

TRACY CITY COUNCIL

REGULAR MEETING AGENDA

Tuesday, September 18, 2012, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

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

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

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

Addressing the Council on Items not on the Agenda – The Brown Act prohibits discussion or action on items not on the posted agenda. Members of the public addressing the Council should state their names and addresses for the record, and for contact information. The City Council's Procedures for the Conduct of Public Meetings provide that "Items from the Audience" following the Consent Calendar will be limited to 15 minutes. "Items from the Audience" listed near the end of the agenda will not have a maximum time limit. Each member of the public will be allowed a maximum of five minutes for public input or testimony. However, a maximum time limit of less than five minutes for public input or testimony may be set for "Items from the Audience" depending upon the number of members of the public wishing to provide public input or testimony. The five minute maximum time limit for each member of the public applies to all "Items from the Audience." Any item not on the agenda, brought up by a member of the public shall automatically be referred to staff. In accordance with Council policy, if staff is not able to resolve the matter satisfactorily, the member of the public may request a Council Member to sponsor the item for discussion at a future meeting. When members of the public address the Council, they should be as specific as possible about their concerns. If several members of the public comment on the same issue an effort should be made to avoid repetition of views already expressed.

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

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

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

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL
PRESENTATIONS – Certificate of Recognition, “DARE To Love Tracy”

1. CONSENT CALENDAR
 - A. Minutes Approval
 - B. Award a Construction Contract to Knife River Construction of Stockton, California, for Construction of the East Paradise Road Extension Project – CIP 73128 & 75046, Authorize an Appropriation of \$170,305.25 from the North East Industrial (NEI) Phase II for CIP 73128, and Authorize the Mayor to Execute the Construction Contract
 - C. Acceptance of the Playground Renovation Project – CIPs 78127, 78122, 78118, 78106 & 78063, Completed by McNabb Construction, Inc., of Lafayette, California, and Authorization for the City Clerk to File the Notice of Completion
2. ITEMS FROM THE AUDIENCE
3. PUBLIC HEARING AND ALLOCATION TO REVIEW THE POLICE DEPARTMENT’S RECOMMENDATION TO APPROPRIATE \$100,000 FROM CITIZENS OPTIONS FOR PUBLIC SAFETY “COPS” GRANT PROGRAM TO THE POLICE DEPARTMENT BUDGET TO PURCHASE A BALLISTIC ENGINEERED ARMORED RESPONSE ALL PURPOSE VEHICLE
4. APPROVAL OF APPROPRIATION OF \$1,105,250 FROM THE RESIDENTIAL AREAS SPECIFIC PLAN (RSP) FUND FOR COSTS ASSOCIATED WITH REMOVAL OF USE RESTRICTIONS AND FEDERAL REVERSIONARY RIGHTS ON THE 150-ACRE SCHULTE ROAD PARCEL AND AUTHORIZE THE MAYOR TO EXECUTE ANY NECESSARY DOCUMENTS TO COMPLETE THE TRANSFER; DIRECT STAFF TO PROCEED WITH SALE OF CHRISMAN ROAD PROPERTY AND USE SALE PROCEEDS TO REPLENISH THE RESIDENTIAL AREAS SPECIFIC PLAN (RSP) FUND; AND RECEIVE UPDATE ON TRACY BALL PARK PROPERTY OUTREACH
5. ITEMS FROM THE AUDIENCE
6. COUNCIL ITEMS
 - A. League of California Cities 2012 Annual Conference (Verbal Report - Mayor Pro Tem Maciel)
7. ADJOURNMENT

May 1, 2012, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

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

The invocation was offered by Reverend Vjih of the Sant Nirankari Mission.

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

Leon Churchill, Jr., City Manager, presented the Employee of the Month award for May 2012, to Jeffrey Haskett, City Manager's Office.

Mayor Ives presented a proclamation to Tracy Sunrise Rotary President Penny Vandermere, Vice President Mike Bogetti, and Rotary Member Harold Reich proclaiming May as "Older Americans Month."

Mayor Ives presented a proclamation to David De Santis, Central Valley Velo Bike Club, proclaiming the week of May 14, 2012 as "Bike to Work Week."

Mayor Ives and Police Chief Hampton swore in Police Captain Jeremy Watney.

1. **CONSENT CALENDAR** - It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - A. Minutes Approval – The special meeting minutes of November 21, 2011, and closed session minutes of April 17, 2012, were approved.
 - B. Acceptance of the Offsite Public Improvements Completed by AMB Corporation, LLC, for Chabot Commerce Center - Tract 3019 – Resolution 2012-068 accepted the improvements.
 - C. Authorize an Appropriation of \$10,739 from the 2012 Edward Byrne Memorial Justice Assistance Grant (JAG) Program for the Purchase and Installation of Enhanced Technology for the Tracy Police Department's Law Enforcement Programs – Resolution 2012-069 authorized the appropriation.
2. **ITEMS FROM THE AUDIENCE** - Paul Miles, 1397 Mansfield, addressed Council regarding a complaint filed in court today against the City of Tracy. Mr. Miles provided Council with a copy of the complaint.

Marsha McCray and Sandy Taylor thanked Council for unanimously approving the appropriation of funding for an aquatic center.

Mayor Ives suggested agenda items 9, 4, 10 and 12 be heard after item #3. Leon Churchill, Jr., City Manager, requested items 11 and 15A be rescheduled to a future meeting, and that Item 5 be moved to the end of new business.

3. PUBLIC HEARING TO CONSIDER A PRELIMINARY AND FINAL DEVELOPMENT PLAN TO PERMIT THE DEVELOPMENT OF THREE NEW INDUSTRIAL BUILDINGS TOTALING 989,717 SQUARE FEET, THE EXPANSION OF AN EXISTING INDUSTRIAL BUILDING BY 288,770 SQUARE FEET, AND THE EXTENSION OF CHABOT COURT TO TURN WEST AND INTERSECT WITH PARADISE ROAD ON A 70.49-ACRE SITE, LOCATED ADJACENT TO PARADISE ROAD, SOUTH OF GRANT LINE ROAD AND ADJACENT TO AND WEST OF THE EXISTING CHABOT COURT - APPLICANT IS PROLOGIS, AND OWNERS ARE AMB HOLD CO, LLC AND PROLOGIS, L.P.- APPLICATION D12-0003 - Victoria Lombardo, Senior Planner, presented the staff report. In 1996, the City Council adopted the Northeast Industrial Areas Concept Development Plan (NEI) within which the project area is located. The site is Zoned Planned Unit Development (PUD), and is designated Industrial by the General Plan, and Light Industrial by the Concept Development Plan.

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

A number of Preliminary and Final Development Plans (PDP/FDPs) have been approved for the project site over time. Two PDP/FDPs in combination resulted in the construction of the existing Chabot Court, and the two existing buildings (one vacant and one housing the Best Buy warehouse) on Chabot Court. Another PDP/FDP approved the existing 312,770-square foot Barboza Cabinets building, and caused the construction of some of the existing portion of Paradise Road. The current proposal is a new PDP/FDP to allow for three additional industrial buildings in the vicinity of the three existing buildings on the site, as well as an expansion of an existing building.

The project site is located on the south side of Grant Line Road, at Chabot Court and Paradise Roads. The adjacent parcels to the north and west are designated Light Industrial by the Concept Development Plan. Land south and east of the project is outside of the current City limits.

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

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

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

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

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

The landscape areas proposed will meet the requirements of Tracy Municipal Code Section 10.08.3560, and the requirements of the Northeast Industrial Areas Concept Development Plan.

A combination of trees, shrubs and groundcover are proposed for the landscape areas. A recommended condition of approval requires the developer to submit a detailed landscape and irrigation plan for approval by the Development Services Director prior to the issuance of any building permits. In addition, a recommended condition of approval requires that prior to the issuance of any building permits, an Agreement for Maintenance of Landscape and Irrigation Improvements is to be executed, and financial security submitted to the Development Services Department. The agreement will ensure maintenance of the landscape and irrigation improvements for a period of two years.

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

The project proposes 648 auto parking spaces to serve the new buildings, which is greater than the number of parking spaces that would be required per to the NEI Concept Development Plan.

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

The project is consistent with the Environmental Impact Report (EIR) that was prepared for the Northeast Industrial Areas Concept Development Plan and certified in 1996. In accordance with CEQA Guidelines Section 15183, no further environmental assessment is required.

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

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

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-070 approving a Preliminary and Final Development Plan to permit the development of three new industrial buildings and expansion of one existing industrial building totaling 1,278,487 square foot located on a 70.49-acre site, and the extension of Chabot Court to turn west and intersect with Paradise Road, located adjacent to Paradise Road, south of Grant Line Road and adjacent to and west of the existing Chabot Court Assessor's Parcel Number 250-030-19, 26, 27, 28 and 250-280-6, 7, 8, 9, 10 Application Number D12-0003. Voice vote found all in favor; passed and so ordered.

DEVIATION

9. ACCEPT MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND THE GRAND FOUNDATION IN SUPPORT OF THE GRAND THEATRE CENTER FOR THE ARTS AND AUTHORIZE THE MAYOR TO SIGN THE MOU – William Wilson, Cultural Arts Manager – Visual Arts, presented the staff report. The Arts Leadership Alliance (ALA) serves as the City's principal fundraiser for the Grand Theatre Center for the Arts and contributed \$1,000,000 towards the \$20,000,000 Capital Improvement Project that built and furnished the facility. The ALA-GF also has served to support operations and programming for the Grand with annual underwriting contributions since 2007. Working closely with Cultural Arts Division Staff, the ALA-GF underwriting has supported concerts, exhibitions, classes, workshops and special events, in addition to providing arts supplies, art making and technical equipment and hospitality services. In Fiscal Year 2011-12 the ALA provided \$10,000 to the Season Headliner Kellie Pickler Concert and, as the Grand Foundation (ALA-GF) will provide \$20,000 to arts education, exhibitions and marketing support. In FY 10-11 \$30,000 equaled 3.5% of the General Fund support of \$843,000. This public-private collaboration has served both parties well in their commitment to improving the quality of life for Tracy residents and in the economic development of the City.

In 2009, in response to the economic recession, the City initiated a series of Community Conversations with shareholders to build consensus in an effort to strengthen emotional and financial support of the Grand. The positive results of this effort led to *The Grand Partnership Report – Strengthening the Grand through shared governance* adopted in 2010. Staff and the ALA-GF utilized The Grand Partnership Report as a guide to create the new Memorandum of Understanding (MOU). Through a series of strategic planning

meetings across the past two years, the critical issues of the collaborative relationship were examined. This collaboration has positioned the Grand Theatre strongly, not only to survive the recession, but also to emerge from it positioned for growth.

The Grand is currently celebrating its 5th Anniversary Season as the cornerstone project in the City's ongoing downtown re-development. As an acclaimed historic project and innovative arts, entertainment and educative resource in our community and beyond, long-term financial planning is critical. The ALA has evolved into the Grand Foundation whose efforts will support the growth and preservation of the facility into the future.

The new MOU defines the roles and responsibilities of the City and the Grand Foundation with respect to the Grand Theatre Center for the Arts, and confirms the joint vision and establishes the goals to sustain the Center as a regional leader in the arts. The City and the Grand Foundation seek to strengthen their partnership, which will significantly increase financial support of the Grand, not only by supporting programming, but also by establishing an endowment fund for the long-term health of the project. Key components include fundraising, annual underwriting support, programming development, membership campaign and volunteer management.

