from other bank assets. The securities transferred to the City under the terms of repurchase agreements with dealers must be delivered to a third-party custodian with whom the City has established a safekeeping agreement.

#### **IV. STRUCTURE AND RESPONSIBILITY**

This section of the Investment Policy defines the overall structure of the investment management program.

##### **A. *Responsibilities of the City Treasurer***

The City Treasurer is charged by law with responsibility for the deposit and investment of City funds, which come into his hands in accordance with principles of sound treasury management and in accordance with applicable laws and ordinances, and the development of procedures to implement this investment policy. He is responsible to keep the City Council fully advised as to the financial condition of the City Treasury.

##### **Security Transfers**

The authorization to release City securities will be telephoned to the appropriate bank by the Treasurer. A written confirmation outlining details for the transaction and confirming the telephoned instructions will be sent to the bank within five (5) working days.

##### **B. *Responsibilities of the Finance and Administrative Services Director***

The City Finance and Administrative Services Director is responsible for the fiscal procedures of the City. A review of the City's investment program is a part of the responsibility described above.

##### **C. *Verification of Security***

Securities transferred to the City under the terms of repurchase agreements and collateral securing time deposits, which are being held in safekeeping for the City, will be verified in writing and examined on a surprise basis during the year. Verification of transferred securities and time deposit collateral will be part of the City's annual independent audit.

##### **D. *Responsibilities of the City Council***

The City Council shall consider and adopt, by resolution, an investment policy. As provided in that Policy, the Council shall receive, review, and accept monthly Investment Reports.

#### **V. REPORTING**

The City Treasurer shall prepare a monthly Investment Report within 45 days after the close of the month, including a succinct management summary that provides a clear picture of the status of the current investment portfolio and significant transactions made over the past month. This management summary will be prepared in a manner, which

will allow the City Manager and City Council to ascertain whether investment activities during the reporting period have deviated from the City's Investment Policy.

A monthly Investment Report will include the following:

- A. Trend of average portfolio maturity;
- B. Maturity aging by type of investment;
- C. Percentage mix of portfolio by type of investment, including a listing of individual securities held at the end of the reporting month;
- D. A statement that the portfolio investments comply with all State and Federal laws and are in compliance with this policy. Any prior violations which have not been corrected must be so identified;
- E. Trend of rate of return on investments;
- F. Unrealized gains or losses resulting from appreciation or depreciation in the market value of securities;
- G. Interest cost and interest earnings from reverse repurchase agreement transactions;
- H. All investment transactions occurring during the month whether or not the transaction has been fully settled; and
- I. As per State applicable laws, demonstrate current market position of all marketable securities.

The following can be found on file in the City Treasurer's office:

- A. Realized trading gains and losses and interest received on trading activity;
- B. Aggregate commitments to purchase securities or make other payments to dealers in a manner to permit adequate cash need forecasting;
- C. A description of the current investment strategy and the assumptions upon which it is based;
- D. Average rate of return on reporting month's purchases;
- E. Average rate of return on reporting month's sales and/or maturities;
- F. Distribution reports by bank and broker/dealer; and
- G. Cash management projections;

## **VI. REVIEW OF INVESTMENT MANAGEMENT**

### **A. *Policy Exceptions***

There shall be no exceptions to the prescribed limits and obligations of this policy.

### **B. *Investment Review***

The City Council, by Resolution No. 95-087, has established an Investment Review Committee. This Committee, composed of two City Council Members, the City Treasurer, the City Manager, and the Finance and Administrative Services Director shall meet not less than quarterly to review the City Treasurer's report and investment activities.

**C. Policy Review**

This Investment Policy shall be reviewed annually to ensure its consistency with respect to the overall objectives of safety, liquidity and yield, and its relevance to current laws and financial trends. Proposed amendments to the Policy shall be prepared by the City Treasurer, and after review and approval by the City Manager, shall be forwarded to the City Council for consideration and approval.

**VII. INVESTMENT OF PROCEEDS OF DEBT ISSUANCE**

*The following section governs the investment of proceeds from debt issuance. Investments can be made in accordance with this policy when not in conflict with applicable provisions of a particular debt financing.*

“Permitted Investments” means any of the following, which at the time of investment are legal investments under the laws of the State for the monies proposed to be invested therein:

- A. Direct obligations (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America;
- B. Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises rated “AAA” by an NRSRO.
- C. Interest-bearing demand or time deposits (including certificates of deposit, and bank investment contracts whether negotiable or non-negotiable) in federal or state chartered savings and loan associations or in national or State banks (including the Trustee) provided that either: (a) the obligations of such association or bank or the obligations of the holding company of such association or bank are rated in one of the three highest rating categories by a NRSRO; or (b) such deposits are fully insured by the Federal Deposit Insurance Corporation, provided, however, that the portion of any certificates of deposit in excess of the amount insured by the Federal Deposit Insurance Corporation, if any, shall be secured at all times in the manner provided by law by collateral security having market value not less than the amount of such excess, consisting of securities described in this section, items (1) through (4);
- D. Investment agreements, guaranteed investment contracts, funding agreements, or any other form of corporate note representing the unconditional obligations of entities; (a) the unsecured long-term debt obligations or claims-paying ability ratings of which are rated in the top three rating categories by a NRSRO, or (b) the short-term debt obligation rated in the two highest categories of either of such rating agencies;
- E. Repurchase agreements with financial institutions insured by the FDIC or FSLIC, or any broker-dealer with “retail customers” which falls under the jurisdiction of the Securities Investors Protection Corporation (SIPC), provided that: (a) the

over-collateralization is at one hundred two percent (102%), computed weekly, consisting of such securities as described in this section, items (1) through (4); (b) a third party custodian, the Trustee or the Federal Reserve Bank shall have possession of such obligations; © the Trustee shall have perfected a first priority security interest in such obligations; and (d) failure to maintain the requisite collateral percentage will require the Trustee to liquidate the collateral;

- F. Money Market Mutual Funds registered with the Securities and Exchange Commission and rated in the highest category by a NRSRO;
- G. Tax-exempt obligations rated in either of the two highest rating categories by a NRSRO, including money market funds so rated;
- H. Deposits in the Local Agency Investment Fund (LAIF) referred to in Section 16429.1 of the Government Code of the State;
- I. Deposits in the California Asset Management Plan (CAMP) referred to in the JPA Investment, approved by Resolution No. 98-104, of the Tracy City Council on April 7, 1998.
- J. In the event the issue becomes credit enhanced, the foregoing permitted investments must be approved by the credit enhancement agency. In addition, the permitted investments may be expanded to include any other investments approved by the credit enhancement agency.

Amended by: Resolution 93-103 - 4/6/93  
Resolution 94-228 - 7/19/94  
Resolution 95-132 - 5/2/95  
Resolution 97-354 - 10/21/97  
Resolution 98-190 - 6/16/98  
Resolution 99-343 - 9/7/99  
Resolution 2000-351 - 8/15/00  
Resolution 2001-360 - 10/2/01  
Resolution 2002-236 - 8/6/02  
Resolution 2004-209 - 7/6/04  
Revised by Resolution 2005-300 - 12/6/05  
Resolution 2007-002 - 1/2/07  
Revised by Resolution 2009-036 - 3/3/09  
Revised by Resolution 2011-105 - 6/7/11

AGENDA ITEM 1.C

REQUEST

**AUTHORIZATION OF AN AGREEMENT BETWEEN CITY OF TRACY AND US BUREAU OF RECLAMATION FOR LONG-TERM WATER BANKING AT SEMITROPIC WATER STORAGE DISTRICT WATER BANKING PROJECT AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AGREEMENT; AND AUTHORIZATION FOR THE CITY MANAGER TO EXECUTE WATER AGREEMENTS FOR OPERATIONAL FUNCTIONS**

EXECUTIVE SUMMARY

For City Council consideration is the approval agreement with the US Bureau of Reclamation (USBR) to allow the City to participate in the Semitropic Water Bank. This is the final approval needed for this project. Authorization is requested for the City Manager to execute water agreements for operational functions.

DISCUSSION

Water storage in Semitropic Water Storage District (WSD) provides a method to increase reliability of the City's USBR water supply by storing water in wet years for use during dry years. City Council authorized participation in Semitropic WSD by agreement in November 2010. The City/Semitropic WSD agreement requires approval of the USBR in order to make the agreement effective. The USBR completed their environmental review in May 2011 and has prepared the subject agreement for City Council consideration. The subject agreement defines roles, responsibilities and methods for placing water into storage and return of that water from storage, and has a term through 2035.

Water storage for dry years has been identified as a key component of water supply in the City's Urban Water Management Plan. The City's participation in Semitropic WSD allows 3,500 acre-feet/year of water to be returned to Tracy for up to three years for a total storage capacity of 10,500 acre-feet. In February 2012, the City placed 3,600 acre-feet into storage using a provisional approval from the USBR. The City now has 4,300 acre-feet of water stored in Semitropic WSD.

In March 2008, the City Council approved Resolution 2008-034 that authorized the City Manager, or designee, to execute agreements for a variety of operational functions related to water. These include: purchase, transfer and sale of Bureau water, placing water into the Semitropic Water Bank and return to Tracy of the banked water. Although no changes are needed to the authority provided by this resolution, the resolution is now four years old and re-approval of the authority is requested.

STRATEGIC PLAN:

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

FISCAL IMPACT

There is no fiscal impact to the General Fund. Authorization of the USBR approval agreement completes the requirements contained in the City/Semitropic agreement and triggers payment for participation in the Semitropic water storage bank. This cost is \$5,206,691.11. There are adequate funds budgeted as Capital Improvement Project 75093.

The USBR approval agreement requires the City to maintain a \$5,000 deposit with the USBR for recovering their costs associated with Tracy's water banking project.

RECOMMENDATION

That the City Council, by resolution, authorize Approval Agreement No. 7858A-WB-2011-1 between the City and the US Bureau of Reclamation for Long-Term Central Valley Project Water Banking by the City of Tracy at Semitropic Water Storage District Bank and authorize the Mayor to execute the agreement, and by resolution, authorization for the City Manager to execute water agreements for operational functions.

Prepared by: Steve Bayley, Deputy Director of Public Works

Reviewed by: Kevin Tobeck, Director of Public Works

Approved by: Leon Churchill, Jr., City Manager

Attachments: Approval Agreement No. 7858A-WB-2011-1 for Long-Term Central Valley Project Water Banking by the City of Tracy at Semitropic Water Storage District Bank



# United States Department of the Interior

BUREAU OF RECLAMATION  
Mid-Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825-1898

IN REPLY REFER TO:

MAY 18 2012

MP-440  
WTR-4.00

Mr. Leon Churchill  
City Manager  
City of Tracy  
333 Civic Center Plaza  
Tracy, CA 95376

Subject: Approval Agreement No. 7858A-WB-2011-1 (Approval Agreement) of Long-Term Central Valley Project Water Banking by the City of Tracy at the Semitropic Water Storage District Bank – Central Valley Project, California

Dear Mr. Churchill:

This letter (hereinafter referred to as the “Approval Agreement”) provides the Bureau of Reclamation’s approval to the City of Tracy (City), under certain terms and conditions, to bank up to 10,500 acre-feet (AF) of its Central Valley Project (Project) water in the Semitropic Water Storage District Bank (Semitropic Bank). The City’s Project water would be made available for banking from one or a combination of three water service and/or assignment contracts (Contracts). This Approval Agreement covers depositing and withdrawing for return of Project water, and runs concurrent with the duration of the City’s water service contracts (Contracts), as amended or renewed, but may not exceed the period analyzed in the environmental assessment (EA) prepared for this Approval Agreement.<sup>1</sup> Cost authority number (CAN) A1R-1752-9652-220-02-5-0, established by Reclamation’s South-Central California Area Office in Tracy (SCCAO-TO), will remain in effect for the duration of this Approval Agreement to cover Reclamation’s time in monitoring and administering activities associated with this Approval Agreement.

For purposes of this Agreement, the words “Banking” represents depositing, withdrawing, and returning Project water, while the term “bank” is used to identify each separate action.

## Authority

Central Valley Project Improvement Act, Title 34 of Public Law 102-575 (CVPIA), Section 3408 (c), *Contracts for Additional Storage and Delivery of Water*, is the primary authority expressly authorizing the Secretary of the Interior through Reclamation to enter into contracts to, among other things, impound or store Project water in non-Project facilities for domestic,

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<sup>1</sup> The period analyzed in the environmental document extends through Contract Year (CY) 2035 (March 2035 through February 2036); however, the City’s Banking Agreement with the Semitropic Bank extends through calendar year December 31, 2035.



municipal, and industrial purposes. Reclamation is supportive of conjunctive-use programs, and the benefits that such programs provide for managing water supply reliability. Any program involving the banking of Project water outside a contractor's contract service area requires Reclamation's approval and a detailed accounting, monitoring, and reporting program. Reclamation is in the process of finalizing guidelines for Banking of Project water.

### Background

The City has one water service Contract No. 14-06-200-7858A providing for up to 10,000 AF, and two assignment contracts. One assignment Contract, No. 14-06-200-4305A-IR12-B with Banta-Carbona Irrigation District, is for up to 5,000 AF. The other assignment Contract, No. 7-07-20-W0045-IR12-B with the Westside Irrigation District, is for up to 2,500 AF.

By letter dated March 5, 2007, Reclamation approved the City's request to bank up to 1,000 AF of Project water with a return of 900 AF (accounts for 10 percent loss factor) of water under a pilot project through calendar year 2016 (2007 Approval). Between 2008 and 2009, the Semitropic Bank returned 200 AF of Project water to the City. At the time of this Approval Agreement, the City has 700 AF of Project water remaining in storage at the Semitropic Bank. Reclamation's 2007 Approval is a stand-alone transaction, and provides that: *"If for some reason the City does not receive . . . [the] remaining water prior to [December] 2016, the parties have agreed that the City will have the option to roll the [remaining balance] into a long-term account. If no long-term account has been established with Semitropic, then the original agreement would be extended for another 10 years."* Effective November 16, 2010, the City and Semitropic Bank entered into a long-term Banking arrangement, titled *"Agreement between City of Tracy and Semitropic Water Storage District and its Improvement Districts for Participation in the Stored Water Recovery Unit of the Semitropic Water Banking and Exchange Program."* Said agreement is hereinafter referred to as the "Banking Agreement." The duration of the Banking Agreement continues through December 31, 2035, with an option to renew for 10 years. Therefore, unless the remaining 700 AF of previously banked Project water under the 2007 Approval is returned to the City by December 31, 2016, that quantity of Project water still remaining shall become subject to this Approval Agreement.

Reclamation acknowledges the Department of Water Resources' (DWR) December 14, 2011, agreement, titled *"Multi-year Conveyance Agreement Among the Department of Water Resources of the State of California, Kern County Water Agency, and the City of Tracy for the Semitropic Water Banking Program (2011-2030) SWPAO #10031,"* containing the banking deposit period through December 31, 2029, and December 31, 2030, for extraction, and returning Project water. DWR's agreement allows that *"DWR may agree to extend this Agreement [DWR's approval] for an additional five years to December 31, 2035."* (Para. 1, Term.) As such, any Banking of Project water after December 31, 2030, is contingent upon the City having necessary approval(s) in place to facilitate the Banking actions. The City shall extract and return all previously banked Project water from Semitropic Bank prior to expiration (December 31, 2030) or earlier termination of the agreement(s) needed in returning said water.



### The City's Proposal

Reclamation has reviewed the City's proposal and other documentation submitted in support of two Federal discretionary actions (Proposal). The City is requesting Reclamation's approval to bank up to 1,750 AF (minus 10 percent for losses) of Project water in CY 2011, and to bank up to 10,500 AF (minus 10 percent for losses) each CY thereafter for municipal and industrial (M&I) use. Banking of the Project water will be by one or a combination of methods as provided in this Approval Agreement, and analyzed in the enclosed EA.

Semitropic Bank has taken direct delivery of the City's 1,750 AF CY 2011 Project water, and pursuant to the Banking Agreement agrees to take up to 10,500 AF annually (consistent with Reclamation's CY) thereafter no later than December 31, 2035. Under this Approval Agreement, the City will deposit more water than would be returned from Semitropic Bank due to the 10 percent adjustment for operational losses. Therefore, of the 1,750 AF of Project water banked in CY 2011, the City will have 1,575 AF of the previously banked Project water for future return. For return periods after CY 2011, the City will withdraw and exchange, for return in any year, 3,500 AF. For example, the City deposits up to 10,500 AF of Project water in Semitropic Bank. The 9,450 AF return quantity accounts for operational losses, and recognize that 3,500 AF is the maximum annual return quantity. Reclamation concurs for purposes of water accounting that the 10 percent operational losses under an exchange return mechanism will be treated as balanced exchanges. Costs, however, will be assessed on the gross quantity without adjustment for losses.

### Environmental Documentation

In compliance with the National Environmental Policy Act and the Endangered Species Act, the environmental effects were analyzed for the City's Proposal, and a Final EA No. EA-09-164 and Finding of No Significant Impact (FONSI), dated May 26, 2011, titled, "*City of Tracy Long-term Central Valley Project Groundwater Banking with Semitropic Water Storage District*" was completed. The Final EA-09-164 incorporated, by reference, the February 23, 2007, EA-05-111 and Finding of No Significant Impact (FONSI) titled, "*Groundwater Banking Pilot Project of Central Valley Project from City of Tracy to Semitropic Water Storage District.*"

The Final EA No. 09-164 analyzed long-term Banking through CY 2035 (through February 2036) meaning Reclamation did not analyze either the City's option to renew the Banking Agreement for 10 years or Semitropic Bank's Stored Water Recovery Unit. Specifically, EA No. 09-164 provides that, "*This EA does not analyze the build out or use of the In-Lieu Recharge and Recovery Area of the Stored Water Recovery Unit (SWRU) within Semitropic as it is not a part of the Proposed Action. Any future use of this area [SWRU] would require additional environmental documentation as part of this banking project [Approval Agreement]*" (p. 2).

### Conveying the City's Project water to the Semitropic Bank

Conveyance of Project water to Semitropic Bank from the City would probably occur as an operational exchange at O'Neill Forebay (Reach 3 of the California Aqueduct) and then direct delivery to Semitropic Bank turnouts in Kern County Water Agency (KCWA) at Reaches 10A, 12E, and 13B of the California Aqueduct. The City's Project water will be released from the

Federal share of San Luis Reservoir by Reclamation and made available to DWR's State Water Project (SWP) at O'Neill Forebay. DWR would deliver the City's Project water from O'Neill Forebay to KCWA water service area under KCWA Article 55 (Amendment No. 23 of the 1963 agreement between DWR and KCWA for transportation of non-Project water) for Banking within Semitropic Bank or within Semitropic Bank's share of the Kern Water Bank facilities (KWB). Other methods of conveying the City's Project Water to Semitropic Bank may be considered by Reclamation upon request of the City.

Consistent with the terms and conditions of this Approval Agreement, and other approval(s) as may be required, the City will make available to Semitropic Bank up to 10,500 AF of its allocated Project water supply for deposit each CY. The City must adhere to a written schedule approved by Reclamation, each CY in coordination with DWR and the City, and/or Semitropic Bank, KCWA, and the KWB, if and when applicable. Deliveries to Semitropic Bank and/or KCWA and KWB shall be measured by DWR at Reach 10A, 12E and 13B of the California Aqueduct.

#### Returning Water to the City

Consistent with terms and conditions of DWR's approval and other approval(s) as may be required, Semitropic Bank will make available, at the request of the City, up to 3,500 AF of water each CY for return. Return of previously banked water, from Semitropic Bank to the City, will occur using any one or a combination of methods described below and as analyzed in EA No. 09-164. Other methods returning the City's Project Water at Semitropic Bank may be considered by Reclamation upon request of the city.

1. The previously banked Project water will be withdrawn from Semitropic Bank and delivered into the California Aqueduct to meet downstream SWP demands. In exchange, a like amount of KCWA SWP water will be exchanged between DWR and Reclamation at O'Neill Forebay and return a like amount of water to the City.
2. The previously banked Project water will be withdrawn from Semitropic Bank and delivered into the California Aqueduct to meet downstream SWP demands. In exchange, a like amount of KCWA SWP water will be delivered to the City's turnout along the Delta-Mendota Canal (DMC) via the Jones Pumping Plant, as authorized under the State Water Resources Control Board (SWRCB) Joint Point of Diversion (D-1641). The delivery of the SWP water will not require a change in place of use (POU).
3. The previously banked Project water will be withdrawn from Semitropic Bank and delivered into the California Aqueduct to meet downstream SWP demands. In exchange, a like amount of KCWA SWP water will be delivered via SWP's Banks Pumping Plant, and diverted through the California Aqueduct-DMC Intertie (Intertie) to the City's turnout along the DMC. Delivery of the SWP water will not require change to POU.

#### Terms and Conditions Applicable to Approval

In addition to the methods outlined above, this Approval Agreement is subject to the following terms and conditions and the City's Banking Agreement. However, the City agrees that if there are

any inconsistencies between the terms of this Approval Agreement and the Banking Agreement, this Approval Agreement controls.

1. The term of this Approval Agreement, for Banking up to 10,500 AF of the City's allocated Project water supply each CY, is effective October 2011 through December 31, 2035, contingent upon the City having necessary approval(s) and Contracts in place. All previously banked Project water, under this Approval Agreement,<sup>2</sup> minus up to 10 percent for losses must be returned to the City for M&I use before expiration or early termination of this Approval Agreement. This Approval Agreement may be terminated sooner than December 31, 2035, provided that, all previously banked water is returned from Semitropic Bank to the satisfaction of Reclamation, or the Parties mutually agree to other conditions of termination.
2. No deposit of Project Water may occur beyond termination of this Approval Agreement. If terminated early, however, this Approval Agreement remains in effect for limited purposes, such as returning all Project water to the City, Reclamation reconciling final water accounting records, and receipt of the City's final payment as determined by Reclamation.
3. The City shall submit a request to Reclamation for banking Project water each CY for review and approval on a case-by-case basis (Request). The period environmentally analyzed under this Approval Agreement allows Reclamation to conduct streamlined review and approval of the City's Banking Request.
4. If previously banked Project water is withdrawn by the City and not used by Semitropic Bank, but is transferred elsewhere by the City, and any water not returned to the City upon termination of this Approval Agreement, shall be treated as a transfer of Project water to a non-Project contractor subject to: (1) Section 3405 (a) of CVPIA; (2) Reclamation's February 25, 1993, *Interim Guidelines for Implementation of the Water Transfer Provisions of the CVPIA*; (3) Reclamation's May 15, 2008, *Business Practice Guidelines Accounting for Project Water Transfers* (both as may be amended or revised); and (4) other applicable state and Federal laws, or requirements as determined by Reclamation including additional water rates and full cost pricing water rates including interest if applicable. Such transfer will require additional environmental analysis and the contracting officer's prior written approval.
5. In the event the City wishes to deposit more than 10,500 AF each CY or return water not previously analyzed in FONSI/EA No. 09-164, additional environmental analysis is required at the City's expense. Subject to the environmental documentation, Reclamation may consider amending this Approval Agreement to accommodate such change.
6. The City is responsible for paying costs of conveyance and conveyance agreements, costs associated with returning the previously banked Project water by exchange, and costs of any additional environmental documentation if applicable. Conveyance of exchange water from Semitropic Bank, which requires the use of Federal facilities, is subject to further approval by Reclamation at the City's expense.

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<sup>2</sup> For purposes of accounting, the 700 AF of Project water, or any portion thereof, remaining in Semitropic Bank after December 31, 2016, shall be incorporated in the City's water Banking account under the terms of this Approval Agreement. Therefore, Reclamation's 2007 Approval will be superseded by terms and conditions of this Approval Agreement.

7. The City shall submit a written Request to SCCAO-TO along with written schedule(s) in advance of delivering any Project water to Semitropic Bank. Such Request must state the monthly quantity of Project water for Banking. Project water deliveries to Semitropic Bank must be included in the City's written schedule, and paid for by the City in advance of delivery in accordance with the City's Contracts. The applicable restoration fund payments and assessments, including applicable operation and maintenance conveyance fees, owed to Reclamation's Operating Non-Federal Entity, namely, the San Luis and Delta-Mendota Water Authority, are due before the end of the month following the month of delivery or input. Interest and/or penalties, if any, will accrue from the date of delinquency as determined by the applicable provision(s) of the City's Contracts.
8. The City shall provide SCCAO-TO with a monthly report of the amount of Project water banked in Semitropic Bank, adjusted for losses, during those months when water is banked. Negative reporting is not required. Project water delivered to Semitropic Bank, if used by Semitropic Bank for in-lieu banking<sup>3</sup>, must be used within the Project authorized water right POU. The City shall provide documentation satisfactory to Reclamation verifying that the Project water delivered to Semitropic Bank and used for in-lieu banking is used within the Project authorized water right POU. This report may be based on records maintained by Semitropic Bank, but will be the responsibility of the City to provide to Reclamation. Any adjustment(s) to the quantity of Project water for Banking with Semitropic Bank pursuant to this Approval Agreement, shall be made as soon as practicable, but no later than 60 days after Banking.
9. Project water for return to the City will be accomplished by one or a combination of measures identified above in the *Returning Water to the City* section of this Approval Agreement. The City is responsible for ensuring necessary agreements, approvals, and environmental documentation required for the return of the Project water be completed. The City's Request must be provided to SCCAO-TO in advance, when seeking to withdraw any previously banked Project water. The Request to SCCAO-TO shall include: A statement of the mechanism(s) by which the water will be returned and the source(s) of water being returned and copies of necessary agreements, approvals, and environmental documentation necessary to complete the return of the previously banked Project water. Reclamation will review the Request to ensure consistency with FONSI/EA-09-164, and the terms and conditions of this Approval Agreement.
10. DWR will account for the conveyance and conveyance pumping costs to move the Project water from the Federal share of the San Luis-Joint Use facilities to Semitropic Bank. Reclamation will account for the conveyance and conveyance pumping costs to move the SWP water from the Federal share of the San Luis -Joint Use facilities for return to the City. Any use of Federal facilities for conveyance of water provided in exchange for previously banked Project water, must be approved by the Contracting Officer in advance. The City shall pay Reclamation the appropriate rate for the use of Federal facilities, if applicable, for delivery of SWP or other non-Project water exchanged for previously banked Project water

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<sup>3</sup> The word in-lieu banking is used as an operational action referring to Semitropic Bank using the City's Project water supply, which is intended to be Banked, and foregoing groundwater pumping to meet Semitropic Bank in-district water needs. Semitropic Bank then credits the City's Banking account for a like amount of the Project water supply which Semitropic Banking used instead of depositing for the City.



11. Reclamation will track all Banking occurring during the period of this Approval Agreement, including where the Project water is beneficially used, and the source(s) and mechanism(s) of any related exchanges. During the period of this Approval Agreement, the City shall provide Reclamation with a report, each CY, summarizing the quantities of Project water deposited in and withdrawn from Semitropic Bank (Report). The Report must identify the City's account balance with Semitropic Bank along with the source(s) and quantities of Project water returned to the City by exchange (i.e. groundwater, SWP water, Project water, etc.). The Report can be developed based on data from Semitropic Bank, but the City is responsible for providing the Report to SCCAO-TO.
12. This Approval Agreement shall be revised as necessary to comply with Reclamation's water Banking guidelines, criteria, regulations, or policies governing the Banking of CVP Water, or any lawful order of California's SWRCB regarding Banking or storage of CVP water, or any lawful order of a state or Federal court of competent jurisdiction. This Approval Agreement may be revised or amended upon mutual written agreement of the Parties.
13. By signing this Approval Agreement, the City agrees to the stated terms and conditions, including retaining CAN A1R-1752-9652-220-02-05-0 open for staff time in the continued administration and monitoring of this Approval Agreement. For Reclamation's tracking purposes, any future proposals and correspondence relating to this Approval Agreement, including monthly and annual reporting, must reference this assigned Approval Agreement No. 7858A-WB-2011-1.

Subject to the terms and conditions of this Approval Agreement, Reclamation hereby approves your Banking Proposal. If you need additional information, you may contact Ms. Barbara Hidleburg at 916-978-5193, or e-mail [bhidleburg@usbr.gov](mailto:bhidleburg@usbr.gov). If you have questions relating to the administration of this Approval Agreement, you may contact SCCAO-TO as provided below.

Please sign, date, and return one original of this Approval Agreement to Reclamation at the heading address, Attention: MP-440 (Ms. Karen Hall), along with a certified original resolution authorizing your concurrence. In addition, return one original of this Agreement to SCCAO-TO, Attention: Ms. Cathy James, 16650 Kelso Road, Byron, CA 94514-9614.

Sincerely,



ACTING FOR

Donald R. Glaser  
Regional Director

Enclosures - 2

In Triplicate

Subject: Approval Agreement No. 7858A-WB-2011-1

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*City of Tracy, through the undersigned, concurs with the foregoing Approval Agreement No. 7858A-WB-2011-1*

By: \_\_\_\_\_  
Brent H. Ives, Mayor

\_\_\_\_\_  
Date

Attest:

By: \_\_\_\_\_  
Sandra Edwards, City Clerk

Approved As To Form:

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

cc: Mr. Ronald D. Jacobsma  
General Manager  
Friant Water Authority  
854 North Harvard Avenue  
Lindsay, CA 93247-1715

Mr. James Beck  
General Manager  
Kern County Water Agency  
P.O. Box 58  
Bakersfield, CA 93302-0058

Mr. Dan Nelson  
Executive Director  
San Luis Delta Mendota Water Authority  
P.O. Box 2157  
Los Banos, CA 93635

Mr. Jonathan Parker  
General Manager  
Kern Water Bank Authority  
1620 Mill Rock Way, Suite 500  
Bakersfield, CA 93311

Mr. William Boschman  
General Manager  
Semitropic Water Storage District  
P.O. Box 8043  
Wasco, CA 93280-0877

Ms. Gwen Knittweis  
Supervising Engineer  
Department of Water Resources  
State Water Project Analysis Office  
P.O. Box 942836  
Sacramento, CA 94236

RESOLUTION \_\_\_\_\_

AUTHORIZING AN AGREEMENT BETWEEN CITY OF TRACY AND US BUREAU OF RECLAMATION (USBR) FOR LONG-TERM WATER BANKING AT SEMITROPIC WATER STORAGE DISTRICT WATER BANKING PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, The USBR completed their environmental review in May 2011 and has prepared the subject Agreement for City Council consideration, and

WHEREAS, The Agreement defines roles, responsibilities and methods for placing water into storage and return of that water from storage, and has a term through 2035, and

WHEREAS, Water storage for dry years has been identified as a key component of water supply in the City's Urban Water Management Plan, and

WHEREAS, The City's participation in Semitropic WSD allows 3,500 acre-feet/year of water to be returned to Tracy for up to three years for a total storage capacity of 10,500 acre-feet, and

WHEREAS, Authorization of the USBR approval agreement completes the requirements contained in the City/Semitropic agreement;

NOW, THEREFORE, BE IT RESOLVED That the City Council hereby approves Approval Agreement No. 7858A-WB-2011-1 between the City and the US Bureau of Reclamation for Long-Term Central Valley Project Water Banking by the City of Tracy at Semitropic Water Storage District Bank and authorizes the Mayor to execute the agreement.

\*\*\*\*\*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 5<sup>th</sup> day of June, 2012, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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



RESOLUTION \_\_\_\_\_

AUTHORIZING THE CITY MANAGER TO EXECUTE  
AGREEMENTS WITH THE UNITED STATES BUREAU OF RECLAMATION  
FOR A VARIETY OF OPERATIONAL FUNCTIONS RELATED TO  
CENTRAL VALLEY PROJECT WATER

WHEREAS, The City has contracts with the United States Bureau of Reclamation for Central Valley Project water in the amount of 17,500 acre feet of water, and

WHEREAS, The Bureau has requested the City provide a resolution that authorizes the City Manager, or designee, to execute agreements for a variety of operational functions including purchase, transfer and sale of Bureau water, placing water into the Semitropic Water Bank and return to Tracy of the banked water;

NOW, THEREFORE, BE IT RESOLVED That the City Council of the City of Tracy hereby authorizes the City Manager, or designee, to execute agreements for a variety of operational functions including purchase, transfer and sale of Bureau water, placing water into the Semitropic Water Bank and return to Tracy of the banked water.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 5<sup>th</sup> day of June, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 1.D

REQUEST

**ACCEPTANCE OF THE LINCOLN PARK AND GAZEBO RENOVATION PROJECT - CIPs 78123 & 78126, COMPLETED BY GOODLAND LANDSCAPE CONSTRUCTION OF TRACY, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION**

EXECUTIVE SUMMARY

The contractor has completed construction of the Lincoln Park and Gazebo Renovation Project - CIPs 78123 & 78126, in accordance with project plans, specifications, and contract documents. Project costs are within the available budget. Staff recommends Council accept the project to enable the City to release the contractor's bonds and retention.

DISCUSSION

On January 4, 2011, City Council awarded construction contract for the Lincoln Park and Gazebo Renovation Project - CIPs 78123 & 78126, to Goodland Landscape Construction of Tracy, California, in the amount of \$1,014,758.49.

The scope of work for this project included renovation of this park in accordance with the Master Plan adopted by the Parks Commission on March 4, 2010. The improvements primarily included replacing the existing turf, new landscaping and irrigation system, construction of new walking paths, renovation of the existing bathroom with skylight and new doors, construction of an additional restroom, new gazebo and a water play feature

Five change orders were issued in the amount of \$72,684.56 for this project which consisted of replacing old exiting asbestos concrete water pipe, additional backflow preventers, irrigation valves, mow strip and other miscellaneous items.

Status of budget and project costs is as follows:

A. Construction Contract Amount	\$1,014,758.00
B. Change orders	\$ 72,684.56
C. Design, construction management, inspection, Testing, & miscellaneous expenses	\$ 289,787.86
D. Project Management Charges (Estimated)	\$ 189,725.88
Total Project Costs	\$1,566,956.30
Budgeted Amount	\$1,709,400.00

The project has been completed within the available budget, on schedule, per plans, specifications and City of Tracy standards.

STRATEGIC PLAN

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

FISCAL IMPACT

CIPs 78123 & 78126 are approved Capital Improvement Projects with sufficient funding and there will be no fiscal impact to the General Fund. All remaining funds will be transferred back into the General Projects Fund 301.

RECOMMENDATION

That City Council by resolution accept construction of the Lincoln Park and Gazebo Renovation Project - CIPs 78123 & 78126, completed by Goodland Landscape Construction of Tracy, California and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

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

RESOLUTION \_\_\_\_\_

ACCEPTING THE LINCOLN PARK AND GAZEBO RENOVATION PROJECT -  
CIPs 78123 & 78126, COMPLETED BY GOODLAND LANDSCAPE  
CONSTRUCTION OF TRACY, CALIFORNIA, AND AUTHORIZING THE CITY  
CLERK TO FILE THE NOTICE OF COMPLETION

WHEREAS, On January 4, 2011, City Council awarded construction contract for the Lincoln Park and Gazebo Renovation Project - CIPs 78123 & 78126, to Goodland Landscape Construction, and

WHEREAS, Five change orders were issued in the amount of \$72,684.56 for this project, and

WHEREAS, Status of budget and project costs is as follows:

A. Construction Contract Amount	\$1,014,758.00
B. Change orders	\$ 72,684.56
C. Design, construction management, inspection, Testing, & miscellaneous expenses	\$ 289,787.86
D. Project Management Charges (Estimated)	\$ 189,725.88
 Total Project Costs	 \$1,566,956.30
 Budgeted Amount	 \$1,709,400.00

WHEREAS, The project has been completed within the available budget, on schedule, per plans, specifications and City of Tracy standards, and

WHEREAS, CIPs 78123 & 78126 are approved Capital Improvement Projects with sufficient funding and there will be no fiscal impact to the General Fund;

NOW, THEREFORE, BE IT RESOLVED, that City Council accepts the Lincoln Park and Gazebo Renovation Project - CIPs 78123 & 78126, completed by Goodland Landscape Construction of Tracy, California and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

\* \* \* \* \*

The foregoing Resolution was adopted by the City Council on the 5<sup>th</sup> day of June, 2012, by the following vote:

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

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Mayor

ATTEST:

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City Clerk

June 5, 2012

AGENDA ITEM 1.E

REQUEST

**APPROVAL OF THE SAN JOAQUIN COUNCIL OF GOVERNMENTS (SJCOG)  
ANNUAL FINANCIAL PLAN FOR FISCAL YEAR (FY) 2012-2013**

EXECUTIVE SUMMARY

Ratification of SJCOG Annual Financial Plan.

DISCUSSION

The Joint Powers Agreement between member agencies and the SJCOG requires that the Annual Financial Plan be sent to member agencies for ratification by each governing body.

Attached is correspondence from SJCOG dated April 4, 2012, requesting the City ratify the Plan prior to June 30, 2012; SJCOG Resolution R-12-38 adopting the Plan, and a copy of the Annual Financial Plan summary.

STRATEGIC PLAN

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

FISCAL IMPACT

There will be no impact on the General Fund.

RECOMMENDATION

Staff recommends that the City Council, by resolution, ratify the SJCOG Annual Financial Plan for FY 2012-2013.

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

Attachment A: Correspondence from San Joaquin Council of Governments dated April 4, 2012



## SAN JOAQUIN COUNCIL OF GOVERNMENTS

555 E. Weber Avenue • Stockton, California 95202

209.235.0600 • 209.235.0438 (fax)

www.sjcog.org

Chuck Winn  
CHAIR

Ken Vogel  
VICE CHAIR

Andrew T. Chesley  
EXECUTIVE DIRECTOR

## Member Agencies

CITIES OF  
ESCALON,  
LATHROP,  
LODI,  
MANTECA,  
RIPON,  
STOCKTON,  
TRACY,  
AND  
THE COUNTY OF  
SAN JOAQUIN

April 4, 2012



Mr. Leon Churchill, Jr.  
City of Tracy  
333 Civic Center Plaza  
Tracy, CA 95376

Dear Mr. Churchill, Jr.

Enclosed is a summary of the San Joaquin Council of Governments' Annual Financial Plan (AFP) for Fiscal Year 2012-13. The Board adopted the Plan on March 22, 2012. A copy of the adopting resolution is enclosed. Pursuant to SJCOG's Joint Powers Agreement, following adoption of the budget by the SJCOG Board, it is to be delivered to member agencies for ratification by each governing body. Approval by governing bodies representing 55% or more of the county's population is considered ratification.

Therefore, SJCOG requests you place SJCOG's Annual Financial Plan for Fiscal Year 2012-13 on a forthcoming agenda prior to June 30, 2012 for approval.

The Annual Financial Plan implements the FY 2012-13 Overall Work Program (OWP) that was also adopted by the SJCOG Board on March 22, 2012.

The attached Annual Financial Plan (AFP) provides a detail of expenditures by cost category and line item comparing the proposed 2012/13 budgets with the current year (FY 2011/12) adopted budget as most recently amended and actual revenue and expenditures in FY 2010/11. The Annual Financial Plan represents the general fund budget for SJCOG. The revenues and expenditures in the AFP are the same as the Overall Work Program (OWP) presented in a traditional line item format vis-à-vis the work element format of the OWP.

### REVENUES

Compared to the current year amended AFP, SJCOG general fund operating revenues are increased by approximately \$208,226. Overall, federal funding for operating is 24.3% higher than FY 2011/12. State funding sources are down 57% due to the near completion or completion of several grant funded planning projects. Local revenues are 6.5% higher reflecting the increase in sales tax-related funds. Of a positive note, sales tax-based funding continues to rebound. This is equally good news for SJCOG

member agencies and Local Transportation Fund claimants that will be receiving more Measure K local street repair funds and transit funding.

### **EXPENDITURES**

**Salaries and Benefits** are proposed to remain virtually flat, declining less than 1% when compared to FY 11/12 levels, as certain salaries are adjusted for anticipated work levels. The salary-driven benefits adjust accordingly.

**Services and Supplies** is proposed is \$60,867 higher than FY 11/12 reflecting an increase in Building Maintenance and an increase in Building Debt Service due to higher interest rates.

**Professional Services** is increasing 6% reflecting the level of anticipated consulting work in the OWP.

**Fixed Assets** remains the same as the current fiscal year.

### **FY 2012-13 Work Program**

SJCOG continues to support our city and county members delivering on our Metropolitan Planning Organization responsibilities including preparing the Regional Transportation Plan and the Federal Transportation Improvement Plan, the biannual Congestion Management Plan update, developing Transportation Systems/Demand Management and safety strategies, transit coordination and monitoring and actively participating in the transportation reauthorization debate.

As the Regional Transportation Planning Agency, SJCOG continues to administer the Transportation Development Act process. We will be updating the State Transportation Improvement Plan coordinating closely with Caltrans and the California Transportation Commission, complete the Congestion Management Plan Update, complete, with Bay Area agencies, the Interregional Transportation Plan (ITP) Study, and complete, with Sacramento and Solano Counties, the Highway 12 Corridor Major Investment Study.

SJCOG is active in Intergovernmental Coordination including working closely with the other Valley Counties on transportation and air quality modeling, preparation of a goods movement action plan, leadership in the Northern California Trade Corridor Coalition and Blueprint planning.

As the Local Transportation Authority, SJCOG will continue to deliver Measure K and Measure K Renewal projects. Nearly \$500 million of Proposition 1B bond funds have been programmed in San Joaquin County requiring not only Measure K and Measure K Renewal local tax dollars to fully fund the projects, but also project development, design, right of way support, and construction management assistance. SJCOG will deliver to construction (with Caltrans and partner agencies) major Highway 99 Capacity Improvements, Highway 12 Operational



Improvements and I-205 Operational Improvements. The Regional Transportation Impact Fee update will be completed in FY 2011-12.

In addition, SJCOG will be updating the Strategic Plan, implementing the Safe Route to School Program and Bike and Pedestrian Program Guidelines and administering the SMART Growth Incentive Program.

SJCOG will continue to sponsor Commute Connection to San Joaquin, Stanislaus and Merced Counties. Commute Connection also continues development of the 511 traveler information system, managing park and ride lot implementation and bike and pedestrian programs. Freeway Service Patrol vehicles will continue on I-205 and SJCOG will begin the process to have FSP on other highway facilities as necessary.

As the JPA responsible for the implementation of the San Joaquin County Multispecies Habitat Conservation Plan, SJCOG, Inc. will be active in conservation easement acquisition, preserve management and coordinating with the state on the development of the Bay-Delta Conservation Plan.

SJCOG staff would be pleased to appear before your policymakers to answer any questions they might have regarding this matter. **We request ratification prior to June 30, 2012.** Please let me know when this will be on your agenda. If you have any questions regarding this matter, don't hesitate to contact me at 235-0600.

Thank you for your assistance.

Sincerely,



STEVE DIAL  
Deputy Executive Director/Chief Financial Officer



RESOLUTION  
SAN JOAQUIN COUNCIL OF GOVERNMENTS

R-12-38

RESOLUTION APPROVING THE ADOPTION OF THE 2012-2013  
ANNUAL FINANCIAL PLAN  
FOR THE SAN JOAQUIN COUNCIL OF GOVERNMENTS

WHEREAS, the San Joaquin Council of Governments is required by the Joint Powers Agreement to adopt a budget (Annual Financial Plan) annually, and

WHEREAS, the adopted budget is to be sent to the member agencies for ratification.


NOW THEREFORE BE IT RESOLVED, that the San Joaquin Council of Governments adopts the FY 2012-2013 Annual Financial Plan and directs the Executive Director to transmit it to the member agencies for ratification.

PASSED AND ADOPTED this 22nd day of March 2012 by the following vote of the San Joaquin Council of Governments, to wit:

AYES: Councilman  
DeBrum, City of Manteca; Councilman Fritchen, Stockton;  
Councilman Hansen, City of Lodi; Mayor Ives, City of  
Tracy; Mayor Johnston, City of Stockton; Vice Mayor  
Mateo, City of Lathrop; Vice Mayor Miller, City of  
Stockton; Supervisor Villapudua, San Joaquin County;  
Councilman Winn, City of Ripon.

