

TRACY CITY COUNCIL

SPECIAL MEETING AGENDA

Wednesday, November 7, 2012, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

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

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

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

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

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

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

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

PRESENTATIONS – Employee of the Month

- Proclamation “Homeless Youth Awareness and Runaway Prevention Month”
- D.A.R.E. Graduates

1. CONSENT CALENDAR

- A. Minutes Approval
- B. Award a Construction Contract in the Amount of \$149,964 for the MacArthur Drive and Schulte Road Sidewalk Improvement Project – CIP 73132, to Breneman Inc., of Walnut Creek, California, and Authorize the Mayor to Execute the Construction Contract
- C. Approval of the Subdivision Improvement Agreement for Yosemite Vista Unit 2 Phase 2, Tract 3495, and Authorization for the Mayor to Execute the Agreement
- D. Acceptance of the Tracy Wastewater Treatment Plant Solids Handling Facilities Improvement Project – CIPs 74072, 74079, and 74087, Completed by GSE Construction Co., Inc., of Livermore, California, and Authorization for the City Clerk to File the Notice of Completion
- E. Acceptance of the Water & Wastewater Improvements (West Twelfth Street, Roosevelt Avenue, Golden Springs Drive, and Grant Line Road/Chrisman Road) Project - CIPs 74088 And 75111, Completed by Knife River Construction of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion
- F. Authorize the City Engineer to Submit Grant Applications to The State of California CalRecycle on Behalf of the City of Tracy for All Eligible Grants for a Time Period of Up to Five (5) Years, Retroactive from the Beginning of Fiscal Year 2012-2013 Through Fiscal Year 2016-2017
- G. Acceptance of Office of Traffic Safety of the State of California Grant for \$14,625 and Appropriation of Funds for the Purpose of Expanding the Distracted Driving High-Visibility Enforcement Demonstration Project
- H. Approve a 164-Foot Wide Vehicular, Pedestrian, and Utility Access Easement over the Existing Storm Drainage Channel Fronting an Undeveloped Parcel at 1380 MacArthur Drive (APN 250-260-24) Located at the Northeast Corner of Eleventh Street and Macarthur Drive, Authorize the Mayor to Execute the Grant of Easement, and Further Authorize the City Clerk to File the Easement Document for Recordation With the San Joaquin County Recorder
- I. Authorize the Appointment of Two Youth Commissioners to the Youth Advisory Commission

- J. Repeal Outdated City Council Policies
- K. Approve Task Order No. 5 to the Master Professional Services Agreement No. HA17 With Harris and Associates for Design of the Grant Line Widening Project East of MacArthur Drive to the Eastern City Limit – CIP 73048, and Authorize the City Manager to Execute the Agreement

- 2. ITEMS FROM THE AUDIENCE
- 3. CONDUCT A PUBLIC HEARING TO HEAR OBJECTIONS TO AND APPROVE THE FINAL COSTS OF WEED ABATEMENT AND AUTHORIZE A LIEN ON THE LISTED PROPERTIES IN THE COSTS OF ABATEMENT AMOUNT PLUS 25 PERCENT
- 4. THAT COUNCIL CONDUCT A PUBLIC HEARING DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL ON EACH OF THE PARCELS LISTED IN EXHIBIT "A" TO THIS AGENDA ITEM A NUISANCE; CONSIDER OBJECTIONS TO ABATEMENT OF SAID NUISANCE, AND ADOPT A RESOLUTION AUTHORIZING FIRE DEPARTMENT STAFF TO ORDER CONTRACTOR TO ABATE SAID NUISANCES
- 5. APPROVAL OF APPROPRIATION OF \$50,000 FROM THE RESIDENTIAL AREAS SPECIFIC PLAN (RSP) FUND TO BE USED FOR A DEPOSIT TO THE GENERAL SERVICES ADMINISTRATION FOR THE 150-ACRE SCHULTE ROAD PARCEL AND AUTHORIZE THE MAYOR TO EXECUTE ANY NECESSARY DOCUMENTS TO COMPLETE THE DEPOSIT; AND APPROVAL OF APPROPRIATION OF \$40,000 FROM THE RSP FUND FOR CONSULTANT SERVICES FOR ASSESSMENT OF RENEWABLE ENERGY PROJECT AT THE SCHULTE ROAD PARCEL
- 6. DISCUSSION AND DIRECTION RELATED TO LAND USES, SIGNAGE, AND PROPOSED DEVELOPMENT AGREEMENT TERMS FOR THE CORDES RANCH PROJECT
- 7. COUNCIL DETERMINATION THAT TERMS OF THE EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH TRACY'S CALIFORNIA BLAST LLC HAVE NOT BEEN MET BY TRACY'S CALIFORNIA BLAST LLC, DIRECTION TO TERMINATE THE EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH TRACY'S CALIFORNIA BLAST, DISCUSS AND PROVIDE DIRECTION TO STAFF REGARDING POSSIBLE USES OF THE HOLLY SUGAR PROPERTY
- 8. ITEMS FROM THE AUDIENCE
- 9. COUNCIL ITEMS
- 10. ADJOURNMENT

July 17, 2012, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

The invocation was offered by Deacon Jack Ryan.

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

Leon Churchill, Jr., City Manager, presented Certificates of Recognition to Luis Mejia - Police Department, Scott Claar – Development Services Department for completing the 1st Annual Local Government Leadership Academy, Alameda County 2011-12, and Monica Gutierrez and Linda Bower - City Manager's Office for completing the 1st Annual FY 2011-12 Legacy Livermore Leadership Institute.

Mayor Ives presented Commissioner Terry Sonnefeld with a Certificate of Reappointment to the San Joaquin County Commission on Aging.

1. CONSENT CALENDAR - Following the removal of items 1-C and 1-D by Council Member Abercrombie, and item 1-E by Council Member Elliott, 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 – Regular meeting minutes of March 20, 2012, and April 17, 2012, special meeting minutes of May 15, 2012, and closed session minutes of June 19, 2012, were approved.
 - B. Authorize the Appointment of Two Youth Commissioners to the Youth Advisory Commission – Resolution 2012-137 authorized the appointment of Rebecca Fuller and Parnoor Khinda from Tracy High School.
 - F. Authorize the Establishment of No Parking Zones at the Intersections of Central Avenue/Deerwood Lane and at Beverly Place/Mae Avenue – Resolution 2012-138 established the No Parking Zones.
 - G. Acceptance of the Fire Station 96 Roof Repairs - CIP 71067, Completed by Barth Roofing Company Inc. of Tracy, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2012-139 accepted the project.
 - H. Authorization to Award Chemical Bids for Water and Wastewater Treatment for Fiscal Year 2012-13 – Resolution 2012-140 authorized the award.
 - I. To Rescind the Adopted Rate for Additional Residential Recycling Toters – Resolution 2012-141 rescinded the rate.

- J. Award a Construction Contract to Desilva Gates Construction of Dublin, California, for the Sludge Drying Beds Improvements - Phase 2 - CIP 74004, Authorize an Allocation of \$125,000 from the Wastewater Capital Fund to CIP 74004, and Authorize the Mayor to Execute the Contract – Resolution 2012-142 awarded the contract in the amount of \$897,400, and authorized the allocation.
- K. Authorization to Submit the Annual Claim to the State of California, Through the San Joaquin County Council of Governments, for Transportation Development Act Funds in the Amount of \$2,908,733 for Fiscal Year 2011-2012, and for the Finance and Administrative Services Director to Execute the Claim – Resolution 2012-143 authorized submittal of the claim.
- L. The City Council of the City of Tracy Acting as the Governing Body of the Successor Agency for the Community Development Agency of the City of Tracy Approving the Recognized Obligations Payment Schedule (ROPS) – Resolution 2012-144 approved the ROPS.

Items 1-C, 1-D, and 1-E were considered together.

- C. Award a Construction Contract for the New Jerusalem Airport Repaint Runway Markings - CIP 77033D (CAAP#SJ 3-08-1), to Pacific Striping of Whittier, California, Authorize an Appropriation of Grant Funds, and Authorize the Mayor to Execute the Contract
- D. Award a Construction Contract for the New Jerusalem Airport Runway Asphalt Repair - CIP 77033C (CAAP#SJ-3-08-2), to Graham Contractors of San Jose, California, Authorize an Appropriation of Grant Funds, and Authorize the Mayor to Execute the Contract
- E. Award Construction Contracts for the New Jerusalem Airport Perimeter Fencing Phases 1 and 2 - CIP 77033A, CAAP#SJ 3-08-3 and CIP 77033B, CAAP#SJ 3-08-4) to Arrow Fencing of Calpella, California, Authorize an Appropriation of Grant Funds, and Authorize the Mayor to Execute the Contracts – Council Member Abercrombie asked how staff would be able to monitor application of the asphalt. Mr. Sharma indicated the previous project was designed and inspected by an outside agency and this project was designed in-house and coordinated with CalTrans. Staff has specified the type of slurry seal suitable for airfields in the specifications, and will ensure the design meets the specifications.

Council Member Abercrombie asked what the runway length was at New Jerusalem Airport. Rod Buchanan stated 3,530 feet. Mr. Sharma added that there will be repairs made to the runway as well.

In response to a question from Council Member Abercrombie regarding airport use, Mr. Buchanan stated there are approximately 10,000 applications (take off and landings) per year.

Council Member Elliott asked if due diligence had been done with regard to the contractors and if they would be able to do a good job. Mr. Sharma stated references had been checked as well as previously completed projects. Mr.

Sharma added that construction management and inspection by City staff will ensure that the project meets specifications.

Council Member Abercrombie asked why the big difference between the low bidder and the next lowest bidder. Mr. Sharma explained there are only a few slurry seal companies in the area which makes it quite competitive.

Council Member Elliott asked if staff is confident there is sufficient buffer between the airport and the farming operations next door. Mr. Buchanan indicated fencing will be installed on existing roads and will not hinder farming operations.

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

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2012-145 awarding a Construction Contract for the New Jerusalem Airport Repaint Runway Markings - CIP 77033D (CAAP#SJ 3-08-1), to Pacific Striping of Whittier, California, authorizing an Appropriation of Grant Funds, and authorizing the Mayor to execute the contract; Resolution 2012-146 awarding a Construction Contract for the New Jerusalem Airport Runway Asphalt Repair - CIP 77033C (CAAP#SJ-3-08-2), to Graham Contractors of San Jose, California, authorizing an appropriation of Grant Funds, and authorizing the Mayor to execute the contract; and Resolution 2012-147 awarding Construction Contracts for the New Jerusalem Airport Perimeter Fencing Phases 1 and 2 - CIP 77033A, CAAP#SJ 3-08-3 and CIP 77033B, CAAP#SJ 3-08-4) to Arrow Fencing of Calpella, California, authorizing an appropriation of Grant Funds, and authorizing the Mayor to execute the contracts. Voice vote found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Alison, on behalf of Tri-Valley CAREs, invited Council and the public to attend a free event being held Sunday, August 5, 2012, acknowledging the anniversary of the U.S. bombings of Hiroshima and Nagasaki. The event will be held at William Payne Park in Livermore.

DEVIATION IN AGENDA

10. APPROVE A FINAL MAP FOR TRACY GATEWAY BUSINESS PARK, TRACT 3659 (PHASE 2 FINAL MAP), TO CREATE THREE COMMERCIAL LOTS FOR A PROPOSED MEDICAL OFFICE AND ASSISTED LIVING CARE FACILITY - Kul Sharma, City Engineer, presented the staff report. Tracy Gateway Business Park is a 550-acre commercial project for the development of a business park and commercial/retail sites. The Vesting Tentative Subdivision Map for the Gateway Business Park was approved on April 28, 2004, pursuant to Resolution 2004-011. A Development Agreement between the City and Tracy Gateway, LLC (Developer) was approved on June 1, 2004, as Ordinance 1062, and recorded as Document No. 2004-163961

On May 28, 2009, Council approved the Final Map, Subdivision Improvement Agreement (SIA), Deferred Improvement Agreement (DIA) and Non Potable Water Supply Operation and Maintenance Agreement (NPWSOMA) for the Tracy Gateway Business Park – Phase 1 Tracy 3659, per Resolution 2009-087.

The previously approved final map created seven buildable lots including Lot 22, located at the northwest corner of Lammers Road and Capital Park Drive. Lot 22 is approximately 24.98 acres and has adequate water and sewer allocations for commercial office development. The subdivider wants to divide this lot into two parcels. Lot 22A will be 15.98 acres and Lot 22B, 9.00 acres. This resubdivision of Lot 22 will enable the Developer to sell to investors or developers, or use the new lots for financing purposes.

The in-tract roadway and utilities that will serve the seven lots are being constructed by the Developer. The remaining street and utility improvements on Lammers Road are anticipated to be complete by the end of 2012.

There will be no fiscal impact to the General Fund with approval of this agenda item. The cost of recordation of the Final Map will be paid by the Developer.

Staff recommended that Council approve the Final Map for the subdivision of Lot 22 of the Tracy Gateway Business Park into two lots and authorize the City Clerk to file Final Map with the San Joaquin County Recorder.

Council Member Elliott asked if there were potential clients to occupy the proposed buildings. Mr. Sharma indicated the developers had not discussed any possible clients with staff.

Council Member Elliott asked if the other seven lots had potential clients. Mr. Sharma stated the developer was having talks with potential clients.

Mayor Ives asked if the proposed buildings would meet the general character of a Class A Business Park. Mr. Sharma confirmed there had been no proposals to change standards.

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

Robert Tanner, 1371 Rusher Street, asked for clarification regarding Lots 1, 2, and 3. Mr. Sharma stated the lots were near the hospital, but not at that site.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-148 approving a Final Map for the Tracy Gateway Business Park, Tract 3659 (Phase 2 Final Map), to create three commercial lots for a proposed medical office and assisted living care facility. Voice vote found all in favor; passed and so ordered.

3. PUBLIC HEARING TO CONSIDER (1) APPROVING THE ENGINEER'S ANNUAL LEVY REPORT AND (2) ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT; AND (3) AUTHORIZING THE BUDGET OFFICER TO MAKE NECESSARY BUDGET ADJUSTMENTS - Anne Bell, Management Analyst, presented the staff report. Ms. Bell stated that since the formation of the Tracy Consolidated Landscape Maintenance District (TCLMD), the City Council has annually reviewed and approved assessments based on the Engineer's Annual Levy Reports. The Council preliminarily approved the annual assessments proposed in the Engineer's Report presented to Council on June 17, 2012.

The maximum assessment rates, summarized in the Engineer's Report, are allowed to be increased annually by the lesser of three percent or the percentage increase of the applicable Consumer Price Index (CPI). The percentage difference for the CPI for the San Francisco-Oakland-San Jose Area applicable for Fiscal Year (FY) 2010/2011 was 2.9%. Therefore, the maximum assessment rates allowed for FY 2011/2012 will increase 2.9% over the prior year's maximum assessment rates.

Because all the proposed assessment rates for FY 2012/2013 are less than or equal to the maximum rates previously approved by voters, no ballot proceedings are required. Based upon the estimated costs and expenditures to maintain the landscaping and appurtenant improvements within the TCLMD, staff recommends approval of the assessment rates found in Section IV, Appendix A of the Engineer's Report for FY 2012/2013. Of the 39 assessable Zones, 27 zones would be assessed the maximum assessment rates allowed for FY 2012/2013, nine zones would be assessed at a level below their maximum rate due to lower operating costs, and three zones will not be assessed due to a Home Owners Association providing maintenance, adequate reserves, or no improvements.

The total revenue from the levy of assessments will be \$2,645,080. The remaining District revenues would be \$150,000 from the Drainage Fund to cover the cost of storm channel related improvements, \$242,734 from General Fund support for improvements that are largely general benefit, \$190,000 from the Gas Tax support for zones that have arterial, median and right-of-way landscaping, and \$568,023 from zone reserves. The total cost to maintain the TCLMD for FY 2011/2012 is estimated to be \$3,795,837.

Staff recommended that the Council approve the final Engineer's Report; order the levy and collection of assessments for the TCLMD; and authorize the Budget Officer to make necessary adjustments to the City budget.

Council Member Abercrombie asked if there had been further discussions regarding a City-wide landscape district. Mr. Churchill indicated there had been internal discussions approximately two years ago. Since that time there have been no further discussions.

Ms. Bell added that the Supreme Court has ruled in favor of not consolidating districts; the argument has been that in order to levy an assessment there must be a special benefit that is not benefited by all.

Council Member Rickman asked if the money collected was being used for designated areas. Ms. Bell stated staff was careful to use funds only for the zone it was collected for.

Council Member Rickman asked if rates would be increased. Ms. Bell stated the increase is 2.9% per zone.

Council Member Rickman asked if the City was raising fees on districts just to increase them or was it necessary. Ms. Bell stated some zones have adequate funding because of the inflationary increases.

Council Member Rickman stated he was concerned that this would become a revenue generating fee. Ms. Bell explained a process of expected and unexpected maintenance and how that causes zones in a positive fund balance to become unbalanced. Mr.

Tobeck added that the City likes to have reserves for long-term capital improvements to parks such as park equipment, fencing replacement needs, irrigation, etc. Mr. Tobeck stated that the funds per zone are evaluated yearly and that funds collected for the LMD have to stay in the LMD.

Council Member Elliott asked if each zone had its own reserve. Ms. Bell stated yes, from the assessments.

Mayor Ives opened the public hearing.

Chris Tyler, 3208 Wycliff Drive, Modesto, stated he hoped that next year's levy would consider the appropriateness of taxing private undeveloped property.

Dave Helm asked about the General Fund contribution. Ms. Bell explained that Zone 38 covers a portion of Eleventh Street which provides a general benefit to the entire community and law the assessment for that area has to come from City funds.

Charles Manne, 672 W. Eleventh Street, stated the CPI, as updated today, was at 1.7% which should be taken into consideration.

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

Council Member Abercrombie abstained from voting on Zone 9 and Mayor Ives abstained from voting on Zone 24.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-149 approving the Engineer's Annual Levy Report for the TCLMD, for Fiscal Year 2012/2013 and authorizing the Budget Manager to make the necessary adjustments to the City budget. Roll call vote found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor. Motion carried 5:0.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-150 ordering the levy and collection of assessments within the Tracy Consolidated Landscape Maintenance District for the Fiscal Year 2012/2013. Roll call vote found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor. Motion carried 5:0.

4. THAT COUNCIL CONDUCT A PUBLIC HEARING DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL ON EACH OF THE PARCELS LISTED IN EXHIBIT "A" TO THIS AGENDA ITEM A NUISANCE; CONSIDER OBJECTIONS TO ABATEMENT OF SAID NUISANCE, AND ADOPT A RESOLUTION AUTHORIZING FIRE DEPARTMENT STAFF TO ORDER CONTRACTOR TO ABATE SAID NUISANCES - Steve Hanlon, Division Chief, presented the staff report. Chief Hanlon stated that pursuant to Tracy Municipal Code, a Public Hearing is required prior to the abatement of any parcels. Sections 4.12.250 through 4.12.340 of the Tracy Municipal Code set forth the procedure for the City to abate weeds, rubbish, refuse and flammable material on private property.

On June 21, 2012, pursuant to Tracy Municipal Code, Section 4.12.280, the Fire Department sent a notice to the affected property owner requiring the owner to abate

weeds, rubbish, refuse and flammable material on his/her parcel within 20 days, and informed the property owners that a Public Hearing would be conducted on July 17, 2012, where any protests regarding the notice to abate would be heard. The Tracy Municipal Code provides that upon failure of the owner, or authorized agent, to abate within 20 days from the date of notice, the City will perform the necessary work by private contractor and the cost of such work will be made a personal obligation of the owner, or become a tax lien against the property.

Under the provisions of Tracy Municipal Code, Section 4.12.290, the Fire Department will proceed at Council's direction to instruct the City's contractor to perform weed, rubbish, refuse and flammable material abatement on the parcels listed in Exhibit "A" to the staff report. Property owners are liable for the cost of abatement and will be billed for the actual cost of the contractor's services, plus a 25% administrative charge. All unpaid assessments will be filed with the San Joaquin County Auditor Controller's office to establish a lien on the property.

Staff recommended that Council declare the weeds, rubbish, refuse, and flammable material located at the parcels listed on Exhibit "A" to the staff report to be a nuisance, and authorize the Fire Department to direct the City's contractor to abate such nuisance.

Council Member Rickman asked if the City recovers the costs of abatement. Chief Hanlon stated yes.

Council Member Elliott stated it was his understanding that some of the owners have already abated the properties. Chief Hanlon stated that was correct.

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 2012-151 declaring the existence of weeds, rubbish, refuse and flammable material on the parcels listed in Exhibit "A" to the staff report a nuisance and authorizing the Fire Department staff to order the contractor to abate. Voice vote found all in favor; passed and so ordered.

5. CONDUCT A PUBLIC HEARING TO HEAR OBJECTIONS TO AND APPROVE THE FINAL COSTS OF WEED ABATEMENT - Steve Hanlon, Division Chief, presented the staff report. Pursuant to Tracy Municipal Code Section 4.12.260, property was identified by the Fire Department that required weed abatement. The property owners were given notice to abate and a public hearing was conducted on December 13, 2011. The Tracy Municipal Code provides that upon failure of the owner, or authorized agent, to abate within 20 days from the date of notice, the City will perform the necessary work by private contractor and the cost of such work will be made a personal obligation of the owner, or become a tax lien against the property. The Council authorized the abatement.

The Fire Department has designated three parcels that require abatement by Baylor Services, the City's contractor. The abatement was completed at a cost to the City of \$834.00. Fire Department staff notified the affected property owners of this public hearing where Council will consider the report of costs for abatement and any objections of the property owners liable for the cost of abatement. The cost of abatement assessed

to the property owner is the actual cost of the City contractor plus a 25% administrative charge, per Resolution 2003-059.

The Fire Department budgeted \$12,100 for weed abatement services in FY 2011-2012. The department has expended \$2,438.00 for the work performed by Baylor Services. Expended funds were within the identified budget for FY 2011-2012.

Staff recommended that the City Council authorize approval of the final abatement costs.

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

Council Member Rickman thanked the Division Chief, Code Enforcement and neighbors who reported the properties.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-152 approving the final costs of weed abatement. Voice vote found all in favor; passed and so ordered.

6. PUBLIC HEARING TO CONSIDER A PROPOSAL TO ADOPT A NORTHEAST INDUSTRIAL SPECIFIC PLAN, AMEND THE TEXT OF THE ZONING ORDINANCE TO INCLUDE A NORTHEAST INDUSTRIAL SPECIFIC PLAN ZONE AND REZONE THE NORTHEAST INDUSTRIAL PLANNING AREA FROM PLANNED UNIT DEVELOPMENT TO NORTHEAST INDUSTRIAL SPECIFIC PLAN - APPLICATION NUMBERS SPA12-0003, ZA12-0006 AND R12-0003 - Victoria Lombardo, Senior Planner, presented the staff report. NEI is one of the City's major employment areas covering 870 acres. NEI was annexed to the City in 1996 and is half built-out. The entire NEI planning area is zoned PUD, which contains development standards that have guided development since its inception.

Prior to construction, all development within a PUD must be approved through a two-step process, including a Preliminary Development Plan (PDP) and a Final Development Plan (FDP). Typically bundled for approval, PDP/FDPs must be approved by City Council, with consideration of the Planning Commission's recommendation. This means that each time a new project (such as a distribution center, call center, or manufacturing plant) or an amendment to such a project is proposed, the applicant works with staff, then Planning Commission and Council through two public hearings prior to approval. These public hearings, including the noticing requirements along with the time between regularly scheduled hearings can cause project approvals to take several additional months past staff's initial evaluation and recommendation.

Because development standards have already been adopted for NEI through Planning Commission and City Council review, and in an effort to streamline the process and eliminate the two steps of Planning Commission and City Council public hearings, staff has completed the documentation necessary to rezone the NEI project area from PUD to "NEI Specific Plan". This enables the NEI Specific Plan zoning designation to include a Development Review approval process that can be completed at staff level by the Development Services Director. The Development Review process is the current process used throughout the entire City in areas that are not zoned PUD. This approval process would still require a public hearing for the benefit of surrounding property owners with a ten-day notice period, but it could be scheduled quickly during normal

working hours. This allows the hearings and overall processes to be streamlined. Under the proposed Specific Plan, any decision to approve a project is appealable to Planning Commission, and ultimately City Council.

The NEI Concept Development Plan was adopted in 1996 in a format similar to that of a typical Specific Plan. Staff has re-produced the plan with the necessary edits and formatting (including all previous amendments to the Concept Plan that have already occurred) so that it may be adopted as a Specific Plan by Ordinance through a rezoning action. Adoption of the project area as a Specific Plan will not significantly change any of the existing descriptive requirements (such as building design standards, allowable land uses, parking requirements, etc.) as those requirements have proven to be effective in creating consistently successful projects. The Specific Plan will rather serve to streamline the approval process for these projects. The only changes are to building height and allowable uses in the General Commercial land use designation:

- Building Height—Raise the maximum from 46 feet to 60 feet in order to accommodate today's typical interior clear space requirements for warehouse space along with parapet walls for screening roof equipment
- Land Use—Allow for animal shelters to be a permitted use in the General Commercial (GC) land use designation (there are only three GC sites within NEI, and the City's animal shelter is proposed to be located on the GC site at the southwest corner of Grant Line and Paradise Roads.

Tracy Municipal Code Sections 10.20.050 and 10.20.060 of the Specific Plan Ordinance includes the requirements for content of a specific plan and the adoption procedures. All the necessary content of a specific plan is included in the proposed NEI Specific Plan.

The Planning Commission met and discussed the proposed NEI Specific Plan on June 27, 2012, and voted unanimously to recommend approval of the Specific Plan. Three owners with property in the NEI area spoke at the hearing, regarding the compatibility of existing farming operations and industrial uses, the proposed animal shelter land use, the lack of grocery stores in the area and future roadway alignments. The property owners also noted that while they had received a letter notifying them of the proposed Specific Plan adoption, they did not have copies of all the documents that Planning Commissioners had received. Staff mailed a copy of the proposed NEI Specific Plan document to the four property owners who attended the hearing. The Planning Commissioners received clarification that there would still be a public hearing for project approvals in the area, but that those hearings would be held by the DES Director rather than Planning Commission and City Council (except in the case of Conditional Use Permits, over which the Planning Commission will preside). They also discussed the animal shelter use and its appropriateness in an industrial area, as well as the appeal process, should anyone object to the Director's action on a proposed project. Adoption of a NEI Specific Plan, the zone text amendment and the rezone from PUD to NEI Specific Plan are consistent with the NEI Environmental Impact Report (EIR) that was adopted by the Council in 1996. The project is also consistent with the City's General Plan EIR, adopted by Council on February 1, 2011. No new environmental impacts are anticipated as a result of adopting the NEI Concept Development Plan as the NEI Specific Plan, because the proposed Specific Plan does not result in any changes to the proposed land uses, and therefore will not cause any increase in the environmental impacts of those uses.

The fiscal impact of the adoption of NEI as a Specific Plan will be a small savings in staff time which was previously used for the preparation of staff reports for consideration of the Planning Commission and City Council.

Staff and the Planning Commission recommended that Council adopt the NEI Specific Plan, approve a zone text amendment to the Tracy Municipal Code to create a NEI Specific Plan Zone, and approve the rezoning of the NEI project area from PUD to NEI Specific Plan, based on the information in the proposed ordinance.

Council Member Elliott stated it sounded like a positive move and asked if there was any downside to the action. Ms. Lombardo stated staff did not believe there was any downside to the proposal.

Mayor Ives opened the public hearing.

Buddy Ender, 2399 East Grant Line Road, indicated he would like Council approval for any proposed construction in the area including a public hearing. Mr. Ender indicated his family, on neighboring properties were not notified of any action that had taken place.

Mayor Ives asked staff for clarification regarding notifying property owners. Ms. Lombardo explained the process.

Marilyn Marty, 1681 E. Grant Line Road, stated she did not like the proposed changes stating it put too much power in the hands of the developers.

Mr. Dean referred to page 2 of the Ordinance, indicating staff would like to add a section 4 to read: "the property subject to the Northeast Industrial Areas Planned unit development is hereby rezoned to Northeast Industrial Area Specific Plan". Mr. Sodergren indicated the existing sections would be renumbered.

Robert Tanner asked if the notices were placed on the City website. Ms. Lombardo stated agendas are placed on the website the Thursday or Friday prior to the public meeting.

Mayor Ives closed the public hearing.

Council Member Abercrombie asked if staff had any thoughts regarding farm equipment and access. Ms. Lombardo stated that on page 16 there was discussion on the right to farm. Ms. Lombardo indicated farming and housing were permitted uses.

Council Member Abercrombie stated he wanted assurance that farmers' concerns would be addressed when a building is planned for the area.

Council Member Elliott asked if farmers were protected from obstacles such as the ability to spray. Ms. Lombardo indicated the right to farm provisions allow for items like that.

Council Member Elliott stated the City should take extra precautions to provide the maximum coverage as possible regarding noticing.

Mayor Pro Tem Maciel asked if a parcel being used as farming is subsequently sold, can it still be used for farming. Ms. Lombardo stated yes.

Mayor Pro Tem Maciel asked if there was any scenario in which developers could impede farming. Ms. Lombardo stated she could not think of one.

Mayor Ives asked if the change in processing applications were approved, how would property owners be notified. Ms. Lombardo stated property owners within 300 feet of a proposed development would be notified by mail, an ad would be placed in the newspaper, and the agenda would be posted on the City's website.

Mayor Ives asked what was the remedy or relief if the property owner takes exception to what the Director deemed appropriate. Ms. Lombardo stated if they were unhappy, they could appeal to the Planning Commission, and if the appeal is denied, they could appeal to the City Council.

Mayor Ives asked if the appeal put the project on hold. Ms. Lombardo stated yes.

The Clerk read the title of Proposed Ordinance 1174.

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 1174. Voice vote found all in favor; passed and so ordered.

7. ADOPT THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND THE GENERAL TEAMSTERS LOCAL NO. 439, I.B.T - Maria Hurtado, Assistant City Manager presented the staff report. The budget message presented to Council on June 5, 2012 described the City's implementation of an eight point fiscal strategy over four years in an effort to equal or exceed the revenue from Measure E prior to its sunset period in April 2016. This eight point plan includes: (1) Implementation of technological efficiencies, (2) Improved Economy, (3) Elimination or reduction in non-essential services or duplicated services, (4) Reprioritization of existing expenditures, (5) Continued change to the City's organizational structure, (6) Contracting of services or service redesign, (7) Reduction in number of City Departments, and (8) New labor contracts and Compensation and Benefit plans. Thus far, the City has realized approximately \$3 million in savings and generated \$1 million in increased revenue due to an improved economy by implementing four of the eight points delineated above. This Teamsters Memorandum of Understanding relates and contributes to one of the City's eight point fiscal strategies: New labor agreements and Compensation and Benefit plans. It is anticipated that the City will save \$246,801 during the term of this contract and an ongoing annual savings of \$3.4 million after the three year term if employees of all labor groups pay the full employee contribution for CalPERS benefit.

The three key elements in the Teamsters Memorandum of Understanding that contribute to the overall target include:

1. Shift from City to Employee Payment of the Employee Share of CalPERS Retirement Benefit;
2. Continuation of second tier CalPERS Retirement formula;
3. Discontinuation of Unpaid Furloughs:

There are four items recommended in addition to those listed above. The annual uniform allowance for four classifications (*Crime Scene Technicians, Animal Services Officers, Crime Prevention Specialists, and Community Services Officer*) is recommended to increase by \$20 a fiscal year; where applicable, the reimbursable amount allowed for safety boots is recommended to increase by \$25 per fiscal year; the meal allowance for employees who perform a minimum of two hours "unanticipated" overtime or callback work that extends through a regular meal time is recommended to increase by three dollars; and employees who complete 10 years of service with the City, and at each five year anniversary date thereafter, is recommended that 40 hours of vacation be added to their vacation accrual. These 40 hours are not retroactive.

There are no COLAs in this agreement. The total savings during this three year term by having each of the 133 employees in this Unit contribute to CalPERS is \$1,303,512, an average of \$9,801 per employee. The total cost of Flexible Leave hours provided to employees is \$1,056,711, an average of \$7,945 per employee. The net savings after distribution of Flexible Leave hours is \$246,801 at the end of the contract term. It is anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution of the CalPERS benefit, an ongoing annual savings of \$3.4 million can be realized each subsequent year.

It should be noted that the discontinuation of unpaid furloughs from the non-public safety units will result in an increase to the budget deficit of \$600,000 per year. This fiscal impact was considered in the FY 12/13 budget.

Staff recommended that the Council adopt the Memorandum of Understanding between the City of Tracy and the General Teamsters Local No. 439, I.B.T.

Council Member Elliott asked if the City's budget would be balanced by the time Measure E goes away. Mr. Churchill stated the goal was to eliminate the structural deficit by FY14/15 with the outstanding remaining contracts. Mr. Churchill added if this trend continues, by FY15/16 we have a chance of achieving a balanced budget without the benefits of Measure E.

Council Member Elliott how does Tracy's salaries and benefits compare to surrounding cities. Mr. Churchill stated no scientific information was currently available, but noted that the only exception in the region appears to be in the City of Patterson which will provide a 2% COLA in salaries.

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

Council Member Elliott stated that while we want our city employees to be well compensated, from the report the City Manager provided, it appears that we compensate our employees better than most of the surrounding cities. Council Member Elliott stated the City was being too generous in giving back the flexible leave and phasing out unpaid furloughs.

Mayor Pro Tem Maciel noted that what has been achieved is a transition of foundational issues of pension reform.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2012-153 approving the Memorandum of Understanding between the City of Tracy and the General Teamsters Local No. 439, I.B.T. Voice vote found Council Member Abercrombie, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Elliott opposed. Motion carried 4:1.

8. COUNCIL DISCUSSION REGARDING ECONOMIC DEVELOPMENT AND ZONING ALONG THE I-205 CORRIDOR THROUGH THE CITY OF TRACY - Andrew Malik, Development Services Director, presented the staff report. Mr. Malik stated that with the construction of I-205, the City gained an immediate and relatively easy connection to the San Francisco Bay Area to the west, and Central Valley cities to the north and south. Like the railroads a century earlier, the freeway would later play a pivotal role in the City's growth.