Staff recommended that the Council accept the MOU between the City and the Grand Foundation.

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

Mayor Pro Tem Maciel thanked all those who work on the Foundation.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-071 accepting the Memorandum of Understanding between the City of Tracy and the Grand Foundation regarding the Grand Theatre Center for the Arts. Voice vote found all in favor; passed and so ordered.

10. ACCEPT GRAND FOUNDATION (FORMERLY ARTS LEADERSHIP ALLIANCE AKA ALA) 2011-12 ANNUAL UNDERWRITING SUPPORT FOR PROGRAMMING AND OPERATIONS AT THE GRAND THEATRE CENTER FOR THE ARTS - William Wilson, Cultural Arts Manager – Visual Arts, presented the staff report. Mr. Wilson stated that the City of Tracy, through the Cultural Arts Division, is partnered with the Grand Foundation (formerly known as the Arts Leadership Alliance aka ALA) to provide programming and operational financial support at the Grand Theatre Center for the Arts. The Foundation provides a minimum of \$30,000 annually under the current MOU. The GF provides underwriting through fundraising and donor relationships to support the programming and operations of the Arts Education, Exhibitions and Presenting Programs at the Center. Each year financial needs are accessed and prioritized by staff and submitted to the GF Board for their consideration in order to supplement the adopted Cultural Arts Division FY budget.

This year, the GF Board has chosen to underwrite \$10,000 in the Arts Education Program, \$2,400 in the Exhibitions Program, \$11,600 in the Presenting Program and \$6,000 in Marketing Support. The adopted FY2011-12 budget reflects these programming priorities.

Staff will meet monthly with the GF Board to provide expenditure updates. The GF directly funded the Season Headliner Concert and Meet-n-Greet Reception with Kellie Pickler in the amount \$10,000, and will submit the balance in a check to the City in the amount of \$20,000.

Staff recommended that Council accept the annual underwriting funding from the Grand Foundation to support programming and operations of the Grand Theatre Center for the Arts in FY2011-12.

Mayor Ives invited public comment.

Mike Souza, presented the City with a check for \$30,000 and commended staff for the excellent programming at the Grand.

Mayor Ives thanked Mr. Souza and the Foundation for their years of support for the Grand Theatre and arts in the community.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-072 accepting Grand Foundation (Formerly Arts Leadership Alliance) 2011-12 annual underwriting support for programming and operations at the Grand Theatre Center for the Arts. Voice vote found all in favor; passed and so ordered.

4. PUBLIC HEARING TO CONSIDER A GENERAL PLAN LAND USE DESIGNATION AMENDMENT OF A 10-ACRE SITE IN THE EASTLAKE AND ELISSAGARAY RANCH SUBDIVISIONS FROM PUBLIC FACILITIES TO RESIDENTIAL LOW. THE APPLICANT IS CHRIS TYLER AND THE PROPERTY OWNER IS TVC TRACY HOLDCO, LLC. APPLICATION NUMBER GPA10-0004 - Bill Dean, Assistant Development Services Director, presented the staff report. Mr. Dean stated that in 1995 and 1996, the City annexed the Eastlake and Elissagaray Ranch development areas respectively and designated both properties Residential Low in the General Plan. In 1998 and 1999, the City approved the Eastlake and Elissagaray Ranch Planned Unit Developments (PUD) respectively for single-family residential subdivisions. The PUDs serve as the zoning for each subdivision to implement the policies of the General Plan.

The subject property is comprised of a 5-acre lot in the Eastlake subdivision and a 5-acre lot in the Elissagaray Ranch residential subdivision. The subject 10-acre site had been designated for a public school based on the request of the Tracy Unified School District (TUSD). However, the site has not been developed and is currently under private ownership.

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

The property owners are requesting to change the land use designation to Residential Low, which permits uses including single-family homes, places of worship, schools, parks and recreational facilities, fire stations, libraries, day care facilities, and community centers. Public schools are permitted under both land use designations.

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

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

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

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

As previously mentioned, the Planning Commission discussed the proposed General Plan amendment on February 22, 2012. TUSD staff explained that the school district does not need an additional elementary school at this time and reaffirmed they are not opposed to the land use designation change. Residents of the subdivisions raised concerns that if residential development is built, it should be consistent in density and architecture to the existing neighborhoods. Staff reiterated that any proposed development would come back to the residents, Planning Commission, the City Council. The applicant echoed his intentions to involve the residents should he move forward with developing the site. The Commission voted unanimously to recommend approval of the General Plan amendment to the City Council.

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

Council Member Elliott asked if the new zoning would allow for a school to be built. Mr. Dean stated yes. Council Member Elliott asked for clarification regarding the TUSD's needs. Mr. Dean stated the school district has no plans to use the site for a school.

Council Member Rickman asked if the architecture would conform to what currently exists in the two subdivisions. Mr. Dean indicated any application for development would require Planning Commission and City Council approval.

Mayor Ives asked if there was any possibility for a future application for high density residential. Mr. Dean indicated no, that the zoning only allows five units per acre.

Mayor Pro Tem Maciel asked if the land could be used for anything else as it is currently zoned. Mr. Dean stated it could be used for public facilities such as storm water retention, schools, and fire stations.

Mayor Ives opened the public hearing.

Chris Tyler, property owner representative, thanked staff for their efforts and stated staff had properly described the situation with the property. Mr. Tyler indicated he would love to sell the property to the school district but that Dr. Goodall, Tracy Unified School District, had confirmed that since growth had occurred in other areas of the City the district did not intend to use the property as a school site. Mr. Tyler indicated his intent was to garner neighborhood input on any homes that might be planned for the area.

Kellie Goble, 1201 Cittadelle Street, addressed Council regarding problems with the vacant land. Ms. Goble indicated she and neighbors favored homes being built on the property to increase the value of their homes and improve the look of the neighborhood.

Francine Escobar, a resident of Eastlake, addressed Council regarding vandalism at the vacant property. Ms. Escobar indicated she was in favor of rezoning the property.

Mary Park, 1630 Eastlake Circle, addressed Council in favor of rezoning the site. Ms. Park indicated it would be nice to have low density housing vs. high density due to current traffic problems in the area.

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

Council Member Elliott indicated he believed Council should support the action for rezoning for the reasons presented.

It was moved by Council Member Elliott and seconded by Council Member Rickman to adopt Resolution 2012-073 approving a General Plan land use designation amendment of a 10-acre site in the Eastlake and Elissagaray Ranch subdivisions from public facilities to residential low. The applicant is Chris Tyler and the property owner is TVC Tracy Holdco, LLC., Application Number GPA10-0004. Voice vote found all in favor; passed and so ordered.

12. REQUEST AUTHORIZATION TO NEGOTIATE MODIFICATIONS TO A DEVELOPMENT AGREEMENT WITH SURLAND COMMUNITIES LLC, APPLICATION DA11-0002, FOR PROPERTY LOCATED AT THE NORTHWEST CORNER OF LINNE ROAD AND CORRAL HOLLOW ROAD - Bill Dean, Assistant DES Director, presented the staff report. The Ellis project is an approximately 321-acre development proposal located at the northwest corner of Linne and Corral Hollow Roads in San Joaquin County at the southwestern City limit, located within the City's General Plan Sphere of Influence (intended annexation and City utilities/facilities area). The components of the Ellis project involve annexation to the City and implementing the City's General Plan with the Ellis Specific Plan, which is a comprehensive zoning document that has design and development standards. The vision of the proposed Ellis Specific Plan is to create a mix of residential, commercial, and recreational facilities centered on a "village center" entrance and a street network that promotes ease of pedestrian and vehicular circulation. Up to 2,250 residential units would be allowed under this zoning.

Initial direction to staff to negotiate and process a DA with Surland occurred on January 17, 2006. A DA was viewed as an appropriate tool to evaluate a potential public-private partnership to fund and construct a Swim Center. After Planning Commission review, the City Council approved a Development Agreement with Surland on December 16, 2008, along with approvals related to the Ellis Specific Plan and development project.

Subsequent to approving the development agreement, Tracy Alliance for a Quality Community (TRAQC) filed a lawsuit challenging the Ellis project approvals, including the Environmental Impact Report and the DA. Last year, the Superior Court ruled in TRAQC's favor, vacating all project approvals. Following the ruling, Surland and the City appealed the Superior Court's ruling, effectively staying the Court's decision to overturn the approvals.

Surland submitted applications on December 15, 2011 (revised in a memo from Surland received by the City on February 1, 2012, and further revised in a letter received by the City on April 24, 2012) to begin work on "a modified and amended DA for the Ellis Project." Surland's request states the following related to public benefits:

"These benefits include much needed jobs; an additional range of housing opportunities; \$10 million in funding towards the community's goal towards a much needed aquatic center; and an offer of 16 acres of land for the aquatic center site (if selected through the City aquatic center site selection process)."

Prior to negotiating a DA, the City's DA Procedures first require Council authorization (City Council Resolution 2004-368). The DA Procedures provide as follows:

Staff shall review the application and shall prepare a report and recommendation to the City Council. The Council shall consider the application and determine whether the proposed public benefit warrants undertaking negotiations with the applicant. The Council shall either reject the request or authorize staff to negotiate and process the development agreement application.

Additionally, pursuant to City's requirements, a Cost Recovery Agreement is required to cover all City costs associated with processing a DA. The City and Surland entered into a Cost Recovery Agreement on February 12, 2012, to cover all project processing costs (prior costs were covered under a previous Reimbursement Agreement).

The Ellis applications constitute a “project” under CEQA and an EIR will be prepared.

Staff recommended that the Council authorize staff to negotiate a Development Agreement with Surland.

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

Les Serpa, 1024 Central Avenue, provided Council with an outline of the project. Mr. Serpa stated amendments to the development agreement were done to remedy issues of the court.

Mark Connolly, 121 E. Eleventh Street, on behalf of TRAQC, stated that the process of an amended development agreement was not logical and explained why. Mr. Connolly stated there was no use entering into an amendment if Surland was addressing all the issues raised by the court.

An attorney with Miller, Star and Regale, addressed Council indicating this was not the point where Council would provide input as to what is negotiated. The attorney stated an option was to move forward with an amended development agreement that addresses the court’s concerns and gets the project moving.

Dave Anderson, Vice President of the Tracy Airport Association, addressed Council regarding concerns with the location of the airport runway in proximity to the proposed development. Mr. Anderson submitted various documents in support of his concerns.

Jim Howell, 340 Hunter Trail, addressed Council stating it was clear to him that the City should have never entered into the original agreement with Surland.

Celeste Garamendi, 139 W. Twelfth Street, suggested there was no need to act on this request. Ms. Garamendi questioned why the Council would want to negotiate a new development agreement that offered less than what was originally offered by Surland.

Mayor Ives referred to a letter from Surland dated April 3, 2012, which was attached to the staff report, and outlined the purpose for Surland submitting an amended development agreement.

Council Member Elliott asked Surland to confirm Council’s understanding that the basic starting point on negotiations included \$10 million and 16 acres. Mr. Serpa indicated that Council Member Elliott’s understanding was correct.

Mayor Pro Tem Maciel asked if the amount was \$10 million or up to \$10 million. Mr. Serpa stated in 2006 it was up to \$10 million and clarified that in the letter it is a \$10 million proposal and 16 acres. Mayor Pro Tem Maciel asked if those figures could change based on negotiations. Mr. Serpa indicated it was his commitment to keep those figures static.

Council Member Elliott asked about the runway and pressurized gas lines. Mr. Serpa indicated Ellis was not at the end of the runway and that they would comply with any rules and regulations regarding freeway and pipeline safety.