NOES: Supervisor Bestoarides, San Joaquin County.

ABSENT: Councilman Laugero, City of Escalon; Supervisor Vogel,  
San Joaquin County.

  
\_\_\_\_\_  
CHUCK WINN  
Chair

## STAFF REPORT

- SUBJECT:** Fiscal Year 2012/2013 Overall Work Program & Annual Financial Plan
- RECOMMENDED ACTION:** Motion to Approve R-12-37 Adopting the Fiscal Year 2012-2013 Overall Work Program & R-12-38 Adopting the Annual Financial Plan and Direct the Executive Director to Send the Annual Financial Plan to SJCOG Member Agencies for Ratification per the Joint Powers Agreement

### DISCUSSION:

#### FY 2012/13 OVERALL WORK PROGRAM

In January, the SJCOG Board adopted in draft the Fiscal Year 2012-2013 Overall Work Program (OWP). An overview of the draft OWP was taken through committees and the OWP was posted on the SJCOG website for review. The draft OWP was also reviewed by the Federal Highway Administration (FHWA), Federal Transit Administration (FTA) and Caltrans. Written comments were reviewed and discussed with these agencies at a meeting on February 28, 2012. The final document before you incorporates comments received from Caltrans and the Federal agencies. These comments were primarily administrative in nature.

#### Revenue

Net SJCOG revenues are the same as in the draft adopted by the Board in January. Revenues will increase by approximately \$208,226 from the currently adopted FY 2011/12 OWP amendment #1 from \$7,429,687 to \$7,637,913 or 2.80%. Two minor differences from the draft are an increase in resources for the 2014 Regional Transportation Plan update to fund significantly higher level modeling efforts and, in work element 1101.01, performance goals have been broken out by county of service (San Joaquin, Stanislaus and Merced).

#### FY 2012-13 ANNUAL FINANCIAL PLAN

The attached Annual Financial Plan (AFP) Board Summary provides a detail of expenditures by cost category and line item comparing the proposed 2012/13 budgets with the current year (FY 2011/12) adopted budget as most recently amended and actual revenue and expenditures in FY 2010/11. The Annual Financial Plan represents the general fund budget for SJCOG. The revenues and expenditures in the AFP are the same as the Overall Work Program (OWP) presented

in a traditional line item format vis-à-vis the work element format of the OWP. Upon adoption by the Board, pursuant to the SJCOG Joint Powers Agreement, the AFP will be sent to the member agencies for ratification. Ratification is achieved when a majority of the member agencies representing 55% of the county population approve the AFP.

The attached summary includes the general fund revenues and expenditures and also identifies other funds over which SJCOG has fiduciary responsibility by either actually receiving and allocating, passing through or programming through such documents as the State and Federal Transportation Improvement Programs. The summary also shows the 2011 Series of Commercial Paper revenues.

The following assumptions are incorporated in the budget:

1. Work will not begin and expenses will not be incurred unless anticipated revenue sources are secured.
2. SJCOG anticipates holding three staff positions vacant for the entire fiscal year. Salary and salary driven benefits are reduced by those three positions and moved into the pay for performance (merit) pool.

## **REVENUES**

Compared to the current year amended AFP. SJCOG general fund operating revenues are increased by approximately \$208,226. Overall, federal funding for operating is 24.3% higher than FY 2011/12. State funding sources are down 57% due to the near completion or completion of several grant funded planning projects. Local revenues are 6.5% higher reflecting the increase in sales tax-related funds. Of a positive note, sales tax-based funding continues to rebound. This is equally good news for SJCOG member agencies and Local Transportation Fund claimants that will be receiving more Measure K local street repair funds and transit funding.

## **EXPENDITURES**

**Salaries and Benefits** are proposed to remain virtually flat, declining less than 1% when compared to FY 11/12 levels, as certain salaries are adjusted for anticipated work levels. The salary-driven benefits adjust accordingly.

**Services and Supplies** is proposed is \$60,867 higher than FY 11/12 reflecting an increase in Building Maintenance, primarily the contract for custodial services and an increase in Building Debt Service due to higher interest rates.

**Professional Services** is increasing 6% reflecting the level of anticipated consulting work in the OWP.

**Fixed Assets** remains the same as the current fiscal year.

**RECOMMENDATION:**

That the Board approve R-12-37 adopting the FY 2012/13 Overall Work Program and R-12-38 adopting the Annual Financial Plan and direct the Executive Director to Send the Annual Financial Plan to SJCOG member agencies per the Joint Powers Agreement.

*Staff Report Prepared By: Steve Dial*

*M:\STAFFRPT\2012\March\Board\2012-13 OWP & AFP.doc*

**San Joaquin Council of Governments**  
**ANNUAL FINANCIAL PLAN**  
**Fiscal Year 2012/13**  
**Proposed March 22, 2012**

REVENUES	FY 2010-11 Actual	FY 2011-12 Amend. #1 12/15/11	FY 2012-13 Proposed 3/22/12	+/- Change
Federal Grants	\$ 2,230,731	\$ 2,743,270	\$ 3,410,743	\$ 667,473
State Grants	\$ 924,899	\$ 1,540,235	\$ 877,890	\$ (662,345)
Local	\$ 2,849,544	\$ 3,126,182	\$ 3,329,280	\$ 203,098
Interest	\$ 5,400	\$ 5,000	\$ 5,000	\$ -
Other	\$ 1,843	\$ 15,000	\$ 15,000	\$ -
<b>SJCOG OPERATING REVENUE</b>	<b>\$ 6,012,417</b>	<b>\$ 7,429,687</b>	<b>\$ 7,637,913</b>	<b>\$ 208,226</b>
Federal Pass-Through	\$ 189,646,000	\$ 119,553,000	\$ 120,000,000	\$ 447,000
State Pass-Through	\$ 4,587,275	\$ 1,500,000	\$ 4,661,369	\$ 3,161,369
Local Pass-Through	\$ 54,900,000	\$ 56,272,500	\$ 59,142,981	\$ 2,870,481
Commercial Paper	\$ 167,000,000	\$ 75,000,000	\$ 75,000,000	\$ -
<b>TOTAL SJCOG REVENUE</b>	<b>\$ 422,145,692</b>	<b>\$ 259,755,187</b>	<b>\$ 266,442,263</b>	<b>\$ 6,687,076</b>
<b>EXPENDITURES</b>				
Salaries & Benefits	\$ 3,478,495	\$ 3,636,010	\$ 3,631,164	\$ (4,846)
Services & Supplies	\$ 803,931	\$ 1,108,500	\$ 1,169,367	\$ 60,867
Office Expense	\$ 177,609	\$ 256,000	\$ 255,800	\$ (200)
Communications	\$ 65,845	\$ 60,000	\$ 60,000	\$ -
Memberships	\$ 30,254	\$ 42,000	\$ 42,000	\$ -
Maintenance - Equipment	\$ 2,323	\$ 13,000	\$ 13,000	\$ -
Rents & Leases - Equipment	\$ 128,805	\$ 210,000	\$ 210,000	\$ -
Transportation, Travel & Training (In & Out of State)	\$ 91,482	\$ 110,000	\$ 110,000	\$ -
Allocated Service Cost	\$ 1,476	\$ 4,000	\$ 4,000	\$ -
Publications & Legal Notices	\$ 7,291	\$ 27,000	\$ 27,000	\$ -
Insurance	\$ 83,460	\$ 85,000	\$ 85,000	\$ -
Building Maintenance	\$ 129,481	\$ 60,000	\$ 107,700	\$ 47,700
Building Debt Service	\$ 85,905	\$ 241,500	\$ 254,867	\$ 13,367
Professional Services	\$ 1,434,047	\$ 2,544,677	\$ 2,696,882	\$ 152,205
Fixed Assets	\$ 110,957	\$ 140,500	\$ 140,500	\$ -
Unallocated/Reserve	\$ -	\$ -	\$ -	\$ 0
<b>SJCOG OPERATING EXPENDITURES</b>	<b>\$ 5,827,430</b>	<b>\$ 7,429,687</b>	<b>\$ 7,637,913</b>	<b>\$ 208,226</b>
Excess (Deficit) Revenues Over Expenditures (Operating)	\$ 184,987	\$ 0	\$ 0	\$ 0



**San Joaquin Council of Governments  
ANNUAL FINANCIAL PLAN  
Fiscal Year 2012/13**

Proposed March 22, 2012

**CHAIR**

Councilmember Chuck Winn, City of Ripon

**VICE-CHAIR**

Supervisor Ken Vogel, County of San Joaquin

**BOARD OF DIRECTORS**

Councilmember Jeff Laugero  
Vice Mayor Christopher Mateo  
Councilmember Larry Hansen  
Councilmember Steve DeBrum  
Supervisor Carlos Villapudua  
Supervisor Steve Bestolarides  
Mayor Ann Johnston  
Vice Mayor Kathy Miller  
Councilmember Dale Fritchen  
Mayor Brent Ives

City of Escalon  
City of Lathrop  
City of Lodi  
City of Manteca  
County of San Joaquin  
County of San Joaquin  
City of Stockton  
City of Stockton  
City of Stockton  
City of Tracy

**EX OFFICIO DIRECTORS**

Carrie Bowen, District Director  
Gary Giovanetti, Director  
Victor Mow, Commissioner

Caltrans District 10  
San Joaquin Regional  
Transit District  
Port of Stockton

**SUBMITTED BY:**

Andrew T. Chesley  
Executive Director

Steve Dial  
Deputy Executive Director/  
Chief Financial Officer

RESOLUTION \_\_\_\_\_

APPROVING THE SAN JOAQUIN COUNCIL OF GOVERNMENTS  
ANNUAL FINANCIAL PLAN FOR FISCAL YEAR (FY) 2012-2013

WHEREAS, The Joint Powers Agreement between the San Joaquin Council of Governments and its member agencies requires the Annual Financial Plan to be ratified by the governing body of each member agency, and

WHEREAS, The Tracy City Council considered the Annual Financial Plan at its meeting of June 5, 2012.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS: That the City Council hereby approves the San Joaquin Council of Governments Annual Financial Plan for FY 2012-2013.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 5<sup>th</sup> day June 2012, by the following vote:

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

\_\_\_\_\_  
Mayor

ATTEST:

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



AGENDA ITEM 1.F

REQUEST

**APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH KLEINFELDER INC., OF STOCKTON CALIFORNIA, TO PROVIDE MATERIALS TESTING AND GEOTECHNICAL SERVICES FOR FISCAL YEARS 2012-2014 WITH THE OPTION TO AMEND THE AGREEMENT TO EXTEND TESTING SERVICES FOR AN ADDITIONAL TWO YEARS 2014-2016, AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT AND AUTHORIZED THE CITY MANAGER TO EXECUTE AN EXTENSION IF NEEDED**

EXECUTIVE SUMMARY

Due to the specialized nature of the work, the City uses the services of consultants to provide materials testing services for new developments and Capital Improvement Projects. Because the existing Professional Services Agreement with the current consultant is expiring, a new agreement needs to be entered into to continue materials testing services.

DISCUSSION

The Development and Engineering Services Department requires the services of a materials testing consultant for Development and Capital Improvement Projects. These tests are necessary to ensure that construction is performed in accordance with City standards and specifications. Since the City does not have the staff, equipment and a laboratory to perform the testing in-house, services of outside consultants are acquired on an as needed basis.

A Request for Proposals was posted on the City's website and eight firms submitted proposals as follows:

Construction Testing Services, Inc., Pleasanton  
Stevens Ferrone & Bailey Engineering Company, Inc., Concord  
Apex Testing Laboratories, Inc., San Francisco  
Wallace Kuhl Associates, Sacramento  
Kleinfelder Inc., Stockton  
Signet Testing Labs, Inc., Hayward  
Consolidated Engineering Laboratories, San Ramon  
Matriscope Engineering Laboratories Inc., Sacramento

The proposals were reviewed by staff on the qualification based selection process. After short listing the top three consultants, the proposal from Kleinfelder Inc., was found to be the most qualified.

The proposed service rates from Kleinfelder Inc., for the types of tests routinely performed on City projects are reasonable and lowest compared to other proposals.

The total cost of the services will be based on the number of tests required by the City on various projects and developments.

Kleinfelder Inc. is a large company specializing in materials testing and geotechnical services and has sufficient resources to meet the City's needs. This firm has been providing materials testing services to the City of Tracy in a satisfactory manner since June 2004. Staff recommends Council approve the Professional Services Agreement with Kleinfelder Inc., to provide materials testing and geotechnical services for the City's Capital Improvement Projects and Development projects. The cost for these services is estimated not to exceed \$220,000 per year.

Staff is recommending approval of the Professional Services Agreement for two years (fiscal year 2012-2014). It is further recommended that, at the option of the City Manager, the agreement may be extended for an additional two years if agreed by both parties and the firm has performed the work to the City's satisfaction. This will eliminate the request for proposal process and expedite the process.

#### FISCAL IMPACT

There is no fiscal impact to the General Fund. The cost of materials testing is recovered as follows:

1. Private Development: The actual cost plus an administrative fee is billed to each project or deducted from the developer's inspection fee deposit.
2. Capital Improvement Projects: The actual cost is charged to the specific project.

#### STRATEGIC PLAN

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

#### RECOMMENDATION

That City Council, by resolution, approve a Professional Services Agreement with Kleinfelder Inc. not to exceed \$220,000 per year for materials testing services for fiscal years 2012-2014 with an option to extend for an additional two years 2014-2016 provided that such extension is agreed to by both parties and the firm has satisfactorily performed all obligations under the Agreement, and authorize the Mayor to execute the Agreement and authorize the City Manager to execute an extension if needed.

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

RESOLUTION \_\_\_\_\_

APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH KLEINFELDER INC., OF STOCKTON CALIFORNIA, TO PROVIDE MATERIALS TESTING AND GEOTECHNICAL SERVICES FOR FISCAL YEARS 2012-2014 WITH THE OPTION TO AMEND THE AGREEMENT TO EXTEND TESTING SERVICES FOR AN ADDITIONAL TWO YEARS 2014-2016, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN EXTENSION IF NEEDED

WHEREAS, The Development and Engineering Services Department requires the services of a materials testing consultant for Development and Capital Improvement Projects, and

WHEREAS, Since the City does not have the staff, equipment and a laboratory to perform the testing in-house, services of outside consultants are acquired on an as needed basis, and

WHEREAS, A Request for Proposals was posted on the City's website and eight firms submitted proposals, and

WHEREAS, After short listing the top three consultants, the proposal from Kleinfelder Inc., was found to be the most qualified, and

WHEREAS, The cost for these services is estimated not to exceed \$220,000 per year, and

WHEREAS, There is no fiscal impact to the General Fund;

NOW, THEREFORE, BE IT RESOLVED, that City Council approves a Professional Services Agreement with Kleinfelder Inc. not to exceed \$220,000 per year for materials testing services for fiscal years 2012-2014 with an option to extend for an additional two years 2014-2016 provided that such extension is agreed to by both parties and the firm has satisfactorily performed all obligations under the Agreement, and authorizes the Mayor to execute the Agreement and authorizes the City Manager to execute an extension if needed.

\* \* \* \* \*

The foregoing Resolution was adopted by the City Council on the 5<sup>th</sup> day of June, 2012, by the following vote:

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

---

Mayor

ATTEST:

---

City Clerk

AGENDA ITEM 1.G

REQUEST

**ACCEPTANCE OF THE POLICE FIREARMS PRACTICE RANGE IMPROVEMENTS – CIP 71072 , COMPLETED BY ROBERT BURNS CONSTRUCTION OF STOCKTON, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION**

EXECUTIVE SUMMARY

The contractor has completed construction of the Police Firearms Practice Range Improvements Project in accordance with project plans, specifications, and contract documents. Project costs are within the available budget. Staff recommends Council accept the project to enable the City to release the contractor's bonds and retention.

DISCUSSION

Public Contract Code Section 22032 & 22036 allows the public agency to procure informal bids for projects with an anticipated cost less than \$45,000. The project was advertised for informal bids on the City of Tracy website and builder's exchanges on March 14, 2012, and nine bids were received on March 28, 2012.

On April 18, 2012, the City Manager, in accordance with TMC 2.20.260 executed the agreement with the lowest monetary bidder, Robert Burns Construction of Stockton, California, in the amount of \$42,717 for the Police Firearms Practice Range Improvements Project – CIP 71072.

The scope of work for this project included construction of all-weather access roads to the main entrance and auxiliary range at the Police Firearms Practice Facility.

The project plans and specifications were prepared in-house by engineering staff.

No change orders were issued. Status of budget and project costs is as follows:

A. Construction Contract Amount	\$42,717
Total Project Costs	\$42,717
Budgeted Amount	\$43,000

The project has been completed within the available budget, on schedule, per plans, specifications, and City of Tracy standards.

STRATEGIC PLAN

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

FISCAL IMPACT

CIP 71072 is an approved Capital Improvement Project with sufficient funding and there will be no fiscal impact to the General Fund.

RECOMMENDATION

That City Council, by resolution, accept the Police Firearms Practice Range Improvements Project - CIP 71072, completed by Robert Burns Construction of Stockton, California, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

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

RESOLUTION \_\_\_\_\_

ACCEPTING THE POLICE FIREARMS PRACTICE RANGE IMPROVEMENTS –  
CIP 71072 , COMPLETED BY ROBERT BURNS CONSTRUCTION OF  
STOCKTON, CALIFORNIA, AND AUTHORIZING THE CITY CLERK TO FILE THE  
NOTICE OF COMPLETION

WHEREAS, The project was advertised for informal bids on the City of Tracy website and builder's exchanges on March 14, 2012, and nine bids were received on March 28, 2012, and

WHEREAS, On April 18, 2012, the City Manager, in accordance with TMC 2.20.260 executed the agreement with the lowest monetary bidder, Robert Burns Construction of Stockton, California, in the amount of \$42,717, and

WHEREAS, The scope of work for this project included construction of all-weather access roads to the main entrance and auxiliary range at the Police Firearms Practice Facility, and

WHEREAS, Status of budget and project costs is as follows:

Construction Contract Amount	\$42,717
Total Project Costs	\$42,717
Budgeted Amount	\$43,000

WHEREAS, The project has been completed within the available budget, on schedule, per plans, specifications, and City of Tracy standards, and

WHEREAS, CIP 71072 is an approved Capital Improvement Project with sufficient funding and there will be no fiscal impact to the General Fund.

NOW, THEREFORE, BE IT RESOLVED, that City Council accepts the Police Firearms Practice Range Improvements Project - CIP 71072, completed by Robert Burns Construction of Stockton, California, and authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

\* \* \* \* \*

The foregoing Resolution was adopted by the City Council on the 5<sup>th</sup> day of June, 2012, by the following vote:

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

---

Mayor

ATTEST:

---

City Clerk



June 5, 2012

AGENDA ITEM 1.H

REQUEST

**ADOPT A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF TRACY AND PACIFIC GAS & ELECTRIC COMPANY TO COLLABORATE ON IMPLEMENTING SUSTAINABILITY EFFORTS IN THE CITY OF TRACY TO HELP FACILITATE NEW DEVELOPMENT AND TO MEET STATE REQUIREMENTS AND AUTHORIZE THE CITY MANAGER TO SIGN THE AGREEMENT**

EXECUTIVE SUMMARY

This agenda item is an agreement between the City of Tracy and Pacific Gas and Electric Company (PG&E) to collaborate on implementing the City's Sustainability Action Plan and related sustainability efforts in Tracy in order to facilitate new development and to meet State requirements.

BACKGROUND

In 2008, the City Council directed staff to develop a citywide sustainability strategy to address city growth in compliance with State laws and regulations relating to climate change. The Sustainability Action Plan was subsequently developed and adopted by City Council on February 1, 2011. When City staff was developing this Plan, Pacific Gas and Electric Company's (PG&E's) Community Energy Manager provided valuable input, and many energy-efficiency measures in the Plan depend on collaboration with PG&E.

In 2010, PG&E formed the Sustainable Communities Department and designated a Community Energy Manager to work with cities. The Community Energy Manager is responsible for working with City staff in furthering local sustainability efforts and striving to achieve local and PG&E energy-efficiency goals as well as State requirements.

DISCUSSION

On September 30, 2010, City staff and PG&E met and agreed to collaborate toward the goal of implementing the City's sustainability efforts. Since then, PG&E's Community Energy Manager has worked with City staff on several City projects, including Earth Day events, the PG&E Green Step Summit, supporting implementation of the Sustainability Action Plan, and most recently, Tracy's participation in the CoolCalifornia Challenge. The CoolCalifornia Challenge is a statewide competition managed by various state agencies to build more vibrant and sustainable communities and encourage residents to save energy. PG&E is offering in-kind services, energy data, public outreach expertise, informational handouts, prize giveaways, and funding that are critical to the success of Tracy's participation in the CoolCalifornia Challenge.

In 2009, the City adopted a sponsorship policy that includes a For-Profit-Business Sponsorship Policy (Council Resolution 2009-020). The Policy contemplates a written agreement between the City and the sponsoring entity to reflect the kinds of sponsorship

activities (including donated product, in-kind services, and money to offset operating costs).

City and PG&E staffs have been working together over the last year and a half, but a formal agreement was never signed. In order for PG&E to sponsor City projects and have their corporate logo appear on City print and web material, a formal written agreement between the City and PG&E must be approved by the City Council.

The Agreement proposes to formalize the working relationship between City staff and PG&E. The range of the Agreement is written broadly to include various sustainability-related efforts, including the CoolCalifornia Challenge project. This Agreement will allow PG&E to continue to offer and provide in-kind services, energy data, energy and public outreach expertise, products, and funding toward City sustainability projects and programs. In return, the City will publish PG&E-provided information and corporate logo on print, web, and media material as appropriate. The Agreement is proposed to be ongoing with the ability to be amended and/or terminated by request and signature of PG&E and the City Manager. The proposed Agreement meets the requirements of the For-Profit-Business Sponsorship Policy, a copy of which is attached as Attachment B.

The City values partnerships with other agencies and city staff is confident that continued collaboration with PG&E on current and future sustainability projects and programs will help the City facilitate new development to meet State requirements.

#### FISCAL IMPACT

This agenda item does not propose expenditure of general funds other than staff time. All implementation efforts will be provided through staff time, grant funding, donated funds from PG&E on a project-by-project basis at the discretion of PG&E.

#### STRATEGIC PRIORITY

This item directly implements the City's Livability Strategic Plan, Goal 3: A City Balanced with Sustainability. It also relates to the Economic Development Strategy to help facilitate new business development.

#### RECOMMENDATION

Staff recommends that City Council adopt the resolution approving an agreement between the City and PG&E to collaborate on implementing sustainability efforts in the City of Tracy to help facilitate new development and to meet State requirements and authorize the City Manager to sign the Agreement.

#### ATTACHMENTS

Attachment A – Resolution with Proposed Agreement, attached as Exhibit "A."  
Attachment B – For-Profit-Business Sponsorship Policy and adopting Resolution

Agenda Item 1.H  
June 5, 2012  
Page 3

Reviewed by: Bill Dean, Assistant Development Services Director

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

RESOLUTION \_\_\_\_\_

APPROVING AN AGREEMENT BETWEEN THE CITY OF TRACY AND PACIFIC GAS & ELECTRIC COMPANY TO COLLABORATE ON IMPLEMENTING SUSTAINABILITY EFFORTS IN THE CITY OF TRACY

WHEREAS, On February 3, 2009, the City Council adopted sponsorship policies to regulate the process by which the City receives sponsorships and requires a written agreement between the City and sponsoring agencies approved by the City Council, and

WHEREAS, Since September 30, 2010, the City and Pacific Gas and Electric Company (PG&E) have been collaborating to implement sustainability efforts in the City of Tracy, and

WHEREAS, City and PG&E staff have been working collaboratively since 2010 on various sustainability-related projects and programs in the City of Tracy through donations of staff time, resources, energy data, and energy expertise from PG&E, and

WHEREAS, In order for the City to credit PG&E on print, web, and media marketing material, a written agreement should be signed by the City and PG&E and such agreement shall be approved by the City Council.

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves an agreement between the City of Tracy and PG&E to collaborate on implementing sustainability efforts in the City of Tracy (Exhibit "A").

\*\*\*\*\*

The foregoing Resolution \_\_\_\_\_ was adopted by the City Council on the 5<sup>th</sup> day of June, 2012, by the following vote:

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

\_\_\_\_\_  
Mayor

ATTEST:

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

**CITY OF TRACY  
SPONSORSHIP AGREEMENT**

This Sponsorship ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and Pacific Gas and Electric Company ("PG&E" or "Sponsor").

**RECITALS**

In 2011, the City Council adopted the City's Sustainability Action Plan, a plan to address city growth in compliance with State laws and regulations relating to climate change.

When City Staff was developing the Plan, PG&E's Community Energy Manager provided valuable input. Many proposed energy-efficiency measures in the Plan contemplate collaboration with PG&E.

The City Council has also adopted a Sponsorship Policy (Council Resolution no. 2009-020). The Policy provides for sponsorship for community projects and programs. It includes a For-Profit-Business Sponsorship Policy, for program and event sponsorships to provide an opportunity for the business community to support the efforts of the City while providing broad-based marketing opportunities. Sponsorships could include donated products, in-kind services, money to off-set City operating costs, and employee volunteers.

PG&E has been working with the City to develop and implement the Sustainability Action Plan and has and will provide in-kind services, public outreach expertise, informational handouts, prize give-aways, and funding to the City in support of City sustainability programs. In particular, PG&E and the City are working together on the CoolCalifornia Challenge, a program to encourage residents to lower their energy consumption.

For PG&E to co-sponsor City projects and have the PG&E logo appear on City print, media and web material, this agreement is necessary.

NOW, THEREFORE, The parties mutually agree as follows:

1. The parties acknowledge the benefit of cooperation in implementing energy-efficiency education and measures under the City's Sustainability Action Plan.
2. PG&E has provided, and will provide at its sole discretion, some or all of the following: in-kind services, , public outreach expertise, informational handouts, prize give-aways, and funding, as it becomes available, to the City that are critical to the success of City sustainability programs.
3. The City agrees that PG&E's sponsorship and identification, including the PG&E logo, may be placed on the City's print and web materials, when approved by City staff and PG&E.
4. The term of this Agreement is five years, to automatically be renewed annually unless terminated by one of the parties. Either party may terminate this Agreement, by giving 30 days' written notice to the other party.


5. This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed for this project. This Agreement supersedes all prior negotiations, representations, or agreements.

6. Signatures.

City of Tracy

Sponsor

\_\_\_\_\_  
By: R. Leon Churchill, Jr.  
Title: City Manager  
Date: \_\_\_\_\_

  
\_\_\_\_\_  
By: J. M. W.  
Title: Supervisor  
Date: 5/24/2017  
Fed. Employer ID No. \_\_\_\_\_  
\_\_\_\_\_

Attest:

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

Approved As To Form:

\_\_\_\_\_  
By: Daniel Sodergren  
Title: City Attorney  
Date: \_\_\_\_\_

RESOLUTION 2009-020

ADOPT SPONSORSHIP AND COMMERCIAL ADVERTISING POLICIES TO ASSIST IN GENERATING REVENUE FOR THE CITY OF TRACY

WHEREAS, The City provides services and programs to citizens who are not always able to pay a full cost recovering fee for the service or activity; and

WHEREAS, Sponsorships for community projects, programs and facilities have become much more commonplace in the recreation and government arena; and

WHEREAS, The City has a wide variety of programs and existing facilities as well as projected programs and facilities that may be ideal candidates for alternate fund development; and

WHEREAS, The City is in the process of completing professional master plans for future City of Tracy facilities.

NOW, THEREFORE BE IT RESOLVED, That the City Council hereby adopts the following policies:

1. For-Profit-Business Sponsorship Policy, attached hereto as Exhibit "A";
2. For-Profit-Business Naming Rights Policy, attached hereto as Exhibit "B";
3. Presentation Sponsorships Policy, attached hereto as Exhibit "C"; and
4. Commercial Advertising Sales Policy, attached hereto as Exhibit "D".

\*\*\*\*\*

The foregoing Resolution 2009-020 was adopted by the Tracy City Council on the 3rd day of February, 2009, by the following vote:

AYES: COUNCIL MEMBERS: ABERCROMBIE, MACIEL, TUCKER,

NOES: COUNCIL MEMBERS: TOLBERT

ABSENT: COUNCIL MEMBERS: IVES

ABSTAIN: COUNCIL MEMBERS: NONE



**EXHIBIT "A"****FOR-PROFIT-BUSINESS SPONSORSHIP POLICY**

1. Program and Event sponsorships provide an opportunity for the for-profit-business community to support the efforts of the City while providing broad-based marketing opportunities for both the City and the sponsor, along with the potential to grow the sponsor's business.
2. Sponsorships shall range from donated product to in-kind services, to money to offset operating costs.
3. Sponsors shall be provided an opportunity for employees to volunteer at an event or program as appropriate.
4. Sponsors shall be recognized as businesses that support the wants and needs of the community and that are investing in Tracy.
5. Sponsorship levels vary from event to event and program type depending on the kinds of exposure a sponsor will receive for its sponsorship.
6. The sponsorship dollar amount varies, determined by the total expense of the event or program and availability of suitable sponsors.
7. Staff shall identify what sponsors can realistically offer and, with Council approval, how the acknowledgement of the sponsors will be allocated based on level of involvement. The benefits to sponsors are both tangible (e.g. media, brochure, signage, tickets, marketing materials, display tables) and intangible (e.g. prestige of opportunity, targeted demographics, recognition, exclusivity).
8. Staff shall make recommendations to Council as to the appropriateness of a sponsor for the program and whether the sponsor would add value.
9. Formal written agreements shall be required between the sponsor and the City, shall be authorized at the sole discretion of the City Council and be signed by the City and the sponsor outlining the terms of the sponsorship. City Council, at its sole discretion, shall determine whether the proposed sponsor is clearly inconsistent with the City's goals with respect to the sponsored facility or activity, or would otherwise interfere with the primary purpose of the subject facility or program, and may choose not to enter into a contract for that facility or program with that particular prospective sponsor.



AGENDA ITEM 1.I

REQUEST

**ACCEPTANCE OF THE TRAFFIC SIGNAL COORDINATION – GRANT LINE ROAD (CCTV INSTALLATION) PROJECT – CIP 72076 (FEDERAL PROJECT NO. CML 5192-031), COMPLETED BY W. BRADLEY ELECTRIC, INC., OF NOVATO, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION**

EXECUTIVE SUMMARY

The contractor has completed installation of Closed Circuit Television (CCTV) cameras at six intersections along Grant Line Road between the western city limits and Mac Arthur Drive – CIP 72076 (Federal Project No. CML 5192 (031), in accordance with plans, specifications and contract documents. Project costs are within the available budget. Staff recommends City Council accept the project to enable the City to release the contractor’s bonds and retention.

DISCUSSION

On November 15, 2011, City Council awarded a contract to W. Bradley Electric of Novato, California, for the Traffic Signal Coordination – Grant Line Road – (CCTV Installation) Project - CIP 72076, in the amount of \$116,500.

The scope of work involved installation of six closed circuit television (CCTV) cameras at six signalized intersections (Walmart entrance, Joe Pombo Parkway, Corral Hollow Road, Tracy Boulevard, Holly Drive and Mac Arthur Drive) on Grant Line Road from the western city limits to Mac Arthur Drive. The project received Congestion Management and Air Quality (CMAQ) federal grant funding for \$120,000. The remaining funding was allocated from the Gas Tax Fund.

Installation of these cameras will enable staff to monitor and review traffic conditions at these intersection from the City’s Traffic Control Center located in the Support Services Building; thus enabling staff to change and adjust the signal timing at these intersections to enhance traffic circulation on Grant Line Road and other intersecting streets.

There were no change orders issued for this project. Status of budget and project costs is as follows:

A. Construction Contract Amount	\$116,500
B. Change Orders	\$ 0
C. Design	\$ 18,000
D. Construction management, inspection, Testing & miscellaneous expenses (Estimated)	\$ 10,000
E. Estimated Citywide Project Management Charges	\$ 15,000
F. Total Project Construction Costs	\$159,500

G. Budgeted Amount

\$164,000

The project has been completed, on schedule, per plans, specifications, and City of Tracy standards. Final project costs will include construction management, inspection, and testing. Total project costs have not yet been finalized but are estimated to be within the overall available budget for the Traffic Signal Coordination – Grant Line Road – (CCTV Installation) Project - CIP 72076.

FISCAL IMPACT

CIP 72076 is an approved Capital Improvement Project with sufficient funding from CMAC federal grant and the City's Gas Tax. There will be no fiscal impact to the General Fund. All remaining unused funds will be transferred back into the City's Gas Tax Fund.

STRATEGIC PLAN

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

Goal 3: Improve Traffic Congestion Management

RECOMMENDATION

That City Council, by resolution, accept the Traffic Signal Coordination – Grant Line Road (CCTV Installation) Project - CIP 72076 (Federal Project CML 5192-031), as completed by W. Bradley Electric of Novato, California, in accordance with the project plans and specifications, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

Prepared by: Ripon Bhatia, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

RESOLUTION \_\_\_\_\_

ACCEPTING THE TRAFFIC SIGNAL COORDINATION – GRANT LINE ROAD (CCTV INSTALLATION) PROJECT – CIP 72076 (FEDERAL PROJECT NO. CML 5192-031), COMPLETED BY W. BRADLEY ELECTRIC, INC., OF NOVATO, CALIFORNIA, AND AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

WHEREAS, On November 15, 2011, City Council awarded a contract to W. Bradley Electric of Novato, California, for the Traffic Signal Coordination – Grant Line Road – (CCTV Installation) Project - CIP 72076, and

WHEREAS, The scope of work involved installation of six closed circuit television (CCTV) cameras at six signalized intersections

WHEREAS, Status of budget and project costs is as follows:

Construction Contract Amount	\$116,500
Design	\$ 18,000
Construction management, inspection, Testing & miscellaneous expenses (Estimated)	\$ 10,000
Estimated Citywide Project Management Charges	<u>\$ 15,000</u>
Total Project Construction Costs	<u>\$159,500</u>
Budgeted Amount	\$164,000

WHEREAS, The project has been completed, on schedule, per plans, specifications, and City of Tracy standards, and

WHEREAS, CIP 72076 is an approved Capital Improvement Project with sufficient funding from CMAC federal grant and the City's Gas Tax;

NOW, THEREFORE, BE IT RESOLVED, that City Council accepts the Traffic Signal Coordination – Grant Line Road (CCTV Installation) Project - CIP 72076 (Federal Project CML 5192-031), as completed by W. Bradley Electric of Novato, California, in accordance with the project plans and specifications, and authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

\* \* \* \* \*

The foregoing Resolution was adopted by the City Council on the 5<sup>th</sup> day of June, 2012, by the following vote:

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

---

Mayor

ATTEST:

---

City Clerk

AGENDA ITEM 1.J

REQUEST

**APPROVE ANNUAL GROUND LEASE RATE INCREASE BY 2.6 PERCENT FOR PRIVATELY-OWNED HANGARS AT TRACY MUNICIPAL AIRPORT EFFECTIVE JULY 1, 2012**

EXECUTIVE SUMMARY

The City of Tracy has 24 ground lease agreements with Lessees that have privately-owned hangars at the Tracy Municipal Airport. These leases allow for annual rate increases based upon the United States Consumer Price Index (CPI) which increased 2.6% for 2011. All rate increases require the approval of the City Council. The last rate increase was in July of 2011.

DISCUSSION

The City of Tracy has 24 ground lease agreements with Lessees that have privately-owned hangars at the Tracy Municipal Airport. The ground lease agreements have provisions allowing for annual rate increases based upon the United States Consumer Price Index (CPI), but not to exceed ten percent (10%) for any single increase. All rate increases require a 30 day notice and the approval of the City Council prior to the rate increase. The last rate increase for the privately-owned hangars was in July of 2011. The CPI of the previous calendar year is used to adjust the rate in July of the following year.

The CPI increase is taken from the Consumer Price Index for all Urban Consumers, All Items, for the San Francisco-Oakland-San Jose Metropolitan Area (1982-84 = 100), as published by the Bureau of Labor Statistics of the U.S. Department of Labor. The CPI increase for 2011 was 2.6%.

The rents will be adjusted as follows, effective July 1, 2012:

<b>FY 2012/2013 Increase</b>			
<b>Current Rent</b>	<b>Monthly Increase</b>	<b>New Rent</b>	<b>Number of Hangars</b>
\$78.39	\$2.04	\$80.43	9
\$68.79	\$1.79	\$70.58	7
\$50.02	\$1.30	\$51.32	8

Tracy Airport currently averages 4.5 cents per square foot on the ground leases for constructed hangars that are privately owned. Other airports in the area are reporting between 10 cents and 38 cents per square foot for similar ground leases with the exception of Stockton Airport whose pricing is similar to Tracy's. All ground leases at other airports include an annual escalator that is tied to the CPI. In addition all ground leases contain a reversionary clause in which at the end of the lease the constructed hangar becomes property of the airport. It is important to note that the Tracy privately

owned hangar ground lease rate includes electricity. The chart below summarizes the detail of other airports in the surrounding area.

Airport	Price/Sq Ft	Annual escalation clause based on CPI	Electricity included in lease rate	Reversionary clause allowing constructed hangar to become property of City
Tracy	.045	Yes	Yes	No
Stockton	\$0.04 - \$0.05	Yes	No	Yes
Modesto	\$0.19	Yes	No	Yes
Livermore	\$0.33 - \$0.38	Yes	No	Yes
Concord	\$0.30 - \$0.35	Yes	No	Yes
Byron	\$0.10 - \$0.18	Yes	No	Yes

On May 10, 2012, the City of Tracy Transportation Advisory Commission reviewed and endorsed the ground lease rate increase for privately-owned hangars.

**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**

As a result of this action, an annual increase in revenue to the Airport Enterprise Fund for Ground Leases will be \$495.48 for Fiscal Year 2012-2013. The rate increase ranges from \$1.30 to \$2.04 per hangar per month.

**RECOMMENDATION**

That City Council, by resolution, approves increasing the ground lease rate by 2.6 percent for privately-owned hangars at Tracy Municipal Airport effective July 1, 2012.

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

RESOLUTION \_\_\_\_\_

APPROVING ANNUAL GROUND LEASE RATE INCREASE OF 2.6 PERCENT  
FOR PRIVATELY-OWNED HANGARS AT TRACY MUNICIPAL AIRPORT  
EFFECTIVE JULY 1, 2012

WHEREAS, The City of Tracy has 24 ground lease agreements with Lessees that have privately-owned hangars at the Tracy Municipal Airport; and

WHEREAS, Those ground leases provide that the annual lease rate may be increased based upon the increase in the annual United States Consumer Price Index (CPI) not to exceed ten percent (10%) for any single increase; and

WHEREAS, Those leases require City Council approval and a thirty-day notice before the rate increases; and

WHEREAS, The lease rate has not increased since July 2011; and

WHEREAS, The CPI of the previous calendar year is used to adjust the rate in July of the following year; and

WHEREAS, The CPI increase taken from the Consumer Price Index for all Urban Consumers, All Items, for the San Francisco-Oakland-San Jose Metropolitan Area (1982-84 = 100), as published by the Bureau of Labor Statistics of the U.S. Department of Labor for 2011 was 2.6%.

NOW, THEREFORE, BE IT RESOLVED, That City Council approves increasing the ground lease rate by 2.6 percent for privately-owned hangars at Tracy Municipal Airport effective July 1, 2012.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council 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 1.K

REQUEST

**ADOPT RESOLUTION TO AUTHORIZE THE CITY MANAGER TO BE THE AUTHORIZED AGENT OF THE CITY OF TRACY AND TO EXECUTE ANY ACTIONS NECESSARY FOR THE PURPOSE OF OBTAINING PROPOSITION 1B FUNDS IN THE AMOUNT OF \$217,941 FOR THE CONSTRUCTION OF A FIBER OPTIC LINE FROM CITY HALL TO THE TRACY TRANSIT STATION AND APPROPRIATE THE FUNDS TO CIP 77545**

EXECUTIVE SUMMARY

Proposition 1B funds were approved by the voters at the November 7, 2006 general election. These funds may be used toward grants for transit system safety, security and disaster response projects. The San Joaquin Council of Governments (SJCOG) applied for these funds on behalf of the City of Tracy in the amount of \$217,941 for the construction of a fiber optic line from City Hall to the Tracy Transit Station. The purpose of the construction is to create fast, direct link from the Tracy Transit Station to City Hall.

DISCUSSION

The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 was approved by the voters as Proposition 1B at the November 7, 2006, General Election. This act authorizes the issuance of \$19,925,000,000 in general obligation bonds for specific purposes, including grants for transit system safety, security and disaster response projects.

The City of Tracy applied for a Prop 1B grant through SJCOG in the amount of \$217,941. This grant project will allow for construction of a fiber optic line from City Hall to the Tracy Transit Station. The City of Tracy was awarded \$25,000 last year for the design of this project.

The purpose of the construction is to create a fast, direct link from the Tracy Transit Station to City Hall. With the coming installation of security cameras at the Transit Station, the installation of a fiber optic line will allow for real time viewing of the cameras by the Police Department should the need arise. The contract for installation of cameras at the Tracy Transit Station to monitor interior and exterior locations around the building will be going out to bid within the next month.

CIP 77545 Project Overview

Fiber Optic Design	\$25,000
Fiber Optic Construction	\$217,941
Camera Design & Installation	<u>\$150,000</u>
Total Cost	\$392,941

The funds for construction of the fiber optic line have not yet been awarded to the City. It is anticipated that funds for that portion of the project will be awarded with the next cycle



of Prop 1B Transit safety and security funding. All future operating costs related to this project will be paid for out of the Transit Fund.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

There is no fiscal impact to the General Fund. The costs are covered completely by Prop 1B funding and there are no matching funds required. The project will be paid for out of CIP 77545. The \$217,941 will be added to the existing \$175,000 already in CIP 77545 appropriated for the installation of security cameras at the Tracy Transit Station and design of the fiber optic connection.

#### RECOMMENDATION

Adopt resolution to authorize the City Manager to be the Authorized Agent of the City of Tracy to execute any actions necessary for the purpose of obtaining Proposition 1B funds in the amount of \$217,941 for the construction of a fiber optic line from City Hall to the Tracy Transit Station and appropriate the money to CIP 77545.

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

RESOLUTION \_\_\_\_\_

AUTHORIZING THE CITY MANAGER TO BE THE AUTHORIZED AGENT OF THE CITY OF TRACY AND TO EXECUTE ANY ACTIONS NECESSARY FOR THE PURPOSE OF OBTAINING PROPOSITION 1B FUNDS IN THE AMOUNT OF \$217,941 FOR THE CONSTRUCTION OF A FIBER OPTIC LINE FROM CITY HALL TO THE TRACY TRANSIT STATION AND APPROPRIATE THE FUNDS TO CIP 77545

WHEREAS, The Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006, approved by the voters as Proposition 1B at the November 7, 2006, General Election, authorizes the issuance of \$19,925,000,000 in general obligation funds for specified purposes, including grants for transit system safety, security and disaster response projects; and

WHEREAS, To secure a portion of the Proposition 1B funds, the San Joaquin Council of Governments submitted an application on behalf of the City of Tracy for a transit security project in the amount of \$217,941; and

WHEREAS, To receive the allocated amount of \$217,941 the City must submit additional paperwork including Grant Assurances signed by the Authorized Agent.

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby authorizes the City Manager to be the Authorized Agent of the City of Tracy to execute any actions necessary for the purpose of obtaining Proposition 1B funds in the amount of \$217,941 for the construction of a fiber optic line from City Hall to the Tracy Transit Station and appropriates the funds to CIP 77545.