Part of the City's initial land use response to the new freeway was to capture business from travelers heading in and out of the Bay Area by zoning land to focus on highway services, such as gas stations, restaurants, and motels at the three new freeway interchanges (Grant Line Road, Tracy Boulevard, and MacArthur Drive).

Construction of I-205 also began a transition of Eleventh Street (formerly Highway 50) from its former focus on travelers through town (with gas stations, auto services, restaurants, and motels) to more local-serving retail and commercial services.

In the 15 years following the freeway's construction, restaurants, gas stations, and motels had become well established near the Grant Line Road and Tracy Boulevard interchanges with I-205.

In the mid 1980's, as the City continued its northward expansion, the Council sought professional input regarding Tracy's potential economic development opportunities from the highly regarded, private economists, Gruen Gruen and Associates. Gruen Gruen and Associates summarized their research and published their findings in a report to the City, "Forecast of the Demand for Land Uses in Tracy: 1987 to 2010". The research was a comprehensive effort to forecast long-term, potential demand for residential and commercial growth in Tracy and helped form the City's land use and zoning conclusions for the 1987 Residential Areas Specific Plan and the 1988 Industrial Areas Specific Plan.

During this same time period, the City initiated a concerted effort to evaluate opportunities for a significant commercial presence along the I-205 corridor. Economic forecasts, at the time, suggested the market could support one regional mall in the vicinity of Patterson, Manteca, Lathrop, Discovery Bay, Livermore, and Tracy. Tracy set its sights on capturing a regional mall and, in the late 1980's, undertook negotiations with General Growth to locate a mall in Tracy.

Those negotiations with General Growth and a broad based effort with property owners resulted in the adoption of the I-205 Corridor Specific Plan in 1990. The I-205 Specific Plan includes approximately 600 acres in the Grant Line Road vicinity and approximately 100 acres at the MacArthur Drive interchange. The most recent addition to the I-205 Specific Plan is the 43-acre, Filios/Dobler Annexation from earlier this year.

The recession of the early 1990's delayed initial construction, but in 1993, Walmart and the Outlet Center became the first projects of the I-205 Specific Plan to be constructed and in late 1995, the first phase of the West Valley Mall opened. Development of Tracy's regional commercial centerpiece, now featuring approximately 400 acres of commercial development was underway.

In 1996, the City annexed the 870-acre Northeast Industrial (NEI) property adjacent to and south of I-205. The NEI area creates an eastward extension along I-205 of the 300-acre MacArthur Drive industrial corridor of the Industrial Areas Specific Plan, adopted a decade earlier.

Characteristics of the City's location, surrounding natural resources, and development policies dating back to at least the 1982 General Plan dictate that the City's future, long-term, urban growth will be directed toward the west and southwest – away from the San Joaquin River flood plain to the north, the prime agricultural land to the east, and the airport and aggregate mining operations to the south.

The City of Tracy has a history of long-range master planning relative to future retail, residential, office and light industrial development. From the regional focused I-205 Specific Plan and West Valley Mall development, to the future office / medical uses in the Gateway project, to the Cordes Ranch and Tracy Hills projects with a mix of retail, business park and light industrial uses, to the Downtown Specific Plan area, the City has prepared for a variety uses with regard to future development.

What sets Tracy's approach to future development apart from other jurisdictions is that it has included an economic analysis which has greatly assisted in the implementation of the various development areas. In 2007 the City again enlisted the professional services of Gruen Gruen and Associates to provide an updated economic analysis as it related to the future growth of the City. The report provides a forecast for the demand of retail, office, and industrial space as well as strategic policy actions to enhance Tracy's retail and economic base. Additionally, the City's adopted General Plan contains a Land Use Element and an Economic Development Element which specify goals, objectives, policies and actions related to future growth and economic development on a macro level. In other words, this is not a "build it and they will come" approach to development, but rather a strategic and balanced approach with an understanding of public/private investment interest, and market conditions.

While it is important to provide an economic forecast as part of the City's General Plan process/implementation, it is equally important to recognize changes in the market and to adjust to meet those new demands. For example, the retail environment has changed dramatically over the past 5+ years particularly as it relates to the ever increasing market share of online shopping, among other factors. Many shoppers today have smart phone applications ("apps") providing price comparisons among competing retailers. Additionally, there has been a shift in consumer behavior as it relates to spending. The effects of the economic downturn and slow recovery have forced consumers to become increasingly cost conscious, so much so that retailers have had to respond with lower-price alternative products in order to maintain market share. Couple these competitive factors with a protracted global recession and it is easy to understand why some seemingly strong national retailers simply no longer exist. Those that do exist today have had to close underperforming stores and/or negotiate for smaller space/cheaper

rents. Retailers are now rethinking the way they do business, specifically as it relates to their expansion plans and product offerings.

In order to respond to the dramatic change in the retail environment, staff has focused considerable attention on business retention efforts (Grow Tracy Fund and Enterprise Zone), while filling vacant space. The City and developer partners have been successful in filling many of the retail vacancies in the community. Staff expects to see continued success in filling vacant retail space as the City strengthens relationships with local retail developers, such as Rouse Properties (the new owners of the West Valley Mall), Tracy Outlet Centers and others. The retail challenge moving forward will be to strike a balance between the needs and success of the existing retail areas and those of new development. More specifically, the 89 acres of new retail construction/demand by 2020 recommended by Gruen Gruen & Associates in 2007 will likely need to be scaled back to better reflect current market realities.

The office market in Tracy continues to remain soft. The City is currently working with a few office projects spread between the South ISP area and some speculative medical office projects in the Gateway area. Much of the decline in demand for office space is correlated to the collapse of the residential real estate market as part of the global recession. The Finance, Insurance, Real Estate (FIRE) industry sector that once fueled new local office demand has consolidated and continues to see little growth. There are a few medical office clients that City staff is interacting with, but this too remains a relatively soft market.

There are signs that the residential market may be improving locally, which could provide an opportunity to capture additional office demand for the Finance, Insurance and Real Estate sector in the near future. There may also be additional office demand as the Cordes Ranch project comes on-line with larger employers, which may drive demand for additional retail, office and residential development.

Tracy's light industrial market continues to show signs of improvement. A number of new tenants are now open in the Northeast Industrial Area and staff is currently working with a few new prospects. Over the last year, the mix of light industrial tenants ranged from distribution or fulfillment centers, to food processing facilities to manufacturers. Tracy's proximity to the Port of Oakland, our location near transportation networks and proximity to the very large population centers of the Bay Area continue to drive demand in the light industrial sector. In addition, San Joaquin County's available workforce and low labor costs have been key in attracting and retaining businesses in Tracy.

As consumer retail shopping patterns continue to shift to online, Tracy finds itself in a unique position to attract certain Distribution/Fulfillment centers. We see this trend already taking effect as Restoration Hardware expands in Tracy, as well as Best Buy and Crate and Barrel's recent openings. The unique benefit for Tracy in fostering this segment of the economy is that there may be sales tax proceeds being generated by these light industrial uses, which will help grow Tracy sales tax base.

It is important to note that diversifying and developing Tracy Office, Residential, and Light Industrial markets will ultimately help to expand and upgrade the retail offerings in the community. All of these market niches influence one another, particularly retail as it relates to creating new households, and more importantly increasing the population and daytime employment in Tracy.

Market conditions in Tracy will change in the future and a good portion of the City's Economic Development efforts include educating prospective tenants and companies on those changing market conditions. For example, during a restaurant recruitment of a national tenant in the I-205 area, staff was challenged by the tenant because the location did not fit their typical corporate site location criteria. In this case, the tenant was looking for a daytime population of over 40,000 within a two mile radius of the site. Since our I-205 shopping area is located near County agriculture land with the flood plain to the north, the site did not rank very high relative to their corporate criteria. Staff, with assistance from the Mall developers, was able to convince the tenant that the area drew customers from a much wider trade area and the restaurant eventually located in Tracy.

While the City and local developer partners have been successful in attracting certain retailers to the community, there are some retailers that require much more stringent site location criteria. According to the International Council of Shopping Centers (ICSC) article, "Inside Site Selection: Retailers search for strategic business locations", there are two fundamental site selection indicators: 1) Median household income, and 2) Number of households and/or people within a given market area. The article also indicates that specialized retailers may rely on additional indicators such as number of college graduates, ethnic composition of the market, housing prices etc.

The discussion of retail site selection would not be complete without some mention of incentives. To begin, it should be noted that while most people equate incentives with financial or monetary payments back to a prospective tenant, there are non-monetary incentives equally important to prospective tenants. Many of these incentives the City of Tracy is already working on or has completed, such as: 1) permit streamlining, 2) zoning and entitling sites for development, and 3) partnering with the development community to solve infrastructure and other development constraints, etc. Work on these non-monetary incentive areas continues to be developed; however, feedback from developers and tenants has generally been positive.

Monetary or financial incentives, continue to be part of the retail attraction equation; however, its use and ultimate effect have yielded mixed results. The most typical governmental financial incentive has been rebating sales tax back to a prospective tenant or developer. The theory behind this strategy is that by attracting a particular tenant, the jurisdiction would realize additional sales tax from the success of surrounding retailers and thus come out ahead. In other words, the incentive would be applied to certain catalyst projects. Again, the success of this approach has yielded mixed results depending on individual negotiations and specific market conditions related to the type of tenant and location being pursued.

The use of monetary/financial incentives can be an effective way to influence a site selection decision of certain types of tenants; however, the underlying economics ensuring the success of the tenant should not be overlooked. Using incentives to get a prospective tenant to open in the community is important, but may not ensure the success of that particular tenant. Additionally, there may be financial consequences associated with the incentive package negotiated if the tenant closes, i.e. commitments on future City sales tax. Most jurisdictions use these types of financial incentives very sparingly and they are typically targeted for catalyst or specialty type tenants. The City has used this type of incentive in the past; most recently for the attraction of Macy's to the Mall. In this case, Macy's has been successful at generating enough sales tax to cover the City's incentive and provide a boost to the areas other retailers. The City also

has an incentive program in place to target catalyst or unique tenants (retail, office and industrial) not currently found in the region. Again, the City's retail incentive program is targeted to regional catalyst projects.

As mentioned previously, staff spends a considerable amount of time on business retention activities. Research shows that existing businesses create 60 – 90% of all new jobs in a community - therefore much attention is put into assisting companies already established in Tracy. Staff conducts business retention visits on a regular basis to meet with business owners and learn about their operations as well as to hear about any impediments to growth they may be experiencing. In addition, staff takes the opportunity to educate business owners on the benefits of the Enterprise Zone program, Grow Tracy Fund and other resources available to them. Business representatives are invited to participate in a variety of educational workshops and business forums offered by the City on a regular basis. Most recently manufacturing and distribution companies were invited to attend an Employment Training Panel Workshop to learn about obtaining training funds available through the State of California. These workshops are generally well attended and well-received by the business community.

Business attraction is also an important part of the Economic Development Strategy. City staff participates in tradeshows throughout the year in an effort to market Tracy to companies from a variety of industries. Tradeshows are a powerful marketing tool because they bring together thousands of prospective businesses and developers into one location. City representatives typically attend industrial and office industry tradeshows in conjunction with the San Joaquin Partnership, the countywide Economic Development Corporation. This provides a discounted cost for attendance while still gaining exposure for Tracy.

Although tradeshows are an effective means of attracting new businesses, they are not the only focus. Recently the City enlisted the services of the Natelson Dale Group to complete an industry cluster analysis. This study helped narrow the list of target industries that best match the skill sets of Tracy's employed residents. With this type of information we have developed a marketing and outreach program tailored to specific target industries. Using traditional marketing avenues as well as various social media outlets, staff is able to connect with specific companies that match our targeted industry criteria.

As economic development staff makes contact with prospective businesses, the communication is tracked in a 'prospect database'. Currently staff is working with approximately 31 prospects: 11 Light Industrial/Manufacturing, 4 Office, and 16 Retail. The locations being reviewed range from infill to new development areas. As the market has started to improve there has been a definite increase in the number of retail prospects. This is evidenced by several new retailers soon to be opening in Tracy, including Buffalo Wild Wings, BevMo, and The Children's Place. Each of these retailers has an impact on the City's overall sales tax base. Tracy's sales tax collections have increased nearly 15% over the most recent four quarters, compared to surrounding cities such as Stockton 9.6%, Manteca 6.4%, and Northern California as a whole with a 9.8% increase.

Each of these economic development focused efforts, whether it be business attraction, retention, revitalizing downtown, or increasing the tax base – are detailed in the Economic Development Strategy which was adopted by Council in September of 2011.

Staff recommended that Council discuss and accept the I-205 zoning and economic development report.

Council Member Rickman thanked staff for the report and for their efforts. Council Member Rickman stated he would like motorists who drive through Tracy to see what a wonderful community Tracy is and not just the backs of warehouses.

Council Member Abercrombie asked what contact the City has had with the Outlet Center regarding loss of tenants and if they are concerned about the proposed outlet stores in Livermore. Mr. Malik stated the outlets in Livermore would be very high end. The City's concern is that the second phase of the Tracy outlets has not been built.

Council Member Elliott asked what the City was doing to keep the area attractive. Mr. Malik indicated Cordes Ranch will return to Council and at that time we can look at the corridors. Mr. Malik stated a lot of the area was currently in the County. Mr. Dean added that the Council's land use authority is an opportunity to develop clear standards.

Mayor Ives stated there will be multiple opportunities through the development of Cordes Ranch, Prologis, and Larch-Clover to put our stamp on it. Mayor Ives stated there are challenges out there, but it is important for Council to be clear regarding what we want the area to look like in 25 years.

Council Member Rickman stated in order to meet the demographic requirements, we need a plan ready that will bring Tracy residents what they want, such as higher paying jobs, a Trader Joes, etc. Council Member Rickman stated it was frustrating when members of the public ask for things and all they hear is that Tracy is not big enough to attract them. Council Member Rickman stated it doesn't mean we won't get them 10 years for now, but we need to plan as though it is going to happen. Council Member Rickman indicated what he sees is staff planning for 40-50 years of warehouse capacity.

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

Terry Sonnefeld, 1463 Cottonwood Drive, addressed Council regarding the Tracy 2000 Committee where a lot of goals were set that the City has achieved, such as big box stores, more restaurants, revitalized downtown, etc. Mr. Sonnefeld stated the future of Tracy is what you will do with the baby boomers.

David Babcock, on behalf of Cordes Ranch, stated the goal has always been to make the I-205 area attractive with modern, well designed, nicely landscaped, attractive buildings.

Council Member Rickman stated it was not the number of acres or uses; it's about where the uses are. Council Member Rickman stated he wanted drivers to be impressed when driving by Tracy and wanted Mr. Malik to keep an eye on that.

Mayor Pro Tem Maciel stated the key was flexibility as these areas are developed so the City can respond to changes in the market. Mayor Pro Tem Maciel stated all the City can do is facilitate and create an environment so businesses are successful.

Council Member Elliott stated flexibility was key as well as keeping in mind what the long-term vision is for Tracy and what we want it to look like in the future.

Mayor Ives thanked staff for the report.

9. REVIEW AND ACCEPT CHANGES TO THE TRACER FIXED ROUTE BUS SYSTEM EFFECTIVE AUGUST 1, 2012 - Ed Lovell, Management Analyst, presented the staff report. In December of 2009, the City Council approved a Short Range Transit Plan (SRTP) for the City's TRACER bus system. The SRTP outlined various steps in which to realize both growth in ridership and locations served by the bus system. Since approval of the SRTP, some recommendations have been implemented, including a fare increase and extension of service to the Kimball High School area.

In July 2011, the Council approved a contract with MV Transportation to operate the TRACER bus system. Within the contract was an annual increase in the number of service hours available to provide bus service. While maintaining the status quo for the first year of the contract, the second year provides for implementation of various recommendations in the SRTP including:

- 30-minute service during peak periods (11am – 3pm) on Routes A and B (currently service is every 60 minutes)
- Service to the Raley's shopping center and to the Hidden Lake subdivision
- Service to ACE and Edgewood subdivision
- Service on Lowell east of Corral Hollow
- Restructuring of commuter routes to three geographically focused routes based on current high school boundaries
- Elimination of inbound service to Tracy Outlets on Route A (outbound service will still exist)

Staff will monitor the changes over the course of the year and will make minor adjustments to the service as necessary to make the best use of the funds. Staff held a public hearing on June 14th at the Tracy Transit Station and received input from those who attended. In addition, staff presented the changes to the Transportation Advisory Commission on June 14th and received feedback. The changes were well received by the Commission.

In an effort to market the changes, the month of August will be a free ride month. This will allow passengers to try the service for free to see how it can help them reach their destinations. Information will be in all the buses, and posters will be in various bus shelters throughout the city. A press release will be issued notifying the public of the changes and the opportunity to ride for free.

A major push will also be geared toward getting the information out to students. Staff is working with TUSD to be able to disseminate information during school registration periods and at back to school nights. While it is difficult to predict the actual ridership increase that can be attained by these changes, the SRTP identifies that there is a significant increase in willingness to ride the TRACER Fixed Route services if greater frequency were offered. Based on the market surveys done in the SRTP, and with practical experience from other agencies, it is expected that ridership levels will rise due to the increased frequency of the service.

Every three years, new performance measures are put in place under the Transportation Development Act (TDA). During FY12/13, new performance measures will be put in place for the following three years. Knowing that these changes are going to take place

will help in the creation of realistic goals that can be met for the next three years. Staff has been working with the San Joaquin Council of Governments (SJCOG) in the creation of performance measures based on these changes taking place. This will allow the City to meet the goals that have then been established.

There is no fiscal impact to the General Fund. The cost to provide the service as it exists today is approximately \$817,000. If no changes were made to the system, costs would still increase by approximately \$19,000 in FY12/13. The cost to provide the new service levels as indicated in this report will be approximately \$933,000, a net increase of approximately \$97,000 when factoring in the cost increase if no changes were made. The not to exceed amount in the operating contract with MV Transportation for FY12/13 is \$946,258. The new services levels would be approximately \$13,000 below the not to exceed amount. All costs are paid for by Federal Transportation Administration (FTA), and Transportation Development Act (TDA) funds the new amount has already been incorporated into the FY12/13 budget. While TDA funds are designed for transit use, any funds not used for transit purposes can be used for streets and roads. The most recent TDA claim shows the City using \$1,546,636 on streets and roads, slightly more than half of its TDA dollars.

Staff recommended that City Council accept changes to the TRACER fixed route bus system effective August 1, 2012.

Mayor Pro Tem Maciel asked if the "text for bus" instructions would be posted at the bus stops. Mr. Lovell stated new signs will go up and the current signs will have a sticker on them outlining the process.

Council Member Elliott asked if one of the routes to the mall was being eliminated, what kind of service would be left. Mr. Lovell explained the route still included service to the mall.

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

Robert Tanner stated he was confused about going in and out at the outlet malls. Mr. Lovell clarified the route.

Christine Frankel, a member of the Transportation Commission, stated one of the strategic plans has been to expand service and reducing a ride from 60 minutes to 30 minutes which is critical to increasing ridership. Ms. Frankel stated the City was accessing a greater and wider area of Tracy that didn't have access to buses.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-154 accepting changes to the Tracer Fixed Route Bus System effective August 1, 2012. Voice vote found all in favor; passed and so ordered.

11. ITEMS FROM THE AUDIENCE – None.

12. COUNCIL ITEMS

A. Council Designation of Voting Delegate and Up To Two Voting Alternates for the League of California Cities 2012 Annual Conference Business Meeting - The League of California Cities Annual Conference is scheduled for Wednesday, September 5,

2012, through Friday, September 7, 2012, in San Diego. An important part of the Annual Conference is the League of California Cities' Annual Business Meeting, held on September 7, 2012. At this meeting, the League membership considers and takes action on resolutions that establish League policy. In order to expedite the conduct of business at this policy-making meeting, each City Council should designate a voting delegate and up to two alternates who will be registered at the conference and present at the Annual Business Meeting. The League of California Cities has requested the names of the designated delegates be forwarded to them no later than Wednesday, August 15, 2012.

Mayor Ives indicated he was not able to attend this year. Mayor Pro Tem Maciel indicated he was available to attend the meeting. Council Member Elliott indicated he would like the City Manager to attend. Mr. Churchill indicated he or Maria Hurtado would attend.

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

It was moved by Council Member Abercrombie to adopt Resolution 2012-154.5 designating Mayor Pro Tem Maciel as the voting delegate for the League of California Cities 2012 Annual Conference Business Meeting. Voice vote found all in favor; passed and so ordered.

- B. Discuss and Provide Direction on the Establishment of a City Council Procedures and Protocol Manual, a City Council Communications Policy, and a City Council Code of Conduct - Maria Hurtado, Assistant City Manager, presented the staff report. On January 17, 2012, the City Council directed staff to place an item on a future City Council agenda to discuss the creation of a City Council Communications Policy and Code of Conduct for City Council Members.

Currently, the primary policy document for the conduct of City Council meetings is the City's Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings ("City Council Procedures") which was adopted by Resolution 2008-140. However, this policy does not directly address the subject of the conduct of City Council members by documenting accepted practices and clarifying expectations. Nor does it address how written communications to, from, and between City Council Members are handled.

A number of cities have adopted city council codes of conduct and communications policies in addition to rules of procedures for conducting meetings. Some cities have included such policies in a manual that serves as an easy reference guide to council members, staff, and the public. Staff believes that creating such a manual would be helpful. Therefore, concurrently with considering the establishment of a City Council Communications Policy and a City Council Code of Conduct, staff is recommending that the City Council direct staff to begin preparing a City Council Procedures and Protocol Manual. Such a manual would contain, or cross reference, existing City Council-adopted policies (including the City Council Procedures), references to state law provisions that pertain to the City Council, and any new City Council-related policies that are adopted (e.g., the City Council Communications Policy and the City Council Code of Conduct).

To clarify its preferred procedures as to how communications to, from, and between City Council Members take place, staff recommends that the City Council adopt a City Council Communications Policy. If the Council chooses to adopt such a policy, it could eventually be included in the City Council Procedures and Protocol Manual, described above. This draft is largely based on current practices and City Council policies as well as state law requirements.

Although this draft City Council Communications Policy primarily addresses how written City Council-related communication is handled (e.g., emails, letters, etc.), it does not directly address how City Council Members should conduct themselves in their communications with each other, City staff, and with the public. Staff recommends that these subjects be addressed, if at all, in the context of a City Council Code of Conduct, discussed below.

Staff recommended that the Council review the draft City Council Communications Policy and provide direction as to whether Council wishes to adopt such a policy. If Council prefers, this topic could also be further discussed as part of a workshop, along with a proposed City Council Code of Conduct.

Many cities and organizations have a code of conduct, or guidelines, establishing how Council Members and officials should deal with each other, staff, and the public. Samples of such codes/guidelines from the Cities of Sunnyvale and the Mountain House Community Services District are attached to the staff report. Staff recommended that the Council review these samples and provide initial direction as to whether Council wishes to adopt such a code/guidelines and generally what should be included in such code/guidelines.

Staff recommended that City Council discuss the establishment of a City Council Procedures and Protocol Manual, a City Council Communications Policy, and a City Council Code of Conduct, and:

- Direct staff to begin establishing a City Council Procedures and Protocol Manual;
- Provide direction to staff on the draft City Council Communications Policy; and
- Provide initial direction to staff on establishing a City Council Code of Conduct and scheduling a future workshop on this topic.

Mayor Pro Tem Maciel stated he appreciated the examples that were provided by staff, but indicated he was more concerned about how communication was handled and general guidelines on how questions are answered.

Council Member Abercrombie indicated he believed a policy needed to be adopted regarding how inquiries directed to the Council as a body would be handled.

Council Member Rickman indicated he too was concerned with the communication policy.

Council Member Elliott agreed that a communication policy would be helpful along with a standard established. Council Member Elliott stated it would be useful to have some general guidelines regarding communication.

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

Dave Helm stated whatever the Council does needs to foster communication with residents and vice versa.

It was Council direction to direct staff to bring back information regarding a communication policy.

Mayor Pro Tem Maciel indicated he supported that discussion and stated there should be discussions later regarding realistic guidelines.

Mr. Sodergren stated the third aspect of the staff report indicated that other cities have compiled all their policies into one manual and hoped that Council would provide direction on that point.

Mayor Ives indicated if staff was proposing to put existing policies in one manual, he was not opposed to it.

Council Member Abercrombie wished his son, in Afghanistan, a happy 22nd birthday.

Council Member Elliott proposed a future discussion item regarding the City running the library and indicated he would like an update. Mayor Pro Tem Maciel agreed it would be worthwhile to review.

13. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adjourn. Time: 10:14 p.m.

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

Mayor

ATTEST:

City Clerk

August 7, 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 7:02 p.m. and led the Pledge of Allegiance.

The invocation was offered by Pastor Jim Bush, Market Place Chaplains USA.

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

Leon Churchill, Jr., City Manager, presented the Employee of the Month award for August 2012, to Binh Nguyen, Development Services.

Mayor Ives presented a Certificate of Appointment to the Building Board of Appeals to James Caling, and a Certificate of Reappointment to Jerry Yerian.

Mayor Ives presented Certificates of Appointment to the Youth Advisory Commission to Rebecca Fuller and Panoor Khinda.

Mayor Ives presented Certificates of Achievement to the Tracy Babe Ruth Baseball League – U9 State Championship Winners.

1. CONSENT CALENDAR - Following the removal of item 1-B by a member of the audience, it was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt the Consent Calendar. Roll call vote found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor. Motion carried 5:0.
 - A. Minutes Approval – Special meeting minutes of April 3, 2012, and April 30, 2012, and closed session minutes of July 17, 2012, were approved.
 - C. Adopt Resolution Authorizing the City Manager to Execute Grant Contracts Necessary for the Purpose of Obtaining Proposition 63 Funds in the Amount of \$200,000 for the Mayor’s Community Youth Support Network Grant Program and Appropriating \$200,000 from the San Joaquin County Behavioral Health Services Community Service Agreement – Resolution 2012-155 authorized the City Manager to execute the contracts.
 - D. Appropriate \$70,000 of Funds from Mariposa Energy, LLC into the Fire Department Budget for the Purchase of Emergency Equipment to Mitigate Service Impacts to the Fire Department – Resolution 2012-156 approved the appropriation.

- E. Find that it is in the Best Interest of the City to Forego the Formal Request for Proposal Process and Approve a Professional Services Agreement with GIS Data Resources, Inc. (GDR) to Improve the Accuracy and Completeness of the Geographic Information System (GIS) Database and the Master Street Address Guide (MSAG) Database and Ensure the Data Complies with the National Emergency Number Association (NENA) Guidelines and Appropriate the Receipt of a \$75,000 Grant – Resolution 2012-157 approved a PSA with GIS Data Resources.
- F. Authorization of Amendments to the Landscape Maintenance Agreements (Amendment No. 12 to Agreement for Fully-Funded Zones to Remove Zones 3, 15, and 18; Amendment No. 8 to Agreement for Under-Funded Zones to Add Zones 3, 15, and 18) – Resolution 2012-158 authorized the amendments.
- B. Authorization to Purchase the Ballistic Engineered Armored Response All Purpose Vehicle from the California Emergency Management Agency Public Safety Procurement Program and Approve the Loan from the Equipment Replacement Fund for a Total Not to Exceed \$282,000 – Robert Tanner, 1371 Rusher Street, asked for clarification regarding approval of a loan not to exceed \$282,000, when the fiscal impact section of the staff report only mentioned approval of a loan for \$110,000. Chief Hampton clarified that the loan was for \$110,000 from the equipment replacement fund.

Paul Miles, 1397 Mansfield Street, asked if there were restrictions on where the money is used. Chief Hampton replied that money received from seizures could not supplant monies for the General Fund.

Mr. Miles stated a loan is to be paid back if there were assets from seizures and if no money was obtained through seizures, it would come from the General Fund. Chief Hampton provided some background on seizure funds.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2012-159 approving purchase of a ballistic engineered armored response all purpose vehicle from the California Emergency Management Agency Public Safety Procurement Program and approve a loan from the Equipment Replacement Fund for a total not to exceed \$282,000. Voice vote found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE - A moment of silence was observed in remembrance of those who lost their lives or were injured during an attack on a Sikh Temple in Wisconsin.

Paul Miles, 1397 Mansfield Street, provided Council with a handout, and reiterated his complaints against Police Chief Hampton and prior Police Chief Thiessen, City Manager, Leon Churchill and City Attorney, Dan Sodergren.

Jass Sangha thanked the Council and community for their support regarding the tragedy that occurred in the Sikh temple in Wisconsin over the weekend. Ms. Sangha invited Council and staff to their temple.

A member of the Sikh community thanked Council and the community for their support and concern during this time.

DEVIATION IN AGENDA

4. RECEIVE SEMI-ANNUAL REPORT ON THE 5TH GRADE DRUG ABUSE RESISTANCE EDUCATION (DARE) PROGRAM SERVICES RENDERED DURING FISCAL YEAR 2011-2012 AND PROVIDE ASSESSMENT OF HOW TRACY POLICE PERSONNEL WERE USED TO ASSIST IN THE DARE CLASSROOM - Council Member Abercrombie stepped down during presentation of the report.

Captain Espinoza presented the staff report. On July 5, 2011, the City Council approved the Professional Services Agreement with the Tracy Unified School District (TUSD) for the provision of DARE services with allowable expenses up to a maximum amount of \$45,000 for Fiscal Year (FY) 2011-2012 payable to the TUSD. The submitted receipts have been reviewed, verified for compliance with council objectives, and reimbursed in the amount of \$45,000.

In 2011, the Tracy City Council also stated that it wanted more Tracy Police Department involvement in the DARE program, beyond supporting it through attending DARE graduations. The Kiwanis DARE advisory board welcomed the involvement of Tracy PD staff in presenting some aspects of the curriculum. Working collaboratively with the Kiwanis DARE advisory board, Police management developed a supplemental program named Tracy Against Gangs (TAG) to support the DARE curriculum. Two Tracy PD School Resource Officers took the lead and created a 4- lesson curriculum with supporting instruction handbook for this supplemental TAG program. The TAG program lessons were well received and were seen as a natural continuation of the overarching community stance against gangs and violence.

The DARE program is taught to 5th grade students in and around the Tracy. Specifically, the DARE program is taught in classes within the Tracy Unified, Jefferson, Banta, New Jerusalem, and Lammersville School Districts, as well as three private schools. While it costs about \$105,000 per year to teach in all the aforementioned schools, the \$45,000 appropriated by the City Council is specifically paid to the Tracy Unified School District (TUSD) for DARE classes taught in public schools within Tracy City limits.

There is no immediate impact to the City's FY 2012-2013 Budget as \$45,000 has already been approved through for the DARE program. The funds are currently in the Police Department's Operating Budget for payment to the Tracy Unified School District.

Staff recommended that Council accept the accounting of the \$45,000 funding expenses for FY 2011-2012 as appropriate, including the Police Department's use of its police officers to develop the TAG program which met the Council's objective of placing Tracy police officers back into the classrooms and that Council offer feedback on how it wishes to implement the TAG program.

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

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to accept the Semi-Annual Report on the 5th Grade Drug Abuse Resistance Education

program services rendered during FY 2011-2012, and provide direction on the implementation of the Tracy Against Gangs program. Voice vote found Council Member Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Abercrombie abstained.

3. APPROVAL OF PROPERTY DEVELOPMENT AND LEASE AGREEMENTS WITH TRACY LITTLE LEAGUE; TRACY BABE RUTH; AND TRACY FUTBOL CLUB FOR CONSTRUCTION AND MAINTENANCE OF SPORTS FIELDS AND RELATED AMENITIES WITHIN THE HOLLY SUGAR SPORTS COMPLEX AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AGREEMENTS - Rod Buchanan, Parks and Community Services Director presented the staff report. The City has completed a master plan for the Holly Sugar Sports Complex (Sports Complex) layout, environmental work, improvement plans, specifications and construction documents for Phase 1 on approximately 70.2 acres of the 166-acre site.

The City has also begun certain infrastructure improvements for Phase 1 which would allow eligible sports organizations to proceed with facility improvements to their individual areas. The Sports Complex first phase includes a total of 12 baseball fields, 8 soccer fields and four parking lots to accommodate facility users.

On March 1, 2011 the Council approved Memoranda of Understanding with Tracy Little League, Tracy Babe Ruth, Tracy Youth Soccer League and Tracy Futbol Club for the purpose of indicating commitment of all parties to negotiate a Property Development and Lease Agreement (Agreement) for construction of fields and ongoing maintenance and operations of fields. Agreements have been signed by Tracy Little League, Tracy Babe Ruth and Tracy Futbol Club. Tracy Youth Soccer League has not yet signed an agreement. The Agreements are similar and the following is a summary of the Agreements being presented for Council consideration:

Leased Area:

- o Tracy Little League: 20.32 acres
- o Tracy Babe Ruth: 14.65 acres
- o Tracy Futbol Club: 9.55 acres

Term:

Commences on the date that the Tracy City Council approves a Notice of Completion for the Holly Sugar Sports Complex infrastructure development project (CIP #78115) and continues for a period of approximately fifteen years ending December 31, 2027. At the end of the lease term, upon the League's request and satisfactory fulfillment of all terms of the lease, the City Council shall, in writing, renew this agreement for an additional ten-year period.

Lease Payment:

A fixed rate, annual lump sum of \$150.00 annually times the number of acres. Starting in the fifth year and annually thereafter, the lease payment shall be adjusted to the lesser of either (1) the annual cumulative change in Consumer Price Index since December 31, 2012, or (2) a three-percent per year increase. Hereinafter, "CPI" shall mean the Consumer Price Index for all Urban Consumers, All Items, for the San Francisco-Oakland-San Jose Metropolitan Area (1982-84 = 100), as published by the Bureau of

Labor Statistics of the U.S. Department of Labor, or its successor. The initial payment for each league will be:

- o Tracy Little League: 20.32 acres= \$3,048.00
- o Tracy Babe Ruth: 14.65 acres= \$2,197.50
- o Tracy Futbol Club: 9.55 acres= \$1,432.50

Total Annual Rent = \$6,678

Use:

Exclusively for the purposes of conducting youth sports practices, games and tournaments, all at the League's own cost and expense.