Council Member Rickman asked if Surland would address all the concerns of the court and correct them. Mr. Serpa indicated it was their intent to address and correct all court issues.

Council Member Elliott asked Dan Sodergren, City Attorney for the Council's legal standing when considering a modified agreement which was in litigation. Mr. Sodergren indicated he couldn't speak to pending litigation but that it was Council's discretion whether it wants to consider negotiations.

Council Member Rickman asked Mr. Sodergren what would happen if all the issues are addressed in the first agreement. Mr. Sodergren stated it depends on the timing and direction received from Council.

Council Member Abercrombie stated Council was being asked to authorize staff to negotiate an agreement; the Council is not discussing safety zones, a pipeline, or an airport runway. Council Member Abercrombie stated Council ought to give Surland the courtesy to present their proposal and not get sidetracked with other issues.

Council Member Elliott asked Mr. Sodergren for his recommendation. Mr. Sodergren stated it was appropriate to talk about an agreement that is currently under litigation. Mr. Sodergren stated the Planning Commission and staff has made a recommendation that Council authorize staff to negotiate a Development Agreement which could change based on what happens with the appellate court.

Council Member Elliott asked if there were any legal problems with amending an agreement that is being challenged. Mr. Sodergren stated it is legally defensible to enter into negotiations to enter into an amended or new Development Agreement.

Mayor Pro Tem Maciel stated he disagreed with the contention that it made no sense to enter into negotiations and that it was foolish to sit back and wait. Mayor Pro Tem Maciel added he believed it was a good time to discuss alternatives.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2012-074 authorizing staff to negotiate modifications to a Development Agreement with Surland Communities, LLC., Application DA11-0002, for property located at the northwest corner of Linne Road and Corral Hollow Road. Voice vote found all in favor; passed and so ordered.

Mayor Ives called for a recess at 8:55 p.m. The meeting was reconvened at 9:05 p.m.

6. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE I-205 CORRIDOR SPECIFIC PLAN MODIFYING THE CRITERIA FOR WALL SIGNS IN EXCESS OF 100 SQUARE FEET. APPLICATION NUMBER SPA12-0001 - Victoria Lombardo, Senior Planner, presented the staff report. The I-205 Corridor Specific Plan establishes standards for wall signs in the I-205 Corridor Specific Plan area to ensure that signage is designed to be appropriate in scale with the building. The sign criteria states that the area of any single wall sign shall not exceed 100 square feet; however, on single-tenant buildings, a wall sign of up to 250 square feet may be allowed with a Conditional Use Permit.

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

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

Planning Commission reviewed the plans for the proposed Staples wall signs at their meeting on April 11, 2012 and approved the project by unanimous vote based on the elevations provided by the applicant. The elevations only showed the Staples portion of the building and did not show the signs in context with the remainder of the building and the rest of the shopping center. Based on this information, Planning Commission and staff were comfortable recommending an amendment to the I-205 Corridor Specific Plan and approving a Conditional Use Permit for the signs contingent upon City Council approval of the amendment.

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

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

Planning Commission recommended that the City Council approve the I-205 Corridor Specific Plan amendment regarding wall signs in excess of 100 square feet, Application Number SPA12- 0001, based on the findings and subject to the conditions contained in the Planning Commission Resolution dated April 11, 2012. Because Planning Commission subsequently expressed disapproval with the scope of the signs that were installed without a permit at Staples, and staff agrees, staff recommends denial of the I-205 Corridor Specific Plan amendment regarding wall signs in excess of 100 square feet, Application Number SPA12-0001, based on the findings contained in the City Council Resolution dated May 1, 2012.

Council Member Abercrombie asked if staff could work with Staples on a compromise or would Staples be required to remove the larger sign and put up a smaller one. Ms. Lombardo indicated the sign should not have been installed because it was done without

a permit and has to come down. After that staff will work with the applicant to see if they will reduce the size of the sign.

Council Member Rickman asked how the sign was installed without a permit. Ms. Lombardo stated illegally.

Council Member Elliott asked what the complaint was. Ms. Lombardo indicated the Planning Commission was concerned that the sign as depicted was not representative of what was installed on the building.

Mayor Ives asked when staff proposed that the applicant could go from 100 square feet to 150 square feet, what was the condition. Ms. Lombardo stated as long as the sign is appropriate in scale with the building face upon which it is mounted. Mayor Ives asked according to whom. Ms. Lombardo stated the Planning Commission.

Mayor Ives opened the public hearing.

Charlie Ingram, a representative of Hilton Displays, provided Council with a handout. Ms. Ingram stated Staples was their client. Ms. Ingram outlined the square footage of the building and the square footage of the sign along with various communications between her and City staff.

Gregg Kilo, City Signs, stated he was contracted to pull the permit and install the sign. Mr. Kilo apologized for installing the sign without a permit and added it was due to a miscommunication.

Council Member Rickman asked where the miscommunication was in getting the permit. Ms. Ingram indicated that on March 29 an e-mail was sent stating the Planning Commission meeting had been cancelled and then there were a lot of missed calls until it was too late. Ms. Ingram stated she believed that the conditional use permit served as her permit.

Council Member Rickman referred to the drawing and asked if it was similar to what the Planning Commission had for review. Ms. Ingram stated yes.

Mayor Pro Tem Maciel asked Ms. Ingram if she believed she did everything necessary to comply. Ms. Ingram stated yes. Mayor Pro Tem Maciel asked Mr. Kilo if it was his understanding that a permit had to be pulled. Mr. Kilo indicated he believed all approvals were received.

Charles Manne, 4322 Glenhaven Drive, Chair of the Planning Commission, addressed Council stating the Commission did see color pictures and what has been presented to the Council. Mr. Manne stated the pictures did look good and the Commission vote 5-0 in favor of the application. Mr. Manne explained that at a separate meeting it was brought to the Commission's attention that the sign installed was not depicted correctly. Mr. Manne stated he believed the renderings did not match what was installed.

Council Member Rickman asked how he believed the sign did not match what was presented. Mr. Manne indicated the Planning Commission received an 8 ½ x 11 inch depiction which was not the sign that was installed. Mr. Manne stated the sign does not fit and it is not proportional.

Council Member Elliott stated the Council was considering whether the policy should be amended and asked how that affects what the Planning Commission decides. Mr. Manne indicated he looks to see if the signage matches what is in the center and the Planning Commission argued that it was too big.

Jim Howell asked for clarification regarding the process and suggested Council give Staples a break, veto the amendment and ask staff to return with an amendment that addresses single and multi-tenant building criteria.

Council Member Rickman asked if the sign dimensions were right, but the address on the building was moved which made it misleading. Ms. Lombardo stated yes.

Council Member Elliott stated that as long as the sign aesthetically looks appropriate, he didn't see a problem with allowing a larger sign.

Mayor Pro Tem Maciel stated he did not want to make Staples take down the sign, but felt they should not get a free pass for installing the sign without a permit.

Council Member Rickman suggested some checks be put in place to ensure this doesn't happen again.

Mayor Ives asked if the sign had been inspected. Ms. Lombardo stated no.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt a resolution approving an amendment to the I-205 Corridor Specific Plan modifying the criteria for wall signs in excess of 100 square feet – Application Number SPA12-0001. Voice vote found all in favor; passed and so ordered.

Mr. Sodergren stated a conforming resolution would be brought back on the consent calendar confirming Council's action.

7. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE SIGN REGULATIONS (TMC CHAPTER 10.08) AFFECTING SIGNS ON SCHOOL SITES – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0001 - Alan Bell, Senior Planner, presented the staff report. Mr. Bell stated that Section 10.08.4510(i) of the Tracy Municipal Code (TMC) prohibits electronic readerboard signs and electronic scrolling signs. Specifically, prohibited signs include any sign which “flashes, blinks, moves, changes color, appears to change color, changes intensity, or contains any part of an attachment which does the same, except that barber poles and time and temperature signs shall be permitted in the commercial and industrial zones.”

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

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

Amendments to "Section 10.08.4440, Definitions;" "Section 10.08.4460, Standards by Sign Type" and "Section 10.08.4510, Prohibited Signs and Locations" of the TMC are necessary to allow electronic readerboard signs on public and private school sites. The proposal contains a definition of "electronic readerboard sign" and provisions to permit them on public and private school sites with Planning Commission approval of a Conditional Use Permit.

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

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

The Planning Commission conducted a public hearing to consider the proposal on March 28, 2012 and, by a vote of four to one, recommended that the Council approve the sign code amendment. The Planning Commission also recommended that the Council approve the proposed amendments to the Tracy Municipal Code regarding electronic readerboard signs and Freestanding Signs on school sites.

Council Member Elliott asked if there were any public schools that would not qualify for a sign like this given the criteria. Mr. Bell stated no.

Mayor Pro Tem Maciel asked if the Montessori school met the criteria. Mr. Bell stated yes. Mayor Pro Tem Maciel indicated the amendment requires the applicant to receive approval of a Conditional Use Permit and asked how much it cost. Mr. Bell stated between \$300 and \$900.

Council Member Rickman asked if any of the schools were in residential areas. Mr. Bell stated most schools were in residential neighborhoods. Council Member Rickman asked if staff had received input from any neighbors. Mr. Bell stated no.

Mayor Ives opened the public hearing.

Jim Howell asked if the five private schools had sign size requirements. Mr. Bell stated that without Conditional Use Permit approval in a residential zone, all schools would be

able to construct up to 6 feet tall and 24 square feet. Mr. Bell stated a readerboard and Free Standing sign would require a Conditional Use Permit.

Robert Tanner, 1371 Rusher Street, indicated he was concerned with Freestanding Signs for elementary schools stating they should be reserved for the high schools.

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

Council Member Rickman asked if there were standards for all types of signs which would make them uniform from school to school. Mr. Bell stated there would be height, location and size constraints only.

Council Member Elliott asked if Council needed to consider the fairness of signs for private schools if the school district could exempt itself from paying fees. Mayor Ives indicated public schools were governed by state laws.

Mr. Sodergren indicated one of the reasons the school district could exempt itself is because building regulations are governed by the State Architect's office. Mr. Sodergren added he believed public schools may have to go through a similar process.

Mayor Pro Tem Maciel asked if waiving fees represented the gifting of public funds. Mr. Sodergren stated no, as long as there was a legitimate reason for doing so.

The Clerk read the title of proposed Ordinance 1168

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

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to introduce Ordinance 1168. Voice vote found all in favor; passed and so ordered.

5. PUBLIC HEARING TO CONSIDER ADOPTION OF A MITIGATED NEGATIVE DECLARATION AND A GENERAL PLAN AMENDMENT, PREZONING AND ANNEXATION TO THE CITY OF TRACY FOR THE TRACY DESALINATION AND GREEN ENERGY PROJECT, CONSISTING OF APPROXIMATELY 241 ACRES LOCATED EAST OF TRACY BOULEVARD IN THE VICINITY OF SUGAR ROAD, ASSESSOR'S PARCEL NUMBERS 212-160-05, 212-160-09, AND 212-160-11. THE APPLICANT IS TRACY RENEWABLE ENERGY LLC. THE PROPERTY OWNER IS THE CITY OF TRACY. APPLICATION NUMBERS GPA11-0004 AND A/P11-0001
Steve Bayley and Scott Claar presented the staff report. On April 20, 2010, the Council authorized Combined Solar Technologies (CST) to conduct a Green Energy Pilot Project at Tracy's Wastewater Treatment Plant (WWTP). The project demonstrated how thermal desalination can be used to remove salt from Tracy's wastewater, by means of the same technology that CST has utilized at the Musco Family Olive Company's Tracy facility.