\*\*\*\*\*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the City Council of the City of Tracy 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 1.L

REQUEST

**ACCEPTANCE OF THE TRAFFIC SIGNAL AT LAMMERS ROAD AND BYRON ROAD PROJECT - CIP 72041 (FEDERAL PROJECT NO. CML 5192-032), COMPLETED BY PACIFIC EXCAVATION, INC., OF ELK GROVE, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION**

EXECUTIVE SUMMARY

The contractor has completed construction of the traffic signal at the intersection of Lammers Road and Byron Road, in accordance with plans, specifications and contract documents. Project costs are within the available budget. Staff recommends City Council accept the project to enable the City to release the contractor's bonds and retention

DISCUSSION

On September 20, 2011, City Council awarded a contract to Pacific Excavation Inc., of Elk Grove, California, for the traffic signal at Lammers Road and Byron Road, in the amount of \$188,096.

The scope of work involved installation of a fully actuated vehicular and pedestrian traffic signal at the intersection.

One change order was issued for this project in the amount of \$11,698. This was necessary to install an emergency vehicle preemption system and an extruded curb on the north side of Byron Road at this intersection.

Status of budget and project costs is as follows:

A. Construction Contract Amount	\$188,096
B. Change Orders	\$ 11,698
C. Design	\$ 20,000
D Construction management, inspection, Testing & miscellaneous expenses (Estimated)	\$ 15,000
E. Estimated Citywide Project Management Charges	<u>\$ 30,000</u>
F. Total Project Construction Costs	\$264,794
G. Budgeted Amount	\$368,283

The project has been completed, on schedule, per plans, specifications, and City of Tracy standards. Final project costs will include construction management, inspection,

and testing. Total project costs have not yet been finalized but are estimated to be within the overall available budget for the traffic signal at Lammers Road and Byron Road.

#### FISCAL IMPACT

CIP 72041 is an approved Capital Improvement Project with sufficient funding and there will be no fiscal impact to the General Fund. The project is partly funded from a Federal Grant and partly funded from Gas Tax Funds. After use of the Federal Funds, all remaining funds will be transferred back into the City's Gas Tax Fund.

#### STRATEGIC PLAN

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

#### RECOMMENDATION

That City Council, by resolution, accept the Traffic Signal at Lammers Road and Byron Road as completed by Pacific Excavation Inc. of Elk Grove, California, in accordance with the project plans and specifications, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

Prepared by: Ripon Bhatia, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

RESOLUTION \_\_\_\_\_

ACCEPTING THE TRAFFIC SIGNAL AT LAMMERS ROAD AND BYRON ROAD PROJECT - CIP 72041 (FEDERAL PROJECT NO. CML 5192-032), COMPLETED BY PACIFIC EXCAVATION, INC., OF ELK GROVE, CALIFORNIA, AND AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

WHEREAS, On September 20, 2011, City Council awarded a contract to Pacific Excavation Inc., of Elk Grove, California, for the traffic signal at Lammers Road and Byron Road, in the amount of \$188,096, and

WHEREAS, One change order was issued for this project in the amount of \$11,698, and

WHEREAS, Status of budget and project costs is as follows:

A. Construction Contract Amount	\$188,096
B. Change Orders	\$ 11,698
C. Design	\$ 20,000
D. Construction management, inspection, Testing & miscellaneous expenses (Estimated)	\$ 15,000
E. Estimated Citywide Project Management Charges	<u>\$ 30,000</u>
F. Total Project Construction Costs	\$264,794
G. Budgeted Amount	\$368,283

WHEREAS, The project has been completed, on schedule, per plans, specifications, and City of Tracy standards, and

WHEREAS, CIP 72041 is an approved Capital Improvement Project with sufficient funding and there will be no fiscal impact to the General Fund. The project is partly funded from a Federal Grant and partly funded from Gas Tax Funds. After use of the Federal Funds, all remaining funds will be transferred back into the City's Gas Tax Fund;

NOW, THEREFORE, BE IT RESOLVED, that City Council accepts the Traffic Signal at Lammers Road and Byron Road as completed by Pacific Excavation Inc. of Elk Grove, California, in accordance with the project plans and specifications, and authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

\* \* \* \* \*

The foregoing Resolution was adopted by the City Council on the 5th day of June, 2012, by the following vote:

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

\_\_\_\_\_  
Mayor

ATTEST:

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

AGENDA ITEM 1.M

REQUEST

**AUTHORIZATION TO EXTEND THE AGREEMENT WITH ALL CITY MANAGEMENT SERVICES, INC., FOR SCHOOL PEDESTRIAN CROSSING GUARD SERVICES THROUGH JUNE 30, 2014 AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE EXTENSION AGREEMENT**

EXECUTIVE SUMMARY

Staff is requesting that the agreement with All City Management Services, Inc. to provide school crossing guard services be extended through June 30, 2014. The extended agreement would fix the hourly rate paid to the contractor with no increases over the two year period.

DISCUSSION

All City Management Services, Inc., (All City) has been the sole contractor responding to published "Request for Proposals" dating back to 1995, indicating no competing contractors are located in the surrounding area. Past solicitations of area agencies found that, other than volunteers and in-house employees, All City was the only contractor provider for school crossing guard services in the local area. As such, All City has been the 'sole source' provider for these services.

All City has agreed to extend their service agreement through June 30, 2014 by signing Amendment 2. with a fixed hourly rate of \$14.52. This hourly rate reflects a minimal increase of twenty eight cents (0.28) per hour. The agreement provides crossing guard coverage for 25 locations within the City limits.

STRATEGIC PLAN

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

FISCAL IMPACT

School Pedestrian Crossing Guard Services is a contracted service funded in each fiscal year budget. The fiscal budget provides funding for this service in the amount of \$230,000.

RECOMMENDATION

Staff recommends the City Council approve, by resolution, the awarding of the School Pedestrian School Crossing Guard Services Agreement to All City Management Services, Inc., in the amount of \$14.52 per hour, per crossing guard at 25 locations within the City limits for fiscal years 2012-2013 and 2013-2014 from contracted services account 101-51290.

AGENDA ITEM 1.M

June 5, 2012

Page 2

Prepared by: Diane Manuel, Executive Assistant

Reviewed by: Gary Hampton, Chief of Police

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



RESOLUTION \_\_\_\_\_

AUTHORIZING EXTENDING THE SERVICES AGREEMENT WITH  
ALL CITY MANAGEMENT SERVICES, INC. FOR SCHOOL  
CROSSING GUARD SERVICES THROUGH JUNE 30, 2014  
AND AUTHORIZING THE MAYOR TO EXECUTE  
THE EXTENSION AGREEMENT

WHEREAS, staff has requested that the current agreement which expires on June 30, 2012 be extended through June 30, 2014, and

WHEREAS, Past "Request for Proposals" for School Pedestrian Crossing Guard Services have garnered interest from only All City Management Services, Inc., and

WEREAS, All City Management Services, Inc. has submitted an acceptable proposal in the amount of \$14.52 per hour, per crossing guard for the length of the extension period, and

WHEREAS, The School Pedestrian Crossing Guard Services is a contracted service funded in each fiscal year budget.

Now, THEREFORE, BE IT RESOLVED That the City Council does hereby authorize, the extension of the School Pedestrian Crossing Guard Services Agreement to All City Management Services, Inc., through June 30, 2014.

\*\*\*\*\*

The foregoing Resolution \_\_\_\_\_ is hereby passed and adopted by the Tracy City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

June 5, 2012

AGENDA ITEM 1.N

REQUEST

**ADOPT RESOLUTIONS REGARDING THE ELECTION PROCESS, GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 6, 2012**

EXECUTIVE SUMMARY

The City's General Municipal Election will be held on November 6, 2012. At this time the Council needs to take certain actions to announce the election and to request consolidation with the County.

DISCUSSION

Two Council actions are required at this time relative to the City's upcoming General Municipal Election:

1. Adopt a resolution calling for the election of the Mayor, two Council Members and the Treasurer
2. Adopt a resolution requesting consolidation of the City's General Municipal Election of November 6, 2012, with the Statewide General Election by the County of San Joaquin.

STRATEGIC PLAN

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

FISCAL IMPACT

All costs associated with the consolidated General Election have been included in the FY 12-13 budget.

RECOMMENDATION

That the City Council adopt the attached resolutions calling and giving notice of holding a General Municipal Election on Tuesday, November 6, 2012, and requesting the San Joaquin County Board of Supervisors to consolidate the City election with the Statewide General Election to be held November 6, 2012.

Attachments

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

RESOLUTION 2012-

CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY STATE LAW RELATING TO GENERAL LAW CITIES

WHEREAS, Under the provisions of state law relating to general law cities, a General Municipal Election shall be held on November 6, 2012, for the election of municipal officers.

NOW, THEREFORE, the City Council of the City of Tracy, California, does resolve, declare, determine, and order as follows:

Section 1: Pursuant to the requirements of the laws of the State of California relating to general law cities there is called and ordered to be held in the City of Tracy, California, on Tuesday, November 6, 2012, a General Municipal Election for the purpose of electing a Mayor for the full term of two years, two members of the City Council for full terms of four years, and a City Treasurer for the full term of four years.

Section 2: The ballots to be used at the election shall be in form and content as required by law.

Section 3: The polls for the election shall be open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, except as provided in Section 10242, except as provided in Section 14401, of the Elections Code of the State of California.

Section 4: In all particulars not recited in this resolution, the elections shall be held and conducted as provided by law for holding municipal elections.

Section 5: Notice of the time and place of holding the election is given and the County Elections Department is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

\* \* \* \* \*

The foregoing Resolution 2012-      was passed and adopted by the Tracy City Council on the 5th day of June 2012, by the following vote:

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

---

Mayor

ATTEST:

---

City Clerk

RESOLUTION 2012-

REQUESTING THE BOARD OF SUPERVISORS OF SAN JOAQUIN COUNTY  
PROVIDE FOR THE CONSOLIDATION OF THE GENERAL MUNICIPAL ELECTION  
TO BE HELD WITH THE STATEWIDE GENERAL ELECTION  
TO BE HELD ON NOVEMBER 6, 2012

WHEREAS, The City Council of the City of Tracy called a General Municipal Election to be held on November 6, 2012, for the purpose of the election of a Mayor for the full term of two years, two members of the City Council for full terms of four years, and a Treasurer for the full term of four years; and

WHEREAS, It is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, polling places and election officers of the two elections be the same, and that the County Elections Department of the County of San Joaquin canvass the returns of the General Municipal Election, and that the election be held in all respects as if it were only one election.

NOW, THEREFORE, the City Council of the City of Tracy, California, does resolve, declare, determine, and order as follows:

Section 1: Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of San Joaquin is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday November 6, 2012, for the purpose of the election of a Mayor for the full term of two years, two members of the City Council for full terms of four years, and a Treasurer for the full term of four years.

Section 2: The County Elections Department is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

Section 3: The Board of Supervisors is requested to issue instructions to the County Elections Department to take any and all steps necessary for holding of the consolidated election.

Section 4: The City of Tracy recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

Section 5: The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Elections Department of the County of San Joaquin.

\* \* \* \* \*

The foregoing Resolution 2012-        was passed and adopted by the Tracy City Council on the 5<sup>th</sup> day of June 2012, by the following vote:

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

---

Mayor

ATTEST:

---

City Clerk

AGENDA ITEM 1.O

REQUEST

**THE CITY COUNCIL OF THE CITY OF TRACY ACTING AS THE GOVERNING BODY OF THE SUCCESSOR AGENCY FOR THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY APPROVING THE RECOGNIZED OBLIGATIONS PAYMENT SCHEDULE (ROPS)**

EXECUTIVE SUMMARY

This action will approve the Recognized Obligations Payment Schedule which lists the various obligations of the former Tracy Community Development Agency which requires payment between July 1, 2012 and December 31, 2012.

DISCUSSION

The State of California through the passage of ABX1 26 dissolved redevelopment agencies effective February 1, 2012 and replaced them with successor agencies. The City of Tracy previously elected to serve as the successor agency for our former redevelopment agency. Previously the City Council approved an Enforceable Obligation Payment Schedule (EOPS) which listed the various financial obligations of the former Tracy Community Development Agency. The law requires that a Recognized Obligations Payment Schedule (ROPS) be adopted. The City Council previously approved the ROPS for the period of January 1, 2012 to June 30, 2012. This action approves the ROPS for July 1, 2012 to December 31, 2012.

The State requested this ROPS in advance of Council and Oversight Board approval. The State has reviewed this ROPS and approved it. This is noteworthy because the State has rejected many of the ROPS submitted leading to litigation that has already been filed. With an approved ROPS Tracy should be able to avoid this conflict.

STRATEGIC PLAN

This item is routine and not related to one of the City Council's Strategic Plans.

FISCAL IMPACT

There is no impact to the City's General Fund. Recognized obligations are paid from property tax revenue that previously were allocated to the Tracy Community Development Agency. The County Auditor will make these funds available for the obligations.

RECOMMENDATION

It is recommended the City Council adopt the attached resolution approving the Recognized Obligation Payment Schedule of the former Tracy Community Development Agency.

Prepared by: Zane Johnston, Finance & Administrative Services Director

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION \_\_\_\_\_

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRACY, ACTING AS THE GOVERNING BOARD OF THE SUCCESSOR AGENCY FOR THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY, ADOPTING AN AMENDED ENFORCEABLE OBLIGATION PAYMENT SCHEDULE, APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (the "Dissolution Act") to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, on January 17, 2012 and pursuant to Health and Safety Code Section 34173, the City Council of the City of Tracy (the "City Council") declared that the City of Tracy, a municipal corporation (the "City"), would act as successor agency (the "Successor Agency") for the dissolved Community Development Agency of the City of Tracy (the "Former CDA") effective February 1, 2012; and

WHEREAS, on February 1, 2012, the Former CDA was dissolved pursuant to Health and Safety Code Section 34172; and

WHEREAS, the Dissolution Act provides for the appointment of an oversight board (the "Oversight Board") with specific duties to approve certain Successor Agency actions pursuant to Health and Safety Code Section 34180 and to direct the Successor Agency in certain other actions pursuant to Health and Safety Code Section 34181; and

WHEREAS, on August 1, 2011, the Former CDA adopted its latest enforceable obligation payment schedule (the "RDA EOPS") as required pursuant to Health and Safety Code Section 34169(g); and

WHEREAS, Health and Safety Code Section 34177(a)(1) requires the Successor Agency to amend the CDA EOPS to remove specified agreements and adopt the amended EOPS (the "Amended EOPS") and make associated notifications and distributions; and

WHEREAS, Health and Safety Code Section 34177(l)(2)(A) requires the Successor Agency to prepare a draft recognized obligation payment schedule (the "ROPS") and make associated notifications and distributions; and

WHEREAS, the ROPS and Successor Agency Administrative Budget must be approved by the Oversight Board pursuant to Health and Safety Code Sections 34177(l)(2)(B) and 34177(j), respectively.

NOW, THEREFORE, BE IT RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, hereby authorizes and directs the City Manager or the City Manager's designee, acting on behalf of the Successor Agency, to organize and call the meetings of the Oversight Board, as soon as practicable after the appointment of the Oversight



Board but no later than the date required by Health and Safety Code Section 34179, to facilitate the Oversight Board's approval of the ROPS and Successor Agency Administrative Budget.

BE IT FURTHER RESOLVED that unless and until the City Council, acting as the Governing Board of the Successor Agency, resolves otherwise, the Successor Agency shall be referred to in all its official documents, papers, reports, agreements, deeds, and other written materials, and shall carry out its duties and exercise its rights as the "City of Tracy, acting in its capacity as the Successor Agency of the Community Development Agency of the City of Tracy", or similar wording.

BE IT FURTHER RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, declares that the assets, obligations, liabilities, and activities of the Successor Agency are and shall remain separate from the assets, obligations, liabilities and activities of the City, and that all costs of, liabilities of, and claims against the Successor Agency and/or the Oversight Board shall be solely the costs and liabilities of the Successor Agency and/or the Oversight Board and shall not be costs of, liabilities of, and/or claims against the City.

BE IT FURTHER RESOLVED that the City Council, acting as the Governing Board of the Successor Agency and in conformance with Health and Safety Code Section 34177(a)(1), hereby adopts the CDA EOPS (a copy of which is on file with the City Clerk) as the Successor Agency's Amended EOPS, conditioned on removal from the RDA EOPS of the Invalidated Agreements. As used in this Resolution, "Invalidated Agreements" means those agreements between the Redevelopment Agency and the City that remain invalidated pursuant to Health and Safety Code Section 34178 following the final outcome of (1) all pending and potential statutory amendments to Health and Safety Code Section 34178 or other applicable provisions of the Dissolution Act (including, without limitation, amendments pursuant to SB 654 and AB 1585), and (2) all pending and potential litigation regarding the validity of Health and Safety Code Section 34178 and other applicable provisions of the Dissolution Act (including, without limitation, any such litigation initiated by the City). "Invalidated Agreements" expressly do not include any agreements that are deemed valid following the final outcome of any of the events described in the preceding sentence, and expressly do not include any agreements that are described as being valid pursuant to Health and Safety Code Section 34178(b).

BE IT FURTHER RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, hereby approves the ROPS and the Successor Agency Administrative Budget, which contains the Successor Agency Administrative Cost Estimates. Copies of the ROPS Budget are also on file with the City Clerk.

BE IT FURTHER RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, hereby authorizes and directs the City Manager or the City Manager's designee, acting on behalf of the Successor Agency, to file, post, mail or otherwise deliver via electronic mail, internet posting, and/or hardcopy, all notices and transmittals necessary or convenient in connection with the adoption of the Amended EOPS, approval of the ROPS, , and other actions taken pursuant to this Resolution.

BE IT FURTHER RESOLVED that nothing in this Resolution shall abrogate, waive, impair or in any other manner affect the right or ability of the City, as a municipal corporation, to initiate and prosecute any litigation with respect to any agreement or other arrangement between the City and the Former CDA, including, without limitation, any litigation contesting the purported invalidity of such agreement or arrangement pursuant to the Dissolution Act.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon adoption.

ADOPTED June 5, 2012 by the City Council of the City of Tracy, acting in its capacity as the Successor Agency of the Redevelopment Agency of the City of Tracy, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
Successor Agency Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Successor Agency Counsel

AGENDA ITEM 1.P

REQUEST

**AWARD A CONSTRUCTION CONTRACT TO KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA, FOR THE CORRAL HOLLOW ROAD WIDENING BETWEEN GRANT LINE ROAD AND THE EAST ENTRY OF THE WEST VALLEY MALL ENTRY - CIP 73014 (FEDERAL PROJECT NUMBER STPL 5192(030)), AUTHORIZE AN APPROPRIATION OF GRANT FUNDS AND TRANSFER OF FUNDS FROM CIP's 74096, 75112, and 72050 TO CIP 73014, AUTHORIZE AMENDMENT 4 TO THE PROFESSIONAL SERVICES AGREEMENT (PSA) WITH SCHACK AND COMPANY TO PROVIDE DESIGN SUPPORT DURING CONSTRUCTION AND AUTHORIZE THE MAYOR TO EXECUTE THE CONSTRUCTION CONTRACT AND AMENDMENT 4 TO THE PSA**

EXECUTIVE SUMMARY

City Council is being requested to award a construction contract for the Corral Hollow Road Widening Project between Grant Line Road and the West Valley Mall entry. This is a partially Federally-funded project, which includes widening of Corral Hollow Road from a two lane street to a four-lane arterial with bike lanes in both directions.

DISCUSSION

The project involves widening of Corral Hollow road from Grant Line Road to the east entry of the West Valley Mall with a total budget of \$3.66 million. This amount includes grant funding of \$900,000 from the State Transportation Program (STPL). The work for widening of the street involves reconstruction of the existing pavement and installation of new pavement structural section in the widening area. The construction work includes curb, gutter, sidewalk, street lighting and landscaping.

The street widening also triggers improvements to the underground water and wastewater utilities, and installation of a traffic signal at the intersection of Kavanagh Avenue and Corral Hollow Road. These improvements are part of the approved Capital Improvement Projects (CIPs) 74096, 75112, and 72050 with available funding.

The scope of work for CIP 74096 provides installation of a new shallow 8" sewer line to serve the properties located on the west side of Corral Hollow Road. These properties presently are either underdeveloped or are served by on-site septic tanks. CIP 75112 provides water stubs to serve the west side properties, provide fire hydrants and installation of an irrigation purple pipe. The scope of work of CIP 72050 includes installation of a traffic signal at the intersection of Kavanagh Avenue and Corral Hollow Road.

Since the approved grant funding is for the street widening portion only, the utilities and intersection improvements will be completed under this project by transferring the available funds from the utility projects listed above into CIP 73014. This will ensure the funding guidelines are met and the grant funding portion of the project approval process is not jeopardized.

The project plans and specifications were prepared by Schack and Company of Tracy. Construction of underground utilities and the intersection improvements were incorporated into the project bid documents. An encroachment permit has been secured from Caltrans to complete the widening under the I-205 freeway.

The project was advertised for competitive bids on April 19, 2012 and April 26, 2012. The following three bids were received for the project and publicly opened on May 15, 2012.

Contractor	Base Bid
Bay Cities Paving & Grading, Inc.	\$4,014,990.05
Knife River Construction	\$4,535,485.10
DeSilva Gates Construction	\$4,652,087.00

The apparent low bidder, Bay Cities Paving and Grading's bid is non-responsive since the bid did not acknowledge all bid addendums issued for this project. The project contract and bid documents required the bidder to acknowledge the addendums by signing and attaching with the bid; thus, the bid from Bay Cities Paving and Grading, Inc. is declared non-responsive.

The next lowest bidder is Knife River Construction of Stockton, California. Their bid documents are complete with acknowledgement of all addendums. The bid analysis indicates that the bidder is responsible and the bid is responsive. The contractor has good references and has completed similar projects for the City and other agencies. Staff recommends that a contract for the Corral Hollow Road Widening Project (Grant Line Road to Mall Entry) - CIP 73014, Federal Project Number STPL 5192(030), be awarded to the second low bidder, Knife River Construction of Stockton, California, for the bid amount of \$4,535,485.10.

#### Consultant Design Support Services

It is customary to retain the services of a design consultant on projects of this nature and magnitude to provide design support during construction. Since Schack and Company of Tracy, California, prepared the project plans and specifications, it is recommended that their services be retained during construction of this project. Their services will be needed for review of shop drawings, design clarifications, potential changes, etc. Schack and Company submitted a proposal to provide Design Support Services for the above work during construction on an as needed basis on an hourly basis not to exceed \$30,000.

The anticipated cost of construction of this project, if awarded to Knife River Construction of Stockton, California, is estimated as follows:

Contractor's Bid for Construction	\$ 4,535,485.10
Design Support during Construction	\$ 30,000.00
Inspection and Construction Management (4%)	\$ 181,419.00

Contingency (8%)	\$ 375,096.00**
Total Construction Cost	\$ 5,122,000.10

The status of funding for this project is as follows:

Available funds	\$2,710,000
Grant Fund appropriation	\$ 900,000
Transfer from CIP 73014	\$ 600,000
Transfer from CIP 75112	\$ 600,000
Transfer from CIP 72050	<u>\$ 312,000</u>
 Total Available Funding	 \$5,122,000

\*\*Generally the contingency amount for similar projects varies between 10%-15% of the bid amount. However, due to the limited budget, staff has allocated an 8% contingency amount at this time. Additional appropriations of contingency amounts may be required during construction if needed due to unforeseen conditions, change in soil conditions, ground water, or other issues.

If the project is awarded to Knife River Construction, it is anticipated that construction will commence by the end of June 2012 with completion expected in mid-November 2012.

FISCAL IMPACT

There will be no fiscal impact to the General Fund. A total of \$2,710,000 is available for construction of this project. An appropriation of grant funding and a transfer of funds from approval Capital Improvement Projects are needed as follows:

- Appropriation of Grant Funding \$ 900,000
- Transfer of funds
 

<u>From CIP #</u>	<u>To CIP #</u>	
74096	73014	\$ 600,000
75112	73014	\$ 600,000
75050	73014	<u>\$ 312,000</u>
Total Funds		\$2,412,000
(appropriated and transferred)		

RECOMMENDATION

That City Council, by resolution, award a construction contract to Knife River Construction of Stockton, California, for the Corral Hollow Widening Project (between Grant Line Road and east entry of West Valley Mall) - CIP 73014, Federal Project Number STPL 5192(030), in the amount of \$4,535,485.10, authorize the transfer of funds from CIPs 74096, 75112, and 72050 into CIP 73014, authorize Amendment 4 to the Professional Services Agreement with Schack and Company to provide design support during construction and authorize the Mayor to execute the construction contract and Amendment 4 to the Professional Services Agreement.

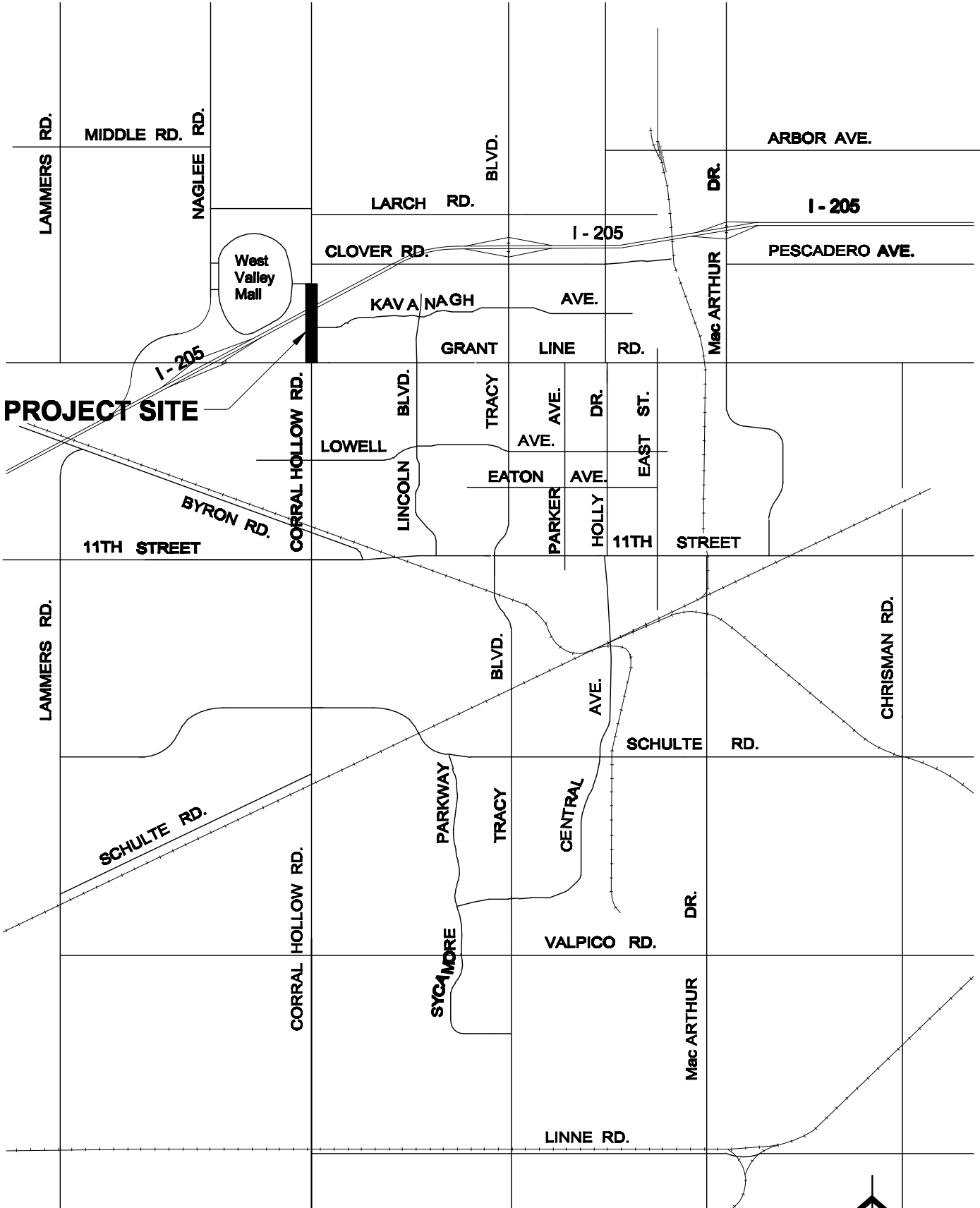
Agenda Item 1.P  
June 5, 2012  
Page 4

Prepared by: Zabih Zaca, Senior Civil Engineer  
Khoder Baydoun, Associate Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

Attachment: Location Map



**PROJECT SITE**

West Valley Mall



NOT TO SCALE

**CITY OF TRACY  
AMENDMENT NO. 4 TO  
PROFESSIONAL SERVICES AGREEMENT  
FOR DESIGN PROFESSIONALS**

**CORRAL HOLLOW ROAD WIDENING  
GRANT LINE ROAD TO WEST VALLEY MALL ENTRY  
CIP 73014 (FORMERLY CIP 7314)**

This Amendment No. 4 (hereinafter "Amendment") to the Professional Services Agreement for Design Professionals is made and entered into by and between the City of Tracy, a municipal corporation (hereinafter "City"), and Schack & Company, Inc. (hereinafter "CONSULTANT").

**RECITALS**

- A. The City and Consultant entered into a Professional Services Agreement for Design Professionals (hereinafter "Agreement") for the Corral Hollow Road Widening Grant Line Road to West Valley Mall Entry, CIP 7314 which was approved by the City Council on February 17, 2009, pursuant to Resolution No. 2009-029.
- B. Subsequently Amendment No. 1 through 3 was approved to this Agreement by City Council from 2009 to 2012.
- C. The project construction will be starting in June 2012. Due to the complexity of the project involving construction on Caltrans right of way and other unforeseen conditions, design support services of a consultant will be needed during the construction of this project on an as needed basis.
- D. Because Schack and Company, Inc. is the design consultant for this project and is most familiar with the work, the services of Shack & Company are appropriate to be retained for this work.

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

- 1. Incorporation By Reference.** This Amendment No. 4 hereby incorporates by reference all terms and conditions set forth in the Agreement and in Amendment No. 1, No. 2, and No. 3 to the Agreement, unless specifically modified by this Amendment No. 4. All terms and conditions set forth in the Agreement which are not specifically modified by this Amendment shall remain in full force and effect.
- 2. Terms of Amendment.**

CONSULTANT shall also perform the tasks described in Exhibit "1" attached hereto and incorporated herein by reference.



**City of Tracy**  
**Amendment No. 4 to Professional Services Agreement for Design Professionals**  
**Corral Hollow Road Widening Grant Line Road to West Valley Mall Entry,**  
**CIP 73014 (formerly 9314)**  
**Page 2 of 4**

- B.** The Not to Exceed amount is hereby increased by \$30,000.
- 3. Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.
- 4. Severability.** In the event any term of this Amendment is held invalid by a court of competent jurisdiction, the Amendment shall be construed as not containing that term, and the remainder of this Amendment shall remain in full force and effect.

**INTENTIONALLY LEFT BLANK**

**City of Tracy**  
**Amendment No. 4 to Professional Services Agreement for Design Professionals**  
**Corral Hollow Road Widening Grant Line Road to West Valley Mall Entry,**  
**CIP 73014 (formerly 9314)**  
**Page 3 of 4**

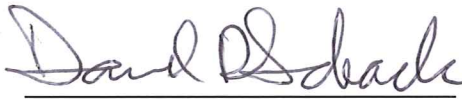
**5. Signatures.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment on behalf of the respective legal entities of the Subdivider and the City. This Amendment shall inure to the benefit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

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

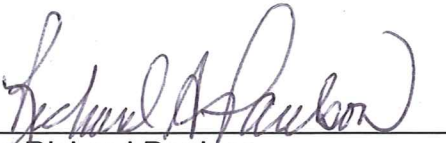
CITY OF TRACY

CONSULTANT  
Schack & Company, Inc.

By: \_\_\_\_\_  
Brent H. Ives  
Title: Mayor  
Date: \_\_\_\_\_

By:   
Daniel R. Schack  
Title: President  
Date: 05/30/12

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

By:   
Richard Paulson  
Title: Vice President  
Date: 05/30/12

Approved as to form

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

EXHIBIT "1"

AMENDMENT NO. 4

SCOPE OF SERVICES

1. CITY'S AUTHORIZED REPRESENTATIVES. CONSULTANT shall take all direction from the CITY through the CITY's Authorized Representative, the Project Engineer, with the CITY Engineer as an alternate, unless otherwise designed by the CITY Manager.
2. OVERVIEW OF SCOPE OF SERVICES. As more specifically described in this Agreement, the CONSULTANT shall supply professional design services and technical design support during construction of Corral Hollow Road Reconstruction project on an as needed basis.
3. COMPLETION OF THE SCOPE OF SERVICES. CONSULTANT shall provide engineering support during construction concurrent with construction.

4. SERVICES:

CONSULTANT shall perform design support construction which includes shop drawing review, submittal review, clarification of project plans and specification, and design modification as the result of existing underground facilities conflict with the proposed facilities as necessary.

The proposed compensation for this Amendment No. 4 is on a time and expense basis and is "not to exceed" amount of \$30,000.

5. PERSONNEL. CONSULTANT shall assign the following person/persons to perform the services set forth in this Amendment.
  - a. Project Manager: Daniel R. Schack

RESOLUTION \_\_\_\_\_

AWARDING A CONSTRUCTION CONTRACT TO KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA, FOR THE CORRAL HOLLOW ROAD WIDENING BETWEEN GRANT LINE ROAD AND THE EAST ENTRY OF THE WEST VALLEY MALL ENTRY - CIP 73014 (FEDERAL PROJECT NUMBER STPL 5192(030)), AUTHORIZING AN APPROPRIATION OF GRANT FUNDS AND TRANSFER OF FUNDS FROM CIP's 74096, 75112, and 72050 TO CIP 73014, AUTHORIZING AMENDMENT 4 TO THE PROFESSIONAL SERVICES AGREEMENT (PSA) WITH SCHACK AND COMPANY TO PROVIDE DESIGN SUPPORT DURING CONSTRUCTION AND AUTHORIZING THE MAYOR TO EXECUTE THE CONSTRUCTION CONTRACT AND AMENDMENT 4 TO THE PSA

WHEREAS, The project involves widening of Corral Hollow road from Grant Line Road to the east entry of the West Valley Mall with a total budget of \$3.66 million, and

WHEREAS, The street widening also triggers improvements to the underground water and wastewater utilities, and installation of a traffic signal at the intersection of Kavanagh Avenue and Corral Hollow Road, and

WHEREAS, The scope of work for CIP 74096 provides installation of a new shallow 8" sewer line to serve the properties located on the west side of Corral Hollow Road, and

WHEREAS, The scope of work of CIP 72050 includes installation of a traffic signal at the intersection of Kavanagh Avenue and Corral Hollow Road, and

WHEREAS, The project was advertised for competitive bids on April 19, and April 26, 2012, and three bids were received for the project and publicly opened on May 15, 2012, and

WHEREAS, The apparent low bidder, Bay Cities Paving and Grading's bid is non-responsive since the bid did not acknowledge all bid addendums issued for this project, and

WHEREAS, The next lowest bidder is Knife River Construction of Stockton, California, and

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

WHEREAS, It is customary to retain the services of a design consultant on projects of this nature and magnitude to provide design support during construction, and

WHEREAS, Schack and Company submitted a proposal to provide Design Support Services for the above work during construction on an as needed basis on an hourly basis not to exceed \$30,000, and

WHEREAS, There will be no fiscal impact to the General Fund. A total of \$2,710,000 is available for construction of this project. An appropriation of grant funding

and a transfer of funds from approval Capital Improvement Projects are needed as follows:

•	Appropriation of Grant Funding		\$ 900,000
•	Transfer of funds		
	<u>From CIP #</u>	<u>To CIP #</u>	
	74096	73014	\$ 600,000
	75112	73014	\$ 600,000
	75050	73014	<u>\$ 312,000</u>
	Total Funds		\$2,412,000

NOW, THEREFORE, BE IT RESOLVED, that City Council awards a construction contract to Knife River Construction of Stockton, California, for the Corral Hollow Widening Project (between Grant Line Road and east entry of West Valley Mall) - CIP 73014, Federal Project Number STPL 5192(030), in the amount of \$4,535,485.10, authorizes the transfer of funds from CIPs 74096, 75112, and 72050 into CIP 73014, authorizes Amendment 4 to the Professional Services Agreement with Schack and Company to provide design support during construction and authorizes the Mayor to execute the construction contract and Amendment 4 to the Professional Services Agreement.

\* \* \* \* \*

The foregoing Resolution was adopted by the City Council on the 5<sup>th</sup> day of June, 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

**CONDUCT TWO PUBLIC HEARINGS AND CONSIDER OTHER MATTERS ASSOCIATED WITH THE ADOPTION OF THE FISCAL YEAR 2012-2013 CITY BUDGET**

DISCUSSION

The City Council is requested to consider a number of items associated with the FY 12-13 City budget. Separate Staff reports on each item have been prepared. However, each item does have a relationship to the adoption of the City budget and therefore have been grouped as a series of actions.

The matters before the City Council related to the FY 12-13 City budget are as follows:

Public Hearing of the City Council to consider adoption of the City's FY 12-13 budget. This item will adopt the City's operating, capital, and debt service budget. The operating budget was presented at a May 15, 2012 City Council workshop. The capital budget was presented at two workshops on April 3, 2012 and April 30, 2012.

Public Hearing of the City Council to consider approving the updated master fee schedule. As presented to City Council in 2011, the master fee schedule will be updated annually in conjunction with adoption of the budget.

Adoption of the Appropriations Limit. The City is required annually to adopt an appropriations limit (sometimes called the Gann limit) pertaining to the proceeds of taxes. This action will adopt the limit for the City for FY 12-13.

STRATEGIC PLANS

Noted on each agenda item.

FISCAL IMPACT

Noted on each agenda item.

RECOMMENDATION

Staff will present the various agenda items. It is recommended the City Council adopt the various items related to the FY 12-13 City budget.

Prepared by: Zane Johnston, Finance & Administrative Services Director  
Reviewed by: Maria Hurtado, Assistant City Manager  
Approved by: R. Leon Churchill Jr., City Manager

AGENDA ITEM 3.A

REQUEST

**PUBLIC HEARING OF THE CITY COUNCIL TO CONSIDER ADOPTION OF THE ANNUAL BUDGET FOR THE CITY OF TRACY FOR FISCAL YEAR 2012-2013 AND APPROPRIATE FUNDS**

EXECUTIVE SUMMARY

This is a public hearing in regards to the proposed City budget for Fiscal Year 2012-2013. Upon conclusion of the hearing the Council will consider a budget and appropriations resolution to adopt the City budget.

DISCUSSION

Operating Budget. The proposed operating budget for the Fiscal Year 2012-2013 was presented to the City Council at a budget workshop on May 15, 2012. The focus of the operating budget is the General Fund. As presented at the budget workshop the proposed General Fund expenditure budget was \$49,878,820. However, revenues are not sufficient to cover expenses thereby resulting in a draw on reserves (budget deficit) of \$2,180,100.

The operating budget to be adopted is identical to that presented at the workshop as City Council did not request any changes to the proposed budget. The proposed City operating budget for FY 12-13 for all funds is \$112,836,710, including the General Fund.

CIP Budget. The proposed capital budget for Fiscal Year 2012-2013 was presented to the City Council at workshops on April 3<sup>rd</sup> and April 30, 2012. The proposed capital budget has been modified to reflect the Council's decisions at the April 30<sup>th</sup> workshop. This modified version was included in the proposed budget document and requests \$21,886,650 in appropriations for the capital budget.

Two subsequent items since the April 30<sup>th</sup> workshop, staff has added \$275,000 for CIP 75991 (page F49) in FY 12-13 to provide for purchases of water for storage, and CIP 72081 (page F22) for \$2,756,000 for street lights conversion has been deleted from FY 12-13.

Debt Service

The proposed City debt service budget for all funds is \$23,752,110.

Interfund Transfers

Proposed interfund transfers for FY 12-13 are \$3,775,100.

The Budget Resolution

The text of the proposed resolution authorizes the appropriations and interfund transfers for FY 12-13 in Sections 1 and 2.

Section 3 of the resolution provides for all investment earnings and gains in FY 11-12 and FY 12-13 for funds with General Fund derived cash balances and the City's internal services funds will be allocated to the General Fund 101.

Section 4 of the budget resolution appropriates any unappropriated proceeds of taxes to contingency reserves, although none are anticipated. This section provides for a formal statement of the practice as policy for purposes of Gann Limit compliance. Also, it sets a targeted fund balance of \$18,985,100 for the City's General Fund 101. It authorized staff to maintain this targeted fund balance at fiscal year-end, by transferring monies in or out of the General Fund 101 with the Economic Uncertainty Fund 299.

Section 5 specifies there is no uncommitted development impact fee monies held by the City from prior fiscal years. All fees collected to date have either been spent on capital projects or are committed to projects scheduled in the City's capital improvement plan.

Section 6 provides that any over expenditures in the current FY 11-12 operating budget as amended at the fund and department level will be offset by an equal reduction for the same fund and department in the new adopted budget for FY 12-13. It is not anticipated that any department will exceed their FY 11-12 amended budget.

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

### STRATEGIC PLAN

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

### FISCAL IMPACT

The annual City budget to be adopted for FY 12-13 will be as follows:

	<u>General Fund</u>	<u>Other Funds</u>	<u>All Funds</u>
Operating Budget	\$48,703,820	64,132,890	112,836,710
Capital Budget	0	19,130,650	19,130,650
Debt Service	<u>1,175,000</u>	<u>22,577,110</u>	<u>23,752,110</u>
<b>TOTAL</b>	<b>\$49,878,820</b>	<b>\$105,840,650</b>	<b>\$155,719,470</b>

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

### RECOMMENDATION

Upon concluding the Public Hearing, staff recommends that the City Council adopt the attached City of Tracy Budget and Appropriations Resolution for Fiscal Year 2012-2013.

Prepared by: Allan J. Borwick, Budget Officer  
Reviewed by: Zane H. Johnston, Finance and Administrative Services Director  
Approved by: R. Leon Churchill, Jr., City Manager



RESOLUTION \_\_\_\_\_

ADOPTING THE ANNUAL BUDGET AND APPROPRIATIONS FOR THE CITY OF TRACY  
FOR FISCAL YEAR 2012-2013

WHEREAS, The proposed operating, capital, and debt budgets for the City of Tracy for Fiscal Year 2012-2013 were submitted to the City Council on May 15, 2012, and

WHEREAS, Public workshops and a public hearing were held by the City Council to review, consider, and deliberate upon the proposed budgets, as well as to hear any public comments upon the budgets, and

WHEREAS, The proposed budgets presented to the City Council and any modifications made have been incorporated into budget;

NOW, THEREFORE, BE IT RESOLVED That the City Council of the City of Tracy does approve as follows:

Section 1: Adopted Budget for the Fiscal Year 2012-2013

There is hereby appropriated from the unappropriated fund balances anticipated to be available on July 1, 2012, and from the estimated revenues and transfers in to be received during the Fiscal Year beginning July 1, 2012, and ending June 30, 2013, the following amounts necessary to fund the operating programs of City departments, the City debt service programs, and the various projects of the City's Capital Improvement Program (CIP) during said Fiscal Year.