Rentals:

- o Tracy youth sports organizations: Leagues shall make their fields available to other Tracy youth sports organizations for rates within 10% of City non-profit fees for field rentals as identified in the annual City Operating Budget (subject to annual change by City Council).
- o Use by other youth sports organizations. Leagues may rent any portion of the Property to youth sports organizations from outside the City for the purpose of hosting youth sports functions. Leagues need not obtain prior written permission by City, and may charge a fee for the rental, all at the Leagues sole discretion.
- o Fees. The leagues are authorized to charge a reasonable fee to the public or any individual to enter onto the Property for a sports league event. Persons not associated with viewing the game shall be allowed to pass without any fee. Leagues may not charge parking fees. The City reserves the right to rent parking lots and charge/collect parking fees at events run by the City.

Naming rights:

Each league shall have the right to temporarily name its Facility Improvements located within its Property during the term of this Agreement, and to collect any naming right fees associated with the naming of Facilities. The City reserves the right to name the Sports Complex (as a whole) including collecting any naming right fees associated with the naming of the Sports Complex.

City Use:

The City will be able to use the Property a maximum of up to 10 full days each year provided that City requests the use on or before December 15th of the year prior to the City's intended use, and when the use does not unduly interfere with the league's planned activities. City may request the use after December 15th and leagues will allow this if the requested days are available.

Utilities:

Leagues are responsible for the payment of any connection, service and monthly fees associated with utilities at the Property, except for irrigation water which will be paid by the City.

Taxes:

Leagues will pay any real property taxes levied against the leased Property as a result of any possessory interest taxes which may be imposed on the Property.

Timetable:

It is anticipated that Leagues will complete the development of the Facility Improvements in phases. All sports fields in the leased area shall be constructed suitable for league play within five years after the City issues its notice of completion for the Infrastructure Improvements. Leagues will substantially complete fields and related facilities within the term of the agreement (approximately fifteen years).

Phased Development Plan:

A Phased Development Plan will be submitted to the City by October 1, 2012 that outlines how and when each League intends to complete the improvements. Phased Development Plan updates will be completed and provided to the City on a quarterly basis.

Maintenance:

City shall maintain: the Infrastructure Improvements such as internal roads, parking areas and all landscape areas associated with them; utilities to the stubbed area; retention areas; and open spaces outside the Leagues' Property. Leagues shall maintain and operate the Property to the Maintenance Standards as specified in Exhibit C of the Agreements.

Temporary facilities:

Leagues will be able to install and use temporary facilities (i.e. storage sheds, portable restrooms and/or concessions).

Concessions:

Leagues will be able to sell concession items on the Property during events, subject to applicable laws and regulations. The sale and possession of alcoholic beverages are prohibited on the Property as well as anywhere within the Sports Complex.

Licenses and permits:

Leagues shall obtain and pay for any required permits and licenses required for construction of the Facility Improvements and any inspection of the construction. However, the City shall waive the costs for any City permits and licenses that may be required. (This waiver does not include utility connection fees and/or County permit fees.)

Right of First Refusal:

Tracy Babe Ruth shall have the first right of refusal to enter into a separate lease agreement for property adjacent to their respective property if City is interested in leasing the other property and if the league has completed construction on its initial five-field complex within the parameters of Section 7.2 (Timetable) of the agreement.

Staff anticipates that the City-built infrastructure improvements will be completed and accepted by Council in January 2013.

The total estimated costs of this project is \$11,728,229 which includes Construction cost, Design Cost (Consultant) Including utility permits, EIR Cost, Design Cost City staff , Design support during construction, Construction Management, COG Habitat Fee and City-wide Project management charges. There is an impact to the General Fund for this item. It is estimated that the additional cost for maintenance and operations of the City's

area of responsibilities will be approximately \$10,000 for the remainder of FY 2012/2013. The final estimate will be brought to Council for a supplemental appropriation to the FY 2012/2013 Public Works budget. Annual operating costs for future years will be approximately \$20,000. The total rent amount from all three leagues in the amount of \$6,678 will be credited to the Waste Water Treatment Fund, which is more than the fund currently receives in agricultural lease revenue for the property.

Staff recommended that City Council:

1. Approve a Property Development and Lease Agreement with Tracy Little League relating to the lease of property within the complex and construction of sports fields and related amenities; and
2. Approve a Property Development and Lease Agreement with Tracy Babe Ruth relating to the lease of property within the complex and construction of sports fields and related amenities; and
3. Approve a Property Development and Lease Agreement with Tracy Futbol Club relating to the lease of property within the complex and construction of sports fields and related amenities; and authorize the Mayor to execute the Agreements.

Council Member Elliott asked how much the Council of Governments habitat fee would be. Mr. Sharma indicated approximately \$14,000 per acre.

Council Member Elliott asked if staff had any indication when the Tracy Youth Soccer League would come to an agreement. Mr. Buchanan stated his understanding was that the contract was still under review by their attorney. Council Member Elliott asked if the group did have a problem, does staff have other leagues lined up to take their place. Mr. Buchanan stated a number of leagues were interested.

Mayor Ives invited members of the public to address Council.

Troy Comacho, President of Tracy Babe Ruth, thanked Council for providing this opportunity to the youth of the community.

A Tracy resident and president of a non-profit soccer organization stated they would love to have an opportunity to join in if the other group was not interested.

Mayor Pro Tem Maciel thanked staff and the members who operate the youth leagues, for finally providing this opportunity for the youth.

Council Member Rickman thanked Mr. Buchanan for his efforts and welcomed the three sports leagues who have signed agreements.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-160 approving a property development and lease agreement between the City of Tracy and Tracy Little League, Inc. – for construction and maintenance of sport fields and related amenities within the Holly Sugar Sports Complex and authorization for the Mayor to execute the agreement. 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 2012-161 approving property Development and Lease Agreement

between the City of Tracy and Tracy Babe Ruth, Inc. for construction and maintenance of sport fields and related amenities within the Holly Sugar Sports Complex and authorization for the Mayor to execute the agreement. 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 2012-162 approving the Property Development and Lease Agreement between the City of Tracy and Tracy Futbol Club, Inc. for construction and maintenance of sports fields and related amenities within the Holly Sugar Sports Complex and authorization for the Mayor to execute the agreement. Voice vote found all in favor; passed and so ordered.

5. AUTHORIZE AN EXPENDITURE OF \$8,000 FROM THE FY 12/13 WATER FUND BUDGET TO PAY FOR DELTA COALITION LOBBYING SERVICES RELATED TO THE BAY DELTA CONSERVATION PLAN AND THE DELTA PLAN - Andrew Malik, Development Services Director, presented the staff report. In November 2009, the California Legislature enacted Senate Bill X7 1 (The Delta Reform Act). It established the Delta Stewardship Council (DSC) an independent State agency, and requires that the DSC develop, adopt, and implement by January 1, 2012, the Delta Plan, a legally enforceable, comprehensive, long-term management plan for the Sacramento-San Joaquin Delta and the Suisun March (Delta) that achieves the "coequal goals" as specified in California Water Code Section 85300(a). The coequal goals are the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource and agricultural values of the Delta as an evolving place" (Water Code section 85054).

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

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

City staff has attended periodic coordination meetings with representatives of San Joaquin County and the City of Stockton in the establishment and coordination of

stakeholder meetings to facilitate a collaborative and uniform effort to address our mutual concerns with the proposed adoption and implementation of the Delta Plan, the Program EIR, and with related Delta plans and programs such as the Bay Delta Conservation Plan (BDCP). Presently, the stakeholder group is preliminary known as the "San Joaquin County Delta Initiative Coalition Stakeholders".

At its January 17th meeting, the Council adopted a joint resolution of San Joaquin County Stakeholders in support of an initiative for joint action, advocacy, and mutual interests on issues concerning the Sacramento-San Joaquin River Delta (Delta). The Delta Coalition stakeholder group has been working with the lobbying firm Sacramento Advocates, Inc. Funding is currently being requested by all stakeholders for lobbying efforts. The City's share of the lobbying effort is \$8,000 .

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

The Final Staff Draft of the Delta Plan was released by the Delta Stewardship Council on May 14, 2012. According to the Delta Stewardship Council, the Environmental Impact Report (EIR) for the Delta Plan is expected to be approved later this year. Delta Coalition Stakeholders continue to provide comments on the Final Delta Plan as well as to lobby for mutual interests related to Delta issues in our region.

There is no fiscal impact to the City's General Fund resulting from this item. The \$8,000 funding will come from the Water Enterprise Fund as this lobby effort will serve to protect the City's interest with regard to land use, water supplies and other Delta related issues. The FY 12/13 Water Fund budget has sufficient funds to cover the \$8,000 lobbying expense.

Staff recommended that City Council authorize an expenditure of \$8,000 from the FY 12/13 Water Fund budget to pay for Delta Coalition lobbying services related to the Bay Delta Conservation Plan and the Delta Plan.

Mayor Pro Tem Maciel asked if there was any possibility that there would be additional funds needed from the City for this project. Mr. Malik indicated these funds would cover the City through the end of the year, but if the coalition continues to lobby, there could be additional expenses in subsequent years.

Council Member Elliott asked if the scope of the lobbying effort included services of the Bay Delta Conservation Plan which includes tunnels under the Delta. Mr. Malik stated in the Delta Plan there is a lot of detail regarding the reliability of the water and the focus for the remainder of the year will be toward the Delta plan and the impact from the primary and secondary zone.

Mike Niblock, on behalf of the Mayor of Stockton and the Coalition, thanked Council for the opportunity to present this item. Mr. Niblock stated the expense was for efforts that have already taken place on bills at the State level.

Mayor Ives asked how the Coalition arrived at the \$8,000 for Tracy. Mr. Niblock stated it was based on a pro rata share of population.

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

Rhodesia Ransom encouraged Council to approve the request. Ms. Ransom indicated she had attended meetings with the Coalition and supported the work they were doing. Ms. Ransom also suggested the City take on an educational effort to inform citizens.

Mayor Pro Tem Maciel stated he believed it was a wise investment in protecting the City's land use decisions.

Council Member Elliott voiced his support indicating it protects local sovereignty, and keeps the DSC from adding another layer to the bureaucracy to the detriment of our economy.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-163 authorizing an expenditure of \$8,000 from the FY 12/13 Water Fund Budget to pay for Delta Coalition lobbying services related to the Bay Delta Conservation Plan and the Delta Plan. Voice vote found all in favor; passed and so ordered.

6. **DISCUSSION AND DIRECTION RELATED TO THE CORDES RANCH PROJECT**
Leon Churchill, City Manager, provided an introduction to the staff report. Bill Dean, Assistant Development Services Director, presented the staff report. Mr. Dean stated that the Cordes Ranch project represents many significant opportunities for the future of Tracy. Identified in the City's General Plan as Urban Reserve 6 this area has been envisioned since 2006 for industrial, office, and retail growth for the City. The Cordes Ranch site is uniquely positioned to provide a wide range of business location opportunities that are in scarce supply county-wide. Cordes Ranch has the potential to allow large scale developments the opportunity to locate in Tracy and is being planned to capture current and emerging opportunities, including manufacturing, distribution, retail, and flex office user types.

This item follows City Council's recent discussion of economic development and zoning, specifically along I-205. That discussion, which occurred on July 17, 2012, concluded with City Council affirming the dual goals of high identity businesses and land uses along the I-205 corridor throughout the City, as well as flexibility in zoning to capture current market opportunities.

The Cordes Ranch Specific Plan is being drafted to be highly flexible and includes provisions for a wide range of land uses. The principal methods of limiting land uses within Cordes Ranch have been to design portions of the site with smaller street block lengths, which will limit the size of buildings that can locate within certain portions of the site. Additionally, the draft plan seeks to locate larger-scale retail at the I-205/Mt. House interchange and locate the majority of large scale users toward the southern portions of the project. The storm drain and natural drainage areas central on the site provide an opportunity to create a focal point within the project, bordered by more restrictive zoning calling for a predominance of office and flex/office uses. The owner's group currently requests that the I-205 fronting properties have a combination of three zoning districts, allowing retail, office and large scale industrial development along the freeway.

Within the draft Specific Plan are development and design standards. The Cordes Ranch project has been divided into three “design districts,” each with a distinct set of design guidelines. Proposed are the I-205 design district, the Central Core design district, and the Schulte design district. Any development within the I-205 design district would be required to increase the level of design features, and treatments, including landscaping requirements.

Under current zoning in Tracy there are two general processes for obtaining an approval prior to applying for a building permit. First, there are areas within the City that are zoned to require both Planning Commission review and City Council approval for their developments prior to applying for a building permit. These areas are mainly zoned Planned Unit Development (PUD) and include the I-205 Corridor Specific Plan and a large portion of the more recent residential areas. The Northeast Industrial Area also falls into this category; however, the Council recently approved staff level reviews for the remaining areas within that planning area. The second general approval process is a staff level review process. This approach is used throughout the City, primarily in older areas, where approvals are accomplished at the staff level after properly notice public hearings (conducted at the Development and Engineering Services Department), which are subject to appeals.

Cordes Ranch is proposing staff level reviews for all future developments within the project area. In order for staff reviews to result in high-quality development, it is helpful to have detailed design guidelines. For the Cordes Ranch project, staff has indicated to the owners group that for development within the I-205 design district, the approval process could require Planning Commission review and City Council approval to help ensure a high quality I-205 frontage.

Since the initial application staff has continuously emphasized the importance of the I-205 corridor to the owners group. Staff has been pursuing a high-identity image for Tracy, and special attention has been placed on planning the I-205 frontage.

Discussions with the owners group on proposed land uses and design standards along I-205 have been focused on a high-identity image. Staff believes that design standards can be successful in ensuring high-quality development, although they are also limited. If the zoning permits warehouse and distribution uses, which typically require very large buildings, the design standards result in larger setbacks, increased landscaping, and higher quality materials and design; the outcome is a nice looking warehouse where truck docks are screened behind walls and landscaping and buildings are designed to look less like typical distribution and warehousing facilities. The owners group has been firm in approaching the look of I-205 from the perspective of a design exercise as opposed to pursuing land use limitations in the form of more restrictive zoning.

Following Council input on the Cordes Ranch project, the development team including City staff will complete a Draft Specific Plan which will be reviewed for additional public input with the Planning Commission. The Specific Plan will form the basis for environmental review under the California Environmental Quality Act (CEQA); a Draft EIR is currently being completed which will be published once the Draft Specific Plan and development agreement terms have been finalized. City staff and the project owners are currently negotiating a development agreement (DA) and anticipate returning to Council on August 21, 2012 to discuss DA terms and receive additional direction. The

EIR is scheduled to be published in September, pending the outcome of DA negotiations and completion of the Specific Plan with Council direction.

The City entered into a Cost Recovery Agreement with the Cordes Ranch owners group in March 2011, providing for the City to recover all staff and consultant costs associated with the project applications, including the Specific Plan, Environmental Impact Report (EIR), and DA.

Staff recommended that the Council discuss the Cordes Ranch project and provide direction to City staff.

Dave Babcock, on behalf of the Cordes Ranch land owners, provided a power point presentation outlining the proposed project.

Mayor Ives invited members of the public to address Council.

Council Member Abercrombie asked if Caltrans had any plans to install a soundwall similar to the one they installed near the outlet center. Mr. Dean indicated Caltrans usually placed soundwalls near residential areas.

Mr. Babcock indicated they have had conversations with Caltrans on how they can help control the "no mans land".

Mayor Pro Tem Maciel asked for clarification regarding the list of permitted uses within the districts. Mr. Babcock stated he believed a lot of those uses were to provide flexibility with interim land uses.

Mayor Pro Tem Maciel stated he was concerned about the outdoor storage of vehicles and equipment indicating that would be something that he would like to avoid. Mr. Babcock indicated they would be using screening and the position of buildings to hide those items.

Council Member Elliott expressed concern with off-site parking areas, truck stops, warehouse and distribution indicating he was not sure he wanted a truck stop in that location. Mr. Babcock indicated they want the specific plan to address the aesthetics.

Council Member Elliott referred to a slide that showed a birds-eye view with several large warehouse type buildings. Mr. Babcock stated it was meant to show massing vs. aesthetics. Mr. Babcock stated they were asking for flexibility so they could address changes in the market. Mr. Babcock added they want it to be attractive, but have to document it and define it which places safeguards for the City and the developer.

Mr. Dean added that there were a number of tools to plan for the corridor, two of which are permitted uses and design standards.

Mayor Ives asked if there was any gradation of standards between the districts. Mr. Dean stated yes, with the idea of having an identity along the freeway.

Mayor Ives asked if staff anticipated variation in the amount of oversight between the various districts. Mr. Dean stated they have had those discussions as well.

Mayor Ives indicated the I-205 district is of primary concern to the Council. Mr. Babcock indicated they meant to focus on the I-205 corridor with a higher level of architecture. Mr. Babcock stated they were trying to incorporate signage, setback, etc., as a complete package so that a lot of the discussion that has already taken place and the projects can move forward. Mr. Babcock stated they want certainty and understanding regarding what can be done and what cannot.

Mayor Ives asked what changes if all of the permitted uses turn to conditionally permitted uses. Mr. Dean stated it would be the requirement to obtain a conditional use permit, all done in a public process at the Planning Commission to mitigate against some aspect of the project.

Mayor Ives stated the Council was safeguarding the I-205 corridor. Mayor Ives asked if there was a way to allow a handshake on each project rather than allowing full flexibility. Mr. Dean stated it could be done through a review of the landscaping and architecture. Mr. Dean stated what gets difficult is the actual land use. Mr. Dean stated the most basic entitlement the ownership will be seeking is vesting. Mr. Dean stated it would be difficult to do on a case by case basis.

Council Member Rickman stated he has an issue with flexible zoning. Mr. Babcock stated the flexibility comes in the economics of the business. Mr. Babcock stated there should be an understanding whether a business is permitted to go in the project and if so, in what district. Mr. Babcock stated the standards to be put in place would match up with the safeguards in the specific plan.

Council Member Rickman stated the Council was safeguarding I-205 corridor. Council Member Rickman indicated he had a problem with staff level reviews and wants Council to consider applications.

Dana Perry of Reynolds & Brown, stated they understand the gateway to the City and they have a plan that is very optimistic for retail totaling over 30 acres.

Council Member Rickman asked Mr. Perry to put it into proportion. Mr. Perry stated 45 acres of retail and 150 acres of BPI. Mr. Babcock stated it's a combination of land use, aesthetics, and market conditions to accommodate a lot of possibilities.

Council Member Abercrombie asked staff what their comfort level was on what the Council wanted and what was being proposed. Mr. Churchill stated he has heard over the months that the I-205 corridor is unique and should be treated accordingly. Mr. Churchill added that part of our economic growth calls for diversification – moving from distribution to manufacturing. Mr. Churchill further stated it was easier to say what we desire and Council has pointed out what it doesn't want. The most positive aspect is having manufacturing as a role in the community. Mr. Churchill stated it is possible for the land use to be placed in the I-205 area with a heightened approval process to achieve that goal. Mr. Churchill stated the City needed to make room for the possibility that distribution facilities will have a campus-like setting.

Mayor Ives stated it was fair to say that the City doesn't want any big box distribution center along the freeway.

Mr. Babcock stated they were focused on the design and that they would come back to Council with more clarity.

Tim Murphy, managing member of TWI, stated he owns 100 acres that fronts I-205 and shared his vision. Mr. Murphy stated he believes there is a place within the industrial market for Tracy that will want freeway exposure and will pay for it through significant setbacks and landscaping. Mr. Murphy stated he was totally committed to protecting Tracy's freeway frontage.

Council Member Elliott asked if the 45 acres of general commercial around Mountain House Parkway was the maximum that could be considered. Mr. Babcock stated that through market analysis the 45 acres was a stretch. Mr. Babcock stated the focus has been on keeping retail near the mall. Mr. Perry stated fees and expedited permits were one of the challenges in today's market and carrying more land subject to greater fees was uneconomic.

Mayor Pro Tem Maciel stated flexibility was key. Mayor Pro Tem Maciel suggested one approach along the I-205 area would be to have the BPI sections turned into a conditional use permit. Mayor Pro Tem Maciel stated if this was a high rent district, a lot of those uses would not be willing to locate on that corridor.

Council Member Rickman stated this was important to him because it will shape how the City looks and the quality of life for its residents for the next 20 years. Council Member Rickman stated the City wants head of household jobs and a town to be proud of.

Council Member Rickman asked staff what they need. Mr. Dean summarized what they have heard is no big box distribution along the freeway.

Mayor Pro Tem Maciel stated big box was not desirable but he did not want to give it an absolute no. Mayor Ives stated it would have to be very compelling.

Council Member Rickman stated no to big box distribution; Council Member Elliott stated undesirable and should be avoided, and Mayor Pro Tem Maciel said, never say never.

Council Member Abercrombie stated it was obvious that Council did not want to give free reign; that Council wanted to be able to look at it and evaluate it since the corridor is their biggest concern.

Mr. Sodergren provided a distinction on conditional uses stating staff would have to come up with another type of process. Mr. Dean indicated staff could work on that.

Mr. Dean stated no matter what fronts the freeway, it would come back to Council for review.

Council Member Rickman asked if Council was removing staff level review along the corridors. Mr. Dean stated staff would work with the project team to come up with a specific distance from the freeway.

Council Member Rickman asked Mr. Dean and Mr. Malik if they were clear on what Council wanted. They both answered yes.

Robert Tanner asked for clarification regarding temporary uses permitted by TMC code. Mr. Bell outlined some of the types of temporary uses including seasonal uses that do not extend past 30 days.

Mayor Ives called for a recess at 9:41 p.m. reconvening at 9:50 p.m.

7. RECEIVE REPORT AND APPROVE A DESIGN FOR THE LOLLY HANSEN SENIOR CENTER OUTDOOR RECREATION AREA PROJECT, CIP 78136 - Jolene Jauregui Recreation Coordination, presented the staff report. Over the years the Lolly Hansen Senior Center has become heavily used on a daily basis for recreation activities, health and wellness programs and special events. On a yearly basis over 950 seniors in the Tracy community utilize the Senior Center. Participants generally have limited or no access to recreation activities and fall into the low or very low income category. The Center lacks a secure, accessible outdoor area where seniors can relax, socialize, and participate in a variety of fitness and recreational activities.

The Lolly Hansen Senior Center Outdoor Recreation Area project, CIP 78136, involves construction of an ADA accessible outdoor recreation area, fencing, shade structure, tables, seating area, fitness equipment, two raised planting beds, and a horseshoe pit.

On January 13, 2011 staff submitted an application grant for \$70,000 of CDBG funding to construct an Outdoor Recreation Area behind the Lolly Hansen Senior Center. On March 15, 2011, the Council approved the CDBG grant allocations. The actual final allocation for the Senior Center project was \$52,606 for FY 2011-2012. A second grant for an additional \$90,000 of CDBG funding was requested for FY 2012-2013 and approved by Council on March 6, 2012.

During the month of August 2011 staff led focus group meetings, surveyed seniors from the Lolly Hansen Senior Center and throughout the community for input regarding the design of the Lolly Hansen Senior Center Outdoor Recreation Area. Seniors were asked to provide input regarding design, outdoor amenities, and programming and to prioritize their recommendations. During the process seniors also expressed that they wanted the outdoor area safe, secure, and that it should be fenced in. Based on the results, the seniors wanted following top five amenities: permanent tables, outdoor lighting, outdoor patio and benches, wheelchair ADA and permanent shade structure in the recreational area. In addition, the seniors wanted recreational programs such as horseshoes, backyard games, board games, picnics and gardening classes. Other self-directed activities could include outdoor painting, bird watching and reading.

The project improvement plans include all the above facilities as recommended by the seniors. The location of each facility is so adjusted that it ensures compliance with ADA requirements. Staff is working to finalize the design of the perimeter wall to ensure that it does not impede the neighboring Civic Center park environment. The perimeter wall will be consistent with the architecture of the surrounding buildings. The final design of the wall will be approved jointly by all departments. The pavers and planter blocks are of a type similar to materials used at the obelisk in front of city hall.

The project will be funded through CDBG funds. No additional operational funds are needed over FY 2012-13 budget.

Staff recommended that Council receive the report and approve the design for the Lolly Hansen Senior Center Outdoor Recreation Area Project, CIP 78136.

Mr. Sharma provided an overview of the design.

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

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to approve the design of the Lolly Hansen Senior Center Outdoor Recreation Area. Voice vote found all in favor; passed and so ordered.

8. SECOND READING AND ADOPTION OF ORDINANCE 1174 AN ORDINANCE OF THE CITY OF TRACY ADOPTING THE NORTHEAST INDUSTRIAL SPECIFIC PLAN, AMENDING SECTION 10.08.980, NAMES OF ZONES, AND ADDING SECTIONS 10.08.3022, NORTHEAST INDUSTRIAL SPECIFIC PLAN ZONE AND 10.08.3023,

The Clerk read the title of proposed Ordinance 1174.

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 1174. Roll call vote found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor. Motion carried 5:0.

9. ITEMS FROM THE AUDIENCE – None.

10. COUNCIL ITEMS

A. The Regular City Council Meeting Scheduled for Tuesday, November 6, 2012, be Rescheduled for Wednesday, November 7, 2012. Due to the General Municipal Election - It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-164 approving the City Council meeting date change from Tuesday, November 6, 2012, to Wednesday, November 7, 2012, due to the General Municipal Election. Voice vote found all in favor; passed and so ordered.

B. That the City Council Makes a Determination of Their Position on Five Resolutions to be Considered at the 2012 Annual Business Meeting of the League of California Cities Annual Conference - There was no staff report given and no members of the public voiced an interest in speaking on the item.

The City Council gave Mayor Pro Tem Maciel direction on how to vote on the following resolutions being considered at the Annual Business Meeting of the League of California Cities Annual Conference as follows:

1. Resolution encouraging California cities to oppose the California Desert protection Act of 2011 - Opposed.

2. Resolution requesting consideration of suspension of implementation or revision of the California Global Warming Solutions Act (AB 32 of 2006) - In favor.
 3. Resolution calling upon the Governor and Legislature to enact legislation that would correct inefficiencies in the Audit System, Distribution System and inequities in the formulas for distributing Court ordered arrest and citation fines, fees and assessments generated by local government - In favor.
 4. Resolution of the League of California Cities raising public awareness and supporting tougher laws related to internet crimes against children - In favor.
 5. Resolution calling for an Emergency Management Mission for California cities – In favor
11. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adjourn to closed session. Voice vote found all in favor passed and so ordered. Time 10:03 p.m.

The above agenda was posted at the Tracy City Hall on August 2, 2012. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

September 4, 2012, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

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

The invocation was offered by Pastor Scott McFarland of Journey Christian Church.

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

Leon Churchill, Jr., City Manager, presented the Employee of the Month award for September 2012, to Ricardo Hernandez, Police Department.

1. CONSENT CALENDAR - Following the removal of item 1-D by a member of the audience, it was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt the consent calendar. Roll call vote found Council Members Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.
 - A. Minutes Approval – Closed session minutes of August 21, 2012, were approved.
 - B. Authorization to Enter Into a Professional Services Agreement With the YMCA of San Joaquin County, Inc. to Perform Youth Basketball League Services for the City of Tracy and for the Mayor to Sign the Agreement – Resolution 2012-184 authorized entering into the agreement.
 - C. Authorize Amendment of the City's Classification Plan by Approving Revisions to the Classification Specification of Wastewater Operations Superintendent in the Public Works Department – Resolution 2012-185 authorized the amendment.
 - D. Authorize Amendment of the City's Classification and Compensation Plans and Position Control Roster by Approving the Reallocation of One Executive Assistant Position to a Human Resources Analyst I Position in the Human Resources Division of the Administrative Services Department - Robert Tanner, 1371 Rusher Street, commented that the City realized a savings of \$200,000 by eliminating the department head in this department and that by re-classing another position eats away at the savings realized and asked why the executive assistant position was being eliminated. Maria Hurtado, Assistant City Manager, stated the intent was to eliminate the executive assistant position and leave the management analyst position in place. Ms. Hurtado added that because of several restructuring efforts duties had been re-assigned to existing staff and that the duties now reflected the position of a management analyst.

Council Member Elliott asked if, due to this reclassification, staff would be looking to hire an executive assistant at a later date. Ms. Hurtado stated that during the next few months staff would evaluate the work load of the merged departments, but at this point there was no plan to request an executive assistant position.

Council Member Elliott stated if the intent were to re-hire an executive assistant position then Mr. Tanner's comments would be valid. Council Member Elliott stated restructuring should not add any new positions.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-186, Authorizing an amendment of the City's Classification and Compensation Plans and Position Control Roster by approving the reallocation of one Executive Assistant position to a Human Resources Analyst I position within the Human Resources Division of the Administrative Services Department. Voice vote found Council Member Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

Mayor Pro Tem Maciel welcomed Jenny Haruyama, Administrative Services Director, to the City of Tracy.

2. ITEMS FROM THE AUDIENCE - Pamela Rigg, Administrator, Montessori School, Tracy stated that the Montessori has been attempting to expand the school for a number of years and has located a site they would like to develop. Ms. Rigg requested the City waive the impact fees making it possible for the school to develop.

Danielle Shurline, Ambassador for Girls Scouts, addressed Council regarding a project she is working on for a health and safety fair for animals to bring awareness about how pets are treated in Tracy. Ms. Shurline asked that Council consider changing the verbiage in the Municipal Code from "pet owner" to "pet guardianship".

3. PUBLIC HEARING TO CONSIDER AN APPLICATION FOR AN AMENDMENT TO A PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR BUILDING FAÇADE MODIFICATIONS AND ADDITIONS AT 2790 NAGLEE ROAD, ASSESSOR'S PARCEL NUMBER 212-050-60. APPLICANT IS BLAZIN WINGS, INCORPORATED C/O GOLDEN PROPERTY DEVELOPMENT, LLC AND PROPERTY OWNER TRACY MALL PARTNERS, LP. APPLICATION NUMBER D12-0005 - Kimberly Matlock, Assistant Planner, presented the staff report. On June 19, 2001, the Council approved a Preliminary and Final Development Plan for a Pier 1 Imports (2790 Naglee Road) and Best Buy (2550 Naglee Road) retail buildings (Application Number 5-01-D). Pier 1 Imports has since closed and a new restaurant (Buffalo Wild Wings) is proposing to occupy approximately 6,200 square feet of the nearly 9,500 square foot building and modify the building exterior and construct an outdoor patio and building addition. An amendment to the approved Preliminary and Final Development Plan is required before the applicant can construct the proposed improvements.

The proposed modified architecture meets the City's standards for commercial design and will complement the existing improvements in the I-205 corridor commercial area. The applicant proposes to add new planes and canopies, providing depth and articulation in the building face. Staff worked with the applicant to keep the existing rich brick façade, which was an important component when the building was approved in

2001. The restaurant will require new roof-mounted equipment that is larger than currently exists on the building. The applicant has proposed to increase the height of the parapet wall to fully screen the equipment from public view.

There is adequate parking to serve the proposed restaurant. In addition to the on-site parking provided, the site shares off-street parking with the West Valley Mall, which has provided large parking areas in excess of the minimum requirements.

A portion of the on-site landscaping is proposed to be removed as a result of the outdoor patio and building addition. The applicant proposes to replant shrubs adjacent to the newly constructed areas to match the existing landscape distribution.

The project is categorically exempt from CEQA pursuant to Guidelines Section 15303, which pertains to existing facilities, and no further environmental assessment is required.

On August 22, 2012, the Planning Commission discussed the proposed project in a public hearing. The Commission voted 5:0 to recommend approval of the project to the City Council.

Staff recommended that the Council approve an amendment to the Preliminary and Final Development Plan for building façade modifications and additions located at 2790 Naglee Road, Application Number D12-0005, subject to the conditions and based on the findings contained in the City Council Resolution dated September 4, 2012.

Council Member Abercrombie asked about the remaining third of the building. Ms. Matlock indicated there was room for improvements along with additional building entrances.

Council Member Rickman asked if the opening date was known. Andrew Malik, Director of Development Services, indicated the building permit would be available tomorrow; improvements are expected to take 60-90 days.

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

Council Member Abercrombie asked if the applicant would expand into the neighboring site. Jerry Taylor indicated the remaining space was available for the property owner, and that this space was similar to their normal foot print.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-187 approving an amendment to a Preliminary and Final Development Plan for building façade modifications and additions at 2790 Naglee Road, Assessor's Parcel Number 212-050-60, applicant is Blazin Wings, Incorporated C/O Golden Property Development, LLC and property owner Tracy Mall Partners, LP. Application Number D12-0005. Voice vote found Council Members Abercrombie, Elliott, Rickman and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

4. AMENDMENT 1 TO THE EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH COMBINED SOLAR TECHNOLOGIES, INC. FOR GREEN ENERGY AND THERMAL DESALINATION PROJECT, PUBLIC HEARING FOR ADOPTION OF AN ADDENDUM TO THE CEQA NEGATIVE DECLARATION AND AUTHORIZATION FOR THE MAYOR

TO EXECUTE THE AMENDMENT - Steve Bayley, Deputy Director Public Works Utilities, presented the staff report. On April 20, 2010, City Council authorized CST to conduct a Green Energy Pilot Project at the Wastewater Treatment Plant (WWTP). The project demonstrated how thermal desalination can be used to remove salt from Tracy's wastewater. On January 4, 2011, the Council authorized staff to negotiate with CST for a feasibility study. On April 19, 2011, the Council authorized an ENRA to reserve the City-owned property for use by the energy project. In turn the City received reimbursement for costs of annexation of the City owned property into the City. In accordance with CEQA, the Council adopted a Negative Declaration for the project on May 1, 2012.

Unfortunately, the project as originally planned was unable to obtain an economically favorable power purchase agreement from PG&E. The project plan has been revised to reduce the amount of electrical power produced and to include an ethanol production facility, as well as a desalination facility. The ethanol production facility would use sugar beets as a sugar source. Historically, sugar beets were grown in the Tracy area and farmers are willing to grow them again. The beet mash would be heat dried and used as cattle feed. Approximately two tanker trucks per day of ethanol will be produced and taken offsite daily. A carbon dioxide capture system would be in place to reduce greenhouse gas emissions.

An addendum to the previously adopted CEQA Negative Declaration has been prepared. Environmental impacts from the proposed electrical generation/ethanol/desalination operations are less than those evaluated in the existing project Negative Declaration. The project includes odor control technology. An optimistic schedule would have the plant constructed and operating within two years.