On April 19, 2011, the Council authorized an Exclusive Negotiating Rights Agreement (ENRA) with CST for a Green Energy and Thermal Desalination Project Feasibility

Study. The applicant, Tracy Renewable Energy LLC (TRE), is a company CST has established to develop the Tracy Desalination and Green Energy Project.

The project site consists of approximately 241 acres of City-owned land located within the City's Sphere of Influence, immediately north of the Tracy City limits. The project site is bounded by Tracy Boulevard to the west, Arbor Avenue and industrial uses to the south, agricultural lands to the north, and the City's WWTP to the southeast. The project site is bisected by Sugar Road, which runs in an east-west direction. The primary purpose of the proposed project is to construct and operate an approximately 1,200,000 gallon per day (gpd) desalination plant (Plant) in the City. The Tracy WWTP currently processes approximately 9,000,000 gpd of effluent. The WWTP discharges this treated effluent directly into the Delta. The WWTP's discharge currently contains salt in amounts that exceed the State's Delta salinity standards. Project implementation would effectively remove salt from approximately 13 percent of the WWTP's effluent. The treated desalination water would then be blended with the remaining WWTP effluent prior to discharge into the Delta. The newly blended and treated effluent will have a quality that is suitable for discharge into the Sacramento San Joaquin Delta (Delta) and meets State standards for water quality discharge.

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

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

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

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

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

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

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

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

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

This project involves a proposal to annex the Tracy Desalination and Green Energy Project site to the City. Corporate City limit changes, including property annexation, are completed at Local Agency Formation Commission (LAFCo) based on a City application (petition to LAFCo). Upon annexation, the Tracy Desalination and Green Energy Project site would be zoned Light Industrial (M1), and the Light Industrial (M1) zone district would be the rezoning for the application to LAFCo. Public facilities for the Tracy Desalination and Green Energy Project site have been identified and documented in the Mitigated Negative Declaration and Initial Study.

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

There is no fiscal impact to the City's General Fund with approval of this project. The project would involve multiple agreements between the City of Tracy and TRE, which would be brought to Council for consideration. These agreements would likely include land lease, power purchase and wastewater treatment. TRE proposes to construct the

facility at no cost to the City and charge approximately \$1.5 million per year to operate the wastewater treatment portion of the project. An increased operating cost to the rate payers will result in the need to adjust wastewater rates upwards on the order of 10%.

Staff and Planning Commission recommended that the Council:

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

Mr. Claar indicated that late this afternoon the City had received an unsigned e-mail regarding the Negative Declaration. Mayor Ives asked why the City would consider an e-mail received five months after the close of the public comment period. Mr. Sodergren explained that all evidence up until adoption of the project must be considered.

Ben Richie, DeNovo Group, stated the e-mail received today was not supported by facts, consisted of arguments, and unsubstantiated opinion and narrative. The analysis conducted was complete.

Council Member Elliott asked if there was a solar component to the project. Mr. Bayley stated the environmental impacts were considered as a whole which included a solar component on 100 acres of the alfalfa field. Mr. Bayley indicated the property can be used for another purpose and may require an additional analysis.

Mayor Pro Tem Maciel asked if burning the bio fuel would have emissions. Mr. Bayley explained that the project will not meet the threshold for requiring air borne mitigations.

Mayor Pro Tem Maciel asked if the City would be faced with County agricultural mitigation fees. Mr. Bayley stated yes and explained the process.

Mayor Ives asked at what point Council would get to see a proforma. Mr. Bayley stated it was not scheduled at this point. Mayor Ives stated that at some point the City would need to consider this new technology and if it is the right technology spend money on it. Mr. Bayley stated staff would present it to Council prior to bringing an agreement to Council for consideration.

Mayor Ives opened the public hearing.

Jim Howell stated the project looked promising but he was concerned with the 600 gallon tank of hydrous ammonia which is extremely hazardous and deadly. Mr. Howell suggested that when the item comes back to Council wind direction and the safety track record of the person running the facility be considered.

As no one else wished to address Council on the item, the public hearing was closed.

Council Member Rickman asked if solar panels were not necessarily going to be part of the project why so much land was needed. Mr. Bayley responded that staff did not know what the salinity standards would be in the future.

Council Member Rickman stated he was concerned that the City could use the property toward a better economic purpose.

Council Member Rickman asked if the action was just for annexation. Mr. Dean stated it included zoning and annexing and does not commit the project to solar panels.

Mayor Pro Tem Maciel suggested putting a dollar figure on what it is worth as a solution to the salinity problem.

Council Member Rickman asked if solar thermal could be used. Mr. Bayley stated other technologies can be used but they are not as "green."

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-076 approving a Mitigated Negative Declaration for the Tracy Desalination and Green Energy Project – Application Numbers GPA11-0004 and A/P11-0001. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-077 approving a General Plan Amendment to designate the 241-acre Tracy Desalination and Green Energy Project site as industrial and authorizing the petition to LAFCO for annexation of the project site into the City of Tracy – Application Numbers GPA11-0004 and A/P11-0001. Voice vote found all in favor; passed and so ordered.

The Clerk read the title of Proposed Ordinance 1167.

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

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to introduce Ordinance 1167. Voice vote found all in favor; passed and so ordered.

8. PUBLIC HEARING TO AUTHORIZE, BY IMPLEMENTING RESOLUTION, THE ADOPTION OF THE UPDATED DEVELOPMENT IMPACT FEES FOR THE NORTHEAST INDUSTRIAL (NEI) PHASE I AND II DEVELOPMENT AREAS RESULTING IN A NET DECREASE IN ROADWAY AND STORM DRAINAGE FEES
Kuldeep Sharma, City Engineer, presented the staff report. Mr. Sharma stated that the City generally updates development impact fees on an annual basis in accordance with actual costs incurred or the latest cost estimates for public infrastructure. The fees are based upon the total actual costs incurred on completed projects and updated cost estimates for the incomplete projects distributed among the undeveloped properties.

However, due to the slow-down of the economy, overall fee programs for NEI Phase I and II have not been updated since 2008. While construction costs for more specialized infrastructure in water, wastewater, and public building areas have not seen much reduction in construction costs, roadway and storm drainage construction costs have seen significant reductions.

In December of 2011, as part of an effort to be more competitive in attracting new development Council approved a reduction in the roadway fees throughout the City. This resulted in a reduction of 12% to NEI Phase I and II roadway fees. At this time, further reductions in roadways are recommended based on a more comprehensive review of the specific projects funded by NEI. This results in a further reduction in the roadways development impact fees. Cost of the interchange improvements at MacArthur and I-205, which is a part of the NEI Phase II program, is being reduced by \$3.75M since some improvements have been completed by other agencies.

The storm drainage fees were also reviewed and are being reduced at this time. In 2008, at the request of the development community, an escalation factor was added to the storm drainage facilities to reflect the fact that the improvements were not expected to be completed for approximately five years. However, due to the economic downturn, construction costs have not risen as was expected. Therefore, by eliminating the escalation factor the storm drainage fees are reduced.

There is no fiscal impact to the General Fund as a result of updating the NEI Phase I and II fees, since the total cost of required projects has decreased. The City will continue to review developments and will update the fees as necessary to ensure new developments pay the cost of the required roadway infrastructure.

Staff recommended that the Council authorize the adoption of the updated Roadway and Storm drainage fees for the North East Industrial Area Phases I and II resulting in a net decrease in roadway fees and authorize staff to update the Finance and Implementation Plans to reflect these changes.

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

Council Member Rickman stated this was a good start to making the City competitive.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-078 approving the updated Development Impact Fees for the Northeast Industrial Phase I and II development areas resulting in a net decrease in roadway and storm drainage fees. Voice vote found all in favor; passed and so ordered.

11. RECEIVE UPDATE AND PROVIDE INPUT ON AIRPORT IMPROVEMENT OPTIONS – Item rescheduled to May 15, 2012
13. SECOND READING AND ADOPTION OF ORDINANCE 1166 AN ORDINANCE OF THE CITY OF TRACY, CALIFORNIA, ADOPTION OF REVISED GROUNDWATER MANAGEMENT PLAN PURSUANT TO WATER CODE SECTION 10750 AND REPEALING EXISTING GROUNDWATER MANAGEMENT PLAN ORDINANCE 511

The Clerk read the title of proposed Ordinance 1166.

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

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Ordinance 1166. Roll call vote found all in favor; passed and so ordered.

14. ITEMS FROM THE AUDIENCE – None.
15. STAFF ITEMS
 - A. Receive a Presentation Regarding the Governance Model for the Provision of Fire Services to the City of Tracy and Surrounding Area, Receive an Overview of the Proposed Process, Discuss and Provide Feedback to Staff – Item rescheduled to May 15, 2012.
16. COUNCIL ITEMS
 - A. Consider an Item for Discussion on a Future City Council Agenda Related to Naming the Plaza at City Hall After a Former Mayor of Tracy - It was Council consensus to consider the item at a future Council meeting.
17. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adjourn. Voice vote found all in favor; passed and so ordered. Time: 10:53 p.m.

The above agenda was posted at the Tracy City Hall on April 26, 2012. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

May 15, 2012, 5:45 p.m.

City Council Chambers, 333 Civic Center Plaza

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

1. Mayor Ives called the meeting to order at 6:23 p.m.
2. Roll call found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives present.
3. Items from the Audience – None.
4. CONDUCT A WORKSHOP TO REVIEW THE PROPOSED FY 12-13 CITY BUDGET
Zane Johnston, Finance and Administrative Services Director, presented the staff report. Mr. Johnston provided an overview of the operating, capital and debt service budget as proposed by the City Manager. Mr. Johnston presented detailed information on the more significant budget programs, projects and funding sources and summarized the FY 12-13 proposed budget as follows for all funds:

Operating Budget	\$112,836,710
Capital Budget	\$ 21,886,650
Debt Service	\$ 23,752,110
Total Budget	\$158,475,470

Mr. Johnston indicated that once the Council has reviewed the proposed budget, any changes would be noted and a final budget presented for adoption at the June 5, 2012 City Council meeting.

Mayor Pro Tem Maciel referred to property tax and asked if any relief would be realized with the development of Gateway, Cordes Ranch, Ellis or other properties. Mr. Johnston stated the reason the deficits shown were not larger was because of the lag between the time a property was built and when it realizes its full value. Mr. Johnston added it was due to the tax distribution formula. The City would receive 5% of the local share which is \$.34 out of every \$1.00 property tax paid from Gateway. Mr. Johnston added that stabilization in the residential economy needed to happen.

Council Member Elliott asked what period of time the projected deficit of \$4 million was for. Mr. Johnston stated that four years from now the 8 point plan would be in operation (assuming no further losses in property taxes) and the loss of Measure E (\$6.5 million) would replace the \$8 million.

Council Member Elliott asked if the budget principles that call for a balanced budget by 2014-2015 would happen. Mr. Johnston stated the City would have a balanced budget by 2015-2016 for one year until Measure E was lost. Mr. Johnston stated it would not be because the City didn't come up with a plan, but because of the loss of property taxes.

Mayor Ives stated Council and staff needed to continue to look at avenues to balance the budget.

Council Member Rickman stated property tax alone would not get the City out of the deficit. Mr. Johnston stated if property tax was not an issue, the City would have a completely different picture.