1. From the General Fund 101 and its various sub-funds for:

The Police Department	\$22,217,490
The Fire Department	8,712,180
The Public Works Department	4,031,000
The Development Services Department	6,263,800
The City Council	97,400
The City Attorney's Office	861,540
The City Manager's Office	1,779,750
Recreation and Cultural Arts Programs	3,390,070
The Administrative Services Department	2,953,810
The Indirect Costs Program	(1,144,240)
The Equipment Acquisition Program	291,000
The Special Reserves Program	250,020
CIP Projects	0
Debt Service Program	0
Sub-Total	<u>\$49,703,820</u>
Budget Savings	<u>(1,000,000)</u>
<b>TOTAL</b>	<b><u>\$48,703,820</u></b>

2.	From the South County Fire Authority Fund 211 for:		
	The Indirect Costs Program	\$	176,780
	The Equipment Acquisition Program		7,000
	The Fire Department		6,517,020
	Special Reserves Program		15,000
		\$	<u>6,715,800</u>
3.	From the Downtown Improvement District Fund 221 for:		
	The Downtown Promotions Program	\$	<u>117,200</u>
4.	From the Asset Forfeiture Fund 231 for:		
	The Equipment Acquisition Program	\$	30,000
	The Police Department		14,000
		\$	<u>44,000</u>
5.	From the Transportation Development Act Fund 241 for:		
	The Indirect Costs Program	\$	35,360
	The Public Works Department		1,307,440
	The Development Services Department		175,000
	The Equipment Acquisition Program		0
	CIP Streets and Highways Projects		0
		\$	<u>1,517,800</u>
6.	From the Transportation Sales Tax Fund 242 for:		
	CIP Traffic Safety Program	\$	0
	CIP Streets and Highways Projects		1,480,000
	CIP Parks & Recreation Projects		0
		\$	<u>1,480,000</u>
7.	From the State Prop 1B Road Bonds Fund 244 for:		
	CIP Streets and Highway Projects	\$	<u>325,000</u>
8.	From the Gas Tax (Maintenance) Funds 245, 246 & 247 for:		
	The Indirect Costs Program	\$	37,440
	The Public Works Department		1,312,560
	CIP Traffic Safety Program		805,000
	CIP Streets & Highways Projects		430,000
		\$	<u>2,585,000</u>
9.	From the Federal TEA Grant Fund 261 for:		
	CIP Traffic Safety Program	\$	0
	CIP Streets & Highways Projects		1,360,100
		\$	<u>1,360,100</u>
10.	From the Community Development Block Grant Fund 268 for:		
	The Development Services Department	\$	395,840
	CIP General Government Projects		90,000
		\$	<u>485,840</u>
11.	From the Landscaping Districts Fund 271 for:		
	The Indirect Costs Program	\$	83,580
	The Equipment Acquisition Program		0
	The Public Works Department		2,260,750
	The CIP Streets and Highways Projects		0
	The CIP Parks & Recreation Projects		238,000
		\$	<u>2,582,330</u>

12.	From the CDA and Successor Housing Fund 281 & 282 for:		
	The Indirect Costs Program	\$	0
	The Equipment Acquisition Program		0
	Debt Service Programs		0
	CIP Miscellaneous Projects		0
		\$	<u>0</u>
13.	From the Education Government CTV Fund 295 for:		
	The Indirect Costs Program	\$	27,950
	The Equipment Acquisition Program		0
	The City Manager's Office		90,470
		\$	<u>118,420</u>
14.	From the General Projects Fund 301 for:		
	CIP General Government Projects	\$	4,906,050
	CIP Traffic Safety Projects		2,756,000
	CIP Streets & Highways Projects		0
	CIP Airport Projects		76,000
	CIP Parks & Community Services Projects		2,234,000
	CIP Miscellaneous Projects		0
		\$	<u>9,972,050</u>
15.	From the Parks Infill Fund 311 for:		
	CIP Parks and Recreation Projects	\$	<u>0</u>
16.	From the Drainage Infill Fund 312 for:		
	CIP Drainage Projects	\$	<u>0</u>
17.	From the Arterials Infill Fund 313 for:		
	CIP Streets and Highways Projects	\$	<u>0</u>
18.	From the Building Infill Fund 314		
	CIP General Government Projects	\$	<u>0</u>
19.	From the Redevelopment Agency Obligations Fund 317 & 318		
	Indirect Costs Program	\$	0
	The Development Services Department		0
		\$	<u>0</u>
20.	From the Plan C Arterials Fund 322 for:		
	CIP Drainage Projects	\$	<u>0</u>
21.	From the Plan C Drainage Fund 323 for:		
	CIP Traffic Safety Projects	\$	<u>0</u>
22.	From the Plan C General Facilities Fund 324 for:		
	CIP Parks and Recreation Projects	\$	<u>0</u>
23.	From the Plan C Utilities Fund 325 for:		
	CIP Water Projects	\$	0
	CIP Wastewater Projects		0
	CIP Interfund Reimbursements		0
		\$	<u>0</u>

24.	From the RSP Program Management Fund 345 for:		
	CIP General Government Projects	\$	0
	CIP Economic Development Projects		1,300,000
	CIP Interfund Reimbursements		0
		\$	<u>1,300,000</u>
25.	From the Northeast Industrial Area #1 Fund 351 for:		
	CIP General Government Projects	\$	0
	CIP Arterials Projects		342,000
	CIP Traffic Safety Projects		0
	CIP Miscellaneous Projects		0
	CIP Interfund Reimbursements		0
		\$	<u>342,000</u>
26.	From the South MacArthur Area Fund 352 for:		
	CIP General Government Projects	\$	0
	CIP Water Projects		220,900
	CIP Miscellaneous Projects		0
		\$	<u>220,900</u>
27.	From the I-205 Corridor Development Fund 353 for:		
	CIP Arterials Projects	\$	0
	CIP Miscellaneous Projects		0
		\$	<u>0</u>
28.	From the Industrial Specific Plan, South Fund 354 for:		
	CIP General Government Projects	\$	0
	CIP Traffic Safety Projects		102,000
	CIP Streets and Highways Projects		0
	CIP Wastewater Projects		0
	CIP Drainage Projects		500,000
	CIP Miscellaneous Projects		0
		\$	<u>602,000</u>
29.	From the Presidio Fund 355 for:		
	CIP Parks & Recreation Projects	\$	(178,900)
	CIP Miscellaneous		0
		\$	<u>(178,900)</u>
30.	From the Tracy Gateway Area Fund 356 for:		
	CIP Traffic Safety Projects	\$	0
	CIP Streets & Highways Projects		0
	CIP Wastewater Improvements		0
	CIP Water Improvements		0
	CIP Parks & Recreation Projects		0
		\$	<u>0</u>
31.	From the NE Industrial Area #2 Fund 357 for:		
	CIP General Government Projects	\$	0
	CIP Streets & Highways Projects		0
	CIP Miscellaneous Projects		0
		\$	<u>0</u>

32.	From the Community Development Agency Project Fund 381 for:		
	The Indirect Costs Program	\$	0
	The Development Services Department		0
	CIP Streets & Highways Projects		0
	CIP Airport Projects		0
	CIP Parks & Recreation Projects		0
		\$	<u>0</u>
		\$	0
33.	From the UMP Facilities Fund 391 for:		
	CIP Parks and Recreation Projects	\$	0
	CIP Miscellaneous Projects		0
		\$	<u>0</u>
		\$	0
34.	From the CIP Deposits Fund 395 for:		
	The Capital Improvements Programs CIP Deposits	\$	500,000
35.	From the Community Development Agency Debt Fund 404 for:		
	The Redevelopment Debt Program	\$	0
36.	From the 2008 Lease Revenue Bonds Fund 407 for:		
	Debt Service Programs	\$	281,080
37.	From the 2009 Lease Revenue Bonds Fund 408 for:		
	Debt Service Programs	\$	1,293,000
38.	From the Successor Agency Fund 495 for:		
	The Indirect Costs Program	\$	125,990
	The Development Services Department		124,010
	The Debt Services Program		6,676,020
		\$	<u>6,926,020</u>
		\$	6,926,020
39.	From the Water Operating Fund 511 for:		
	The Indirect Costs Program	\$	262,310
	The Administrative Services Department		552,400
	The Special Reserves Program		25,000
	The Equipment Acquisition Program		30,000
	The Public Works Department		12,036,140
	The Development Services Department		79,050
	Water Purchases for Storage		275,000
	Debt Service Programs		1,340,430
		\$	<u>14,600,330</u>
		\$	14,600,330
40.	From the Water Capital Fund 513 for:		
	CIP Water Improvements Projects	\$	433,000
	CIP Interfund Reimbursements		0
		\$	<u>433,000</u>
		\$	433,000
41.	From the Wastewater Operating Fund 521 for:		
	The Indirect Costs Program	\$	183,430
	The Administrative Services Department		244,700
	The Special Reserves Program		25,000
	The Equipment Acquisition Program		104,600
	The Public Works Department		7,351,910
	The Development Services Department		96,680
	Debt Service Programs		2,264,500
		\$	<u>10,270,820</u>
		\$	10,270,820

42.	From the Wastewater Capital Fund 523 for: CIP Wastewater Improvements Projects CIP Interfund Reimbursements	\$ 1,997,000 <u>0</u> \$ 1,997,000
43.	From the Solid Waste Funds 531, 532 and 533 for: The Indirect Costs Program The Administrative Services Department The Public Works Department	\$ 32,030 280,500 <u>18,241,530</u> \$ 18,554,060
44.	From the Drainage Fund 541 for: The Indirect Costs Program The Administrative Services Department The Public Works Department The Development Services Department CIP Drainage Projects	\$ 15,790 18,800 543,160 25,000 <u>140,500</u> \$ 743,250
45.	From the Airport Fund 561 for: The Indirect Costs Program The Public Works Department Debt Service Programs	\$ 69,800 291,950 <u>23,140</u> \$ 384,890
46.	From the Airport Capital Fund 563 for: CIP Airport Improvements Projects	<u>0</u> \$ 0
47.	From the Transit Fund 571 for: The Indirect Costs Program The Equipment Acquisition Program The Public Works Department	\$ 58,960 20,000 <u>1,724,830</u> \$ 1,803,790
48.	From the Transit Capital Fund 573 for: CIP Transit Projects	\$ 1,355,000
49.	From the Central Garage Fund 601 for: The Indirect Costs Program The Equipment Acquisition Program The Public Works Department CIP General Government Projects	\$ 34,820 20,000 1,429,380 <u>0</u> \$ 1,484,200
50.	From the Central Services Fund 602 for: The Administrative Services Department The Equipment Acquisition Program Debt Service Programs	\$ 1,494,550 0 <u>0</u> \$ 1,494,550
51.	From the Equipment Acquisition Fund 605 for: Debt Services Programs The Equipment Acquisition Program CIP Projects	\$ 73,200 671,360 <u>200,000</u> \$ 944,560

52.	From the Vehicle Acquisition Fund 606 for: The Equipment Acquisition Program	\$ 573,900
53.	From the Building Maintenance Fund 615 for: The Public Works Department The Equipment Acquisition Program	\$ 811,300 0 <hr/> \$ 811,300
54.	From the Self-Insurance Fund 627 for: The Equipment Acquisition Program The Administrative Services Department The NonDepartmental Group	\$ 0 502,000 3,128,600 <hr/> \$ 3,630,600
55.	From the Medical Leave Bank Fund 811 for: The Special Reserves Program	\$ 300,000
56.	From the CFD 89-1 Debt Fund 835 for: Debt Service Programs CIP Interfund Reimbursements	\$ 1,300,500 0 <hr/> \$ 1,300,500
57.	From the CFD 99-1 Fund 837 for: Debt Service Programs	\$ 758,510
58.	From the CFD 00-01 Fund 840 for: Debt Service Programs	\$ 907,300
59.	From the Assessment District 94-1 Fund 841 for: Debt Service Programs	\$ 412,410
60.	From the CFD 93-1 Fund 844 for: Debt Service Programs	\$ 263,000
61.	From the CFD 98-1 Fund 846 for: Debt Service Programs	\$ 4,753,800
62.	From the CFD 98-3 Fund 847 for: Debt Service Programs	\$ 329,400
63.	From the I-205 RAA Debt Refinancing Fund 850 for: Debt Service Programs	\$ 949,600
64.	From the AD 03-01 Berg Avenue Area Fund 852 for: Debt Service Programs	\$ 79,120
65.	From the CFD 06-01 NE Industrial Area #2 Fund 853 for: Debt Service Programs	\$ 679,400
66.	From the TOPJPA Revenue Bonds 2011A Fund 854 for: Debt Service Programs	\$ 1,159,700
67.	From new Financing Districts to be established: Debt Service Programs	\$ 208,000
<b>Grand Total All Funds</b>		<b>\$ <u>158,475,450</u></b>

Section 2: Authorized Interfund Transfers for Fiscal Year 2012-2013.

There is hereby authorized the transfers of the following amounts from one fund to another for the stated purpose during said Fiscal Year 2012-2013.

1.	From the General Fund 101 for debt service payments:	
	To the 2007 Lease Revenue Bond Fund 407	\$ 282,000
	To the 2008 Lease Revenue Bond Fund 408	\$ 893,000
	Sub-total	\$ 1,175,000
2.	From Successor Agency Fund 495 for debt service payments:	
	To the 208 Lease Revenue Bond Fund 408	\$ 400,000
3.	From the Airport Fund 561 for loan repayment:	
	To the Water Capital Fund 513	\$ 20,000
4.	From the Economic Uncertainty Fund 299 for a operating transfer:	
	To the General Fund 101	\$ 2,180,100
	Total Transfers	\$ 3,775,100

Section 3: Interest Allocation and Stabilization

All investment earnings and gains in FY 11-12 and FY 12-13 for funds with General Fund derived cash balances and the City's internal services funds, will be allocated to the General Fund 101.

Section 4: Contingency Reserves

Any proceeds of taxes received in FY 11-12 or FY 12-13, in excess of those appropriated or transferred in Sections 1 and 2 above shall be appropriated into a contingency reserve for their respective fund.

The General Fund fund balance is targeted at \$18,985,100 at fiscal year-end for both FY 11-12 and FY 12-13. Staff is authorized to transfer any monies into or out of the General Fund 101, and from or to the Economic Uncertainty Fund 299 respectively, to maintain the targeted fund balance.

Section 5: No Uncommitted Development Fees

The City prepares and maintains a five-year capital improvement plan. In accordance with this plan, there are no uncommitted development fee monies from prior fiscal years that should be refunded as per Government Code 66001(d).



Section 6:      Reduction for Prior Year Over Expenditures

Any over expenditures of the FY 11-12 operating budget as amended at the fund and department level shall be offset by an equal reduction for the same fund and department in the new FY 12-13 budget.

Section 7:      Reduction for Expenditures of Unrealized Fee & Grant Revenues

In any program where a budget is established based upon a projection of fee and/or grant revenues, covering at least 20% of program costs, it is expected that if actual revenues received are less than projected, that actual expenses paid from the program should also be less by an equal amount. If any expenditure of unrealized revenue occurs in FY 11-12, the portion over shall be offset by an equal reduction for the same fund and department in the new FY 12-13 budget.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by the Tracy City Council on the \_\_\_ day of June 2012, by the following vote:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

ABSTAIN:       COUNCIL MEMBERS:

\_\_\_\_\_

Mayor

ATTEST:

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

AGENDA ITEM 3.B

REQUEST

**CONDUCT A PUBLIC HEARING TO ADOPT A RESOLUTION APPROVING THE  
UPDATED MASTER FEE SCHEDULE**

EXECUTIVE SUMMARY

City staff has updated the consolidated, City-wide Master Fee Schedule for Council approval.

DISCUSSION

Over many years, City departments have proposed and the City Council has adopted various fees relating to the work of the departments. On May 17, 2011, the City Council adopted a consolidated, City-Wide Master Fee Schedule to provide for a record of fees in one place, better public information, and consistent updating of the fees. (Resolution No. 2011-101).

The Master Fee Schedule reflects fees charged for City services. It does not include the following types of fees and charges:

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

As indicated in the staff report on this item in 2011, it is the intention to update the Master Fee Schedule on an annual basis, based on an automatic cost-of-living adjustment calculated since the fee was last set. The proposed, revised Master Fee Schedule has been prepared with an automatic CPI adjustment of 3%, rounded to the nearest dollar (except where cents are already used) with the exception of: (1) Parks and Community Services Department fees; (2) Grand Theatre fees; and (3) other fees indicated by an asterisk, which are not automatically increased. The 3% CPI adjustment is based on the Consumer Price Index for all Urban Consumers, All Items, for the San Francisco-Oakland-San Jose Metropolitan Area (1982-84 = 100), as published by the Bureau of Labor Statistics of the U.S. Department of Labor. Also, upon the suggestion of the Development Services Department, the fees for conditional use permits have been simplified to correspond to the two size-based fees used for development review.

The fees set forth in the Master Fee Schedule represent no more than the estimated reasonable cost, or actual cost, of the services or facilities provided. They do not exceed the City's cost and, in many cases, are far below the City's cost. The adoption of this Master Fee Schedule is permitted under California Constitution Art. XIII C, including the exceptions under Art. XIII C, Section 1(e).

Although there are no new fees affecting new development, nevertheless, the City has given notice of the proposed Master Fee Schedule update as required by Government Code section 66016: notice of the time and place of the meeting, including a general explanation of the matter to be considered, was mailed to any interested party who filed a written request with the City for mailed notice of the meeting on new or increased fees or service charges. Notice has also been given by publication, pursuant to Government Code Sections 66018 and 6062a.

The adoption of this Master Fee Schedule is not subject to the California Environmental Quality Act because it is not a project which has the potential for causing a significant effect on the environment. (CEQA Guidelines, 14 Cal. Code of Regs. §15061(b)(3).)

### FISCAL IMPACT

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

### STRATEGIC PLAN

This agenda item supports the Organizational Effectiveness strategic plan and specifically implements the following goals:

Goal 1: Assure fiscal health

Goal 3: Ensure systems are in place to meet the City's service delivery strategies.

### RECOMMENDATION

It is recommended that the Mayor open the Public Hearing and upon its closure, that the Council adopts the resolution approving the Master Fee Schedule.

#### Attachments:

- Resolution Approving the Master Fee Schedule, with attached Master Fee Schedule.

Prepared by: Zane Johnson, Finance Director  
Reviewed by: Daniel G. Sodergren, City Attorney  
Approved by: R. Leon Churchill, Jr., City Manager

RESOLUTION \_\_\_\_\_

A RESOLUTION OF THE CITY OF TRACY  
APPROVING THE MASTER FEE SCHEDULE

WHEREAS, over many years, City departments have proposed and the City Council has adopted various fees relating to the work of the departments; and

WHEREAS, on May 17, 2011, the City Council adopted a consolidated, City-wide Master Fee Schedule to provide for a record of fees in one place, better public information, and consistent updating of the fees. (Resolution No. 2011-101); and

WHEREAS, the Master Fee Schedule reflects fees charged for City services. It does not include the following types of fees and charges:

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

WHEREAS, as indicated in the staff report on this item in 2011, it is the intention to update the Master Fee Schedule on an annual basis, based on an automatic cost-of-living adjustment calculated since the fee was last set; and

WHEREAS, the proposed, revised Master Fee Schedule has been prepared with an automatic CPI adjustment of 3%, rounded to the nearest dollar (except where cents are already used) with the exception of: (1) Parks and Community Services Department fees; (2) Grand Theatre fees; and (3) other fees indicated by an asterisk, which are not automatically increased; and

WHEREAS, the fees set forth in the Master Fee Schedule represent no more than the estimated reasonable cost, or actual cost, of the services or facilities provided. They do not exceed the City's cost and, in many cases, are far below the City's cost. The adoption of this Master Fee Schedule is permitted under California Constitution Art. XIII C, including the exceptions under Art. XIII C, Section 1(e); and

WHEREAS, although there are no new fees affecting new development, nevertheless, the City has given notice of the proposed Master Fee Schedule update as required by Government Code section 66016: notice of the time and place of the meeting, including a general explanation of the matter to be considered, was mailed to any interested party who filed a written request with the City for mailed notice of the meeting on new or increased fees or service charges; and

WHEREAS, notice has also been given by publication, pursuant to Government Code Sections 66018 and 6062a; and

WHEREAS, the adoption of this Master Fee Schedule is not subject to the California Environmental Quality Act because it is not a project which has the potential for causing a significant effect on the environment. (CEQA Guidelines, 14 Cal. Code of Regs. §15061(b)(3).); and

WHEREAS, on June 5, 2012, the City Council held a public meeting where all interested parties were able to provide testimony.

NOW, THEREFORE, the Tracy City Council does resolve, declare, determine and order as follows:

1. The Master Fee Schedule, attached to this Resolution as Exhibit A, is approved.
2. This Resolution takes effect immediately. However, the Development and Engineering Services fees take effect on August 6, 2012 which is at least 60 days after its adoption (as required under Government Code section 66017).
3. This Resolution supersedes Resolution No. 2011-101.

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 5th day of June, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

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

Attachments:  
Exhibit A      Master Fee Schedule



# City of Tracy

## Master Fee Schedule

Adopted by City Council Resolution No. \_\_\_\_\_  
June 5, 2012

Effective June 5, 2012, except  
Development and Engineering Services effective on August 6, 2012

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## Introduction

The City of Tracy Master Fee Schedule is a compilation of most of the fees charged by the City for services. It is organized primarily by Department. It does not include the following types of fees:

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

The Master Fee Schedule will generally be updated annually, and most fees increased by a cost-of-living adjustment (CPI) rounded to the nearest dollar. The fees which are updated by some other method are indicated with an asterisk (\*).

Public services may be classified as community-supported public services, such as police and fire services. These are generally provided to the community as a whole and are supported by general tax dollars from the City's general fund. Personal choice services are optional, such as taking a class, and are requested by the customer. Developing property (requiring a building permit or land use entitlement) is done at the request of and for the benefit of the owner. Fees are usually charged for these types of services, though some may be subsidized with general tax dollars when they have some social, safety, or welfare benefit.

The City Staff Committee which worked to put together this Master Fee Schedule includes the following representatives from each Department:

City Manager's Office	Maria Hurtado
City Clerk's Office	Carole Fleischmann
Dev and Eng Svcs	Bill Dean
Finance	Linda Moniz
Fire	Kevin Jorgensen
Human Resources	Judy Carlos
Parks and Comm Svcs	Kim Scarlata
Police	Captain Juan Espinoza
Public Works	Vanessa Carrera

Legend:

* Not subject to CPI adjustment	CBC - California Building Code	H&S - CA Health and Safety Code
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PRC - CA Public Resources Code	DOJ - CA Department of Justice	



# City-Wide Fees

## City Clerk and City Manager Departments

Legend:

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# City-Wide Fees

## City Clerk and City Manager Departments

Department Contact: Maria Hurtado, Assistant City Manager  
 Carole Fleischmann, Assistant City Clerk

SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
		TMC §3.36.010
<b>Annual Subscriptions (City Council, Planning Commission)</b>		GC §6253
Agendas	\$36 / month \$2 / disc / agenda	Reso. 2007-258
Minutes *	\$.15 / page	GC §6253
<b>Appeals</b>		
To City Council	\$155	TMC §1.12.020(B)(2)
To City Manager	\$155	TMC §1.12.010(D)(2)
By Impartial Hearing Officer	May be shared equally by parties	TMC §1.12.030
<b>Document Certification</b>	\$15 / document <sup>b</sup>	Reso. 2003-059
<b>Photocopies</b>		
Paper Copy *	\$.10 / page \$.15 / page for agenda items	GC §6253 Reso. 2007-258
Oversized Copy	actual cost	
Maps *	actual cost	GC §6253
<b>Duplicating Recording of Public Meeting:</b>		
Video or Audio	actual cost	
DVD of Council Meeting	\$2	Reso. 2007-258
<b>Notary Fee *</b>	\$10	GC §8211
<b>Palmistry License Fee (through Police Dept)</b>		TMC §4.12.190
New	\$567	
Renewal	\$360	

### Latest Fee Study or Staff Report Explanation:

- City Council Resolution No. 2011-101 and accompanying staff report.
- Updated Council Policies and Procedures, City Council Resolution No. 2007-258.
- Resolution No. 2003-059 and accompanying staff report.
- <sup>b</sup> 1998 Cost of Service Study, and 2003 Cost of Services Update, prepared by Finance Department. (City Council Resolution No. 2003-059).

#### Legend:

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# City-Wide Fees

## Cultural Arts/Grand Theatre

Department Contact: Maria Hurtado, Assistant City Manager  
 Jeffrey Haskett, Theater Manager

\* Fees are set by this Department annually and are not subject to automatic CPI adjustments.

SERVICE OR APPLICATION	CURRENT FEE		LEGAL AUTHORITY
			TMC §3.36.010
<b>DEPOSITS</b>			
Grand Theatre (Refundable)	\$500		
Studio Theatre	\$250		
Movement Theatre	\$100		
Art Studio	\$100		
Art Studio 2	\$100		
Children's Art Studio	\$100		
Music Rooms 1-1	\$100		
<b>ETK THEATRE</b>			
Grand Theatre base rental is 8 hours and includes: 1 staff technician and 1 front-of-house supervisor.			
Note: Prime time is Friday through Sunday. Percentage payment is based on gross receipts. Fee is either minimum of percentage, whichever is greater.			
	<b>Non-profit</b>	<b>Commercial</b>	
Prime Time Rental: Performance			
First 8 hours	\$574 or 10%	\$1,722 or 15%	
Each Additional Hour	\$100	\$300	
Prime Time Rental: Rehearsal			
First 8 hours	\$574	\$1,722	
Each Additional Hour	\$100	\$300	
Non-Prime Time Rental: Performance			
First 8 hours	\$287	\$750	
Each Additional Hour	\$100	\$300	
Non-Prime Time Rental: Rehearsal			
First 8 hours	\$143	\$375	
Each Additional Hour	\$100	\$300	
Prime Time Resident Company Rental:			
Performance or Rehearsal	\$460 / 8 hours	n/a	
Non-Prime Time Resident Company Rental:			
Performance	\$230 / 8 hours	n/a	
Non-Prime Time Resident Company Rental:			
Rehearsal	\$115 / 8 hours	n/a	

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<b>SERVICE OR APPLICATION</b>	<b>CURRENT FEE</b>		<b>LEGAL AUTHORITY</b>
<b>STUDIO THEATRE</b>	<b>Non-profit</b>	<b>Commercial</b>	
Prime Time Rental: Performance First 5 Hours Each Additional Hour	\$110 or 10% \$60	\$330 or 15% \$180	
Prime Time Rental: Rehearsal First 5 Hours Each Additional Hour	\$110 \$60	\$330 \$180	
Non-Prime Time Rental: Performance First 5 Hours Each Additional Hour	\$80 \$60	\$330 or 15% \$180	
Non-Prime Time Rental: Rehearsal First 5 Hours Each Additional Hour	\$80 \$60	\$330 \$180	
Meeting Each Additional Hour	\$225 / 2 hours \$40	\$115	
Prime Time Resident Company Rental: Performance or Rehearsal	\$88 / 5 hours	n/a	
Non-Prime Time Resident Company Rental: Performance	\$64 / 5 hours	n/a	
Non-Prime Time Resident Company Rental: Rehearsal	\$64 / 5 hours	n/a	
Note: Prime time is Friday through Sunday. Percentage payment is based on gross receipts. Fee is either minimum of percentage, whichever is greater.			
<b>DANCE STUDIO, ART STUDIO I AND II, AND CHILDREN'S ART STUDIO</b> Class/Meeting or Studio Theatre First 2 Hours Each Additional Hour	\$75 \$40	\$225 \$115	
<b>ART PARTIES</b> First 2 Hours Each Additional Hour Materials Fee (activity dependent)	\$50 \$35 \$5 - \$25 / person	\$150 \$75	
<b>LARGE MUSIC ROOM</b> <b>(Includes Any Room Set Up &amp; Tear Down)</b> Class/Meeting First 2 Hours Each Additional Hour	\$25 \$35	\$100 \$125	
<b>MUSIC ROOM</b> <b>(Includes any room set up and tear down)</b> Class (medium) or First 2 Hours Practice & Each Additional Hour	\$25 \$35	\$100 \$125	

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SERVICE OR APPLICATION	CURRENT FEE		LEGAL AUTHORITY
	Non-profit	Commercial	
<b>GRAND GALLERIES</b>	\$75 / 2 hours	\$225 / 2 hours	
Each Additional Hour	\$50	\$150	
<b>LOBBY AREAS</b>			
Upstairs	\$250 / 4 hours	\$500 / 4 hours	
Downstairs	\$200 / 4 hours	\$400 / 4 hours	
<b>OLD TOWN HALL &amp; JAIL</b>			
Weekday (Mon 8am – Fri 6 pm)	\$40 / 2 hours	\$60 / 2 hours	
Weekend (Fri 6 pm – Mon 8 am)	\$50 / 2 hours	\$100 / 2 hours	
<b>2<sup>ND</sup> FLOOR ARTS OFFICE</b>			
Weekday (Mon 8am – Fri 6 pm)	\$30 / 2 hours	not available	
Weekend (Fri 6 pm – Mon 8 am)	\$40 / 2 hours		
<b>(LOGGIA)</b>			
May only be rented as part of another rental			
Reception (hourly rate)	\$50	\$150	
<b>BOX OFFICE SERVICES</b>			
Per Performance	\$100	\$300	
Per Ticket Charge to Patron	\$3		
General Admission Per Ticket to Patron	\$1		
Marquee Listing	\$50 / day	\$100 / day	
<b>MISCELLANEOUS RENTALS</b>			
Grand Piano	\$900 / use		
Baby Grand Piano	\$500 / use		
Piano Tuning at Renter's Expense	\$150 each		
Installation/Removal of Floor for Orchestra Pit	\$250 / use		
Wireless Microphones	\$25 / day		
Microphone Stands	\$0 / use		
Follow Spot	\$350 / use		
Video Projector	\$100 / day		
Laptop Computer	\$50 / use		
Screen	\$30 / use	\$90 / use	
LCD Projector per Day/Event	\$0 / use		
Marquee Sign Listing	\$100 / use		

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>LABOR FEES</b>		
Technical Theatre Supervisor	\$56 / hour	
Theatre Technicians	\$40 / hour	
General Stagehands	\$20 / hour	
Follow Spot Operator	\$15 / hour	
Merchandise Sales Person	\$15 / hour	
Gallery Supervisor	\$40 / hour	
Gallery Docents	\$15 / hour	
Arts Education Instructor	\$25 / hour	
Recreation Leader	\$15 / hour	
<b>ADDITIONAL FEES</b>		
Janitorial Fees	\$150 / day	
Season Discount/Reward Card	\$20 / year	
Large Format Printing (posters, signs)	\$2 / Sq Ft	

**Latest Fee Study or Staff Report Explanation:**

- City Council Resolution No. 2011-101 and accompanying staff report.
- Resolution No. 2010-106 and accompanying staff report.

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## Development and Engineering Services Department

*Note: The DES Department fees in this Schedule do not include:*

- *development impact fees adopted under the Mitigation Fee Act;*
- *mitigation fees (ie habitat mitigation, agricultural mitigation fees);*
- *fees adopted by separate agreement with a developer.*

Legend:

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# Development and Engineering Services Department

## Building Safety and Fire Prevention Division

Department Contact: William Dean, Assistant Director of Development and Engineering Services  
Kevin Jorgensen, Chief Building Official and Acting Fire Marshal

Whenever called for, employee hourly rates are based on the particular employee position, salary, benefits & overhead.

### Building Safety

SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>Building Permit Fee</b> (Based upon project value, as determined by building valuation data table, with regional modifiers, as most recently published in the "Building Safety Journal".)	Amount established by 1997 Uniform Administrative Code, Tables 3-A through 3-D and §304	GC §66014, H&S §17951, Uniform Adm Code Section 304 & Table 3A-D. TMC §9.02.030, 9.08.080, CFR Title 24
<b>Electrical Permit</b>		
<b>Mechanical Permit</b>		
<b>Plumbing Permit</b>		
<b>Investigation Fee</b> (when work was begun without permit)	Equal to amount of permit fee, in addition to permit	1997 UAC §304.5.2
<b>Title 24 Energy Inspection</b>		GC §66014, CFR Title 24
<b>Strong Motion Instrumentation Tax (SMI)</b> (CA State fee forwarded quarterly)		PRC §2705
Residential, for first \$7,215 in value, plus for each additional \$1,000 or portion thereof.	\$.52 / \$7,215, plus \$.07 / \$1,000	
Commercial, for first \$7,215 in value, plus for each additional \$1,000 or portion thereof.	\$1.03 / \$7,215, plus \$.15 / \$1,000	
<b>Elevator Permit</b> Elevator, escalator or moving walk	\$92 plus \$1.65 for each \$1,000 or fraction over \$40,000	
Commercial dumbwaiter	\$26 plus \$1.65 for each \$1,000 over \$10,000	
<b>Electrical Meter Re-Set</b> (City safety inspection before PG&E turns on utilities.)	\$56	GC §66014
<b>Building Moving or Oversized Load</b> Initial inspection fee	\$103	TMC §9.32.040

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>Micro-Imaging Fees:</b> <b>(+2% for contractor pick-up and delivery)</b> <ul style="list-style-type: none"> <li>▪ 11" x 17" and smaller, black &amp; white or gray scale document with 2" field index</li> <li>▪ anything larger than 11" x 17", black &amp; white or gray scale document with a two field index</li> <li>▪ 11" x 17" and smaller, color document, with a two-field index</li> <li>▪ 18" x 24" color document, with a two-field index</li> <li>▪ 24" x 36" color document, with a two field index</li> </ul>	\$.07 each, + 2%  \$.77 each, + 2%  \$.13 each, + 2%  \$.46 each, + 2%  \$1.34 each, + 2%	Reso. 2006-161
<b>Sign Permit</b>	Based on valuation for building and electrical permits	TMC §9.28.050

## Fire Prevention

Note: The Chief Building Official and Acting Fire Marshal has the authority to not charge wholly duplicative fees, for example for a construction fire permit and operational fire permit in the same year.

SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
		TMC §3.36.010 and CFC 113
<b>Annual Operational Fire Permit and Inspection</b>		CFC 105.6
Permit fee Inspection fee:	\$98 / permit, plus:	
<u>Type A</u> : amusement buildings; Christmas tree lots; exhibits & trade shows; open burning; pyroxylin plastics; rooftop heliports; haunted houses & corn mazes; pumpkin patches.	Hourly rate for City personnel	
<u>Type B</u> : open candles, flames & torches .	\$41	
<u>Type C</u> : covered mall buildings; fire hydrants & valves; liquid or gas-fueled vehicles or equipment in assembly buildings; private fire hydrants .	\$57	
<u>Type D</u> : aviation facilities; cellulose nitrate film; cutting & welding; hot work operations; magnesium; temporary membrane structures, tents & canopies.	\$82	

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<u>Type E</u> : aerosol products; carnivals & fairs; combustible fibers; compressed gasses; dry cleaning plants; fruit & crop ripening; industrial ovens; miscellaneous combustible storage; wood products; floor finishing.	\$113	
<u>Type F</u> : above/below ground fuel storage tank installation, per tank; combustible dust-producing operations; cryogenic fluids; flammable & combustible liquids; LP-gas; organic coatings; places of assembly; repair garages & motor fuel-dispensing facilities; spraying or dipping; storage of scrap tires & tire byproducts; tire-rebuilding plants; fumigation & thermal insecticidal fogging.	\$170	
<u>Type G</u> : above/below ground fuel tank removal, per tank; lumber yards & woodworking plants; refrigeration equipment; production facilities; live audiences.	\$252	
<u>Type H</u> : explosives; hazardous materials; hazardous production material facilities; pyrotechnic/special effects displays; waste handling facilities.	\$340	
<u>Type I</u> : high-piled storage.	\$505	
<b>Construction Fire Permit, Including Plan Check, Review and Inspection</b>		CFC 105.7
Fire sprinkler plan check \$0 - \$5,000 \$5,001 - \$20,000 \$20,001 +	\$82 \$247 \$340	
Fire sprinkler inspection \$0 - \$5,000 \$5,001 - \$20,000 \$20,000 +	\$252 \$469 \$850	
Alarm plan check \$0 - \$10,000 \$20,000 +	\$340 \$510	
Alarm inspection \$0 - \$20,000 \$20,000 +	\$170 \$510	
Hood and duct Plan check Inspection	\$41 / application \$129 / application	

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>State Mandated Occupancy Inspection</b>		Title 19, CCR
Pre-inspection request:		
25 or less	\$51	
26 or more	\$103	
Day care, 14 or fewer	\$129	
Day care, more than 14, or Convalescent Home	\$290	
<b>Hydrant System Flow Testing</b>		
Testing	\$327 / test	
Witnessing	\$113 / test	

**Latest Fee Study or Staff Report Explanation:**

Building:

- City Council Resolution No. 2011-101 and accompanying staff report.
- Resolution No. 2003-267 .
- 1997 Uniform Administrative Code adopted by TMC §9.02.030.

Fire Safety:

- City Council Resolution No. 2011-101 and accompanying staff report.
- 2008 MGT of America, Inc. Fire Department cost of services study. (Note: based on this study, many fees are now set at 50% of actual cost).
- 2003 Cost of Services Study Update, prepared by Finance Dept. (City Council Resolution No. 2003-059.) (See also Feb 18, 2003 staff report).
- 1998 Cost of Service Study, prepared by MSI.

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# Development and Engineering Services Department

## Code Enforcement Division

Department Contact: William Dean, Assistant Director of Development and Engineering Services  
 Ana Contreras, Code Enforcement Officer

The Code Enforcement Division has no fees as such. However, there are various fines and costs of abatement established in the Tracy Municipal Code under the following chapters:

- Administrative Citations and Penalties: TMC Chapter 1.28.
- Public Nuisance Abatement: TMC Chapter 1.32.
- Abandoned Shopping Carts: TMC Chapter 6.24.

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# Development and Engineering Services Department

## Engineering Division

Department Contact: William Dean, Assistant Director of Development and Engineering Services  
Kul Sharma, City Engineer

SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>AGREEMENT PROCESSING FEE</b> Inspection improvement agreement Subdivision improvement agreement Deferred improvement agreement Off-site improvement agreement Park improvement and reimbursement agreement	\$6,442 / agreement	
<b>GRADING</b> <b>Grading plan check</b> (base amount) 0-10,000 cubic yards (CY) 10,001-100,000 CY 100,001-200,000 CY 200,000 + CY Additional	\$2,524 Base amount Base amount + \$134 / 10,000 CY Base amount + \$114 / 10,000 CY Base amount + \$89 / 10,000 CY	TMC §12.12.070
<b>Grading permit and inspection</b> 5 or fewer lots (residential or commercial) Subdivisions (5 or more lots) Additional plan review required by multiple changes, additions, revisions after initial review completed.	\$1,427 \$3,605 Hourly personnel costs \$100 / hour	TMC §12.12.070
<b>SUBDIVISIONS</b> Tentative subdivision map Vesting tentative subdivision map Final Parcel Map Review Final Subdivision Map Review Map amendment review Certificate of correction Certificate of compliance – lot line adjustment	(See Planning) (See Planning) \$2,337 \$1,895 \$1,164 \$3,554 \$2,781	TMC §12.12.070; 12.16.060 TMC §12.28.050 TMC §12.12.070 TMC §12.28.050 TMC §12.04.080

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>PUBLIC IMPROVEMENTS</b> Inspection improvement agreement (SIA, DIA, OIA, PIRA, any amendment) Plan check (% of improvement constr cost) Inspection (% of improvement constr cost) As-builts, review after construction	\$6,442 5.78% 3.50% \$31	
<b>Micro-Imaging Fees</b> (+ 2% for contractor pick-up and delivery): ▪ 11" x 17" and smaller, black & white or gray scale document with 2" field index ▪ anything larger than 11" x 17", black and white or gray scale document with a two field index ▪ 11" x 17" and smaller, color document with a two-field index ▪ 18" x 24" color document, with a two-field index ▪ 24" x 36" color document, with a two field index	\$\$.07 each, + 2% \$.77 each, + 2% \$.13 each, + 2% \$.46 each, + 2% \$1.34 each, + 2%	Reso. 2006-161
<b>SEGREGATION OF ASSESSMENT</b> (Within any assessment districts)	\$41 / lot	
<b>RECORD OF SURVEY</b>	\$305	
<b>STREET/EASEMENT ABANDONMENT</b>	\$1,483	
<b>ENCROACHMENT PERMIT</b> Sidewalks, plus whichever is less Driveways, Curbs, plus whichever is less Trees, Utility Boxes/per hour (1 hour minimum) Miscellaneous Encroachment Permit, plus hourly rate for inspection and engineering review.	\$361 \$57 plus \$15 / Sq Ft or \$50 / hour \$57 plus \$15 / Sq Ft or \$50 / hour \$57 plus \$50 / hour \$113 / permit plus \$85 / hour	TMC §7.04.020
<b>OVERSIZE LOAD PERMIT</b> Single Permit Annual or Blanket Permit (fix route)	\$16 \$93	
<b>BUILDING MOVING OR OVERSIZED LOAD</b> Permit fee Other	\$589 Hourly rate for City personnel	TMC §9.32.040

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>REPRODUCTION, MAP AND DOCUMENT SALES:</b> Standard Plans, Standard Specs, and Design Standards Parks Manual Storm Drainage Master Plans Subdivision Maps Reproduction Fees	 \$15 \$77 \$21 \$5 \$1.55 / sheet	
<b>CONSTRUCTION WATER METERS</b> Deposit for use of City-owned meter Service reinstatement fee <u>Winter rates per ccf (Nov - Apr)</u> (100 cubic feet or 748 gal) 0 - 12 ccf; 13 - 19 ccf; 20 - 191 ccf; 192+ ccf <u>Summer rates per ccf (May - Oct)</u> 0 - 18 ccf; 19 - 29 ccf 30 - 287 ccf; 288+ ccf <u>Monthly service charge</u> (Meter code and size) LL (LIRA) – 1” WL (LIRA) – varies W1 - 5/8” or 3/4” W2 – 1” W3 – 1 1/2” W4 – 2” W5 – 3” W6 – 4” W7 – 6” W8 – 8” W9 – 10”	 \$773 \$52  \$1.03; \$1.49 \$1.70; \$1.85  \$1.03; \$1.49 \$1.70; \$1.85 \$10 / day + 15% adm fee plus:  \$8.96 \$0 \$12.05 \$21.01 \$48.05 \$85.23 \$191.84 \$341.19 \$767.61 \$1,364.80 \$2,132.51	Reso. 2008-063 & 93-130
<b>NEW ADDRESS MAPPING FEES</b> Single-family Multi-family projects, plus dwelling unit cost In buildings with 5 or more units	 \$66 / lot \$66 / lot, plus \$33 / dwelling unit	Reso. 99-094 Reso. 2002-176

**Latest Fee Study or Staff Report Explanation:**

- City Council Resolution No. 2011-101 and accompanying staff report.
- Resolution No. 2008-063 (regarding water rates for construction water meters).
- Resolution No. 2003-265 and 2003 Cost of Services Study Update, prepared by Finance Dept.
- Resolution No. 2002-176, re mapping fee for multi-family residential.

Legend:

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# Development and Engineering Services Department

## Planning Division

Department Contact: William Dean, Assistant Director of Development and Engineering Services

The Planning Division fees represent application processing fees only, and do not reflect capital improvement in-lieu fees, school fees, or any other city or other agency fees or deposits that may be applicable to the proposed project. Regarding building permit fees, plan check fees and inspection fees, see Building Division. Regarding encroachment permit fees, see Engineering Division.

### Symbol Key

- Plus Actual Costs Incurred: including fees for consultant services, environmental documentation filing fees, other agency fees, etc.
- Environmental Assessment Fee not applicable.

SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>PLANNING DIVISION APPLICATION PROCESSING FEES</b>		Generally, TMC §10.08.4150; 12.12.070
<b>Adult Business Use Permit</b>	Cost Recovery Agreement	TMC §10.28.808
<b>Annexation</b>	\$10,815	TMC §10.08.4150
<b>Appeal to City Council ●</b>	\$284	TMC §10.08.4150
<b>Appeal to Planning Commission ●</b>	\$284	TMC §10.08.4150
<b>Conditional Use Permit <sup>a</sup></b>		TMC §10.08.4270(h)
class A	\$9,883	
class B	\$5,459	
class C	\$3,476	
<b>Conditional Use Permit (Non-Profit Organizations)</b>		TMC §10.08.4270(h)
class A	\$989	
class B	\$546	
class C	\$350	
<b>Development Review <sup>b</sup></b>		TMC §10.08.4150
class A	\$3,914	
class B	\$2,781	

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>ENVIRONMENTAL</b>		CEQA Guidelines §15045 (14 CCR 15045)
Environmental Assessment (charged for all projects not requiring a Negative Declaration or EIR, except as noted by ●)	\$103	
Environmental Initial Study / Negative Declaration Environment Impact Report	\$1,463 □ Cost Recovery Agreement	
<b>General Plan Amendment</b>	Cost Recovery Agreement	TMC §10.08.4150
<b>Lot Line Adjustment</b>	\$420	TMC §12.04.080; 12.12.070
<b>Micro-Imaging Fees</b> (+ 2% for contractor pick-up and delivery):		Reso. 2006-161
▪ 11" x 17" and smaller, black & white or gray scale document with 2" field index	\$.07 each, + 2%	
▪ anything larger than 11" x 17", black and white or gray scale document with a two field index	\$.77 each, + 2%	
▪ 11" x 17" and smaller, color document, with a two-field index	\$.13 each, + 2%	
▪ 18" x 24" color document, with a two-field index	\$.46 each, + 2%	
▪ 24" x 36" color document, with a two field index	\$1.34 each, + 2%	
<b>Noise Ordinance Variation</b>	\$4,120 □	TMC §4.12.780(B)(4)
<b>Planned Unit Development</b>	\$8,086	TMC §10.08.4150
<b>Planned Unit Development Amendment</b>	\$4,635	
<b>Planning Commission Determination</b>	\$1,035	TMC §10.08.4150
<b>Residential Growth Allotment ●</b>	\$1,719	TMC §10.12.070(c); GMO Guidelines §2 G
<b>Sign Permit ●</b>		TMC §10.08.4150
Master Sign Program	\$1,042	
Individual Sign Complying w/MSP	\$77	
All other signs	\$470	
<b>Specific Plan</b>	Cost Recovery Agreement	TMC §10.20.040(c)(1);
Specific Plan Amendment	\$5,253	10.20.080

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>Temporary Use Permit •</b>	\$74	TMC §10.08.4240; 10.08.4150
<b>Tentative Map</b> Parcel map 5 – 100 lots 100 & over lots	\$7,519 \$10,300 \$16,068	TMC §12.12.070
<b>Time Extension •</b>	\$433	TMC §12.12.070 for Subd
<b>Variance</b>	\$692	TMC §10.08.3630; 10.08.4150
<b>Zoning</b> Zone Change Zone Text Amendment Zoning Research Letter •	\$2,627 \$2,575 \$82	TMC §10.08.4150

<sup>a</sup> **Conditional Use Permit:** Classification by type of project;

	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>
Class A:	4+ lots	+3,000 Sq Ft or 4+ lots	+10,000 Sq Ft or 4+ lots
Class B:	1-3 lots	-3,000 Sq Ft or 1-3 lots	-10,000 Sq Ft or 1-2 lots

<sup>b</sup> **Development Review Permit:** Classification by type of project;

	<u>Residential</u>	<u>Commercial</u>	<u>Industrial</u>
Class A:	4+ units	+3,000 Sq Ft	+10,000 Sq Ft
Class B:	1-3 units	-3,000 Sq. Ft.	-10,000 Sq Ft

**Latest Fee Study or Staff Report Explanation:**

- City Council Resolution No. 2011-101 and accompanying staff report.
- Resolution No. 2003-265, and 2003 Cost of Services Study Update, prepared by Finance Dept.
- City Council Resolution No. 98-373 and 1998 Cost of Services Study and Cost Allocation Plan, prepared by Management Services Institute.

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**FINANCE AND ADMINISTRATIVE  
SERVICES DEPARTMENT**

Legend:

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# Finance and Administrative Services Department

Department Contact: Linda Moniz, Accounting Technician

SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>Fire Sprinkler Charges</b> (Water Access/Availability)		Reso. 95-018
2" line	\$5	
4" line	\$10	
6" line	\$21	
8" line	\$31	
10" line	\$41	
12" line	\$52	
<b>Returned Check Processing</b> (NSF - Not Sufficient Funds) Fees	\$25 / item	TMC §11.12.060
<b>Water Delinquent Turn Off/On</b>	\$36 reconnect	Reso. 2003-059

**Note: Business Licenses:**

- Business license fee amounts are established by ordinance, at TMC Chapter 6.04.
- Transfer, assignment or duplication fee of \$5 established by TMC 6.04.130.
- Penalty of 10% of business tax for delinquent taxes, not to exceed 50%, established by TMC 6.04.170.

**Note: Transient Occupancy Tax**

- Established by ordinance as 10% of rent, at TMC 8.48.230.

**Latest Fee Study or Staff Report Explanation:**

- City Council Resolution No. 2011-101 and accompanying staff report.
- 2003 Cost of Services Study Update, prepared by Finance Department. (See City Council Resolution No. 2003-059). Relates to water delinquencies, business licenses and returned checks.
- 1998 Cost of Service Study.

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# FIRE DEPARTMENT

Legend:

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# Fire Department

Department Contact: Chief Al Nero

Note: The South County Fire authority has adopted separate fees for areas under its jurisdiction.

SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>Illegal Burn Response</b> <b>Hazardous Materials Clean-Up</b>  <b>Special Event Fire Protection (Stand-by)</b>  <b>Weed Abatement</b>	\$113 / hour / engine, with ½ hour min Actual costs for all responding personnel Actual costs for all responding personnel Contract cost + 25% overhead charge	TMC §3.36.010; CFC
<b>Fireworks Sales Permit Fee</b> (Including \$150 initial stand inspection, \$25 safety seminar, and \$50 lottery processing.)	\$232	TMC §3.04.040(a)
<b>Public Display of Fireworks</b> (In addition to inspection fee and permit fee specified under Fire Prevention, Annual Operational Fire Inspection and Permit, Inspection Type H.)	Actual costs for fire apparatus, equipment and personnel	TMC §3.04.020

## Latest Fee Study or Staff Report Explanation:

- City Council Resolution No. 2011-101 and accompanying staff report.
- 2003 Cost of Services Study Update, prepared by Finance Dept. (City Council Resolution No. 2003-059. See also February 18, 2003 staff report).
- 1998 Cost of Service Study, prepared by MSI.

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# HUMAN RESOURCES DEPARTMENT

Legend:

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# Human Resources Department

Department Contact: Judy Carlos, Executive Assistant

There are no Human Resources Department Fees.

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# PARKS AND COMMUNITY SERVICES DEPARTMENT

\* Fees are set by this Department annually and are not subject to automatic CPI adjustments.

Note: The City of Tracy Master Fee Schedule does not include certain types of fees (see page 2), including enterprise fund charges, including airport and transit.

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# Parks and Community Services Department Recreation

Department Contact: Kim Scarlata, Community Services Supervisor

SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>ADMINISTRATION FEES/CHARGES/SERVICES</b>		
Advertising Fee for Activity Guide* Full page, back cover Full page, inside back cover ½ page, inside ¼ page, inside *Applied to advertising in City's Activity Guide publications	\$1,000 \$500 \$350 \$200	
Insurance Processing Fee* *Fee for public purchase of event Insurance	\$35 / transaction	
Program Transaction Fee* *Applied to withdrawal, refund, credit or transfer	\$5 / transaction	
Facility Rental Application Processing Fee* *Applied to all rental request & special event permit requests	\$35 / transaction	
Early Registration Discount* *To be used based on staff's assessment of need, and based on participant levels	(\$10) / registration	
Online Registration Discount * *To be used based on staff's assessment of need, and based on participant levels	(\$10) / registration	
Sibling Registration Discount* *To be used based on staff's assessment of need, and based on participant levels	(\$10) / registration	
Range of Fee Increase for Contract Classes* *To be used based on staff's assessment of need, and negotiations with Contract Instructors	20% / registration	
<b>SPECIAL INTEREST (CONTRACTOR) CLASSES</b>		
Baby Sitter Training	\$85/Non-Res/\$77/Res/2-day session	
Cardio Kick Boxing	\$55/Non-Res/\$50/Res/6-week session	
Cheer Prep	\$50/Non-Res/\$45/Res/4-week session	
Cheer-Preschool	\$50/Non-Res/\$45/Res/4-week session	
Cheer Tumbling Camps	\$113/Non-Res/\$103/Res/per week	
Classic Gym-Preschoolers	\$53/Non-Res/\$48/Res/4-week session	
Classic Gym-Youth	\$57/Non-Res/\$52/Res/4-week session	

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
CPR/FA	\$55/Non-Res/\$50/Res/1-day session	
Dog Obedience-Advanced	\$102/Non-Res/\$95/Res/7-week session	
Dog Obedience-Basic	\$127/Non-Res/\$115/Res/7-week session	
Golf Lessons-Adult	\$66/Non-Res/\$60/Res/4-week session	
Gymnastic Camps	\$66/Non-Res/\$60/Res/per week	
Just 4 Kicks-Preschool	\$79/Non-Res/\$72/Res/8-week session	
Just 4 Kicks-Youth	\$79/Non-Res/\$72/Res/8-week session	
KidSAFE	\$73/Non-Res/\$66/Res/6-week session	
KidSAFE	\$99/Non-Res/\$90/Res/12-week session	
LEGO Camp (Half Day)	\$189/Non-Res/\$182/Res/per week	
Mad Science (Half Day)	\$185/Non-Res/\$169/Res/per week	
Preschool AM	\$193/Non-Res/\$175/Res/per calendar month	
Preschool PM	\$418/Non-Res/\$380/Res/per calendar month	
Safety Club	\$21/Non-Res/\$18/Res/1-day workshop	
SNAP Summer Day Camp	\$55/Non-Res/\$50/Res/per week	
SNAP After School Program	\$28/Non-Res/\$25/Res/per week	
Tennis-Adult	\$55/Non-Res/\$50/Res/4-week session	
Tennis-Tiny Tots	\$48/Non-Res/\$44/Res/4-week session	
Tennis-Youth	\$55/Non-Res/\$50/Res/4-week session	
Tracy Online Learning	\$97/Non-Res/\$88/Res/6-week session	
Yoga-Adults	\$48/Non-Res/\$44/Res/4-week session	
Yoga-Seniors	\$33/Non-Res/\$30/Res/per calendar month	
Action Gymnastics	\$83/Non-Res/\$75/Res/8-week session	
Action Gymnastics Parent/Tot	\$28/Non-Res/\$25/Res/4-week session	
Action Gymnastics Parent/Tot Adv	\$33/Non-Res/\$30/Res/4-week session	
Future Sportz Stars	\$73/Non-Res/\$66/Res/6-week session	
Let's Get Cookin'	\$44-\$33/Non-Res/\$40-\$30/Res/1-day workshop	
Tai Chi	\$44/Non-Res/\$40/Res/6-week session	
Tiny Tots Hooked on Books	\$54/Non-Res/\$49/Res/4-week session	

### YOUTH & TEENS

BBQ and Game Day	\$3 / person	
Teen Swim Events	\$5 / person	
Teen Events		
Minimum	\$5 / person	
Maximum	\$20 / person	
Girls Retreat	\$10 / person	
Teen Camps	\$77/Non-Res/\$70/Res/per week	
Teen Chill Out Night (Movie & Popcorn)	\$3 / person	

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
Extreme Sports Day (competition registration)	\$10 / per person	
Fashion Show	\$0 / per person	
Ski/Snowboard Trip	\$90 / lift ticket only \$125 / rental & lift ticket \$125 / rentals, lift & lesson \$55 / transportation only \$5 / helmet rental	
S.A.F.E. (Teen After School Program) *Fee ranges based on direct costs	\$50 / membership per school year \$100 / membership per school year \$0 / drop-in for members \$5 / scrapbooking class \$5 / cooking class	
<b>MCYSN</b> Mobile recreation (Roll'n Rec)	\$0 / person	
<b>YOUTH DEVELOPMENT</b>		
ROC (Recreation on Campus After School)* *Fee ranges based on direct costs Minimum Maximum	\$180 / regular-per month \$240 / regular-per month	
ROC (Recreation on Campus After School)* *Fee ranges based on direct costs Minimum Maximum	\$15 / daily-per day \$24 / daily-per day	
ROC (Recreation on Campus After School)* *Fee ranges based on direct costs Minimum Maximum	\$105 / hourly-per month \$144 / hourly-per month	
Summer Camp (Full Day) 7am-6pm* *Fee ranges based on direct costs Minimum Maximum	\$140 / week \$192 / week	
Summer Camp (Half Day) 9am-12pm or 1pm-4pm* *Fee ranges based on direct costs Minimum Maximum	\$65 / week \$90 / week	

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>SENIORS</b>		
<b>Senior Health &amp; Wellness</b>		
Wii Jubilee Fitness	\$0 / class	
Virtues	\$0 / class	
Power Walk	\$0 / class	
Cardio and Core	\$1 / class	
Cardio and Stretch	\$1 / class	
Tone Your Body	\$1 / class	
Abs, Backs and Gluts	\$1 / class	
Cardio Drill	\$1 / class	
25 Visit - Senior Fitness Pass	\$20 / card	
Tai Chi (New)	\$44/Non-Res/\$40/Res/8-wk session	
<b>Senior Arts &amp; Music</b>		
Senior Idol	\$0 / class	
Wood Carving	\$0 / class	
Arts & Craft Class	\$0 / class	
Arts & Craft Project	\$5 / project	
Painting	\$0 / class	
Scrapbooking	\$0 / class	
Sewing	\$0 / class	
Beading	\$7 / month	
Card Making	\$2 / class	
Tap Dancing	\$2 / class	
Line Dancing	\$2 / class	
Country Jams	\$2 / class	
<b>Senior Recreation</b>		
Tea Social	\$0 / class	
Bingo	\$0 / class	
Social Recreation Programs	\$0 / class	
Table Games	\$0 / class	
<b>Senior Special Events</b>		
Minimum	\$5 / event	
Maximum	\$20 / event	
Booth for Special Events	\$25 / event	
St. Patty's Day & Oktoberfest Lunch	\$5 / person	
Dances	\$5 / person	
Fashion Show	\$0 / person	
SNAP Friday Night Dance	\$5 / person	
20 Visit Drop-In Activities Card	\$20 / card	

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>Senior Trips</b>		
Golden Agers Bus Trips	\$33/Non-Res/\$30/Res/per person	
<b>Senior Social Services</b>		
Lunch Program	\$0 / month	
AARP Programs	\$0 / month	
Other Services	\$0 / month	
Clubs	\$0 / month	
<b>ATHLETICS</b>		
<b>Adult Sports</b>		
Adult Slow Pitch Leagues*		
Minimum	\$280 / team	
Maximum	\$520 / team	
*League fees pending format, number of games & srvc		
Adult/Youth Fast Pitch Leagues*		
Minimum	\$450 / team	
Maximum	\$600 / team	
*League fees pending format, number of games & srvc		
Adult/Youth Softball Tournament*		
Minimum	\$250 / team	
Maximum	\$500 / team	
*Tournaments vary based on type of tournament and awards provided		
<b>Youth Sports</b>		
Youth Basketball League (Youth Hoops)		
Minimum	\$75 / player	
Maximum	\$85/Non-Res/\$80/Res / player	
Jr. Giants Youth Baseball (Free Program)	\$0 / player	
Youth Sports Camps		
Minimum	\$60 / player	
Maximum	\$88/Non-Res/\$80/Res / player	
<b>AQUATICS</b>		
<b>General Recreation Swim</b>		
Individual Entrance Fee	\$2 / person	
10-Visit Pass	\$15 / pass	
<b>Swim Lessons</b>		
Parent/Tot	\$55 / parent/tot	
Learn To Swim*		
Minimum	\$29/Non-Res/\$26/Res / team	
Maximum	\$60/Non-Res/\$55/Res / team	
*Fees vary based on number of instruction days		

Legend:

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>Water Aerobics</b>		
Drop-In	\$4 / person	
10-Visit Pass	\$30 / pass	
<b>Lap Swimming</b>		
Individual Entrance Fee	\$3 / person	
10-Visit Pass	\$25 / pass	
<b>Other Classes/Programs</b>		
Introduction to Lifesaving	\$60/Non-Res/\$55/Res/2-week session	
Swim Camp	\$80/Non-Res/\$75/Res/2-week session	
Diving	\$60/Non-Res/\$55/Res/2-week session	
Basic Water Polo	\$60/Non-Res/\$55/Res/2-week session	
Lifeguard Training	\$225/Non-Res/\$220/Res/1-week session	
Private Swim Lesson (one ½-hour session)	\$105/Non-Res/\$100/Res/2-week session	
<b>SPECIAL EVENTS</b>		
Event Ticket		
Minimum	\$18 / person	
Maximum	\$30 / person	
Event Booth Fee		
Minimum	\$25 / booth	
Maximum	\$75 / booth	
<b>NEW SPECIAL INTEREST CLASSES</b>		
Basic Gardening	\$28/Non-Res/\$25/Res/4-week session	
Books Over TV	\$83/Non-Res/\$75/Res/6-week session	
Books Over TV	\$55/Non-Res/\$50/Res/4-week session	
Bowling for Beginners	\$99/Non-Res/\$90/Res/6-week session	
Busy Bees	\$63/Non-Res/\$57/Res/4-week session	
Camps-Biology Camp	\$220/Non-Res/\$200/Res/per week	
Camps-Build a Robot	\$198/Non-Res/\$180/Res/per week	
Camps-Chess	\$59/Non-Res/\$54/Res/3-week session	
Camps-Eagal Lakes	\$94/Non-Res/\$85/Res/3-day session	
Camps-Kidsafe	\$99/Non-Res/\$90/Res/3-week session	
Computer Tech Camp	\$204-\$149/Non-Res/\$185-135/Res/5-day session	
Creative Corner	\$165/Non-Res/\$150/Res/6-week session	
Creative Corner	\$110/Non-Res/\$100/Res/4-week session	
Disc Golf	\$8/Non-Res/\$5/Res/12-week session	
Eat Fit Series	\$28/Non-Res/\$25/Res/1-day workshops	
ESL For Adults	\$28/Non-Res/\$25/Res/4-day workshops	
Fly Fishing	\$33/Non-Res/\$30/Res/1-day workshop	
Future Sportz Starz	\$73/Non-Res/\$66/Res/6-week session	

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
Just 4 Hoops	\$59/Non-Res/\$54/Res/6-week session	
Just 4 Kicks Camps Preschoolers	\$94/Non-Res/\$85/Res/5-day session	
Just 4 Kicks Camps Youth	\$110/Non-Res/\$100/Res/5-day session	
Kids Storytelling	\$83/Non-Res/\$75/Res/6-week session	
Kids Storytelling	\$55/Non-Res/\$50/Res/4-week session	
Kindergarten Tutoring	\$63/Non-Res/\$57/Res/4-week session	
Li'l Baseball	\$158/Non-Res/\$144/Res/8-week session	
Li'l Baseball Camp	\$109/Non-Res/\$99/Res/4-day session	
Run To Be Fit	\$76/Non-Res/\$69/Res/6-week session	
Tae Kwon Do Tots	\$47/Non-Res/\$43/Res/4-week session	
Tennis Camp Preschoolers	\$50/Non-Res/\$45/Res/1-week session	
Tennis Camp Youths	\$55/Non-Res/\$50/Res/1-week session	
Zumba 10-day Pass	\$88/Non-Res/\$80/Res/10-day pass	
Zumba 20-day Pass	\$165/Non-Res/\$150/Res/20-day pass	
Zumba Drop In	\$13/Non-Res/\$10/Res/per drop in	

**Latest Fee Study or Staff Report Explanation:**

- City Council Resolution No. 2011-101 and accompanying staff report.
- City of Tracy Parks and Community Services Department, General Fund, Cost of Services Study Findings, June, 2008, prepared by MGT of America, Inc.

Legend:

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# Parks and Community Resources Department

## Rental of Facilities and Park Areas

Department Contact: Kim Scarlata, Community Services Supervisor

SERVICE OR APPLICATION	CURRENT FEE		LEGAL AUTHORITY
<b>COMMUNITY CENTER RENTALS</b>			
<b>Main Hall (5,300 Sq Ft)</b>			
<b>Week Day Only (4 hour minimum)</b>			
Non-Profit Classification	\$34 / hour		
Private Classification	\$58 / hour		
Commercial Classification	\$82 / hour		
<b>Conference Room A or B (250 Sq Ft)</b>			
<b>Week Day Only (2 hour minimum)</b>			
Non-Profit Classification	\$7 / hour		
Private Classification	\$11 / hour		
Commercial Classification	\$15 / hour		
<b>Entire Facility (6,200 Sq Ft)</b>			
<b>(4 hour minimum)</b>	<b>Week Day</b>	<b>Week End</b>	
Non-Profit Classification	\$38 / hour	\$58 / hour	
Private Classification	\$67 / hour	\$99 / hour	
Commercial Classification	\$95 / hour	\$141 / hour	
<b>Deposits</b>			
An additional \$400 Deposit is required for all activities where alcohol is sold			
Main Hall	\$400 / rental		
Conference Room A or B	\$200 / rental		
Entire Facility	\$400 / rental		
<b>TRACY SPORTS COMPLEX MEETING ROOM RENTAL</b>			
<b>TSC Meeting Room (700 Sq Ft)</b>			
<b>Week Day &amp; Week End (2 hour minimum)</b>			
Non-Profit Classification	\$14 / hour		
Private Classification	\$25 / hour		
Commercial Classification	\$35 / hour		
<b>Deposits*</b>			
An additional \$200 Deposit is required for all activities where alcohol is sold			
Meeting Room	\$200 / rental		

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>TRACY TRANSIT STATION</b>		
<b>Room 103 or 104 (590 Sq Ft)</b> <b>(2 hour minimum)</b>	<b>Week Day</b>	<b>Week End</b>
Non-Profit Classification	\$18 / hour	\$27 / hour
Private Classification	\$32 / hour	\$47 / hour
Commercial Classification	\$45 / hour	\$68 / hour
<b>Rooms 103-104 Combined (1,180 sf)</b> <b>(2 hour minimum)</b>	<b>Week Day</b>	<b>Week End</b>
Non-Profit Classification	\$36 / hour	\$54 / hour
Private Classification	\$63 / hour	\$95 / hour
Commercial Classification	\$90 / hour	\$135 / hour
<b>Room 105 (913 Sq Ft)</b> <b>(2 hour minimum)</b>	<b>Week Day</b>	<b>Week End</b>
Non-Profit Classification	\$28 / hour	\$42 / hour
Private Classification	\$49 / hour	\$74 / hour
Commercial Classification	\$70 / hour	\$105 / hour
<b>Lobby or Patio (1,762 Sq Ft)</b> <b>(2 hour minimum)</b>	<b>Week Day</b>	<b>Week End</b>
Non-Profit Classification	\$18 / hour	\$27 / hour
Private Classification	\$32 / hour	\$47 / hour
Commercial Classification	\$45 / hour	\$68 / hour
<b>Entire Facility (4,445 Sq Ft)</b> <b>(4 hour minimum)</b>	<b>Week Day</b>	<b>Week End</b>
Non-Profit Classification	\$82 / hour	\$123 / hour
Private Classification	\$144 / hour	\$216 / hour
Commercial Classification	\$205 / hour	\$308 / hour
<b>Deposits</b> An additional \$400 Deposit is required for all activities where alcohol is sold		
All Rooms	\$200 / rental	
<b>TRACY CIVIC CENTER RENTAL</b>		
<b>Council Chambers (3,500 Sq Ft)</b> <b>(4 hour minimum)</b>	<b>Week Day</b>	<b>Week End</b>
Non-Profit Classification	\$20 / hour	\$35 / hour
Private Classification	\$56 / hour	\$84 / hour
Commercial Classification	\$80 / hour	\$120 / hour
<b>Conference Room #109 (500 Sq Ft)</b> <b>(2 hour minimum)</b>	<b>Week Day</b>	<b>Week End</b>
Non-Profit Classification	\$15 / hour	\$23 / hour
Private Classification	\$26 / hour	\$39 / hour
Commercial Classification	\$38 / hour	\$56 / hour

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SERVICE OR APPLICATION	CURRENT FEE		LEGAL AUTHORITY
<b>Conference Room #203 (825 sf)</b> <b>(2 hour minimum)</b>	<b>Week Day</b>	<b>Week End</b>	
Non-Profit Classification	\$25 / hour	\$38 / hour	
Private Classification	\$44 / hour	\$66 / hour	
Commercial Classification	\$63 / hour	\$94 / hour	
<b>Lobby and Both Conference Rooms</b> <b>(4 hour minimum)</b>	<b>Week Day</b>	<b>Week End</b>	
Non-Profit Classification	\$40 / hour	\$60 / hour	
Private Classification	\$70 / hour	\$105 / hour	
Commercial Classification	\$100 / hour	\$150 / hour	
<b>Special Events in Civic Center Park</b> <b>(May through October)</b>			
Full Service Event Coordination	\$1,500		
<b>Deposit</b> An additional \$400 Deposit is required for all activities where alcohol is sold			
Rental Deposit	\$400 / rental		
<b>PARK AND PICNIC AREA RENTAL</b>			
<b>Park/Picnic ~ 1 to 50 people</b> <b>(4 hour minimum)</b>			
Non-Profit Classification	\$13 / hour		
Private Classification	\$23 / hour		
Commercial Classification	\$33 / hour		
<b>Park/Picnic ~ 51 to 100 people</b> <b>(4 hour minimum)</b>			
Non-Profit Classification	\$19 / hour		
Private Classification	\$33 / hour		
Commercial Classification	\$48 / hour		
<b>Park/Picnic ~ 101 + people</b> <b>(4 hour minimum)</b>			
Non-Profit Classification	\$25 / hour		
Private Classification	\$44 / hour		
Commercial Classification	\$63 / hour		
<b>Inflatable Structures Administrative Fee</b> All Classifications (new) (applied to all approved "jumpy" requests to accompany a park rental)	\$45 / day / structure		
<b>Non-Profit Org ~ \$100 Max</b> Non-Profit Classification	\$100 / rental		

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY	
<b>Deposits</b>			
Less than 50, traditionally activity	\$0 / rental		
50-100; or less than 5 non-traditional	\$100 / rental		
101-200 attendees	\$200 / rental		
201-300 attendees	\$300 / rental		
301 and above attendees	\$500 / rental		
<b>PARKING LOT RENTAL</b>			
<b>Locations and Availability at City Discretion (10 hour maximum)</b>			
<b>Base Fee</b>	\$100, plus:		
<b>Use Fee:</b>			
Non-Profit Classification	\$2 / parking space		
Private Classification	\$350 / parking space		
Commercial Classification	\$5 / parking space		
<b>MOBILE STAGE RENTAL</b>	<b>Non-Profit</b>	<b>Private</b>	
“A” Set Up (36’ X 14’)	\$320 / rental	\$795 / rental	
“B” Set Up (36’ x 18’)	\$500 / rental	\$2,170 / rental	
“C” Set Up (36’ x 22’)	\$570 / rental	\$2,805 / rental	
<b>Deposits</b>			
All Stage Rentals	\$400 / rental		
<b>TENNIS COURTS RENTAL</b>			
	<b>Per Hour / Per Court</b>		
<b>Rental</b>	<b>Private</b>	<b>League</b>	<b>Tournament</b>
Non-Profit Youth Classification	\$0	\$5	\$5
Non-Profit Adult Classification	\$0	\$5	\$10
Private Classification	\$5	\$7	\$15
Commercial Classification	\$10	\$10	\$15
	<b>Per Hour / Per Court</b>		
<b>Lights Fee</b>	<b>Private</b>	<b>League</b>	<b>Tournament</b>
Non-Profit Youth Classification	\$0	\$5	\$7
Non-Profit Adult Classification	\$0	\$5	\$10
Private Classification	\$5	\$10	\$12
Commercial Classification	\$0	\$10	\$12
<b>Deposits</b>			
Tennis Court Rental Deposit	\$50 / day / crt		

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>WEST HIGH SWIMMING POOL RENTALS</b>		
<b>Any Size Groups, When Organization Provides Own Lifeguards</b>		
Non-Profit Classification (Half Pool)	\$57.75 / hour	
Non-Profit Classification (Full Pool)	\$110.50 / hour	
<b>Up to 50 People, Includes 2 Lifeguards</b>		
Non-Profit Classification (Half Pool)	\$105 / hour	
Private Classification (Half Pool)	\$115 / hour	
Commercial Classification (Half Pool)	\$130 / hour	
Non-Profit Classification (Full Pool)	\$205 / hour	
Private Classification (Full Pool)	\$225 / hour	
Commercial Classification (Full Pool)	\$245 / hour	
<b>Up to 75 People, Includes 3 Lifeguards</b>		
Non-Profit Classification (Half Pool)	\$120 / hour	
Private Classification (Half Pool)	\$130 / hour	
Commercial Classification (Half Pool)	\$140 / hour	
Non-Profit Classification (Full Pool)	\$235 / hour	
Private Classification (Full Pool)	\$255 / hour	
Commercial Classification (Full Pool)	\$275 / hour	
<b>Up to 100 People, Includes 4 Lifeguards</b>		
Non-Profit Classification (Half Pool)	\$135 / hour	
Private Classification (Half Pool)	\$145 / hour	
Commercial Classification (Half Pool)	\$155 / hour	
Non-Profit Classification (Full Pool)	\$265 / hour	
Private Classification (Full Pool)	\$285 / hour	
Commercial Classification (Full Pool)	\$305 / hour	
<b>100 to 150 People, Includes 5 Lifeguards</b>		
Non-Profit Classification (Half Pool)	\$150 / hour	
Private Classification (Half Pool)	\$160 / hour	
Commercial Classification (Half Pool)	\$170 / hour	
Non-Profit Classification (Full Pool)	\$295 / hour	
Private Classification (Full Pool)	\$315 / hour	
Commercial Classification (Full Pool)	\$335 / hour	

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>Over 150 People, Includes 6 Lifeguards</b>		
Non-Profit Classification (Half Pool)	\$165 / hour	
Private Classification (Half Pool)	\$175 / hour	
Commercial Classification (Half Pool)	\$185 / hour	
Non-Profit Classification (Full Pool)	\$325 / hour	
Private Classification (Full Pool)	\$345 / hour	
Commercial Classification (Full Pool)	\$365 / hour	
<b>Deposits</b>		
All Classifications, All Group Sizes	\$100 / rental	
<b>Additional WHS Pool Rental Fees</b>		
Restrooms (for non-pool events)	\$40 / hour	
Restrooms (for non-pool events)	\$200 / day	
Extra lifeguard (as deemed necessary by staff, based on event)	\$15 / hour / lifeguard	
<b>JOE WILSON COMMUNITY POOL RENTALS</b>		
<b>Any Size Groups, When Organization Provides Own Lifeguards</b>		
Non-Profit Classification	\$50 / hour	
<b>Up to 50 People, Includes 2 Lifeguards</b>		
Non-Profit Classification	\$70 / hour	
Private Classification	\$80 / hour	
Commercial Classification	\$90 / hour	
<b>Up to 75 People, Includes 3 Lifeguards</b>		
Non-Profit Classification	\$85 / hour	
Private Classification	\$95 / hour	
Commercial Classification	\$105 / hour	
<b>Up to 100 People Max, Includes 4 Lifeguards</b>		
Non-Profit Classification	\$100 / hour	
Private Classification	\$110 / hour	
Commercial Classification	\$120 / hour	
<b>Deposits</b>		
All Classifications, All Group Sizes	\$100 / rental	

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>LOLLY HANSEN SENIOR CENTER RENTAL</b>		
<b>Multi-Purpose Room (2,225 Sq Ft)</b>		
<b>Week Day &amp; Week End (4 hour minimum)</b>		
Non-Profit Classification	\$13 / hour	
Private Classification	\$23 / hour	
Commercial Classification	\$0 / hour	
<b>Arts and Crafts Room (675 Sq Ft)</b>		
<b>Week Day &amp; Week End (4 hour minimum)</b>		
Non-Profit Classification	\$5 / hour	
Private Classification	\$9 / hour	
Commercial Classification	\$0 / hour	
<b>Entire Facility (4, 350 Sq Ft)</b>		
<b>Week Day &amp; Week End (4 hour minimum)</b>		
Non-Profit Classification	\$26 / hour	
Private Classification	\$46 / hour	
Commercial Classification	\$0 / hour	
MOU – Hours Provided to Non-Profits/Gov	\$0 / hour	
<b>Deposits</b>		
An additional \$400 Deposit is required for all activities where alcohol is sold		
Multi-Purpose Room	\$200 / rental	
Arts and Crafts Room	\$200 / rental	
Entire Facility	\$200 / rental	
<b>SPORT FACILITIES (TBP, TSC, Placentia Fields, Tiago, Galli, &amp; Bland Ball Fields)</b>		
<b>Hourly Fee ~ League/Individual</b>		
Non-Profit Youth Classification	\$5 / hour / field	
Non-Profit Adult Classification	\$10 / hour / field	
Private Classification	\$18 / hour / field	
Commercial Classification	\$25 / hour / field	
<b>Lights Fee ~ League/Individual</b>		
Non-Profit Youth Classification	\$7 / hour / field	
Non-Profit Adult Classification	\$10 / hour / field	
Private Classification	\$12 / hour / field	
Commercial Classification	\$18 / hour / field	

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>Daily Fee ~ Tournaments</b>		
Non-Profit Youth Classification	\$60 / hour / field	
Non-Profit Adult Classification	\$100 / hour / field	
Private Classification	\$120 / hour / field	
Commercial Classification	\$120 / hour / field	
<b>Lights Fee ~ Tournaments</b>		
Non-Profit Youth Classification	\$10 / hour / field	
Non-Profit Adult Classification	\$10 / hour / field	
Private Classification	\$10 / hour / field	
Commercial Classification	\$10 / hour / field	
<b>Staff for Sports Complex Use</b>		
Non-Profit Youth Classification	\$25 / hour / complex	
Non-Profit Adult Classification	\$25 / hour / complex	
Private Classification	\$25 / hour / complex	
Commercial Classification	\$25 / hour / complex	
<b>Softball Field Preparations</b>		
A Prep – Light Watering	\$5 / preparation	
B Prep – Light Watering, Minor Dragging	\$12.50 / preparation	
C Prep – Full Field Preparation	\$25 / preparation	
Use of Temporary Outfield Fencing	\$100 / field	

**Latest Fee Study or Staff Report Explanation:**

- City Council Resolution No. 2011-101 and accompanying staff report.
- City of Tracy Parks and Community Services Department, General Fund, Cost of Services Study Findings, June, 2008, prepared by MGT of America, Inc.

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# POLICE DEPARTMENT

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# Police Department

Department Contact: Captain John Espinoza

SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>Alarm Permit; False Alarms</b>		
Alarm user permit	\$21	TMC §3.40.060
False alarm costs:		
4th response	\$31	TMC §3.40.150
5th response	\$57	
6th response	\$72	
7th response	\$82	
(plus penalties)		TMC Ch. 1.28
<b>Animal Services</b>		
		TMC §3.36.010
Animal adoption, plus veterinary services	\$5	TMC §5.08.130(L)
Animal bite	\$31	
Board and care (daily):		
for impounded dogs	\$15	
for impounded cats	\$12	
Cat carrier	\$5	TMC §5.08.130
Cat neuter	\$52	
Cat spay	\$93	
Collar identification	\$23	
Dog neuter	\$103	TMC §5.08.130
Dog spay	\$155	
Impound: 1	\$21	TMC §5.08.130; 5.08.240
Impound: 2	\$31	
Impound: 3+	\$41	
Impound, additional state fee for unaltered, at large, animals: 1st; 2nd; 3rd	\$36; \$51; \$103	
License fee: unaltered dogs	\$52 / year	TMC §5.08.130
License fee: altered dogs	\$10 / year	
License fee: replacement for lost	\$5	
License fee: late	\$21	
Low cost spay/neuter voucher	\$21	
Multiple pet permit application	\$26	TMC §5.08.420
Owner surrender:		TMC §5.08.170; 5.08.180; 5.08.240
Live animal	\$46	
Deceased animal (not at shelter)	\$21	
Rabies vaccination voucher	\$16	TMC §5.08.130
Vaccination	\$5	TMC §5.08.130
Veterinary costs	actual costs	

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>Bicycles</b>		
License and registration	\$6 / 3 years	TMC §3.20.060
Renewal	\$3 / 3 years	TMC §3.20.070
<b>Bingo</b>		
License	\$52	TMC §4.24.050
Renewal	\$10	
<b>Card Rooms:</b>		
License and renewal	\$26	TMC §4.04.030 TMC §4.04.050
Dealer/work permit	\$62 plus DOJ fee \$32 *	TMC §4.04.070
<b>Citation Sign-Off, for Agencies Outside the City</b>	\$15	TMC §3.36.010 GC §2.67.461
<b>Clearance Letter</b> (for immigration or other clearance letter, plus fingerprint fees)	\$15	TMC §3.36.010
<b>Concealed Weapons</b>		
Permit	\$3 permit plus \$150 DOJ processing fee *	PC 12054
Renewal	\$3 permit plus DOJ fee \$52 *	
<b>Crime Report Copy</b>		
	\$.15 / page \$.15 / page bulletin entries \$10.30 / report + 15 / page after 25 <sup>th</sup> page	TMC §3.36.010  VC 20012
<b>DOJ, FBI and Fingerprint</b>		
DOJ fee *	\$33	PC 11105
DOJ and FBI fee *	\$53	PC 11105
Fingerprint (City's rolling fee) *	\$10 / request	TMC §3.36.010
Fingerprint * (DOJ, depending on nature of request, ie concealed weapon, daycare provider, school or parks volunteer, etc)	\$103 - \$148	PC 12052, 12054
<b>DUI</b>		
Accident response and investigation	Actual personnel cost, up to \$12,000	GC §53150 - 53159; CVC 20012
Arrest and report	Actual personnel cost, up to \$1,000	
<b>Firearms Sales Permit</b>	\$31 plus DOJ fee \$32 *	PC 12071(a)(F)(7)
<b>Massage Establishment</b>		
New	\$77 plus DOJ fee \$32 *	TMC §4.20.060
Renewal	\$26	TMC §4.20.040
Transfer of permit	\$77	TMC §4.20.110
Change of location	\$26	TMC §4.20.130

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SERVICE OR APPLICATION	CURRENT FEE	LEGAL AUTHORITY
<b>Massage Permit</b>		
New	\$26 plus; DOJ fee\$32*	TMC §4.20.180
Renewal (Plus fingerprint fees)	\$26 plus; DOJ fee\$32*	TMC §4.20.160
Registration by state certificate holder	0*	DOJ, PC 11105 TMC §4.20.155
<b>Palmistry License Fee</b>		
New	\$567	TMC §4.12.190
Renewal	\$361	TMC §4.12.109
<b>Police Photo (reproduction)</b>	\$.29 / photo	TMC §3.36.010
Plus traffic photo processing fee to insurance	\$43 + \$.29 / photo	VC 20012
<b>Police Special Services</b> (for school and other semi-public special events)	Actual personnel costs	GC §6257
<b>Repo Release</b>	\$15 / vehicle	VC 9255 (3)
<b>Solicitor Permit</b>	\$15	TMC §4.12.210; 3.36.010
<b>Taxi Driver</b>		
Permit	\$113 plus; DOJ fee \$32*	TMC §3.16.030
Renewal	\$82	TMC §3.16.040
Background investigation (City fingerprint fee)	\$10	TMC §3.16.150
<b>Tow Truck Driver/Attendant</b>		
Permit	\$62 plus; DOJ fee \$32*	TMC §3.44.140
Renewal	\$31	
<b>Vehicle Release</b>	\$111 / vehicle	VC 22850.5(a)
<b>VIN Verification</b>	\$21 / request	TMC §3.36.010
<b>Storage of Firearms</b> (per domestic violence protective order)	\$53 / firearm, plus \$1.96 / day	TMC §3.52.050 PC 12021.3(j)

**Latest Fee Study or Staff Report Explanation:**

- City Council Resolution No. 2011-101 and accompanying staff report.
- City Council Res 2009-178, regarding animal services, and accompanying staff report.
- City Council Res 2008-234, regarding storage of firearms.
- City Council Res 2006-209 regarding alarm permits.
- 2003 Cost of Services Study Update, prepared by Finance Department.  
(See City Council Resolution No. 2003-059 re storage of firearms).
- 1998 Cost of Service Study.

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# PUBLIC WORKS DEPARTMENT

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**Public Works Department  
Administration  
Maintenance and Operations  
Utilities**

Department Contact: Kevin Tobeck, Director of Public Works

Note: This Master Fee Schedule does not include the following types of fees, among others (See page 3):

- enterprise fund charges (water, sewer, storm water, airport);
- fees adopted under franchise agreements (cable franchise under TMC Chapter 8.10; franchise contractor for collection of solid waste, yard waste and recycling under TMC Chapter 5.20);
- fines (imposed as penalties);
- rates established by separate agreements.

There are no Public Works Department fees covered by the Master Fee Schedule.

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AGENDA ITEM 3.C

REQUEST

**ADOPTION OF THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2012-2013 FOR THE CITY OF TRACY**

EXECUTIVE SUMMARY

The City Council is required by the State constitution to annually adopt an appropriations limit pertaining to the proceeds of taxes. The Finance and Administrative Services Department has done the necessary calculations to determine the limit for FY 12-13. Council adoption is required.

DISCUSSION

As per Article XIIB of the State Constitution, the City of Tracy is subject to an appropriations limit pertaining to the proceeds of taxes (Gann Initiative). The base year for the limit is Fiscal Year 1978-79 and it may be updated annually for growth and inflation. Proposition 111, approved by the voters in June 1990, provided for certain modifications to the appropriations limit. The City now has two options each for calculating growth and inflation.

For growth, the options are:

- 1) City's population growth, or
- 2) County's population growth.

For inflation, the options are:

- 1) The California Per Capita Income, or
- 2) Percent change in the local assessment roll from the preceding year due to the addition of local nonresidential construction in the City.

The decision as to which options to select must be done by a recorded vote of the City Council.

In addition to establishing a new method with options for the annual update of the appropriations limit, Proposition 111 expanded the categories of expenditures exempt from the limit.

The attached worksheets illustrate the computation used to derive the appropriations limit for FY 12-13. This limit is \$49,508,950. This is a 4.1% increase over the FY 11-12 limit of \$47,336,316.

Page 1 of the attachments shows the calculation to determine the base for the appropriations limit. It also shows the annual update of the limit under the original method. Pages 2, 3, and 4 calculate the annual update of the limit under the new Proposition 111 method. Page 5 indicates the appropriations subject to the limit for FY 12-13.

Staff has used the City's population growth and California Per Capita Income options in the computations and recommends these options for Council selection. These factors were 1.0079% and 1.0377% respectively for a combined factor of 1.0459%. The population figure provided by the State of California, Department of Finance was 83,900 for the City as of January 1, 2012.

As shown on Page 5, the City of Tracy is within its limit. For FY 12-13, the margin is \$14,239,430 or 71.24% of the limit. This margin can be construed as the amount by which City tax revenues have been restrained since FY 78-79 when compared to City growth and inflation.

The following represents the City's "proceeds of taxes" by fiscal year.