CST's approach, in comparison to other green energy alternatives, provides a public benefit to the daunting, ongoing challenge of reducing the salinity of Tracy's wastewater while producing renewable energy. CST operates its business in Tracy and specializes in creating renewable systems that support the production of clean water and green energy.

The electricity generated through the green energy plant would be used at the WWTP and the excess would be sold. City energy cost savings will be negotiated. The salts contained in the boiler would be evaporated into a solid state, and the condensed steam would be blended with the effluent.

The potential for grant funding for this type of renewable energy project continues to be explored. Project financing will take research and evaluation to determine the optimal method of ownership. Project options include the project being privately owned and the City contracting to purchase the electrical power and operation of the thermal desalination, or the project could be a public/private venture.

There is no fiscal impact to the City's General Fund. There is in place a cost recovery agreement which provides funding from CST for the annexation, and for negotiating, drafting, preparation and processing of various agreements and documents (including CEQA) needed for the financing of the facility and for lease of the property to CST.

Staff recommended that Council authorize Amendment No. 1 to the Exclusive Negotiating Rights Agreement with CST for a Green Energy and Thermal Desalination Project, conduct a public hearing and upon the close of the public hearing, adopt the

addendum to the Negative Declaration and authorize the Mayor to execute the Amendment.

Council Member Elliott asked if electricity would be sold. Mr. Bayley stated yes, approximately 1 mega watt for the water treatment plant and the other 3 mega watts sold on the open market. Mr. Bayley added it was just a small portion of the project.

Council Member Elliott asked what happens to the sugar when the sugar beets are processed. Mr. Bayley stated the sugar beets are ground up and cooked in hot water making sugar water which is then fermented and turned into ethanol alcohol. The leftover beet mash will be used for cattle feed.

Council Member Elliott asked if there was enough interest in the mash for local farmers. Mr. Bayley stated the farmers were very interested because it was a good crop to put in rotation with alfalfa.

Council Member Rickman asked what would happen to the remaining acres. Mr. Bayley stated the project was sized to meet the current winter time standards for salinity in the Delta.

Council Member Rickman asked if the CEQA Negative Declaration meant the project wouldn't have a negative impact on the area. Mr. Bayley stated that was correct.

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

Council Member Elliott stated the way the project was being restructured was a good approach.

Council Member Rickman indicated he agreed with the project regarding jobs for farmers, ethanol, etc. Council Member Rickman asked for clarification regarding the acreage being used. Mr. Bayley stated the site totals 240 acres; 80 acres for the paved drying beds; 30-40 acres for the factory; and the remaining approximately 130 acres was for solar thermal use.

Council Member Rickman asked how many jobs would be generated from the solar panel portion of the project. Mr. Bayley stated there would not be any jobs on the solar panel portion, but the City would not construct it if it didn't want to do the desalination.

Council Member Rickman stated the project was using up 100 acres next to the sports fields that would attract thousands of people everyday and was concerned that it could be used for economic development.

Council Member Elliott asked if there was a future requirement to enlarge the size of the project, would the City be able to increase the natural gas portion. Mr. Bayley stated he was not sure at this point.

Mayor Pro Tem Maciel asked if it could be re-planned, in the early stages, to include a retail strip in the front and not compromise the project. Mr. Bayley stated it was possible.

Mayor Pro Tem Maciel indicated he supported the project from a technology approach, and that it was important for the City to address the desalination process for the Delta.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-188 authorizing Amendment No. 1 to the Exclusive Negotiating Rights Agreement between Combined Solar Technologies, Inc. and City of Tracy for Green Energy and Thermal Desalination Project, adoption of an addendum to the CEQA Negative Declaration and authorizing the Mayor to execute the amendment. Voice Vote found Council Member Abercrombie, Elliott, Rickman and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

5. DISCUSS AND PROVIDE DIRECTION ON NAMING OF THE YOUTH SPORTS PARK
Vanessa Carrera, Management Analyst II, presented the staff report. On August 2, 2012, the Council approved Property Development and Lease Agreements with Tracy Little League, Tracy Babe Ruth, and Tracy Futbol Club for the construction of fields and ongoing maintenance at the Youth Sports Park, commonly referred to as the Holly Sugar Youth Sports Park. The first phase of construction is anticipated to be completed by January, 2013

At full build-out, the Youth Sports Park will consist of 166 acres of active sport areas. The first phase, of approximately 70.2 acres, will include 12 baseball fields, 8 soccer fields and four parking lots. The Youth Sports Park will ultimately serve as the largest multi-sport facility in Tracy and will help accommodate the growing need of sports facilities in the community. It would be timely if a name for the Youth Sports Park could be established by the end of 2012. The following naming options are available for Council consideration:

Option 1 - On April 6, 2004, the Council adopted Resolution 2004-096, approving a policy for naming public buildings, parks and facilities. The Youth Sports Park would most closely follow the park naming process. The Parks Naming Policy provides that Council, at its sole discretion, apply the 2004 policy when naming public buildings, parks and facilities. The procedure for naming parks per the 2004 policy is as follows:

1. A standing sub-committee of the Parks and Community Services Commission will review and evaluate requests submitted by residents and other interest groups.
2. The sub-committee will bring forth screened, evaluated and prioritized selections to the Commission for authorization to forward to City Council for final approval.

Option 2 - The For-Profit-Business Naming Rights Policy (2009-020) involves the City entering into an agreement with a business for naming sponsorship of a building, park or facility. An annual fee or one-time lump sum payment is issued by a business, pursuant to a written agreement by Council, for an agreed period of time to place its name on a City facility. The agreement would generate extra revenue for the City and the business would benefit from name awareness and advertisement of the facility. The Naming Rights Agreement and sponsorship payment would vary based on the size of the facility, demographics and interest expressed. The Council shall consider whether the proposed For-Profit-Business name is consistent with the City's mission and vision with respect to the facility. In the event a For-Profit-Business Naming Rights Agreement is sought, staff will research potential sponsorship opportunities for Council consideration.

Option 3 - The Council may also consider combining the Parks Naming Policy and the For-Profit-Business Naming Rights Policy. This combination would result in a name with dual community and business sponsorship significance. Of the three, staff believes this is the ideal option as homage can be made to a historic, geographical or cultural element in the community, while maintaining the benefits of a For-Profit Business Naming Rights Agreement, which includes revenue generation and greater marketing exposure.

Staff asked for Council direction on naming the Youth Sports Park.

Council Member Abercrombie asked if staff was suggesting naming the complex, and the sports leagues could name a field. Ms. Carrera stated yes.

Council Member Rickman referred to option 2 asking if it meant an exclusive sales right, like Pepsi products, for example. Ms. Carrera stated that would be set forth in the agreement. Rod Buchanan, Director of Parks and Community Services, stated terms could be negotiated in the agreement.

Council Member Elliott asked if the City proceeds with a for-profit business naming rights of the entire complex, could each league still do a for-profit naming for their specific field. Ms. Carrera stated yes.

Mayor Pro Tem Maciel asked who was in charge of the concessions and if the City had an agreement with a beverage company, how could the City impose it on the sports leagues. Mr. Buchanan stated that would certainly be considered.

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

Council Member Abercrombie indicated he preferred Option 3. Council Member Elliott indicated he agreed option 3 provided the most options and allowed the City to take into consideration any historical or recognition type opportunity. Council Member Rickman stated he agreed.

6. APPROVAL OF PROPERTY DEVELOPMENT AND LEASE AGREEMENT WITH TRACY YOUTH SOCCER LEAGUE FOR CONSTRUCTION AND MAINTENANCE OF SPORTS FIELDS AND RELATED AMENITIES WITHIN THE HOLLY SUGAR SPORTS COMPLEX AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AGREEMENT; AND APPROVAL OF A RESOLUTION EXTENDING THE DUE DATE OF THE PHASED DEVELOPMENT PLAN FOR TRACY LITTLE LEAGUE, TRACY BABE RUTH AND TRACY FUTBOL CLUB AGREEMENTS - Rod Buchanan, Parks and Community Services Director, presented the staff report. Mr. Buchanan stated that the City has completed a master plan for the Holly Sugar Sports Complex layout, environmental work, improvement plans, specifications and construction documents for Phase 1 on approximately 70.2 acres of the 166-acre site.

The City has also begun certain infrastructure improvements for Phase 1 which would allow eligible sports organizations to proceed with facility improvements to their individual areas. The Sports Complex first phase includes a total of 12 baseball fields, 8 soccer fields and four parking lots.

On March 1, 2011, the City Council approved Memoranda of Understanding with Tracy Little League, Tracy Babe Ruth, Tracy Youth Soccer League (TYSL) and Tracy Futbol Club for the purpose of indicating commitment of all parties to negotiate a Property Development and Lease Agreement for construction and ongoing maintenance and operations of the fields. On August 7, 2012, the Council approved Agreements with Tracy Little League, Tracy Babe Ruth and Tracy Futbol Club. TYSL has signed the Agreement for Council consideration. The Agreements are similar to one another. Following is a summary of the Agreements:

Leased Area: TYSL: 9.70 acres

Term: Commences on the date that the Tracy City Council approves a Notice of Completion for the Holly Sugar Sports Complex infrastructure development project (CIP 78115) and continues for a period of approximately fifteen years ending December 31, 2027. At the end of the lease term, upon the League's request and satisfactory fulfillment of all terms of the lease, the City Council shall, in writing, renew this agreement for an additional ten-year period.

Lease Payment: A fixed rate, annual lump sum of \$150.00 annually times the number of acres. Starting in the fifth year and annually thereafter, the lease payment shall be adjusted to the lesser of either (1) the annual cumulative change in Consumer Price Index since December 31, 2012, or (2) a three-percent per year increase. Hereinafter, "CPI" shall mean the Consumer Price Index for all Urban Consumers, All Items, for the San Francisco-Oakland-San Jose Metropolitan Area (1982-84 = 100), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, or its successor. The initial payment for each league will be:

TYSL: 9.70 acres = \$1,455.00

Use: Exclusively for the purposes of conducting youth sports practices, games and tournaments, all at the League's own cost and expense.

Rentals: Tracy youth sports organizations: Leagues shall make their fields available to other Tracy youth sports organizations for rates within 10% of City non-profit fees for field rentals as identified in the annual City Operating Budget (subject to annual change by City Council).

Use by other youth sports organizations. Leagues may rent any portion of the Property to youth sports organizations from outside the City for the purpose of hosting youth sports functions. Leagues need not obtain prior written permission by City, and may charge a fee for the rental, all at the Leagues sole discretion.

Fees. The leagues are authorized to charge a reasonable fee to the public or any individual to enter onto the Property for a sports league event. Persons not associated with viewing the game shall be allowed to pass without any fee. Leagues may not charge parking fees. The City reserves the right to rent parking lots and charge/collect parking fees at events run by the City.

Naming rights: Each league shall have the right to temporarily name its Facility Improvements located within its Property during the term of this Agreement, and to

collect any naming right fees associated with the naming of Facilities. The City reserves the right to name the Sports Complex (as a whole) including collecting any naming right fees associated with the naming of the Sports Complex.

City Use: The City will be able to use the Property a maximum of up to 10 full days each year provided that City requests the use on or before December 15th of the year prior to the City's intended use, and when the use does not unduly interfere with the league's planned activities. City may request the use after December 15 and leagues will allow this if the requested days are available.

Utilities: Leagues are responsible for the payment of any connection, service and monthly fees associated with utilities at the Property, except for irrigation water which will be paid by the City.

Taxes: Leagues will pay any real property taxes levied against the leased Property as a result of any possessory interest taxes which may be imposed on the Property.

Timetable: It is anticipated that Leagues will complete the development of the Facility Improvements in phases. All sports fields in the leased area shall be constructed suitable for league play within five years after the City issues its notice of completion for the Infrastructure Improvements. Leagues will substantially complete fields and related facilities within the term of the agreement (approximately fifteen years).

Phased Development Plan: A Phased Development Plan will be submitted to the City by January 31, 2013 that outlines how and when each League intends to complete the improvements. Phased Development Plan updates will be completed and provided to the City on a quarterly basis.

Maintenance: City shall maintain: the Infrastructure Improvements such as internal roads, parking areas and all landscape areas associated with them; utilities to the stubbed area; retention areas; and open spaces outside the Leagues' Property. Leagues shall maintain and operate the Property to the Maintenance Standards as specified in Exhibit C of the Agreements.

Temporary facilities: Leagues will be able to install and use temporary facilities (i.e. storage sheds, portable restrooms and/or concessions).

Concessions: Leagues will be able to sell concession items on the Property during events, subject to applicable laws and regulations. The sale and possession of alcoholic beverages is prohibited on the Property as well as anywhere within the Sports Complex.

Licenses and permits: Leagues shall obtain and pay for any required permits and licenses required for construction of the Facility Improvements and any inspection of the construction. However, the City shall waive the costs for any City permits and licenses that may be required. (This waiver does not include utility connection fees and/or County permit fees.)

Right of First Refusal: TYSL shall have the first right of refusal to enter into a separate lease agreement for property adjacent to their respective property if City is interested in leasing the other property and if the league has completed construction on its initial four-field complex within the parameters of Section 7.2 (Timetable) of the agreement.

Staff recommended that the Council extend the due date of the Phased Development Plan to January 31, 2013, due to the timing of executing all four contracts and allowing ample amount of time for all the leagues to complete the plan.

The total estimated cost of this project is \$11,728,229 which includes construction cost, design cost including utility permits, EIR cost, design cost city staff, design support during construction, construction management, COG Habitat fee and city-wide project management charges. There is an impact to the General Fund for this item. It is estimated the additional cost for maintenance and operations of the City's area of responsibility for all four Agreements will be approximately \$10,000 for the remainder of FY 2012/2013. The final estimate will be brought to Council for a supplemental appropriation to the FY 2012/2013 Public Works budget. It is estimated that the annual operating costs for future years will be approximately \$20,000. The total rent amount from all four leagues in the amount of \$8,133 will be credited to the Waste Water Treatment Fund, which is more than the fund currently receives in agricultural lease revenue for the property.

Staff recommended that the Council approve a Property Development and Lease Agreement with TYSL relating to the lease of property within the complex and construction of sports fields and related amenities; and authorize the Mayor to execute the agreement; and approve a Resolution extending the due date the of the Phased Development Plan for the Tracy Little League, Tracy Babe Ruth and Tracy Futbol Club Agreements.

Council Member Rickman thanked staff for their hard work.

Council Member Elliott asked for clarification on the contract, paragraph 16, regarding a 5-field complex that should reflect a 4-field complex. Council Member Elliott also congratulated the City and the youth groups on the sports fields.

Mayor Pro Tem Maciel asked about the phasing of permanent buildings. Mr. Buchanan stated they have been designed and would be phased in.

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

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-189 approving Property Development and Lease Agreement between the City of Tracy and Tracy Youth Soccer League, Inc. for construction and maintenance of sport fields and related amenities within the Holly Sugar Sports Complex and authorization for the Mayor to execute the agreement. Voice vote found Council Members Abercrombie, Elliott, Rickman and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-190 approving extension of timeline for phased development plan in the Property Developments and Lease Agreements between the City of Tracy and Tracy Little League, Tracy Babe Ruth and Tracy Futbol Club. Voice vote found Council Members Abercrombie, Elliott, Rickman and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

7. ITEMS FROM THE AUDIENCE – None.

8. COUNCIL ITEMS

- A. Consider Whether an Item to Discuss Forming an Advisory Group to the City Council Should be Placed on a Future Agenda - Council Member Abercrombie indicated he envisioned this group doing outreach to the community and keeping residents informed. Council Member Abercrombie also asked if the tasks outlined by Tracy Tomorrow and Beyond were completed. Council Member Abercrombie stated it would also be an avenue for residents to their concerns.

Council Member Elliott stated if Council brought this item back for discussion he would like to explore multiple variations including community outreach.

Council Member Rickman indicated he was in favor of bringing back an item for Council discussion.

Mayor Pro Tem Maciel stated issues were discussed in the open through public hearings where individuals can express their concerns, and he did not want to create another layer of government that needed to be maintained by city staff. Mayor Pro Tem Maciel stated he would be interested in exploring options of ways to keep the public informed. Mayor Pro Tem Maciel stated he was reluctant to support the formation of a formal group.

It was moved by Council Member Rickman and seconded by Council Member Abercrombie to direct staff to bring back a future agenda item for Council to discuss. Voice vote found Council Member Abercrombie, Elliott and Rickman in favor; Mayor Pro Tem Maciel opposed; Mayor Ives absent. Motion carried 3:1:1.

Council Member Rickman reminded everyone that it was football season and encouraged everyone to support Tracy high schools.

Council Member Abercrombie invited everyone to the Tracy Bean festival this weekend.

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

The above agenda was posted at the Tracy City Hall on August 30, 2012. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

October 16, 2012, 6:00 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Ives called the meeting to order at 6:00 p.m. for the purpose of a closed session to discuss the items outlined below.
2. ROLL CALL – Roll call found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives present.
3. ITEMS FROM THE AUDIENCE – None
4. CLOSED SESSION -
 - I. Real Property Negotiations (Gov. Code section 54956.8)
 - Property Location: City owned Holly Sugar Property (APN #s: 212-140-06; 212-140-07; 212-150-01)
 - Negotiator(s) for City: Andrew Malik, Director of Development Services; Kevin Tobeck, Director of Public Works; Rod Buchanan, Director of Parks and Community Services; William Dean, Asst. Director of Development Services; and Steve Bayley, Deputy Director of Public Works
 - Negotiating Parties: Representatives of Tracy Blast Development, LLC
 - Under Negotiation: Price and terms of payment for the sale of the or lease of the property
 - II. Pending Litigation (Govt. Code section 54956.9(b))
 - *Allred & McFarland v. City*
(San Joaquin Superior Court Case No. 39-2009-00215510-CU-WT-STK)
 - *Anderson v. City*
(San Joaquin Superior Court Case Nos. 39-2009-00223976-CU-WM-STK and 39-2011-00268360-CU-WT-STK)
 - *City of Tracy v. California State Water Resources Control Board*
(Sacramento County Superior Court Case No. 34-2009-80000392)
 - *Denman v. City*
(United States District Court Case No. 2:11-CV-00310-GEB-JFM)

- *Environmental Law Foundation, et al. v. California Regional Water Quality Control Board, Central Valley Region (City of Tracy)*
(Sacramento County Superior Court Case No. 34-2009-00047273)
 - *Espinoza v. City*
(San Joaquin Superior Court Case No. 39-2011-00259854-CU-MC-STK)
 - *Farm'acy v. City*
(San Joaquin Superior Court Case No. 39-2012-00282104-CU-JR-STK)
 - *Gill v. City*
(San Joaquin Superior Court Case No. 39-2012-00281916-CU-PA-STK)
 - *Gomez v. City*
(San Joaquin Superior Court Case No. 39-2011-00265024)
 - *Miles v. City*
(San Joaquin Superior Court Case No. 39-2012-00279070-CU-WM-STK)
 - *Munoz v. City*
(San Joaquin Superior Court Case No. 39-2008-00198928)
 - *TRAQC v. City*
(3rd District Court of Appeal Case No. CO69741)
 - *Whitsitt v. City*
(U.S. District Court Case No. CIV S-10-0528 JAM DAD PS)
5. MOTION TO RECESS TO CLOSED SESSION – Council Member Abercrombie motioned to recess the meeting to closed session at 6:01 p.m. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered.
6. RECONVENE TO OPEN SESSION – Mayor Ives reconvened the meeting into open session at 6:48 p.m.
7. REPORT OF FINAL ACTION – None
8. ADJOURNMENT – It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adjourn. Voice vote found all in favor; passed and so ordered. Time: 6:49 p.m.

The agenda was posted at City Hall on October 11, 2012. The above are action minutes.

Mayor Ives

ATTEST:

City Clerk

AGENDA ITEM 1.B

REQUEST

AWARD A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$149,964 FOR THE MACARTHUR DRIVE AND SCHULTE ROAD SIDEWALK IMPROVEMENT PROJECT – CIP 73132, TO BRENEMAN INC., OF WALNUT CREEK, CALIFORNIA, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONSTRUCTION CONTRACT

EXECUTIVE SUMMARY

This project will remove and replace the existing sidewalk, curb and gutter on the south side of Schulte Road between MacArthur Drive and Joranollo Drive. A number of existing utility poles, signs, street lights, and fire hydrants located within the usable width of the sidewalk impact the accessibility requirements. The existing sidewalk needs to be replaced with a wider sidewalk to clear the obstructions and comply with accessibility requirements. Completion of this sidewalk improvement project, CIP 73132, will enhance accessibility on this segment and a portion of the sidewalk on the south west corner of MacArthur Drive and Schulte Road.

DISCUSSION

This project involves the removal of approximately 3,595 square feet of existing sidewalk and approximately 845 linear feet of curb and gutter and construction of a new wider sidewalk of approximately 5,070 square feet and 845 linear feet of curb and gutter. The work also includes relocation of fire hydrants, and street light, re-installation of traffic loops, re-striping, and installation of storm drain inlets. The new sidewalk will be widened into the street and will comply with the Americans with Disabilities Act (ADA). The project specifications were prepared in house by engineering staff.

The project was advertised for competitive bids on September 13, and September 20, 2012, and five bids were received and publicly opened on September 27, 2012, with the following results:

Contractors	Base Bid
Breneman Inc.	\$149,964.00
Knife River Construction	\$172,770.00
American Asphalt	\$176,378.70
BC Construction	\$253,006.11
Martin General Engineering , Inc.	\$266,963.75

Breneman Inc., of Walnut Creek, California, is the lowest monetary bidder. The bid analysis indicates that the lowest bid is “responsive” and the bidder is “responsible”. Breneman Inc. has the appropriate contractor’s license in current and active standing with the State and has completed similar projects with other public agencies in a satisfactory manner.

The total recommended construction cost for this project, if awarded to Breneman Inc., is as follows:

	Base Bid
Construction Bid	\$149,964
Contingency @ 10%	\$ 14,997
Design	\$ 15,000
Inspection @ 5%	\$ 7,499
Support During Construction	\$ 6,000
City Wide Project Management	<u>\$ 33,749</u>
Total Construction Cost	\$227,209

If the project is awarded to Breneman Inc., construction will commence in late November 2012 with completion expected by the middle of January 2013.

STRATEGIC PLAN

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

FISCAL IMPACT

There will be no fiscal impact to the General Fund. The MacArthur Drive and Schulte Road Sidewalk Improvements Project is an approved project (CIP 73132) with a total budgeted amount of \$250,000.

RECOMMENDATION

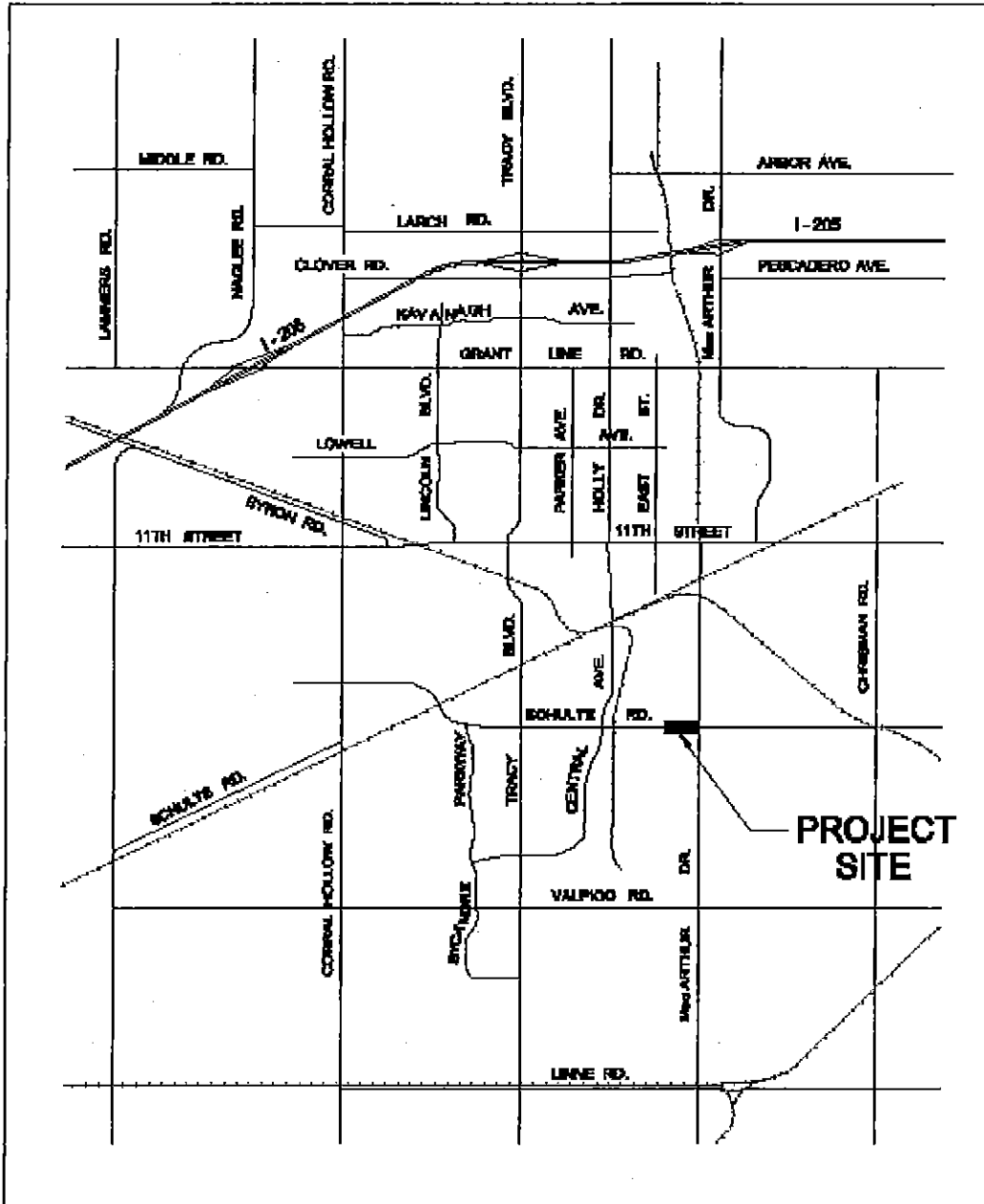
That City Council, by resolution, award a construction contract to Breneman Inc., of Walnut Creek, California, in the amount of \$149,964, for the MacArthur Drive & Schulte Road Sidewalk Improvement Project - CIP 73132, and authorize the Mayor to execute the construction contract.

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

Reviewed by: Kuldeep Sharma, City Engineer

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

Attachment A – Location Map



LOCATION MAP
NOT TO SCALE



RESOLUTION _____

AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$149,964 FOR THE MACARTHUR DRIVE AND SCHULTE ROAD SIDEWALK IMPROVEMENT PROJECT – CIP 73132, TO BRENEMAN INC., OF WALNUT CREEK, CALIFORNIA, AND AUTHORIZING THE MAYOR TO EXECUTE THE CONSTRUCTION CONTRACT

WHEREAS, This project will remove and replace the existing sidewalk, curb and gutter on the south side of Schulte Road between MacArthur Drive and Joranollo Drive, and

WHEREAS, The project was advertised for competitive bids on September 13, and September 20, 2012, and five bids were received and publicly opened on September 27, 2012, and

WHEREAS, Breneman Inc., of Walnut Creek, California, is the lowest monetary bidder; the bid analysis indicates that the lowest bid is “responsive” and the bidder is “responsible”, and

WHEREAS, The total recommended construction cost for this project, if awarded to Breneman Inc., is as follows:

	Base Bid
Construction Bid	\$149,964
Contingency @ 10%	\$ 14,997
Design	\$ 15,000
Inspection @ 5%	\$ 7,499
Support During Construction	\$ 6,000
City Wide Project Management	<u>\$ 33,749</u>
Total Construction Cost	\$227,209

WHEREAS, There will be no fiscal impact to the General Fund. The MacArthur Drive and Schulte Road Sidewalk Improvements Project is an approved project (CIP 73132) with a total budgeted amount of \$250,000;

NOW, THEREFORE BE IT RESOLVED, That City Council awards a construction contract to Breneman Inc., of Walnut Creek, California, in the amount of \$149,964, for the MacArthur Drive & Schulte Road Sidewalk Improvement Project - CIP 73132, and authorizes the Mayor to execute the construction contract.

Resolution _____
Page 2

The foregoing Resolution _____ was adopted by the City Council on the 7th day of November, 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

APPROVAL OF THE SUBDIVISION IMPROVEMENT AGREEMENT FOR YOSEMITE VISTA UNIT 2 PHASE 2, TRACT 3495, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AGREEMENT

EXECUTIVE SUMMARY

Bright Development, a California corporation (Subdivider) has requested that the City enter into a Subdivision Improvement Agreement for construction of the second phase improvements of the Yosemite Vista Subdivision serving 51 single family dwelling lots. The Developer has signed a second phase of Subdivision Improvement Agreement with security, to guarantee the Developer's obligation to complete the improvements.

DISCUSSION

The Tentative Subdivision Map for Country Vista Subdivision now known as Yosemite Vista Subdivision, a single-family residential subdivision with a total of 166 lots, was approved by City Council on August 17, 1999, pursuant to Resolution 99-310. This subdivision is within the South MacArthur Planning Area and is designated in the General Plan as LDR for residential development. The Developer, Bright Development, scheduled improvements of the subdivision in two separate units with multiple phases in each unit. Yosemite Vista Unit 1, consisting of 81 single family residential units has been completed. Yosemite Vista Unit 2 comprises 85 single family residential units. The Phase 1 development of Unit 2, consisting of 34 units has also been completed.

Bright Development has now requested approval to construct the remaining public improvements of Yosemite Vista Unit 2, for the last 51 single family dwelling units under Phase 2 development. The Subdivider has executed the Subdivision Improvement Agreement and posted security, for construction of the second phase improvements.

The Engineering Division has reviewed the Improvement Plans. All improvements required of Yosemite Unit 2, are guaranteed as part of the Subdivision Improvement Agreement with security. The Subdivision Improvement Agreement and Improvement Plans are on file with the City Engineer and are available for review upon request.

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

FISCAL IMPACT

There will be no impact to the General Fund. The Developer has paid the applicable engineering review fees which include the cost of processing the Subdivision Improvement Agreement.

STRATEGIC PLAN

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

RECOMMENDATION

That City Council, by resolution, approve the Subdivision Improvement Agreement for Yosemite Vista Unit 2, Phase 2, Tract 3495, and authorize the Mayor to execute the Agreement.

Prepared by: Ranchhod Pandya, Assistant Civil Engineer

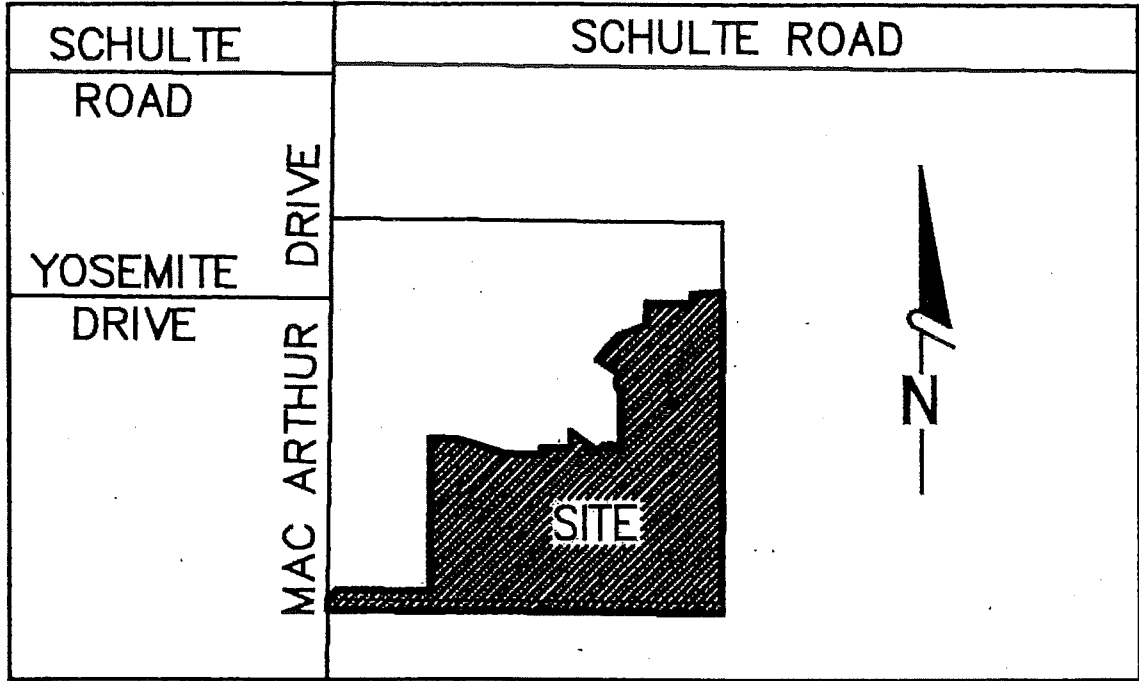
Reviewed by: Kuldeep Sharma, City Engineer

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

Attachment - Vicinity Map

YOSEMITE VISTA SUBDIVISION

UNIT 2, TRACT NO. 3495



VICINITY MAP

NOT TO SCALE

RESOLUTION _____

APPROVING THE SUBDIVISION IMPROVEMENT AGREEMENT FOR YOSEMITE VISTA UNIT 2 PHASE 2, TRACT 3495, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, The Tentative Subdivision Map for Country Vista Subdivision now known as Yosemite Vista Subdivision, a single-family residential subdivision with a total of 166 lots, was approved by City Council on August 17, 1999, pursuant to Resolution 99-310, and

WHEREAS, Bright Development has requested approval to construct the remaining public improvements of Yosemite Vista Unit 2, for the last 51 single family dwelling units under Phase 2 development, and

WHEREAS, The Subdivider has executed the Subdivision Improvement Agreement and posted security, for construction of the second phase improvements, and

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

WHEREAS, There will be no impact to the General Fund. The Developer has paid the applicable engineering review fees which include the cost of processing the Subdivision Improvement Agreement;

NOW, THEREFORE BE IT RESOLVED, That City Council approves the Subdivision Improvement Agreement for Yosemite Vista Unit 2, Phase 2, Tract 3495, and authorizes the Mayor to execute the Agreement.