Council Member Rickman asked what the City was doing to increase sales tax. Mr. Churchill stated there were some further expenditure reductions that could be looked into. Mr. Churchill stated the majority of the \$4 million target is in economic development and revenue strategy, including job creation and non-traditional retail which has some potential to generate sales tax.

Council Member Rickman stated he believed that Council needed to look aggressively at the I-205 area with the idea of how to get people off the freeway and into Tracy.

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 Rickman indicated he had talked with one of the board of directors of Cisco who indicated they look at where their employees work and asked if the City had any data on large companies that have a majority of their workers living in Tracy and suggested targeting them to come to Tracy. Mr. Churchill indicated it had been several years since the City has done any surveying and data collection. Mr. Churchill added the City does know that a significant number of Lawrence Livermore National Laboratory employees live in Tracy.

5. ADJOURNMENT - Mayor Ives adjourned the meeting at 6:52 p.m.

The above agenda was posted at the Tracy City Hall on May 10, 2012. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.B

REQUEST

AWARD A CONSTRUCTION CONTRACT TO KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA, FOR CONSTRUCTION OF THE EAST PARADISE ROAD EXTENSION PROJECT - CIP 73128 & 75046, AUTHORIZE AN APPROPRIATION OF \$170,305.25 FROM THE NORTH EAST INDUSTRIAL (NEI) PHASE II FOR CIP 73128, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONSTRUCTION CONTRACT

EXECUTIVE SUMMARY

City Council is requested to award a construction contract to extend East Paradise Road to the intersection of Grant Line Road. The completed project will connect East Paradise Road from Chrisman Road to Grant Line Road and will allow improve circulation of traffic in that area.

DISCUSSION

This project extends the northern terminus point of East Paradise Road to the intersection of Grant Line Road. A 4-way red flashing stop light will control this intersection. The length of the proposed extension is approximately 500 feet. The road extension includes extending the underground utilities (i.e. water, storm drain, sewer, street lighting) and provides utility stub-outs on parcel APN 250-030-02 for future expansion and development. The water line off this segment of street is funded from CIP 75046. The project also includes curb, gutter, sidewalk, and bike lanes

The project plans and specifications were prepared by Siegfried Engineering of Stockton, California.

The project was advertised for competitive bids on July 26, 2012 and August 2, 2012. Four bids were received and publicly opened at 2:00 pm on August 22, 2012 with the following results:

<u>Contractor</u>	<u>Bid Amount</u>
Knife River Construction	\$610,276.25
Grade Tech Incorporated	\$611,566.00
MCI Engineering	\$648,867.00
Martin General Engineering	\$791,499.05

Knife River Construction is the lowest monetary bidder. Bid analysis indicates Knife River Construction's bid is responsive and the bidder is responsible.

The total cost of this project, if awarded to the lowest bidder, Knife River, is as follows:

Construction Bid	\$610,276.25
Contingency (13%)	\$ 79,336.00
Construction management, Inspection (5%)	\$ 30,514.00
Planning and Design	\$ 72,031.00

Design support during construction	\$ 6,000.00
City Wide Project Management	<u>\$ 75,848.00</u>
Total Construction Cost	\$874,005.25

If the project is awarded to Knife River Construction, construction will commence in November 2012 with completion expected by April 2013.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no impact to the General Fund. CIP 73128 has total allocated funding of \$653,700 from the Northeast Industrial (NEI) Phase II. Funding in the amount of \$50,000 is available for CIP 75046 for the water line.

Additional funding in the amount of \$170,305.25 needs to be appropriated from F-357 (North East Industrial, Phase II) to complete construction of this project.

In summary, status of funding is as follows:

Allocated funding for CIP 73128 -	\$653,700.00
Available funding for CIP 75046 (water line) -	\$ 50,000.00
Allocate additional funding from NEI, Phase 2 -	<u>\$170,305.25</u>
Total Funding	\$874,005.25

RECOMMENDATION

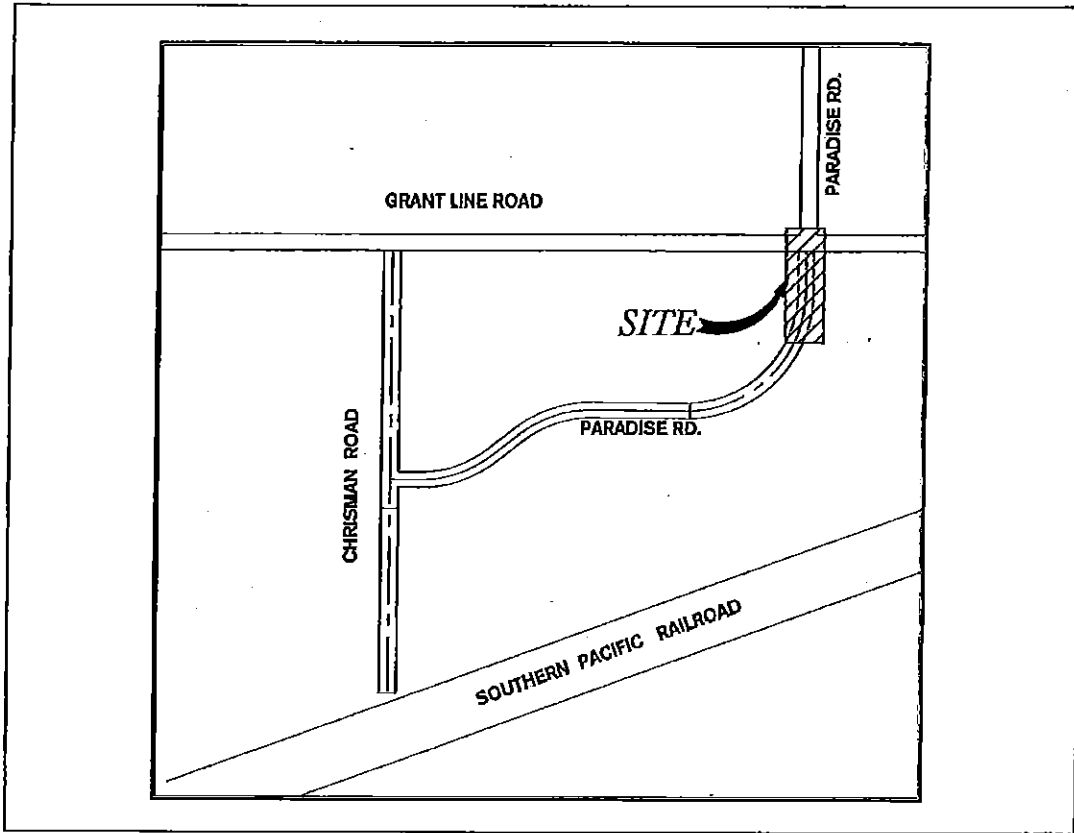
That City Council, by resolution, award a construction contract for the East Paradise Extension Project - CIPs 73128 & 75046, to Knife River Construction of Stockton, California, in the amount of \$610,275.25, authorize the allocation of \$170,305.25 from F-357 (North East Industrial, Phase II) for this project, and authorize the Mayor to execute the construction contract.

Prepared by: Dan Pangilinan, Assistant Civil Engineer
Zabih Zaca, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

Attachment: Location Map



LOCATION MAP
City of Tracy

RESOLUTION _____

AWARDING A CONSTRUCTION CONTRACT TO KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA, FOR CONSTRUCTION OF THE EAST PARADISE ROAD EXTENSION PROJECT - CIP 73128 & 75046, AUTHORIZING AN APPROPRIATION OF \$170,305.25 FROM THE NORTH EAST INDUSTRIAL (NEI) PHASE II FOR CIP 73128, AND AUTHORIZING THE MAYOR TO EXECUTE THE CONSTRUCTION CONTRACT

WHEREAS, This project extends the northern terminus point of East Paradise Road to the intersection of Grant Line Road, and

WHEREAS, The project was advertised for competitive bids on July 26, and August 2, 2012, and four bids were received and publicly opened at 2:00 pm on August 22, 2012, and

WHEREAS, Knife River Construction was the lowest monetary bidder. Bid analysis indicates Knife River Construction's bid is responsive and the bidder is responsible, and

WHEREAS, The total cost of this project, if awarded to the lowest bidder, Knife River, is as follows:

Construction Bid	\$610,276.25
Contingency (13%)	\$ 79,336.00
Construction management, Inspection (5%)	\$ 30,514.00
Planning and Design	\$ 72,031.00
Design support during construction	\$ 6,000.00
	<u>\$ 75,848.00</u>
City Wide Project Management	
Total Construction Cost	\$874,005.25

WHEREAS, There is no impact to the General Fund. CIP 73128 has total allocated funding of \$653,700 from the Northeast Industrial (NEI) Phase II. Funding in the amount of \$50,000 is available for CIP 75046 for the water line. Additional funding in the amount of \$170,305.25 needs to be appropriated from F-357 (North East Industrial, Phase II) to complete construction of this project;

NOW, THEREFORE BE IT RESOLVED, That the City Council awards a construction contract for the East Paradise Extension Project - CIPs 73128 & 75046, to Knife River Construction of Stockton, California, in the amount of \$610,275.25, authorizes the allocation of \$170,305.25 from F-357 (North East Industrial, Phase II) for this project, and authorizes the Mayor to execute the construction contract.

Resolution _____
Page 2

The foregoing Resolution _____ was adopted by the City Council on the 18th day of September, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.C

REQUEST

ACCEPTANCE OF THE PLAYGROUND RENOVATION PROJECT - CIPs 78127, 78122, 78118, 78106 & 78063, COMPLETED BY MCNABB CONSTRUCTION, INC., OF LAFAYETTE, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

EXECUTIVE SUMMARY

The contractor has completed the Playground Renovation Project (Phase II) at various City Parks (CIPs 78127, 78122, 78118, 78106 & 78063), 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 September 6, 2011, City Council awarded a construction contract for the Playground Renovation Project (Phase II) at various City Parks (CIPs 78127, 78122, 78118, 78106 & 78063) to McNabb Construction, Inc., of Lafayette, California, in the amount of \$430,115.

The scope of work for the base bid of this project included the renovation of five play areas at four parks: Dr. Powers Park, Dorothy Zanussi Park (north play area, 5 to 12 year age group), and (south play area, up to five year age group), Mt. Diablo Park, and Mt. Oso Park. The scope of the project also included additive bid items for the renovation of play areas at Kit Fox Park and George Kelly Park.

Since Mt. Diablo and Mt. Oso Parks are located within Zone 9 of the landscape district, the responsibility of renovation lied with the Zone 9 reserves and fees. The renovation work was deleted from these parks from this contract due to a lack of funding at that time. This change in scope was completed upon coordination with the Public Works and Parks & Recreation Services Departments. Another change order in the amount of \$4,505.25 was executed to remove and dispose of playground equipment, demolition and removal of existing concrete blocks at Dorothy Zanussi Park.

Status of budget and project costs is as follows:

A. Construction Contract Amount	\$430,115.00
B. Change orders	(\$ 76,494.75)
C. Design, construction management, inspection, testing & miscellaneous expenses (Estimated)	\$ 43,000.00
D. Project Management Charges (Estimated)	<u>\$ 64,500.00</u>
Total Project Costs	\$461,120.25
Budgeted Amount	\$585,000.00

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 78127, 78122, 78118, 78106 & 78063 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 (F301) and LMD (F271) Fund.