FY 01-02	\$27,115,610	
FY 02-03	\$28,909,770	+6.6%
FY 03-04	\$30,951,450	+7.1%
FY 04-05	\$33,833,590	+10.6%
FY 05-06	\$35,601,660	+5.2%
FY 06-07	\$39,904,820	+12.1%
FY 07-08	\$42,434,700	+6.3%
FY 08-09	\$43,709,400	+3.0%
FY 09-10	\$38,007,030	-13.0%
FY 10-11	\$30,069,810	-20.9%
FY 11-12	\$35,931,410	+19.5%
FY 12-13	\$37,923,600	+5.5%

The "proceed of taxes" figure of \$37,923,600 can be adjusted downward to an "appropriations subject to the limit" of \$35,269,520. This adjustment can be made due to \$1,174,080 budgeted for debt service in FY 12-13 to be paid out of tax proceeds and \$1,480,000 of tax proceeds either budgeted or reserved for capital outlays.

### RECOMMENDATION

Staff recommends that the City Council of the City of Tracy adopt a resolution establishing the Appropriations Limit for FY 12-13.

It is further recommended that, in adopting this resolution, the City Council select "The City's Population Growth" and "California Per Capita Income" options for the annual update of the City's appropriations limit for FY 12-13.

Prepared by: Allan J. Borwick, Budget Officer  
Reviewed by: Zane H. Johnston, Finance and Administrative Services Director  
Approved by: R. Leon Churchill, Jr., City Manager

Attachment A: Appropriations Limit



FY 1978-79 Base	TAX PROCEEDS	NON-TAX PROCEEDS
=====	=====	=====
TAXES	\$1,141,967	
LIC, PERMIT & Franchises		\$370,119
FINES		\$108,860
USE OF MONEY	\$175,167	\$182,952
RENTS & CONCESSIONS		\$60,650
STATE SHARED REVENUES	\$849,352	\$697,618
COUNTY GRANTS		\$39,451
FEDERAL GRANTS		\$3,860,398
CHARGES/FEES		\$3,227,759
OTHER REVENUES		\$328,834
Fund Balance from FY76-77	\$428,595	\$162,571
	-----	-----
Sub-Totals	\$2,595,081	\$9,039,212
TOTAL Revenues	\$11,634,293	

Prop 4 Adjustments	Population	CPI	FACTOR	Updated App Limit
=====	=====	=====	=====	=====
FY 1978-79 BASE LIMIT				\$2,595,081
FY 1979-80 BASE UPDATE	1.0006	1.102	1.1023	\$2,860,456
FY 1980-81 BASE UPDATE	1.0354	1.105	1.1444	\$3,273,585
FY 1981-82 BASE UPDATE	1.0603	1.091	1.1570	\$3,787,536
FY 1982-83 BASE UPDATE	1.0464	1.068	1.1175	\$4,232,546
FY 1983-84 BASE UPDATE	1.0362	1.024	1.0606	\$4,489,003
FY 1984-85 BASE UPDATE	1.0489	1.047	1.0986	\$4,931,699
FY 1985-86 BASE UPDATE	1.0732	1.037	1.1133	\$5,490,646
FY 1986-87 BASE UPDATE	1.0884	1.030	1.1211	\$6,155,300
FY 1987-88 BASE UPDATE	1.0626	1.030	1.0949	\$6,739,457
FY 1988-89 BASE UPDATE	1.0548	1.036	1.0931	\$7,366,828
FY 1989-90 BASE UPDATE	1.0340	1.041	1.0764	\$7,929,609
FY 1990-91 BASE UPDATE	1.1123	1.048	1.1657	\$9,243,469
FY 1991-92 BASE UPDATE	1.1039	1.054	1.1635	\$10,754,874
FY 1992-93 BASE UPDATE	1.0559	1.042	1.1002	\$11,832,691
FY 1993-94 BASE UPDATE	1.0695	1.030	1.1016	\$13,034,593
FY 1994-95 BASE UPDATE	1.0403	1.030	1.0715	\$13,966,683
FY 1995-96 BASE UPDATE	1.0336	1.026	1.0605	\$14,811,299
FY 1996-97 BASE UPDATE	1.0307	1.028	1.0596	\$15,693,454
FY 1997-98 BASE UPDATE	1.0262	1.030	1.0570	\$16,587,761
FY 1998-99 BASE UPDATE	1.0281	1.023	1.0517	\$17,446,117
FY 1999-00 BASE UPDATE	1.0549	1.016	1.0718	\$18,698,371
FY 2000-01 BASE UPDATE	1.0729	1.022	1.0965	\$20,502,835
FY 2001-02 BASE UPDATE	1.0759	1.034	1.1125	\$22,809,006
FY 2002-03 BASE UPDATE	1.0785	1.028	1.1087	\$25,288,299
FY 2003-04 BASE UPDATE	1.0645	1.016	1.0815	\$27,350,105
FY 2004-05 BASE UPDATE	1.0685	1.012	1.0816	\$29,581,222
FY 2005-06 BASE UPDATE	1.0499	1.018	1.0684	\$31,603,934
FY 2006-07 BASE UPDATE	1.0250	1.020	1.0451	\$33,028,955
FY 2007-08 BASE UPDATE	1.0078	1.032	1.0396	\$34,338,437
FY 2008-09 BASE UPDATE	1.0054	1.042	1.0476	\$35,973,867
FY 2009-10 BASE UPDATE	0.9976	0.998	0.9956	\$35,815,755
FY 2010-11 BASE UPDATE	1.0163	1.030	1.0468	\$37,491,538
FY 2011-12 BASE UPDATE	1.0069	1.018	1.0250	\$38,429,734
FY 2012-13 BASE UPDATE	1.0079	1.026	1.0341	\$39,740,395

Prop 111	Adjustments	City Population	CA per Capita Income	FACTOR	Updated App Limit
					\$6,155,300
FY 1986-87	BASE				\$6,155,300
FY 1987-88	BASE UPDATE	1.0626	1.0347	1.0995	\$6,767,581
FY 1988-89	BASE UPDATE	1.0548	1.0466	1.1040	\$7,471,096
FY 1989-90	BASE UPDATE	1.0340	1.0519	1.0877	\$8,126,047
FY 1990-91	BASE UPDATE	1.1123	1.0421	1.1591	\$9,419,127
	Adjustments:				
	Drainage Fees				(\$92,060)
	Landscaping Fees				\$0
	Redevelopment Agency Cost Transfer				(\$99,140)
	FY 1990-91 Limit				\$9,227,927
FY 1991-92	BASE UPDATE	1.1039	1.0414	1.1496	\$10,608,439
	Adjustments:				
	County Booking Fees				\$36,000
	County Tax Administration Fees				\$90,000
	Street Sweeping transfer to fee support				(\$144,700)
	FY 1991-92 Limit				\$10,589,739
FY 1992-93	BASE UPDATE	1.0559	0.9936	1.0491	\$11,109,827
	Adjustments:				
	State Fees for Criminal Justice Services				\$5,000
	FY 1992-93 Limit				\$11,114,827
FY 1993-94	BASE UPDATE	1.0695	1.0272	1.0986	\$12,210,528
	Adjustments:				
	FY 1993-94 Limit				\$12,210,528
FY 1994-95	BASE UPDATE	1.0403	1.0071	1.0477	\$12,792,800
	Adjustments:				
	FY 1994-95 Limit				\$12,792,800
FY 1995-96	BASE UPDATE	1.0336	1.0472	1.0824	\$13,846,747
	Adjustments:				
	FY 1995-96 Limit				\$13,846,747
FY 1996-97	BASE UPDATE	1.0307	1.0467	1.0788	\$14,938,337
	Adjustments:				
	FY 1996-97 Limit				\$14,938,337
FY 1997-98	BASE UPDATE	1.0262	1.0467	1.0741	\$16,045,620
	Adjustments:				
	FY 1997-98 Limit				\$16,045,620

(Continued)

Prop 111	Adjustments	City Population	CA per Capita Income	FACTOR	Updated App Limit
FY 1998-99	BASE UPDATE	1.0281	1.0415	1.0708	\$17,181,106
	Adjustments:				
	State Fees for DUI Laboratory Expenses				\$7,000
	Landscaping & Lighting District Costs				\$345,770
	FY 1998-99 Limit				\$17,533,876
FY 1999-00	BASE UPDATE	1.0549	1.0453	1.1027	\$19,334,377
	Adjustments:				
	State Fees for Laboratory Expenses				\$12,500
	County Tax Administration Fees (Increase since FY91-92)				\$19,000
	FY 1999-00 Limit				\$19,365,877
FY 2000-01	BASE UPDATE	1.0729	1.1405	1.2236	\$23,696,909
	Adjustments:				
			* using change in non-residential AV		\$0
					\$0
	FY 2000-01 Limit				\$23,696,909
FY 2001-02	BASE UPDATE	1.0759	1.0782	1.1600	\$27,489,253
	Adjustments:				
	None				\$0
	FY 2001-02 Limit				\$27,489,253
FY 2002-03	BASE UPDATE	1.0785	0.9873	1.0648	\$29,270,641
	Adjustments:	Revised for FY04-05			
	None				\$0
	FY 2002-03 Limit				\$29,270,641
FY 2003-04	BASE UPDATE	1.0645	1.0231	1.0891	\$31,878,361
	Adjustments:	Revised for FY04-05			
	County Booking Fees (Increase since 1992)				\$80,000
	County Tax Administration Fees (Increase since 2000)				\$66,000
	FY 2003-04 Limit				\$32,024,361
FY 2004-05	BASE UPDATE	1.0685	1.0328	1.1036	\$35,341,704
	Adjustments:				
	None				\$0
	FY 2004-05 Limit				\$35,341,704

(Continued)

Prop 111	Adjustments	City Population	CA per Capita Income	FACTOR	Updated App Limit
FY 2005-06	BASE UPDATE	1.0499	1.0526	1.1051	\$39,056,991
	Adjustments:				
	None				\$0
	FY 2005-06 Limit				\$39,056,991
FY 2006-07	BASE UPDATE	1.0250	1.0396	1.0656	\$41,618,739
	Adjustments:				
	None				\$0
	FY 2006-07 Limit				\$41,618,739
FY 2007-08	BASE UPDATE	1.0078	1.0442	1.0523	\$43,797,262
	Adjustments:				
	None				\$0
	FY 2007-08 Limit				\$43,797,262
FY 2008-09	BASE UPDATE	1.0054	1.0429	1.0485	\$45,922,816
	Adjustments:				
	None				\$0
	FY 2008-09 Limit				\$45,922,816
FY 2009-10	BASE UPDATE	1.0020	1.0062	1.0082	\$46,301,339
	Adjustments:				
	None				\$0
	FY 2009-10 Limit				\$46,301,339
FY 2010-11	BASE UPDATE	1.0163	0.9746	0.9905	\$45,860,827
	Adjustments:				
	None				\$0
	FY 2010-11 Limit				\$45,860,827
FY 2011-12	BASE UPDATE	1.0069	1.0251	1.0322	\$47,336,316
	Adjustments:				
	None				\$0
	FY 2011-12 Limit				\$47,336,316
FY 2012-13	BASE UPDATE	1.0079	1.0377	1.0459	\$49,508,950
	Adjustments:				
	None				\$0
	FY 2012-13 Limit				\$49,508,950

CITY OF TRACY  
 APPROPRIATIONS LIMIT

Determination for FY12-13

TAX  
 PROCEEDS

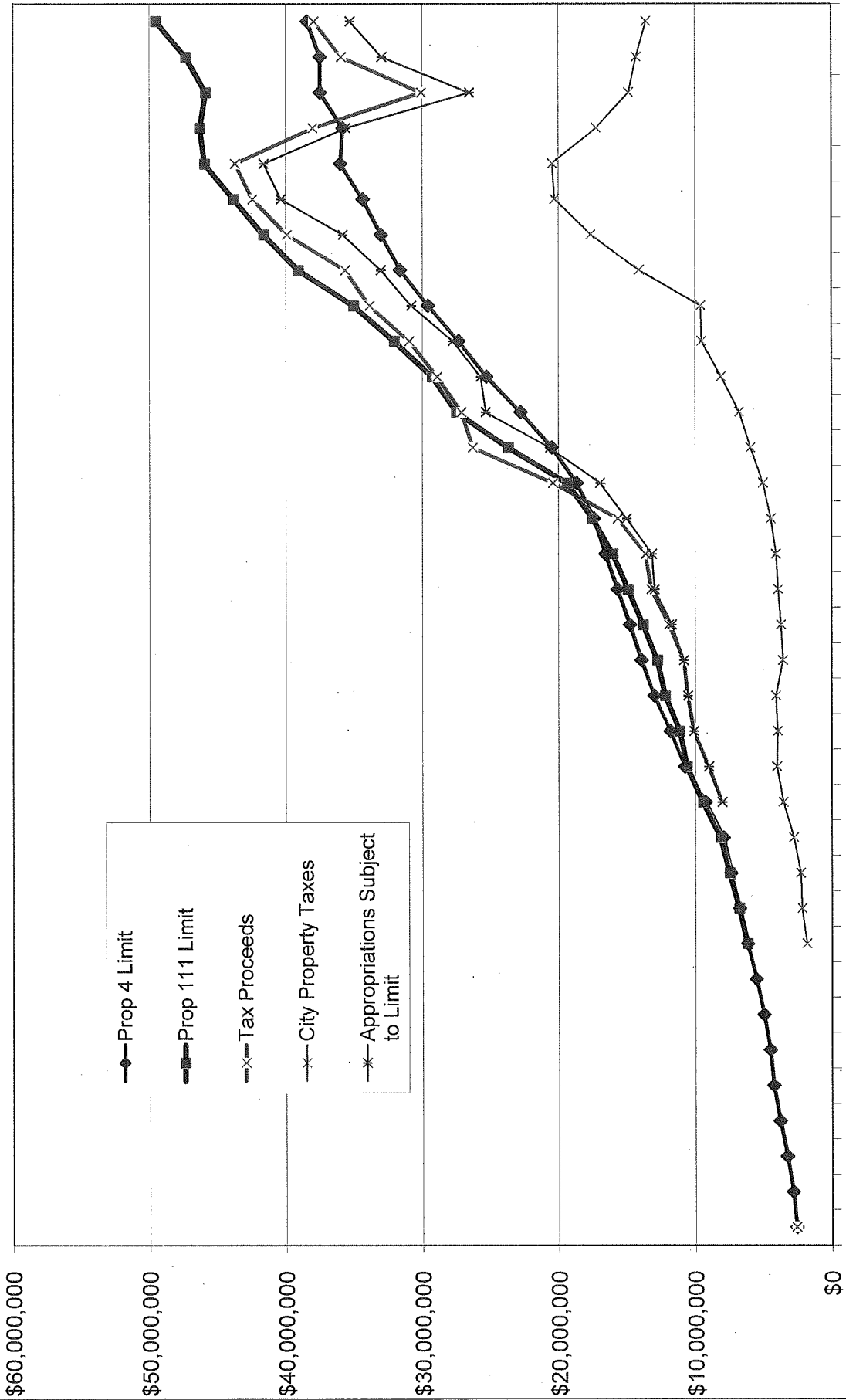
NON-TAX  
 PROCEEDS

	TAX PROCEEDS	NON-TAX PROCEEDS
TAXES	\$37,028,600	\$6,593,700
Special Assessments		\$16,462,050
LIC, PERMIT & Franchises	\$0	\$3,191,450
STATE SHARED REVENUES	\$465,000	\$2,135,390
STATE GRANTS		\$167,000
FEDERAL GRANTS		\$3,811,230
COUNTY & OTHER GRANTS		\$7,249,440
CHARGES/FEES	\$0	\$62,918,500
FINES		\$1,903,000
USE OF MONEY	\$430,000	\$191,000
RENTS & CONCESSIONS		\$471,300
OTHER REVENUES		\$594,600
OTHER FINANCING SOURCES		\$2,525,000
FUND Balance	\$0	\$0
<b>Sub-Totals</b>	<b>\$37,923,600</b>	<b>\$108,213,660</b>
<b>TOTAL Revenues</b>	<b>\$146,137,260</b>	

Proceeds of Taxes	\$37,923,600	<b>Qualified Capital Outlays</b>	
Less Exemptions			
Debt Service	\$1,174,080	Widen-Corral Hollow Rd	\$950,000
Qualified Capital Outlays	\$1,480,000	Street Patch & Overlay	\$380,000
Court Orders	\$0	Sidewalk Repairs	\$150,000
Federal Mandates	\$0		
Appropriations Subject to Limit	\$35,269,520		
Appropriations Limit	\$49,508,950		
Amount under Limit	\$14,239,430		\$1,480,000
% of Limit Appropriated	71.24%		

# City of Tracy - Appropriations Limits FY78-79 through FY12-13

Limits, Taxes, & Appropriations



Fiscal Years 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 00 01 02 03 04 05 06 07 08 09 10 11 12 13

Fiscal Years

RESOLUTION \_\_\_\_\_

ESTABLISHING THE APPROPRIATIONS LIMIT FOR THE CITY OF TRACY  
FOR FISCAL YEAR 2012-2013

WHEREAS, Article XIII B of the State Constitution places an appropriations limit on the proceeds of taxes received by the State and local governments in California, and

WHEREAS, Article XIII B provides that the appropriations limit can be adjusted annually to account for growth and inflation, and

WHEREAS, It is necessary for the City Council to establish the appropriations limit for the City of Tracy for FY 12-13 and to specify the options used in the annual adjustment, and

WHEREAS, The attachments to this resolution show the calculations used to determine the appropriations limit as adjusted for the City of Tracy for FY 12-13, and

NOW, THEREFORE, BE IT RESOLVED That:

- 1) The FY 12-13 appropriations limit for the City of Tracy is established as \$49,508,950;
- 2) In setting the appropriations limit for FY 12-13 the City Council has chosen the "City Population Growth" and "California Per Capita Income" options for the annual adjustment in the limit;
- 3) The appropriations, subject to the limit based upon the proposed City budget for FY 12-13 are \$35,269,520, or 71.24% of the limit, which is \$14,239,430 below the limit.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by the Tracy City Council 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 4

REQUEST

**PUBLIC HEARING TO CONSIDER INTRODUCING AN ORDINANCE OF THE CITY OF TRACY: (1) ADDING A NEW SECTION 1.08.140 TO CHAPTER 1.08 OF THE TRACY MUNICIPAL CODE RELATING TO COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAW; AND (2) ADDING A NEW SECTION 10.08.3195 TO CHAPTER 10.08 OF THE TRACY MUNICIPAL CODE CLARIFYING THAT MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION ARE NOT PERMITTED USES**

EXECUTIVE SUMMARY

This staff report responds to City Council direction to prepare and introduce an ordinance clarifying that marijuana dispensaries and cultivation are not permitted land uses in Tracy. The Planning Commission recommends approval of the ordinance.

DISCUSSION

Background and Summary

On November 15, 2011, City Council considered the regulation of medical marijuana. A copy of the City Council staff report is attached as Attachment A.

Under the City's Zoning Ordinance, any use not specifically authorized in a particular zone is prohibited. (Tracy Municipal Code ("TMC"), §10.08.1070.) Therefore, unauthorized uses are considered public nuisances. (TMC, §1.04.050.)

Medical marijuana uses, including cultivation (either as a primary use or as an accessory residential use in a backyard), are not allowable uses in any of the City's zoning districts. Therefore, such uses are not allowed and are considered public nuisances.

City Council directed staff to present Council with an ordinance clarifying the existing ban on such uses under the TMC.

The proposed ordinance includes two amendments to the TMC.

First, it adds a new section to the TMC clarifying that "no provision of [the] Code is intended to or shall be interpreted or applied to allow or authorize a use, structure, activity, or conduct that violates federal, state or local law."

Second, it adds a new section to the Zoning Ordinance clarifying that medical marijuana dispensaries and/or cultivation are not allowed as principal uses, conditional uses, special uses, or accessory uses in any zone.



The purpose of adopting such a clarifying ordinance is twofold: (1) to provide clear notice to the public that medical marijuana uses are prohibited under the TMC; and (2) to assist staff and the courts in interpreting and implementing the provisions of the TMC related to the use of medical marijuana.

#### Overview of Code Enforcement related to Medical Marijuana

The City's involvement in dealing with medicinal marijuana dispensaries abatement begins when a complaint is filed with Code Enforcement. The complaint is then entered into the department's database, a case is opened, and a site inspection is performed to validate the complaint. Depending on staff's caseload, new cases are inspected within 72 to 96 hours of receipt. Once the complaint has been confirmed, staff notifies the property owner by phone, in person, or by mailing a Violation Notice, with a specified time frame for correcting the violation(s). A follow-up investigation is conducted shortly after the deadline contained in the Violation Notice to verify whether or not corrective action has been taken. If the violation(s) still exist at the time of the follow-up inspection, the City will move forward with a Notice and Order or Order to Abate or Show Cause, including a deadline for compliance and appeal dates. If the violations are still not corrected, the City can move forward with more punitive action, such as administrative citations, and/or criminal or civil injunctions. Upon correction of all cited violations, the case is closed and no further action is required.

An enforcement case involving medical dispensaries can take anywhere from 7 to 10 days under a voluntary compliance scenario. Appealed cases can take up to 120 days to resolve.

In situations where property owners fall short of complying, the City may seek Council approval to abate the violations at the City's cost, with cost recovery (plus administrative charges) in the form of a lien against the property. However, in situations of imminent danger to the public and immediate action is necessary, the City can hire contractors to abate the nuisance and attempt to recover the cost for said abatement through small claims judgments.

#### Planning Commission discussion:

The Tracy Planning Commission met and discussed the proposed ordinance on December 21, 2011 and recommend approval of the ordinance (Attachment B: Draft Planning Commission meeting minutes). The Planning Commission has a role in reviewing and recommending ordinances that relate to land use matters.

#### Strategic Plan

This item relates to the City's ongoing priority of maintaining safe neighborhoods.

Environmental Document

The proposed ordinance is not considered a project for the purposes of the California Environmental Quality Act ("CEQA"). (See CEQA Guidelines, § 15378.)

FISCAL IMPACT

There is no fiscal impact to the General Fund associated with adoption of this Ordinance other than the staff time to write the Ordinance. Code Enforcement staff currently address cases of this nature.

RECOMMENDATION

Staff and the Planning Commission recommend that City Council introduce an ordinance of the City of Tracy: (1) adding a new Section 1.08.140 to Chapter 1.08 of the Tracy Municipal Code relating to compliance with federal, state, and local law; and (2) adding a new Section 10.08.3195 to Chapter 10.08 of the Tracy Municipal Code clarifying that medical marijuana dispensaries and cultivation are not permitted uses.

Prepared by: Bill Dean, Assistant DES Director

Reviewed by: Andrew Malik, Development Services Director

Approved by: Leon Churchill, Jr., City Manager

ATTACHMENTS

- A— November 15, 2011 City Council Staff Report
- B— Planning Commission Draft Minutes
- C—Proposed Ordinance

November 15, 2011

AGENDA ITEM 3

REQUEST

**DISCUSS AND PROVIDE DIRECTION ON THE REGULATION OF MEDICAL MARIJUANA**

EXECUTIVE SUMMARY

It is recommended that the City Council discuss and provide direction to staff on the regulation of medical marijuana.

DISCUSSION

I. Background and Summary

At the City Council meeting on November 1, 2011, Council Member Rickman requested that staff present options to the City Council relating to the regulation of medical marijuana cultivation.

The regulation of medical marijuana is complex because it is subject to differing legal standards on the federal, state, and local level. Under both state and federal law, it is illegal to possess or cultivate marijuana. However, state law provides that such state law criminal provisions do not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the approval of a physician.

Notwithstanding federal and state law, the City may restrict the location, operation, or establishment of medical marijuana uses based on its land use and police power authority. However, while the City may restrict such uses, it may not specifically permit them because they are illegal under federal law.

Currently, medical marijuana uses, including cultivation (either as a primary use or as an accessory residential use in a backyard), are not allowed under the City's Zoning Ordinance because they are not specifically permitted in any of the City's zoning districts. Therefore, under the Tracy Municipal Code ("TMC"), such uses are considered public nuisances.

The City Council could direct staff to present it with an ordinance clarifying the existing ban on such uses under the TMC by specifically referencing medical marijuana uses as not being allowed in any of the City's zoning districts.

Alternatively, the City Council could direct staff to present it with an ordinance that contains certain restrictions on medical marijuana uses (e.g., restricting or banning outdoor or all cultivation) and establishes immunity from civil and criminal enforcement of the TMC for those who operate in strict compliance with its terms.

## II. Statutory Background

Under both state and federal law, it is illegal to possess, distribute, or cultivate marijuana. However, state law provides that such state law criminal provisions do not apply to a patient, or to a patient's primary caregiver, who possesses, distributes, or cultivates marijuana for the personal medical purposes of the patient upon the approval of a physician.

### A. The Federal Controlled Substances Act ("CSA")

The federal Controlled Substances Act ("CSA") was enacted in 1970 as part of President Nixon's "war on drugs." (21 U.S.C. §§801 – 904.) The CSA criminalizes the unauthorized manufacture, distribution, dispensing, and possession of substances classified in any of the Act's five schedules. The CSA includes marijuana on schedule I, the schedule of controlled substances that are subject to the most restrictions. (21 U.S.C. §812.) Drugs on other schedules may be dispensed and prescribed for medical use; drugs on schedule I may not.

Therefore, the CSA makes it illegal to manufacture, distribute, or possess marijuana. (21 U.S.C. §§ 841, 844.) It is also illegal under the CSA to maintain any place for the purpose of manufacturing, distributing, or using any controlled substance. (21 U.S.C. §856(a)(1).)

### B. The Compassionate Use Act ("CUA")

The state Compassion Use Act ("CUA") was approved by voters as a ballot initiative in 1996. The CUA provides that certain state law criminal provisions relating to the possession and cultivation of marijuana "shall not apply to a patient, or to a patient's primary caregiver, who possesses or cultivates marijuana for the personal medical purposes of the patient upon the written or oral recommendation or approval of a physician." (Health & Saf. Code, §11362.5(d).) Apart from possession and cultivation, the CUA did not alter the other state statutory criminal prohibitions related to marijuana, including those that bar transportation, possession for sale, and sale. (*People v. Urziceanu* (2005) 132 Cal.App.4<sup>th</sup> 747.)

### C. The Medical Marijuana Program Act ("MMPA")

In 2003, the state Legislature enacted the Medical Marijuana Program Act ("MMPA"). (Health & Saf. Code, §§ 11362.7 – 11362.83.) The intent of the MMPA was to: (1) clarify the scope of the CUA and facilitate the prompt identification of qualified patients and their designated primary caregivers in order to avoid unnecessary arrest and prosecution of these individuals and provide needed guidance to law enforcement officers; (2) to promote uniform and consistent application of the CUA; and (3) to enhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects. (Stats. 2003, ch. 875, §1.)

The MMPA created a voluntary program for the issuance of identification cards to qualified patients and primary caregivers. (Health & Saf. Code, §11362.71.)

The MMPA expressly immunizes from criminal liability qualified patients, persons with identification cards, and primary caregivers who transport or process marijuana for the personal medical use of a qualified patient or person with an identification card. (Health & Saf. Code, §11362.765(b)(1)-(2).) The MMPA also created an affirmative defense to criminal liability for qualified patients, persons with identification cards and primary caregivers who collectively or cooperatively cultivate marijuana. (Health & Saf. Code, §11362.775.)

### III. The City's Ability to Restrict Medical Marijuana Uses

Notwithstanding the CUA and the MMPA, discussed above, the City may restrict the location, operation, or establishment of medical marijuana uses based on its land use police power authority. However, while it may restrict such uses, it may not specifically permit such uses because they are illegal under federal law.

#### A. The City May Restrict Medical Marijuana Uses Based on its Police Power and Land Use Authority

Case law has made clear that neither the CUA nor the MMPA preempts cities from enforcing zoning requirements related to medical marijuana uses.<sup>1</sup>

This has also been statutorily clarified. For example, the CUA expressly states that: "Nothing in this [Act] shall be construed to supersede legislation prohibiting persons from engaging in conduct that endangers others . . . ." (Health & Saf. Code, §11362.5(b)(2).) Similarly, the MMPA provides that "Nothing in this [Act] shall prohibit a city . . . from adopting ordinances or policies that further restrict the location or establishment of a medical marijuana cooperative, collective, dispensary, operator, establishment, or provider." (Health & Saf. Code, § 11362.768(f).)

Finally, as part of the 2011-2012 Regular Session, the Legislature adopted Assembly Bill ("AB") 1300. AB 1300 amended Health and Safety Code section 11362.83 to read as follows:

Nothing in this article shall prevent a city or other local governing body from adopting and enforcing any of the following:

- (a) Adopting local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective.

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<sup>1</sup> See for example: *County of Los Angeles v. Hill* (2011) 192 Cal.App.4<sup>th</sup> 861 [County ordinance regulating the operation of medical marijuana dispensaries, including the location of dispensaries, was not preempted by the CUA or the MMPA.]; *City of Claremont v. Kruse* (2009) 177 Cal.App.4<sup>th</sup> 1153 [City's moratorium on medical marijuana dispensaries was not preempted by the CUA or the MMPA.]; and *City of Corona v. Naulls* (2008) 166 Cal.App.4<sup>th</sup> 418 [Upholding the City's determination that medical marijuana dispensary was a public nuisance because it was not a permitted use under the City's zoning ordinance.].

(b) The civil and criminal enforcement of local ordinances described in subdivision (a).

(c) Enacting other laws consistent with this article.

B. Although the City May Restrict Medical Marijuana Uses, it May Not Permit Such Uses Because They are Illegal Under Federal Law

Although the City may restrict medical marijuana uses, it may not permit such uses because it would conflict with federal law. This was made clear in the recent case of *Pack v. Superior Court (City of Long Beach)* (2011) 199 Cal.App.4<sup>th</sup> 1070.

At issue in *Pack* was a comprehensive regulatory scheme enacted by the City of Long Beach by which medical marijuana collectives with the City are governed. The City charges an application fee, holds a lottery, and issues a limited number of permits. Permitted collectives, which must then pay an annual fee, are highly regulated, and subject to numerous restrictions on their operations.

The court in *Pack* found that, because the City's regulatory scheme *permitted* medical marijuana collectives rather than merely decriminalized specific acts, it was preempted by federal law. The court pointed out that: "The City's permit system . . . provides that collectives with permits may collectively cultivate marijuana with the City *and those without permits may not*. The City's permit is nothing less than an *authorization* to collectively cultivate."

Nevertheless, the court in *Pack* found that some of the regulations that were adopted by the City were in not in conflict with federal law because they did not permit or authorize activity prohibited under federal law. For example, the City's ordinance included provisions: (1) prohibiting a medical marijuana collective from providing medical marijuana to its members between the hours of 8:00 p.m. and 10:00 a.m.; (2) prohibiting a person under the age of 18 from being on the premises of a medical marijuana collective unless that person is a qualified patient accompanied by his or her physician, parent or guardian; and (3) prohibiting the collective from permitting the consumption of alcohol on the property or in its parking area. The court found that these provisions were not preempted by federal law.

IV. The City of Tracy's Zoning Ordinance

Under the City's Zoning Ordinance, any use that is not specifically authorized in a particular zone is prohibited.<sup>2</sup> (Tracy Municipal Code ("TMC"), §10.08.1070.) Therefore, unauthorized uses are considered public nuisances. (TMC, §1.04.050.)

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<sup>2</sup> This type of zoning ordinance is commonly referred to as a "permissive zoning ordinance." (See *City of Corona v. Naulls, supra*, 166 Cal.App.4<sup>th</sup> at 430 – 433.)

Medical marijuana uses, including cultivation (either as a primary use or as an accessory residential use in a backyard), are not allowable uses in any of the City's zoning districts.<sup>3</sup> Therefore, such uses are not allowed and are considered public nuisances.

In 2006, the City issued an Order to Abate Public Nuisance or Show Cause on the owners and operators of a medical marijuana dispensary, known as the Valley Wellness Center Collective, Inc., that was located at 130 West 11<sup>th</sup> Street. After a hearing on the Order, the Hearing Officer determined that the dispensary did not fall within any permitted uses with the City's Central Business District ("CBD") Zone in which it was located, and as such, was an unauthorized use in violation of the TMC. The Hearing Officer deemed the use a public nuisance and ordered that it be abated. The medical marijuana dispensary shut down as a result of the ruling.

V. Options

A. Clarify That Medical Marijuana Uses are Not Allowed Under the City's Zoning Ordinance

The City Council could direct staff to present it with an ordinance clarifying the existing ban on such uses under the TMC.

Such an ordinance would: (1) add a new section to Chapter 1.01 of the TMC (Adoption of Code) to clarify that "No use authorized under this code shall violate state or federal law"; and (2) add a new section to Article 23 of the Zoning Ordinance (General Provisions, Conditions, and Exceptions) expressly prohibiting medical marijuana uses in all zoning districts.

The purpose of adopting such a clarifying ordinance would be twofold: (1) to provide clear notice to the public that medical marijuana uses are prohibited under the TMC; and (2) to assist staff and the courts in interpreting and implementing the provisions of the TMC related to the use of medical marijuana.

Under this option, code enforcement would continue to enforce the Zoning Ordinance's prohibitions on such uses.

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<sup>3</sup> Zoning ordinances typically identify three types of uses: permitted uses, conditional uses, and accessory uses. The City's Zoning Ordinance defines "accessory" as ". . . a building, a part of a building, or a use which is subordinate to, and the use of which is incidental to, that of the main building, structure, or use on the same lot as the main building or use . . ." (TMC, §10.08.050.) The City's Zoning Ordinance permits accessory uses in all residential districts. (TMC, §10.08.1080(29).) In a residential district, accessory uses would normally include such things as gardens, garages, swimming pools, fences, hedges, trees and shrubs.

The City has broad authority to identify permitted and accessory uses in its Zoning Ordinance based on the police power authority granted to it under the state Constitution. (Cal. Const., art. XI, §7.) However, the City may only adopt ordinances, including zoning ordinances, which do not conflict with the Constitution and the laws of the state or the United States. (Gov. Code, §37100.) Because marijuana is illegal under federal law, the City has no power to adopt a zoning ordinance which would allow for its use either as a permitted or accessory use.

B. Restrict Medical Marijuana Uses and Provide Immunity from Prosecution Under the Tracy Municipal Code

Alternatively, the City Council could direct staff to present it with an ordinance that contains restrictions on medical marijuana uses and establishes immunity from prosecution under the TMC for those who operate in strict compliance with its terms.

As an example, the City of San Jose recently adopted an ordinance that: (1) requires medical marijuana collectives to register with the City; (2) restricts the number and location of collectives; (3) and provides operating regulations and conditions including those relating to cultivation (i.e., conditions relating to safety and operating hours). San Jose's ordinance makes clear that is intended only to establish an affirmative defense to criminal and civil enforcement of the San Jose Municipal Code (as such uses continue to be deemed "nuisances" under the San Jose Municipal Code because they conflict with federal law).

Although such an ordinance would establish immunity from prosecution under the TMC, it would not immunize medical marijuana uses from prosecution under federal law. This is important to keep in mind. On October 7, 2011, California's four U.S. attorneys held a joint press conference announcing increased enforcement of federal laws criminalizing the cultivation and sale of medical marijuana and authorizing the seizure of real property used for such activities.

Under this option, code enforcement would not enforce the Zoning Ordinance's prohibitions on such uses as long as they complied with the restrictions contained in the ordinance.

STRATEGIC PLAN

This agenda item seeks policy direction from Council and does not relate to the Council's strategic plans at this time.

FISCAL IMPACT

If the City Council chooses to adopt an ordinance that restricts medical marijuana uses, it could require significant staff time to draft and implement.

RECOMMENDATION

Staff recommends that the City Council discuss the options presented above and provide direction to staff.



## 2. NEW BUSINESS

### A. PUBLIC HEARING TO CONSIDER AN ORDINANCE OF THE CITY OF TRACY: (1) ADDING A NEW SECTION 1.08.140 TO CHAPTER 1.08 OF THE TRACY MUNICIPAL CODE RELATING TO COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAW; AND (2) ADDING A NEW SECTION 10.08.3195 TO CHAPTER 10.08 OF THE TRACY MUNICIPAL CODE CLARIFYING THAT MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION ARE NOT PERMITTED USES

The staff report was provided by Bill Dean, Assistant Director of Development Services. Mr. Dean stated on November 15, 2011 Council had held a workshop to discuss the issue of regulation of medical marijuana. Mr. Dean further stated that basically under the current zoning code any use not authorized in a specific zone is prohibited and as such the unauthorized use is considered a nuisance. Mr. Deans indicated that what was discussed with Council was medical marijuana uses including cultivation were not allowed in any City zoning districts. Mr. Dean indicated Council had wanted to take the strongest possible approach on the issue and asked that an Ordinance be created relatively quickly. Mr. Dean stated that the section proposed to be added to Chapter 1.08 was not under the purview of the Planning Commission; however it was being tracked together with the Title 10 addition which was under the purview of the Planning Commission. Mr. Dean indicated the purpose of the ordinance was two-fold; to provide clear notice to the public that medical marijuana uses were prohibited and to assist staff and the Courts in interpreting and implementing the Municipal Code related to the use of medical marijuana.

Commissioner Mitracos stated he had seen part of the Council discussion on the issue and saw a number of people were there to complain about the nuisance, and he felt that was the driving force behind this item. Mr. Dean stated that was a driving force, but in addition staff did occasionally have requests from dispensaries and cooperatives. Commissioner Mitracos stated the penalty was only punishable by misdemeanor and most misdemeanors are not taken seriously. Bill Sartor, Assistant City Attorney stated it was not the only remedy available to the City; however the misdemeanor was the harshest punishment available to City staff. Mr. Sartor added the offense would be prosecuted by the City Attorney's Office, not the District Attorney's Office. Commissioner Mitracos asked if there was potential for a lawsuit given the State law. Mr. Sartor stated there was always potential for a lawsuit; however he did not see a successful lawsuit. Mr. Sartor added that it was important to note California did not legalize medical marijuana, but rather provided defense to prosecution.

Commissioner Mitracos stated this was a zoning item, and zoning was under the purview of the Commission, and asked why this would need to go on to Council for approval. Mr. Sartor stated this was an ordinance and only City Council could approve an ordinance.

Commissioner Johnson stated he had done some research online and it seemed that it could not be banned completely. Mr. Sartor stated the City could ban cultivation and dispensaries but could not have a law which stated smoking medical marijuana was illegal. Commissioner Johnson asked if Council felt this was the best way to approach the issue. Mr. Sartor stated this was actually just an aid to explain it to a Judge should the City need to enforce the ban.

Chair Manne asked if there were known cultivators, or open dispensaries in the City. Mr. Sartor answered not that he was aware of; however from anecdotal evidence there did appear to be some in town at the time.

Vice Chair Ransom asked if the County had an ordinance regarding medical marijuana. Mr. Dean stated he was not aware of an ordinance that prohibited dispensaries. Mr. Sartor added that the San Joaquin County District Attorney was of the opinion that all dispensaries in a retail sense were unlawful.

Chair Manne stated he felt the City Council had made it clear how it felt about the issue.

It was moved by Vice Chair Ransom and seconded by Commissioner Johnson that the Planning Commission recommend that the City Council adopt an ordinance of the City of Tracy: (1) adding a new Section 1.08.140 to Chapter 1.08 of the Tracy Municipal Code relating to compliance with federal, state and local law; and (2) adding a new Section 10.08.3195 to Chapter 10.08 of the Tracy Municipal Code clarifying that medical marijuana dispensaries and cultivation are not permitted uses. Voice vote found all in favor, with Commissioner Alexander absent; passed 4-0-1-0.

## ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE CITY OF TRACY: (1) ADDING A NEW SECTION 1.08.140 TO CHAPTER 1.08 OF THE TRACY MUNICIPAL CODE RELATING TO COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAW; AND (2) ADDING A NEW SECTION 10.08.3195 TO CHAPTER 10.08 OF THE TRACY MUNICIPAL CODE CLARIFYING THAT MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION ARE NOT PERMITTED USES

The City Council of the City of Tracy does ordain as follows:

SECTION 1: A new Section 1.08.140 is added to Chapter 1.08 of the Tracy Municipal Code to read as follows:

**“1.08.140 Federal, State or Local Law.** No provision of this Code is intended to nor shall be interpreted or applied to allow or authorize a use, structure, activity, or conduct that violates federal, state or local law.”

SECTION 2: A new Section 10.08.3195 is added to Chapter 10.08 of the Tracy Municipal Code to read as follows:

**“10.08.3195 Medical Marijuana Dispensaries and Cultivation.**

(a) For the purposes of this section, the following definitions apply:

(1) “Medical marijuana dispensary” or “dispensary” means any facility or location where medical marijuana is grown, made available to and/or distributed by or to any of the following: a primary caregiver, a qualified patient, or a person with an identification card.

(2) “Person with an identification card” shall have the same definition as in California Health and Safety Code Section 11362.5 et seq., and as may be amended.

(3) “Primary caregiver” shall have the same definition as in California Health and Safety Code Section 11362.5 et seq., and as may be amended.

(4) “Qualified patient” shall have the same definition as in California Health and Safety Code Section 11362.5 et seq., and as may be amended.

(b) A medical marijuana dispensary is not allowed, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.

(c) Medical marijuana cultivation is not allowed, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.

(d) Violations of this section are punishable as misdemeanors and as otherwise set forth in Chapter 1.04 of this code. Each day of operation of a medical

marijuana dispensary, or cultivation of medical marijuana occurs, in violation of this section constitutes a separate offense.

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

SECTION 4: This Ordinance shall be published once in the Tri-Valley Times, a newspaper of general circulation, within fifteen 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 5<sup>th</sup> day of June, 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 5

REQUEST

**PUBLIC HEARING TO CONSIDER ADOPTION OF A PRECISE PLAN LINE  
(ALIGNMENT) FOR VALPICO ROAD FROM TRACY BOULEVARD TO MACARTHUR  
DRIVE**

EXECUTIVE SUMMARY

Widening of Valpico Road between Tracy Boulevard and MacArthur Drive is necessary in order to address the City's traffic demand projections. One of the first steps in establishing a new roadway or widening is to adopt a plan line, which defines the roadway's alignment and limits of public right-of-way corridor. City Council is requested to hold a public hearing in order to receive comments and consider adoption of the proposed Precise Plan Line for Valpico Road.

DISCUSSION

In the 1980's, approximately 375 acres of land were annexed to the City for development. This area was designated as the Industrial Areas Specific Plan South (ISP South) and is located on the east side of Tracy Boulevard between Linne Road, north of Valpico Road to the Canal, and to the southwest corner of Linne Road and Tracy Boulevard. As a condition of development, ISP South area landowners were required to fully fund all supporting public infrastructure improvements. As parcels come forward for development, a Finance and Implementation Plan (FIP) was prepared identifying the specific improvements that will be required and the corresponding fees that will be collected in order to pay for those improvements. This FIP has been updated several times since its inception.

On March 17, 2009, City Council adopted an updated version of the FIP for ISP South which identifies all related future improvements.

On July 26, 2010, the City approved an agreement with Schack and Company of Tracy to prepare a precise plan line for the Valpico Road widening between Tracy Boulevard and MacArthur Drive. This was in response to growing development interests by ISP South property owners that were ready to commit for future developments. These improvements needed to be constructed within the future roadway right-of-way so a Precise Plan Line for this portion of Valpico Road was initiated.

Furthermore, as industrial, commercial, and residential developments in the area become available and are utilized, a substantial volume of vehicular traffic to and from these properties is anticipated that will need to be mitigated by the widening of Valpico Road.

Therefore, it is necessary to adopt a Precise Plan Line for Valpico Road in order for property owners and/or developers along this portion of Valpico Road to accurately assess the amount of land which they will be required to dedicate to the City, or that will need to be acquired by the City, in order to widen Valpico Road pursuant to Tracy Municipal Code § 7.04.120.

Pursuant to the above-quoted provision of the Tracy Municipal Code and other applicable laws, certain properties with frontages along and having access to Valpico Road will be subject to dedication requirements when such properties develop, provided the following circumstances exist:

1. That the properties require enhanced access to the system of public streets in order to allow development on such properties;
2. That there is a rough proportionality between the imposition of dedications for the construction of Valpico Road and the impacts of any future development on such properties.