The foregoing Resolution _____ was adopted by the City Council on the 7th day of November, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.D

REQUEST

ACCEPTANCE OF THE TRACY WASTEWATER TREATMENT PLANT SOLIDS HANDLING FACILITIES IMPROVEMENT PROJECT – CIPs 74072, 74079, AND 74087, COMPLETED BY GSE CONSTRUCTION CO., INC., OF LIVERMORE, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

EXECUTIVE SUMMARY

The contractor has completed construction of the Tracy Wastewater Treatment Plant Solids Handling Facilities Improvement Project - CIPs 74072, 74079, and 74087, in accordance with plans, specifications, and contract documents. Project costs are within the available budget.

DISCUSSION

On December 10, 2010, City Council awarded a construction contract to GSE Construction Co., Inc., of Livermore, California, for the Tracy Wastewater Treatment Plant Solids Handling Facilities Improvement Project - CIPs 74072, 74079, and 74087, in the amount of \$3,867,000.

The scope of work included demolition and replacement of existing Dissolved Air Flotation Thickeners (DAFTs), demolition and replacement of thickened waste activated sludge pumps, demolition and replacement of polymer blending units, upgrade of an existing boiler, installation of a new boiler, installation of a new digester cover and related piping and general upgrade of the City of Tracy Wastewater Treatment Plant Solids Handling Facility. Project design, improvement plans and were prepared by CH2MHill, and engineering staff completed the construction contract documents.

Four change orders in the amount of \$209,502 were issued which consisted of relocation of underground water lines, removal and replacement of corroded 4" and 6" sludge lines, installation of new dewatering pumps, installation of control valves and recirculation pumps and other unforeseen items encountered during construction.

Status of budget and project costs is as follows:

A.	Construction Contract Amount	\$3,867,000
B.	Approved Change orders	\$ 209,502
C.	Design, construction management, inspection, Testing, & miscellaneous expenses	\$ 743,101
E.	Project Management Charges	\$ 86,553
	Total Project Costs	\$4,906,156
	Budgeted Amount	\$5,344,221

The project has been completed within the available budget, within the time frame of the original contract plus the time extension given to the contractor for extra work including rain delays, 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 74072, 74079, and 74087, are approved Capital Improvement Projects with sufficient funding and there will be no fiscal impact to the General Fund. The remaining funds will be transferred to Enterprise Fund 523.

RECOMMENDATION

That City Council, by resolution, accept the Tracy Wastewater Treatment Plant Solids Handling Facilities Improvement Project - CIPs 74072, 74079, and 74087, as completed by GSE Construction Co., Inc., of Livermore, California, 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 TRACY WASTEWATER TREATMENT PLANT SOLIDS HANDLING FACILITIES IMPROVEMENT PROJECT – CIPs 74072, 74079, AND 74087, COMPLETED BY GSE CONSTRUCTION CO., INC., OF LIVERMORE, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

WHEREAS, On December 10, 2010, City Council awarded a construction contract to GSE Construction Co., Inc., of Livermore, California, for the Tracy Wastewater Treatment Plant Solids Handling Facilities Improvement Project - CIPs 74072, 74079, and 74087, and

WHEREAS, The contractor has completed construction of the Tracy Wastewater Treatment Plant Solids Handling Facilities Improvement Project - CIPs 74072, 74079, and 74087, in accordance with plans, specifications, and contract documents, and

WHEREAS, One change order was issued in the amount of \$20,206.39, and

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

Construction Contract Amount	\$3,867,000
Approved Change orders	\$ 209,502
Design, construction management, inspection, Testing, & miscellaneous expenses	\$ 743,101
Project Management Charges	\$ 86,553
 Total Project Costs	 \$4,906,156

WHEREAS, CIPs 74072, 74079, and 74087, are approved Capital Improvement Projects with sufficient funding and there will be no fiscal impact to the General Fund. The remaining funds will be transferred to Enterprise Fund 523;

NOW, THEREFORE BE IT RESOLVED, That City Council accepts the Tracy Wastewater Treatment Plant Solids Handling Facilities Improvement Project - CIPs 74072, 74079, and 74087, as completed by GSE Construction Co., Inc., of Livermore, California, 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.

Resolution _____
Page 2

The foregoing Resolution _____ was adopted by the City Council on the 7th day of November, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.E

REQUEST

ACCEPTANCE OF THE WATER & WASTEWATER IMPROVEMENTS (WEST TWELFTH STREET, ROOSEVELT AVENUE, GOLDEN SPRINGS DRIVE, AND GRANT LINE ROAD/CHRISMAN ROAD) PROJECT - CIPs 74088 AND 75111, COMPLETED BY KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

EXECUTIVE SUMMARY

The contractor has completed construction of the Water & Wastewater Improvements Project - CIPs 74088, and 75111, 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 June 5, 2012, City Council awarded a construction contract for the Water & Wastewater Improvements (West Twelfth Street, Roosevelt Avenue, Golden Springs Drive and Grant Line Road/Chrisman Road) Project - CIPs 74088, and 75111, to Knife River Construction of Stockton, California, in the amount of \$396,530.

The scope of work for this project included replacement of sewer line and associated street improvements on West Twelfth Street between Roosevelt Avenue and Bessie Avenue; replacement of water and sewer lines, and completion of associated street improvements on Roosevelt Avenue between Eleventh Street and Highland Avenue. The project also included replacement of the sewer line at the north end of Golden Springs Drive. In addition, the project provided improvements to existing utility trenches including street pavement on both the south and west sides of the intersection of Grant Line Road and Chrisman Road.

One change order was issued in the amount of \$20,206.39 for this project which consisted of construction of a new manhole on 30" sewer trunk line, removal of abandoned water pipes which were in conflict with the new sewer line, removal and replacement of clean outs and other miscellaneous items to pay for unforeseen conditions.

Status of budget and project costs is as follows:

A. Construction Contract Amount	\$396,530.00
B. Change orders	\$ 20,206.39
C. Design, construction management, inspection, Testing, & miscellaneous expenses	\$ 60,024.00

D. Project Management Charges (Estimated)	\$ 77,335.00
Total Project Costs	\$554,095.39
Budgeted Amount	\$570,900.00

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 74088 and 75111, 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 water and sewer funds.

RECOMMENDATION

That City Council, by resolution, accept construction of the Water & Wastewater Improvements (West Twelfth Street, Roosevelt Avenue, Golden Springs Drive and Grant Line Road/Chrisman Road) Project - CIPs 74088, and 75111, completed by Knife River Construction of Stockton, California and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

Prepared by: Paul Verma, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

RESOLUTION _____

ACCEPTING THE WATER & WASTEWATER IMPROVEMENTS (WEST TWELFTH STREET, ROOSEVELT AVENUE, GOLDEN SPRINGS DRIVE, AND GRANT LINE ROAD/CHRISMAN ROAD) PROJECT - CIPs 74088 AND 75111, COMPLETED BY KNIFE RIVER CONSTRUCTION OF STOCKTON, CALIFORNIA, AND AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

WHEREAS, On June 5, 2012, City Council awarded a construction contract for the Water & Wastewater Improvements (West Twelfth Street, Roosevelt Avenue, Golden Springs Drive and Grant Line Road/Chrisman Road) Project - CIPs 74088, and 75111, to Knife River Construction of Stockton, California, and

WHEREAS, The contractor has completed construction of the Water & Wastewater Improvements Project - CIPs 74088, and 75111, in accordance with project plans, specifications, and contract documents, and

WHEREAS, One change order was issued in the amount of \$20,206.39, and

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

Construction Contract Amount	\$396,530.00
Change order	\$ 20,206.39
Design, construction management, inspection, Testing, & miscellaneous expenses	\$ 60,024.00
Project Management Charges (Estimated)	\$ 77,335.00
Total Project Costs	\$554,095.39

WHEREAS, CIPs 74088 and 75111, 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 water and sewer funds;

NOW, THEREFORE BE IT RESOLVED, That City Council accepts construction of the Water & Wastewater Improvements (West Twelfth Street, Roosevelt Avenue, Golden Springs Drive and Grant Line Road/Chrisman Road) Project - CIPs 74088, and 75111, completed by Knife River Construction of Stockton, California and authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

Resolution _____
Page 2

The foregoing Resolution _____ was adopted by the City Council on the 7th day of November, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.F

REQUEST

AUTHORIZE THE CITY ENGINEER TO SUBMIT GRANT APPLICATIONS TO THE STATE OF CALIFORNIA CALRECYCLE ON BEHALF OF THE CITY OF TRACY FOR ALL ELIGIBLE GRANTS FOR A TIME PERIOD OF UP TO FIVE (5) YEARS, RETROACTIVE FROM THE BEGINNING OF FISCAL YEAR 2012-2013 THROUGH FISCAL YEAR 2016-2017

EXECUTIVE SUMMARY

In accordance with the requirements of the State of California CalRecycle, City Council is being requested to adopt a resolution that will allow the City Engineer to apply for grants administered by CalRecycle over the next five years. This authorization will assist in expediting the application submittal process for future projects and assists the City in receiving grant funding of approximately \$165,050.

DISCUSSION

The State of California CalRecycle offers funding opportunities authorized by California legislation to assist public and private entities in the safe use and effective management of the waste stream including recycling of tires.

Several different grant programs are available to local governments for the purpose of diverting tires from landfill disposal by promoting markets of recycled-content products including rubberized asphalt. The use of tires in rubberized asphalt concrete (RAC) for roadway construction in conjunction with grant funding is one of the competitive and cost effective trends for street improvements in municipalities and county jurisdictions. Rubberized asphalt provides more flexible sealing of the pavement structure resulting in an enhanced life span of the streets. The City of Tracy will benefit from such opportunities for upcoming roadway projects. The City will be applying for grant funds as established under the provisions set forth in the Public Resources Code section 400000 et seq.

In order to expedite the application submittal process, it is requested that the City Engineer be authorized to submit such applications on behalf of the City. It is further requested that City Council provide this authorization retroactive from the beginning of fiscal year 2012-13 through the next five years. The retroactive authorization is essential to qualify for one of the pending applications for the grant cycle. Staff has already coordinated with CalRecycle for this grant funding and the requested authorization will expedite the approval process.

FISCAL IMPACT

There is no fiscal impact to the General Fund. The proposed action would enable submitting the application of grant applications in a timely manner. Furthermore, if the pending application with CalRecycle is approved, it would generate approximately \$70,000 in funds from the State of California to the City of Tracy as reimbursement to the City for the use of RAC on fiscal year 2013-2014 projects.

RECOMMENDATION

That City Council authorize the City Engineer of the City of Tracy to submit grant applications to the State of California CalRecycle over the next five years, retroactive to the beginning of Fiscal Year 2012-2013 through fiscal year 2016-2017.

Prepared by: Dan Pangilinan, Assistant Civil Engineer

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

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION _____

AUTHORIZING THE CITY ENGINEER TO SUBMIT GRANT APPLICATIONS TO THE STATE OF CALIFORNIA CALRECYCLE GRANTS ON BEHALF OF THE CITY OF TRACY FOR ALL ELIGIBLE GRANTS FOR A TIME PERIOD OF UP TO FIVE (5) YEARS, RETROACTIVE FROM THE BEGINNING OF FISCAL YEAR 2012-2013 THROUGH FISCAL YEAR 2016-2017

WHEREAS, Public Resources Code sections 40000 et seq. authorize the Department of Resources Recycling and recovery (CalRecycle) to administer various Grant Programs (grants) in furtherance of the State of California's (State) efforts to reduce, recycle and reuse solid waste generated in the State thereby preserving landfill capacity and protecting public health and safety and the environment, and

WHEREAS, In furtherance of this authority, CalRecycle is required to establish procedures governing the application, awarding, and management of the grants, and

WHEREAS, CalRecycle grant application procedures require, among other things, an Applicant's governing body to declare by resolution, certain authorizations related to the administration of CalRecycle grants, and

WHEREAS, It is requested that the City Engineer be authorized to submit such applications on behalf of the City, and

WHEREAS, It is further requested that City Council provide this authorization retroactive from the beginning of fiscal year 2012-2013 through the next five years, and

WHEREAS, There is no impact to the General Fund;

NOW, THEREFORE BE IT RESOLVED, That City Council authorizes the submittal of application(s) to CalRecycle for all grants for which the City of Tracy is eligible; and

BE IT FURTHER RESOLVED, That the City Engineer or his designee is hereby authorized and empowered to execute, in the name of the City of Tracy, all grant documents including, but not limited to, application agreements, amendments, and requests for payment necessary to secure grant funds and implement the approved grant project; and

BE IT FURTHER RESOLVED, That these authorizations are effective for five (5) years from the date of adoption of this Resolution.

Resolution _____

Page 2

The foregoing Resolution _____ was adopted by the City Council on the 7th day of November, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

November 7, 2012

AGENDA ITEM 1.G

REQUEST

ACCEPTANCE OF OFFICE OF TRAFFIC SAFETY OF THE STATE OF CALIFORNIA GRANT FOR \$14,625 AND APPROPRIATION OF FUNDS FOR THE PURPOSE OF EXPANDING THE DISTRACTED DRIVING HIGH-VISIBILITY ENFORCEMENT DEMONSTRATION PROJECT

EXECUTIVE SUMMARY

The City of Tracy has been awarded \$14,625 from the California State Office of Traffic Safety (OTS) for the purpose of preventing fatalities and injuries associated with distracted driving, more specifically caused by the use of hand-held cell phones and texting while driving. To access these funds, the City of Tracy must accept the grant and authorize an appropriation of \$14,625 to the police department budget.

DISCUSSION

This grant program is non-competitive and requires no local match funds. The stated goals of this program is to reduce total traffic fatalities and injuries, to reduce fatal collisions and injuries involving drivers using hand-held cell phones and to decrease observed cell phone/texting use among Sacramento Valley Region drivers.

This grant is funded by California Office of Traffic Safety through the National Highway Traffic Safety Administration (NHTSA). Agencies are required to conduct a total of nine mobilization campaigns during November of 2012 through June of 2013 on overtime bases. There will also be visible media campaigns promoting the NHTSA's tag line, "Phone in One Hand - Ticket in the Other".

STRATEGIC PLAN

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

Goal 3: Empower the residents with the tools needed to maintain a safe quality of life. .

FISCAL IMPACT

The City of Tracy will receive \$14,625 from OTS. There is no negative impact to the current fiscal budget as no city match is required. Accepting this grant funding requires that \$14,625 be added to the Police Department's Operating Budget.

AGENDA ITEM 1.G

November 7, 2012

Page 2

RECOMMENDATION

That the City Council, by resolution, authorizes the acceptance of the grant and the appropriation of \$14,625 from the OTS grant to the Police Department's Operating Budget to cover the planned mobilization projects.

Prepared by: Jeremy Watney, Police Captain

Reviewed by: Gary R. Hampton, Chief of Police

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

RESOLUTION _____

ACCEPTING A GRANT FROM THE CALIFORNIA STATE OFFICE OF TRAFFIC SAFETY AND AUTHORIZING AN APPROPRIATION OF \$14,625 FOR THE PURPOSE OF EXPANDING THE DISTRACTED DRIVING HIGH-VISIBILITY ENFORCEMENT DEMONSTRATION PROJECT

WHEREAS, The California State Office of Traffic Safety (OTS), through the National Highway Traffic Safety Administration that makes available federal public safety funds to local jurisdiction, and

WHEREAS, The City of Tracy is eligible to receive a grant in the amount of \$14,625 for November 2012 to June 2013, and

WHEREAS, The Police Department intends to use the \$14,625 to conduct high visibility campaigns, and

WHEREAS, The Police Departments is requesting the City council authorize the appropriation of \$14,625 from the OTS grant to the Police Department Operating budget.

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby accepts the OTS grant and appropriates \$14,625 from the OTS grant to the Police Department budget to conduct high visibility enforcement campaigns.

The foregoing Resolution _____ was adopted by the Tracy City Council on the _____ day of _____, 2012 by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.H

REQUEST

APPROVE A 164-FOOT WIDE VEHICULAR, PEDESTRIAN, AND UTILITY ACCESS EASEMENT OVER THE EXISTING STORM DRAINAGE CHANNEL FRONTING AN UNDEVELOPED PARCEL AT 1380 MACARTHUR DRIVE (APN 250-260-24) LOCATED AT THE NORTHEAST CORNER OF ELEVENTH STREET AND MACARTHUR DRIVE, AUTHORIZE THE MAYOR TO EXECUTE THE GRANT OF EASEMENT, AND FURTHER AUTHORIZE THE CITY CLERK TO FILE THE EASEMENT DOCUMENT FOR RECORDATION WITH THE SAN JOAQUIN COUNTY RECORDER

EXECUTIVE SUMMARY

This report requests approval of a 164-foot wide access and utility easement over the existing storm drainage channel along the east side of MacArthur Drive across Stoneridge Drive, to the undeveloped parcel owned by Mark T. O'Brien, Tim O'Brien and Dromoland Properties, LLC a California limited liability company (Property Owner). Prologis Logistic Services is in the process of purchasing this property from the present owners and have requested approval of this easement. Granting this easement will provide the Property Owner rights to repair, operate and maintain the existing culvert crossing for vehicular and pedestrian purposes. The easement will also allow installation, repair and maintenance of a storm drain line connection to the existing storm drainage channel, and domestic and fire water services over the storm drainage channel to serve the undeveloped property.

DISCUSSION

The culvert crossing is part of the public improvements that were constructed under the Community Facilities District 89-1 (CFD 89-1), and is needed to provide direct access to 1380 MacArthur Drive (APN 250-260-24) from MacArthur Drive. In order to allow the use of the culvert crossing, it is necessary to grant right to use, including vehicular and pedestrian and utility access easement to the Property Owner. The access and utility easement is needed for the development of the property. The location of the 164-foot wide access and utility easement is shown on Attachment A.

The Property Owner will be responsible for repairing and maintaining the culvert crossing and culvert appurtenances including upstream and downstream channel rip-rap, slope protection, pedestrian walkway, access pavement, curb, gutter, parapet, and all other improvements within the easement area.

Staff has reviewed the legal description and map that describes the easement area for completeness and technical accuracy, and recommend approval of the 164-foot wide access and utility easement for the benefit of 1380 MacArthur Drive (APN 250-260-24).

The Property Owner is negotiating the sale of the property with Prologis Logistic Services Incorporated. Approval of the 164-foot wide access and utility easement will run with the property to the new owners. As a condition of closing escrow, the new owners

will execute and record a deed to quit claim all their rights acquired under that certain Agreement and Grant of Easement that was recorded on February 6, 1996, as Document Number 96012326 of the San Joaquin County Records.

FISCAL IMPACT

There will be no impact to the General Fund. The cost of preparing the legal description and map will be paid by the Property Owner.

STRATEGIC PLAN

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

RECOMMENDATION

That City Council, by resolution, approve a 164-foot wide vehicular and pedestrian access and utility easement over the existing storm drainage channel fronting the undeveloped parcel at 1380 MacArthur Drive (APN 250-260-24) located at the northeast corner of Eleventh Street and MacArthur Drive, authorize the Mayor to execute the Grant of Easement, and further authorize the City Clerk to file the Grant of Easement for recordation with the San Joaquin County Recorder.

Prepared by: Criseldo S. Mina, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

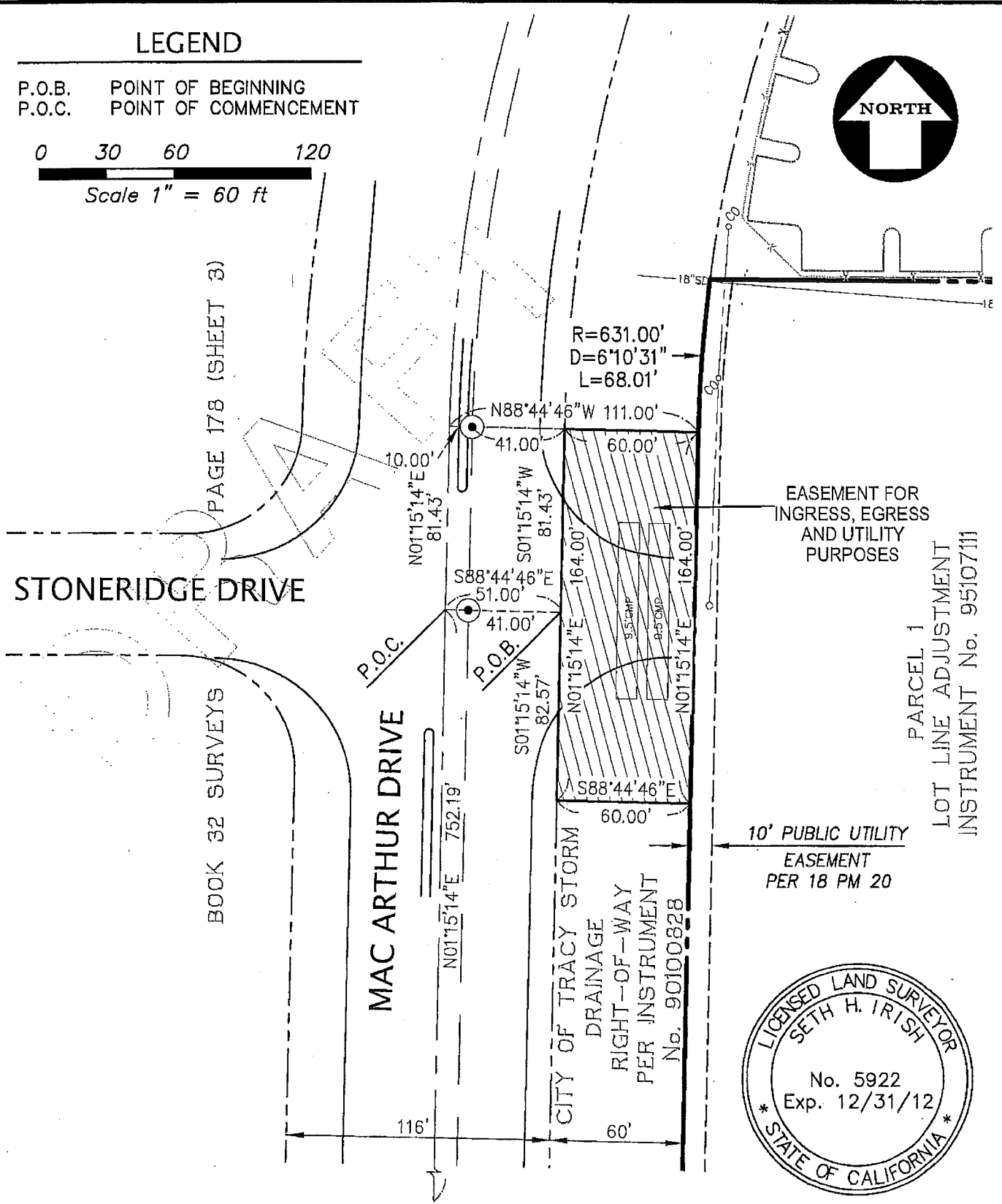
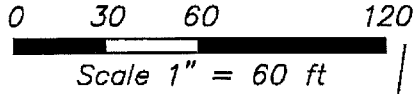
Approved by: Andrew Malik, Development Services Director
Leon Churchill, Jr., City Manager

Attachment - Vicinity Map

ATTACHMENT "A"

LEGEND

P.O.B. POINT OF BEGINNING
 P.O.C. POINT OF COMMENCEMENT



EASEMENT FOR
 INGRESS, EGRESS
 AND UTILITY
 PURPOSES

PARCEL 1
 LOT LINE ADJUSTMENT
 INSTRUMENT No. 95107111

10' PUBLIC UTILITY
 EASEMENT
 PER 18 PM 20



10/16/2012

Z:\2005\A05728-23\survey\A05728-X-PD.dwg 10/16/2012 11:36:42 AM PDT

KIER & WRIGHT
 CIVIL ENGINEERS & SURVEYORS, INC.
 2850 Collier Canyon Road Phone (925) 245-8788
 Livermore, California 94551 Fax (925) 245-8796

EXHIBIT "A-2"
**EASEMENT FOR INGRESS,
 EGRESS AND UTILITIES**
 CITY OF TRACY SAN JOAQUIN COUNTY
 CALIFORNIA

SCALE	1" = 60'
DATE	OCT, 2012
BY	SHI/CH
JOB NO.	A05728-23
SHEET	2 OF 2

RESOLUTION _____

APPROVING A 164-FOOT WIDE VEHICULAR, PEDESTRIAN, AND UTILITY ACCESS EASEMENT OVER THE EXISTING STORM DRAINAGE CHANNEL FRONTING AN UNDEVELOPED PARCEL AT 1380 MACARTHUR DRIVE (APN 250-260-24) LOCATED AT THE NORTHEAST CORNER OF ELEVENTH STREET AND MACARTHUR DRIVE, AUTHORIZING THE MAYOR TO EXECUTE THE GRANT OF EASEMENT, AND FURTHER AUTHORIZING THE CITY CLERK TO FILE THE EASEMENT DOCUMENT FOR RECORDATION WITH THE SAN JOAQUIN COUNTY RECORDER

WHEREAS, The culvert crossing is part of the public improvements that were constructed under the Community Facilities District 89-1 (CFD 89-1), and is needed to provide direct access to 1380 MacArthur Drive (APN 250-260-24) from MacArthur Drive, and

WHEREAS, In order to allow use of the culvert crossing, it is necessary to grant right to use, including vehicular and pedestrian and utility access easement to the Property Owner, and

WHEREAS, Approval of the 164-foot wide access and utility easement will run with the property, and

WHEREAS, There will be no impact to the General Fund. The cost of preparing the legal description and map will be paid by the Property Owner;

NOW, THEREFORE BE IT RESOLVED, That City Council approves a 164-foot wide vehicular and pedestrian access and utility easement over the existing storm drainage channel fronting the undeveloped parcel at 1380 MacArthur Drive (APN 250-260-24) located at the northeast corner of Eleventh Street and MacArthur Drive, authorizes the Mayor to execute the Grant of Easement, and further authorizes the City Clerk to file the Grant of Easement for recordation with the San Joaquin County Recorder.

The foregoing Resolution _____ was adopted by the City Council on the 7th day of November, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

November 7, 2012

AGENDA ITEM 1.I

REQUEST

AUTHORIZE THE APPOINTMENT OF TWO YOUTH COMMISSIONERS TO THE YOUTH ADVISORY COMMISSION

EXECUTIVE SUMMARY

The bylaws of the Youth Advisory Commission set the minimum number of youth appointed commissioners at eight, with a maximum limit at fourteen and a maximum of three adult commissioners. A selection panel was established and they have made recommendations for two additional youth to be appointed for a two year term to fill the existing youth vacancies on the Youth Advisory Commission.

DISCUSSION

The bylaws of the Youth Advisory Commission call for a minimum of eight youth, a maximum of fourteen youth commissioners and a maximum of three adult commissioners that may sit on the commission. The bylaws are crafted to include two youth representatives from each of the four comprehensive high schools in the area (Kimball, Millennium, Tracy and West) and the four alternative education high schools (Delta Charter, Duncan-Russell Continuation, Excel High and Stein Continuation.) The selection process for the Youth Advisory Commission is to have a diverse group of teens that reflect each of the Tracy area high schools who wish to have a voice in their community and be involved in the Commission. Adult Commissioners shall reside within the jurisdiction of any Tracy school district to include one member of the School District and two members of the community who desire to work with youth. Currently the Commission has one youth and one adult vacancy.

The City recruits new commissioners on an ongoing basis to fill any vacancies created by outgoing Commissioners. The bylaws of the Youth Advisory Commission call for a selection panel to review new applications and make recommendations for appointment to the City Council. This panel consisted of Recreation Coordinator Jolene Jauregui, Recreation Coordinator Laura Johnston, Recreation Leader III Justin Geibig, and Parks Commissioner Alex Holguin.

The interview panel conducted interviews on October 17, 2012. Savannah Salaymeh and Valerie Amador, both from Millennium High School are being recommended to serve two year terms, from November 7, 2012 to July 31, 2014.

STRATEGIC PLAN:

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

FISCAL IMPACT

There is no impact on the General Fund.

RECOMMENDATION

Staff recommends that the City Council approve, by resolution, the appointment of two youth commissioners to the Youth Advisory Commission based upon the interview and selection panel's recommendations.

Prepared by: Laura Johnston, Recreation Coordinator

Reviewed by: Kim Scarlata, Recreation Services Manager
Rod Buchanan, Director of Parks and Community Services

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

RESOLUTION _____

AUTHORIZING THE APPOINTMENT OF TWO YOUTH COMMISSIONERS TO THE YOUTH ADVISORY COMMISSION

WHEREAS, The bylaws of the Youth Advisory Commission call for a minimum of eight commissioners, and a maximum of fourteen youth commissioners and a maximum of three adult commissioners that may sit on the commission; and

WHEREAS, The eligibility criteria and selection process of YAC commissioners are established; and

WHEREAS, The City recruits new commissioners on an ongoing basis to replace the outgoing commissioners and existing vacancies, and has established a recommendation selection panel to recommend appointees to City Council; and

WHEREAS, The recommendation selection panel recommended Savannah Salaymeh and Valerie Amador for two year terms, from November 7, 2012 to July 31, 2014:

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby approves the appointment of two new Youth Commissioners recommended by the selection panel as identified above, and for the recommended terms, to the Youth Advisory Commission.

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

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

November 7, 2012

AGENDA ITEM 1.J

REQUEST

REPEAL OUTDATED CITY COUNCIL POLICIES

EXECUTIVE SUMMARY

City staff is recommending that several outdated Council policies be repealed.

DISCUSSION

In 2003-2009, then City Attorney Debra Corbett began a project to clean-up the assortment of adopted Council policies. Many were out-of-date or superseded by later actions, and several policies were repealed by Resolution No. 2003-247. In staff's attempt to prepare a current binder collecting all of the Council policies in one place, staff realized there are additional outdated policies and recommends repeal of the following:

Local Goals and Policies for Community Facilities Districts. This policy was adopted in 1998 (Resolution No. 98-020). It is now outdated. DES Director, Planning Director and Finance Director all agree this policy is no longer needed.

Authorizing the City Attorney to Join the City of Tracy as an Amicus. This policy was adopted in 1995 (Resolution No. 95-063). The League of California Cities has since changed the means by which it adds city names to cases which affect the ability of cities to govern, tax or regulate, so this authorization is no longer relevant.

Brown Act Open Meeting Requirements and Public Access. This policy was adopted in 1992 (Resolution No. 92-073). The substance has since been incorporated elsewhere, into the Updated Council Policies and Procedures. The policy is no longer needed.

Dust Control Policy on Subdivision Construction and Other Construction Projects. This policy was adopted in 1989 (Resolution No. 89-437). In, 1990, the City Council adopted Ordinance No. 817, adding the requirements into the Tracy Municipal Code (now at Chapter 7.24). The policy is no longer needed.

Project Cost Sharing Reimbursement Related to Specific Plan Area Projects. This policy was adopted in 1991 (Resolution No. 91-083) and relates only to the Residential Specific Plan (RSP). The RSP has now closed out and the fee program is completed. The policy is no longer needed.

STRATEGIC PLAN

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

FISCAL IMPACT

None.

RECOMMENDATION

Adopt the proposed Resolution repealing Resolution Nos. 98-020, 95-063, 92-073, 89-437, 91-083.

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

RESOLUTION _____

REPEALING RESOLUTION NOS. 98-020, 95-063, 92-073, 89-437, 91-083
(OUTDATED COUNCIL POLICIES)

WHEREAS, the City Council adopted policies from time to time and these are maintained by the City Clerk; and

WHEREAS, five of the previously-adopted policies are out-of-date and staff is recommending they be repealed, for reasons set forth in the staff report.

NOW, THEREFORE, the Tracy City Council does resolve as follows:

1. The following resolutions are hereby repealed in their entirety:
 - a. Resolution No. 98-020, Local Goals and Policies for Community Facilities Districts.
 - b. Resolution No. 95-063, Authorizing the City Attorney to Join the City of Tracy as an Amicus.
 - c. Resolution No. 92-073, Brown Act Open Meeting Requirements and Public Access.
 - d. Resolution No. 89-437, Dust Control Policy on Subdivision Construction and Other Construction Projects.
 - e. Resolution No. 91-083, Project Cost Sharing Reimbursement Related to Specific Plan Area Projects.
2. This resolution takes effect immediately.

* * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 7th day of November, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.K

REQUEST

APPROVE TASK ORDER NO. 5 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT NO. HA17 WITH HARRIS AND ASSOCIATES FOR DESIGN OF THE GRANT LINE WIDENING PROJECT EAST OF MACARTHUR DRIVE TO THE EASTERN CITY LIMIT – CIP 73048, AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT

EXECUTIVE SUMMARY

On August 21, 2012, City Council authorized an appropriation of funds in the amount of \$14 million from NEI Phase II for the widening of Grant Line Road east of MacArthur Drive to attract certain job generating development in the City's Northeast Industrial (NEI) area. Approval of Task Order No. 5 with Harris and Associates will facilitate completion of improvement plans, specifications and contract documents for this project in a timely manner to ensure completion of construction of Grant Line Road within one year.

DISCUSSION

In May 1999, the City entered into a Master Professional Services Agreement MPSA-HA17 with Harris and Associates to complete the design of Grant Line Road east of MacArthur Drive, up to the eastern City limits. The purpose of the Master Professional Services Agreement was to complete the full scope of work for this project in multiple task orders as more funding became available. Under the MPSA, four tasks were awarded which included preparation of the street precise plan, preparation of legal plats and maps, design of utility services, geometric design of the street, and completion of the project improvement plans, specifications, and contract documents up to the bidding level.

Harris and Associates has completed these tasks and prepared the project plans and contract documents. Due to funding constraints, the widening of Grant Line Road was limited to two lanes on each side with a large median to accommodate future widening of the street by another lane on each side when additional funding became available. The City has completed partial acquisition of the rights-of-way and is working on the remaining acquisitions.

On August 21, 2012, City Council authorized an appropriation of funds in the amount of \$14 million from NEI Phase II to expedite widening Grant Line Road to attract certain job generating development in the NEI area. Since full funding is now available for construction of this project, it is in the City's best interest to widen Grant Line Road to its ultimate width by taking advantage of the existing low cost bid environment and to avoid future expensive changes and street improvements.