RECOMMENDATION

That City Council by resolution accept the Playground Renovation Project (Phase II) at various City Parks (CIPs 78127, 78122, 78118, 78106 & 78063), completed by McNabb Construction, Inc., of Lafayette, 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 PLAYGROUND RENOVATION PROJECT - CIPs 78127, 78122, 78118, 78106 & 78063, COMPLETED BY MCNABB CONSTRUCTION, INC., OF LAFAYETTE, CALIFORNIA, AND AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

WHEREAS, On September 6, 2011, City Council awarded a construction contract for the Playground Renovation Project (Phase II) at various City Parks (CIPs 78127, 78122, 78118, 78106 & 78063) to McNabb Construction, Inc., and

WHEREAS, The scope of work for the base bid of this project included the renovation of five play areas at four parks: Dr. Powers Park, Dorothy Zanussi Park (north play area, 5 to 12 year age group), and (south play area, up to five year age group), Mt. Diablo Park, and Mt. Oso Park, and

WHEREAS, The scope of the project also included additive bid items for the renovation of play areas at Kit Fox Park and George Kelly Park, and

WHEREAS, Since Mt. Diablo and Mt. Oso Parks are located within Zone 9 of the landscape district, the responsibility of renovation lied with the Zone 9 reserves and fees. The renovation work was deleted from these parks from this contract due to a lack of funding at that time, and

WHEREAS, A change order in the amount of \$4,505.25 was executed to remove and dispose of playground equipment, demolition and removal of existing concrete blocks at Dorothy Zanussi Park, and

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

Construction Contract Amount	\$430,115.00
Change orders	(\$ 76,494.75)
Design, construction management, inspection, testing & miscellaneous expenses (Estimated)	\$ 43,000.00
Project Management Charges (Estimated)	<u>\$ 64,500.00</u>
Total Project Costs	\$461,120.25

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

WHEREAS, CIPs 78127, 78122, 78118, 78106 & 78063 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 (F301) and LMD (F271) Fund;

NOW, THEREFORE BE IT RESOLVED, That the City Council accepts the Playground Renovation Project (Phase II) at various City Parks (CIPs 78127, 78122, 78118, 78106 & 78063), completed by McNabb Construction, Inc., of Lafayette, 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 18th day of September, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 3

REQUEST

PUBLIC HEARING AND ALLOCATION TO REVIEW THE POLICE DEPARTMENT'S RECOMMENDATION TO APPROPRIATE \$100,000 FROM CITIZENS OPTIONS FOR PUBLIC SAFETY "COPS" GRANT PROGRAM TO THE POLICE DEPARTMENT BUDGET TO PURCHASE A BALLISTIC ENGINEERED ARMORED RESPONSE ALL PURPOSE VEHICLE

EXECUTIVE SUMMARY

The Police Department annually receives grant funding of \$100,000 from the Supplemental Law Enforcement Services Funds (SLESF) and Citizens' Option for Public Safety (COPS), payable in four quarterly installments of \$25,000. The funding for Fiscal Year 2012-2013 has been allocated by the State and is expected to be disbursed within the coming months. The Police Department committed the funds at the August 7, 2012 Council meeting to use towards the purchase of a ballistic engineered armored all purpose vehicle along with an appropriation of funds from the City's Equipment Replacement Fund and Asset Seizure funds to provide law enforcement personnel with a specialized mission critical rescue vehicle.

DISCUSSION

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 will utilize the funds towards the purchase of a ballistic engineered armored all purpose vehicle. The vehicle's primary purpose will be to enhance officer safety and community safety during critical events in deploying tactical officers to and from hostile situations. In addition, the all purpose vehicle will serve the general public during community outreach events such as parades, National Night Out and the Annual Bean Festival.

STRATEGIC PLAN

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

FISCAL IMPACT

The City of Tracy will receive \$100,000 from the State COPS Grant for Fiscal Year 2012-2013. There is no immediate impact to the current fiscal budget.

RECOMMENDATION

That the City Council hold the required public hearing and approve the request to appropriate and expend the COPS Grant funds for the aforementioned purchase.

Prepared by: Diane Manuel, Executive Assistant

Reviewed by: Chief Gary R. Hampton

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION _____

APPROVING THE POLICE DEPARTMENT'S RECOMMENDATION TO APPROPRIATE \$100,000 FROM THE STATE "COPS" GRANT PROGRAM TO THE POLICE DEPARTMENT BUDGET TO PURCHASE A BALLISTIC ENGINEERED ARMORED RESPONSE ALL PURPOSE VEHICLE

WHEREAS, The Police Department annually receives grant funding of \$100,000 from the Supplemental Law Enforcement Services Funds (SLESF) and Citizen's Option for Public Safety (COPS) grant, and

WHEREAS, The program known as the "Citizens Option for Public Safety"(COPS), allocates funds to local agencies on a population basis to be used for front line law enforcement services, and

WHEREAS, The Police Department committed the funds at the August 7, 2012 Council meeting for the procurement of a ballistic engineered armored response all purpose vehicle, and

WHEREAS, The City Council has conducted a public hearing relative to this matter.

NOW THEREFORE BE IT RESOLVED, That the City Council hereby approves the appropriation and expenditure of anticipated State COPS Grant program to be used towards the purchase of a ballistic engineered armored response all purpose vehicle.

* * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 18th day of September, 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

APPROVAL OF APPROPRIATION OF \$1,105,250 FROM THE RESIDENTIAL AREAS SPECIFIC PLAN (RSP) FUND FOR COSTS ASSOCIATED WITH REMOVAL OF USE RESTRICTIONS AND FEDERAL REVERSIONARY RIGHTS ON THE 150-ACRE SCHULTE ROAD PARCEL AND AUTHORIZE THE MAYOR TO EXECUTE ANY NECESSARY DOCUMENTS TO COMPLETE THE TRANSFER; DIRECT STAFF TO PROCEED WITH SALE OF CHRISMAN ROAD PROPERTY AND USE SALE PROCEEDS TO REPLENISH THE RESIDENTIAL AREAS SPECIFIC PLAN (RSP) FUND; AND RECEIVE UPDATE ON TRACY BALL PARK PROPERTY OUTREACH

EXECUTIVE SUMMARY

This staff report presents three disposition of real estate options requests that Council 1) appropriate \$1,105,250 from the Residential Specific Plan (RSP) Funds to purchase 150 acres at the Schulte Road property; 2) direct staff to proceed with the sale of the Chrisman Road property and use sale proceeds to replenish the (RSP) Fund, and 3) receive update on the Tracy Ball Park property outreach.

DISCUSSION

The disposition of real estate is an issue public or private organizations contemplate periodically. Local governments own property for various public purposes ranging from infrastructure to redevelopment. On the other hand, local governments may also want to keep such property holdings to a minimum as part of a reasonable financial and cost containment strategy.

The City of Tracy is the owner of real properties which are used, or planned, for various municipal purposes. As City policy changes occur over the years, the uses of City-owned properties may also change. On occasion, certain parcels may be found to be in excess of the City needs, no longer required for their originally intended purpose, considered an unused or marginally used asset, or determined that the cash from the value of the property is better utilized to meet another emerging public need. Additionally, some properties may also have negative fiscal impacts, which in turn, are also reasons to consider disposal. Such impacts include:

1. Underutilization
2. Non-taxable status
3. Continued maintenance
4. Continued liability

Attachment A shows the three City-owned properties presented to Council in this staff report for potential disposition and/or alternative public use. The three properties are located on 1) Schulte Road, 2) Chrisman Road, and 3) Tracy Boulevard.

1) Schulte Road Property

The Schulte Road property is approximately 200-acres in total and is located on the south side of Schulte Road, west of Lammers Road (Attachment B).

The United States Congress authorized the General Services Administration (“GSA”) to convey 200 acres to the City via special legislation originally enacted in 1998¹. The special legislation conveyed 50-acres to the City at fair market value for “economic development” purposes and the remaining 150-acres at no cost to the City, but specifically for recreational and/or educational “public benefit” purposes.

The City proceeded to purchase the 50-acres with no restrictions and has land banked the 50 acres for the past 14 years. The City explored several projects over the years, which focused on recreational and educational activities on the remaining 150 acres, but no viable project emerged from those efforts.

On October 7, 2008, through Council direction, staff began to work with Congressional Delegates to amend the existing property conveyance legislation to allow for renewable and/or alternative energy uses and began exploring a City project that involved renewable and/or alternative energy uses. Consequently, over the next two years, the City began negotiations to sell or lease the site to GWF for a private project that involved renewable and/or alternative energy uses.

Ultimately, on November 16, 2010, a Purchase and Lease Option Agreement with GWF to develop the 200-acre site as a solar farm was executed and included the option for GWF to acquire the property. Over the course of the next couple of years, GWF proceeded with renewable and alternative energy development plans on the site, however, on June 27, 2012, GWF informed the City that after an exhaustive and expensive effort to secure a mutually acceptable Power Purchase Agreement with a utility provider, they were unable to obtain the agreement. Although a solar project was not a viable option for GWF, they stated that their research showed that the property still had good potential for a smaller renewable energy project² and GWF agreed to transfer their solar resource data and analysis, including engineering studies and environmental reports to the City for use by the City or a new development partner in order to explore a similar, but smaller, project on the site.

On May 15, 2012, Congress enacted Public Law 112-119 authorizing GSA to offer the City of Tracy the option to acquire the 150-acres at appraised fair market value, thereby releasing any reversionary interest retained by the United States on the property. The June 27, 2012 letter from GSA to the City requested that the City consider acquiring the property for \$1,115,250 (*these costs include the appraised value of \$1,100,000 and the appraisal expense of \$5,250*). GSA also informed the City that delaying acquisition of the property could result in an increase to the appraised value amount as well as additional

¹ Public Law 105-277 §140 (October 21, 1998), as amended by Public Law 106-31 §3034 (May 21, 1999) and Public Law 108-199 §4119 (January 23, 2004)

² The GWF proposed project was a 50 Mega-Watt development and included the acquisition of property in addition to the Schulte property.

administrative fees. If the Council determined it did not want to acquire the 150 acre property or develop it for recreation or educational purposes, the property would revert back to GSA.

Because the City has committed to the Federal government to explore renewable energy projects on the site and because doing so is congruent with the City's sustainability and economic development goals, staff recommends continued pursuit of viable renewable energy project options and moving forward with the acquisition of the 150 acre site at Schulte Road.

If Council determines to move forward with the acquisition, staff will issue a Request for Proposal for a solar consultant to assist the City in assessing the feasibility and best options for development of renewable energy on the site.

2) Chrisman Road Property

The Chrisman Road property is approximately 108-acres³ located on the north side of 11th Street, east of Chrisman Road (See Attachment C). The Chrisman site is currently leased for farming through December 31, 2013. The City collects an approximate \$23,000 annually from this farming lease agreement.

The City purchased the Chrisman site property in 1988 for \$2,000,000 for a large regional park using Certificate of Participation Funds. Over the years the City has attempted to market this property for various uses including potential educational purposes. A brief description of the history of the previously proposed educational uses related to this property is attached (See Attachment D). The City has owned the Chrisman site for 24 years, and has exhausted all potential public uses.

The City reviewed the various use options for this property, including (1) holding the property for a future public purpose, (2) holding the property for a better financial return in the future, (3) continue to lease the property and generate \$23,000 annually, and (4) whether to sell the property.

Because over the past 24 years the City has explored a number of potential public and public/private partnerships for the site with no viable development project emerging, staff recommends that Council consider sale of the Chrisman site in order to create cash infusion for a different public purpose and create a taxable property opportunity while eliminating maintenance responsibilities and transferring liability. Proceeding with the sale could result in a viable option with the Tracy Learning Center partnering with a master developer to purchase and develop the property, as originally envisioned and discussed with Concord Eastridge.

If Council directs staff to proceed with the sale of the Chrisman property, staff also recommends that the sale proceeds be used to replenish the RSP Funds used to acquire the 150 acres at the Schulte property for the reasons outlined below.

³ The City bought 113 acres at Chrisman but has only used approximately 5 acres for a water storage project over the past 24 years; the remaining acres have been "land banked".

Residential Areas Specific Plan (RSP) Fund

Over the past several years, the City has periodically used the RSP Fund as one time money for economic development purposes. Most recently the City used RSP funds for the retail incentive program at the West Valley Mall/Macy's, tenant improvements for the Westside Market and funding to launch the business incubator program. The Council also allocated \$1.2 million for the construction of an additional road in the North East Industrial (NEI) Area for potential economic development prospects. Currently, The RSP fund balance is \$1.8 million dollars. If Council determines the Schulte Road property acquisition is appropriate, the RSP fund balance will then be \$700,000.

In order to continue to provide Council with flexibility for future economic development projects or incentives and retain one time RSP funds for economic development purposes, staff recommends that the Chrisman property sale proceeds be used to replenish the RSP funds that would be allocated to acquire the 150 acres at Schulte Road.

3) Tracy Ball Park

Tracy Ball Park is an 11.27-acre sports field located on the east side of Tracy Boulevard just south of Grantline Road (See Attachment E). This property has been used as a ball park for decades.

In calendar year 2011 the fields were rented for a variety of sports and leagues rented thousands of play and practice hours as illustrated below.

Baseball	1,118 hours
Football	291 hours
Soccer	641 hours
Tournament	56 hours (Baseball)

Given that the City of Tracy has, over the last several years developed and/or planned strategic sports fields in key areas of the City, this is an opportunity to re-evaluate the use of and/or potential relocation of the ball fields on the Tracy Ball Park. With the addition of the Youth Sports Fields on the Holly Sugar Property, the City now has a central sports complex on the West side of the City with the Tracy Sports Complex and Plasencia Fields located on Eleventh Street, and a central new Sports Field complex planned at the Holly Sugar site north of the City off Corral Hollow. The opportunity to relocate the Tracy Ball park fields to the Holly Sugar site and explore other uses for that property may be timely.

Over the years neighborhoods have emerged and grown around the Tracy Ball park, as well as increased demand for sport fields, which has resulted in a number of complaints from local neighbors when the fields are in use in the evenings and on weekends. The complaints range from lack of available parking for residents and users, excessive noise levels in the evening, and bright lights at night affecting the residential area. In addition, due to lack of funding and other City Capital Improvement priorities, needed field renovations at Tracy Ballpark, although a priority, have not been completed over the years due to lack of available funding.

Staff has begun a community discussion with the sports leagues on the possibility of relocating the ball fields from Tracy Ball Park to the Holly Sugar property. Centralizing the sports fields into one complex can maximize practice and tournament play. The sale proceeds from selling the Tracy Ballpark property could fund replacement fields at Holly Sugar.

The Tracy Ball Park site could be evaluated for a new use that would add to the economic development and neighborhood vitality of the surrounding residential and commercial area, while also addressing the neighborhood concerns related to noise level, traffic and parking issues.

Staff is researching the conditions under which the parcel was acquired which will reveal the potential options for redevelopment of that site. These findings can be brought back to Council in October for Council discussion. Preliminary community conversations with both the sports leagues and residents have also been completed and results of those conversations will be presented to Council during the staff report.

STRATEGIC PLAN

This agenda item supports the City Council approved Organizational Efficiency Strategy:

Goal 1: Advance City Council's Fiscal Policies

1. To change the City's organizational and fiscal structure, and
2. To take advantage of funding and revenue generation opportunities

FISCAL IMPACT

An amount of \$1,105,250 from the RSP fund for the acquisition of the Schulte Road property will result in an RSP fund balance of \$700,000. It is anticipated that these funds can be replenished to the RSP fund once the sale of the Chrisman Property is completed. It is currently estimated that the sale of the Chrisman property can be accomplished within a year.

RECOMMENDATION

Staff recommends that:

- 1) City Council by resolution approve appropriation of \$1,105,250 from the (RSP) Fund to cover the costs associated with acquiring the property thereby removing restrictions and Federal reversionary rights on the 150- acre Schulte Road parcel and authorize the Mayor to execute any necessary documents to complete the transfer; and
- 2) City Council by resolution direct staff to proceed with sale of the Chrisman property and use sales proceeds to replenish the (RSP) Fund; and
- 3) Receive update on Tracy Ball Park property outreach.

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

Reviewed by: Kevin Tobeck, Public Works Director
Andrew Malik, Director of Development Services
Kul Sharma, City Engineer
William Dean, Assistant Director of Development Services

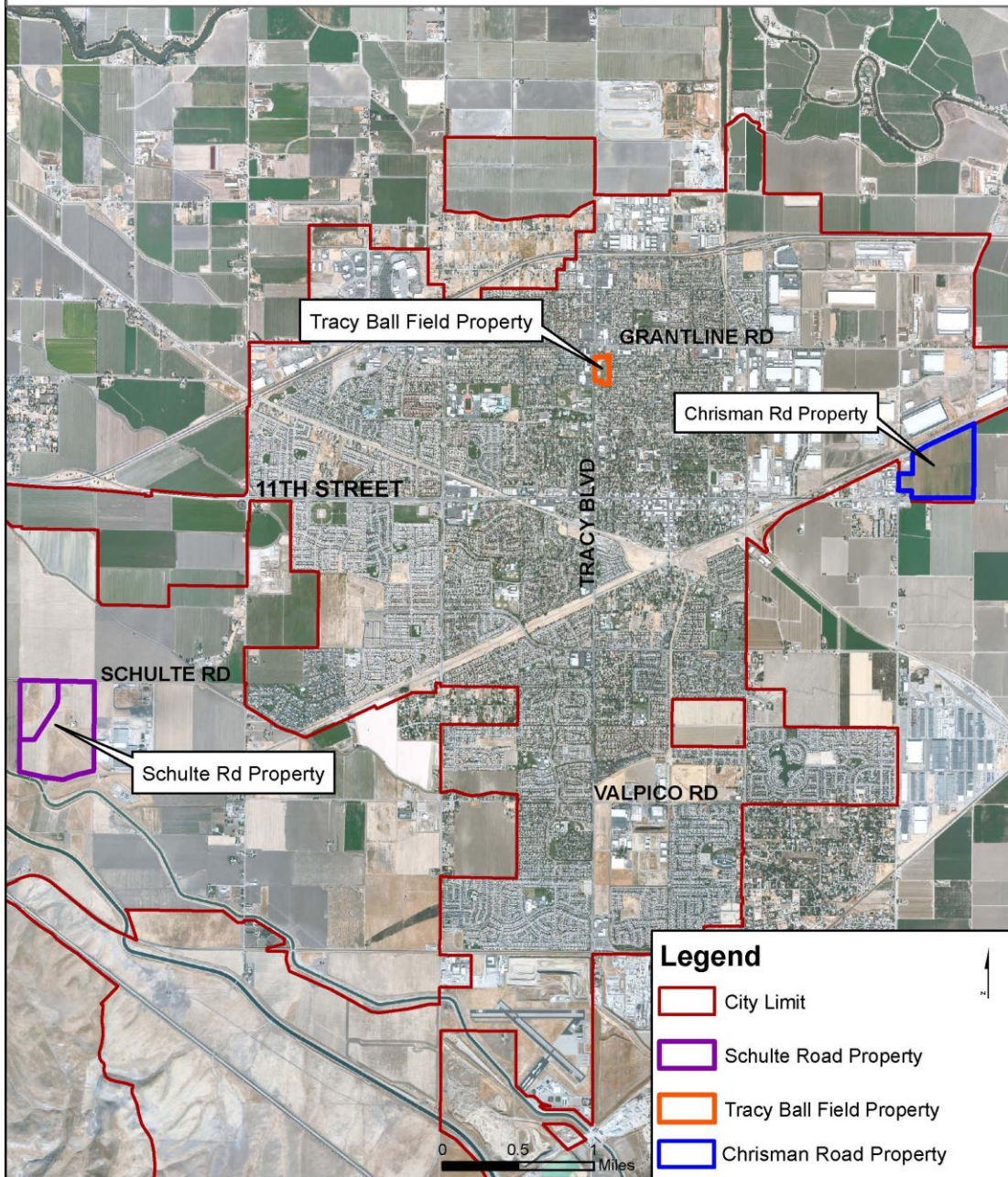
Approved by: R. Leon Churchill, Jr., City Manager

Attachments:

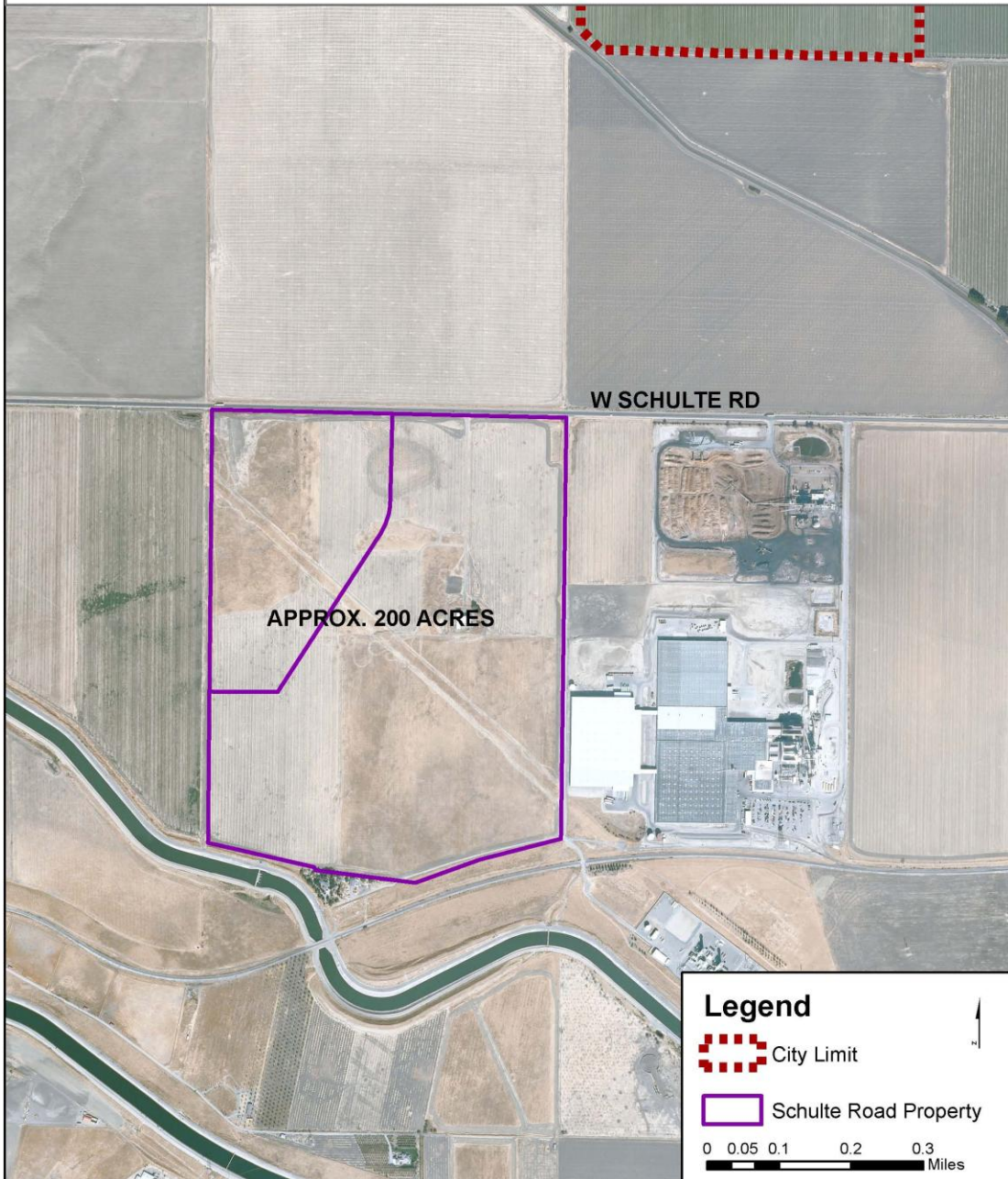
Attachment A: Property Map of Three Property Locations
Attachment B: Property Map of Schulte Road Property
Attachment C: Property Map of Chrisman Road Property
Attachment D: History of Chrisman Road Potential Uses
Attachment E: Property Map of Tracy Ball Park

City Properties

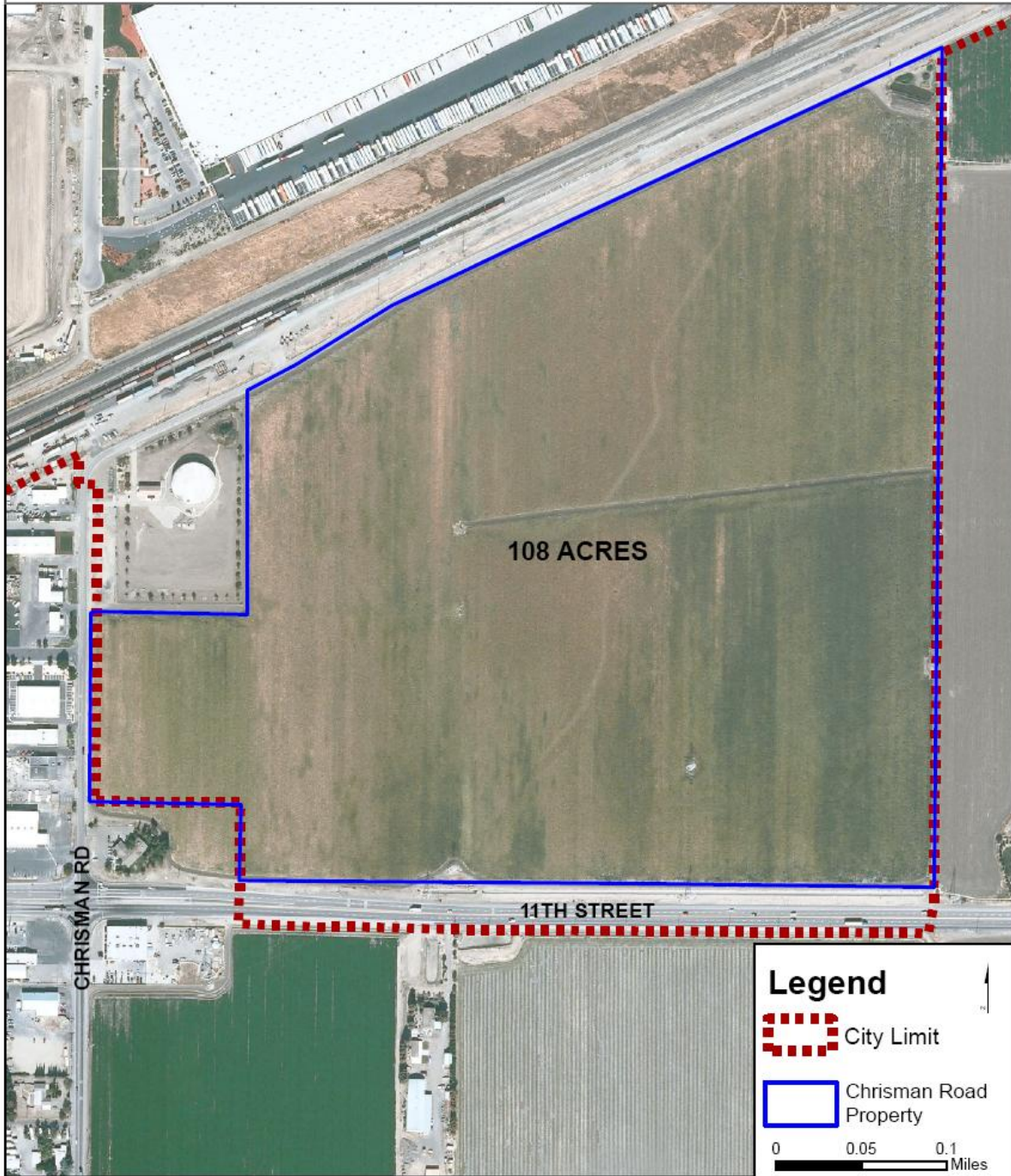
Location Map - Attachment A



Schulte Road Property Location Map - Attachment B



Chrisman Road Property Location Map - Attachment C



Attachment D: Historical Account of the Previously Proposed Educational Uses on the Chrisman Site.

On September 20, 2005, Tracy City Council authorized staff to formally negotiate with San Joaquin Delta College to locate a satellite post-secondary educational facility on the Chrisman Road and Eleventh Street property owned by the City of Tracy. After reviewing the City's proposal, Delta's Board made the decision to continue to pursue their general educational facilities at the Mountain House location.

On January 16, 2007, Council authorized staff to move forward with the Educational Consortium project on the City owned property located on Chrisman Road. The project was envisioned as a mixed-use educational focused project comprised of numerous partners including the City, several educational institutions, commercial developers and a master site developer. A Request for Qualifications was issued to the development community in July 2007, in an effort to locate a Master Developer for the project.

In early 2008, following a formal request for proposal process, Concord Eastridge, Inc., was selected as the firm to partner with the City to act as the Master Developer of the Educational Consortium. On September 15, 2009, City Council approved an agreement between the City of Tracy and Concord Eastridge in order to proceed with the entitlement efforts to develop the first phase of the Educational Consortium project. At the time, two educational uses were anticipated to become the first-phase anchor tenants of the project – The Tracy Learning Center, a local charter school, and California State University Stanislaus.

The recent economic decline (Great Recession) has had a significant impact on higher educational institutions, particularly state funded colleges. As a result, California State University Stanislaus has had to reconsider areas for expansion. While they continue to offer the Executive MBA program in Tracy, they do not have the ability to commit to long-term classroom space or programming. Although CSU Stanislaus was supportive of the Educational Consortium project, they were not willing to commit to the City for development of the project.

It was envisioned that Concord Eastridge, as the Master Developer, would complete the environmental review and front the necessary infrastructure to develop the 108-acre site. This would have allowed the Tracy Learning Center to move forward by paying for only their fair share of the infrastructure costs, while the Master Developer worked to develop the remaining acreage. The agreement between the City of Tracy and Concord Eastridge expired in September, 2010. Due to the prolonged negotiations between TUSD and the Learning Center, and a struggling economy, Concord Eastridge and the City of Tracy did not seek to extend the ENRA. There is no master developer agreement for the Chrisman Road property at this time.

For the past 24 months, the Tracy Learning Center had planned to move forward with the development of a K-12 facility on 20-acres of the 108-acre City owned property. Tracy Learning Center and TUSD have been in protracted negotiations regarding the use of bond funds and other district concerns as it relates to moving forward with the Chrisman location. The negotiations between TUSD and the Tracy Learning Center continue, and no resolution appears imminent.

Tracy Ball Field Location Map - Attachment E



RESOLUTION _____

APPROVING APPROPRIATION OF \$1,105,250 FROM RESIDENTIAL AREA SPECIFIC PLAN FUNDS TO COVER THE COSTS ASSOCIATED WITH REMOVING USE RESTRICTIONS AND FEDERAL REVERSIONARY RIGHTS ON THE 150-ACRE SCHULTE ROAD PARCEL AND AUTHORIZE THE MAYOR TO EXECUTE ANY NECESSARY DOCUMENTS TO COMPLETE THE TRANSFER

WHEREAS, The City of Tracy is the owner of real properties which are used, or planned, for various municipal purposes; and

WHEREAS, 150-acres of the Schulte Property was authorized by the United States Congress, by special legislation enacted in 1998, to be conveyed at no cost to the City for educational and/or recreational "public benefit" purposes and the City concluded in 2007 that educational and/or recreational "public benefit" purposes was no longer viable; and

WHEREAS, On October 7, 2008, Council directed staff to: 1) work with Congressional Delegates to amend the existing property conveyance legislation to allow for renewable and/or alternative energy uses, 2) explore a City project on the site that involves renewable and/or alternative energy uses and 3) begin negotiations to sell or lease the site to GWF for renewable and/or alternative energy uses; and

WHEREAS, On November 16, 2010, City Council approved a Purchase and Lease Option Agreement with GWF Solar II LLC, to develop the 200-acre site as a solar farm; and

WHEREAS, On May 15, 2012, Congress gave the GSA the direction to offer to the City of Tracy conveyance of the 150-acres releasing any reversionary interest for an amount not less than the appraised fair market value which GSA has determined that the fair market value and appraisal costs are \$1,105,250; and

WHEREAS, On June 27, 2012, the City received a letter from GWF stating that a solar project was no longer a viable option for GWF; and

WHEREAS, The City of Tracy intends to explore a potential renewable energy project for the site.

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves appropriation of \$1,105,250 from Residential Specific Plan funds to pay the costs of removal of deed restrictions of the Schulte Road Property and authorize the Mayor to execute the agreements.

* * * * *

The foregoing Resolution _____ was passed and adopted by the City Council of the City of Tracy on the 18th day of September, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ATTEST:

Mayor

City Clerk

RESOLUTION _____

APPROVING DIRECTION TO STAFF TO PROCEED WITH THE SALE OF THE CHRISMAN ROAD PROPERTY AND USE SALES PROCEEDS TO REPLENISH THE RESIDENTIAL AREAS SPECIFIC PLAN (RSP) FUND

WHEREAS, The City of Tracy is the owner of real properties which are used, or planned, for various municipal purposes; and

WHEREAS, The Chrisman Road property is approximately 108-acres and is located on the north side of 11th Street just east of Chrisman Road; and

WHEREAS, The City purchased the Chrisman property in 1988 for the amount of \$2,000,000 for a large regional park using Certificate of Participation Funds and over the years the City has attempted to market this property for various uses including potential educational purposes; and

WHEREAS, The City has exhausted all potential public uses and staff proposes that City Council direct staff to proceed with the sale of the Chrisman property; and

WHEREAS, The City has periodically used the Residential Areas Specific Plan (RSP) Fund for Economic Development purposes; and

WHEREAS, Should the City Council proceed with the Schulte Road property acquisition without depleting the RSP fund, authorize the sale of the Chrisman Property to replenish the RSP fund.

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves directing staff to proceed with the sale of the Chrisman Property and use the sales proceeds to replenish the Residential Areas Specific Plan Fund.

* * * * *

The foregoing Resolution _____ was passed and adopted by the City Council of the City of Tracy on the 18th day of September, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ATTEST:

Mayor

City Clerk