If the owner and/or developer of properties along Valpico Road initiate development of their property before the City pursues acquisition of right-of-way within the established Plan Line, then they will be required to dedicate and improve their frontage (1) 20 feet from the planned face of curb of Valpico Road towards the centerline of the street; and (2) from such face of curb to the ultimate planned right-of-way of Valpico Road. Improvements shall include street, curb, gutter, sidewalk and parkway landscaping.

If instead the City initiates the acquisition of right-of-way prior to the properties being developed, then the right-of-way acquisition and frontage improvement costs will be incorporated into the infrastructure costs that must be paid as impact fees once the parcel comes forward for development.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

There is no impact to the General Fund. Funding for completing the Valpico Road Precise Plan Line has been provided from the development impact fees collected from developers in the ISP South development area.

#### RECOMMENDATION

That City Council, by resolution, adopt the Precise Plan Lines (alignment) for Valpico Road, as reflected in the maps attached hereto as Exhibits A and B.

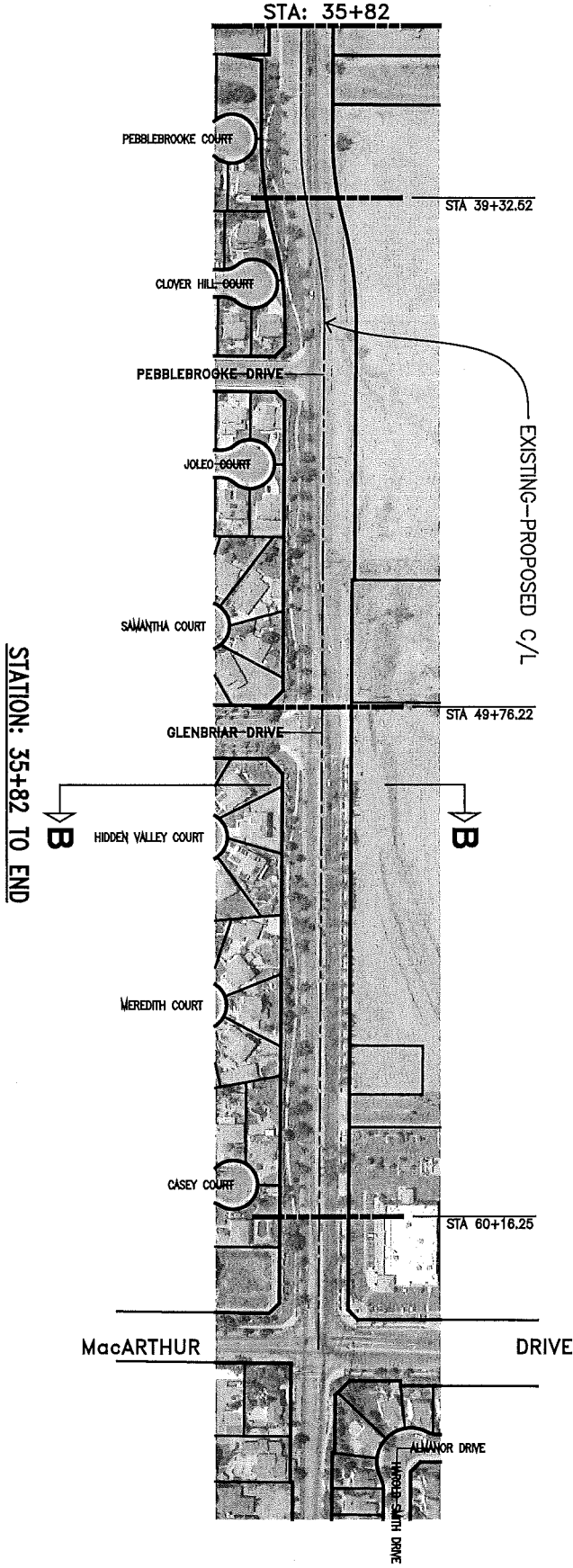
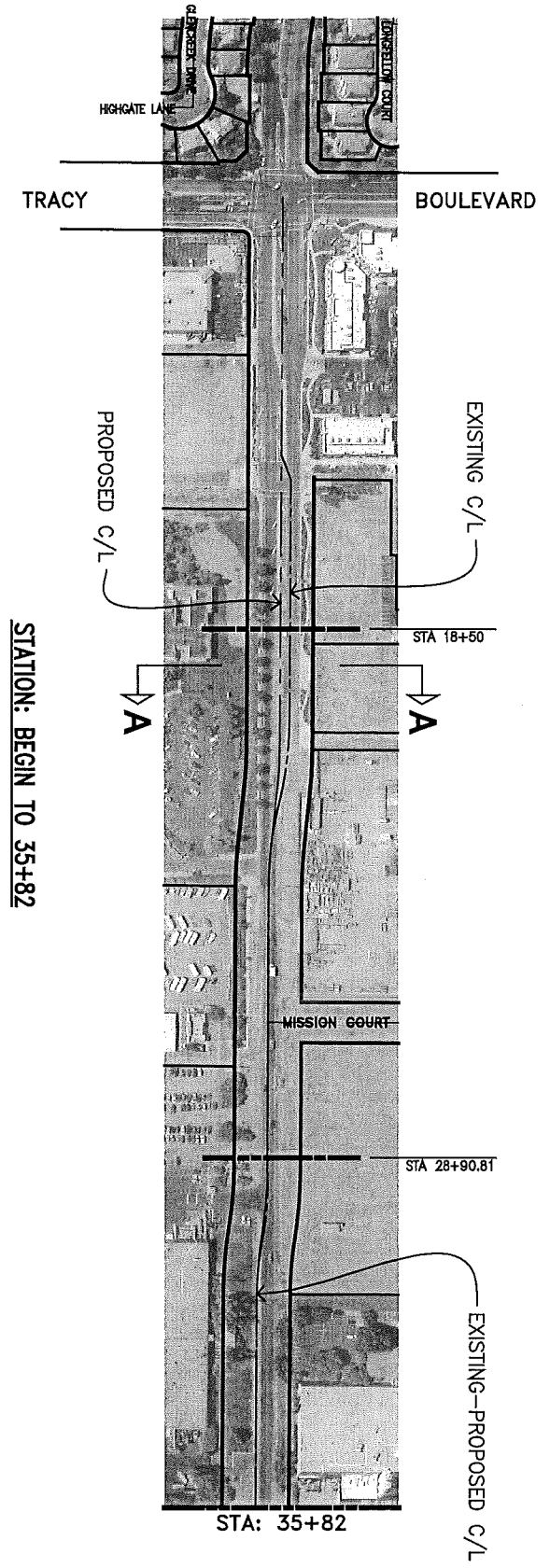
Prepared by: Zabih Zaca, Senior Civil Engineer

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

Approved by: Leon Churchill, Jr., City Manager

ATTACHMENTS: Exhibit A  
Exhibit B

# Exhibit 'A'



**PRECISE PLAN ALIGNMENT**  
VALPICO ROAD BETWEEN TRACY BOULEVARD & MacARTHUR DRIVE





RESOLUTION \_\_\_\_\_

ADOPTING A PRECISE PLAN LINE (ALIGNMENT) FOR VALPICO ROAD  
FROM TRACY BOULEVARD TO MACARTHUR DRIVE

WHEREAS, Widening of Valpico Road between Tracy Boulevard and MacArthur Drive is necessary in order to address the City’s traffic demand projections, and

WHEREAS, One of the first steps in establishing a new roadway or widening is to adopt a plan line, which defines the roadway’s alignment and limits of public right-of-way corridor, and

WHEREAS, In the 1980’s, approximately 375 acres of land were annexed to the City for development and were designated as the Industrial Areas Specific Plan South (ISP South), and

WHEREAS, As a condition of development, ISP South area landowners were required to fully fund all supporting public infrastructure improvements, and

WHEREAS, It is necessary to adopt a Precise Plan Line for Valpico Road in order for property owners and/or developers along this portion of Valpico Road to accurately assess the amount of land which they will be required to dedicate to the City, or that will need to be acquired by the City, in order to widen Valpico Road pursuant to Tracy Municipal Code § 7.04.120, and

WHEREAS, There is no impact to the General Fund. Funding for completing the Valpico Road Precise Plan Line has been provided from the development impact fees collected from developers in the ISP South development area;

NOW, THEREFORE, BE IT RESOLVED, That City Council adopts the Precise Plan Lines (alignment) for Valpico Road, as reflected in the maps attached hereto as Exhibits A and B.

\* \* \* \* \*

The foregoing Resolution was adopted by the City Council on the 5<sup>th</sup> day of June, 2012, by the following vote:

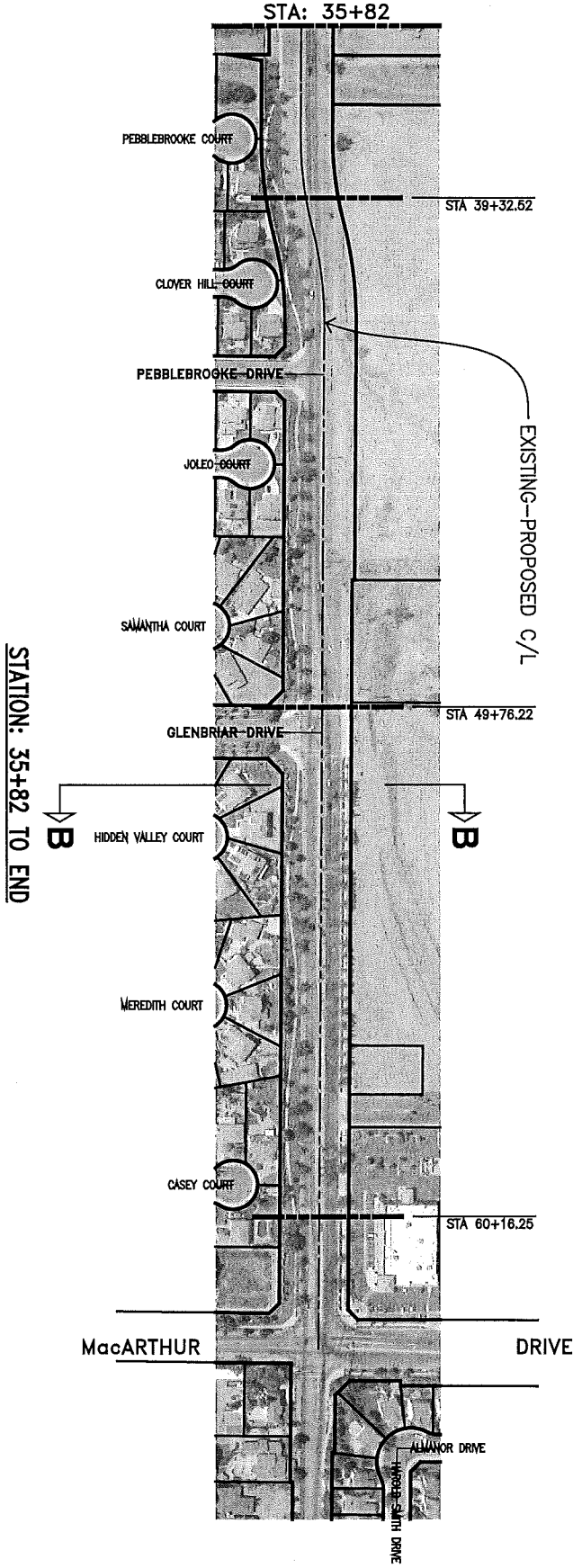
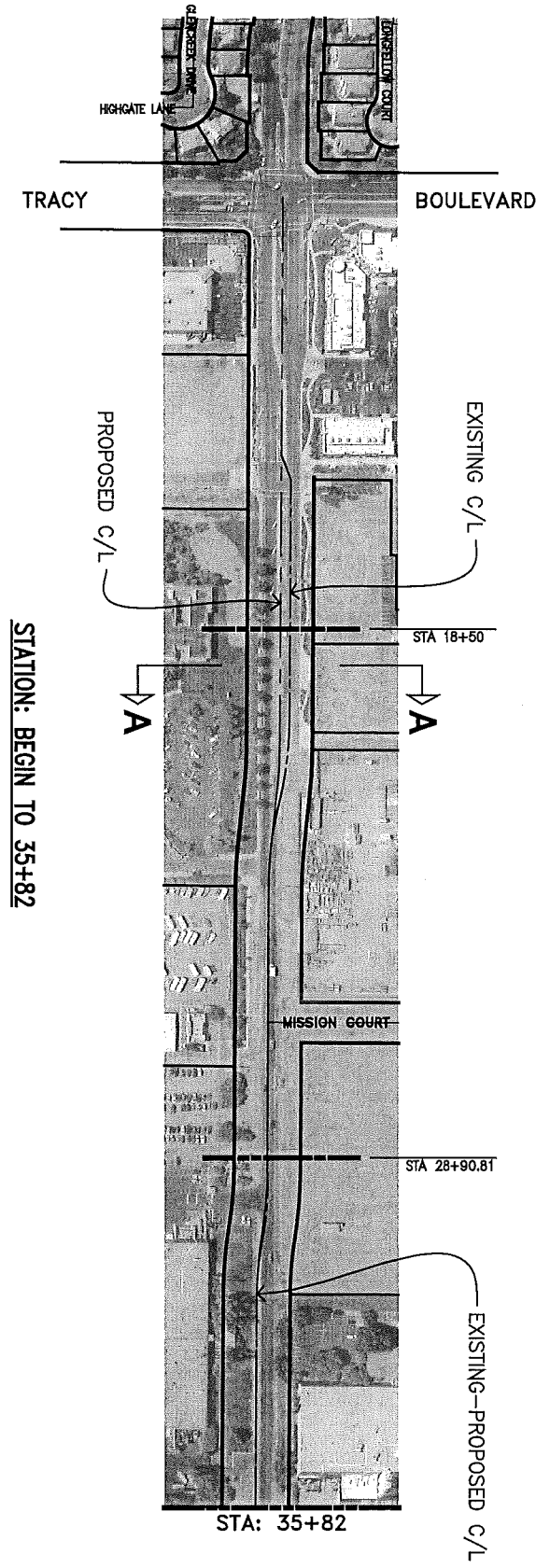
AYES:           COUNCIL MEMBERS:  
NOES:           COUNCIL MEMBERS:  
ABSENT:        COUNCIL MEMBERS:  
ABSTAIN:       COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

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

# Exhibit 'A'



**PRECISE PLAN ALIGNMENT**  
VALPICO ROAD BETWEEN TRACY BOULEVARD & MacARTHUR DRIVE



AGENDA ITEM 6

REQUEST

**PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE (TMC CHAPTER 10.08) AFFECTING FAMILY DAY CARE HOMES – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0003**

EXECUTIVE SUMMARY

This agenda item involves an amendment to the text of the Tracy Municipal Code to define family day care homes consistent with state law, and allow them as permitted uses in all residential zones.

DISCUSSION

Background

Within the State's Planning, Zoning and Development Laws, some provisions exist that regulate family day care homes. These regulations define family day care homes as "...a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home". The Government Code (Section 1597.43) goes on to say that "Family day care homes operated under the standards of state law constitute accessory uses of residentially zoned and occupied properties and do not fundamentally alter the nature of the underlying residential uses."

Family day care homes are further divided into small family and large family day care homes. Small family day care homes are homes that provide care for eight or fewer children, and large family day care homes provide care for seven to 14 children. Government Code Section 1597.45 declares that "the use of a single-family residence as a small family day care home shall be considered a residential use of property for the purposes of all local ordinances." Essentially, this means that cities in California cannot impose any special zoning regulations on small family day care homes that are any different or more restrictive than those regulations that are imposed upon the single-family homes in which they operate.

Similarly, large family day care homes cannot be prohibited by cities on lots zoned for single-family dwellings. While they cannot be prohibited, cities are able to do one of the following:

1. Classify large family day care homes as a permitted use of residential property, for zoning purposes; or
2. Grant a nondiscretionary permit that prescribes reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control; or
3. Require a large family day care home to apply for a permit that requires public notification of all property owners within 100 feet of the parcel and hold a hearing if requested by a property owner and then grant a nondiscretionary permit to the day

care home if it complies with the reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control as prescribed in the Tracy Municipal Code.

In order for the City to permit large family day care homes by options 2 or 3 listed above, the Tracy Municipal Code would first have to be amended to add restrictions and requirements by which to evaluate such a nondiscretionary permit. To exercise option 1 listed above, the code must be amended to define and allow large family day care homes to be principally permitted in all residential zones.

#### Analysis and Proposed Zoning Code Amendment

Staff is recommending that the Tracy Municipal Code be amended to define large family day care homes and allow them as permitted uses in all residential zones (option 1). The Tracy Municipal Code already contains various regulations regarding traffic control, parking, and noise, which are enforced by the appropriate departments within the City. With regard to spacing and concentration of these facilities, there are less than 50 licensed small and large family day care homes within the City limits, while there are approximately 21,000 single-family homes in the same area. The safety regulations that the state Fire Marshal and Community Care Licensing Division require and enforce are sufficient to ensure the safety of the children that are cared for in these facilities. With the checks and balances discussed above, staff recommends that we not further regulate family day care homes, as such regulations are not necessary above those already in place.

The following amendments to the Tracy Municipal Code are recommended to allow define day care homes, and to allow them as a principally permitted land use in all of Tracy's residential zones. The proposal is shown in strike-through/underline format of selected, existing code sections to illustrate the proposed changes.

**“Section 10.08.255 Day Care Home.**

**“Day care” means a small family day care home as defined by Health and Safety Code section 1596.78, or a large family day care home as defined by Health and Safety Code section 1596.78, licensed by the state. (See also section 10.08.3195.)**

...

**“Section 10.08.650 Nursery school or day care center.**

**“Nursery school” or “day care center” means premises being used for the care of seven or more children, not located in a residence. (See also Section 10.08.255.)**

...

**“Section 10.08.1080 Permitted Uses.**

...

**(29) Use Group No. 29, Accessory uses.**

Use Group No. 29: Accessory uses (when located on the same parcel as the principal use and the principal use is conforming. ....	Permitted in Zones  RE LDR LDC MDR HDR POM RMH CS NS CBD GHC M-1 M-2 HS	Conditionally Permitted in Zones: LDC MDR HDR CBD
<u>(m) Day care home (See Sections          10.08.255 and 10.08.3195.)</u>		

**“Section 10.08.3195 Day care home.**  
A small family day care home, as defined by Health and Safety Code section  
1596.78, or a large family day care home, as defined by Health and Safety Code  
section 1596.78, is permitted on any residentially zoned property: RE, LDR,  
MDC, MDR, HDR or PUD.”

This proposed amendment is contained in the draft Ordinance, Exhibit 1 to the attached City Council Resolution, Attachment B. The proposal would allow family day care homes to be treated no differently than single-family homes from the perspective of the City’s zoning regulations.

Planning Commission Discussion

The Planning Commission met and discussed the proposed code amendment on May 9, 2012, and voted unanimously to recommend approval. They voiced concerns regarding the potential for overconcentration of family day care homes and not being able to hold public hearings for neighbors to comment on proposed large family day care facilities, but were in favor of the code amendment for consistency with state law.

FISCAL IMPACT

This agenda item will not require any expenditure from the General Fund.

RECOMMENDATION

Staff and the Planning Commission recommend that the City Council approve the proposed amendments to the Tracy Municipal Code Sections 10.08.650, and

10.08.1080, and adding new sections 10.08.255 and 10.08.3195 regarding family day care homes in residential zones.

Prepared by: Victoria Lombardo, Senior Planner  
Reviewed by: Bill Dean, Assistant Development Services Director  
Approved by: Andrew Malik, Development Services Director

ATTACHMENTS

Attachment A – Government Code Sections related to Family Day Care Homes  
Attachment B – Council Resolution with Draft City Council Ordinance



which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities which serve six or fewer persons from other family dwellings of the same type in the same zone and if the ordinance does not distinguish residents of residential care facilities from persons who reside in other family dwellings of the same type in the same zone.

(5) No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential care facility which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.

(6) Use of a family dwelling for purposes of a residential care facility serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent these sections are applicable to residential care facilities serving six or fewer persons.

(b) No fire inspection clearance or other permit, license, clearance, or similar authorization shall be denied to a residential care facility because of a failure to comply with local ordinances from which the facilities are exempt under subdivision (a), provided that the applicant otherwise qualifies for the fire clearance, license, permit, or similar authorization.

(c) For the purposes of any contract, deed, or covenant for the transfer of real property executed on or after January 1, 1979, a residential care facility which serves six or fewer persons shall be considered a residential use of property and a use of property by a single family, notwithstanding any disclaimers to the contrary.

(d) Nothing in this chapter shall authorize the imposition of rent regulations or controls for licensed residential care facilities.

(e) Licensed residential care facilities shall not be subject to controls on rent imposed by any state or local agency or other local government or entity.

*(Added by Stats. 1990, Ch. 1333; Amended by Stats. 1991, Ch. 832.)*

#### **1569.85. Zoning preemption**

Whether or not unrelated persons are living together, a residential care facility for the elderly which serves six or fewer persons shall be considered a residential use of property for the purposes of this article. In addition, the residents and operators of the facility shall be considered a family for the purposes of any law or zoning ordinance which relates to the residential use of property pursuant to this article.

For the purpose of all local ordinances, a residential care facility for the elderly which serves six or fewer persons shall not be included within the definition of a boarding house, rooming house, institution or home for the care of the aged, guest home, rest home, sanitarium, mental hygiene home,

or other similar term which implies that the residential care facility for the elderly is a business run for profit or differs in any other way from a family dwelling.

This section shall not be construed to forbid any city, county, or other local public entity from placing restrictions on building heights, setback, lot dimensions, or placement of signs of a residential care facility for the elderly which serves six or fewer persons as long as the restrictions are identical to those applied to other family dwellings of the same type in the same zone.

This section shall not be construed to forbid the application to a residential care facility for the elderly of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity if the ordinance does not distinguish residential care facilities for the elderly which serve six or fewer persons from other family dwellings of the same type in the same zone; and if the ordinance does not distinguish residents of the residential care facilities for the elderly from persons who reside in other family dwellings of the same type in the same zone.

No conditional use permit, zoning variance, or other zoning clearance shall be required of a residential care facility for the elderly which serves six or fewer persons which is not required of a family dwelling of the same type in the same zone.

Use of a family dwelling for purposes of a residential care facility for the elderly serving six or fewer persons shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 or local building codes. However, nothing in this section is intended to supersede Section 13143 or 13143.6, to the extent these sections are applicable to residential care facilities for the elderly providing care for six or fewer residents.

For the purposes of this section, "family dwelling," includes, but is not limited to, single-family dwellings, units in multifamily dwellings, including units in duplexes and units in apartment dwellings, mobilehomes, including mobilehomes located in mobilehome parks, units in cooperatives, units in condominiums, units in townhouses, and units in planned unit developments.

*(Added by Stats. 1986, Ch. 844; Amended by Stats. 1987, Ch. 1092.)*

### **FAMILY DAY CARE HOMES ZONING**

*(Division 2. Licensing Provisions, Chapter 3.4. California Child Day Care Act)*

#### **1596.70. Title**

This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with 1597.30) may be cited as the California Child Day Care Facilities Act.

*(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064.)*



**1596.71. Applicability**

This chapter applies to Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30). This chapter also applies to Chapter 3.65 (commencing with Section 1597.70).

*(Added by Stats. 1984, Ch. 1615.)*

**1596.72. Legislative intent**

The Legislature finds all of the following:

(a) That child day care facilities can contribute positively to a child's emotional, cognitive, and educational development.

(b) That it is the intent of this state to provide a comprehensive, quality system for licensing child day care facilities to ensure a quality day care environment.

(c) That this system of licensure requires a special understanding of the unique characteristics and needs of the children served by child day care facilities.

(d) That it is the intent of the Legislature to establish within the State Department of Social Services an organizational structure to separate licensing of child day care facilities from those facility types administered under Chapter 3 (commencing with Section 1500).

(e) That good quality child day care services are an essential service for working parents.

*(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064.)*

**1596.73. Purpose**

The purposes of this act are to:

(a) Streamline the administration of child care licensing and thereby increase the efficiency and effectiveness of this system.

(b) Encourage the development of licensing staff with knowledge and understanding of children and child care needs.

(c) Provide providers of child care with technical assistance about licensing requirements.

(d) Enhance consumer awareness of licensing requirements and the benefits of licensed child care.

(e) Recognize that affordable, quality licensed child care is critical to the well-being of parents and children in this state.

*(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064.)*

**1596.74. Definitions**

Unless the context otherwise requires, the definitions contained in this chapter govern the construction of this chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30).

*(Added by Stats. 1984, Ch. 1615.)*

**1596.75. Child**

"Child" means a person who is under 18 years of age who is being provided care and supervision in a child day care facility, except where otherwise specified in this act.

*(Added by Stats. 1984, Ch. 1615.)*

**1596.750. Child day care facility**

"Child day care facility" means a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Child day care facility includes day care centers, employer-sponsored child care centers, and family day care homes.

*(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1994, Ch. 690.)*

**1596.76. Day care center**

"Day care center" means any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school age child care centers.

*(Added by Stats. 1984, Ch. 1615; Amended by Stats. 2002, Ch. 1022.)*

**1596.77. Department**

"Department" means the State Department of Social Services.

*(Added by Stats. 1984, Ch. 1615.)*

**1596.770. Director**

"Director" means the Director of Social Services.

*(Added by Stats. 1984, Ch. 1615.)*

**1596.771. Employer-sponsored child care center**

"Employer-sponsored child care center" means any child day care facility at the employer's site of business operated directly or through a provider contract by any person or entity having one or more employees, and available exclusively for the care of children of that employer, and of the officers, managers, and employees of that employer.

*(Added by Stats. 1994, Ch. 690.)*

**1596.773. Probation; Revocation**

(a) "Probation" means the period of time that a licensed child day care facility is required to comply with specific terms and conditions set forth by the department in order to stay or postpone the revocation of the facility's license.

(b) "Revocation" means an administrative action taken by the department to void or rescind the license of a child day care facility because of serious or chronic violations of licensing laws or regulations by the facility.

*(Added by Stats. 2004, Ch. 358.)*

**1596.775. Findings**

The Legislature finds and declares all of the following:

(a) There is a severe shortage of child care for school age children throughout California, with many school age children going home to an empty, unsupervised setting after school.

(b) For nearly five years several counties have participated in a pilot program that allows for a family day care home to



care for two additional children above the current number allowed pursuant to licensing regulations.

(c) As part of the pilot program, a study was conducted by the Assembly Office of Research. The results of the study demonstrated that the pilot program achieved all of the following results:

- (1) Increased access to care for school age children.
- (2) Participating providers encountered few problems and strongly support expansion of the program.
- (3) Parents of children in the pilot program family day care homes strongly support the program.
- (4) Participating providers with additional children were no more likely to receive substantiated complaints from licensing officials than nonparticipants.
- (5) Local governments and planning officials saw little or no impact on their licensing policies and procedures.
- (6) Overall quality of care was not adversely affected.

*(Added by Stats. 1996, Ch. 18.)*

#### 1596.78. Family day care home

(a) "Family day care home" means a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home.

(b) "Large family day care home" means a home that provides family day care for 7 to 14 children, inclusive, including children under the age of 10 years who reside at the home, as set forth in Section 1597.465 and as defined in regulations.

(c) "Small family day care home" means a home that provides family day care for eight or fewer children, including children under the age of 10 years who reside at the home, as set forth in Section 1597.44 and as defined in regulations.

*(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1989, Ch. 70.)*

#### 1596.79. Person

"Person" means an individual, partnership, association, corporation, limited liability company, or governmental entity, such as the state, a county, city, special district, school district, community college district, chartered city, or chartered city and county.

*(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064; Amended by Stats. 1994, Ch. 1010.)*

#### 1596.790. Planning agency

"Planning agency" means the agency designated pursuant to Section 65100 of the Government Code.

*(Added by Stats. 1984, Ch. 1615.)*

#### 1596.791. Provider

"Provider" means a person who operates a child day care facility and is licensed pursuant to Chapter 3.5 (commencing

with Section 1596.90) or 3.6 (commencing with Section 1597.30).

*(Added by Stats. 1984, Ch. 1615.)*

#### 1596.792. Inapplicability

This chapter, Chapter 3.5 (commencing with Section 1596.90) and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following:

- (a) Any health facility, as defined by Section 1250.
- (b) Any clinic, as defined by Section 1202.
- (c) Any community care facility, as defined by Section 1502.
- (d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible caregiver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county, special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the public school district where the program is located, or operated only during periods when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department



of Social Services shall, when appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.

(2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

(3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week or less and are 12 weeks or less in duration. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year. However, the program shall not permit children to be enrolled in a combination of sessions that total more than 12 hours per week for each child.

(h) Extended day care programs operated by public or private schools.

(i) Any school parenting program or adult education child care program that satisfies both of the following:

(1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child day care program that operates only one day per week for no more than four hours on that one day.

(k) Any child day care program that offers temporary child care services to parents and that satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections that (1) houses both women and their children, and (2) is specifically designated for the purpose

of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) Any crisis nursery, as defined in subdivision (a) of Section 1516.

(o) This section shall remain in effect only until July 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2011, deletes or extends that date.

*(Added by Stats. 1984, Ch. 1615; Amended by Stats. 1985, Ch. 1064; Amended by Stats. 1987, Ch. 1487; Amended by Stats. 1989, Ch. 413; Amended by Stats. 1990, Ch. 388; Amended by Stats. 1991, Ch. 316; Amended by Stats. 1992, Ch. 625; Amended by Stats. 1993, Ch. 280; Amended by Stats. 1995, Ch. 372; Amended by Stats. 1997, Ch. 942; Amended by Stats. 2004, Ch. 664; Amended by Stats. 2005, Ch. 22; Amended by Stats. 2007, Ch. 288 [Effective January 1, 2008, Repealed July 1, 2011].)*

#### **1596.792. Inapplicability (Part 2)**

This chapter, Chapter 3.5 (commencing with Section 1596.90) and Chapter 3.6 (commencing with Section 1597.30) do not apply to any of the following:

(a) Any health facility, as defined by Section 1250.

(b) Any clinic, as defined by Section 1202.

(c) Any community care facility, as defined by Section 1502.

(d) Any family day care home providing care for the children of only one family in addition to the operator's own children.

(e) Any cooperative arrangement between parents for the care of their children when no payment is involved and the arrangement meets all of the following conditions:

(1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible caregiver with respect to all the children in the cooperative.

(2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.

(3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of which may not exceed the actual cost of the activity.

(4) No more than 12 children are receiving care in the same place at the same time.

(f) Any arrangement for the receiving and care of children by a relative.

(g) Any public recreation program. "Public recreation program" means a program operated by the state, city, county,



special district, school district, community college district, chartered city, or chartered city and county that meets either of the following criteria:

(1) The program is operated only during hours other than normal school hours for kindergarten and grades 1 to 12, inclusive, in the public school district where the program is located, or operated only during periods when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located, for either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

In determining "normal school hours" or periods when students are "normally not in session," the State Department of Social Services shall, when appropriate, consider the normal school hours or periods when students are normally not in session for students attending a year-round school.

(2) The program is provided to children who are over the age of four years and nine months and not yet enrolled in school and the program is operated during either of the following periods:

(A) For under 16 hours per week.

(B) For a total of 12 weeks or less during a 12-month period. This total applies to any 12 weeks within any 12-month period, without regard to whether the weeks are consecutive.

(3) The program is provided to children under the age of four years and nine months with sessions that run 12 hours per week or less and are 12 weeks or less in duration. A program subject to this paragraph may permit children to be enrolled in consecutive sessions throughout the year. However, the program shall not permit children to be enrolled in a combination of sessions that total more than 12 hours per week for each child.

(h) Extended day care programs operated by public or private schools.

(i) Any school parenting program or adult education child care program that satisfies both of the following:

(1) Is operated by a public school district or operated by an individual or organization pursuant to a contract with a public school district.

(2) Is not operated by an organization specified in Section 1596.793.

(j) Any child day care program that operates only one day per week for no more than four hours on that one day.

(k) Any child day care program that offers temporary child care services to parents and that satisfies both of the following:

(1) The services are only provided to parents and guardians who are on the same premises as the site of the child day care program.

(2) The child day care program is not operated on the site of a ski facility, shopping mall, department store, or any other similar site identified by the department by regulation.

(l) Any program that provides activities for children of an instructional nature in a classroom-like setting and satisfies both of the following:

(1) Is operated only during periods of the year when students in kindergarten and grades 1 to 12, inclusive, are normally not in session in the public school district where the program is located due to regularly scheduled vacations.

(2) Offers any number of sessions during the period specified in paragraph (1) that when added together do not exceed a total of 30 days when only schoolage children are enrolled in the program or 15 days when children younger than schoolage are enrolled in the program.

(m) A program facility administered by the Department of Corrections that (1) houses both women and their children, and (2) is specifically designated for the purpose of providing substance abuse treatment and maintaining and strengthening the family unit pursuant to Chapter 4 (commencing with Section 3410) of Title 2 of Part 3 of the Penal Code, or Chapter 4.8 (commencing with Section 1174) of Title 7 of Part 2 of that code.

(n) This section shall become operative on July 1, 2011.

*(Added by Stats. 2004, Ch. 664; Amended by Stats. 2005, Ch. 22; Amended by Stats. 2007, Ch. 288 [Effective January 1, 2008, Operative July 1, 2011].)*

**1596.7925.** *(Repealed by its own terms January 1, 2001.)*

**1596.793. Exemption of specific recreation programs**

This chapter and Chapters 3.5 (commencing with Section 1596.90) and 3.6 (commencing with Section 1597.30) do not apply to recreation programs conducted for children by the Girl Scouts, Boy Scouts, Boys Club, Girls Club, or Camp Fire, or similar organizations as determined by regulations of the department. Child day care programs conducted by these organizations and the fees charged for that specific purpose are subject to the requirements of this chapter, Chapter 3.5 (commencing with Section 1596.90), and Chapter 3.6 (commencing with Section 1597.30).

*(Added by Stats. 1985, Ch. 1110; Amended by Stats. 1986, Ch. 714.)*

**1596.794. Department liaison**

The department shall serve as the liaison to child day care facilities for the purposes of Sections 17608 to 17613, of the Education Code.

*(Added by Stats. 2006, Ch. 865.)*

**1596.795. No smoking ordinance**

(a) The smoking of tobacco in a private residence that is licensed as a family day care home shall be prohibited during the hours of operation as a family day care home and in those areas of the family day care home where children are present.



Nothing in this section shall prohibit a city or county from enacting or enforcing an ordinance relating to smoking in a family day care home if the ordinance is more stringent than this section.

(b) The smoking of tobacco on the premises of a licensed day care center shall be prohibited.

*(Added by Stats. 1986, Ch. 407; Amended by Stats. 1993, Ch. 335.)*

#### 1597.40. Policy

(a) It is the intent of the Legislature that family day care homes for children should be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional home setting.

The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single-family residences for family day care homes for children except as provided by this chapter.

(b) Every provision in a written instrument entered into relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of the real property for use or occupancy as a family day care home for children, is void and every restriction or prohibition in any such written instrument as to the use or occupancy of the property as a family day care home for children is void.

(c) Except as provided in subdivision (d), every restriction or prohibition entered into, whether by way of covenant, condition upon use or occupancy, or upon transfer of title to real property, which restricts or prohibits directly, or indirectly limits, the acquisition, use, or occupancy of such property for a family day care home for children is void.

(d) (1) A prospective family day care home provider, who resides in a rental property, shall provide 30 days' written notice to the landlord or owner of the rental property prior to the commencement of operation of the family day care home.

(2) For family day care home providers who have relocated an existing licensed family day care home program to a rental property on or after January 1, 1997, less than 30 days' written notice may be provided in cases where the department approves the operation of the new location of the family day care home in less than 30 days, or the home is licensed in less than 30 days, in order that service to the children served in the former location not be interrupted.

(3) A family day care home provider in operation on rental or leased property as of January 1, 1997, shall notify the landlord or property owner in writing at the time of the annual license fee renewal, or by March 31, 1997, whichever occurs later.

(4) Notwithstanding any other provision of law, upon commencement of, or knowledge of, the operation of a family day care home on his or her property, the landlord or property owner may require the family day care home provider to pay an increased security deposit for operation of the family day care home. The increase in deposit may be required notwithstanding that a lesser amount is required of tenants who do not operate family day care homes. In no event, however, shall the total security deposit charged exceed the maximum allowable under existing law.

(5) Section 1596.890 shall not apply to this subdivision.

*(Renumbered from 1597.501 and Amended by Stats. 1983, Ch. 1233; Amended by Stats. 1996, Ch. 449.)*

1597.41. *(Repealed by Stats. 1996, Ch. 11.)*

#### 1597.43. Family day care homes; residentially zoned

The Legislature finds and declares all of the following:

(a) Family day care homes operated under the standards of state law constitute accessory uses of residentially zoned and occupied properties and do not fundamentally alter the nature of the underlying residential uses. Family day care homes draw clients and vehicles to their sites during a limited time of day and do not require the attendance of a large number of employees and equipment.

(b) The uses of congregate care facilities are distinguishable from the uses of family day care homes operated under the standards of state law. For purposes of this section, a "congregate care facility" means a "residential facility," as defined in paragraph (1) of subdivision (a) of Section 1502. Congregate care facilities are used throughout the day and night, and the institutional uses of these facilities are primary uses of the facilities, not accessory uses, and draw a large number of employees, vehicles, and equipment compared to that drawn to family day care homes.

(c) The expansion permitted for family day care homes by Sections 1597.44 and 1597.465 is not appropriate with respect to congregate care facilities, or any other facilities with quasi-institutional uses. Therefore, with these provisions, the Legislature does not intend to alter the legal standards governing congregate care facilities and these provisions are not intended to encourage, or be a precedent for, changes in statutory and case law governing congregate care facilities.

*(Added by Stats. 1996, Ch. 18.)*

#### 1597.44. Small family day care homes; children

A small family day care home may provide care for more than six and up to eight children, without an additional adult attendant, if all of the following conditions are met:

(a) At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.

(b) No more than two infants are cared for during any time when more than six children are cared for.



(c) The licensee notifies each parent that the facility is caring for two additional school age children and that there may be up to seven or eight children in the home at one time.

(d) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

(Added by Stats. 1996, Ch. 18; Amended by Stats. 2003, Ch. 744.)

#### 1597.45. Small family day care homes

All of the following shall apply to small family day care homes:

(a) The use of single-family residence as a small family day care home shall be considered a residential use of property for the purposes of all local ordinances.

(b) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a small family day care home.

(c) Use of a single-family dwelling for purposes of a small family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law) or for purposes of local building codes.

(d) A small family day care home shall not be subject to Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of Chapter 1 of Part 2, except that a small family day care home shall contain a fire extinguisher and smoke detector device that meet standards established by the State Fire Marshal.

(Added by Stats. 1983, Ch. 1233. Amended by Stats. 1989, Ch. 70.)



#### 1597.46. All of the following shall apply to large family day care homes:

(a) A city, county, or city and county shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:

(1) Classify these homes as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to any large family day care home that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (e) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise level generated by children. The permit issued pursuant to this paragraph shall be granted by the zoning administrator, or if there is no zoning administrator by the person or persons designated by the planning agency to grant these permits, upon the certification without a hearing.

(3) Require any large family day care home to apply for a permit to use a lot zoned for single-family dwellings. The zoning administrator, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (e) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children. The local government shall process any required permit as economically as possible.

Fees charged for review shall not exceed the costs of the review and permit process. An applicant may request a verification of fees, and the city, county, or city and county shall provide the applicant with a written breakdown within 45 days of the request. Beginning July 1, 2007, the application form for large family day care home permits shall include a statement of the applicant's right to request the written fee verification.

Not fewer than 10 days prior to the date on which the decision will be made on the application, the zoning administrator or person designated to handle the use permits shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large family day care home. No hearing on the application for a permit issued pursuant to this paragraph shall be held before a decision is made unless a hearing is requested by the applicant or other affected person. The applicant or other affected person may appeal the decision. The appellant shall pay the cost, if any of the appeal.

(b) In connection with any action taken pursuant to paragraph (2) or (3) of subdivision (a), a city, county, or city and county shall do all of the following:

(1) Upon the request of an applicant, provide a list of the permits and fees that are required by the city, county, or city and county, including information about other permits that may be required by other departments in the city, county, or city and county, or by other public agencies. The city, county, or city and county shall, upon request of any applicant, also provide information about the anticipated length of time for reviewing and processing the permit application.

(2) Upon the request of an applicant, provide information on the breakdown of any individual fees charged in connection with the issuance of the permit.

(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated



final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.

(c) A large family day care home shall not be subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) Use of a single-family dwelling for the purposes of a large family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law), or for purposes of local building and fire codes.

(e) Large family day care homes shall be considered as single-family residences for the purposes of the State Uniform Building Standards Code and local building and fire codes, except with respect to any additional standards specifically designed to promote the fire and life safety of the children in these homes adopted by the State Fire Marshal pursuant to this subdivision. The State Fire Marshal shall adopt separate building standards specifically relating to the subject of fire and life safety in large family day care homes which shall be published in Title 24 of the California Administrative Code. These standards shall apply uniformly throughout the state and shall include, but not be limited to: (1) the requirement that a large family day care home contain a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal; (2) specification as to the number of required exits from the home; and (3) specification as to the floor or floors on which day care may be provided. Enforcement of these provisions shall be in accordance with Sections 13145 and 13146. No city, county, city and county, or district shall adopt or enforce any building ordinance or local rule or regulation relating to the subject of fire and life safety in large family day care homes which is inconsistent with those standards adopted by the State Fire Marshal, except to the extent the building ordinance or local rule or regulation applies to single-family residences in which day care is not provided.

(f) The State Fire Marshal shall adopt the building standards required in subdivision (d) and any other regulations necessary to implement this section.

*(Added by Stats. 1983, Ch. 1233; Amended by Stats. 2006, Ch. 105.)*

#### **1597.465. Large family day care homes; children**

A large family day care home may provide care for more than 12 children and up to and including 14 children, if all of the following conditions are met:

(a) At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.

(b) No more than three infants are cared for during any time when more than 12 children are being cared for.

(c) The licensee notifies a parent that the facility is caring for two additional school age children and that there may be up to 13 or 14 children in the home at one time.

(d) The licensee obtains the written consent of the

property owner when the family day care home is operated on property that is leased or rented.

*(Added by Stats. 1996, Ch. 18; Amended by Stats. 2003, Ch. 744.)*

#### **1597.47. Single family residential restrictions**

The provisions of this chapter shall not be construed to preclude any city, county, or other local public entity from placing restrictions on building heights, setback, or lot dimensions of a family day care facility as long as such restrictions are identical to those applied to other single-family residences. The provisions of this chapter shall not be construed to preclude the application to a family day care facility for children of any local ordinance which deals with health and safety, building standards, environmental impact standards, or any other matter within the jurisdiction of a local public entity. The provisions of this chapter also shall not be construed to prohibit or restrict the abatement of nuisances by a city, county, or city and county. However, such ordinance or nuisance abatement shall not distinguish family day care facilities from other single-family dwellings, except as otherwise provided in this chapter.

*(Added by Stats. 1983, Ch. 1233.)*

### **MOBILE HEALTH CARE UNITS**

*(Division 2. Licensing Provisions, Chapter 9. Mobile Health Care Units)*

#### **1765.105. Parent facility; definition**

As used in this chapter, the following definitions shall apply:

(a) "Parent facility" means a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2, or a clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.

(b) (1) "Mobile service unit" or "mobile unit" means a special purpose commercial coach as defined in Section 18012.5, or a commercial coach as defined in Section 18001.8, that provides services as set forth in Section 1765.110, and meets any of the following criteria:

(A) Is approved pursuant to this chapter by the state department as a service of a licensed health facility, as defined in Section 1250.