The project requests acquisition of rights-of-ways on both the north and south side of the street for widening purposes. The City has completed partial acquisition of the rights-of-ways and is working on the remaining acquisitions. However, acquisition of all the

rights-of-ways cannot be completed within time for completion of construction. Due to the urgency and time restraints, the widening and construction of street improvements can be accommodated within the acquired rights-of-ways by shifting the street center line and changing the horizontal alignment at certain locations. Since the NEI area has no existing functional storm drainage facility at this time, the addition surface run off from the streets needs to be collected in a temporary retention pond which will be located in the future storm drainage channel area. The land for the channel has been partially acquired. New legal and plats for additional land acquisitions for storm drainage needs to be prepared immediately.

In order to achieve the above objectives, the project plans, specifications and contract documents need to be revised expeditiously to accommodate the above changes within the acquired rights-of-ways. The work involved includes new improvements including inter-phasing with a new traffic signal, changes to street cross-sections, street alignment, utility profiles, drainage, and median landscaping. The scope of services also includes additional field surveying and preparation of plats and legal descriptions to acquire additional rights-of-ways for the storm drainage channel. The services of the consultant will also be retained during construction to provide design support services on an as needed basis on time and material.

Harris and Associates submitted a proposal to complete this task for a not to exceed amount of \$149,655 which includes a \$13,605 contingency amount for additional services if needed and can be authorized by the Development Services Director as needed. Such design contingency amounts are normal for a project of this magnitude and helps expedite completion of projects in a timely manner.

After approval of this Task Order by City Council, the Consultant will be authorized to complete the project plans, specifications and contract documents on a fast track to ensure the project is awarded for construction prior to the end of March 2013.

FISCAL IMPACT

There is no fiscal impact to the General Fund. The Grant Line Road Widening Project from MacArthur Drive to the eastern City Limit – CIP 73048, is funded from NEI Phase 1 developments.

RECOMMENDATION

Staff recommends that City Council approve Task Order No. 5 to the Master Professional Services Agreement – MPA No. HA17 with Harris and Associates for the final design of the Grant Line Road Widening Project east of MacArthur Drive to the eastern City Limit – CIP 73048, for a not to exceed amount of \$149,655, and authorize the City Manager to execute this agreement.

Prepared by: Paul Verma, Senior Civil Engineer
Reviewed by: Kuldeep Sharma, City Engineer
Approved by: Andrew Malik, Development Services Director
Leon Churchill, Jr., City Manager

RESOLUTION _____

APPROVING TASK ORDER NO. 5 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT NO. HA17 WITH HARRIS AND ASSOCIATES FOR DESIGN OF THE GRANT LINE WIDENING PROJECT EAST OF MACARTHUR DRIVE TO THE EASTERN CITY LIMIT – CIP 73048, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, In May 1999, the City entered into a Master Professional Services Agreement MPSA-HA17 with Harris and Associates to complete the design of Grant Line Road east of MacArthur Drive, up to the eastern City limits, and

WHEREAS, On August 21, 2012, City Council authorized an appropriation of funds in the amount of \$14 million from NEI Phase II for the widening of Grant Line Road east of MacArthur Drive, and

WHEREAS, Since full funding is available for construction of this project, it is in the City's best interest to widen Grant Line Road to its ultimate width by taking advantage of the existing low cost bid environment and to avoid future expensive changes and street improvements, and

WHEREAS, Harris and Associates submitted a proposal to complete this task for a not to exceed amount of \$149,655 which includes a \$13,605 contingency amount for additional services if needed, and

WHEREAS, There is no fiscal impact to the General Fund. The Grant Line Road Widening Project from MacArthur Drive to the eastern City Limit – CIP 73048, is funded from NEI Phase 1 developments;

NOW, THEREFORE BE IT RESOLVED, That City Council approves Task Order No. 5 to the Master Professional Services Agreement – MPA No. HA17 with Harris and Associates for the final design of the Grant Line Road Widening Project east of MacArthur Drive to the eastern City Limit – CIP 73048, for a not to exceed amount of \$149,655, and authorizes the City Manager to execute this agreement.

Resolution _____
Page 2

The foregoing Resolution _____ was adopted by the City Council on the 7th day of November, 2012, by the following vote:

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

Mayor

ATTEST:

City Clerk

**CITY OF TRACY
TASK ORDER NO. 5 OF
MASTER PROFESSIONAL SERVICES AGREEMENT No. HA17
FINAL DESIGN GRANT LINE ROAD WIDENING PROJECT**

THIS Task Order is made and entered into by and between the CITY OF TRACY, a municipal corporation (hereinafter "CITY"), and *Harris & Associates, Inc. a California Corporation (hereinafter "CONSULTANT").

RECITALS

- A. CONSULTANT has entered into a Master Professional Services Agreement No. HA17 ("Agreement"), Resolution No. 99-489, with the CITY, by which the CONSULTANT has agreed to provide design engineering services related to the Northeast Industrial Area. This included the widening of Grant Line Road. Development of the Northeast Industrial Area required design documents for roadway and storm drainage facilities and preparation of documents to secure easements and right of way acquisition.
- B. Under the MPSA, four (4) tasks were awarded which included preparation of street precise plan, preparation of legal plats and maps, design of utility services, geometric design of the street, and complete the project improvement plans, specifications and contract documents up to the bidding level.
- C. At the request of the City, in October 2012, CONSULTANT submitted a proposal to perform the design services described in this agreement under Task Order No. 5 to the Master Professional Services Agreement. Pursuant to Tracy Municipal Code Section 2.20.140 (b)(2), the City Manager has made a written finding that the CONSULTANT is the only source with the history and knowledge of the Grant Line Road Widening Project to provide the continued design services. CONSULTANT was the original designer for the Grant Line Road Project in 1999 and has continued this role since 1999. CONSULTANT is extremely knowledgeable of the Northeast Industrial Area having prepared the Finance and Implementation Plan. Therefore, compliance with the CITY's proposal procedure is not in the best interest of the CITY because it is more efficient, consistent and cost effective to continue with the same firm for final design services. After negotiations between the CITY and CONSULTANT, the parties have reached an agreement for the performance of design services in accordance with the terms set forth in this Agreement.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 1. **INCORPORATION OF MASTER AGREEMENT.** This Task Order hereby incorporates by reference all terms and conditions set forth in the Master Agreement for this project, unless specifically modified by this Task Order.

2. SCOPE OF SERVICES.

- a. Consultant shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference.
- b. In addition to the services described in subsection a, above, CONSULTANT shall perform contingency services, which are necessary in order to efficiently process technical design services for the project, only if:
 - i. An amendment to this Agreement for such services is entered into and authorized by CITY's Director of Development Services; and
 - ii. A written notice to proceed is issued by CITY.

3. TIME OF PERFORMANCE. CONSULTANT shall commence performance, and shall complete all required services no later than the dates set forth in Exhibit "A."

4. COMPENSATION. For services performed by CONSULTANT in accordance with this Task Order, CITY shall pay CONSULTANT on a time and expense basis, at the billing rates set forth in Exhibit "B," attached hereto and incorporated herein by reference. CONSULTANT's fee for this Task Order is Not To Exceed the following amounts:

- a. One Hundred Thirty Six Thousand Fifty Dollars (\$136,050.00) CONSULTANT's billing rates shall cover all costs and expenses of every kind and nature for CONSULTANT's performance of this Agreement. No work shall be performed by CONSULTANT in excess of the Not To Exceed amount without the prior written approval of the CITY.
- b. Thirteen Thousand Six Hundred Five Dollars (\$13,605.00) for contingency services, described in section 2.b. of this Agreement .

INTENTIONALLY LEFT BLANK

CITY OF TRACY –TASK ORDER NO. 5 MPSA HA 17
Final Design of Grant Line Road
Page 3 of 3


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

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

CITY OF TRACY

CONSULTANT
Harris & Associates

By: Leon Churchill, Jr.
Title: City Manager
Date: _____



By: Russell Moore, PE
Title: Vice President
Date: Oct. 31, 2012
Fed. Employer ID No. _____
94-2385238

Attest:

By: Sandra Edwards
Title: City Clerk
Date: _____

By: Gary Wohl
Title: Chief Financial Officer
Date: _____

Approved As To Form:

By: Daniel G. Sodergren
Title: City Attorney
Date: _____

Exhibit "A"

Project Understanding

In general, we will be converting to a roadway with three through lanes and a narrower median than we had in our previous geometrics. Our roadway layout and geometrics will be modified to address right-of-way constraints as laid out by Ripon Bhatia and discussed at our meeting this morning. We will also need to coordinate improvements for a new signalized intersection for the new planned Skylark Street, this intersection will be the first order of work in construction per our project special provisions. We will get concurrence from WISD and other utility agencies about any potential conflicts, relocations, or issues with their facilities and the planned Grant Line Road improvements. Although there are some current outstanding right-of-way issues, we will design the project assuming they can be cleared up by the City prior to construction. The City will advise on whether we will place median breaks after they have discussed internally and with fronting property owners. We will coordinate with the new City Fire Station design. We will analyze turn pocket lengths based on the TJKM circulation plan. We will revise (narrow) the earthen ditch width so that it fits within the Pro-logis easement and the ditch will no longer outlet at Pescadero Avenue, but would instead serve as a detention basin, if our hydraulics review proves the capacity is sufficient. Our landscape design for the median should be updated to conform with current City standards, with cobbles and lower shrubs. Signal interconnect cable will be revised to fiber optic. We will include (space permitting) an 8 inch diameter pvc sewer main on the north side of the road to serve future sewer laterals. We may need to add a trench for AT&T to place their fiber optic lines in. We will coordinate with Kier & Wright about sewer elevations and datum for the Best Buy site frontage. We will check for depth of Chevron pipeline and use full depth asphalt concrete if it is shallower than their recommendation. If necessary, we will enlist the services of a land surveyor to perform topographic surveying to update our base mapping.

Scope of Services

The following scope of work outlines our effort to prepare plans, specifications, and construction cost estimates for the road improvements as described herein. We will also provide bid period and construction period design support. We will perform the following:

Task 1: Project Administration Phase

At the beginning of the project, the Harris team will attend a kickoff meeting with City staff to confirm the scope of work, schedule, budget, and availability of project documents; review project goals; discuss format of deliverables; and clarify responsibilities of each party.

Harris will also provide monthly progress reports. A brief progress report will accompany each monthly Harris invoice. It will discuss budget and schedule status, issues resolved and unresolved, and next steps.

We will coordinate with all utility agencies who have facilities within the right of way.

We will coordinate with the developer's engineers who have current projects along the frontage of Grant Line Road.

Task 2: Preparation of Design Documents (90% and Final PS&E)

Harris will conduct a new field reconnaissance of the project site to collect data for design purposes and document existing conditions for areas where improvements have been made in the past three years. We will also gather existing background information about City of Tracy design standards and specs.

We will prepare plans, technical specifications, and cost estimates for the project. PS&E will be developed using the applicable Caltrans and City of Tracy Standard Plans and Specifications. The plans will show principal design elements and necessary details required for construction. A registered engineer will conduct an independent review of the 90% PS&E during its preparation.

Harris will attend a meeting with the City of Tracy to review all comments on the Pre-Final Submittal. We will collect all comments received from the pre-final submittal and address them in the final design. All final plans will be plotted on bond paper, stamped and signed by a registered engineer. We will also provide plans in electronic (AutoCad) format. We assume that the City of Tracy will be responsible advertising the bid of the project and for copying and distributing the contract documents.

Three copies of the final drawings and technical specifications will be provided for use by the City.

Task 3: Bid Period Services

During the bidding or negotiating phase the project team will issue Addenda as appropriate to clarify, correct, or change the Bid Documents and answer questions from prospective contractors.

If requested, Harris will also attend the pre-bid meeting.

Task 4: Construction Phase Services

During the construction the project team will:

- Make visits to the Site during construction, as required.
- Issue necessary clarifications and interpretations of the Contract Documents as appropriate
- Review and approve Shop Drawings and Samples and other data, which Contractor is required to submit, for conformance with the Contract Documents
- Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor

If requested, Harris will also attend the pre-construction meeting.

Fee and Schedule

Based on our understanding of the project, Harris & Associates, along with our subconsultants, Y&C Transportation (Traffic Signal Design), Odyssey Landscaping (Landscape design), and a Land Survey firm yet to be determined, propose to perform the work for a not to exceed cost of \$149,655. A breakdown of the fee estimate is included as Exhibit "B".

Our current schedule will allow us to begin site reconnaissance within one week of the notice to proceed. We estimate that we can provide milestone deliverables as follows:

<u>Task</u>	<u>Completion Date</u>
▪ Receipt of written notice to proceed	Nov 8, 2012
▪ Submit Pre-Final Design (90% PS&E)	Dec 21, 2012
▪ City Review of 90% Design	Dec 28, 2012
▪ Submit final plans and specifications	Jan 23, 2013

Exhibit "B"

ESTIMATED LEVEL OF EFFORT		HARRIS & ASSOCIATES						
		PROJ MGR	PROJ ENGR	QUALMGR PROJ DIR	CLERICAL	ODYSSEY LS ARCH	Y&C TRAFFIC	TBD SURVEYOR
City of Tracy		Date: 31-Oct-12						
Grant Line Road Widening- Final Construction Documents								
TASK		HOURS	HOURS	HOURS	HOURS	COST	COST	COST
1.0	PROJECT ADMINISTRATION							
	1.1 Project Meetings (4 total)	8	4			\$150	\$200	
	1.2 Progress and Monthly Report (3 Reports)	2						
	1.3 Coordination with Utility Agencies	12	10		4			
	1.4 Coordination with Developers Engineers	12	12				\$200	
	SUBTOTAL HOURS	34	26	0	4			
2.0	PREPARATION OF DESIGN DOCUMENTS (90% and Final)							Assumed:
	2.1 Information Gathering and Evaluation	3	8				\$200	\$10,000
	2.2 Pre-final Plan Preparation (90%)	70	200			\$4,500	\$12,500	
	2.3 Pre-final Opinion of Probable Const. Cost	4	8				\$500	
	2.4 Pre-final Specs	4			8		\$500	
	2.5 Quality Review			16				
	2.6 Review Meeting	Included in Task 1.1						
	2.7 Final Contract Documents (PS&E)	70	125	8	6	\$2,850	\$3,900	
	SUBTOTAL HOURS	151	341	24	14			
3.0	BID PERIOD SERVICES							
	3.1 Pre-Bid Meeting (1 mtg)	2						
	3.2 Answer Bidders' Questions	6	4		1		\$500	
	3.3 Prepare Addenda (1 budgeted)	2	2		2			
	SUBTOTAL HOURS	10	6	0	3			
4.0	DESIGN SERVICES DURING CONSTRUCTION							
	4.1 Pre-construction Meeting	2	2					
	4.2 Review Shop Drawings and Submittals	4	4		1			
	4.3 Change Order Assistance (3 budgeted)	6	6		3	\$250	\$1,500	
	SUBTOTAL HOURS	12	12	0	4			
5.0	REIMBURSABLE EXPENSES							
	5.1 PRINTING OF REVIEW SUBMITTALS					\$500		
TOTALS	SUBCONSULTANT TOTAL FEE					\$7,750	\$20,000	\$10,000
	SUBCONSULTANT MARKUP (10%)							\$3,775
	HARRIS HOURS PER POSITION	207	385	24	25			
	HOURLY RATE (TYPICAL)	\$200	\$120	\$200	\$65			
	FEE ESTIMATE PER POSITION	\$41,400	\$46,200	\$4,800	\$1,625			
						TOTAL HARRIS FEE		\$94,025
						SUBTOTAL TEAM FEE		\$136,050
						OVERALL FEE CONTINGENCY (10%)		\$13,605
						TOTAL FEE ESTIMATE		\$149,655

November 7, 2012

AGENDA ITEM 3

REQUEST

CONDUCT A PUBLIC HEARING TO HEAR OBJECTIONS TO AND APPROVE THE FINAL COSTS OF WEED ABATEMENT AND AUTHORIZE A LIEN ON THE LISTED PROPERTIES IN THE COSTS OF ABATEMENT AMOUNT PLUS 25 PERCENT

EXECUTIVE SUMMARY

The Fire Department's weed abatement contractor has completed the abatement of all fire hazards on designated properties. Since the properties have been abated the contractor has submitted invoices to be paid. A public hearing is scheduled for appropriation for payment of abatement services.

DISCUSSION

Pursuant to Tracy Municipal Code Section 4.12.260, property was identified by the Fire Department that required weed abatement. The property owners were given notice to abate and a public hearing was conducted July 17, 2012. The Tracy Municipal Code provides that upon failure of the owner, or authorized agent, to abate within 20 days from the date of notice, the City will perform the necessary work by private contractor and the cost of such work will be made a personal obligation of the owner, or become a tax lien against the property. The City Council authorized the abatement.

The Fire Department designated 5 parcels (Exhibit A) that required abatement by Baylor Services, the contractor for the City of Tracy. The abatement was completed at a cost to the City of \$1,228.75.

Fire Department staff notified the affected property owners of this public hearing where Council will consider the report of costs for abatement and any objections of the property owners liable for the cost of abatement. The cost of abatement assessed to the property owner is the actual cost of the City contractor plus a 25% administrative charge, per Resolution 2003-059.

STRATEGIC PLAN

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

FISCAL IMPACT

The Fire Department budgeted \$12,100 for weed abatement services in FY 2012-2013. The department has expended \$1,228.75 for the work performed by Baylor Services. Expended funds were within the identified budget for FY 2012-2013.

RECOMMENDATION

That the City Council conduct a public hearing to hear objections to the costs of abatement and authorize, by resolution, approval of the final abatement costs, and authorization of a lien on the listed properties in the cost of abatement amount plus 25 percent.

Prepared by: Gina Rodriguez, Administrative Assistant II
Approved by: Steve Hanlon, Division Chief
Approved by: Alford Nero, Fire Chief

Attachment: Exhibit A - 2012 Weed Abatement Costs

**TRACY FIRE DEPARTMENT
WEED ABATEMENT FINAL COSTS**

APN	Property Owner	Site Address	Abatement Cost	Administrative Fee	Total Cost
233-045-03	William & Sarah Howard	450 W. 20th Street	\$ 222.50	\$ 55.62	\$ 278.12
235-100-74,75,76,77	Trinidad H. Dunn	Vacant Lots on Mt. Oso	\$ 1,006.25	\$ 251.56	\$ 1,257.81
		TOTAL	\$ 1,228.75	\$ 307.18	\$ 1,535.93

RESOLUTION _____

APPROVING THE FINAL COSTS OF WEED ABATEMENT

WHEREAS, Pursuant to Tracy Municipal Code, Title 4, Article 6, Section 4.12.260, property was identified that required weed abatement, and

WHEREAS, The property owners were given notice to abate and a public hearing was conducted on July 17, 2012, and

WHEREAS, The Tracy Municipal Code provides that upon failure of the owner, or authorized agent, to abate within 20 days from the date of notice, the City will perform the necessary work by private contractor and the cost of such work will be made a personal obligation of the owner, or become a tax lien against the property, and

WHEREAS, The City Council authorized the abatement by resolution and the Fire Department designated four parcels that would require the City contractor Baylor Services, to abate, and

WHEREAS, The abatement was completed at a cost to the City of \$1,228.75, and

WHEREAS, Fire Department staff notified property owners of this public hearing where Council considered the reports of costs for abatement and any objections of the property owners liable for the cost of abatement, and

WHEREAS, The cost of abatement assessed to the property owner is the actual cost of the City contractor plus a 25% administrative charge, per the Tracy Municipal Code;

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves the final abatement costs in the amounts set forth in Exhibit A to the staff report accompanying this item and authorizes a lien on each of the properties shown on said Exhibit A in those amounts.

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

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 4

REQUEST

THAT COUNCIL CONDUCT A PUBLIC HEARING DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL ON EACH OF THE PARCELS LISTED IN EXHIBIT "A" TO THIS AGENDA ITEM A NUISANCE; CONSIDER OBJECTIONS TO ABATEMENT OF SAID NUISANCE, AND ADOPT A RESOLUTION AUTHORIZING FIRE DEPARTMENT STAFF TO ORDER CONTRACTOR TO ABATE SAID NUISANCES

EXECUTIVE SUMMARY

The Fire Department performs inspections on its own and after complaints are received from citizens regarding the existence of weeds, rubbish, refuse and flammable material on residential and commercial parcels. Abatement notices are sent to parcel owners within the City deemed by Fire Department staff to be a public nuisance and dangerous to the public health and safety.

The notice states the time and date of the Public Hearing to be conducted by the City Council to address any and all objections to the proposed abatement and, as necessary, authorize Fire Department staff to direct the City's contractor to abate parcels Council finds to be a nuisance.

DISCUSSION

Pursuant to Tracy Municipal Code, a Public Hearing is required prior to the abatement of any parcels. Sections 4.12.250 through 4.12.340 of the Tracy Municipal Code set forth the procedure for the City to abate weeds, rubbish, refuse and flammable material on private property.

On October 8, 2012, pursuant to Tracy Municipal Code, Section 4.12.280, the Fire Department sent a notice to the property owner(s) listed in Exhibit "A" to this staff report. That notice required the said owner to abate weeds, rubbish, refuse and flammable material on his/her parcel within twenty days, and informed the property owner(s) that a Public Hearing would be conducted on November 7, 2012, where any protests regarding the notice to abate would be heard. The Tracy Municipal Code provides that upon failure of the owner, or authorized agent, to abate within 20 days from the date of notice, the City will perform the necessary work by private contractor and the cost of such work will be made a personal obligation of the owner, or become a tax lien against the property.

Under the provisions of Tracy Municipal Code, Section 4.12.290, the Fire Department will proceed at Council's direction with instructing the City's contractor to perform weed, rubbish, refuse and flammable material abatement on the parcels listed in Exhibit "A". Per the Tracy Municipal Code, property owners are liable for the cost of abatement and will be billed for the actual cost of the City contractor's services, plus a twenty-five percent administrative charge. All unpaid assessments will be filed with the San Joaquin County Auditor Controller's office to establish a lien on the property.

STRATEGIC PLAN

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

FISCAL IMPACT

There is \$12,100 dollars budgeted for Fiscal Year 2012-2013, Grounds and Maintenance account 211-52150-252-00000, that is used for contracting the abatement of weeds, rubbish, refuse and flammable material. There are sufficient funds at this time to accomplish abatement services.

RECOMMENDATION

That City Council conduct a Public Hearing to hear and consider any and all objections to the proposed abatement, and by resolution, declare the weeds, rubbish, refuse, and flammable material located at the parcels listed within Exhibit "A" to be a nuisance, and authorize the Fire Department to direct the City's contractor to abate such nuisance.

Prepared by: Gina Rodriguez, Administrative Assistant II
Reviewed by: Steve Hanlon, Fire Division Chief
Approved by: Alford Nero, Fire Chief

Attachment: Exhibit A - 2012 Weed Abatement Parcel List

TRACY FIRE - WEED ABATEMENT LIST

APN	SITUS ADDRESS	NAME/BUSINESS	MAILING ADDRESS	CITY	STATE	ZIP
238-580-49	3027 ORMONDE STREET	APPARAJU RAMESH MUTHU	1501 DECOTO ROAD 3225	UNION CITY	CA	94587
248-280-86	394 GLENBRIAR CIRCLE	KENT & BEVERLY GREG	P.O. BOX 236	TRACY	CA	95377
212-170-31	3733 N. TRACY BLVD	CHEVRON USA INC.	P.O. BOX 1404	HOUSTON	TX	77002
209-270-30	3580 W. GRANT LINE ROAD	GRANT LINE APARTMENTS LLC	5348 ST. ANDREWS DRIVE	STOCKTON	CA	95219
209-270-31	VACANT LOT GRANT LINE ROAD	GRANT LINE APARTMENTS LLC	5348 ST. ANDREWS DRIVE	STOCKTON	CA	95219
246-220-02	1125 TARRAGONA DRIVE	YOLISMA GARCIA	1125 TARRAGONA DRIVE	TRACY	CA	95376
209-470-14	VACANT LOT LAMMERS ROAD	SUTTER CENTRAL VALLEY HOSPITALS	2880 GATEWAY OAKS DR. #200	SACRAMENTO	CA	95833
248-290-58	VACANT LOT GLENBRIAR CIRCLE	COSE CORNER LLC	P.O. BOX 326	TRACY	CA	95378
252-400-10	1890 MONIQUE STREET	RECONSTRUST COMPANY	1800 TAPO CANYON ROAD	SIMI VALLEY	CA	93063
235-430-15	130 W. SOUTH STREET	JOSE TREJO SOTO	130 W. SOUTH STREET	TRACY	CA	95376
235-430-11	201 W. MOUNT DIABLO ROAD	CHEN ZHUO YUAN & XUE KAI L	600 S. DELAWARE STREET	SAN MATEO	CA	94402
235-430-09	211 W. MOUNT DIABLO ROAD	CHEN ZHUO YUAN & XUE KAI L	600 S. DELAWARE STREET	SAN MATEO	CA	94402
235-082-08	235 W. SOUTH STREET	RESHAM SINGH	235 SOUTH STREET	TRACY	CA	95376
232-350-14	1211 FRUITWOOD WAY	JOE NGUYEN	1226 OAK CREEK WAY	SUNNYVALE	CA	94089
238-380-43	1198 MICHAEL DRIVE	ASHIT & VINITA ZINZUWADIA	1198 MICHEAL DRIVE	TRACY	CA	95377

RESOLUTION _____

DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL ON THE PARCELS LISTED IN EXHIBIT "A", A NUISANCE AUTHORIZING FIRE DEPARTMENT STAFF TO ORDER CONTRACTOR TO ABATE

WHEREAS, On October 8, 2012 pursuant to Tracy Municipal Code, Section 4.12.280, Fire Department staff mailed, via certified mail, a notice to the owners of record listed within Exhibit "A" , that the existence of weeds, rubbish, refuse and flammable material on said parcel in the City of Tracy constitutes a nuisance and is dangerous to public health and safety of the inhabitants of the City pursuant to Section 4.12.260 of the Tracy Municipal Code, and

WHEREAS, The notices included an order to abate said nuisance within 20 days and informed the property owner(s) of their opportunity to appear and object to the abatement of such nuisance at a public hearing before the City Council on November 7, 2012, and

WHEREAS, The County Assessor's Office shows the mailing address for the owner(s) of record of the subject parcels as listed within Exhibit "A", and a notice to abate and the notice of the public hearing was sent in a timely manner to that address by certified mail, and

WHEREAS, Objections, if any, to said abatement have been heard and considered, and

WHEREAS, The Fire Department has \$12,100 in the FY 2012-2013 budget for weed, rubbish, refuse and flammable material abatement;

NOW, THEREFORE, BE IT RESOLVED, That the City Council declares the weeds, rubbish, refuses and flammable material on the parcels listed within Exhibit "A" to be a nuisance and further authorizes Fire Department staff to order the City's contractor to abate the accumulation of weeds, rubbish, refuse and flammable materials on the listed parcels.

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

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 5

REQUEST

APPROVAL OF APPROPRIATION OF \$50,000 FROM THE RESIDENTIAL AREAS SPECIFIC PLAN (RSP) FUND TO BE USED FOR A DEPOSIT TO THE GENERAL SERVICES ADMINISTRATION FOR THE 150-ACRE SCHULTE ROAD PARCEL AND AUTHORIZE THE MAYOR TO EXECUTE ANY NECESSARY DOCUMENTS TO COMPLETE THE DEPOSIT; AND APPROVAL OF APPROPRIATION OF \$40,000 FROM THE RSP FUND FOR CONSULTANT SERVICES FOR ASSESSMENT OF RENEWABLE ENERGY PROJECT AT THE SCHULTE ROAD PARCEL

EXECUTIVE SUMMARY

Staff is seeking approval from City Council of 1) an appropriation of \$50,000 from the Residential Specific Plan (RSP) Funds for a refundable deposit payable to the General Services Administration (GSA) for the 150-acres of the Schulte Road property; and an appropriation of \$40,000 from the (RSP) Funds for consultant services for assessment of renewable energy project at the Schulte Road parcel.

DISCUSSION

The Schulte Road property is approximately 200-acres in total and is located on the south side of Schulte Road, west of Lammers Road (see Attachment A). On September 18, 2012, the City Council considered appropriating \$1,115,250 from the RSP Fund for costs associated with the removal of use restrictions and Federal reversionary rights on the 150-acre Schulte Road parcel (see Attachment B for an Excerpt from September 18, 2012, Regular City Council Meeting, Agenda Item 4.) Council did not approve the appropriation and instead directed staff to request that GSA grant an extension while the City performs due diligence on the viability of a renewable energy project on the site. Staff requested the extension from GSA and received a response from GSA (see Attachment C.)

GSA agrees to grant the six month extension to the City on the following two conditions:

1. The City agrees to pay a \$50,000 deposit by November 14, 2012, which would be applied to the purchase price; and
2. Complete the purchase by April 1, 2013

The letter goes on to state that if the City cannot complete the purchase by April 1, 2013, and voluntarily reverts the property, the \$50,000 will be refunded.

Consultant services will be necessary to assess the viability and best options for a renewable energy project on the site including obtaining and evaluation of necessary project development information, development of a Request for Proposals and evaluation of submitted proposals. \$40,000 is being requested from the RSP Funds for this purpose. The tentative schedule for these consulting services is shown below:

Tentative Schedule	
11-08-12	Issuance of RFP for Renewable Energy Consultant
11-26-12	Consultant Proposals due to City
11-28-12	Consultant selected and begins work
01-14-13	Recommendation of Development Options to City staff
01-28-13	Issuance of RFP
02-25-13	Evaluation of Proposals
03-19-13	Presentation to City Council on viability of renewable energy project; seek Council direction on disposition of Schulte property and renewable energy project
03-20-13	GSA notified of City intentions regarding disposition of Schulte Property

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

The amount of \$50,000 is needed to fulfill the request from GSA for a deposit. This amount is refundable in the event the City does not move forward with completing the acquisition of the Schulte Road property. The amount of \$40,000 is needed to retain consultant services to assess the viability of a renewable energy project.

RECOMMENDATION

Staff recommends that City Council by resolution approve 1) appropriation of \$50,000 from the RSP Fund to be used as a refundable deposit to the General Services Administration for the 150-acre Schulte Road parcel and authorize the Mayor to execute any necessary documents to complete the deposit; and 2) appropriation of \$40,000 from the RSP Fund for renewable energy consulting services.

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

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

Attachments:

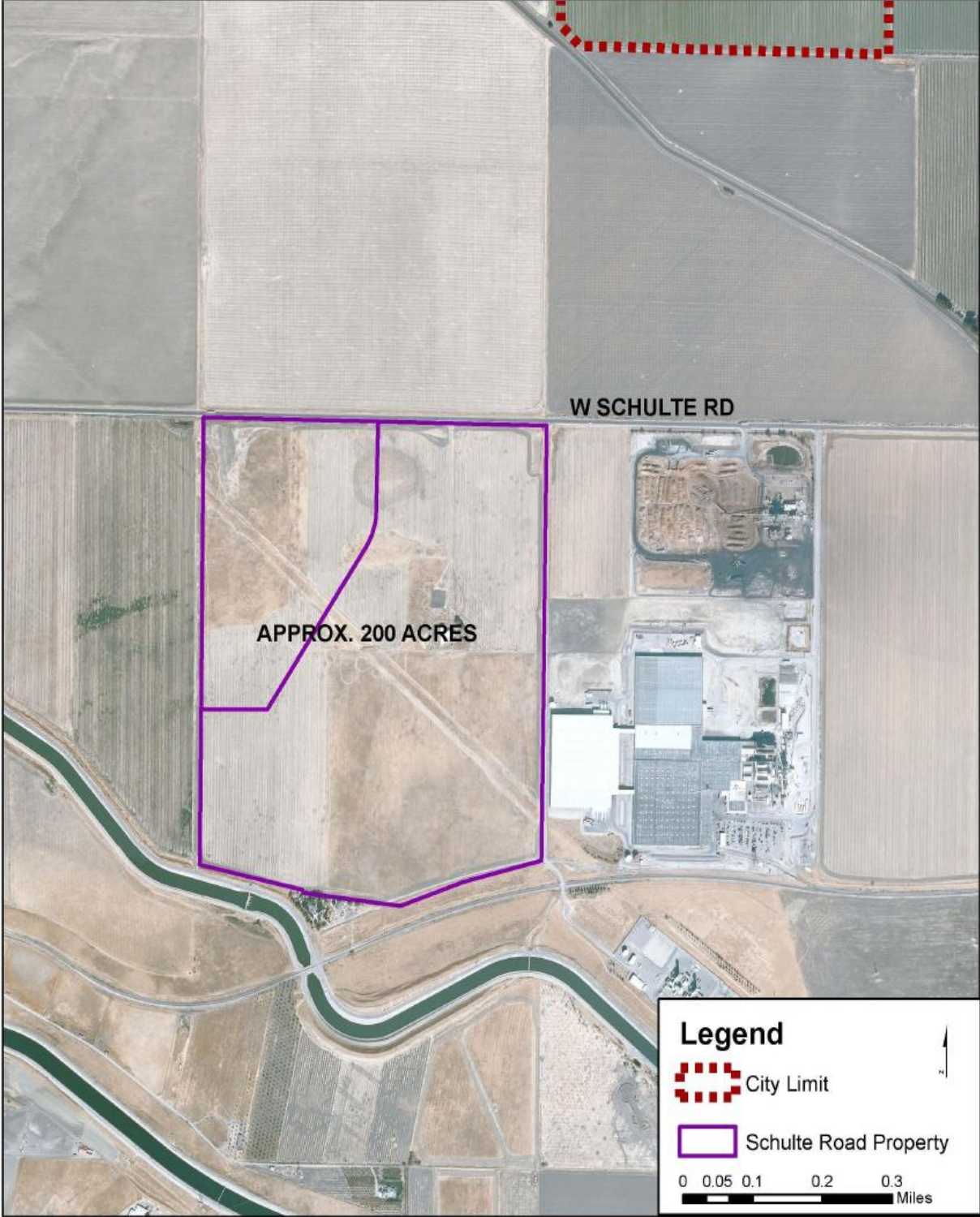
Attachment A: Map of Schulte Road Property

Attachment B: Excerpt from September 18, 2012, Regular City Council Meeting, Agenda Item 4

Attachment C: Letter from GSA dated October 3, 2012

Schulte Road Property

Location Map - Attachment A



Attachment B

Excerpt from September 18, 2012, Regular City Council Meeting, Agenda Item 4

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 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.

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.

Attachment B
Page 2

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.

Attachment C



GSA Pacific Rim Region

October 3, 2012

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

Re: 150 Acres in Tracy, CA (GSA Control No. 9- CA-1533-AC)

Dear Mr. Churchill:

Thank you for your letter dated September 26, 2012 requesting a 6 month extension for the City of Tracy (City) to determine the feasibility of a renewable energy project on the property referenced above. As you are aware, GSA has been working with the City for over 14 years and through 4 congressional actions to accommodate the City with the conveyance of the 150 acre property. GSA is willing to grant the City a 6 month extension at the agreed upon \$1,105,250 total price on the following two conditions:

- 1) The City agrees to pay a \$50,000 deposit by November 14, 2012. The deposit would be applied towards the total purchase price.
- 2) The City agrees to expedite their schedule to complete the abrogation action by April 1, 2013. The City would need to obtain City Council approval of the resolution to purchase the property and complete the purchase by April 1, 2013.

As you know the City has been in non-compliance with the intended use of the property since it was conveyed in 2007. If the City cannot complete the purchase by April 1, 2013 and voluntarily reverts the property, the \$50,000 deposit will be refunded. If you have any questions, please contact Monica Pech of my staff at 415-522-3261 or monica.pech@gsa.gov

Sincerely,

A handwritten signature in black ink that reads "Clark Van Epps".

Clark Van Epps
Director
Office of Real Property Utilization & Disposal

U.S. General Services Administration
450 Golden Gate Avenue
San Francisco, CA 94102-3434
www.gsa.gov

RESOLUTION _____

APPROVING APPROPRIATION OF \$50,000 FROM RESIDENTIAL AREAS SPECIFIC PLAN (RSP) FUNDS FOR A REFUNDABLE DEPOSIT TO THE GENERAL SERVICES ADMINISTRATION FOR THE 150-ACRE SCHULTE ROAD PARCEL AND AUTHORIZE THE MAYOR TO EXECUTE ANY NECESSARY DOCUMENTS TO COMPLETE THE DEPOSIT; AND APPROVAL OF APPROPRIATION OF \$40,000 FROM THE RSP FUNDS FOR CONSULTANT SERVICES FOR RENEWABLE ENERGY CONSULTANT SERVICES

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 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 September 18, 2012, Council directed staff to request an extension from GSA in order to determine the viability of a renewable energy project on the site; and

WHEREAS, GSA will grant an extension to the City on two conditions: 1) The City agrees to pay a \$50,000 deposit by November 14, 2012, which would be applied to the purchase price; and 2) Complete the purchase by April 1, 2013; and

WHEREAS, The City of Tracy intends to explore a potential renewable energy project for the site which will require consulting services.

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves 1) appropriation of \$50,000 from RSP funds to be used as a refundable deposit to the General Services Administration for the 150-acre Schulte Road parcel and authorize the Mayor to execute any necessary documents to complete the deposit; and 2) appropriation of \$40,000 from the RSP Fund for renewable energy consulting services.

* * * * *

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

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 6

REQUEST

DISCUSSION AND DIRECTION RELATED TO LAND USES, SIGNAGE, AND PROPOSED DEVELOPMENT AGREEMENT TERMS FOR THE CORDES RANCH PROJECT

EXECUTIVE SUMMARY

This agenda item involves a discussion of the Cordes Ranch project and direction to City staff. Specifically, changes to the development plan and allowable land uses for areas abutting the I-205 Corridor will be presented, as well as proposed signage standards and draft terms for inclusion in a development agreement. City staff and the Cordes Ranch owners group are requesting discussion and direction on these topics.

DISCUSSION

Recent Background and Direction

On September 6, 2011, City Council directed staff to begin negotiations on a development agreement for the Cordes Ranch project. At that meeting, City Council requested a presentation and an opportunity to discuss the project in more detail. On October 18, 2011, City Council discussed the project in more detail after receiving a presentation by staff and the project owners group. On August 7, 2012, City Council discussed the proposed land uses and directed City staff to return after working with the project owners group to refine land uses along the I-205 corridor, specifically addressing concerns related to the unwanted image that large, distribution and warehouse facilities could present along the freeway. Council directed staff to ensure that future permitting that may occur under the Specific Plan includes City Council approvals (similar to existing processes in the City) for areas abutting the freeway.

The owners group has developed a signage concept for the Cordes Ranch project along the freeway that exceeds current City freeway sign standards, and direction on this potential change is requested.

Additionally, significant work has been completed on development agreement terms since the initial direction to negotiate. Much of this work stems from progress made on completing the citywide technical infrastructure master plans.

Land Uses and Signage along I-205

Since initial application to the City, staff has continuously emphasized the importance of the I-205 corridor to the owners group. Staff has been pursuing a high-identity image for Tracy, and special attention has been placed on planning the I-205 frontage. How that frontage is developed will create a powerful and lasting image of Tracy. On August 7, 2012, City Council re-affirmed that with direction to staff to further refine proposed land uses along the freeway. The owners will present their proposed revisions during the City Council agenda item.

Continued discussions with the owners group on proposed land uses and design standards along I-205 have been focused on a high-identity image. Staff believes that design standards can be successful in ensuring high-quality development. However, design standards are also limited. If the zoning permits warehouse and distribution uses, which typically require very large buildings, the design standards result in larger setbacks, increased landscaping, and higher quality materials and design; the outcome is a nice looking warehouse where truck docs are screened behind walls and landscaping and buildings are designed to look less like typical distribution and warehousing facilities. Up until the meeting in August with City Council, the owners group had been firm in approaching the look of I-205 from the perspective of a design exercise as opposed to pursuing land use limitations in the form of more restrictive zoning. City Council's feedback assisted in communicating to the owners that zoning and development standards along I-205 would have to be more restrictive than previously presented.

I-205 Overlay Zoning

Currently, the land use mix in the areas fronting I-205 has been addressed by creating an I-205 Overlay District. An overlay district is a common zoning tool that allows additional land use restrictions to be added to a given area but also maintains portions of the underlying zoning (this is common around airports, for example). In the Cordes Ranch project, the overlay would be along I-205, at a width of 500 feet, and would achieve the following:

- 1) The entire frontage of I-205 that has Business Park Industrial zoning would have limitations on land use, making the zoning similar to the General Office zoning on other portions of the Specific Plan, with several exceptions, discussed below; and
- 2) The Design Standards (architectural, landscaping, site planning) would be at a higher level than other areas of the Plan; and
- 3) The review process for individual projects within the overlay area would require Planning Commission review and City Council approval. This review encompasses site planning, architecture and landscaping; actual permitted land uses are established in the zoning, not as part of the individual permit process.

Attached to the staff report is the permitted land use table that City Council discussed at length on August 7, 2012 (Attachment A: land use matrix table). The table shows redlines of what changes the owners desire to make in response to City Council direction. Most of the changes bring the permitted land uses into alignment with the General Office zoning, yet the owners wish to maintain additional flexibility to market and develop these sites. The most important revision relates to removing warehouse and distribution land uses from the freeway; these land uses are no longer permitted within the I-205 overlay zone, except as accessory land uses, meaning that the principal function of the business is not distribution or warehousing. Additional flexibility was added to the I-205 overlay area by allowing "business and industrial flex" uses to locate in this zone, subject to a building size maximum of 75,000 square feet. This land use category is wide-ranging to encompass existing and emerging demand where users

desire office/display space, assembly space and storage space under one roof, often accompanied by parking for business/installation, delivery vehicles.

Future Permitting Processes

Pursuant to Council direction, development approval within the I-205 overlay zone will require Planning Commission review and City Council approval to help ensure a high quality I-205 frontage. Planning Commission would retain approval over Conditional Use Permits.

Proposed Freeway Sign Standards

The City's freeway sign standards are contained within the Tracy Municipal Code and the I-205 Corridor Specific Plan, which allow a freeway sign to be 15 feet above the crown of the freeway, or 45 feet tall, whichever is lower. Both the Tracy Outlet Center and the West Valley Mall received site-specific approvals as a part of their Preliminary and Final Development Plans for freeway signs that are approximately 70 and 55 feet tall, respectively. The owners are requesting that the two freeway signs within the project be permitted to be 70 feet in height and that the two project identification signs (not identifying tenants, rather the project) be permitted at 40 feet in height.

Additionally, the owners are requesting 19 "project entry signs" ranging in height from 13 to 20 feet to be located at major and minor intersections. These "project entry signs" are intended to identify the project, not individual tenants. Attachment B to the staff report is a key map indicating the proposed locations of these signs, as well as an elevation showing the specific materials and architecture.

If City Council directs staff to permit freeway signs at 70 feet in height, the City may be faced with similar requests from other properties that currently do not have signs at that height. Such requests would require amendments to both the Tracy Municipal Code and the I-205 Corridor Specific Plan.

Proposed Development Agreement Terms

City Council authorized staff to negotiate a development agreement (DA) with the project owners on September 6, 2011. Since that time the concepts for inclusion in a DA have focused on methods to initiate development of the project in the short term. Since the project has a significant investment requirement in infrastructure, maximizing existing infrastructure and minimizing upfront new infrastructure costs is crucial, and has been the focus of much of the DA negotiations.

Following are proposed terms that, with City Council direction, these terms would be further refined and drafted into a Draft DA for the purposes of review under the California Environmental Quality Act (CEQA), Planning Commission review and City Council review and approval.

Proposed Terms:

- 1) Parties: the DA would only encompass the property controlled by Crossroads Business Center, which is approximately 1,200 acres of the 1,700 acre project
- 2) Term: 20 years, plus possible extensions if necessary to obtain financing
- 3) Vested rights: rights to develop the project under the City laws/regulations at the time of project approval
- 4) Payment at time of first Final Subdivision Map by the owners of \$4 million to the City for funding city-identified amenities such as parks, aquatics, etc. at the discretion of City Council
- 5) Phasing/Fee Reductions: creation of a first Phase (approximately 600 acres) where development would pay reduced development impact fees (which fund citywide roads, wastewater, storm drainage, water improvements, for example), balanced by increased fees for the remaining DA properties
- 6) Development Impact Fees escalation limits: limits to the rate of increase in the City's Development Impact Fees and allows reconciliation of fees
- 7) Owners ability to construct certain required infrastructure subject to fee credits
- 8) Initial wastewater treatment capacity guarantee: City would provide 0.145 million gallons per day (mgd) of existing wastewater treatment capacity
- 9) Use of existing infrastructure/water supply: City to provide use of existing Hansen Sewer line and use of Patterson Pass water line, City to provide water supply

Next Steps

After City Council direction, the Specific Plan and DA will be finalized for public review. The Environmental Impact Report (EIR) will also be completed and published for public review. The Plan and DA would then be brought to the Planning Commission for review prior to City Council for final consideration. The timing of such hearings is anticipated to begin in the second quarter of 2013 before progressing to the Local Agency Formation Commission (LAFCo) for final annexation approval.

FISCAL IMPACT

This agenda item has no fiscal impact on the General Fund. The City entered into a Cost Recovery Agreement with the Cordes Ranch owners group in March 2011, providing the mechanism for the City to recover all staff and consultant costs associated with the project applications, including the Specific Plan, Environmental Impact Report (EIR), and DA.

RECOMMENDATION

Staff recommends that the City Council discuss the Cordes Ranch project and provide direction to City staff.

Agenda Item 6
November 7, 2012
Page 5

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

Attachments:

- A - Draft zoning/land use matrix table and overlay zoning location
- B - Freeway signage locations/elevations

Draft Permitted and Conditionally Permitted Uses

10/29/2012

Legend

() 10/26/12 Change

Uses	General Commercial (CR-GC)	General Office (CR-GO)	Business Park Industrial (CR-BPI)	I-205/BPI Overlay
Agricultural Processing, Sales, and Services Includes: Packing and shipping of agricultural products. Processing, including canning freezing and dehydrating. Wine grape processing and making, wine bottling and packing, shipping.	NP	NP	P ⁴ (P)	C ⁴ (C)
Business Services (e.g., reproduction, delivery, repair services, postal store, and restaurant supply).	P	C	P	P
Contract Construction	NP	NP	P	NP
Construction Equipment & Material Storage	NP	NP	P ³	NP
Crop and tree farming ⁵	NP	NP	P	NP
Day Care Centers (e.g., community care facilities)	C (P)	P	C	C (NP)
Restaurants	P	P	P	P
Equipment Rental and Sales Construction Equipment	NP	NP	P	NP
Gas & Service Stations with Mini Market	P	C	P	P
Lodging (e.g., hotels, motels)	P	C	C	C
Manufacturing, Processing, Assembly, Business Industrial Flex, including storage and shipping uses.	NP	NP (P ⁴)	P ^{4,7} (P ⁴)	P ^{4,6,7} (P ⁴)
Offices (e.g., Business, professional, laboratories, medical/dental, financial services)	P ¹	P ¹	P ¹	P ¹
Off-site Truck and Trailer Parking and Storage	NP	NP	C	NP
Park & Ride or Off-site Parking Facilities	C	C	C	C
Places of Assembly (e.g., places of worship, private clubs and related uses)	C	C	C	C
Recreational, Educational & Instructional Uses (e.g., miniature golf, bowling alley, instructional or educational performing arts, gymnastics, post-secondary education (including school campus), vocational training, tutoring services, etc).	C	C	C	C
Recycling Collection Facilities	NP	NP	P ⁴	NP
Retail & Consumer Services (e.g., building materials and hardware stores, garden center, clothing and shoe stores, department stores, drug stores and grocery stores, and personal services such as nail, hair and tanning salons).	P	NP	NP	C
Retail & Consumer Services as ancillary uses oriented to serve the daily needs of workers in the GO and BPI	P	C	C	C
Truck Stops, Truck Fuel Stations, Truck Wash Facilities, and Truck Repair services	NP	NP	C ²	NP
Passenger Vehicle Sales, Service, & Rental	P (C)	NP	NP	C
Warehouse & Distribution	NP	NP	P	NP

P = Permitted

C = Conditionally Permitted

NP = Not Permitted

TUP = Temporary Use Permit

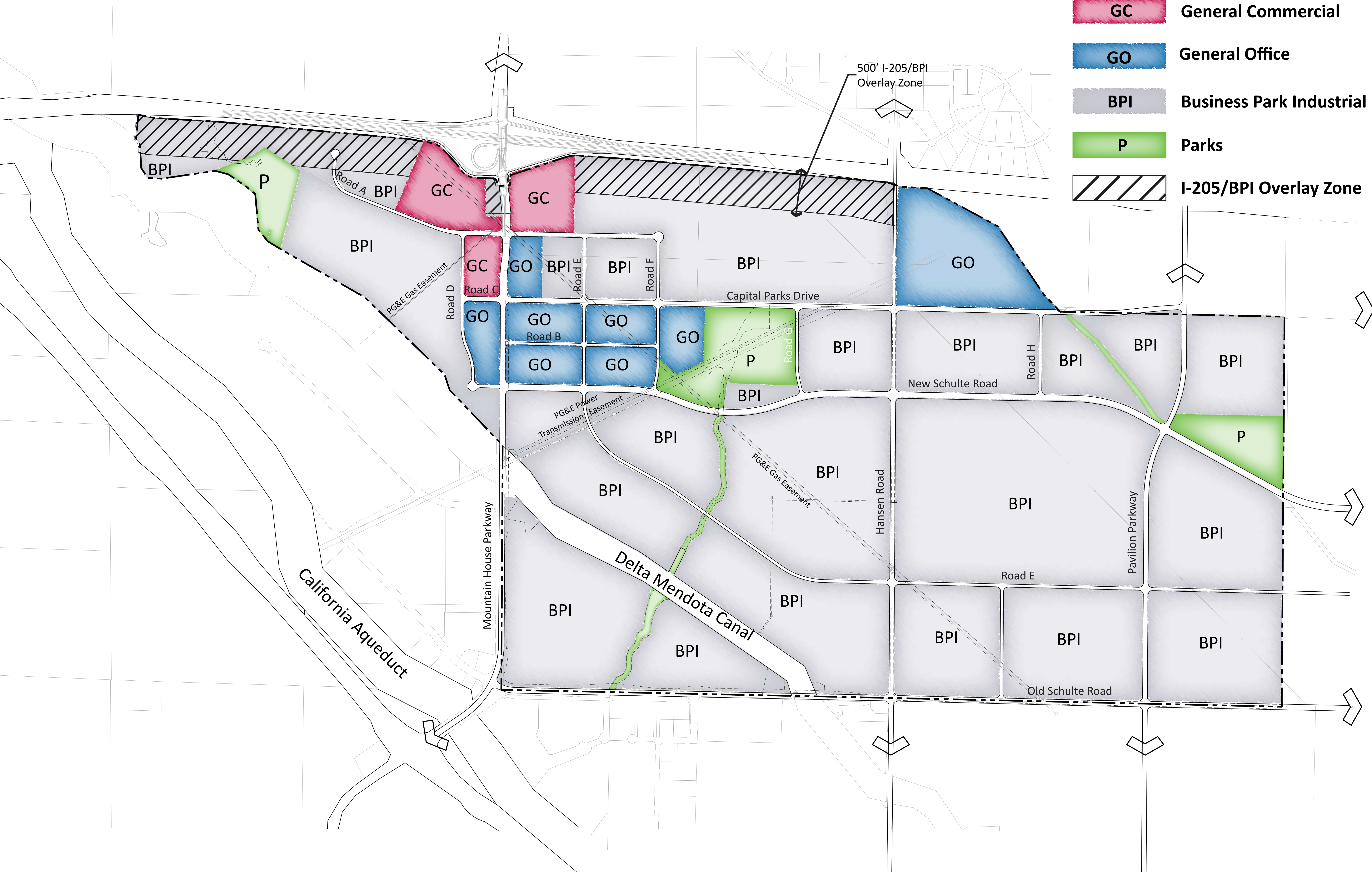
Accessory uses and temporary uses shall be allowed as provided in the Tracy Municipal Code.

Notes:

- These uses shall be allowed to include warehousing and storage as an accessory use.
- Truck Stops are not permitted in the I-205 Design District
- Outdoor storage must be completely screened from view from I-205 and public streets within the I-streets with no vehicles, materials or equipment visible.
- All uses including storage must be conducted wholly within a building.
- Allowed as a pre-development use
- Permitted only in buildings under 75,000 square feet or smaller
- Includes accessory space for showrooms/sales uses

Land Use Legend

- GC** General Commercial
- GO** General Office
- BPI** Business Park Industrial
- P** Parks
- I-205/BPI Overlay Zone**

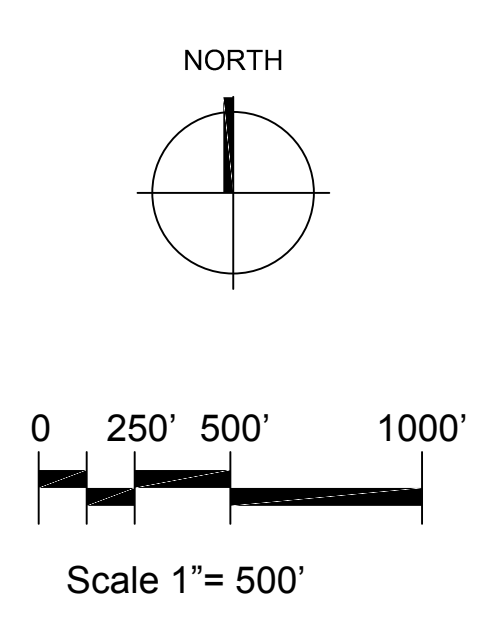


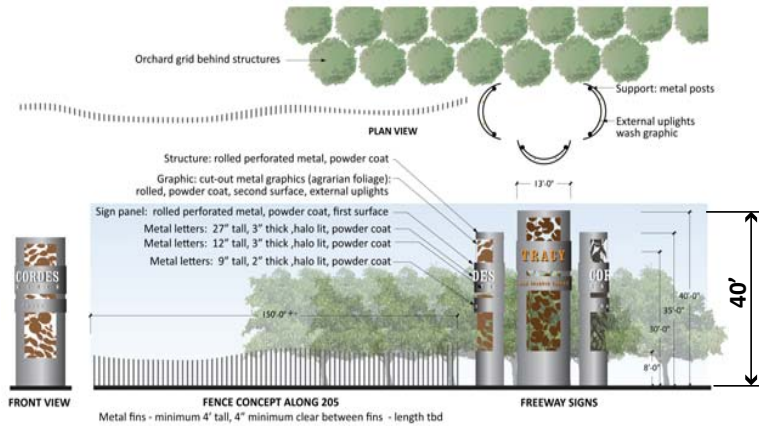
Cordes Ranch

Tracy, California

Land Use Plan

October 19, 2012

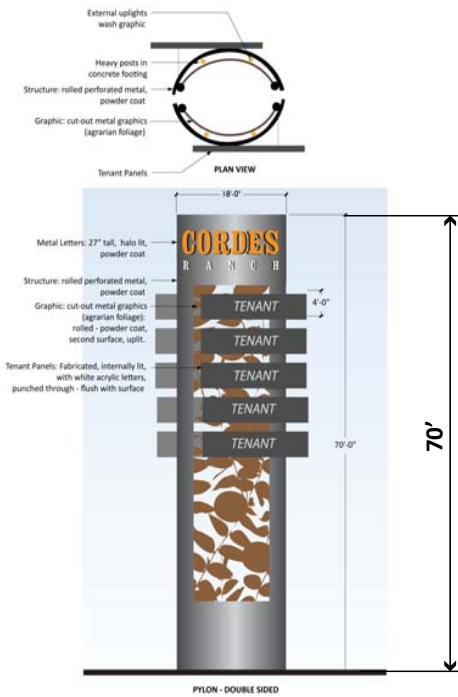




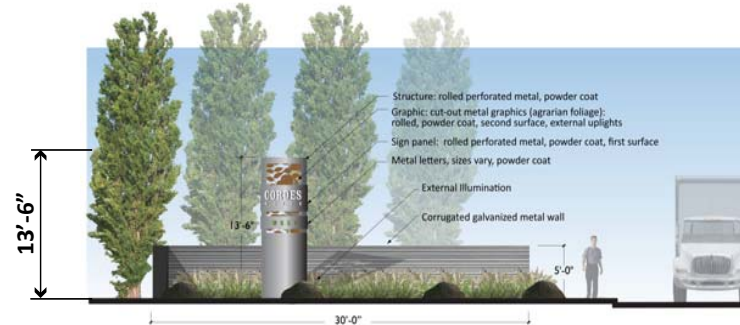
City Gateway Sign



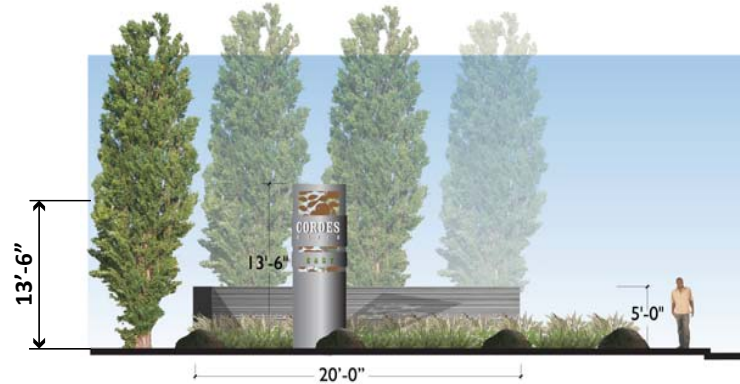
Project Entry Sign



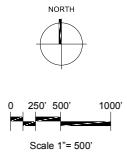
Freeway Sign



Major Intersection Sign





Minor Intersection Sign







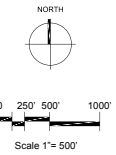
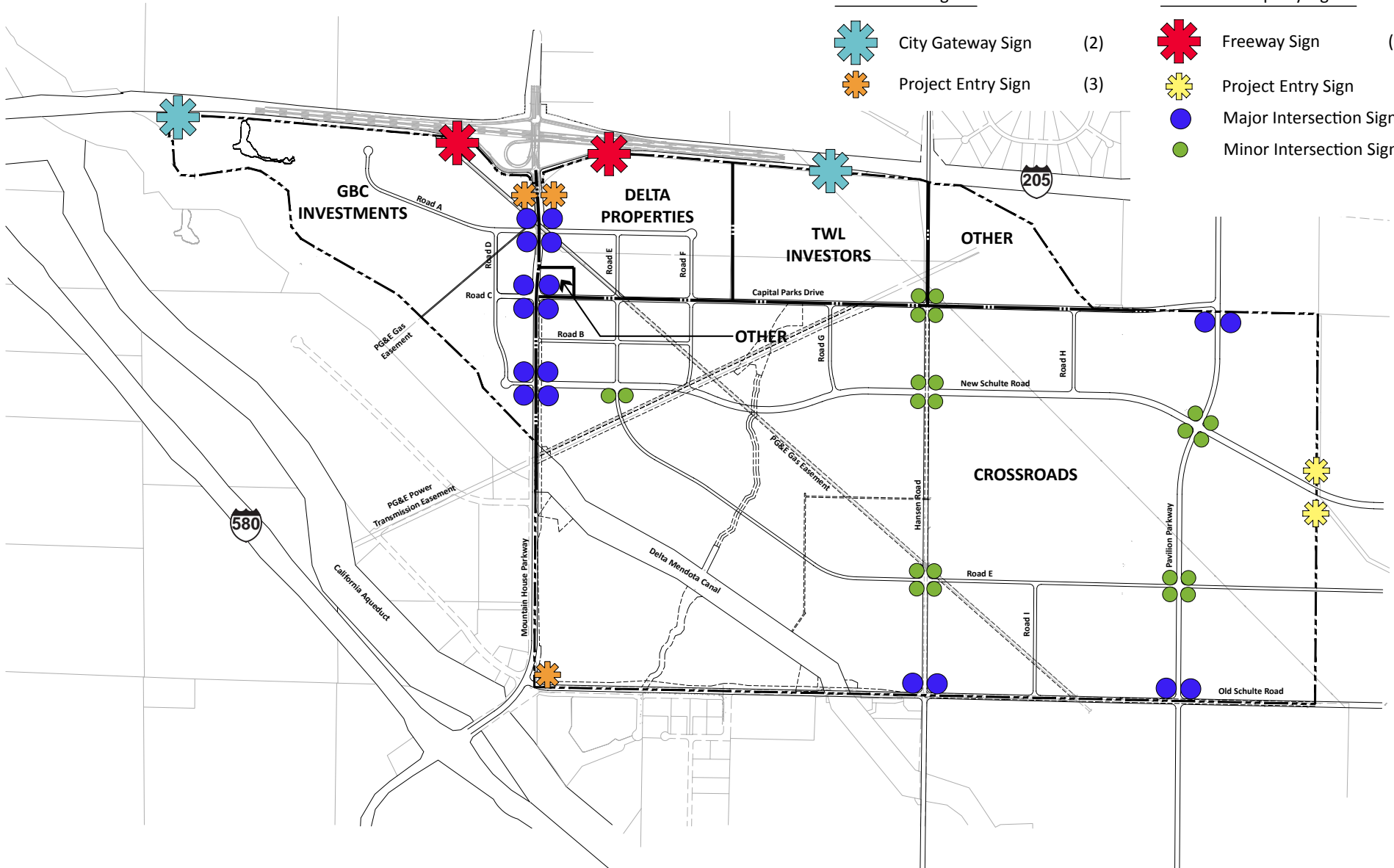
Legend

Shared Cost Signs

-  City Gateway Sign (2)
-  Project Entry Sign (3)

Individual Property Signs

-  Freeway Sign (2)
-  Project Entry Sign (2)
-  Major Intersection Sign (18)
-  Minor Intersection Sign (22)



Cordes Ranch

Tracy, California

Signage Plan

October 25, 2012

DB+A

AGENDA ITEM 7

REQUEST

COUNCIL DETERMINATION THAT TERMS OF THE EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH TRACY'S CALIFORNIA BLAST LLC HAVE NOT BEEN MET BY TRACY'S CALIFORNIA BLAST LLC, DIRECTION TO TERMINATE THE EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH TRACY'S CALIFORNIA BLAST, DISCUSS AND PROVIDE DIRECTION TO STAFF REGARDING POSSIBLE USES OF THE HOLLY SUGAR PROPERTY

EXECUTIVE SUMMARY

The City entered into an Exclusive Negotiating Rights Agreement (ENRA) with Tracy's California Blast, LLC, on April 29, 2011, following City Council direction on April 11, 2011. The purpose of the ENRA was to provide both Tracy's California Blast, LLC (TCB), an opportunity to undertake evaluation of the development potential of the property, to submit development applications for a motorsports park and recreation oriented development. The ENRA contains specific terms required of TCB, some of which have not been met within the required time periods. This agenda item relates to (1) terminating the existing ENRA based on TCB's failure to meet performance measures of the ENRA and (2) to address a new request to negotiate a new ENRA with a new development entity called Spirit of California for an expanded proposed project on the City-owned former Holly Sugar property and other lands.

DISCUSSION

Background on Exclusive Negotiating Rights Agreements with Jeff Macey and Tracy's California Blast, LLC

On March 3, and July 7, 2009, City Council approved two separate ENRA's with Jeff Macey to develop a motorsports park on approximately 300 acres of the City-owned Holly Sugar property north of the Sports Complex. The first ENRA was for 120 days and the second ENRA was for 180 days, which was extended twice and expired on December 31, 2010. The purpose of these ENRAs was to allow Mr. Macey to form a development team and legal entity capable of developing the project and the opportunity to further refine his development proposal. Those ENRAs expired. However, during that timeframe Mr. Macey formed a new legal entity, Tracy's California Blast, LLC (TCB). In response to this, the City Council approved a third ENRA on April 19, 2011, with TCB.

TCB proposed to expand on the original motorsports park concept by approximately 300 additional acres. Development ideas included expanding commercial and other recreational uses on a total of 628 acres, with a continued focus on a motorsports park. The location of the 628 acres under consideration within this ENRA is located in the vicinity of Corral Hollow Road and Holly Drive, as shown on Attachment A.

After the formation of TCB, City staff was informed that the president of TCB was no longer Jeff Macey and that Jim Rogers would be the project proponent. Over the last couple of years, during the timeframes of all three ENRAs, City staff has participated in

dozens of internal meetings as well as meeting with Jeff Macey and Jim Rogers in an effort to render the project feasible.

Term of ENRA with TCB

The current ENRA with TCB has a term of three years (to April 29, 2014) subject to completion of certain actions or milestones agreed to by the City and TCB. TCB is in default on Sections 4 and 6 of the ENRA relative to submitting complete development applications and providing financial information to verify their ability to fund the entitlement process and to fund construction of the first phase of the 628 acre project, which included the motorsports component on approximately 400-acres of the site. Requiring early-stage developer financial review and verification for such a project, particularly when the project involves the potential sale or lease of public land, is common practice. In cases where the project may involve subsidies or other public financial obligations, and significant staff time, as may be the case with this project, financial verification becomes even more critical as an essential, first step in the process.

On February 17, 2012, Jim Rogers, on behalf of TCB submitted a letter requesting that the City grant a 6 month extension of time to satisfy the sections of the ENRA that were in default. On March 20, 2012, the City Council approved Amendment One to the ENRA with TCB to allow an extension of 6 months (to September 20, 2012) to cure the default Sections 4 and 6. Additionally, staff made clarifying amendments to the ENRA to address changes to the authorized representative signatory and noticing parties. More specifically, the original TCB ENRA listed Jeff Macey as president and authorized signatory. As mentioned earlier, Jim Rogers is now listed as the CEO of TCB and the ENRA was amended to reflect these changes. Amendment 1 to the ENRA with Tracy's California Blast, LLC, is included as Attachment B.

Current Status of ENRA with TCB

Although the City has granted two extensions of time, TCB remains in default under Sections 4 and 6 of the ENRA.

Section 6 of the ENRA states as follows:

Financial Verification

Before September 20, 2012, TCB shall allow the City's financial consultant to review sufficient information to verify the financial statements of TCB to complete the entitlement process (Specific Plan, General Plan, Annexation, Environmental Review etc.) and the financial statements for the first phase (motorsports park on approximately 400 acres). The standard due diligence information and required documents include:

- a) *Each principal of TCB shall provide personal financial statements, federal tax returns for the current year and for the prior three years and a signed credit release form.*

- b) *Each investor providing cash on hand shall provide their company back account number as evidence of the cash on hand and a signed general financial release of account information.*
- c) *Each investor providing certain cash commitment shall provide a legally binding letter of commitment for the amount, backed up by personal financial statements, federal tax returns and a signed credit release form.*

While Jim Rogers did submit some financial statements to the City's financial consultant for review prior to the September 20, 2012 deadline, Sections 6 of the current ENRA with TCB remains in default. All financial documents submitted to the City's consultant reference the new entity Spirit of California and not TCB. It should be noted that Jim Rogers did indicate to staff that he was not going to pursue the proposed project under the TCB LLC but rather a newly formed entity called Spirit of California. A copy of a letter dated September 19, 2012 from Michael Hakeem on behalf of Jim Rogers and Tracy's California Blast, LLC stating that TCB is not going to continue with the ENRA project is attached to this report. In order to address this issue, the existing ENRA with TCB would need to be terminated and a new ENRA with Spirit of California would be required.

Notwithstanding the ENRA default relative to which entity submitted statements, the requirement was to verify financial capability to complete the project entitlements and construction of the first phase to include the motorsports track. The City's consultant was able to verify financial expressions of interest for \$1.5 million; however, the investor financial statements submitted had no apparent legally binding commitments to fund the new entity. Furthermore, while construction estimates for off-site infrastructure and the first phase of development has not been identified, staff does not believe that \$1.5 million is sufficient to entitle the 628 acre project and construct the first phase of development as required under the existing ENRA.

The financial verification also required that each principal of TCB submit personal financial statements and federal tax returns. According to the City's financial consultant, no financial information was submitted relative to the principals of either TCB (or Spirit of California).