(B) Is approved by the state department pursuant to this chapter as a service of a licensed clinic, as defined in Section 1200.

(C) Is licensed pursuant to this chapter by the state department as a clinic, as defined in Section 1200.

(D) Is licensed pursuant to this chapter as an "other" type of approved mobile unit by the state department. "Other" types of approved mobile units shall be limited to mobile units performing services within new health facility or clinic licensure categories created after the effective date of this chapter. The State Department of Health Services shall not

RESOLUTION 2012-\_\_\_\_\_

APPROVING AN ORDINANCE AMENDING THE TRACY MUNICIPAL CODE REGULATIONS (TMC SECTIONS 10.08.650 AND 10.08.1080) AND ADDING NEW SECTIONS (10.08.255 AND 10.08.3195) REGARDING FAMILY DAY CARE HOMES APPLICANT IS THE CITYOF TRACY – APPLICATION NUMBER ZA12-0003

WHEREAS, The Tracy Municipal Code (TMC) contains zoning regulations related to nursery schools and day care centers, and

WHEREAS, under State law, certain day care facilities (small family and large family day care facilities) are to be considered residential uses of property, and

WHEREAS, the City wishes to amend it Zoning Ordinance to clarify that these family day care uses are permitted, and

WHEREAS, on May 9, 2012 the Planning Commission held a public hearing to review and discuss the addition and clarification of language to the Zoning Ordinance regarding family day care homes and recommended City Council approval of the amendment, and

WHEREAS, on June 5, 2012 the City Council held a public hearing to review and discuss the proposed amendment;

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby approves the amendments to the Tracy Municipal Code Zoning Ordinance regarding family day care homes as indicated in Exhibit 1.

\* \* \* \* \*

The foregoing Resolution 2012-\_\_\_\_\_ was adopted by the City Council on the 5<sup>th</sup> day of June, 2012, by the following vote:

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

\_\_\_\_\_  
Mayor

ATTEST:

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



ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE CITY OF TRACY ADDING NEW SECTIONS 10.08.255, DAY CARE HOME AND 10.08.3195, DAY CARE, TO THE TRACY MUNICIPAL CODE AND AMENDING SECTION 10.08.650, NURSERY SCHOOL OR DAY CARE CENTER, OF THE TRACY MUNICIPAL CODE

WHEREAS, under State law, certain day care facilities are to be considered as residential uses of property;

WHEREAS, the City wishes to amend its Zoning Ordinance to clarify that these day care uses are permitted;

WHEREAS, the Planning Commission considered this matter at a noticed public hearing held on May 9, 2012 and voted to recommend this amendment to the City Council;

WHEREAS, the City Council held a noticed public hearing on June 5, 2012 at which interested persons could be heard on this proposed ordinance;

WHEREAS, the proposed amendment is not subject to the California Environment Quality Act pursuant to CEQA Guidelines Section 15061(b)(3) pertaining to activities that do not have the potential for causing a significant effect on the environment;

The Tracy City Council hereby ordains as follows:

SECTION 1: A new Section 10.08.255 is added to Chapter 10.08. Zoning Regulations, of the Tracy Municipal Code to read as follows:

**“10.08.255 Day care home.**

“Day care” means a small family day care home as defined by Health and Safety Code section 1596.78, or a large family day care home as defined by Health and Safety Code section 1596.78, licensed by the state. (See also section 10.08.3195.)”

SECTION 2: Section 10.08.650, Nursery school or day care center, of the Tracy Municipal Code, is amended to read as follows:

**“10.08.650 Nursery school or day care center.**

“Nursery school” or “day care center” means premises being used for the care of seven or more children, not located in a residence. (See also Section 10.08.255.)”

SECTION 3: A new subsection (m) is added to (29) Use Group No. 29, Accessory uses, of Section 10.08.1080 (Permitted uses) of the Tracy Municipal Code to read as follows:

**“10.08.1080 Permitted uses.**

...

**(29) Use Group No. 29, Accessory uses.**

Use Group No. 29: Accessory uses (when located on the same parcel as the principal use and the principal use is conforming. ....	Permitted in Zones  RE LDR LDC MDR HDR POM RMH CS NS CBD GHC M-1 M-2 HS	Conditionally Permitted in Zones: LDC MDR HDR CBD
(m) Day care home (See Sections 10.08.255 and 10.08.3195.)”		

**SECTION 4.** A new Section 10.08.3195, Day care, is added to Chapter 10.08, Zoning Regulations, of the Tracy Municipal Code, to read as follows:

**“10.08.3195 Day care home.**

A small family day care home, as defined by Health and Safety Code section 1596.78, or a large family day care home, as defined by Health and Safety Code section 1596.78, is permitted on any residentially zoned property: RE, LDR, MDC, MDR, HDR or PUD.”

**SECTION 5** This Ordinance shall take effect 30 days after its final passage and adoption.

**SECTION 6** This Ordinance shall be published once in the Tri-Valley Herald, a newspaper of general circulation, within 15 days from and after its final passage and adoption.

\* \* \* \* \*

Ordinance \_\_\_\_\_  
Page 3

The foregoing Ordinance \_\_\_\_\_ was introduced at a regular meeting of the Tracy City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 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 7

REQUEST

**PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE SIGN REGULATIONS (TMC CHAPTER 10.08) AFFECTING CITY CIVIC ORGANIZATION SIGNS – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0002**

EXECUTIVE SUMMARY

This agenda item involves an amendment to the sign ordinance in order to define and create regulations for city civic signs per Council direction. Should that amendment be approved, then Council may consider a resolution to accept the donation of a city civic sign, as proposed by the Tracy Sunrise Rotary.

DISCUSSION

Background

In February of this year, Mike Souza, representing Tracy Sunrise Rotary, approached the City with a proposal to donate a sign to the City that would advertise up to six civic organizations within the City. On March 20, 2012, the City Council met and discussed the proposed donated sign (Attachment A), and, by unanimous vote was in favor of such signs, and therefore directed staff to prepare an ordinance that would allow such signs to be erected in the City, to be reviewed by Planning Commission and City Council. City Council also asked staff for options for the sign ordinance in the event another such donation was presented in the future. Taking this direction staff drafted an ordinance that accommodates the proposed donation as well as allows for additional city civic organization signs at main city entrances.

Sign Ordinance Amendment

The following amendments to the Tracy Municipal Code (TMC) are recommended to allow city civic organization signs on City of Tracy property. The proposal contains a definition of "City civic organization sign" and provisions to permit them in certain locations with City Council approval and acceptance of a sign. The proposal is shown in strike-through/underline format of selected, existing code sections to illustrate the proposed changes.

***"Section 10.08.4440 Definitions***

...

***"City civic organization sign" means a city sign that displays the names, logos, and meeting times and locations of one or more civic or nonprofit organizations located in the City.***

**“Section 10.08.4450, General Requirements**

...

d) *Illumination. Illumination shall be allowed on all signs upon the approval of the Development Services Director, unless otherwise set forth in this article”*

**“Section 10.08.4460, Standards by Sign Type**

...

(r) City civic organization signs.

(1) Maximum height: Eight feet.

(2) Maximum area: 68 square feet.

(3) Ground Clearance: Not more than two feet.

(4) Permitted locations: City-owned property.

(5) Permitted sites: One civic organization sign is allowed within ½ mile of each of the following four locations:

(i) West Eleventh Street at Lammers Road

(ii) East Eleventh Street at Mac Arthur Drive

(iii) North Tracy Boulevard at I-205

(iv) South Corral Hollow Road at I-580”

**“Section 10.08.4510(h), Prohibited signs and locations**

...

(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), or city civic organization signs provided for under section 10.08.4460(r)”

This proposed amendment is contained in the draft Ordinance, Exhibit 1 to the attached City Council Resolution, Attachment B. For reference, the entire City sign ordinance is contained in Attachment C. The proposal would allow city civic organization signs to be located on publicly-owned property, upon approval by the City Council.

Planning Commission Discussion

The Planning Commission held a public hearing to discuss the proposed amendments to the sign ordinance to allow city civic signs on May 9, 2012. Much of the discussion involved questions regarding the maintenance of the proposed sign, if the donation is accepted by the City Council. The Planning Commission voted unanimously to recommend City Council approval of the proposed sign ordinance amendments.

Resolution of Acceptance for Sign Donation

In order for the City to receive the proposed sign as a donation from the service organizations (represented by Tracy Sunrise Rotary), a resolution of acceptance must be approved by City Council. The proposed resolution (Attachment D) discusses the design of the sign, its location, and that it will be installed after the City’s issuance of an encroachment permit. The maintenance (graffiti removal) of the sign will be performed by the City, through the existing graffiti removal program. Any changes or replacements of logos or insignias of the civic organizations will be completed by the donating parties.

FISCAL IMPACT

The fiscal impact of accepting the proposed sign donation includes staff time for the preparation of the proposed code amendment and resolution to accept the donation, as well as on-going maintenance (graffiti abatement) costs for the lifetime of the sign.

RECOMMENDATION

Staff and the Planning Commission recommend that the City Council approve the proposed amendments to the Tracy Municipal Code Sections 10.08.4440, 10.08.4450, and 10.08.4460 regarding City civic organization signs on public property.

Prepared by: Victoria Lombardo, Senior Planner  
Reviewed by: Bill Dean, Assistant Development Services Director  
Approved by: Andrew Malik, Development Services Director

ATTACHMENTS

Attachment A – Proposed City Civic Organization Sign  
Attachment B – Proposed City Council Resolution with Draft City Council Ordinance  
Attachment C – Tracy Municipal Code Sign Regulations (TMC Chapter 10.08, Article 35)  
Attachment D – Proposed Resolution to Accept Donation of a City Civic Sign

8'-6"


Attachment A

8'



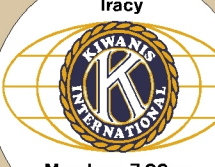
AT YOUR SERVICE

Tracy Sunrise



Wednesdays 6:30a.m.  
Four Corners Restaurant

Tracy



Mondays 7:00am  
IHOP

Tracy



Tuesdays 12:00pm  
Platinum

Tracy Breakfast



Thursdays 6:30am  
Hometown Buffet

Tracy



1st and 3rd Thursday, 7:00pm  
Perkos

Tank Town



2nd and 4th Wednesday,  
6:00 pm Platinum

RESOLUTION 2012-\_\_\_\_\_

APPROVING AN ORDINANCE AMENDING THE TRACY MUNICIPAL CODE SIGN REGULATIONS (TMC SECTIONS 10.08.4440, 10.08.4450, AND 10.08.4460) REGARDING CITY CIVIC ORGANIZATION SIGNS APPLICANT IS THE CITYOF TRACY – APPLICATION NUMBER ZA12-0002

WHEREAS, The Tracy Municipal Code (TMC) contains zoning regulations related to Signs (TMC Chapter 10.08, Article 35), and

WHEREAS, On March 20, 2012, the Tracy City Council directed that an Ordinance be prepared and reviewed to allow for donated civic organization signs to be accepted by the City, and located on City property,

WHEREAS, the Planning Commission held a public hearing to discuss the proposed sign ordinance amendment on May 9, 2012 and recommended Council approve the amendment, and

WHEREAS, the City Council held a public hearing to discuss the proposed sign ordinance amendment on June 5, 2012;

NOW, THEREFORE, BE IT RESOLVED, that the City Council does hereby approve the TMC amendments to sign regulations regarding City Civic Organization Signs as indicated in Exhibit 1.

\* \* \* \* \*

The foregoing Resolution 2012-\_\_\_\_\_ was adopted by the Tracy City Council on the 5<sup>th</sup> day of June, 2012, by the following vote:

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

\_\_\_\_\_  
Mayor

ATTEST:

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



ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE CITY OF TRACY AMENDING THE TRACY MUNICIPAL CODE BY AMENDING ARTICLE 35, SECTION 10.08.4440, [SIGN] DEFINITIONS; SECTION 10.08.4450 GENERAL REQUIREMENTS; SECTION 10.08.4460 STANDARDS BY SIGN TYPE; AND SECTION 10.08.4510(h), PROHIBITED SIGNS, REGARDING CITY CIVIC ORGANIZATION SIGNS

WHEREAS, the City currently has regulations in the sign ordinance governing a number of sign types, but no regulations regarding off-site signs for civic organizations; and

WHEREAS, it is common for cities to have signs representing civic organizations within the city so that visitors and residents can be made aware of these organizations and opportunities to attend their meetings; and

WHEREAS, Mike Souza, representing Tracy Sunrise Rotary and other organizations has made an offer to construct, install and donate a sign to the City, to be located on City property to advertise these community service organizations; and

WHEREAS, the Planning Commission considered these proposed amendments and additions to the sign ordinance at its meeting on May 9, 2012, and recommended City Council approval of the amendments; and

WHEREAS, the City Council considered these proposed amendments and additions at a noticed public hearing at its meeting on June 5, 2012; and

WHEREAS, the adoption of this ordinance is not subject to the California Environmental Quality Act because it is not a project which has the potential for causing a significant effect on the environment. (CEQA Guidelines, 14 Cal. Code of Regs. §15061(b)(3).)

The Tracy City Council hereby ordains as follows:

SECTION 1: Section 10.08.4440, Definitions, of Article 35, Signs, of the Tracy Municipal Code is amended by adding the following definition in alphabetical order:

**“10.08.4440 Definitions.**

....

“City civic organization sign” means a city sign that displays the name, logo, and meeting time and location of one or more civic or non-profit organizations located in the City.”

SECTION 2. Section 10.08.4450, General requirements, of the Tracy Municipal Code is amended to remove subsection 5(d), pertaining to identification signs along major thoroughfares, and subsequently re-number subsection 5(e) Illumination to subsection 5(d).

SECTION 3. Section 10.08.4460, Standards by sign type, of the Tracy Municipal Code is amended to add a new heading, (r) City civic organization sign, to read as follows:

**“10.08.4460 Standards by sign type.**

....

- (r) City civic organization sign.
  - (1) Maximum Height: Eight feet.
  - (2) Maximum area: 68 square feet.
  - (3) Ground clearance: Not more than two feet.
  - (4) Permitted locations: City-owned property.
  - (5) Permitted sites: One civic organization sign is allowed within ½ mile of each of the following four locations:
    - (i) West Eleventh Street at Lammers Road
    - (ii) East Eleventh Street at Mac Arthur Drive
    - (iii) North Tracy Boulevard at I-205
    - (iv) South Corral Hollow Road at I-580”

SECTION 4. Section 10.08.4510(h), Prohibited signs, of the Tracy Municipal Code is amended to add “or city civic organization signs as provided for under section 10.08.4460(r)” at the end of that subsection.

SECTION 5. This Ordinance shall take effect thirty days after its final passage and adoption.

SECTION 6. This Ordinance shall be published once in the Tri-Valley Herald, a newspaper of general circulation, within fifteen days from and after its final passage and adoption.

\* \* \* \* \*

The foregoing Ordinance \_\_\_\_\_ was introduced at a regular meeting of the Tracy City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 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

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,



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)



### Article 36. Home Occupations

#### 10.08.4570 Findings and intent.

The Council finds that someone residing in a residential neighborhood should be able to engage in a home occupation so long as it is harmonious with and does not change the character and quality of environment of the area. It is the intent of this article to permit a home occupation as an incidental and accessory use in residential land use districts under conditions that will ensure that the use is and remains compatible with the residential character of the neighborhood. (Prior code § 10-2.3601, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)

#### 10.08.4580 Home occupation defined.

A home occupation is the conduct for pecuniary gain of an art or profession, the offering of a service, or the conduct of a business or handicraft manufacture of products within or from a residence in a residential zone. A home occupation is incidental and secondary to the primary residential use, does not change the residential character of the neighborhood, and is in accordance with this article. (Prior code § 10-2.3602, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)

#### 10.08.4590 Permit required.

No person shall conduct a home occupation without first obtaining a home occupation permit under this article. A family day care use of six (6) or fewer children is exempt from the requirement of a home occupation permit. (Prior code § 10-2.3603, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)

#### 10.08.4600 Regulations.

A home occupation shall comply with the following regulations:

- (a) There shall be no exterior evidence of the conduct of the home occupation;
- (b) No sign or advertising may be displayed except for a single directory sign or name plate, which shall be flat-mounted against the building, shall not exceed one and one-half (1 1/2) square feet in area, and shall be illuminated by reflected light only;
- (c) The occupation shall not be conducted in an accessory structure, nor shall equipment or supplies be stored in an accessory structure or outside the dwelling. The occupation may be conducted, and supplies and equipment may be stored, in a garage, as long as required off-street parking is maintained;
- (d) The nature and conduct of the home occupation must not be such as to change the principal character of the

use of the dwelling unit or the residential character of the neighborhood;

(e) A home occupation shall be clearly incidental to the residential use. The floor area used for the occupation shall not exceed one-fourth of the floor area of the main residence or 400 square feet, whichever is less;

(f) There shall be no on-site sale of products;

(g) Only the residents of the dwelling may be employed in the home occupation, except that non-residents may be employed as long as they do not work, meet or leave vehicles at the residence;

(h) The home occupation shall not create off-street or on-street parking, vehicular or pedestrian traffic which is greater than normally associated with a strictly residential use of the premises, except for individual instruction in conformance with section 10.08.4610(b). The resident with the home occupation may not keep a vehicle greater than one ton at the premises, and may not have more than one such vehicle. Any trailer or wheeled equipment incidental to the home occupation shall be kept within an enclosure and not be visible from off site.

(i) The home occupation shall not create noise exceeding levels permitted by the noise ordinance (sections 4.12.710 through 4.12.1000); audible interference in radio or television receivers; fluctuations in line voltage; odor, dust, vibration, fumes or smoke readily discernible at the property's exterior boundary. (Amended during 9-07 supplement; prior code § 10-2.3604, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)

#### 10.08.4610 Prohibited uses—Individual instruction permitted.

(a) Prohibited uses. The following uses, and those with similar characteristics, are prohibited as home occupations: photography studio, beauty parlor, barber shop, pet grooming, appliance or vehicle repair shops, animal hospital, medical practitioner, clinic, music school, dancing school, business school, any other school with organized classes, except for individual instruction.

(b) Individual instruction permitted. Individual instruction or tutoring of no more than two (2) students at a time may be allowed if the use is consistent with the intent of this article. (Prior code § 10-2.3605, as amended by § 1, Ord. 943 C.S., eff. September 19, 1996)

#### 10.08.4620 Permit procedures.

(a) Application. A person intending to conduct a home occupation shall file a permit application form with the Community Development Department, together with the permit fee established by Council resolution.

RESOLUTION \_\_\_\_\_

ACCEPTING THE DONATION OF A CIVIC ORGANIZATION SIGN ON ELEVENTH STREET  
NEAR LAMMERS ROAD

WHEREAS, Tracy Municipal Code authorizes a civic organization sign on City-owned property at each of four locations in the City;

WHEREAS, Tracy Sunrise Rotary (a civic organization), along with five other Tracy service clubs, has proposed to donate a civic organization sign to the City, to be installed along Eleventh Street at Lammers Road, near the Tracy Sports Complex; and

WHEREAS, The City Council has elected to accept the sign donation subject to the terms of this Resolution.

NOW, THEREFORE, the Tracy City Council does resolve, declare, determine and order as follows:

The City Council hereby accepts the donation of the civic organization sign by Tracy Sunrise Rotary, Tracy Kiwanis, Tracy Rotary, Tracy Breakfast Lions, Tracy Soroptimist, Tank Town Lions, subject to the following conditions:

1. Size, design and location. The sign will be in substantially the size and design depicted on the diagram attached to the February 16, 2012 letter to the City from Michael Souza, of Tracy Sunrise Rotary. It may be placed in the location shown on the encroachment permit application exhibit, described generally as within the median of Eleventh Street, approximately ½ mile west of Lammers Road.
2. Installation. Tracy Sign, Inc. will install the sign, after first obtaining an encroachment permit.
3. Maintenance. The City agrees to maintain the sign, including removal of graffiti.
4. Logos. The proposed sign contains the names, logos, time and meeting places of each of the donating civic organizations. If any name or logo needs to be replaced or substituted, that replacement is the responsibility of the organizations donating the sign.
5. Right of removal. The City may choose to remove the sign for safety reasons, maintenance costs or for any reason. Before any removal, the City shall notify Tracy Sunrise Rotary. If the sign is removed, it will be preserved to the degree possible, and then returned to Tracy Sunrise Rotary or its successor.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 5<sup>th</sup> day of June, 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

**INTRODUCTION OF A PROPOSED ORDINANCE WHICH RESCINDS ORDINANCE 506, AND UPDATES CERTAIN REQUIREMENTS FOR CANDIDATES IN GENERAL MUNICIPAL ELECTIONS**

EXECUTIVE SUMMARY

Ordinance 506, relating to requirements for Candidates in General Municipal Elections is out of date and needs to be updated. Ordinance 506 needs to be rescinded and a new Ordinance adopted to update requirements related to Candidates' Statements and filing fees, for the City's General Municipal Elections.

DISCUSSION

Ordinance 506 was adopted on June 16, 1992, to update certain actions related to Candidates' Statements and filing fees, for the City's General Municipal Elections. Due to various changes in costs and publishing requirements the Ordinance is outdated and needs to be revised. The wording in the proposed Ordinance is more general in nature as it relates to costs and publication requirements making it more applicable to future elections.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no impact to the General Fund.

RECOMMENDATION

That the City Council, introduces a proposed ordinance which rescinds Ordinance 506 and updates the requirements for candidates in General Municipal Elections.

Prepared by: Carole Fleischmann, Assistant City Clerk

Reviewed by: Maria Hurtado, Assistant City Manager

Approved by: Leon Churchill, Jr., City Manager

Attachments: Proposed Ordinance



ORDINANCE

AN ORDINANCE OF THE CITY OF TRACY  
RELATING TO REQUIREMENTS FOR CANDIDATES  
IN GENERAL MUNICIPAL ELECTIONS  
AND RESCINDING ORDINANCE 506

The City Council of the City of Tracy does hereby ordain as follows:

SECTION 1: Pursuant to State law it is necessary to take certain actions pertaining to General Municipal Elections to be held in the City of Tracy as follows:

1. Candidate's Statement of Qualifications: Word Limit. There shall be a limit of 200 words set for submission on a Candidate's Statement of Qualifications.
2. Candidate's Statement of Qualifications: Cost. If a candidate elects to submit a Candidate's Statement, the total cost including printing, handling, and translation into the Spanish language, for inclusion in the voters' information packet, shall be borne by the candidate for nomination to office.

The San Joaquin County Registrar of Voters estimates the total cost of printing, handling, and translating the candidate's statement before each election. Each candidate filing a statement shall pay in advance the estimated amount as a condition of having the statement included in the voters' pamphlet. The estimated amount is an approximation of the actual cost that varies from one election to another depending on the actual number of candidates filing statements. The County and City are not bound by the estimate and the City will, on a pro rata basis among the candidates, bill the candidate for any additional actual expense or refund any excess paid (within 30 days of the election) depending on the final actual cost.

3. Filing fee. There shall be a filing fee of \$25 assessed any candidate for cost of processing nomination papers.

SECTION 2: Ordinance 506 is hereby rescinded.

SECTION 3: Pursuant to Government Code Section 36937(a) this Ordinance shall take effect immediately.

SECTION 4: This Ordinance shall be published one time in a newspaper of general circulation, circulated in the City of Tracy.

\* \* \* \* \*

Ordinance  
Page 2

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Tracy held on the 5<sup>th</sup> day of June, 2012, and finally passed and adopted by said Council at the regular meeting held on the day of June, 2012, by the following vote:

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

\_\_\_\_\_  
Mayor

ATTEST:

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

AGENDA ITEM   9  

REQUEST

**SECOND READING AND ADOPTION OF ORDINANCE 1169 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TRACY LEVYING A SPECIAL TAX WITHIN CITY OF TRACY 580 BUSINESS PARK COMMUNITY FACILITIES DISTRICT NO. 1**

EXECUTIVE SUMMARY

Ordinance 1169 was introduced at the Council meeting held on May 15, 2012. Ordinance 1169 is before Council for a second reading and adoption.

DISCUSSION

On May 15, 2012, the Developers of the Tracy 580 Business Park formed a Community Facilities District (Resolution 2012-088) in order to finance the maintenance of habitat mitigation required by the San Joaquin Council of Governments. Ordinance 1169 will levy an annual special tax within the Community Facilities District pursuant to Government Code Section 53311 et seq., at the rate and in accordance with the formula set forth in Exhibit A, to fund the open space maintenance services described in Exhibit B.

Ordinance 1169 is before Council for a second reading and adoption.

STRATEGIC PLAN

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

FISCAL IMPACT

None.

RECOMMENDATION

That Council adopts Ordinance 1169 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

**CITY COUNCIL OF THE CITY OF TRACY**

**ORDINANCE NO. 1169**

**ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF TRACY LEVYING A SPECIAL TAX  
WITHIN CITY OF TRACY 580 BUSINESS PARK COMMUNITY FACILITIES DISTRICT NO. 1**

WHEREAS, on May 15, 2012, this Council adopted its Resolution No 2012-088 (the "Formation Resolution"), establishing City of Tracy 580 Business Park Community Facilities District No. 1 (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 et seq.) (the "Act"); and

WHEREAS, on May 15, 2012, this Council adopted its Resolution No 2012-090, declaring the results of a May 15, 2012 election at which the qualified electors of the CFD approved a special tax to be levied in connection with the CFD.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRACY DOES HEREBY ORDAIN as follows:

Section 1. By the passage of this Ordinance, the Council hereby levies, commencing in Fiscal Year 2012-2013, an annual special tax within the CFD pursuant to the Act, at the rate and in accordance with the formula set forth in Exhibit A, hereto, to fund the open space maintenance services described in Exhibit B hereto.

Section 2. The Finance Director of the City is hereby authorized and directed each fiscal year to determine the specific special tax rate and amount to be levied for the next ensuing fiscal year for each parcel of real property within the CFD.

Section 3. Properties or entities of the State, federal or local governments shall be exempt from any levy of the special taxes.

Section 4. The special taxes shall be collected either by direct billing of the property owner or in the same manner as ordinary *ad valorem* taxes are collected and, in either case, shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for *ad valorem* taxes; provided, however, that the Council may provide for other appropriate methods of collection by resolutions of the Council. In addition, the provisions of Section 53356.1 of the Act shall apply to delinquent special tax payments.

Section 5. If for any reason any portion of this Ordinance is found to be invalid, or if the special tax is found inapplicable to any particular parcel within the CFD, by a court of competent jurisdiction, the balance of this Ordinance and the application of the special tax to the remaining parcels within the CFD shall not be affected.

Section 6. Upon final adoption by the City Council, this Ordinance shall be published as required by law

Section 7. This Ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the City Council of the City of Tracy on the 15th day of May, 2012, and was passed and adopted at a regular meeting of the City Council of the City of Tracy on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

AYES: Council Members

NOES: Council Members

ABSTAIN: Council Members

ABSENT: Council Members

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Clerk

# EXHIBIT A

## CITY OF TRACY COMMUNITY FACILITIES DISTRICT NO. 2011-1 (TRACY 580 BUSINESS PARK)

### RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

---

Special Taxes applicable to each Assessor's Parcel in the City of Tracy Community Facilities District No. 2011-1 (Tracy 580 Business Park) shall be levied and collected according to the tax liability determined by the Administrator through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2011-1, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD, unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

#### A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

**“Acre” or “Acreage”** means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other recorded County parcel map.

**“Act”** means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2, of Title 5 of the Government Code of the State of California.

**“Administrative Expenses”** means the following actual or reasonably estimated costs directly related to the administration of CFD No. 2011-1: the costs of computing the Special Tax and preparing the annual Special Tax collection schedules (whether by the City or any designee thereof or both); the costs of collecting the Special Taxes; the costs to the City or any designee thereof of complying with City or obligated persons disclosure requirements associated with the Act; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries, protests, or appeals regarding the Special Taxes; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City for any other administrative purposes of CFD No. 2011-1, including attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

**“Administrator”** means an official of the City, or any designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Tax.

**“Assessor’s Parcel”** or **“Parcel”** means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel Number.

**“Assessor’s Parcel Map”** means an official map of the County Assessor designating parcels by Assessor’s Parcel Number.

**“Assessor’s Parcel Number”** means a unique number assigned to a Parcel by the County Assessor for purposes of identifying a property.

**“Authorized Services”** means the public services authorized to be funded by the CFD, as set forth in the documents adopted by the Council when the CFD was formed.

**“CFD”** or **“CFD No. 2011-1”** means the City of Tracy Community Facilities District No. 2011-1 (Tracy 580 Business Park).

**“CFD Formation”** means the date on which the Resolution of Formation to form CFD No. 2011-1 was adopted by the Council.

**“City”** means the City of Tracy.

**“Council”** means the City Council of the City of Tracy, acting as the legislative body of CFD No. 2011-1.

**“County”** means the County of San Joaquin.

**“Final Map”** means a final map approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410, *et seq.*) that creates individual lots on which a building permit can be issued for construction of residential units without further subdivision of the lots.

**“Fiscal Year”** means the period starting on July 1 and ending on the following June 30.

**“Maximum Special Tax”** means the maximum Special Tax, determined in accordance with Section C, that can be levied in any Fiscal Year.

**“Net Taxable Acre”** or **“Net Taxable Acreage”** means the total gross Acreage of a Parcel less any Acreage planned for aqueduct or freeway corridors. The Net Taxable Acreage for each Original Parcel is identified in Attachment 1 to this RMA.

**“Original Parcel”** means any of the Assessor’s Parcels that were included in the CFD at the time of CFD Formation, as identified in Attachment 1 to this RMA. A Parcel that was created from the subdivision of an Original Parcel and is being further subdivided shall also be

considered an Original Parcel for purposes of determining the Maximum Special Taxes pursuant to Section C.

**“Public Property”** means, for each Fiscal Year: (i) any property within the boundaries of the CFD that is owned by or irrevocably offered for dedication to the federal government, the State of California, the City or any other public agency; provided, however, that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act (as such section may be amended or replaced) shall be taxed and classified in accordance with its use; or (ii) any property within the boundaries of the CFD that is encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

**“RMA”** means this Rate and Method of Apportionment of Special Tax.

**“Special Tax”** means any tax levied within the CFD to pay the Special Tax Requirement.

**“Special Tax Requirement”** means the amount of revenue needed in any Fiscal Year to pay for the following: (i) Authorized Services; (ii) Administrative Expenses; and (iii) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred or, based on delinquency rates in prior years, may be expected to occur in the Fiscal Year in which the Special Tax will be collected.

**“Subdivision Map”** means a Final Map, large lot subdivision map, tentative map, or other map recorded with the County and/or approved by the City that results in the subdivision of a Parcel or a change in the quantity or type of proposed land uses.

**“Taxable Property”** means all Assessor’s Parcels within the boundaries of CFD No. 2011-1 that are not exempt from the Special Tax pursuant to law or Section E below.

## **B. DATA FOR ANNUAL TAX LEVY**

Each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel Numbers for all Parcels of Taxable Property within the CFD. The Administrator shall also determine the Special Tax Requirement for the then current Fiscal Year.

## **C. MAXIMUM SPECIAL TAX**

The Administrator shall use the procedures set forth below to calculate the Maximum Special Tax for each Parcel in CFD No. 2011-1 in each Fiscal Year.



## **1. Maximum Special Tax**

The Maximum Special Tax for each Original Parcel in CFD No. 2011-1 at the time of CFD Formation is shown in Attachment 1 to this RMA. Each time a Subdivision Map is approved within the CFD or when Parcels are otherwise subdivided or reconfigured, the Administrator shall reallocate the Maximum Special Tax assigned to each Original Parcel to the newly-created Parcel(s) within the Subdivision Map as follows:

- Step 1.** Determine the Maximum Special Tax assigned to the Original Parcel being subdivided.
- Step 2.** Determine the Net Taxable Acreage of each newly-created Parcel within the Subdivision Map.
- Step 3.** Sum the Net Taxable Acreage from Step 2 for all newly-created Parcels to determine the total Net Taxable Acreage resulting from subdivision of the Original Parcel.
- Step 4.** For each newly-created Parcel, divide the Net Taxable Acreage determined in Step 2 by the total Net Taxable Acreage determined in Step 3 to calculate a percentage.
- Step 5.** For each newly-created Parcel, multiply the percentage calculated in Step 4 by the amount calculated in Step 1 to determine the Maximum Special Tax to be allocated to the Parcel.

## **2. Escalation of Maximum Special Tax**

On July 1, 2013, and each July 1 thereafter, the Maximum Special Tax for Taxable Property shall be increased by an amount equal to the greater of: (i) the percentage increase, if any, in the Consumer Price Index (San Francisco–Oakland–San Jose, all urban consumers) since the prior July 1, or (ii) two percent (2.0%) of the Maximum Special Tax in effect in the previous Fiscal Year. Notwithstanding the foregoing, the Maximum Special Tax in any Fiscal Year shall not increase by more than 3.75% of the Maximum Special Tax in effect in the previous Fiscal Year.

## **D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAXES**

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement and levy the Special Tax proportionately on each Parcel of Taxable Property up to 100% of the Maximum Special Tax for each Parcel for such Fiscal Year until the amount levied is equal to the Special Tax Requirement.

The Special Tax for the CFD shall be collected at the same time and in the same manner as ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet the financial obligations of the CFD, and the Special Tax shall be equally subject to foreclosure if delinquent.

**E. EXEMPTIONS**

Notwithstanding any other provision of this RMA, no Special Tax shall be levied on Parcels of Public Property, except as otherwise provided in the Act.

**F. INTERPRETATION OF SPECIAL TAX FORMULA**

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by resolution of the Council for purposes of clarifying any vagueness or ambiguity in this RMA.

**ATTACHMENT 1**

**City of Tracy Community Facilities District No. 2011-1  
(Tracy 580 Business Park)  
Maximum Special Tax at the Time of CFD Formation**

<b>Assessor's Parcel Number as of CFD Formation</b>	<b>Gross Acreage</b>	<b>Aqueduct Corridor Acreage</b>	<b>Freeway Corridor Acreage</b>	<b>Net Taxable Acreage</b>	<b>Fiscal Year 2012-13 Maximum Special Tax /1</b>
251-040-08	78.36	8.03	8.27	62.06	\$3,310
251-050-07	85.66	13.36	4.02	68.28	\$3,641
251-050-09	26.85	0.00	0.00	26.85	\$1,432
251-060-02	129.80	0.92	6.01	122.87	\$6,553
253-020-02	189.63	14.51	3.66	171.46	\$9,144
253-030-08	71.04	0.00	7.60	63.44	\$3,383
253-030-14	175.33	4.45	0.00	170.88	\$9,113
253-030-15	17.34	0.00	0.00	17.34	\$925
<b>Total</b>	<b>774.01</b>	<b>41.27</b>	<b>29.56</b>	<b>703.18</b>	<b>\$37,500</b>

/1 Beginning in July 1, 2013 and each July thereafter, the Maximum Special Tax shall be adjusted annually by the greater of: (i) the percentage increase, if any, in the Consumer Price Index (San Francisco-Oakland-San Jose, all urban consumers) since the prior July 1, or (ii) two percent (2.0%) of the Maximum Special Tax in effect in the previous Fiscal Year. Notwithstanding the foregoing, the Maximum Special Tax in any Fiscal Year shall not increase by more than 3.75% of the Maximum Special Tax in effect in the previous Fiscal Year.

## **EXHIBIT B**

### **Services to be Financed**

Open Space Maintenance of the area described on Attachment 1 to this Exhibit B (the "Open Space"), to include all direct and indirect costs of managing, maintaining, and monitoring the habitat values of the Open Space.

These services are to be provided by the San Joaquin Council of Governments (SJCOG) pursuant to the terms and conditions of a Joint Community Financing Agreement between the City and SJCOG. The initial estimated annual cost of the maintenance is \$37,000.00. Incidental costs, including the costs of City administration of the CFD, are estimated at \$500.00 per year.

June 5, 2012

AGENDA ITEM 11.A

REQUEST

**APPOINTMENT OF CITY COUNCIL MEMBER TO PARTICIPATE ON THE  
OVERSIGHT COMMITTEE TO REVIEW THE GOVERNANCE STRUCTURE  
FOR THE PROVISION OF FIRE SERVICES TO THE CITY OF TRACY AND  
SURROUNDING AREA**

EXECUTIVE SUMMARY

Request appointment of a Council Member to represent the City of Tracy on the Oversight Committee that is being established to review the governance structure of the South County Fire Authority.

DISCUSSION

At the May 15, 2012 Council meeting, the Fire Chief made a presentation to the City Council on the proposed process to be used to evaluate the current governance structure of the South County Fire Authority. Included in this process will be an Oversight Committee made up of representatives of the South County Fire Authority, Tracy City Council, Tracy Rural Fire Board, Mountain House Board, labor and community members.

A Task Force, consisting of a facilitator and subject matter experts, will analyze a variety of issues to determine a governance model, i.e., Joint Powers Agreement, Special District, Contract for Services, etc., and provide recommendations to the Oversight Committee for a structure that streamlines the decision making process to efficiently implement fire services within the South County Fire Authority.

STRATEGIC PLAN

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

FISCAL IMPACT

None.

RECOMMENDATION

That Council appoints a member to participate on the Oversight Committee to review the South County Fire Authority governance structure.

Prepared by: Alford Nero, Fire Chief

Approved by: Leon Churchill Jr., City Manager

June 5, 2012

AGENDA ITEM 11.B

REQUEST

**CONSIDER AN ITEM FOR DISCUSSION ON A FUTURE CITY COUNCIL AGENDA  
RELATED TO ZONING ALONG I-205**

EXECUTIVE SUMMARY

Determine whether an item should be placed on a future Council agenda to review zoning along I-205.

DISCUSSION

At the City Council meeting held on May 15, 2012, Council Member Rickman requested that the Council consider placing an item on a future City Council agenda to discuss zoning along I-205.

The purpose of this agenda item is to provide an opportunity for Council to discuss whether staff time and city resources should be devoted to research and outreach, and to determine whether a discussion item related to zoning along the I-205 corridor 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 zoning along I-205 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

Resolution 2012-  
Page Two

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

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Mayor

ATTEST:

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City Clerk

AGENDA ITEM 11.C

REQUEST

**CONSIDER NAMING THE PLAZA AT CITY HALL AFTER A FORMER MAYOR OF TRACY**

EXECUTIVE SUMMARY

Discuss a proposal by Mayor Ives, and determine whether the Plaza at City Hall should be named after Dan Bilbrey, a former Mayor of Tracy.

DISCUSSION

At the City Council meeting held on May 1, 2012, the Council agreed to discuss the possibility of naming the Plaza at City Hall after a former Mayor of Tracy, Dan Bilbrey.

Dan Bilbrey served as a City Council Member from 1990 until 1994, and as the Mayor of Tracy from 1994 until 2006. Dan also served on the Planning Commission for two years, and was a Tracy Police Reserve Officer from 1968 to 1990.

Mayor Bilbrey's civic contributions extend to numerous organizations and cover many years. In his six terms as Mayor, he served on various committees including the City/Chamber Liaison, City/Schools Liaison, Economic Development, Youth Enrichment and Violence Prevention, Investment Review, Multimodal Station Administrative Review, and Downtown Revitalization. Dan has also been actively involved with the Boys & Girls Club of Tracy.

During Mayor Bilbrey's term in office, many high ranking projects were completed including the opening of the Tracy Outlet Center and the West Valley Mall; completion of the South County Surface Water Project; construction of the new Civic Center and the Grand Theatre; purchase of the Holly Sugar property; renovation of the Fire Administration building, and the opening of numerous city parks and retail centers.

Mayor Bilbrey has served as Chairman of the San Joaquin Council of Governments (SJCOG). He was also Chairman of the Interregional Partnership (IRP), a collaboration of elected officials representing five counties in the San Francisco Bay Area. In this role, he helped to initiate a program that helps balance the jobs to housing ratio in the Bay Area and Central Valley.

Mayor Bilbrey is recognized for his visionary and responsive leadership. He is a consensus builder who has worked selflessly to make Tracy a better place to live for all residents.

Dan Bilbrey has been a resident of Tracy since 1968. He retired from Sutter Tracy Community Hospital, where he worked for almost 40 years, the last 10 as Executive Director of the Tracy Hospital Foundation. Dan and his wife Josie have two children and three grandchildren.



Agenda Item 11.C  
June 5, 2012  
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The area proposed to be named Dan Bilbrey Plaza is located on the west side of the City Hall building fronting the main entrance and is comprised of the fountain, paved area around the fountain with the landmark structures and sidewalks including the landscaped area and walkways between the paved fountain area and Hamilton Alley to the north.

The City Council previously adopted a policy for naming public buildings and parks and recreation facilities. Under the policy, for public buildings, a process exists that allows a City Council subcommittee to review and evaluate requests. For parks and recreation facilities a process exists that allows for consideration and a recommendation by the Parks and Community Services Commission. However, because the Plaza does not squarely fit within the definition of a park and recreation facility or a public building, and because this is currently the only proposal before the City Council, the City Council has discretion on the process it wishes to follow in naming the Plaza.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

There will be no impact on the General Fund.

#### RECOMMENDATION

It is recommended that the City Council recognize the many contributions Mayor Bilbrey has made to the City and the community by adopting the attached resolution naming the Plaza at City Hall Dan Bilbrey Plaza.

Prepared by: Carole Fleischmann, Assistant City Clerk

Reviewed by: Maria Hurtado, Assistant City Manager

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION 2012-

NAMING THE PLAZA AREA AT CITY HALL  
DAN BILBREY PLAZA

WHEREAS, Dan Bilbrey served as a City Council Member from 1990 until 1994, and as the Mayor of Tracy from 1994 until 2006. He also served on the Planning Commission for two years, and was a Tracy Police Reserve Officer from 1968 to 1990, and

WHEREAS, As Mayor he served on various committees including the City/Chamber Liaison, City/Schools Liaison, Economic Development, Youth Enrichment and Violence Prevention, Investment Review, Multimodal Station Administrative Review, and Downtown Revitalization. Dan Bilbrey has also been actively involved with the Boys & Girls Club of Tracy, and

WHEREAS, During Mayor Bilbrey's term in office many major projects were completed including the opening of the Tracy Outlet Center and the West Valley Mall; completion of the South County Surface Water Project; construction of the new Civic Center and the Grand Theatre; purchase of the Holly Sugar property; renovation of the Fire Administration building, and the opening of numerous city parks and retail centers, and

WHEREAS, Mayor Bilbrey served as Chairman of the San Joaquin Council of Governments (SJCOG), and was also Chairman of the Interregional Partnership (IRP), a collaboration of elected officials representing five counties in the San Francisco Bay Area, and

WHEREAS, Mayor Bilbrey is recognized for his visionary and responsive leadership. He is a consensus builder who has worked selflessly to make Tracy a better place to live for all residents, and

WHEREAS, Dan Bilbrey has been a resident of Tracy since 1968. He retired from Sutter Tracy Community Hospital, where he worked for almost 40 years, the last 10 as Executive Director of the Tracy Hospital Foundation.

NOW, THEREFORE, BE IT RESOLVED, That the Tracy City Council hereby approves naming the area located on the west side of the City Hall building fronting the main entrance, which is comprised of the fountain, paved area around the fountain with the landmark structures and sidewalks, and includes the landscaped area and walkways between the paved fountain area and Hamilton Alley to the north as Dan Bilbrey Plaza.

\* \* \* \* \*

The foregoing Resolution 2012- was passed and adopted by the Tracy City Council on the 5th day of June 2012, by the following vote:

Resolution 2012-  
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AYES: COUNCIL MEMBERS:  
NOES: COUNCIL MEMBERS:  
ABSENT: COUNCIL MEMBERS:  
ABSTAIN: COUNCIL MEMBERS:

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Mayor

ATTEST:

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City Clerk