Section 4 of the ENRA states as follows:

Development Applications

By September 20, 2012, Tracy Blast agrees to prepare and submit, development applications for various entitlements for the Property, including but not limited to the following:

- *Specific Plan*
- *General Plan Amendment*
- *Rezoning*
- *Annexation*
- *Environmental review under the California Environmental Quality Act*

Jim Rogers did submit some preliminary applications for the above referenced actions by the September 20, 2012 deadline. The applications are a good starting point,

however, they are not complete applications at this time. Jim Rogers did indicate to staff that the project has grown in size and scope from the original concept and that he would like to present the expanded project to Council as well as request a new ENRA in the name of Spirit of California.

Request to terminate ENRA with Tracy's California Blast, LLC.

On September 19, 2012, the City received a letter from Jim Rogers' attorney stating that Jim Rogers and Tracy's California Blast, LLC, will not continue with the ENRA project. A copy of the letter is included as Attachment C.

Request for a new ENRA with Spirit of California

On September 19, 2012, the City received a letter from Jim Rogers' attorney requesting that the City Council consider entering into a new ENRA with the Spirit of California (SOC) for a sports and entertainment theme park on the same acreage as the existing ENRA with TCB (the City-owned former Holly Sugar property). It also includes lands currently under an ENRA with Combined Solar Technologies (CST), as well as lands outside of the City's adopted Sphere of Influence. A copy of that letter is included as Attachment D.

According to Jim Rogers, the size and scope of the newly proposed project has been expanded from previous concepts focused around just motor sports. The expanded project includes amenities such as:

- Motocross Dirt Track
- Drag Strip
- Community Center
- RV Park
- Film Studio
- Golf Course
- Vintner Center
- Hotels
- Marina
- Casino
- Amusement Park
- Convention Center
- Arena
- And various retail and dining establishments

The proposed applicant, Jim Rogers, will be presenting the new expanded project as part of the Council agenda item. He will also be available for questions. A copy of the new Master Development Concept is attached as Attachment E.

Options for Council Consideration

Given the history of this project over the years and the new and expanded scope of the proposed project, staff has identified several options for Council consideration.

1. Regarding the failure to comply with the ENRA. Regardless of the Council's decision on options (below), staff strongly recommends that the City Council find the former applicant in default and terminate the existing ENRA. A Resolution terminating the ENRA is attached. Given the defaults, the change in the proposed project, the change in the proposed acreage, and the change in the entity proposing the project, there is no basis to continue with the existing ENRA.
2. Regarding the request to enter into a new ENRA, now with Spirit of California, the Council may wish to consider three options:

OPTION 1: Do Not Proceed with new ENRA

Given the magnitude of the new expanded project and the lack of complete financial information related to the SOC and its Principal, James Rogers, Council should not proceed with the new ENRA. Since the land is located in the flood plain, it should remain undeveloped and/or used for expanded recreational facilities (ball fields etc.) in the future.

OPTION 2: Do Not Proceed with ENRA with Spirit of California; send out Request for Proposals (RFP) to develop property

Under this option the SOC would have an opportunity to submit a proposal along with any other developers that might be interested in developing the site. There is no guarantee that the City would receive any other proposals. The location does have development challenges regarding high ground water, being in the flood plain, etc.

There may also be additional staff resources required to pursue this option given other Council priorities. Staff is currently working on a number of Council priorities (Infrastructure Master Plans, Cordes Ranch Specific Plan/DA, Ellis Specific Plan/DA, Tracy Hills Specific Plan/DA, and major industrial development in our NEI area, etc.) that may be impacted if this project were to fully proceed at this time.

OPTION 3: Direct Staff to Negotiate a New ENRA with Spirit of California

If Council directs staff to negotiate a new ENRA with the SOC, staff would bring back details and potential milestones as part of the new ENRA.

If Council selects either Option 2 or 3, there would be a significant amount of staff time required to proceed with a project of this size. Additional staff resources may be needed to ensure that other Council priorities are not impacted.

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

FISCAL IMPACT

There would be no impact to the general fund if Council selects Option 1. With regard to Options 2 and 3, a new cost recovery agreement with SOC or a new developer would need to be executed to move forward. All staff and consultant costs would be recovered through this new agreement.

RECOMMENDATION

It is recommended that the City Council:

- (1) direct staff to proceed with terminating the ENRA with Tracy's California Blast LLC;
and
- (2) provide direction to staff to pursue Option 2 to see if there are other developers interested in the property. SOC can re-submit a proposal under this option.

Prepared by: Andrew Malik, Development Services Director
Rod Buchanan, Parks and Community Services Director
Bill Dean, Assistant Director, Development Services

Approved by: Leon Churchill Jr., City Manager

Attachments:

- A – Vicinity Map
- B – Amendment 1 to the ENRA w/TCB, LLC
- C – Letter dated September 19, 2012 from Jim Rogers' attorney
- D – Letter dated September 19, 2012 requesting a new ENRA w/Spirit of California
- E – Master Development Concept

City of Tracy Property Purchased from Holly Sugar

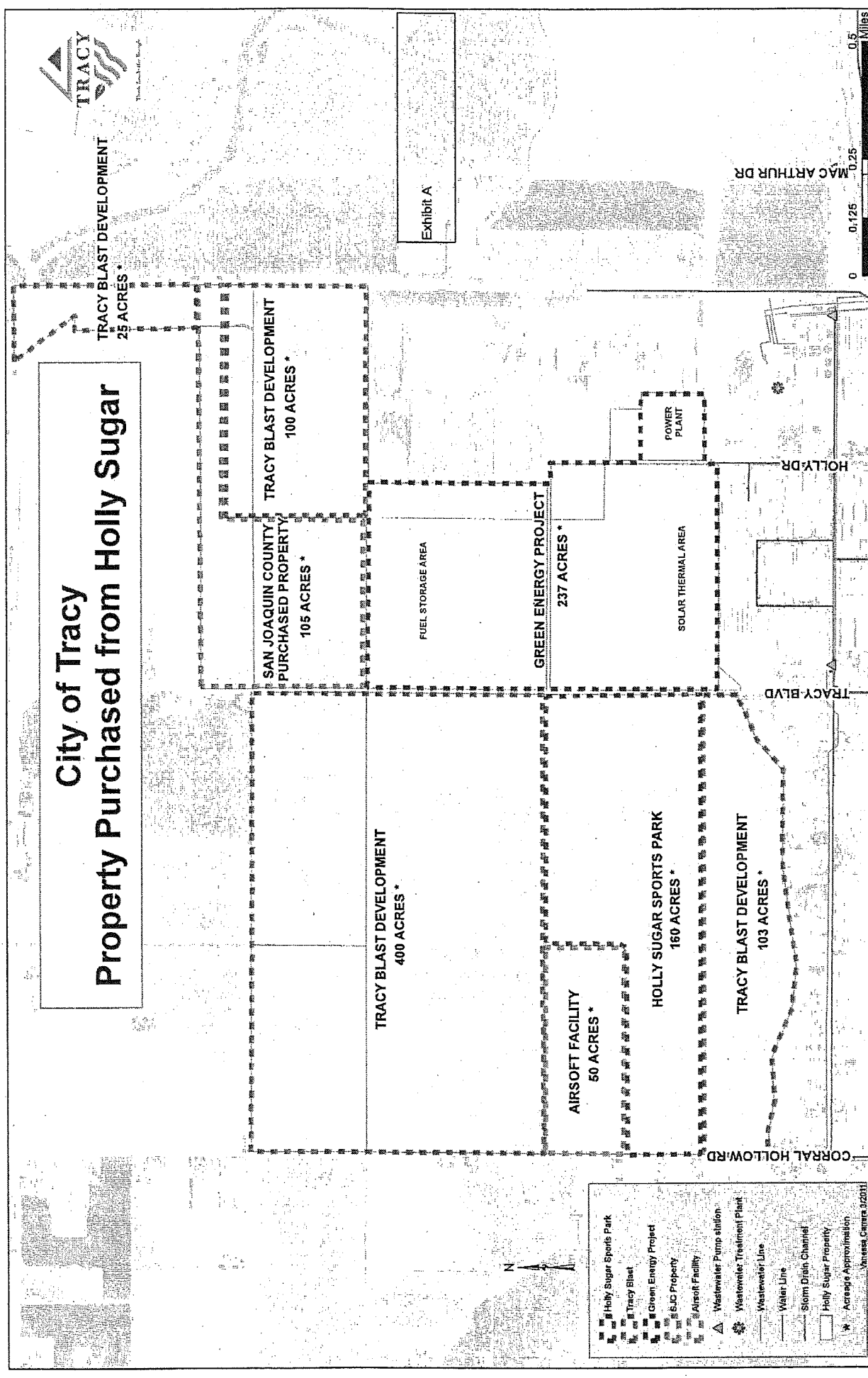


Exhibit A

Legend

- Holly Sugar Sports Park
- Tracy Blast
- Green Energy Project
- SJC Property
- Airsoft Facility
- Wastewater Pump Station
- Wastewater Treatment Plant
- Wastewater Line
- Water Line
- Storm Drain Channel
- Holly Sugar Property
- Acreage Approximation

Vanessa, Camera 3/2011



**FIRST AMENDMENT TO
EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT
BETWEEN TRACY BLAST DEVELOPMENT, LLC.
AND THE CITY OF TRACY**

This First Amendment to the Exclusive Negotiating Rights Agreement ("Amendment") is entered into between the City of Tracy ("City"), a California Municipal Corporation, and Tracy Blast Development, LLC ("Tracy Blast").

RECITALS

- A. On April 19, 2011, City and Tracy Blast entered into an Exclusive Negotiating Rights Agreement (ENRA) regarding development of the City-owned Holly Sugar property.
- B. The current CEO of Tracy Blast, James Rogers, has requested an extension of time to satisfy two of the milestones set forth in the ENRA.
- C. The parties wish to enter into this Amendment regarding that extension.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

- 1. **Amendment to ENRA Section 4.** Section 4 of the ENRA is amended to read as follows:

"4. Development applications. Tracy Blast agrees to undertake evaluation of the development potential of the Property, to submit appropriate and required applications to the City in a timely manner, and to actively pursue and continue processing those applications.

By September 20, 2012, Tracy Blast agrees to prepare and submit development applications for various entitlements for the Property, including but not limited to the following:

- Specific Plan
- General Plan Amendment
- Rezoning
- Annexation
- Environmental review under the California Environmental Quality Act (CEQA)."

- 2. **Amendment to ENRA Section 6.** Section 6 of the ENRA is amended to read as follows:

“6. Financial verification. Before September 20, 2012, Tracy Blast shall allow National Development Council to review sufficient information to verify the financial statements of Tracy Blast, to complete the entitlement process (Specific Plan, General Plan, Annexation, environmental review) and the financial statements for the first phase (motorsports park on approximately 400 acres north of the proposed City sports park). The standard due diligence information and required documents include, but are not limited to:

- (a) for each principal of Tracy Blast:
 - personal financial statement; and
 - federal tax return for the current year and for the prior three years; and
 - a signed credit release form.
- (b) for investors who may be providing cash:
 - their company bank account number as evidence of the cash on hand; and
 - a signed general financial release of account information form.
- (c) for investors who are not providing cash on hand:
 - a legally-binding letter of commitment for the amount, backed up by
 - personal financial statements; and
 - federal tax returns for the current year and the last three years; and
 - a signed credit release form.
- (d) Follow-up information as may be required by National Development Council.

There is a 60-day period during which the City performs its financial due diligence regarding the viability of Tracy Blast to undertake the entitlement process, and the first phase, based on the review of financial information in a confidential manner by National Development Council.”

3. Amendment to ENRA Section 9. Section 9 of the ENRA is amended to read as follows:

“9. Responsibilities of Tracy Blast: Summary. Following is a list of milestones which Tracy Blast agrees to perform:

ACTIONS/MILESTONES	DEADLINE	ENRA SECTION REFERENCE
Payment of \$1500/month (prorated the first month) as consideration for this	5 days after signing ENRA	3

ENRA		
Evaluate and propose feasible alternative sites to CST and to City.	60-90 days after signing ENRA	Recital D 8 14
Payment of \$25,000 for City's costs	90 days after signing ENRA	7
Providing requested financial data to National Development Council to verify the financial statements of Tracy Blast for the entitlement process and the first phase. (Confirmation from National Development Council regarding financial viability within 30 days after information provided.)	Before September 20, 2012	6
City Council to consider modification of properties under ENRAs, if reduced CST acreage and/or feasible alternative site(s) exist for CST.	90-120 days after signing ENRA for City approved reduction in CST acreage. For relocated site(s), when the alternative site(s) has been approved by City, acquired, entitled and ready for use.	Recital D 8 14
Demonstrating to City the composition and qualifications of consultant team	120 days after signing ENRA	5
Entering into Cost Recovery Agreement with City	120 days after signing ENRA	7
Submit <u>complete</u> applications to the City for all required entitlements	By September 20, 2012	4
Actively pursue and process the submitted applications	Evaluation every 6 months from signing of ENRA	4
Make payments and deposits under the Cost Recovery Agreement when due.	Ongoing after signing Cost Recovery Agreement.	7

“

4. Amending ENRA Section 11. Section 11 of the ENRA is amended to read as follows:

“11. Notices. Any and all notices or other communication required or permitted by this Agreement or by law to be served on or given to either party by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail, first class, postage prepaid, addressed to:

City of Tracy
Attn: Maria Hurtado, Assistant City Manager
333 Civic Center Plaza Drive
Tracy, CA 95376

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

Tracy Blast Development, LLC

James B. Rogers, CEO
180 La Montagne Court
Los Gatos, CA 95032

5. Signatures. The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment on behalf of Tracy Blast and the City.

<p>City of Tracy By: _____ Brent H. Ives, Mayor</p> <p>Date: _____</p> <p>Attest: By: _____ Sandra Edwards Title: City Clerk Date: _____</p> <p>Approved As To Form: By: _____ Daniel G. Sodergren Title: City Attorney Date: _____</p>	<p>Tracy Blast Development, LLC By: _____ James B. Rogers, CEO</p> <p>Date: _____</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------



City of Tracy
Mayor/Brent Ives
City Manager/Leon Churchill
Council Members
333 Civic Dr.
Tracy, Ca. 95376

Re: ENRA Tracy's California Blast Inc., (TCBI)

Mayor Ives, Leon Churchill, and Council Members

I wanted to review and restate the thoughts Leon and Brent shared with us last week. The meeting was related to certain terms concerning the TCBI, ENRA.

The extension and terms discussed requested are noted in this letter

EXTENSION

The City will Grant to: TCBI, a 6-month extension of time as it pertains to Item #4 and #6 of the current ENRA. The current ENRA was signed on or about April 29th 2011, by and Between the City and TCBI. The 6-month extension period will begin once the City council ratifies the extension.

NEW ENRA

Upon Satisfactory proof that Items #4 and #6 of the current ENRA are in compliance, the City will agree to grant a new 3-year ENRA to the new Entity that will be formed on behalf of the new investors.

The name of the Development will be changed to reflect the all-new Entity.

The amount of property will be adjusted to include the City owned 105-acre passive recreational park adjoining the Sports field.

The same language concerning the replacement of the CST property will also be included in this new ENRA.

The New ENRA will have a provision to obtain a 3-year farm lease on the subject property.

The new ENRA will also address entering into a long-term lease of the subject property. This lease would commence once the entitlements are in place, to construct and operate the anticipated improvements.

We would also like the City to write a "Welcome letter" to the TCBI team.

This new terms and "Welcome letter" are critical for the success of the project. It helps make investors comfortable with the many studies and financial models of each venue. It will also instill confidence with the investors that they are in a friendly business environment.

It would be unethical for us to risk investor funds; in a project the City does not support.

Specific language will be drafted that will not violate CEQA guidelines.

The Development team has met with many local business owners, farmers, and citizens of Tracy. We have not found anyone not in support of this entire project.

Thank you for your support.

Respectfully,

James B. Rogers, CEO
Tracy's California Blast Inc.
180 La Montagne Ct.
Los Gatos, Ca. 95032

Date 2-13-12

RESOLUTION 2012-049

APPROVING THE FIRST AMENDMENT TO THE EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH TRACY'S CALIFORNIA BLAST REGARDING PROPERTY IN THE HOLLY SUGAR AREA

WHEREAS, On April 19, 2011, City and Tracy Blast entered into an Exclusive Negotiating Rights Agreement (ENRA) regarding development of the City-owned Holly Sugar property.

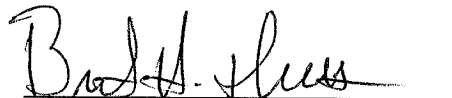
WHEREAS, The current CEO of Tracy Blast, James Rogers, has requested an extension of time to satisfy two of the milestones set forth in the ENRA March 20, 2012 was provided to Tracy's California Blast (Attn: James Rogers, current CEO and Jeff Macey, former President) as provided in the ENRA.

NOW, THEREFORE, The Tracy City Council resolves as follows:

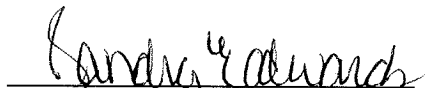
1. Approval of First Amendment. The First Amendment to the Exclusive Negotiating Rights Agreement between Tracy Blast Development, LLC and the City of Tracy is approved.
2. Direction to Staff. The City Staff is directed not to expend staff time on applications, submittals or meetings for the Tracy Blast project until Section 6, Financial Verification, of the Amended ENRA is satisfied.

The foregoing Resolution 2012-049 was passed and adopted by the Tracy City Council on the 20th day of March, 2012, by the following vote:

AYES: COUNCIL MEMBERS: ABERCROMBIE, ELLIOTT, MACIEL, RICKMAN, IVES
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE


MAYOR

ATTEST:


CITY CLERK

Law Offices Of
HAKHEEM, ELLIS & MARENGO
A Professional Law Corporation

Michael D. Hakeem
Albert M. Ellis
Renee M. Marengo
Peter W. Manion
Catherine L. Huston
Adam A. Ramirez

3414 Brookside Road
Suite 100
Stockton, CA 95219
TEL 209 474-2800
FAX 209 474-3654

September 19, 2012

VIA FIRST CLASS MAIL

BRENT H. IVES, MAYOR
CITY OF TRACY
333 Civic Center Plaza
Tracy, CA 95376

RE: SPIRIT OF CALIFORNIA ENRA

Dear Mr. Mayor:

On behalf of Mr. James Rogers, and Tracy's California Blast, LLC ("Blast"), this correspondence will serve notice that Blast is not going to continue with the ENRA project. Please return any and all existing deposits and/or credits for same to James B. Rogers. Thank you.

If there are any questions, please do not hesitate to call.


Very truly yours,

HAKHEEM, ELLIS & MARENGO
A Professional Corporation

By: 
MICHAEL D. HAKEEM

MDH:em

cc: Michael Maciel, Mayor Pro Tem
Council Member Steve Abercrombie
Council Member Bob Elliott
Council Member Robert Rickman
Leon Churchill, City Manager
Dan Sodergren, City Attorney

 10-2-12
APPROVED BY: JAMES B ROGERS/CEO

Law Offices Of
HAKEEM, ELLIS & MARENGO
A Professional Law Corporation

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Albert M. Ellis
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September 19, 2012

VIA FIRST CLASS MAIL

BRENT H. IVES, MAYOR
CITY OF TRACY
333 Civic Center Plaza
Tracy, CA 95376

RE: SPIRIT OF CALIFORNIA ENRA

Dear Mr. Mayor:

On behalf of Mr. James Rogers and the Spirit of California, Inc. ("SOC"), this correspondence will formally request that the City Council consider entering into a new Exclusive Negotiating Rights Agreement ("ENRA") with SOC for a sports and entertainment theme park as outlined in the enclosed draft ENRA. My understanding is that SOC has proven its financial liability to entitle the property and has forwarded the appropriate documentation to the City's agent, Mr. Scott Rodde.

In addition, I have been advised that the assembled consulting team is acceptable to City Staff and that SOC has made the appropriate application(s) for the project development to the City Planning Department.

We respectfully request your review and consideration of our proposal and would request the opportunity to present this project to the City Council on October 16, 2012.

Thank you for your consideration.

Very truly yours,

HAKEEM, ELLIS & MARENGO
A Professional Corporation

By: 
MICHAEL D. HAKEEM

MDH:em
Enclosure

cc: Michael Maciel, Mayor Pro Tem
Council Member Steve Abercrombie
Council Member Bob Elliott
Council Member Robert Rickman
Leon Churchill, City Manager
Dan Sodergren, City Attorney

EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT BETWEEN THE SPIRIT OF CALIFORNIA AND THE CITY OF TRACY

This Exclusive Negotiating Rights Agreement ("ENRA") is entered into between the City of Tracy ("City"), a California Municipal Corporation, and the Spirit of California, Inc. ("SOC").

RECITALS

A. SOC is proposing to study the feasibility of developing certain property currently owned by the City, and located to the north of the City limits in the vicinity of Corral Hollow Road and Holly Drive. This area generally is commonly known as the Holly Sugar property. The City-owned sites under consideration include approximately 628 acres and consist of the following parcels (the Property), as shown in the diagram at Exhibit A, attached:

1. APN 212-140-06
2. APN 212-140-07
3. APN 212-150-01 (portion)
4. APN 212-160-09 (portion)
5. APN 212-130-12 (portion)
6. APN 212-130-13 (portion)
7. *(include additional parcels?)*

City and SOC will enter into a separate Cost Recovery Agreement to implement this Agreement.

B. Tracy's California Blast, LLC and the City previously entered into ENRAs for 300 acres of the property for the development of a motorsports and bike park. All of the ENRA's have expired.

C. SOC wishes to continue exploring the potential development of the Property as a sports and entertainment theme park; and

D. The parties wish to enter into this exclusive negotiating rights agreement.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. Purpose. The purpose of this Agreement is to:

- (a) authorize SOC to prepare and submit applications for various entitlements for the Property; and
- (b) provide for cost recovery for the City's time and resources spent; and
- (c) provide for exclusive negotiations between the parties regarding the Property; and
- (d) explore a sale and/or lease of the Property or portions of the Property. This ENRA does not obligate either party to acquire, convey, lease or develop the Property.

2. Term. This Agreement shall commence when signed by both parties and shall have a term of 3 years, subject to the milestones and, termination provisions set forth in Sections 4 through 9 and 12.

3. Consideration. SOC agrees to provide \$1,500.00 per month to the City as consideration for this ENRA, due on the first of each month (and prorated for a partial month).

4. Development applications. SOC agrees to undertake evaluation of the development potential of the Property, to submit appropriate and required applications to the City in a timely manner, and to actively pursue and continue processing those applications.

SOC has prepared and submitted applications for various entitlements for the Property, including, but not limited to, the following:

- Specific Plan
- General Plan Amendment
- Rezoning
- Annexation
- Development Agreement
- Environmental review under the California Environmental Quality Act (CEQA).

5. SOC Consultant Team. Because of the complexity of the proposed Project, the City has a responsibility to assure that it will be working with a sufficiently experienced, sophisticated consultant team of planners, engineers, environmental and financial experts, and attorneys. SOC presented a list of its consultants to the City and has also provided the appropriate documentation to demonstrate and verify its contractual relationship with consultants having the experience and expertise to undertake this Project, as determined by the Director of Development and Engineering Services.

6. Financial verification. SOC has submitted specific information to allow National Development Council to review sufficient information to verify the

financial statements of SOC, to complete the entitlement process (Specific Plan, General Plan, Annexation, Development Agreement, environmental review) and the financial statements for the first phase.

7. Costs and Expenses. SOC has entered into a standard Cost Recovery Agreement with the City, the purpose of which is to provide for SOC's payment of all costs incurred by City and its consultants in the implementation of this ENRA and the processing of the required land use entitlements and CEQA review. (See Section 4.)

8. Additional Areas for Resolution. SOC has requested and the City has agreed that the following additional areas for resolution shall be negotiated between the parties at the earliest opportunity.

- (a) In the event that the existing ENRA with Combined Solar Technologies, Inc. is terminated, then, and in such event, SOC shall be afforded first position to enter into an ENRA with the City regarding a project to demonstrate how thermal desalinization can be used to remove salt from Tracy's wastewater.
- (b) SOC shall be afforded a first position to evaluate and recommend to the City an alternate approval to use the City's wastewater as irrigation for the Property and as a mechanism to reduce the City's cost to operate the existing City Sewer Plant for wastewater treatment and discharge.
- (c) The establishment of current land values for acquisition and/or exchange as herein provided for.
- (d) Appropriate financial incentives and concessions on development costs and fees in consideration of the economic value to City from the development as herein provided for.
- (e) Agricultural leases at current prices shall be provided to SOC for the purpose of SOC's due diligence and forward planning on any of the property owned by the City to be evaluated for development by SOC.
- (f) Appropriate and effective multiple signage, including, but not limited to, digital billboards shall be approved for the property.

9. Responsibilities of SOC: Summary. Following is a list of milestones which SOC agrees to perform:

ACTIONS/MILESTONES	DEADLINE	ENRA SECTION REFERENCE

ACTIONS/MILESTONES	DEADLINE	ENRA SECTION REFERENCE
Payment of \$25,000 for City's costs	Paid	3
Payment of \$1500/month (prorated the first month) as consideration for this ENRA	Currently being paid	7
Providing requested financial data to National Development Council to verify the financial statements of SOC for the entitlement process and the first phase. (Confirmation from National Development Council regarding financial viability within 30 days after information provided.)	Complied with	6
Demonstrating to City the composition and qualifications of consultant team	Complied with	5
Entering into Cost Recovery Agreement with City	Complied with	7
Submit complete applications to the City for all required entitlements	Complied with	4
Actively pursue and process the submitted applications	Evaluation every 3 months	4
Make payments and deposits under the Cost Recovery Agreement when due.	Ongoing after signing Cost Recovery Agreement	7

10. Exclusive Negotiations. During the term of this ENRA, the City shall not negotiate with any entity other than SOC regarding the sale, lease, or development of the Property. City and SOC shall negotiate diligently and in good faith during the term of this ENRA.

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

City of Tracy
Attn: Maria Hurtado, Assistant City Manager
333 Civic Center Plaza Drive
Tracy, CA 95376

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

Spirit of California, Inc.
Attention: James Rogers
180 La Montagne
Los Gatos, CA 95032

12. Termination; Defaults and Remedies. In the event of a default, the non-defaulting party shall give written notice to the defaulting party, specifying the nature of the default and the required action to cure the default. If a default remains uncured 60 days after receipt by the defaulting party of such notice, the non-defaulting party may terminate this ENRA. However, a default involving payment to the City must be cured within 10 days.

13. Attorneys' Fees. The prevailing party in any action to enforce this Agreement shall be entitled to recover reasonable attorney's fees and costs from the other party.

14. Governing Law. This ENRA shall be governed by and construed in accordance with the laws of the State of California.

15. Entire Agreement; Amendments. This ENRA constitutes the entire agreement of the parties regarding the subject matters of this Agreement.

The parties may amend this ENRA by mutual consent agreed to in writing.

If the applications submitted under Section 4 include areas which are outside of, or differ from, the Property as described in this ENRA, and which are owned by the City, the City staff shall ask the City Council to consider an amendment to this ENRA to include the additional or changed acreage.

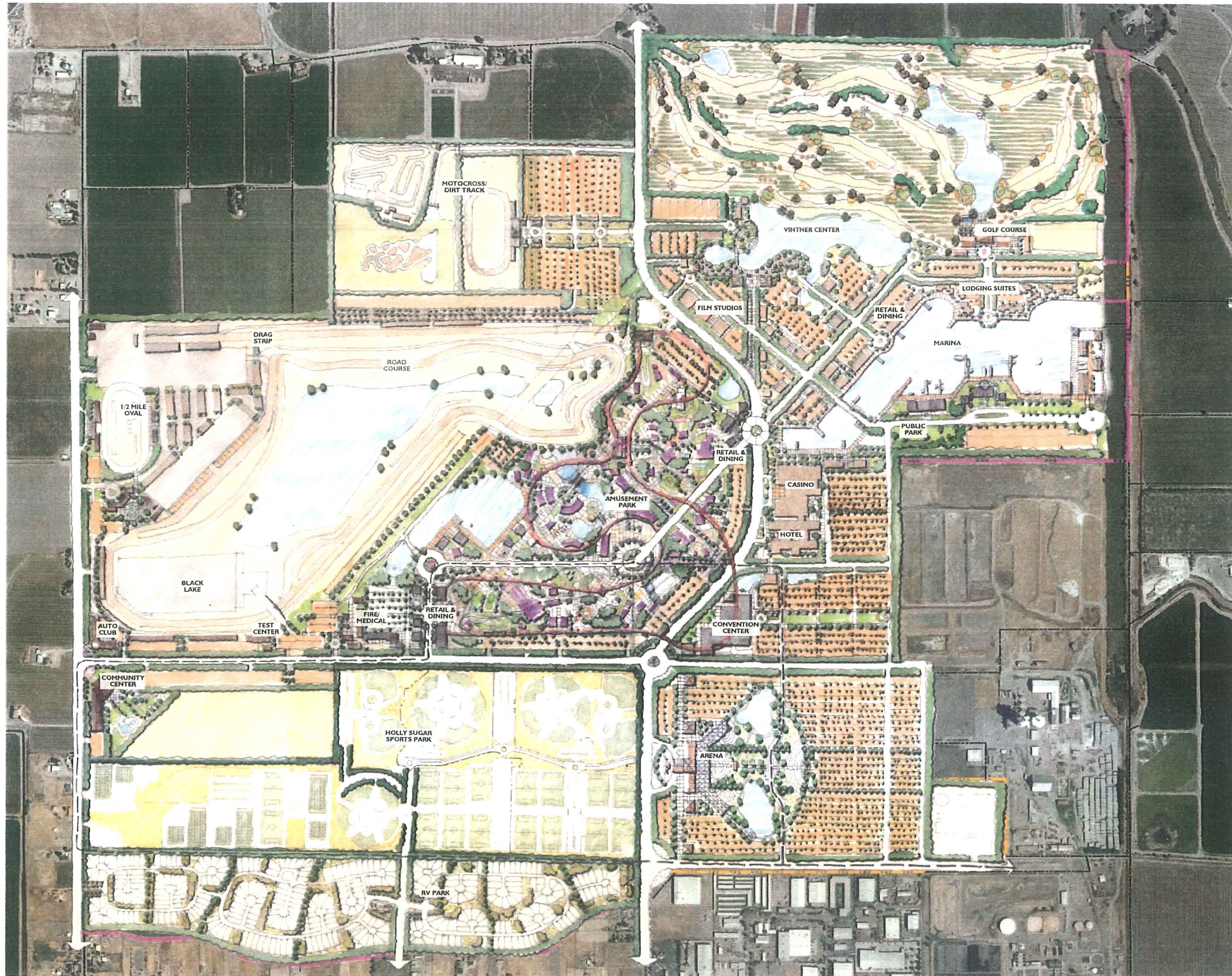
16. Counterparts. This ENRA may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement.

17. Assignment. SOC may not transfer or assign any or all of its rights or obligations hereunder except with the prior written consent of the City, which consent shall be granted or withheld in the City's sole discretion, and any such attempted transfer or assignment without the prior written consent of the City shall be void.

18. No Third Party Beneficiaries. This ENRA is made and entered into solely for the benefit of the City and SOC and no other person shall have any right of action under or by reason of this ENRA.

19. Signatures. The individuals executing this ENRA represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this ENRA on behalf of SOC and the City.

City of Tracy:	Spirit of California
By: _____ Brent H. Ives, Mayor	By: _____ James Rogers, President
Date: _____	Date: _____
Attest:	
By: _____ Sandra Edwards	
Title: City Clerk	
Date: _____	
Approved as to Form:	
By: _____ Daniel G. Sodergren	
Title: City Attorney	
Date: _____	



RESOLUTION _____

TERMINATING THE EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH TRACY'S CALIFORNIA BLAST REGARDING PROPERTY IN THE HOLLY SUGAR AREA,

WHEREAS, For the last three years, the City has been negotiating with Jeff Macey and then Tracy's California Blast regarding the feasibility of developing certain property, 628 acres, owned by the City, in the vicinity of Corral Hollow Road and Holly Drive. The area is commonly known as the Holly Sugar property. The City has entered into three Exclusive Negotiating Rights Agreements (ENRAs) with the project proponents, as follows:

1. March 3, 2009, First ENRA for 120 days.
2. July 7, 2009, Second ENRA for 180 days, extended on January 5, 2010 and extended on July 20, 2010 until December 31, 2010, when the Second ENRA expired.
3. April 29, 2011, Third ENRA for three years, with performance milestones at various intervals. Due to Tracy's California Blast's failure to comply with certain timelines, the City agreed to extend the third ENRA to September 20, 2012 (First Amendment).

WHEREAS, During the last three years, the City has participated in more than ___ meetings with the project proponents, in addition to internal staff meetings, in an effort to render the project feasible; and

WHEREAS, The project proponents, Tracy's California Blast, have failed to meet some essential milestones in the Third ENRA, required to be completed by August 29, 2011. Tracy's California Blast failed to cure these defaults after written notice from the City (notice letters from Andrew Malik, Director of Development and Engineering Services, dated September 19, 2011, October 6, 2011 and November 15, 2011); and

WHEREAS, Section 12 of the Third ENRA provides in part that "[I]f a default remains uncured 60 days after receipt by the defaulting party of such notice, the non-defaulting party may terminate this ENRA."; and

WHEREAS, The City can no longer limit its ability to develop the property, without the proponent's performance under the ENRA, and has decided to terminate the ENRA; and

WHEREAS, Written notice of the City Council meeting on January 17, 2012, was provided to Tracy's California Blast (Attn: Jeff Macey, President) as provided in the Third ENRA, and also to Jim Rogers, the current project proponent;

NOW, THEREFORE, The Tracy City Council does resolve, declare, determine and order as follows:

Termination of ENRA. Based on non-performance by Tracy's California Blast under the terms of the Third ENRA, and the failure to cure certain defaults after notice had been given, the Third ENRA between Tracy's California Blast, LLC and the City of Tracy is terminated effective on November 7, 2012. Under the Third ENRA, the City shall retain (a) the \$1500 per month

paid as consideration for the ENRA (Section 3), and (b) the \$25,000 fixed fee to cover staff and consultant expenses up to the time of the cost recovery agreement (Section 7) to partially cover the staff time spent on the project.

* * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 7th day of November, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk