

**Tuesday, January 20, 2015, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

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

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

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

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

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

**Presentations to Council** - Persons who wish to make presentations which may exceed the time limits are encouraged to submit comments in writing at the earliest possible time to ensure distribution to Council and other interested parties. Requests for letters to be read into the record will be granted only upon approval of the majority of the Council. Power Point (or similar) presentations need to be provided to the City Clerk's office at least 24 hours prior to the meeting. All presentations must comply with the applicable time limits. Prior to the presentation, a hard copy of the Power Point (or similar) presentation will be provided to the City Clerk's office for inclusion in the record of the meeting and copies shall be provided to the Council. Failure to comply will result in the presentation being rejected. Any materials distributed, including those distributed within 72 hours of a regular City Council meeting, 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.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATIONS

- Swearing In - City Clerk
- Employee of the Year
- Employee of the Month
- Certificate of Appointment – Planning Commission
- Certificates of Appointment and Recognition – Parks and Community Services Commission
- Proclamation – Health for Humanity Yogathon

1. CONSENT CALENDAR

- A. Set a Public Hearing Date and Adopt a Resolution Related to the City's Intent to Vacate a Portion of Right-of-Way for North MacArthur Drive, South of I-205
- B. Minor Amendment to the Plaza One Final Development Plan to Replace Parking Stalls with an Outdoor Dining Area Adjacent to the Building at 2986 West Grant Line Road - Applicant is JS Kendall Construction, Inc. for Plaza One, LLC
- C. Award a Construction Contract to the Lowest Responsive and Responsible Bidder for the Sewer and Storm Drain Replacement FY 2014-2015 Project CIP 74098 and 76062 and Authorize the Mayor to Execute the Contract
- D. Approve Agreement between the City of Tracy, the South County Fire Authority, and the San Joaquin County Emergency Medical Services Agency to Provide Non-Transport Advanced Life Support Services and Authorize the Mayor to Execute the Agreement
- E. Authorization to Enter Into a Professional Services Agreement With Central Valley Softball Umpire Association to Perform Umpiring Services for the City of Tracy and for the Mayor to Sign the Agreement
- F. Authorize the Purchase of Two Patrol Vehicles (Chevrolet Caprice and Chevrolet Tahoe) from Folsom Chevrolet of Folsom, California
- G. Approve Amendment No. 2 to the Professional Services Agreement between the City of Tracy and Management Partners, Inc. and Approve Funding Allocation
- H. Approve Amendments to the City Council Policy Related to Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings Including Changing from Summary to Action Minutes

2. ITEMS FROM THE AUDIENCE

3. CONDUCT A PUBLIC HEARING AND ADOPT A RESOLUTION OF NECESSITY AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE PERMANENT AND TEMPORARY CONSTRUCTION EASEMENTS ON CERTAIN REAL PROPERTIES FOR CONSTRUCTION OF A WASTEWATER EFFLUENT DISCHARGE PIPELINE FROM THE WASTEWATER TREATMENT PLANT TO THE OLD RIVER AND AUTHORIZE THE DEPOSIT OF \$200 FOR THE ALVES PARCEL, \$3,800 FOR THE PERRY PARCELS, AND \$11,900 FOR THE HOLLY COMMERCE CENTER PARCEL WITH THE STATE OF CALIFORNIA – CONDEMNATION DEPOSIT FUND
4. INTRODUCTION OF AN ORDINANCE AMENDING TITLE 9, CHAPTER 9.52 OF THE TRACY MUNICIPAL CODE, KNOWN AS FLOODPLAIN REGULATIONS AND SETTING A PUBLIC HEARING DATE AND TIME FOR ADOPTION OF THE ORDINANCE
5. RECEIVE STATUS REPORT AND PROVIDE DIRECTION ON POTENTIAL CITY/SAN JOAQUIN COUNTY PARTNERSHIP FOR DEVELOPMENT OF A SOUTH COUNTY REGIONAL PARK SOUTH OF LEGACY FIELDS AND NORTH OF I-205
6. ITEMS FROM THE AUDIENCE
7. COUNCIL ITEMS
  - A. Consider Whether an Item Related to Development Agreements, Approved and Amended, Together with a Presentation by Staff, Should be Included on a Future City Council Agenda for Discussion
  - B. Review Appointments to Council Committees
  - C. Appointment of Mayor Pro Tempore
8. ADJOURNMENT

January 20, 2015

AGENDA ITEM 1.A

REQUEST

**SET A PUBLIC HEARING DATE AND ADOPT A RESOLUTION RELATED TO THE CITY'S INTENT TO VACATE A PORTION OF RIGHT-OF-WAY FOR NORTH MACARTHUR DRIVE, SOUTH OF I-205**

EXECUTIVE SUMMARY

This agenda item involves setting a date for the City Council to discuss vacation of public street right-of-way pursuant to the provisions of Section 8320 et seq. of the Streets and Highways Code of the State of California and to provide approval to vacate said lands at its discretion. Approval of this agenda item will authorize the City Clerk to post notices for a hearing to be held on January 20, 2015, regarding vacation of a portion of North MacArthur Drive, between I-205 and Pescadero Avenue.

DISCUSSION

The portion of North MacArthur Drive north of Pescadero Avenue was constructed and dedicated to the City in accordance with the subdivision map for California Mirage, recorded on December 22, 1995, as Book 32 of Maps and Plats, at Page 71 of the San Joaquin County Records. This dedication was necessary to provide an exclusive right turn lane for southbound traffic on MacArthur Boulevard to enter on to westbound Pescadero Avenue. The alignment for the dedication was based upon the concept design and the actual amount of dedication area needed confirmation at the time of development of this subdivision and the neighboring areas.

City Council approved the subdivision map and a Preliminary and Final Development Plan for the Classics Tract 3351 located at the northwest corner of North MacArthur Drive and Pescadero Avenue on September 16, 2008. An amendment to that map was approved by City Council on May 20, 2014, contingent upon the vacation of a small amount of right-of-way along North MacArthur Drive, an area approximately 289 feet long and three feet wide (867 square feet). The detailed design completed for the intended exclusive right turn lane indicated that the above portion of land is not needed for street right of way.

On June 2, 2014, on behalf of Woodside 05N, LP, North Star Engineering Group, Inc., submitted a written request to the City to commence the street vacation process for approximately 867 square feet of right-of-way along North MacArthur Drive. The vacation of the portion of North MacArthur Drive is generally shown in Attachment B.

On October 22, 2014, the Planning Commission adopted Resolution 2014-024, approving the finding that the proposed vacation of public street right-of-way affecting North MacArthur Drive is consistent with the City of Tracy General Plan.

Adoption of the Resolution of Intent expressing the Intent to Vacate the North MacArthur Drive public street right-of-way provides no obligation for the City Council to adopt a



resolution vacating North MacArthur Drive, but simply sets a date for the City Council to discuss and provide approval to vacate said lands at its discretion. The date proposed for this public hearing is February 17, 2015 at 7:00 p.m., at a regularly scheduled City Council meeting.

Staff has determined that adoption of the resolution expressing the Intent to Vacate North MacArthur Drive can occur without adverse effect.

#### STRATEGIC PLAN

This Resolution of Intent 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 incurred for approving the Intent to Vacate North MacArthur Drive. All costs of processing the vacation of a portion of North MacArthur Drive right-of-way will be paid by the applicant.

#### RECOMMENDATION

That City Council set a public hearing date for consideration of the vacation of a portion of public right-of-way along North MacArthur Drive.

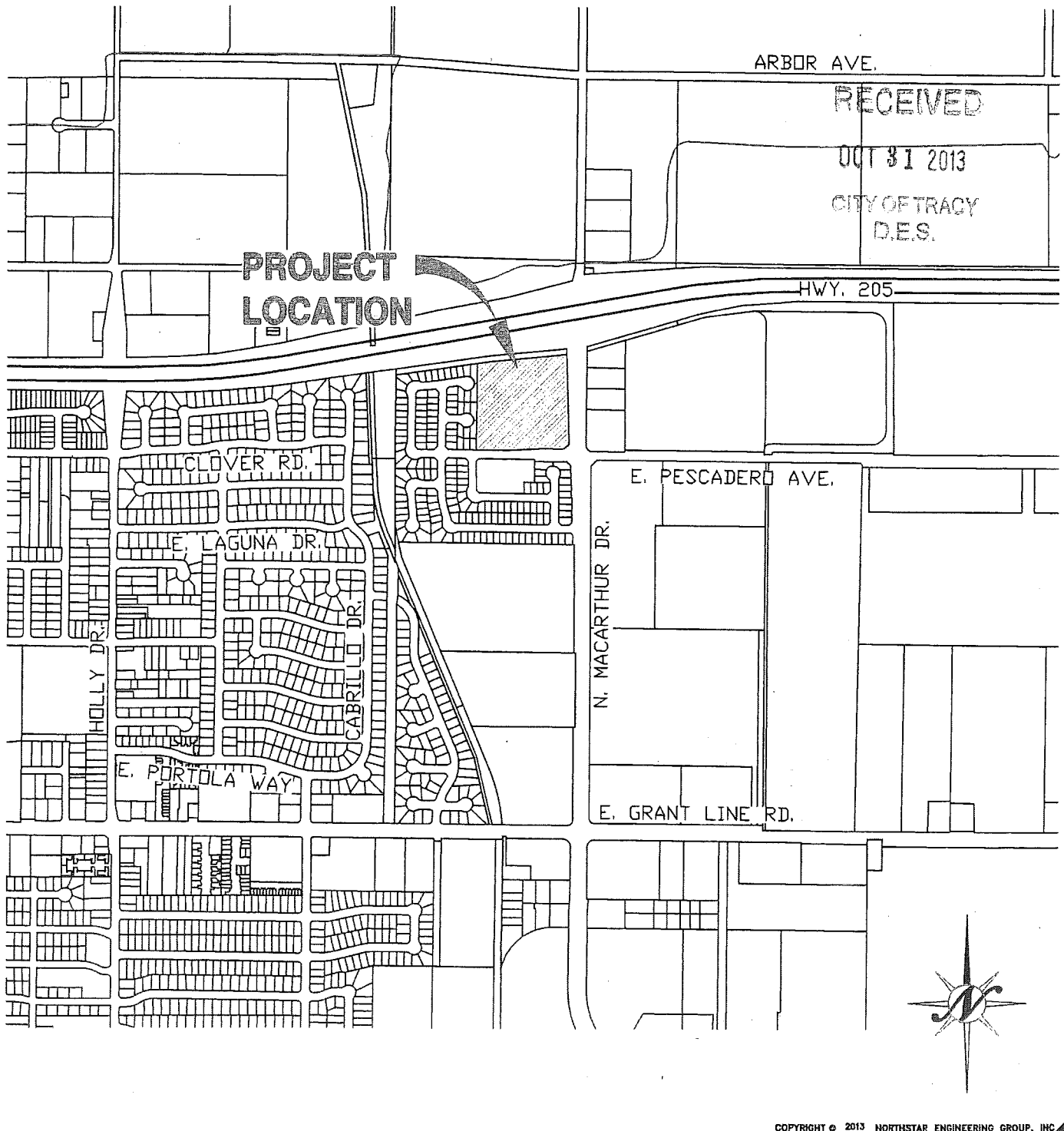
Prepared by: Criseldo S. Mina, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, Utilities Director/Interim City Engineer  
Andrew Malik, Development Services Director  
Maria A. Hurtado, Assistant City Manager

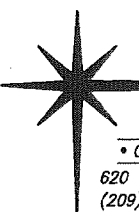
Approved by: Troy Brown, City Manager

#### ATTACHMENTS

A – Location Map and Map showing the easement area to be vacated



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*NorthStar*  
Engineering Group, Inc.

• CIVIL ENGINEERING • SURVEYING • PLANNING •  
620 12th Street Modesto, CA 95354  
(209) 524-3525 Phone (209) 524-3526 Fax

# LOCATION MAP

# THE CLASSICS

TRACY,

CALIFORNIA

JOB: 13-125  
DATE: 10/28/2013  
SCALE: NTS  
DRAWN: SHS  
DESIGN: EWB  
CHK'D: EWB

SHEET  
**EX1**

**ARBOR AVENUE**

FOUND 2" BRASS DISK IN  
CONCRETE WELL STAMPED  
"TRACY LS 4479 1997"  
(36-S-118)

**INTERSTATE 205**

**EASTSIDE CHANNEL**

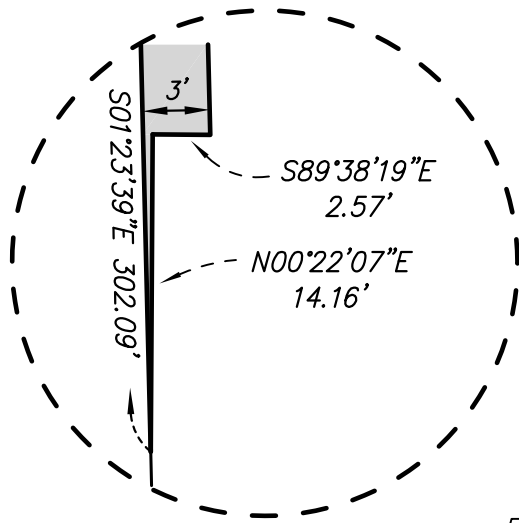
LOT "C" - POINT OF BEGINNING -  
NE CORNER LOT "B"

**RIGHT OF WAY  
ABANDONMENT**

867 SF

LOT "B"

CALIFORNIA MIRAGE  
32 - M&P - 71



**PESCADERO  
AVENUE**

FOUND 2-1/2" BRASS DISK -  
NOTHING STAMPED ON DISK;  
USED 2-2' SWING TIES

S88°36'21"W  
3.00'

3.00'

N01°23'39"W 288.02'  
S01°23'39"E 302.09'

**N MAC ARTHUR DRIVE**

N00°22'07"E 2658.50'

S89°38'19"E 2.57'  
N00°22'07"E 14.16'  
83.00'

BASIS OF BEARINGS  
N 00°35'00" W 2545.30'(M)

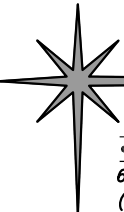
FOUND CITY OF  
TRACY 2" BRASS  
DISK IN CONCRETE  
STAMPED 2014  
(36-RS-18)

SCALE: 1"=60'



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PLOTTED: 04/08/14 16:08 PLOTTED BY: MMonique  
DWG NAME: K:\13-1251 The Classics\09\Exhibits\13-1251 RW Abandonment.dwg



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Engineering Group, Inc.  
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620 12th Street Modesto, CA 95354  
(209) 524-3525 Phone (209) 524-3526 Fax

**EXHIBIT B**

**RIGHT OF WAY  
ABANDONMENT**

**TRACY CALIFORNIA**

JOB:	J13-12
DATE:	04/08/14
SCALE:	AS SHOWN
DRAWN:	NM
DESIGN:	NM
CHK'D:	NM
SHEET	<b>01</b> OF <b>01</b>

RESOLUTION \_\_\_\_\_

DECLARING ITS INTENTION TO ORDER VACATION OF A PORTION OF NORTH  
MACARTHUR DRIVE, SOUTH OF I-205, SETTING THE TIME AND PLACE FOR A  
PUBLIC HEARING, AND PROVIDING NOTICE THEREOF TO ALL PERSONS  
INTERESTED

WHEREAS, Pursuant to Streets and Highways Code Section 8300 *et seq.* of the State of California, the City of Tracy is authorized to vacate street rights-of-way, and

WHEREAS, The City intends to abandon its interest in that portion of MacArthur Drive right-of-way more particularly described in Exhibit A (Legal Description) and Exhibit B (Plat) attached hereto and made a part hereof, and

WHEREAS, The vacation of the public street right-of-way is necessary to allow for uniform lot depth within the Classics Tract 3351 subdivision project approved by City Council on May 20, 2014, and

WHEREAS, The Public Works Director has determined that the portion of North MacArthur Drive right-of-way in question is unnecessary for present or prospective public use, and

WHEREAS, The City Council elects to proceed pursuant to the provisions of Section 8320 *et seq.* of the Streets and Highways Code of the State of California, and

WHEREAS, The City Council finds that it is in the public interest to proceed to order said vacation;

NOW, THEREFORE BE IT RESOLVED, That City Council hereby declares its intention to vacate a portion of North MacArthur Drive right-of-way.

BE IT FURTHER RESOLVED

1. Notice is hereby given that the 17th day of February, 2015, at 7:00 p.m. in the Council Chambers, Community Center, 333 Civic Center Plaza, Tracy, California, is the time and place fixed for a hearing on the above proposed vacation for at which all persons interested in or objecting to the proposed vacation may appear before the Council and be heard;
2. That the aforesaid date is not less than 15 days from passage of this resolution pursuant to law;
3. That the City Clerk shall cause certified copies to be posted along the line of said property proposed to be vacated at least 10 days before the date of the hearing and no more than 300 feet apart with a minimum of three being posted.

\*\*\*\*\*

The foregoing Resolution \_\_\_\_\_ was adopted by the City Council on the 20th day of January, 2015, by the following vote:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

ABSTAIN:       COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

**EXHIBIT A**

**LEGAL DESCRIPTION**

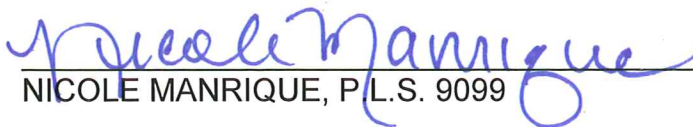
**RIGHT OF WAY ABANDONMENT**

All that portion of North Mac Arthur Drive, situate in the Rancho El Pescadero, in the City of Tracy, County of San Joaquin, State of California, described as follows:

**BEGINNING** at the northeast corner of Lot B as shown on the map for California Mirage, filed for record on December 22, 1995, in Book 32 of Maps and Plats, Page 71, San Joaquin County Records; thence along the easterly line of said Lot B, South  $01^{\circ}23'39''$  East 302.09 feet to a point 83.00 feet distant at right angles from the centerline of North Mac Arthur Drive (variable width) as shown between the 2" brass disk in a concrete well stamped "TRACY LS 4479 1997" found at the centerline intersection of North Mac Arthur Drive and Arbor Avenue and the 2-1/2" brass disk found at the centerline intersection of North Mac Arthur Drive and Pescadero Avenue; thence, leaving said easterly line, North  $00^{\circ}22'07''$  East 14.16 feet; thence South  $89^{\circ}38'19''$  East 2.57 feet to a point 3.00 feet distant at right angles to said east line; thence, parallel with said east line, North  $01^{\circ}23'39''$  West 288.02 feet; thence South  $88^{\circ}36'21''$  West 3.00 feet to the point of beginning.

Containing 867 square feet more or less

The basis of bearings of this description is based on the California Coordinate System 83, Zone 3 (2004.0). A line between City of Tracy Monument No. 2014 (stamped 2014) and City of Tracy Monument No. 2010 (stamped Tracy LS 4479) which bears North  $00^{\circ}35'00''$  West as calculated from coordinates shown on Record of Survey filed in Book 36 of Surveys, at Page 118, San Joaquin County Records was used for the basis of all measured bearings shown on this map. All distances shown are ground level distances, unless noted as grid.

  
NICOLE MANRIQUE, P.L.S. 9099



12.16.14

**ARBOR AVENUE**

FOUND 2" BRASS DISK IN  
CONCRETE WELL STAMPED  
"TRACY LS 4479 1997"  
(36-S-118)

**INTERSTATE 205**

**EASTSIDE CHANNEL**

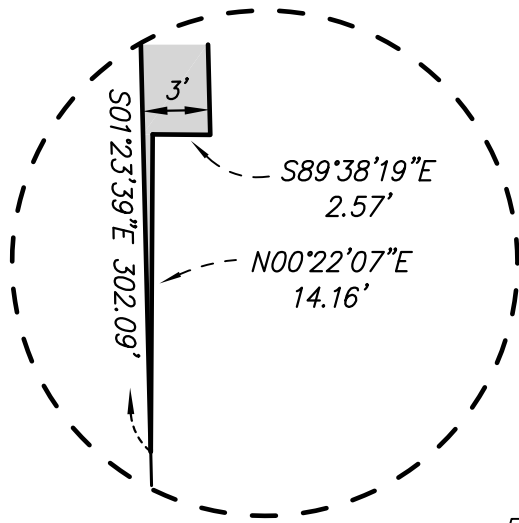
LOT "C" - POINT OF BEGINNING -  
NE CORNER LOT "B"

**RIGHT OF WAY  
ABANDONMENT**

867 SF

LOT "B"

CALIFORNIA MIRAGE  
32 - M&P - 71



**PESCADERO  
AVENUE**

FOUND 2-1/2" BRASS DISK -  
NOTHING STAMPED ON DISK;  
USED 2-2' SWING TIES

S88°36'21"W  
3.00'

3.00'

N01°23'39"W 288.02'  
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**N MAC ARTHUR DRIVE**

N00°22'07"E 14.16'  
N00°22'07"E 2658.50'

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83.00'

BASIS OF BEARINGS  
N 00°35'00" W 2545.30'(M)

FOUND CITY OF  
TRACY 2" BRASS  
DISK IN CONCRETE  
STAMPED 2014  
(36-RS-18)

SCALE: 1"=60'



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**EXHIBIT B**  
**RIGHT OF WAY  
ABANDONMENT**  
**TRACY CALIFORNIA**

JOB:	J13-12
DATE:	04/08/14
SCALE:	AS SHOWN
DRAWN:	NM
DESIGN:	NM
CHK'D:	NM
SHEET	<b>01</b> OF <b>01</b>

January 20, 2015

## AGENDA ITEM 1.B

### REQUEST

**MINOR AMENDMENT TO THE PLAZA ONE FINAL DEVELOPMENT PLAN TO REPLACE PARKING STALLS WITH AN OUTDOOR DINING AREA ADJACENT TO THE BUILDING AT 2986 WEST GRANT LINE ROAD - APPLICANT IS JS KENDALL CONSTRUCTION, INC. FOR PLAZA ONE, LLC**

### EXECUTIVE SUMMARY

This agenda item involves a minor amendment to a Final Development Plan within the Tracy Marketplace shopping center to allow for an outdoor dining area to be established in place of some parking spaces in the center to facilitate the location of a restaurant on the site.

### DISCUSSION

On October 17, 2000, the City Council approved a Preliminary and Final Development Plan (PDP/FDP) for the Plaza One project, which was described as two retail/multi-use buildings totaling 10,240 square feet within the I-205 Specific Plan on West Grant Line Road (Attachment A). The multi-tenant buildings were subsequently constructed and have been occupied by a variety of tenants over time.

#### Proposed Amendment

The property owner of the Plaza One buildings has interest from a restaurant that wishes to occupy the western portion of the western building (3,840 square feet) and supplement that occupancy with the addition of a 1,200 square-foot outdoor dining area, as well as a small outdoor waiting area adjacent to the entry on the south side of the building.

Restaurants are a permitted use within the General Commercial land use designation assigned to the property by the I-205 Specific Plan. The proposed change to the site plan, converting five compact parking spaces into an outdoor patio/dining area, and three parking spaces into an entry landscaped waiting area feature and new trash enclosure (Attachment B) requires a minor amendment to the Plaza One FDP because it is a new addition that was not a part of the original project approval. The proposed amendment to the approved PDP/FDP involves replacing parking with an open-air seating area with a fence and outdoor furnishings, as shown in Attachments B and C.

#### Parking, Circulation and Landscaping

Based on the parking requirements within the I-205 Specific Plan, the 10,240 square-foot building area total is required to have 41 parking spaces available,



and the Plaza One buildings were approved and constructed with 58 parking spaces. An amendment recently approved for Five Guys to eliminate seven parking spaces for their outdoor dining area resulted in 51 existing parking spaces. The proposal to eliminate eight more parking spaces in order to accommodate the proposed outdoor patio/dining area and other exterior improvements for this tenant space would result in 43 parking spaces, still over the 41 required. The buildings have access from Grant Line Road, through a number of driveways that facilitate efficient circulation from Grant Line Road to the subject property as well as the other commercial buildings within the Tracy Marketplace shopping center (Attachment A). The proposed amendment will not affect any of the circulation patterns on this or any of the adjacent sites, as no drive aisle changes are proposed.

The proposed patio area will be surrounded by a small planter and railing, defining the outdoor dining space (Attachment C). The elimination of the planter within the existing parking spaces will not result in any deficiency with regard to landscaping.

#### Environmental Document

The proposed PDP/FDP amendment is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15332, pertaining to infill projects smaller than five acres in size substantially surrounded by urban uses. In accordance with CEQA Guidelines, no further environmental assessment is required.

#### Planning Commission Discussion

The Planning Commission met and discussed the proposed amendment on April 24, 2013, and unanimously recommended approval of the minor FDP amendment as proposed.

### STRATEGIC PLAN

This agenda item supports the Economic Development Strategic Plan, related to retail recruitment. The ability to accommodate a restaurant tenant's need for specific tenant improvements to their space, including outdoor seating is essential in a property owner's ability to attract potential tenants to vacant spaces within existing shopping centers.

### RECOMMENDATION

That the City Council approve the minor amendment to the Plaza One Final Development Plan to replace eight parking stalls with an outdoor dining area, waiting area and landscaping, based on the findings contained in the City Council Resolution dated January 20, 2015.

Agenda Item 1.B  
January 20, 2015  
Page 3

Prepared by: Victoria Lombardo, Senior Planner

Reviewed by: Andrew Malik, Development Services Director  
Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager

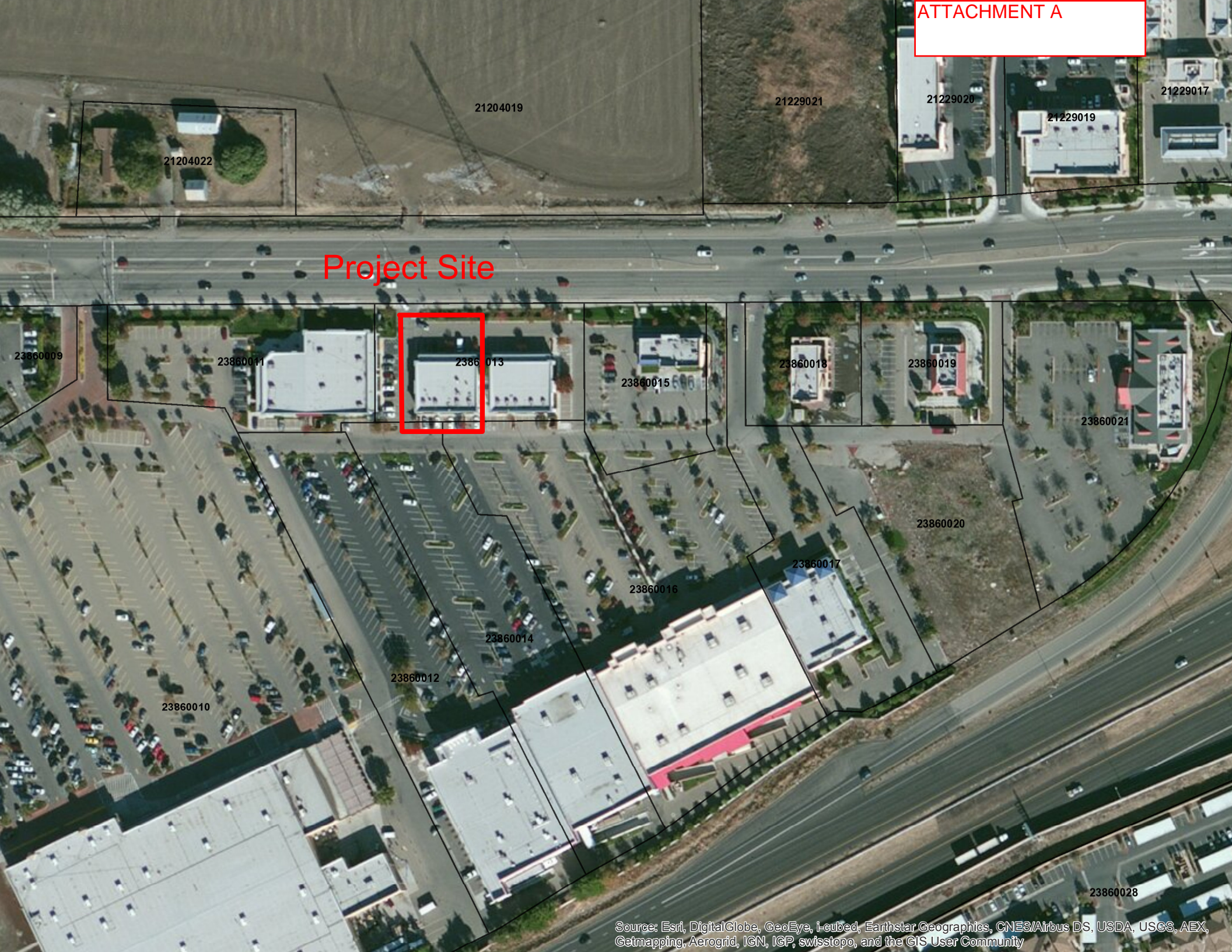
ATTACHMENTS

A—Location Map

B—Site Plan

C—Color Renderings





Project Site



23860013

23860015

23860018

23860019

23860021

23860020

23860017

23860016

23860014

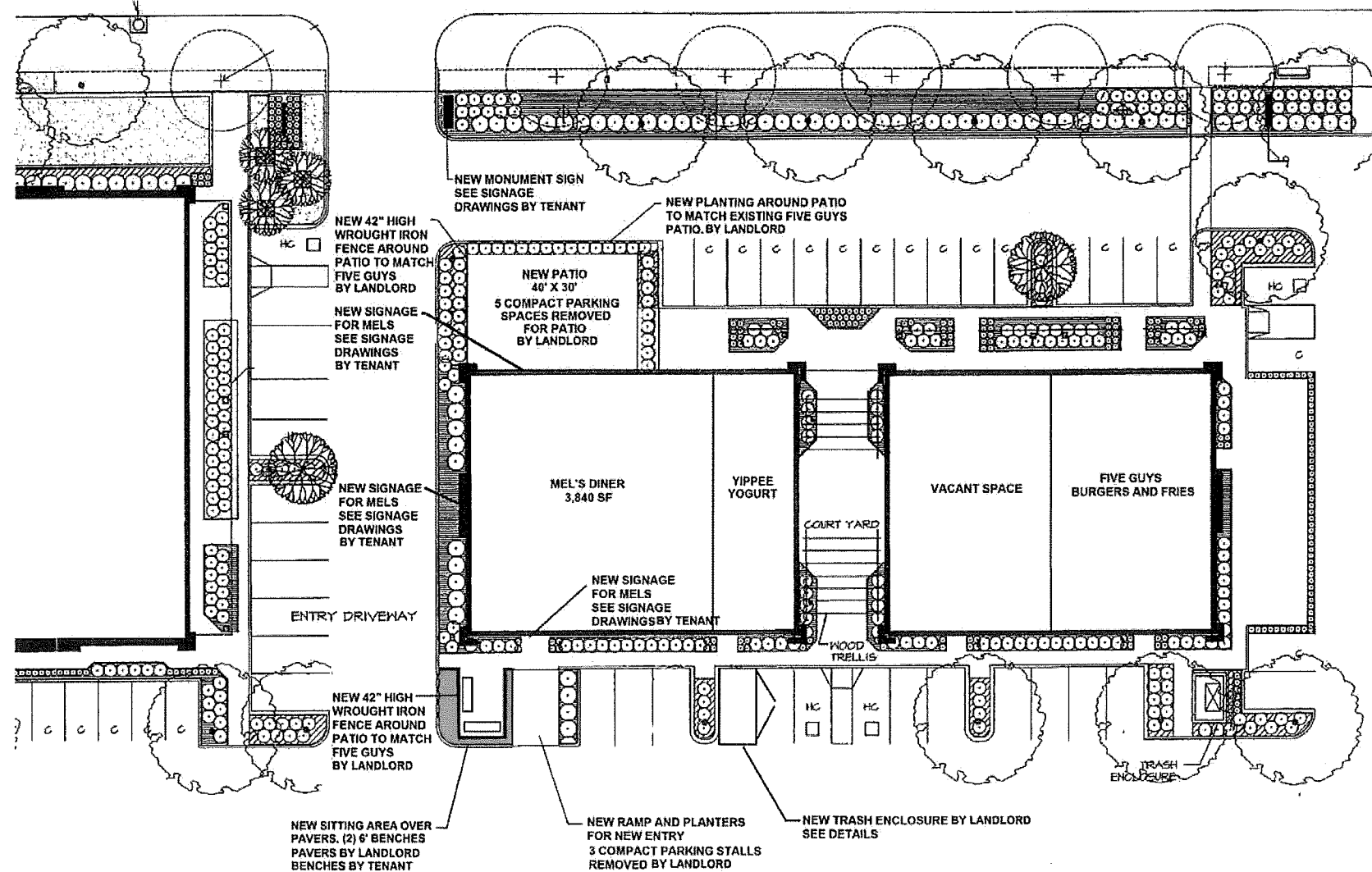
23860012

23860010

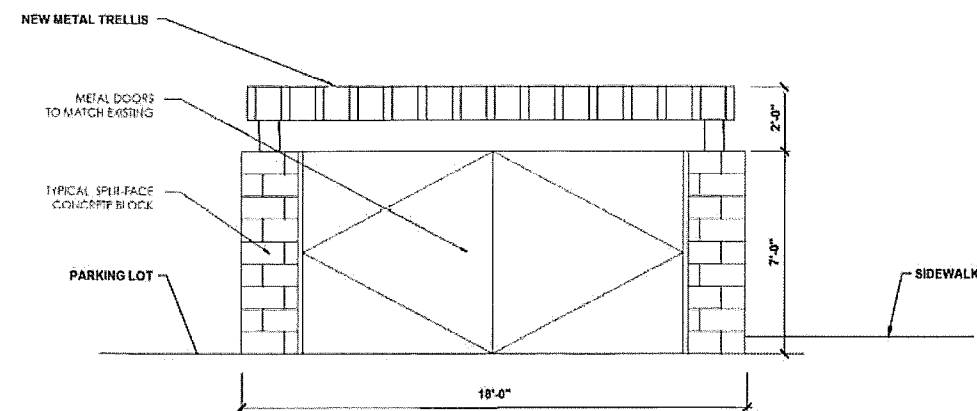
23860028



GRANT LINE ROAD



SITE PLAN - NTS



TRASH ENCLOSURE ELEVATION - NTS

**PROJECT:**  
**MEL'S DINER**  
 2986 WEST GRANT LINE ROAD  
 TRACY, CA  
 3,840 SQUARE FEET

**LANDLORD:**  
 PLAZA ONE LLC  
 1470 MARIA LANE  
 SUITE 101  
 WALNUT CREEK, CA 94596  
 925-946-9294

**DESIGNER:**  
 JS KENDALL CONSTRUCTION  
 1470 MARIA LANE  
 SUITE 101  
 WALNUT CREEK, CA 94596  
 TRAVIS FYFE  
 925-818-1087

**GENERAL CONTRACTOR:**  
 JS KENDALL CONSTRUCTION  
 1470 MARIA LANE  
 SUITE 101  
 WALNUT CREEK, CA 94596  
 TRAVIS FYFE  
 925-818-1087

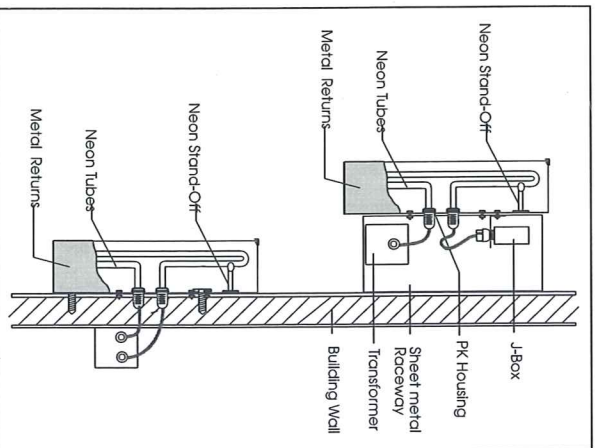
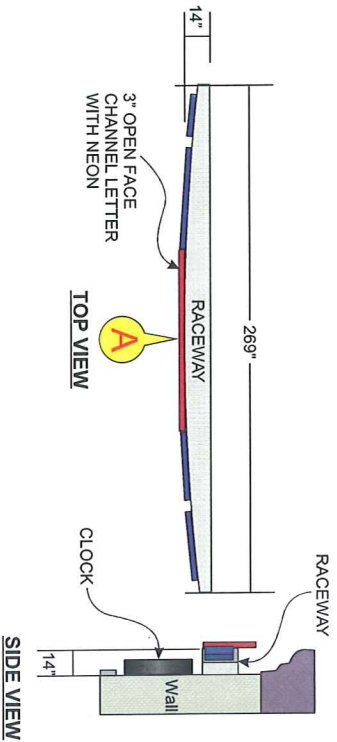
PROJECT INFORMATION

# ATTACHMENT C



**A** Front Elevation Scale: 3/16" = 1'

FAB. & INSTALL ONE SET OF PAN CHANNEL LETTER, MELS: 3" ALUMINUM RED RETURN WITH RED NEON. THE ORIGINAL SINCE 1947: 3" ALUMINUM BLUE RETURN WITH BLUE NEON. CLOCK: 1/2" CLEAR PLEX THRU LETTERING OVERLAID WITH YELLOW & BLUE VINYL AS SHOWN & ILLUMINATED WITH WHITE NEON.

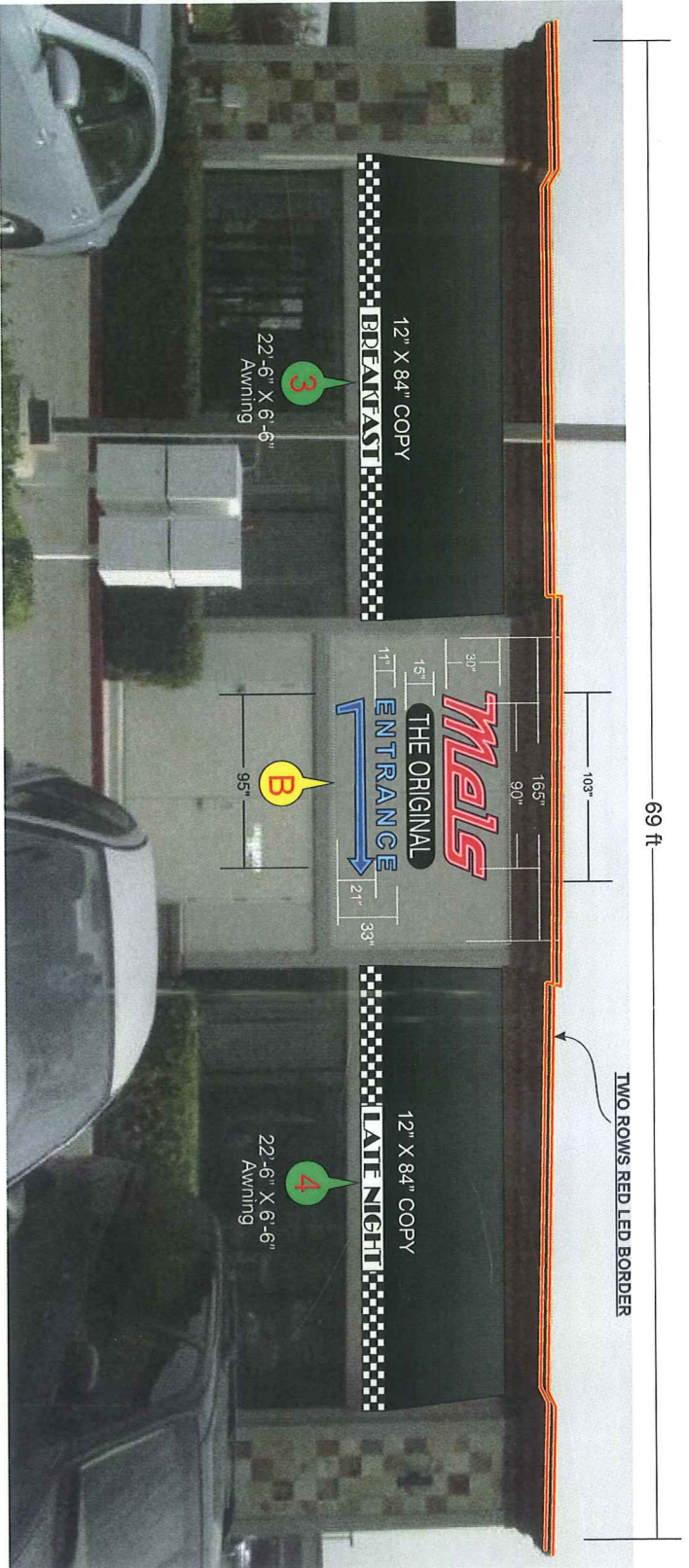


PAN-CHANNEL LETTERS MOUNTING DETAIL N.T.S.  
UL Approved



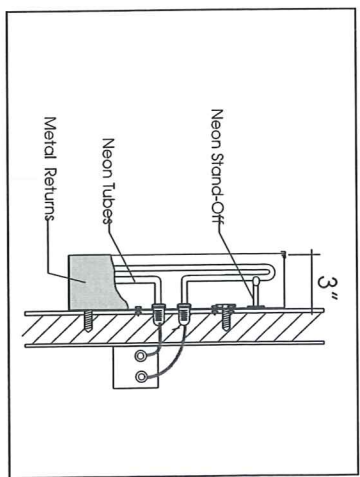
**AlphaArchitectural**  
Signs & Lighting

12-02-14  
8565 23RD AVE.  
SACRAMENTO, CA 95826  
916-379-0225



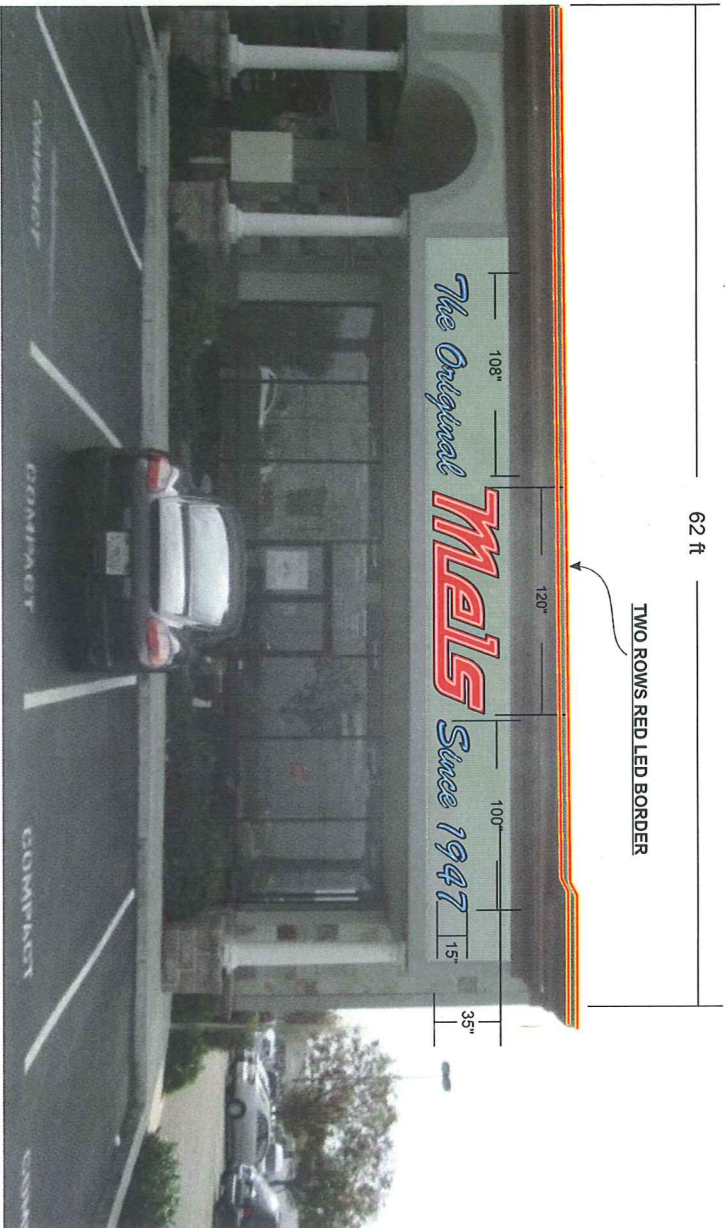
**B** Side Elevation Scale: 3/16" = 1'

- FAB. & INSTALL ONE SET OF PAN CHANNEL LETTER, MELS: 3" ALUMINUM RED RETURN WITH RED NEON.
- THE ORIGINAL LOGO BOX: 5" ALUMINUM BLACK RETURN WITH 3/16" WHITE PLEX FACE, OVERLAID WITH BLACK VINYL
- ENTRANCE & ARROW: 3" ALUMINUM BLUE RETURN WITH BLUE NEON.



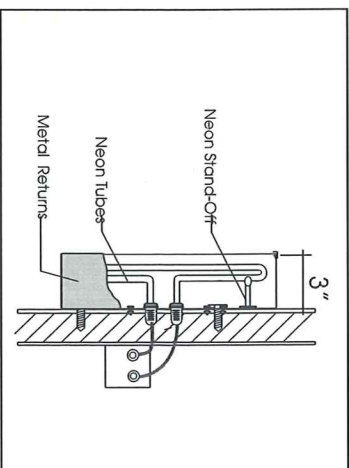
PAN-CHANNEL LETTERS MOUNTING DETAIL N.T.S.  
UL Approved



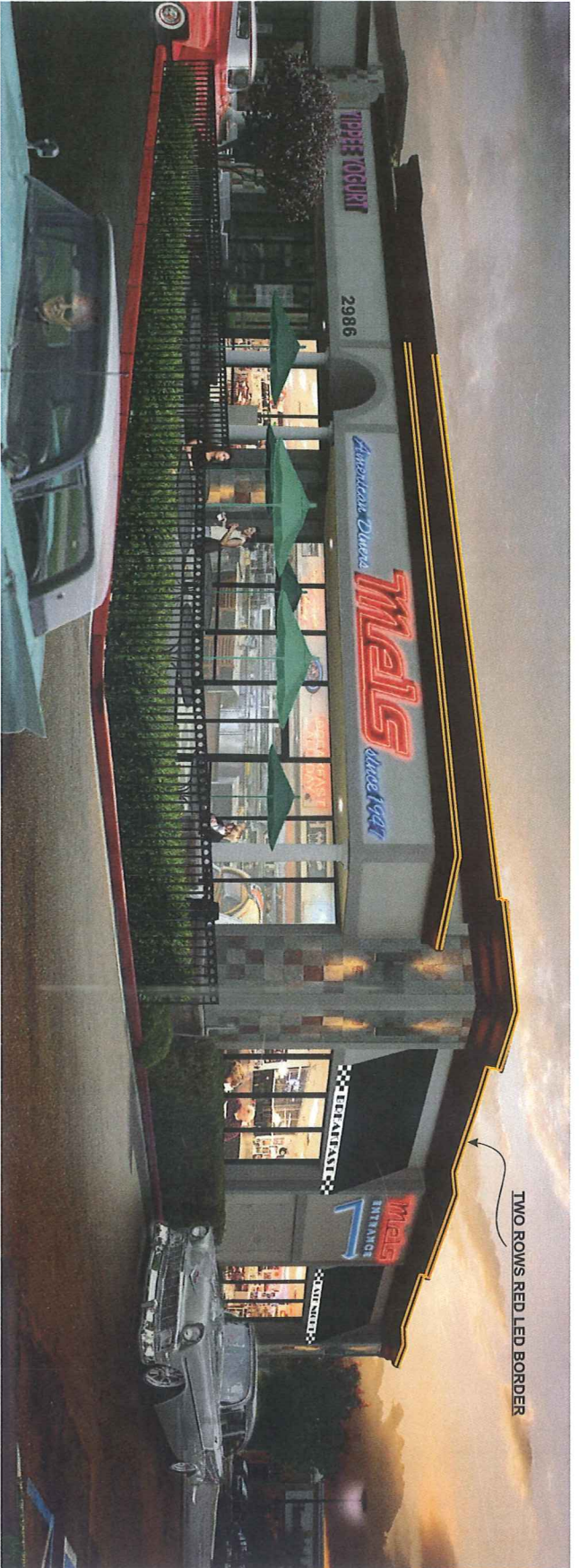


**C** **Rear Elevation** Scale: 3/16" = 1'

FAB. & INSTALL ONE SET OF PAN CHANNEL LETTERS, MELS: 3" ALUMINUM RED RETURN WITH RED NEON. THE ORIGINAL SINCE 1947: 3" ALUMINUM BLUE RETURN WITH BLUE NEON.



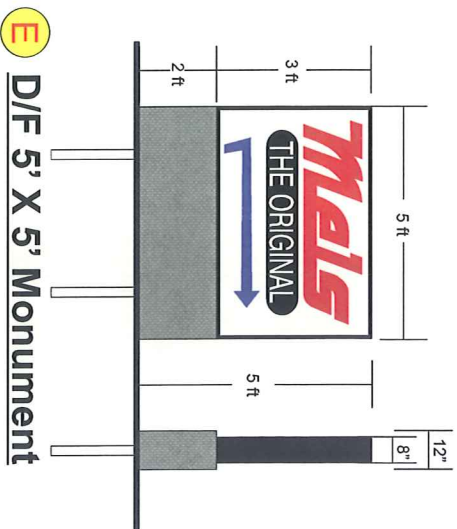
PAN-CHANNEL LETTERS MOUNTING DETAIL N.T.S.  
UL Approved



2986 Grant Line rd. Tracy, CA 95304



5' X 5' MONUMENT



**E** D/F 5' X 5' Monument



Alpha Architectural  
Signs & Lighting

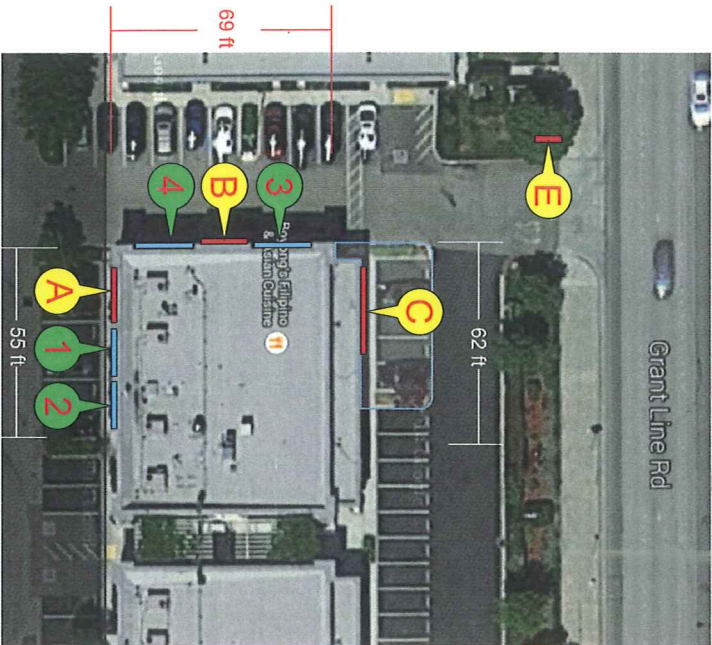
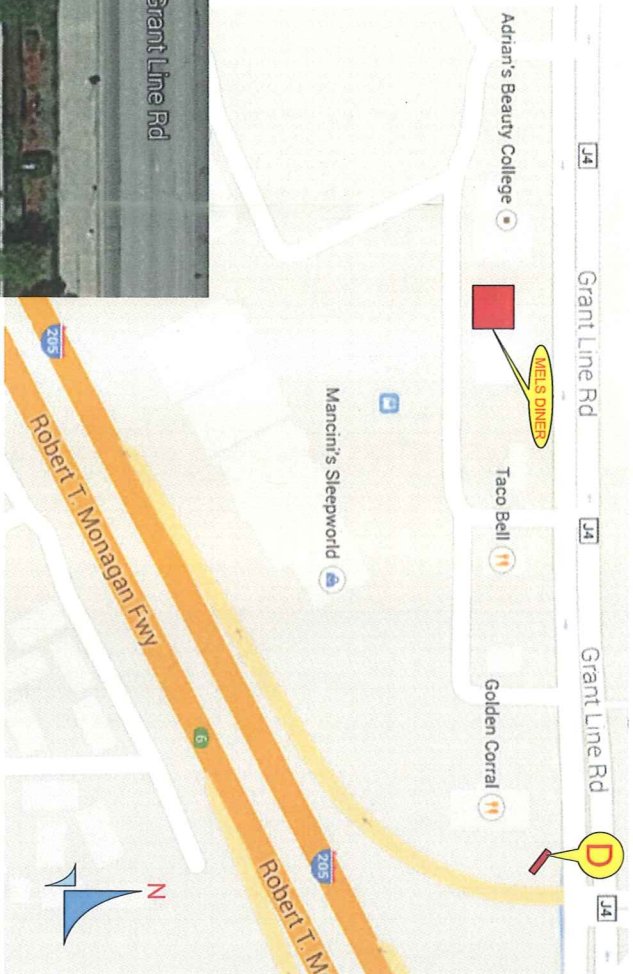
12-02-14  
8565 29RD AVE.  
SACRAMENTO, CA 95826  
916-379-0225





**D** Monument: NEW LEXAN FACES (2 EACH) REPLACEMENT WITH VINYL OVERLAY

**TruMeds** OPEN 24 hrs  
THE ORIGINAL



2986 Grant Line rd. Tracy, CA 95304



Alpha Architectural  
Signs & Lighting

12-02-14  
8565 23RD AVE.  
SACRAMENTO, CA 95826  
916-379-0225

RESOLUTION 2015-\_\_\_\_\_

APPROVING A MINOR AMENDMENT TO THE PLAZA ONE FINAL DEVELOPMENT PLAN TO REPLACE EIGHT PARKING STALLS WITH A 1,200 SQUARE-FOOT OUTDOOR DINING AREA ADJACENT TO THE BUILDING AT 2986 WEST GRANT LINE ROAD ASSESSOR'S PARCEL NUMBER 238-600-13 APPLICATION NUMBER D14-0023

WHEREAS, City Council adopted the I-205 Corridor Specific Plan and certified its Environmental Impact Report on August 21, 1990, and approved a subsequent Negative Declaration approved on July 6, 1999, and

WHEREAS, JS Kendall Construction, Inc., on behalf of Plaza One, LLC, submitted an application to amend the Plaza One Final Development plan to replace seven parking spaces with a 1,200 square-foot outdoor dining area (Application Number D14-0023) on November 4, 2014, and

WHEREAS, The subject property is located within the I-205 Corridor Specific Plan area, with a land use designation of General Commercial, which allows restaurants as a permitted land use, and

WHEREAS, The Planning Commission conducted a public meeting to review and consider the application on December 17, 2014, and unanimously recommended City Council approval of the amendment;

NOW, THEREFORE BE IT RESOLVED, The Tracy City Council does hereby approve a minor amendment to the Plaza One Final Development Plan to replace eight parking spaces with a 1,200 square-foot outdoor dining area and waiting area, Application Number D14-0023, subject to the conditions contained in Exhibit 1 to this Resolution, and based on the findings below.

1. The establishment, maintenance, and operation of the proposed outdoor dining area and associated landscape and hardscape improvements are compatible with the land use, design, and operational characteristics of the neighboring properties. It will not, under the circumstances of the particular case or as conditioned, be injurious or detrimental to the health, safety, or general welfare of persons or property in the vicinity of the proposed use and its associated structures, or to the general welfare of the City because the project is consistent with the land use, design, and other elements of the I-205 Specific Plan, the City of Tracy General Plan, and applicable requirements of Chapter 10.08 of the Tracy Municipal Code, including, but not limited to, Article 26, Off-Street Parking Requirements, and Article 30, Development Review.
2. The project will not adversely affect or impair the benefits of occupancy, most appropriate development, property value stability, or the desirability of property in the vicinity because the site design and architectural elements of the project as designed and conditioned, are an architecturally interesting addition to the parcel, and will not adversely visually impair the benefits of the properties in the vicinity, as the project includes desirable elements, including outdoor seating and landscaping.
3. The project, as designed and conditioned, will not cause any significant environmental impact, because it is categorically exempt from the California Environmental Quality Act

Pursuant to CEQA Guidelines Section 15332, pertaining to infill projects smaller than five acres surrounded by urban uses that are consistent with the Zoning and General Plan designations and not having any significant environmental effects. An analysis of the project shows that there will be no significant on-site impacts as a result of this particular project. There is also no evidence of any significant impacts to occur off-site as a result of the project, as traffic, air quality, land use and other potential cumulative impacts.

\*\*\*\*\*

The foregoing Resolution \_\_\_\_\_ was adopted by the City Council on the 20<sup>th</sup> day of January, 2015, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

Exhibit 1 - Conditions of Approval

**Conditions of Approval for Plaza One Outdoor Dining Area  
Application No. D14-0023  
January 20, 2015**

1. These Conditions of Approval shall apply to the real property described as a 1,200 square-foot outdoor dining area, Application Number D14-0023 (hereinafter "Project"), located at 2986 West Grant Line Road, Assessor's Parcel Number 238-600-13.
2. The following definitions shall apply to these Conditions of Approval:
  - a. "Applicant" means any person, or other legal entity, defined as a "Developer".
  - b. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed engineer designated by the City Manager, or the Development Services Director, or the City Engineer to perform the duties set forth herein.
  - c. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan (also known as the Urban Management Plan), the Tracy Municipal Code, I-205 Corridor Specific Plan, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
  - d. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
  - e. "Conditions of Approval" shall mean the conditions of approval applicable to the 1,200 square-foot outdoor dining area, Application Number D14-0023.
  - f. "Project" means the real property consisting of the building located at 2986 West Grant Line Road, Assessor's Parcel Number 238-600-13.
3. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to: the Planning and Zoning Law (Government Code sections 65000, et seq.), the Subdivision Map Act (Government Code sections 66410, et seq.), the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
4. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all City Regulations.

5. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all mitigation measures identified in the General Plan Environmental Impact Report, dated February 1, 2011, and the I-205 Corridor Specific Plan Negative Declaration dated July 6, 1999.
6. Except as otherwise modified herein, all construction shall be consistent with the site plan and architectural renderings received by the Development Services Department on December 10, 2014.
7. Prior to the issuance of a building permit, the applicant shall provide a detailed landscape and irrigation plan for the new landscape improvements consistent with City landscape and irrigation standards, including, but not limited to Tracy Municipal Code Section 10.08.3560, I-205 Corridor Specific Plan, and Water Efficient Landscape Guidelines on private property, to the satisfaction of the Development Services Director.
8. All improvements shall be consistent with the Tracy Municipal Code, Standard Plans, and other applicable City Regulations.
9. Prior to the issuance of a building permit, a detailed plan of the trash enclosure shall be approved, showing solid metal doors, an interior concrete curb, a minimum height of seven feet, and exterior materials and color compatible with the adjacent building exterior.

AGENDA ITEM 1.C

REQUEST

**AWARD A CONSTRUCTION CONTRACT TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER FOR THE SEWER AND STORM DRAIN REPLACEMENT FY 2014-2015 PROJECT CIP 74098 AND 76062 AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT**

EXECUTIVE SUMMARY

City Council is requested to award the contract for repairing sewer and storm drain facilities citywide.

DISCUSSION

The scope of this project involves replacement or repair of deteriorated sewer and storm drain facilities at various locations citywide. Due to the construction market fluctuation and unpredictability of bids, projects have been designed to have base bid and additive base bid item. The base bid includes approximately 500 linear feet of sewer lines, approximately 550 linear feet of storm drain line, 20 manholes and storm drain inlet structures. The additive bid item includes removal and cleaning of obstruction material from existing 24 inch sewer lines on Tracy Boulevard at the Larch Road intersection.

Plans and specifications were prepared in-house by staff and the project was advertised for competitive bids on October 30, and November 6, 2014.

Six bids were received and publicly opened at 2:00 p.m. on Wednesday, December 3, 2014, with the following results:

Contractor	Base Bid	Additive A1	Base Bid + Additive A1
Tracy Grading and Paving, Tracy	\$175,000	\$10,000	\$185,000
Sanact dba Roto Rooter, Livermore	\$226,840	\$10,000	\$236,840
Campbell Construction, Sutter Creek	\$263,100	\$10,000	\$273,100
Taylor Backhoe Service, Ceres	\$285,885	\$10,000	\$295,885
McFadden Construction, Stockton	\$316,012	\$10,000	\$326,012
BRCO Constructors, Loomis	\$428,200	\$10,000	\$438,200

Tracy Grading and Paving of Tracy is the lowest monetary bidder for the base bid and additive bid item A1. Bid analysis indicates that the lowest monetary bid is responsive and the bidder is responsible. The bidder has the appropriate contractor's license in active standing with the State of California, and has completed similar projects for the City.

The total estimated cost of this project is as follows if both the base bid and additive bid A1 is awarded to the lowest bidder:

<u>Description</u>	<u>Base Bid</u>
Construction Bid Including Additive Bid Item	\$185,000
Construction Testing & Inspection	\$10,000
Design Support during Construction	\$10,000
Project Management	\$30,000
Construction Contingency	\$37,000
Total Construction Cost	\$272,000

Tracy Municipal Code Section 2.20.090(b) authorizes the City Manager to approve change orders up to the contingency amount approved by Council. The recommended construction contingency amount for this project is \$37,000.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

Award of the construction contract is part of the approved Capital Improvement Projects CIP 74098 and 76062, and sufficient funds are available for construction. There will be no impact to the General Fund.

#### RECOMMENDATION

That City Council, by resolution, award a construction contract to Tracy Grading and Paving of Tracy, California, for the Sewer and Storm Drain Replacement FY 14-15 Project – CIP 74098 & 76062, in the amount of \$185,000, authorize the City Manager to approve change orders up to the specified project contingency amount of \$37,000, if needed, and authorize the Mayor to execute the construction contract.

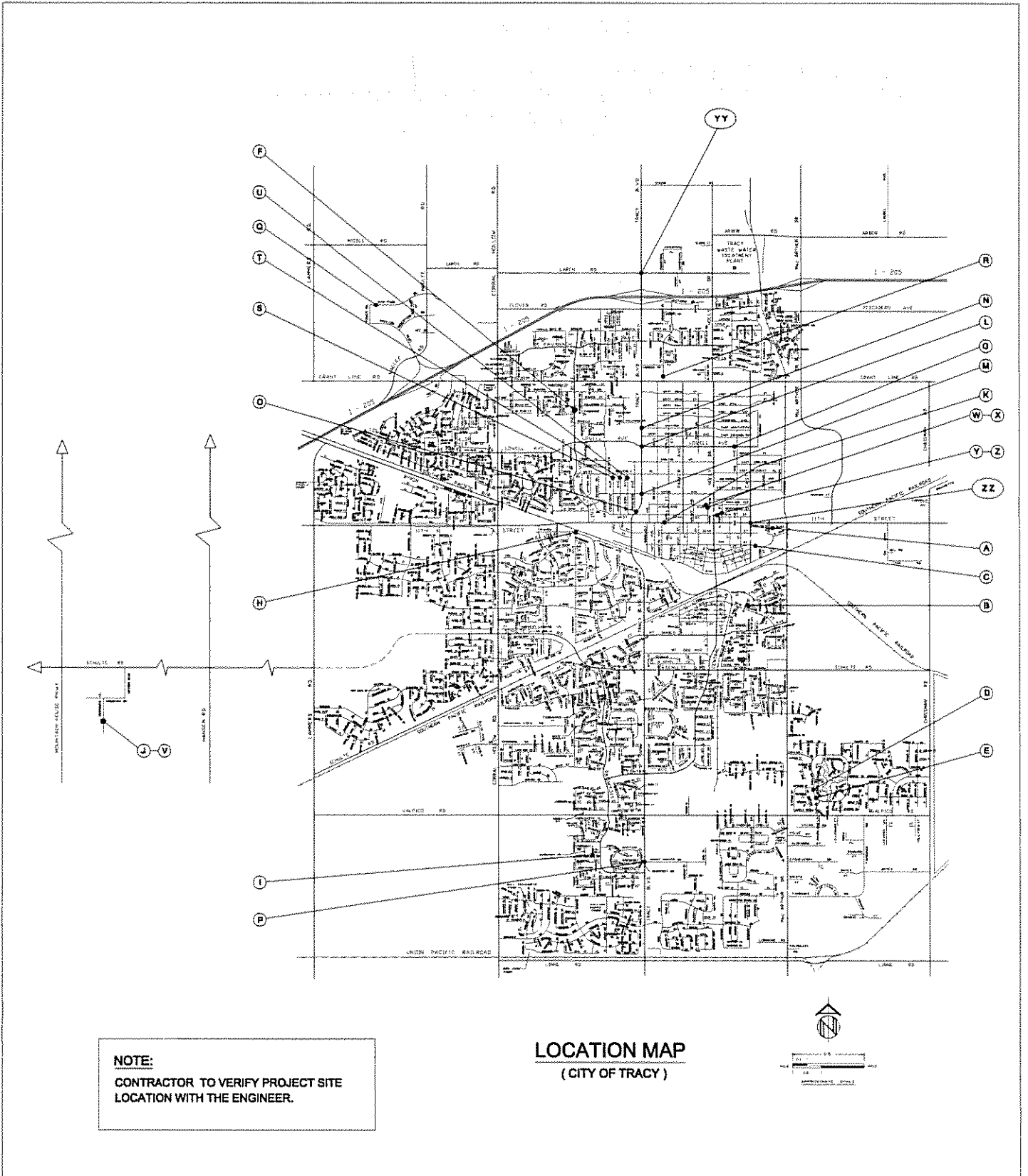
Prepared by: Binh Nguyen, Associate Civil Engineer  
Zabih Zaca, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, Utilities Director/Interim City Engineer  
Andrew Malik, Development Services Director  
Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager

#### ATTACHMENTS

Attachment A - Location Map





RESOLUTION 2015 - \_\_\_\_\_

AWARDING A CONSTRUCTION CONTRACT TO TRACY GRADING AND PAVING OF TRACY, CALIFORNIA, FOR THE SEWER AND STORM DRAIN REPLACEMENT FY 2014-2015 CIP 74098 AND 76062, AUTHORIZING A CONTINGENCY AMOUNT OF \$37,000 AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT

WHEREAS, This project is part of the City's ongoing commitment to maintain and improve public infrastructure, and

WHEREAS, Various sewer and storm drain facilities citywide are in deteriorated condition and in need of repair or replacement, and

WHEREAS, The project was advertised for competitive bids on October 30 and November 6, 2014, and six bids were received and publicly opened at 2:00 p.m., on Wednesday December 3, 2014, and

WHEREAS, Tracy Grading and Paving, of Tracy, California, was the lowest monetary bidder, bid analysis indicates their bid is responsive and the bidder is responsible, and

WHEREAS, Tracy Municipal Code Section 2.20.090(b) authorizes the City Manager to approve change orders up to the contingency amount approved by City Council, and

WHEREAS, The recommended contingency amount for this project is \$37,000, and

WHEREAS, This is an approved Capital Improvement Project. There will be no impact to the General Fund;

NOW, THEREFORE BE IT RESOLVED, That City Council awards a construction contract to Tracy Grading and Paving, of Tracy, California, for the Sewer and Storm Drain Replacement FY14-15 Project CIP 74098 and 76062 in the amount of \$185,000, authorizes a contingency amount of \$37,000, and authorizes the Mayor to execute the construction contract.

\*\*\*\*\*

The foregoing Resolution 2015 - \_\_\_\_\_ was adopted by the Tracy City Council on the 20th day of January 2015, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 1.D

REQUEST

**APPROVE AGREEMENT BETWEEN THE CITY OF TRACY, THE SOUTH COUNTY FIRE AUTHORITY, AND THE SAN JOAQUIN COUNTY EMERGENCY MEDICAL SERVICES AGENCY TO PROVIDE NON-TRANSPORT ADVANCED LIFE SUPPORT SERVICES AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT**

EXECUTIVE SUMMARY

In October 2014, City staff began negotiating a successor agreement with the San Joaquin County Emergency Medical Services Agency to provide non-transportation based Advanced Life Support or "Paramedic" Service to the jurisdictional area of the South County Fire Authority. All parties have come to a mutual agreement on terms and a two-year successor agreement is brought before Council for approval.

DISCUSSION

Health and Safety Code Section 1797.206 requires local Emergency Medical Services Agencies to be responsible for the implementation of Advanced Life Support (ALS) systems. California Code of Regulations, Chapter 4 requires a paramedic provider to have a written agreement with the local Emergency Medical Services Agency to participate in the Emergency Medical Service delivery system.

The City of Tracy and Tracy Rural Fire Protection District are member agencies of the South County Fire Authority (SCFA). The SCFA entered into an agreement with the San Joaquin County Emergency Medical Services Agency (SJCEMSA) on November 17, 2003 to provide non-transport ALS service within the jurisdictional area of the authority. This agreement remained in effect until April 30, 2014 with short-term agreements with benchmarks negotiated.

On May 1, 2014, staff began operating under a short-term agreement that identified specific performance benchmarks for the department to satisfy before a long-term successor agreement could be negotiated. The department achieved all required benchmarks to the satisfaction of the SJCEMSA by the required date of September 30, 2014. Benchmarks included system controls and program reporting requirements. Examples of these benchmarks are listed below:

- Implementation of electronic patient care reporting (ePCR) software
- Fund a full-time EMS Manager position to manage the ALS program
- A Peer review audit of 100% of ePCR's
- Identify, track and trend key indicators from continuous quality improvement data analysis
- Audit patient care reports for completeness
- Ensure compliance with HIPAA

In the subsequent months, the department continued to operate under the short-term agreement while the successor agreement (Attachment 1) with SJCEMSA was negotiated. If approved, the proposed agreement would be for a term of two years. A two-year term will allow all parties to experience the new conditions of the agreement and allow for adjustments upon renewal if necessary.

#### FISCAL IMPACT

By entering into this agreement, the department will continue to deliver non-transport ALS service within the adopted budget. There is no additional cost as a result of approving this agreement.

#### STRATEGIC PLAN

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

#### RECOMMENDATION

Staff recommends that Council approve the agreement between the City of Tracy, the SCFA, and the SJEMSA, allowing the fire department to continue providing non-transport Advanced Life Support Services.

Prepared by: Steven C. Bliss, Fire Captain

Reviewed by: David A. Bramell, Interim Fire Chief

Reviewed by: Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager

Attachment 1: Agreement authorizing the South County Fire Authority and the City of Tracy to provide advanced life support services as an integrated component of the San Joaquin County Emergency Medical Services System.

1     **Agreement authorizing the South County Fire Authority and the City of Tracy to**  
2             **provide advanced life support services as an integrated component of the**  
3             **San Joaquin County Emergency Medical Services System**  
4

5             This Agreement entered into by and between the COUNTY OF SAN JOAQUIN, a  
6 political subdivision of the State of California, hereinafter referred to as "County", the  
7 South County Fire Authority, a joint powers authority of the City of Tracy and the Tracy  
8 Rural Fire Protection District hereinafter jointly referred to as "Provider".  
9

10     WITNESSETH:

11             WHEREAS, Health and Safety Code section 1797.200 authorizes each County  
12 to develop a local EMS agency for the administration of emergency medical services;

13             WHEREAS, Health and Safety Code section 1797.204 requires the local EMS  
14 agency to plan, implement, and evaluate an EMS system consisting of an organized  
15 pattern of readiness and response services based on public and private agreements  
16 and operational procedures;

17             WHEREAS, Health and Safety Code section 1797.206 requires the local EMS  
18 agencies be responsible for the implementation of advanced life support (ALS) systems;

19             WHEREAS, Provider requests pursuant to Health and Safety Code Section  
20 1797.201 to participate in the County's Emergency Medical Services (EMS) system;

21             WHEREAS, Provider requests County authorization to provide ALS services  
22 within the County's EMS system;  
23

24             WHEREAS County desires the Provider to participate as an integrated component  
25 of the County's EMS system.  
26

27             NOW, THEREFORE THE PARTIES HERETO AGREE AS FOLLOWS:

28             I. PROVIDER SHALL:

- 29             A. Meet all program requirements, regulations, procedures, policies, and  
30             protocols as have been or may be established by the San Joaquin County  
31             EMS Agency.

- 1 B. Adhere to and be responsible for compliance to EMS rules and regulations  
2 established by the State as adopted and implemented by San Joaquin  
3 County EMS Agency.
- 4 C. Voluntarily and in good faith keep the EMS Agency informed of Provider's  
5 ability to adhere to EMS Agency policies and procedures and Provider's  
6 performance in the EMS system.
- 7 D. Provide non-ambulance based advanced life support (ALS) and basic life  
8 support (BLS) services in accordance with the policies and procedures of  
9 the San Joaquin County EMS Agency within the City limits of Tracy, the  
10 boundaries of the Tracy Rural Fire Protection District, and other service  
11 areas as may be approved by the San Joaquin County EMS Agency.
- 12 E. Have and maintain the capability at all times for paramedic units to  
13 conduct two-way radio communications with dispatch, base hospitals,  
14 receiving hospitals, other EMS providers as specified by the San Joaquin  
15 County EMS Agency, and maintain and operate communications  
16 equipment so as to ensure continued compatibility in a manner which will  
17 not degrade or interfere with the actual or intended operation of the  
18 County's communication system.
- 19 F. Be responsible for all expenses related to participation in the County's  
20 EMS system.
- 21 G. Data and Medical Records
- 22 1. Maintain an EMS Agency approved electronic PCR (ePCR) that  
23 adheres to EMS Agency standards. This ePCR software shall be  
24 National EMS Information System (NEMIS) compliant and HL7  
25 compatible, and be pre-approved by the EMS Agency for patient  
26 documentation on all patient contacts.
- 27 2. The ePCR shall be accurately completed and transmitted to the  
28 receiving hospital emergency department at the conclusion of the call  
29 using a secure connection.
- 30 3. The ePCR system shall allow for the timely transmission of required  
31 data elements to the EMS Agency in a digital format that allows direct

1 import into the EMS Agency's database in order to allow full  
2 countywide integration of ePCR and CAD data. The ePCR system  
3 must be capable of capturing and accurately reporting the California  
4 EMS Authority's Core Measures as defined by the EMS Agency.  
5 Provider's ePCR system shall be compatible with both NEMSIS and  
6 EMS Policy No. 6301. Any discrepancy between NEMSIS and EMS  
7 Agency policy shall be resolved in favor of compliance with EMS  
8 Agency policy. The EMS Agency shall have sole discretion to  
9 determine whether Provider complies with EMS Agency policy.

- 10 4. Provider shall provide the EMS Agency with remote read only ePCR  
11 access and the ability to generate reports using the ePCR system and  
12 training in the use of its ePCR system.
- 13 5. Provider personnel shall accurately and completely describe the  
14 prehospital patient care provided in accordance with EMS Agency  
15 standards.

16 H. Quality Improvement - Implement a revised quality improvement (QI)  
17 program that adheres to EMS Agency standards to include:  
18

- 19 1. The ability to identify, track and trend key indicators from CQI data  
20 analysis.
- 21 2. Submission of quarterly Key Performance Indicators (KPI) reports to  
22 EMS Agency.
- 23 3. Attendance and participation in monthly EMS Agency CQI Council  
24 Meetings.
- 25 4. Notifying the EMS Agency of all incidents in which Provider personnel  
26 fail to comply with policy and/or contractual requirements.
- 27 5. The formation of a Peer Review Committee (PRC) to review all off-  
28 going personnel's PCRs according to the timeline established in the  
29 CQI Plan.
- 30 6. The auditing of patient care reports (PCRs) using an audit tool, as  
31 approved in an EMS Agency approved QI plan, that identifies the  
32 appropriateness of patient documentation and patient care.

1 7. Retrospective prehospital care education and skill competency  
2 activities for all prehospital care personnel based upon analysis and  
3 recommendations of the PRC and EMS Agency CQI Council.

4 8. Prospective training to ensure Provider personnel have a mastery of  
5 EMS Agency policies and procedures.

6 I. Have and maintain a full-time equivalent (FTE) EMS QI or clinical  
7 specialist.

8  
9 II. HOLD HARMLESS:

10 Provider shall exonerate, indemnify, defend, and hold harmless County from  
11 and against any and all claims, demands, losses, damages, defense costs, or  
12 liability of any kind or nature which County may sustain or incur or which may  
13 be imposed upon it for injury to or death of persons, or damage to property as  
14 a result of, arising out of, or in any manner connected with Provider's  
15 performance under the terms of this contract, excepting any liability arising  
16 out of the intentional or negligent conduct of County. Such indemnification  
17 includes any damage to the person(s), or property(ies) of Provider and third  
18 persons.

19  
20 III. INSURANCE:

21 Provider shall procure and maintain in full force and effect during the term of  
22 this agreement comprehensive general and professional liability and medical  
23 malpractice insurance.

24  
25 IV. FAILURE TO COMPLY:

26 A. The EMS Administrator or EMS Medical Director may immediately  
27 terminate this agreement and Provider's authorization to provide ALS  
28 services and terminate Provider's authorization to participate in the  
29 County's EMS system based on a finding that Provider has failed to  
30 comply with any of the terms or conditions of this agreement or that

1 Provider has failed to make corrective actions ordered by the EMS  
2 Agency.

3 B. Provider may appeal the EMS Agency's findings in paragraph IV(A) to the  
4 Board of Supervisors after it complies with the EMS Agency's directive(s),  
5 including but not limited to a directive to terminate or cease service. An  
6 appeal must be filed within thirty (30) days of the date of the EMS  
7 Agency's finding.

8 C. The EMS Agency's findings and directive(s) shall remain in full force and  
9 effect until modified, vacated, or superseded by the Board of Supervisors.

10  
11 V. ALTERATION OF AGREEMENT:

12 No alteration, modification, or variation of the terms of this agreement shall be  
13 valid unless made in writing and signed by the parties hereto, and no oral  
14 understanding or agreement not incorporated herein shall be binding on the  
15 parties hereto.

16  
17 VI. TERM:

18 The term of this agreement shall commence on February 1, 2015, and shall  
19 continue until January 31, 2017, unless terminated earlier or extended  
20 pursuant to the terms and conditions of this Agreement.

21  
22 VII. COUNTY SHALL:

23 Authorize Provider to participate as an ALS provider in the San Joaquin  
24 County EMS system pursuant to the provisions of this agreement and the  
25 policies and procedures of the San Joaquin County EMS Agency, until such  
26 time that this agreement is terminated.



1 IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

2

County of San Joaquin

By: \_\_\_\_\_  
Dan Burch  
EMS Administrator  
San Joaquin County EMS Agency

Approved as to form:

South County Fire Authority

J. Mark Myles  
County Counsel

By: \_\_\_\_\_  
Jim Thoming  
Chairman, Board of Directors of the  
South County Fire Authority

By:

\_\_\_\_\_  
Zoey P. Merrill  
Deputy County Counsel

City of Tracy

By: \_\_\_\_\_  
Michael Maciel  
Mayor  
City of Tracy

3

RESOLUTION \_\_\_\_\_

APPROVING AN AGREEMENT BETWEEN THE CITY OF TRACY, THE SOUTH COUNTY FIRE AUTHORITY, AND THE SAN JOAQUIN COUNTY EMERGENCY MEDICAL SERVICES AGENCY TO PROVIDE ADVANCED LIFE SUPPORT SERVICES AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, Health and Safety Code 1797.200 authorizes each County to develop a local Emergency Medical Services (EMS) agency for the administration of Emergency Medical Services, and

WHEREAS, Health and Safety Code section 1797.204 requires the local EMS agency to plan, implement, and evaluate the EMS system consisting of an organized pattern of readiness and response services based on public and private agreements and operational procedures, and

WHEREAS, The San Joaquin County EMS Agency and the South County Fire Authority of which the City of Tracy and Tracy Rural Fire Protection District are member agencies, entered into an agreement on November 17, 2003 to provide Advanced Life Support Services, and

WHEREAS, The San Joaquin County EMS Agency, South County Fire Authority, and the City of Tracy have recently negotiated a two year successor agreement, and

WHEREAS, The Fire Department requests, pursuant to Health and Safety Code Section 1797.201, to continue to participate as an Advanced Life Support provider in the County's Emergency Medical Services system;

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves the two year successor agreement with the San Joaquin County Emergency Medical Services Agency and South County Fire Authority to provide Advanced Life Support Services and authorizes the Mayor to execute the agreement.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by the Tracy City Council on the 20th day of January, 2015, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:  
  
\_\_\_\_\_  
INTERIM CITY CLERK

AGENDA ITEM 1.E

REQUEST

**AUTHORIZATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH CENTRAL VALLEY SOFTBALL UMPIRE ASSOCIATION TO PERFORM UMPIRING SERVICES FOR THE CITY OF TRACY AND FOR THE MAYOR TO SIGN THE AGREEMENT**

EXECUTIVE SUMMARY

On October 8, 2014, the City of Tracy issued a Request for Proposals to obtain the services of a contractor to perform Umpiring Services for the City. There were two proposal submitted by the October 29, 2014 deadline. The proposal submitted by Central Valley Softball Umpire Association was determined to be acceptable. Staff is now requesting that City Council approve a contract between the City and Central Valley Softball Umpire Association for the provision of Umpiring Services for 2015 and 2016.

DISCUSSION

A Request for Proposals was posted on the City's website and also provided to the Bay Area News Group on or about October 8, 2014. Two proposals were submitted to the City by the deadline of October 29, 2014. After reviewing the proposal from Central Valley Softball Umpire Association, staff determined that the proposal was acceptable. Central Valley Softball Umpire Association has been providing these same services to surrounding cities in the Stanislaus County for over 30 years. Staff has negotiated an agreement with Central Valley Softball Umpire Association.

The rates are as follows: \$32 for one man umpire slow pitch games and \$43 for two man umpires for slow pitch games. \$37 for one man umpire fast pitch games and \$67 for two man umpires for fast pitch games. \$38 for two man umpires for slow pitch tournament games and \$62 for two man umpires for fast pitch tournament games. \$25 per team registration. These negotiated rates reflect current market levels for these services, and sets the umpiring fee structure for the 2015 and 2016 seasons.

The proposed agreement also permits the City Manager, at the City Manager's discretion, to extend the agreement for two additional one-year terms provided that the Tracy City Council through the annual budget process appropriates the funds for these services. The proposed agreement also permits the City to cancel the program in the event that there is insufficient registration to satisfy the expense of operating the program. The Professional Services Agreement is attached as Exhibit "A."

STRATEGIC PLAN

This agenda item supports the Council Strategic Priority Quality of Life Strategy, specifically:

**Goal 1:** Improve current recreation and entertainment programming & services to reflect the community and match trending demands.

FISCAL IMPACT

Approximately \$30,000 has been included for Umpiring Services in the FY 2014/15 budget. Under the proposed agreement with Central Valley Softball Umpire Association, umpire fees will be distributed to Central Valley Softball Umpire Association.

RECOMMENDATION

That the City Council, by resolution, authorize entering into a Professional Services Agreement with Central Valley Softball Umpire Association to perform Umpiring Services for the 2015 and 2016 seasons of the Tracy Adult Softball Program for the City of Tracy for the period of February 2, 2015 to November 30, 2016, with options to extend the Agreement for two one-year terms if the City Manager finds the services provided to be satisfactory and Council has appropriated money through the budget process for any such extensions and authorize the Mayor execute the Agreement.

Prepared by: Jolene Jauregui, Recreation Services Supervisor

Reviewed by: Kim Scarlata, Division Manager II  
Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment - Exhibit "A" – Professional Services Agreement

**City OF TRACY**  
**PROFESSIONAL SERVICES AGREEMENT**  
**Conducting Tracy's Softball Program**

This Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and Central Valley Softball Umpire Association, a California corporation ("Contractor").

**RECITALS**

- A. CITY desires to contract for services for conducting the City's Softball Program.
- B. On October 8, 2014, CITY issued a Request for Proposals for Conducting Tracy's Softball Program (hereinafter "Project").
- C. On October 10, 2014, CONTRACTOR submitted its proposal for the Project to the City. After negotiations between CITY and CONTRACTOR, the parties have reached an agreement for the performance of services in accordance with the terms set forth in this agreement.
- D. On January 6, 2015, CITY's City Council authorized the execution of this Agreement, pursuant to resolution No. \_\_\_\_\_.

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

- 1. **SCOPE OF SERVICES.** Contractor shall perform the services described in Exhibit "A" attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Contractor's Authorized Representative: Thomas Eddy. Contractor shall not replace its Authorized Representative, nor shall Contractor replace any of the personnel listed in Exhibit "A," nor shall Contractor use any subcontractors or subConsultants, without City's prior written consent.
- 2. **TIME OF PERFORMANCE.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Contractor shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Contractor. Contractor shall submit all requests for extensions of time to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.
- 3. **INDEPENDENT CONTRACTOR STATUS.** Contractor is an independent Contractor and is solely responsible for all acts of its employees, agents, or subcontractors,

**City OF TRACY -- PROFESSIONAL SERVICES AGREEMENT**

**2015-2016 Tracy Softball Program**

**Page 2 of 9**

including any negligent acts or omissions. Contractor is not City's employee and Contractor shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization to Contractor. Contractor is free to work for other entities while under contract with the City. Contractor is not entitled to City benefits.

- 4. CONFLICTS OF INTEREST.** Contractor (including its employees, agents, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Contractor maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Contractor's conflicting interest.
- 5. COMPENSATION.**

  - 5.1 General.** For services performed by Contractor under this Agreement, City shall pay Contractor in which Contractor provides the services set forth in Exhibit "A" (the "Programs"). Contractor's fee for this Agreement is Not to Exceed \$30,000.00. Contractor's billing rates shall cover all costs and expenses for Contractor's performance of this Agreement. No work shall be performed by Contractor in excess of the Not to Exceed amount without the City's prior written approval.
  - 5.2 Invoices.** Contractor shall submit monthly invoices to the City describing the services performed, including times, dates, and names of persons performing the service.
  - 5.3 Payment.** Within 30 days after the City's receipt of invoice, City shall make payment to the Contractor based upon the services described on the invoice and approved by the City.
- 6. TERMINATION.** The City may terminate this Agreement by giving ten days written notice to Contractor. Upon termination, Contractor shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Contractor for this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
- 7. OWNERSHIP OF WORK.** All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's services, or upon demand from the City. No such documents shall be revealed or made available by Contractor to any third party without the City's prior written consent.
- 8. INDEMNIFICATION.** Contractor shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Contractor's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

## City OF TRACY -- PROFESSIONAL SERVICES AGREEMENT

### 2015-2016 Tracy Softball Program

Page 3 of 9

In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Contractor" means the Contractor, its employees, agents and subContractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses in connection therein) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

(The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

The provisions of this section survive completion of the services or the termination of this contract, and are not limited by the provisions of Section 10 relating to insurance.

9. **BUSINESS LICENSE.** Before beginning work under this Agreement, Contractor shall obtain a City of Tracy Business License.

10. **INSURANCE.**

10.1 **General.** Contractor shall, throughout the duration of this Agreement, maintain insurance to cover Contractor, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth here.

10.2 **Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

10.3 **Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") "claims made" coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.

10.4 **Workers' Compensation** coverage shall be maintained as required by the State of California.

10.5 **Professional Liability** "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Contractor in an amount not less than \$1,000,000 per claim.

10.6 **Endorsements.** Contractor shall obtain endorsements to the automobile and commercial general liability with the following provisions:

10.6.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

10.6.2 For any claims related to this Agreement, Contractor's coverage shall be primary insurance with respect to the City. Any insurance

**City OF TRACY -- PROFESSIONAL SERVICES AGREEMENT**

**2015-2016 Tracy Softball Program**

**Page 4 of 9**

maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

- 10.7 Notice of Cancellation.** Contractor shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Contractor shall immediately obtain a replacement policy.
- 10.8 Authorized Insurers.** All insurance companies providing coverage to Contractor shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 10.9 Insurance Certificate.** Contractor shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City, no later than five days after the execution of this Agreement.
- 10.10 Substitute Certificates.** No later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement, Contractor shall provide a substitute certificate of insurance.
- 10.11 Contractor's Obligation.** Maintenance of insurance by the Contractor as specified in this Agreement shall in no way be interpreted as relieving the Contractor of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Contractor may carry, at its own expense, such additional insurance as it deems necessary.

**11. ASSIGNMENT AND DELEGATION.** This Agreement and any portion of it shall not be assigned or transferred, nor shall any of the Contractor's duties be delegated, without the City's written consent. Any attempt to assign or delegate this Agreement without the City's written consent shall be void and of no effect. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

**12. MISCELLANEOUS.**

**12.1 Notices.** All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party as follows:

To City:  
Kim Scarlata  
Division Manager II  
333 Civic Center Plaza  
Tracy, CA 95376

To Contractor:  
CVSUA  
Thomas Eddy, President  
5016 Assisi Court  
Salida, CA 95368



**City OF TRACY -- PROFESSIONAL SERVICES AGREEMENT**

**2015-2016 Tracy Softball Program**

**Page 5 of 9**

With a copy to:

City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated above, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated above.

**12.2 Modifications.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

**12.3 Waivers.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

**12.4 Severability.** If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.

**12.5 Jurisdiction and Venue.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.

**12.6 Entire Agreement.** This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements.

**12.7 Compliance with the Law.** Contractor shall comply with all local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.

**12.8 Standard of Care.** Unless otherwise specified in this Agreement, the standard of care applicable to Contractor's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

**13. SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Contractor

**City OF TRACY -- PROFESSIONAL SERVICES AGREEMENT**

**2015-2016 Tracy Softball Program**

**Page 6 of 9**

and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

The parties agree to the full performance of the terms set forth here.

City of Tracy

Central Valley Softball Umpire Association

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

Title: Mayor

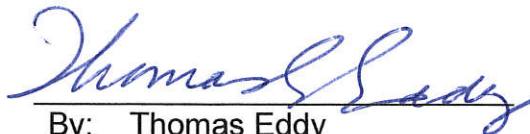
Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
By: Carole Fleischmann

Title: Interim City Clerk

Date: \_\_\_\_\_



\_\_\_\_\_  
By: Thomas Eddy

Title: President

Date: Dec 1, 2014

Fed. Employer ID No. 46-0561113



\_\_\_\_\_  
By: Gary Ulibarri

Title: Treasurer

Date: 12-1-2014

Approved As To Form:

\_\_\_\_\_  
By: Bill Sartor

Title: Assistant City Attorney

Date: \_\_\_\_\_

Exhibits:

- A Scope of Services, including personnel and time of performance (See Agreement sections 1 and 2.)

**EXHIBIT "A"**

**Scope of Services**

For the term of this agreement, Contractor shall provide the following services:

1. The term of the agreement for umpiring services will run from February 2, 2015, to November 30, 2016, for approximately 150 games each season.
2. Contractor shall supply umpiring staff for 70-minute slow pitch league games every weekday evening and Sunday; an hour and thirty minute adult and/or youth fast pitch league games one weekday evening; 70-minute adult slow pitch tournament games on Saturday and/or Sunday; an hour and thirty minute adult and/or youth fast pitch tournament games on Saturday and/or Sunday.
3. Contractor shall provide single person umpiring crews for all league slow pitch games; two person umpiring crews for all adult slow pitch league playoff and tournament games; and two person umpiring crews for all league and tournament fast pitch games.
4. Contractor shall provide registered officials for every City of Tracy Recreation Division League and Tournament game.
5. Contractor shall maintain a quality corps of officials who are certified through a nationally recognized Softball Organization.
6. Contractor shall provide an "Umpire In Chief" (UIC) on site for every City of Tracy Recreation Division League and playoff game.
7. Contractor shall provide a detailed billing every month.
8. Contractor shall provide a detailed schedule of officials for every league game to the Recreation Supervisor in charge at least two weeks in advance and every tournament game at least three days in advance.
9. Contractor shall register each team with a nationally recognized Softball Organization.
10. Contractor shall provide a rulebook from a nationally recognized Softball Organization for each registered team.
11. Contractor shall have its umpires comply with all the City of Tracy League and Tournament regulations in the performance of all duties.
12. Contractor shall have its umpires comply with all regulations in the rulebook of

**City OF TRACY -- PROFESSIONAL SERVICES AGREEMENT**

**2015-2016 Tracy Softball Program**

**Page 8 of 9**

- the nationally recognized Softball Organization, except where City of Tracy League regulations supersede, in the performance of all duties.
13. Contractor shall have its umpires appear at every game in proper umpire sanctioned attire with proper umpire equipment.
  14. City of Tracy Recreation Division staff shall have the right to demand that umpires who do not comply with city softball policies, or receive multiple negative comments from league or tournament participants, not be assigned to work in Tracy.
  15. Contractor shall register all umpires with the appropriate association.
  16. Contractor shall provide various training clinics at the beginning of each softball year and throughout the remaining softball year as deemed necessary.
  17. Contractor shall certify Proposer's staff in CPR and First AID either through the American Red Cross or the American Heart Association.
  18. Contractor shall critique all umpires on a regular basis with the goal of improving the umpiring corps.

**City OF TRACY -- PROFESSIONAL SERVICES AGREEMENT**

**2015-2016 Tracy Softball Program**

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**Rates**

1. CONTRACTOR will provide one person umpiring crew at \$32.00 per umpire per slow pitch League game.
2. CONTRACTOR will provide one person umpiring crew at \$37.00 per umpire per fast pitch League game.
3. CONTRACTOR will provide two person umpiring crews at \$43.00 per umpire per slow pitch League game.
4. CONTRACTOR will provide two person umpire crews at \$67.00 per umpire per League fast pitch game.
5. CONTRACTOR will provide two person umpire crews at \$38.00 per umpire per Tournament slow pitch game.
6. CONTRACTOR will provide two person umpire crews at \$62.00 per umpire per Tournament fast pitch game.
7. CONTRACTOR will provide one Umpire in Chief (UIC) each day for any championship tournament at a cost of \$5.00 per game.
8. CONTRACTOR will bill the CITY for each month's games. Payments to CONTRACTOR will be made within 30 days of receipt of invoice.

**9. LIQUIDATED DAMAGES:**

**No Show**

In the event that no umpires show up and the game(s) need to be rescheduled by the Recreation Division, CONTRACTOR shall pay, as liquidated damages, the following costs which both parties have reasonably estimated to be the costs that would likely be incurred by the Recreation Division staff to reschedule the games affected.

<b>Staff Costs:</b>	<b>\$40.00</b>
<b>Lights:</b>	<b>\$12.00</b>
<b><u>Administrative:</u></b>	<b><u>\$20.00</u></b>
<b>Total:</b>	<b>\$72.00</b>

RESOLUTION \_\_\_\_\_

AUTHORIZING THE MAYOR TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH CENTRAL VALLEY SOFTBALL UMPIRE ASSOCIATION TO PERFORM UMPIRING SERVICES FOR THE CITY OF TRACY IN AN AMOUNT NOT TO EXCEED \$30,000 FOR THE PERIOD OF FEBRUARY 2, 2015 TO NOVEMBER 30, 2016

WHEREAS, The City has requested proposals and bids for the performance of umpiring services for the 2015-16 season of the Tracy Adult Softball program; and

WHEREAS, Central Valley Softball Umpire Association submitted a proposal, and the City has come to an agreement with Central Valley Softball Umpire Association, for the performance of umpiring services for the 2015-16 season of the Tracy Adult Softball program; and

WHEREAS, The agreed upon lump sum of \$30,000 for providing umpiring services for the 2015-16 season is fair market value for the services being provided; and

WHEREAS, The contract amount accounts for approximately 375 games to be played over 3 season, accommodating over 65 teams; and

WHEREAS, The expenditures have been accounted for in the current FY 2015/16 budget.

NOW, THEREFORE, BE IT RESOLVED, That City Council hereby authorizes the Mayor to execute the Professional Services Agreement with Central Valley Softball Umpire Association to perform umpiring services for the 2015-16 season of the Tracy Adult Softball program for an amount not to exceed \$30,000 for the period of February 2, 2015 to November 30, 2016.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 20<sup>th</sup> day of January, 2015, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 1.F

REQUEST

**AUTHORIZE THE PURCHASE OF TWO PATROL VEHICLES (CHEVROLET CAPRICE AND CHEVROLET TAHOE) FROM FOLSOM CHEVROLET OF FOLSOM, CALIFORNIA**

EXECUTIVE SUMMARY

The Police Department needs to replace two existing black and white patrol vehicles in the fleet. They will be replaced by a Chevrolet Caprice for regular patrol and a Chevrolet Tahoe for a Sergeants' vehicle

DISCUSSION

In the 2014-2015 fiscal year budget, \$88,000 is designated for replacement of police vehicles, including the purchase and out-fitting of two Ford Crown Victoria Police Interceptor models. Under the current program, the out-of-production Ford Crown Victoria vehicles are replaced by Chevrolet Caprice models configured with a patrol vehicle package.

After reviewing past performance of the vehicles and the needs of specific assignments, the decision was made to replace the existing Crown Victoria used by the shift supervisors/Sergeants with a SUV in order to accommodate a large amount of tactical equipment carried specifically in that vehicle. Research showed that the Chevrolet Tahoe is the preferred choice over the Ford Explorer due to vehicle configuration.

Staff was able to locate both vehicles from Folsom Chevrolet in Folsom, California. This dealer pre-ordered and stocked the designated vehicles, which are available under a cooperative purchasing agreement with Sacramento County.

Staff is requesting that Council approve a the purchase of the purchase of one Chevrolet Caprice and one Chevrolet Tahoe from Folsom Chevrolet under a cooperative purchasing agreement through the County of Sacramento as allowed under Section 2.20.220 of the City's Municipal Code (the purchasing ordinance).

STRATEGIC PLAN

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

FISCAL IMPACT

In fiscal year 2014-2015, \$88,000 has been designated for the replacement of Crown Victoria Police Interceptor vehicles and associated emergency equipment. Folsom Chevrolet's bid of \$63,243 was within budget.

RECOMMENDATION

Staff recommends the City Council approve, by resolution, the purchase of one Chevrolet Caprice and one Chevrolet Tahoe from Folsom Chevrolet in the amount of \$63,243 from the approved fiscal year 2014-2015 vehicle replacement budget.

Prepared by: Alex Neicu, Lieutenant

Reviewed by: Mark Duxbury, Acting Chief of Police

Approved by: Troy Brown, City Manager



RESOLUTION \_\_\_\_\_

AUTHORIZING THE PURCHASE OF  
ONE CHEVROLET CAPRICE AND ONE CHEVROLET TAHOE FROM  
FOLSOM CHEVROLET OF FOLSOM, CALIFORNIA

WHEREAS, The procurement of two replacement police vehicles including the purchase and outfitting of both vehicles with associated emergency equipment has been budgeted in the 2014-2015 fiscal year vehicle replacement budget,

WHEREAS, Staff had recommended that two Ford Crown Victoria vehicles be replaced with a Chevrolet Caprice and a Chevrolet Tahoe,

WHEREAS, Folsom Chevrolet pre-ordered and has in stock the 2014 Chevrolet Caprice and 2014 Chevrolet Tahoe, and

WHEREAS, These vehicles are available to purchase under a cooperative purchasing agreement with the County of Sacramento as authorized under Tracy Municipal Code section 2.20.220 (the purchasing ordinance).

NOW, THEREFORE, BE IT RESOLVED that the City Council finds that it is in the best interest of the City to forego the formal bid process and does hereby authorize the purchase of one Chevrolet Caprice and one Chevrolet Tahoe vehicles from Folsom Chevrolet in the amount of \$63,243.

\*\*\*\*\*

The foregoing Resolution \_\_\_\_\_ is hereby passed and adopted by the Tracy City Council this \_\_\_\_\_ day \_\_\_\_\_, 2015, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 1.G

REQUEST

**APPROVE AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT  
BETWEEN THE CITY OF TRACY AND MANAGEMENT PARTNERS, INC. AND  
APPROVE FUNDING ALLOCATION**

EXECUTIVE SUMMARY

In May, 2014, Management Partners, Inc. was initially retained by the City to provide interim management consulting services for the Administrative Services Department during the recruitment process for City Manager while the Administrative Services Department (ASD) Director was Acting Assistant City Manager. Under the same Agreement, Mr. Ray Durant of Management Partners was once again retained on December 3, 2014 to provide similar services through December 31<sup>st</sup> during the recruitment process for a new City's ASD Director.

Because the recruitment process has been extended, the City wishes to extend the services of Management Partners until such time that the vacancy has been filled (which is estimated to be in May or June, 2015). The fee for such services for six months will be approximately \$131,000 and will be funded through the vacant ASD Director's salary savings.

DISCUSSION

On May 23, 2014, the Interim City Manager<sup>1</sup> entered into a Professional Services Agreement with Management Partners, Inc., for an amount not to exceed \$45,000 to provide management advice on day-to-day activities for the Finance Division; review, revise, and prepare policies; provide analytical services; and conduct special projects during the duration that the former ASD Director, Jenny Haruyama, served as Acting Assistant City Manager. Ray Durant was assigned by Management Partners to perform the interim management consulting services.

Although the services of Mr. Durant ceased when Ms. Haruyama resumed her duties as the ASD Director, they were reinstated on December 3, 2014 through the execution of Amendment No. 1 by the City Manager upon the departure of Ms. Haruyama who accepted a position with the City of Livermore. The fee for Mr. Durant's services was covered by the original Agreement's \$45,000, which was not fully expended, and was paid for through salary savings of the vacant City Manager's position.

The ASD Director vacancy is occurring during the City's annual budget preparation period and during the implementation of the City's new City-wide financial software system. It is therefore desired that Management Partners' Mr. Durant, whom has expertise in both areas, continue interim management consulting services for the ASD until such time that the director's position is filled. This will allow a

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<sup>1</sup> Maria Hurtado served the City of Tracy as Interim City Manager in 2014 during the recruitment process to fill the City Manager vacancy.

more streamlined conduit of information to the City Manager on matters of the City Finance, Human Resources and Information Technology Divisions as well as provide program continuity and oversight.

### STRATEGIC PLAN

This item is in accordance with Council Governance Strategy, Goal 2: Ensure continued fiscal sustainability through budgetary and financial stewardship; Objective 3: Enhance Fiscal Transparency.

### FISCAL IMPACT

Salary savings from the vacant ASD Director's salary will be used to pay for the consulting services. Mr. Durant is anticipated to work four days per week. Management Partner's monthly fee will be on average \$21,833<sup>2</sup>. The General Fund will pay for the cost of these services. However, at year-end, the General Fund will receive indirect cost reimbursements from other City operating funds. The reimbursement will be approximately 35% of the total costs. Total compensation for January through June, 2015 will be approximately \$131,000.

### RECOMMENDATION

It is recommended that City Council approve Amendment No. 2 to the Professional Services Agreement between the City of Tracy and Management Partners, Inc., and approve a funding appropriation of \$131,000.

### ATTACHMENT

Amendment No. 2 to the Professional Services Agreement between the City of Tracy and Management Partners, Incorporated, and its Exhibit A-2 (Scope of Work and Fee Schedule)

Prepared by: Anne H. Bell, Management Analyst II, Administrative Services Department  
Reviewed by: Maria Hurtado, Assistant City Manager  
Approved by: Troy Brown, City Manager

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<sup>2</sup> The fee is \$125 per hour plus travel expenses.

**CITY OF TRACY  
AMENDMENT NO. 2 TO THE  
PROFESSIONAL SERVICES AGREEMENT FOR  
INTERIM MANAGEMENT CONSULTING SERVICES**

This Amendment No. 2 ("Amendment") to the Professional Services Agreement for Interim Management Consulting Services is entered into between the City of Tracy, a municipal corporation ("City"), and Management Partners, Incorporated (hereinafter "Consultant").

**RECITALS**

- A. The City and Consultant entered into a Professional Services Agreement ("Agreement") for Interim Management Consulting Services which was authorized by the Interim City Manager on May 23, 2014.
- B. The interim services of Management Partners were performed from July 1, 2014 through August 31, 2014.
- C. Upon the vacancy of the City's Administrative Services Department Director's position, the services of Management Partners were reinstated on December 3, 2014 through December 31, 2014 through the execution of Amendment No. 1 by the City Manager.
- D. The extension of the recruitment of the City's Administrative Services Department Director has necessitated an Amendment for an extension of services through June, 2015 or the successful recruitment of the Administrative Services Department Director, whichever occurs first.

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

- 1. **Incorporation by Reference.** This Amendment incorporates by reference all terms set forth in the Agreement and Amendment No. 1, unless specifically modified by this Amendment. The terms which are not specifically modified by this Amendment shall remain in effect.
- 2. **Terms of Amendment.** Section 1, SCOPE OF SERVICES of the Professional Services Agreement ("Agreement") for Interim Management Consulting Services is hereby amended to include the services described in Attachment "A-2" attached hereto and incorporated herein by reference.

Section 5.1. COMPENSATION of the Agreement is hereby amended to increase the not to exceed amount by \$131,000.

- 3. **Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.

**CITY OF TRACY**

**Amendment No. 2 to Agreement with Management Partners, Inc.**

**Page 2 of 4**

- 4. **Severability.** If any term of this Amendment is held invalid by a court of competent jurisdiction, the Amendment shall be construed as not containing that term, and the remainder of this Amendment shall remain in effect.
  
- 5. **Signatures.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment. This Amendment shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

The parties agree to the full performance of the terms set forth here.

City of Tracy

Management Partners, Inc.

By: \_\_\_\_\_  
Michael Maciel  
Title: Mayor

By:  \_\_\_\_\_  
Gerald E. Newfarmer  
Title: President and CEO

Date: \_\_\_\_\_

Date: 1-7-15 \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Carole Fleishmann  
Title: Interim City Clerk

Date: \_\_\_\_\_

Approved as to form

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

Date: \_\_\_\_\_

**CITY OF TRACY**

**Amendment No. 2 to Agreement with Management Partners, Inc.**

**Page 3 of 4**

1. While the City of Tracy's Administrative Services Director position is vacant, and while the City recruits to fill that position, the Consultant shall provide the following services:
  - Management advice on day-to-day activities of the Administrative Services Department
  - Review, revise, and prepare policies
  - Provide analytical services
  - Conduct special projects; and,
  - Provide advice to the City's Leadership team.
  
2. Consultant shall assign Ray Durant to perform these services while working for and at the direction of Consultant; and shall provide expert consulting advice and services to the City's satisfaction.
  - Consultant shall provide all insurance, training, and administrative support (including company equipment) as necessary during the term of this Agreement.
  - Consultant shall work approximately four days per week.
  
3. Consultants shall provide expert advice to the City of Tracy as needed, including financial and senior level analyses. Other staff of Consultant available to City if needed are as follows:
  - Andrew Belknap, Regional Vice President  
Expertise: Public Safety; Public Works, Transportation and Commerce; Community Development; Culture and Recreation; Policy, Administration and Finance
  
  - Bob Leland, Special Advisor (Finance)  
Expertise: Policy, Administration and Finance
  
  - Larry Lisenbee, Special Advisor (Budget)  
Expertise: Policy, Administration and Finance
  
  - Michael Bridges, Senior Management Advisor  
Expertise: Public Safety; Public Works, Transportation and Commerce; Culture and Recreation; Policy, Administration and Finance
  
  - Preeti Piplani, Management Analyst  
Expertise: Policy, Administration and Finance

**FEE SCHEDULE**

**CITY OF TRACY**

**Amendment No. 2 to Agreement with Management Partners, Inc.**

**Page 4 of 4**

Consultant shall provide interim management consulting services based on an hourly rate plus expenses.

- Actual Consultant hours, along with travel expenses, will be reimbursed by the City at a rate of \$125 per hour for Ray Durant.
- Travel expenses shall consist of mileage based on the IRS standard rate for 2015.
- Other staff of Consultant shall be provided on an as-needed basis at request by the City at Consultant's regular hourly rates ranging from \$75 to \$250 per hour depending upon the individual assigned to the project.

RESOLUTION \_\_\_\_\_

**APPROVING AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TRACY AND MANAGEMENT PARTNERS, INC., AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT AND APPROVING A FUNDING ALLOCATION OF \$131,000**

WHEREAS, On May 23, 2014 the Interim City Manager approved the hiring of a municipal management consulting services to provide management advice on day-to-day activities for the Finance Division; review, revise, and prepare policies; provide analytical services; and conduct special projects during that time that the Administrative Services Department Director was Acting Assistant City Manager, and

WHEREAS, In May, 2014, the City of Tracy entered into a Professional Services Agreement with Management Partners, Inc. to perform said services, and

WHEREAS, The City Manager approved Amendment No. 1 to the Professional Services Agreement Between the City of Tracy and Management Partners, Inc., extending the duration of the services through December, 2014, and

WHEREAS, Management Partners has performed services per the terms of the Professional Services Agreement and Amendment No. 1, the extended recruitment process for the City's Administrative Services Department Director during the annual budget preparation period and implementation of the City's new financial software system makes it prudent to extend the services of Management Partners;

NOW, THEREFORE, BE IT RESOLVED, That the City Council does hereby approve Amendment No. 2 to the Professional Services Agreement between the City of Tracy and Management Partners, Inc., authorizes the Mayor to execute the Amendment, and approves a funding appropriation of \$131,000 from the General Fund which will be partially reimbursed at year-end by Internal Service Funds.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 20th day of January, 2015 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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



AGENDA ITEM 1.H

REQUEST

**APPROVE AMENDMENTS TO THE CITY COUNCIL POLICY RELATED TO PROCEDURES FOR PREPARATION, POSTING AND DISTRIBUTION OF AGENDA AND THE CONDUCT OF PUBLIC MEETINGS INCLUDING CHANGING FROM SUMMARY TO ACTION MINUTES**

EXECUTIVE SUMMARY

This agenda item requests an amendment to the Minutes Section of the Council policy to move from summary to action minutes and includes additional administrative updates.

DISCUSSION

The Tracy Municipal Code states that the City Clerk shall be responsible for recording and maintaining a record of Council proceedings. In Tracy, the minutes are in the format of "*Summary*" Minutes. The practice in Tracy has been that following the Council meeting, and ideally before the next Council meeting, the minutes are typically completed. The process of completing the summary minutes takes several hours spread over a few days depending on the length of the meeting and the Clerk's office workload, as it requires listening to the audio tape for confirmation and clarification of the proceedings.

State Law only requires the minutes to include the actions taken. "*Action*" Minutes include all actions taken by the Council, and a listing of speakers during public comment. Since cities have moved to live streaming of Council meetings and video archiving, today's best practice is to prepare action-orientated minutes that are accurate, brief and clear. Many cities that videotape and/or audiotape their meetings have changed from Summary minutes to Action minutes. Attachment A is an article discussing the "Best Practice" benefits of Action Minutes, entitled "Less is More: Action Minutes Serve the City Best." (Attachment A).

Additionally, as part of a best practices review completed by Lee Price, MMC, for the City of Tracy's City Clerk Office, the following recommendation was made:

*"Minutes preparation is a core responsibility for the Clerk. GC§36814 requires that the Clerk prepare an accurate record of the proceedings and the minutes are considered the "official" record of the meeting. New law also requires that the Clerk include in the Minutes a breakdown of the vote. The City Clerk's Office is behind in the preparation of meeting minutes.... A quick review of minutes on the City's website reveals that the minutes for regular meetings are written in a summary format, which is time-consuming to write. The minutes include background which is either included in the staff report or provided orally by staff*

*members and other unnecessary discussion should only be included if it is germane to the outcome (generally a directive other than, in addition to, or different from, the recommended action outlined on the agenda, but not Q&A, or “he said, she said”).*

The reduced staffing levels over the last several years, length of some Council meetings, and retirement of the City Clerk, have made it difficult to complete the minutes in a timely manner. Changing to Action Minutes will save as much as 4-5 hours per week in staff time. This recommended change from summary to action minutes will ensure that the minutes taken at any given meeting will appear on the next City Council agenda for Council approval. The City will make available the video or DVD to any person who requests additional detail or a complete record of a particular discussion of any Council agenda item from any Council meeting, either through the City Clerk’s office or the City’s website. Lastly, to ensure consistency, it is recommended that the Commission minutes are in the same format as that of Council. If the amendments are approved, Commission minutes will change from Summary minutes to Action minutes over the next couple of months.

To illustrate how Action minutes will capture the actions taken by Council, attached are examples of the October 21, 2014 City Council meeting minutes, both in Summary and Action Minute formats (Attachments B & C). On Attachment B, you will note little change to the formalities, the Consent Calendar and the public comment. On the Regular Calendar, the staff report information and discussion is omitted, given that the staff report is available on line in its entirety. The names of the public who spoke either at a public hearing or as part of public comment are recorded, as well as the Council actions and votes. By capturing the actions, public speakers/comments, and votes, and omitting the staff report information the number of pages is reduced from 13 (Summary minutes) to 6 pages (Action minutes).

Lastly, additional minor administrative changes are recommended to reflect changes that have occurred since the current Policy was last amended. These changes are set forth in Attachment D. Examples of the changes include: changing the name of the Community Development Agency to reflect that it is now the Successor Agency; removing the requirement for Agendas to be posted at the Community Center because they will still be posted in several other locations, including at City Hall; clarifying that speakers are not required to provide their names and addresses as a condition of speaking; and, to comply with a recent change in the law, requiring each Council Member’s vote or abstention on any action to be reflected in the minutes.

### STRATEGIC PLAN

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

### FISCAL IMPACT

There is no fiscal impact.

RECOMMENDATION

Staff recommends that City Council amend the City Council Policy related to Procedures for preparation, posting and distribution of agenda and the conduct of public meetings and move from summary to action minutes.

Prepared by: Carole Fleischmann, Interim City Clerk

Reviewed by: Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

- Attachment A: Article "Less is More: Action Minutes Serve the City Best", by Professional Registered Parliamentarian Ann G. Macfarlane
- Attachment B: October 21, 2014 Council Meeting: Action Minutes Format
- Attachment C: October 21, 2014 Council Meeting: Summary Minutes Format
- Attachment D: Proposed Changes to City Council Policy on Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings.

# Less Is More: Action Minutes Serve the City Best

October 2009

by **Ann G. Macfarlane**  
**Professional Registered Parliamentarian**  
**Jurassic Parliament**

If your council, commission or committee takes detailed minutes of your meetings, we recommend switching to action minutes. Action minutes record what is done at a meeting and not what is said. At Jurassic Parliament, we believe that action minutes serve the city best.

It is natural for elected officials and representatives appointed to public bodies to savor and enjoy reading a record of what they said at meetings. As servants of the public who take their duties seriously, they speak with care and appreciate knowing that what they say has been heard. We believe, however, that the time and effort required to prepare detailed minutes that record specific remarks far exceed the value to the organization and the public. (Quasi-judicial hearings, of course, are another case entirely.)

When a body wants its remarks "on the record," the scribe or clerk has to spend hours, and yet more hours, transcribing those remarks, reviewing them, editing them, and preparing them for publication. Those are costly hours, hours that in our current tough economic climate could be better spent on other duties.

Once the minutes are prepared, the members of the body have to invest time and energy in turn reviewing the draft minutes. Corrections or changes often have to be made, requiring yet more work. Sometimes there are differences of opinion about whether the content was correctly noted or not. Sometimes people are offended by the way their remarks were written down. All corrections have to be voted on formally by the body. The result can be a big drawdown of time and emotional energy for modest return.

Finally, detailed minutes make it a challenge to locate key items and decisions within the pages and pages of text. The record is far less functional when it includes remarks as well as actions.

The argument is sometimes made that detailed minutes are important for legislative history. A group with this goal in mind should include recitals and findings about its intentions within the body of the legislation. Legislation speaks for itself.

Robert's Rules of Order offers a simple guideline: *minutes should record what is done, not what is said*. The minutes should include decisions made, postponements, and referrals to committee. They may also include a note that discussion was held, if the group wants to

have it clear that they did their due diligence on a given issue. By keeping the minutes to this core of essential facts, energy and effort can be devoted to the larger issues that face all our civic bodies today.

Many of our Washington cities already operate this way, particularly those who record their meetings on audiotape or video, so that anyone concerned can easily hear or see exactly how the discussion went. The website of the city of saquah offers fine samples of action minutes. We suggest that action minutes help a city council or public body keep focused on its future goals rather than on the record of its past. The savings in time and energy that accrue from a switch to action minutes are well worth the small sacrifice to individual *amour propre*.

# ATTACHMENT B

TRACY CITY COUNCIL

REGULAR MEETING MINUTES

October 21 2014, 7:00p.m.

City Council Chambers, 333 Civic Center Plaza

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

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

The invocation was offered by Pastor Tim Heinrich, Crossroads Baptist Church

Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tern Maciel, and Mayor Ives present.

Mayor Ives presented a proclamation to Dr. Brian Stephens, Superintendent for TUSD, declaring the month of October 2014 "Anti-Bullying Month."

## 1. CONSENT CALENDAR

### **ACTION**

Motion made by Mayor Pro Tern Maciel, seconded by Council Member Rickman to adopt the Consent Calendar with the exception of items 1.A and 1.G. Roll call vote found Council Members Manne, Rickman, Young, Mayor Pro Tern Maciel and Mayor Ives in favor. Motion carried 5:0

- B. Authorization for Submitting Assessment Ballots for the Proposed Assessment for Reclamation District 2058 – Resolution 2014-174 authorized the ballots be submitted.
- C. Acceptance of the Bessie Avenue Building Demolition Project-CIP 78142. Completed by Modesto Sand & Gravel Inc. of Modesto, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2014-175 accepted the project.
- D. Authorize an Appropriation of Funds for Replacement of Water Filter Media at the John Jones Water Treatment Plant- CIP T5pp-105. from Water Fund F105 in FY 2014-15 and FY 2015-16. and Authorize Construction of the Project Resolution 2014-176 authorized the appropriation
- E. Approve an Offsite Improvement Agreement for the Cordes Ranch Offsite Waterline Improvements on Old Schulte Road, Hansen Road, and Road "E", and Authorization for the Mayor to Execute the Agreement-Resolution 2014-177 approved the agreement.
- F. Adopt a Resolution Authorizing Amendment No. 2 to the Professional Services Agreement and Software License Agreement With Spillman Technologies, Inc. for the Computer Aided Dispatch / Records Management System to Discontinue Further Work and Obtain a Partial Refund for Completed Work and Authorize the Mayor to Execute the Amendment-Resolution 2014-178 authorized the amendment.

- H. Approve the Final Subdivision Map and Subdivision Improvement Agreement for Primrose- Phase 1, Tract 3772, Authorize the Mayor to Execute the Agreement, and Authorize the City Clerk to File the Subdivision Improvement Agreement with the San Joaquin County Recorder Resolution 2014-179 approved the agreement.
- A. Approval of Minutes- Regular meeting minutes of June 17, 2014, and closed session minutes of October 7, 2014, were approved. The regular meeting minutes of August 19, to be amended to reflect Council Member Rickman's opposition to Option 1, the option the Council agreed to at the August 19 City Council meeting, agenda item 8, "Accept Status Report on the Youth Sports Leagues Legacy Fields Project, Provide Direction on Possible Assistance to the Leagues, and Authorize Termination of the Lease with the Tracy Futbol Club."
- G. Adopt a City Council Policy for Filling City Council Vacancies and Vacancies Occurring in the Office of Mayor - Dave Helm questioned whether it was the Council's intent to appoint someone as Mayor who was not sitting on the Council. Following a brief discussion, Mayor ProTem Maciel motioned to adopt a resolution adopting a City Council Policy for Filling City Council Vacancies and Vacancies Occurring in the Office of Mayor. Motion died for lack of a second. Mayor Ives suggested the Office of the Mayor be removed from the policy. Mayor ProTem Maciel motioned to adopt Resolution 2014-180 as amended, adopting a City Council Policy for Filling City Council Vacancies. Council Member Young seconded the motion. Voice vote found all in favor; passed and so ordered.
2. ITEMS FROM THE AUDIENCE
- Rhodesia Ransom invited Council to an anti-bullying event at Kimball High on Nov 5, beginning at 6 p.m. Tracy United will hold "Make a Difference Day" on Saturday. Participants are invited to gather outside City Hall at 8:30a.m.
- Steve Nicolaou, 1068 Atherton Drive, suggested an item be placed on the agenda to consider a censure policy.
- Dave Helm stated he had attended a workshop in June related to credit card issues and asked when a report would be brought back to Council. Assistant City Manager, Maria Hurtado, responded a report will be brought to Council on November 18.
3. 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, Fire Department, presented the staff report. Mr. Hanlon stated three properties need to be removed from the parcels listed on Exhibit A to the staff report since they have been cleared.

Mayor Ives opened the public hearing.

Robert Tanner, 1371 Rusher Street, asked whether the City ever receives any money from liens against properties which the City has abated, and how much is still owed. Bill Sartor, Assistant City Attorney, stated the City does receive money from properties which have been abated when the property is sold, and added the Finance Department would keep a record of how much is outstanding.

Mayor Ives closed the public hearing.

**ACTION** Motion made by Mayor Pro Tern Maciel, seconded by Council Member Rickman to adopt Resolution 2014-181, Declaring the existence of weeds, rubbish, refuse and flammable material on the parcels listed in Exhibit "A", minus the three parcels which had been brought into compliance, a nuisance and authorizing Fire Department staff to order contractor to abate. Voice vote found all in favor; passed and so ordered.

4. PUBLIC HEARING TO CONSIDER APPROVING AN AMENDMENT TO THE SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN (SJMSCP) DEVELOPMENT FEE, RESULTING IN AN INCREASE IN FEES FOR 2015

Vicki Lombardo, Senior Planner, Development Services Department presented the staff report.

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

**ACTION** Motion made by Mayor Pro Tern Maciel, seconded by Council Member Rickman to adopt Resolution 2014-182, Approving amended development fees for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan. Voice vote found all in favor; passed and so ordered.

5. RECEIVE PUBLIC TESTIMONY FROM PUBLIC HEARING FOR ANNUAL UNMET TRANSIT NEEDS, CITY OF TRACY, FISCAL YEAR 2014-15 EXECUTIVE SUMMARY

Ed Lovell, Management Analyst II, Public Works Department, presented the staff report.

Council Member Rickman asked if funding was available to purchase additional buses. Mr. Lovell responded funding should be available within 18 months.

Mayor Ives opened the public hearing.

Dave Helm stated the numbers in the staff report for the total claim for 2013-14 did not add up, and there was a discrepancy of approximately \$69,000. Mr. Lovell explained the total figure for the FY13-14 TDA claim was listed in the staff report as \$4,114,452 while it should have read \$4,183,867. The difference of \$69,415 is the amount the City claimed under State Transit Assistance (STA) and



was inadvertently left off when transferring the data from the TDA claim to the staff report. The City did in fact receive all of the money from the submitted FY13-14 TDA claim

Mayor Ives closed the public hearing.

**ACTION** Motion made by Mayor ProTem Maciel, seconded by Council Member Manne to accept the report. Voice vote found all in favor; passed and so ordered.

6. PUBLIC HEARING TO CONSIDER AN APPLICATION TO AMEND THE GENERAL PLAN, APPROVE A VESTING TENTATIVE SUBDIVISION MAP ON A 10.15ACRE SITE TO CREATE 51 LOTS AND AN AMENDMENT TO THE CONCEPT DEVELOPMENT PLAN FOR THE STERLING PARK AND SAN MARCO PLANNED UNIT DEVELOPMENTS FROM A SCHOOL SITE TO A 51 LOT RESIDENTIAL SUBDIVISION KNOWN AS BARCELONA INFILL, AND APPROVAL OF THE CONCEPT, PRELIMINARY AND FINAL DEVELOPMENT PLANS FOR THE BARCELONA INFILL PLANNED UNIT DEVELOPMENT; THE PROJECT IS LOCATED AT THE NORTHWEST CORNER OF BARCELONA DRIVE AND TENNIS LANE, ASSESSOR'S PARCEL NUMBERS 252-520-44 AND 240-390-33; THE APPLICANT AND PROPERTY OWNER IS TVC TRACY HOLDCO, LLC; APPLICATION NUMBERS GPA14-0003, PUD14-0002 AND TSM14-0002EXECUTIVE SUMMARY

Vicki Lombardo, Senior Planner, Development Services Department, presented the staff report.

Mayor Ives opened the public hearing.

Chris Tyler, 3208 White Cliff Drive, Modesto, applicant, gave a brief overview of the project and offered to answer questions. In response to a question from Mayor Ives regarding public outreach, Mr. Tyler stated two public outreach sessions had been held and a flyer offering to meet with residents at any time had been sent to residents.

Mayor Ives closed the public hearing.

**ACTION** Motion made by Mayor ProTem Maciel, seconded by Council Member Rickman to adopt Resolution 2014-183, Approving a General Plan land use designation amendment of a 10.15-acre site for the Barcelona Infill Subdivision (APNs 240-520-44 and 240-390-33) from Public Facilities to Residential Low. The applicant and owner is TVC Tracy Holdco, LLC. Application Number GPA 14-0003. Voice vote found all in favor; passed and so ordered.

**ACTION** Motion made by Mayor ProTem Maciel, seconded by Council Member Rickman to adopt Resolution 2014-184, Approving the 51-Lot Barcelona Infill Vesting Tentative Subdivision Map and Amendment to the Concept, Preliminary and Final Development Plans for a 10.15-acre site located at the northwest corner of Barcelona Drive and Tennis Lane -Application Numbers TSM14-0002 and PUD 14-0002. Voice vote found all in favor; passed and so ordered.

7. COUNCIL DISCUSSION AND DIRECTION REGARDING THE TRANSFER OF FEDERAL USE RESTRICTIONS AND REVERSIONARY RIGHTS FROM THE SCHULTE ROAD PROPERTY, APN 209-230-29 AND 30, TO THE UNDEVELOPED 300 ACRES OF LEGACY FIELDS APN 212-150-04

Andrew Malik, Director, Development Services Department, presented the staff report.

Mayor ProTem Maciel asked whose idea this was. Mr. Malik stated it came from a concept proposed by GSA that they could sell this idea to the National Parks Service.

Mayor Ives invited public comment.

Steve Nicolaou, 1068 Atherton Drive, questioned whether by dealing with the Federal government there could be restrictions placed on the property in the future. Mr. Nicolaou asked if the issue would still have to go to a vote of the people, if, for example, the Feds wanted to change the use of Legacy Fields to a shopping center. Dan Sodergren, City Attorney, responded State law would prevail.

- ACTION** Motion made by Council Member Manne, seconded by Council Member Rickman to adopt Resolution 2014-185 supporting the concept of transferring the Use Restrictions and Reversionary Rights from the City's Schulte Road property to the undeveloped 300 acre Legacy Field property. Voice vote found all in favor; passed and so ordered.

8. APPOINT AN APPLICANT TO THE TRANSPORTATION ADVISORY COMMISSION FROM THE COMMISSION'S ELIGIBILITY LIST

Troy Brown, City Manager, presented the staff report.

Mayor Ives invited the public comment- None.

- ACTION** Motion made by Council Member Young, seconded by Council Member Rickman to appoint Mr. Ball to the Transportation Advisory Commission. Voice vote found all in favor; passed and so ordered.

- 10.A CITY MANAGER'S REPORT-Troy Brown, City Manager gave an update on business activity related to new construction and expansions, community-wide informational updates, and special events in the City.

- ACTION** Council accepted the update.

11. COUNCIL ITEMS

Council Member Rickman commended the Bulldog project which has been recognized at the state level for their anti-bullying efforts.

Council Member Young pointed out that since November 4 is election day the Council meeting will be held on November 5, and pointed out that anti-bullying

events will be held at Kimball High on November 5. Council Member Young also stated that the opening ceremonies for Make a Difference Day begin at 8:00 a.m. on Saturday, outside City Hall

Mayor Ives stated that recently the City applied for funding from the Safe Routes to School programs for the Mount Oso and Mount Diablo area. The Council of Governments has awarded funding in the amount of \$950,000, and the project has been forwarded to the CDC for approval.

12. ADJOURNMENT

**ACTION** Motion made by Council Member Manne, seconded by Council Member Rickman to adjourn. Voice vote found all in favor; passed and so ordered. Time: 8:24 p.m.

The above agenda was posted at the Tracy City Hall on October 16, 2014. The above are action minutes. A recording is available at the office of the City Clerk.

\_\_\_\_\_  
Mayor

ATTEST:

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

TRACY CITY COUNCIL

REGULAR MEETING MINUTES

October 21 2014, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

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

The invocation was offered by Pastor Tim Heinrich, Crossroads Baptist Church

Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tern Maciel, and Mayor Ives present.

Mayor Ives presented a proclamation to Dr. Brian Stephens, Superintendent for TUSD, declaring the month of October 2014 "Anti-Bullying Month."

1. CONSENT CALENDAR-Following the removal of items 1.A by Council Member Rickman, and 1.G by Dave Helm, it was moved by Mayor Pro Tern Maciel and seconded by Council Member Rickman to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
  - B. Authorization for Submitting Assessment Ballots for the Proposed Assessment for Reclamation District 2058- Resolution 2014-174 authorized the ballots be submitted.
  - C. Acceptance of the Bessie Avenue Building Demolition Project-CIP 78142, Completed by Modesto Sand & Graveline.. of Modesto, California, and Authorization for the City Clerk to File the Notice of Completion-Resolution 2014-175 accepted the project.
  - D. Authorize an Appropriation of Funds for Replacement of Water Filter Media at the John Jones Water Treatment Plant- CIP T5pp-105, from Water Fund F105 in FY 2014-15 and FY 2015-16, and Authorize Construction of the Project- Resolution 2014-176 authorized the appropriation
  - E. Approve an Offsite Improvement Agreement for the Cordes Ranch Offsite Waterline Improvements on Old Schulte Road, Hansen Road, and Road "E", and Authorization for the Mayor to Execute the Agreement- Resolution 2014-177 approved the agreement.
  - F. Adopt a Resolution Authorizing Amendment No.2 to the Professional Services Agreement and Software License Agreement With Spillman Technologies, Inc. for the Computer Aided Dispatch / Records Management System to Discontinue Further Work and Obtain a Partial Refund for Completed Work and Authorize the Mayor to Execute the Amendment- Resolution 2014-178 authorized the amendment.
  - H. Approve the Final Subdivision Map and Subdivision Improvement Agreement for Primrose - Phase 1, Tract 3772, Authorize the Mayor to Execute the

Agreement, and Authorize the City Clerk to File the Subdivision Improvement Agreement with the San Joaquin County Recorder-Resolution 2014-179

- A. Approval of Minutes- Council Member Rickman stated he was opposed to the option the Council agreed to on the August 19 City Council agenda, item 8, "Accept Status Report on the Youth Sports Leagues Legacy Fields Project, Provide Direction on Possible Assistance to the Leagues, and Authorize Termination of the Lease with the Tracy Futbol Club." Regular meeting minutes of June 17, 2014, and closed session minutes of October 7, 2014, were approved. The regular meeting minutes of August 19, to be amended to reflect Council Member Rickman's opposition to item 8, Option 1, and brought back for Council approval on November 5.
- G. Adopt a City Council Policy for Filling City Council Vacancies and Vacancies Occurring in the Office of Mayor- On October 7, 2014, the City Council considered a draft policy regarding filling City Council vacancies and vacancies occurring in the office of Mayor. At that time, the City Council directed staff to make changes to the draft policy to clarify the following two provisions: (1) that the order of interviews is to be determined based on a random drawing; and (2) the voting procedure. The policy attached to the staff report includes clarifications to these two provisions.

Dave Helm questioned whether it was the Council's intent to appoint someone as Mayor who was not sitting on the Council. Mayor Ives asked if Council has the authority to appoint the Mayor. Dan Sodergren, City Attorney, responded the Council has two options. Within 60 days, the Council can either fill a Council vacancy by appointment or call a special election. A similar process is included in the Government Code for vacancies occurring in the Office of the Mayor. Staff would request from the Council whether they wanted to hold a special election or use the appointment process. However, state law does not specify a procedure for selection of appointees and the Council may choose any method it desires.

Mr. Helm questioned the procedure regarding the number of signatures required for the application process, and asked who would verify the signatures and the residency requirements. Mr. Sodergren stated the City Clerk's office in conjunction with the Registrar of Voters office.

Mayor Ives suggested removing the Office of Mayor from the policy. Mr. Helm suggested a Council Member fill the Mayor's seat until the term expires. Mayor Pro Tern Maciel stated he had no problem either removing the Office of Mayor from the policy, or leaving it in.

Mayor Pro Tern Maciel motioned to adopt item I.G as written, adopting a City Council Policy for Filling City Council Vacancies and Vacancies Occurring in the Office of Mayor. Motion died for lack of a second.

Mayor Pro Tern Maciel motioned to adopt item I.G as amended (Resolution 2014-180), adopting a City Council Policy for Filling City Council Vacancies. Council Member Young seconded the motion.

Council Member Young asked if staff would bring back a policy for appointing a Mayor. Troy Brown, City Manager, responded Council could remove the Office of the Mayor from the policy, but would have to revisit the issue in the future.

Mr. Sodergren stated Council could defer adopting a policy for the Office of the Mayor until it became necessary.

Mayor Ives suggested removing the Office of the Mayor from the policy.

Mr. Sodergren stated the intent of the policy was to give the Council a head start on conducting an appointment process if and when it becomes necessary. However, at the time an appointment becomes necessary Council will have the option to either to create an appointment process or conduct a special election.

Mayor Pro Tem Maciel referred to the requirements of term limits and added he would like to see term limits revisited since an appointment made for a limited amount of time counts as one full term.

Mayor Ives stated he had a motion and a second to adopt item 1.G as amended. Voice vote found all in favor; passed and so ordered.

Mr. Sodergren stated he would remove the reference to the Office of the Mayor from the staff report and the resolution.

2. ITEMS FROM THE AUDIENCE- Rhodesia Ransom, extended two invitations to the Council to attend a red carpet event in support of anti-bullying. The event will take place at Kimball High on Nov 5, beginning at 6 p.m. Tracy United will hold "Make a Difference Day" on Saturday. Participants are invited to gather outside City Hall at 8:30a.m.

Steve Nicolaou, 1068 Atherton Drive, suggested an item be placed on the agenda to consider a censure policy.

Dave Helm referred to a workshop he had attended in June regarding credit card issues and asked when a report would be brought back to Council. Assistant City Manager, Maria Hurtado, responded a report will be brought to Council on November 18.

3. 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, Fire Department, presented the staff report. On September 17, October 2, and October 6, 2014, pursuant to Tracy Municipal Code, Section 4.12.280, the Fire Department sent notices to the property owners listed in Exhibit "A" to the staff report. Mr. Hanlon noted that three properties need to be removed from the parcels listed since they have been cleared. That notice required owners to abate weeds, rubbish, and flammable material on the parcels listed within 20 days, and informed the property owners that a Public Hearing would be conducted on October 21, 2014, 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, 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 25 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.

There is \$12,100 budgeted in Fiscal Year 2014-15, Grounds and Maintenance account, 211-52110-252-0000. Sufficient funds remain to accomplish abatement services.

Mayor Ives opened the public hearing.

Robert Tanner, 1371 Rusher Street, asked whether the City ever receives any money from liens against properties which the City has abated, and how much is still owed. Bill Sartor, Assistant City Attorney, stated the City does receive money from properties which have been abated when the property is sold, and added the Finance Department would keep a record of how much is outstanding.

Mayor Ives closed the public hearing.

Motion made by Mayor ProTem Maciel, seconded by Council Member Rickman to adopt Resolution 2014-181, Declaring the existence of weeds, rubbish, refuse and flammable material on the parcels listed in Exhibit "A", amended to remove the three parcels which have been brought into compliance, a nuisance and authorizing Fire Department staff to order contractor to abate. Voice vote found all in favor; passed and so ordered.

4. PUBLIC HEARING TO CONSIDER APPROVING AN AMENDMENT TO THE SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN (SJMSCP) DEVELOPMENT FEE, RESULTING IN AN INCREASE IN FEES FOR 2015 - Vicki Lombardo, Senior Planner, Development Services Department, presented the staff report. In 2001, the Council approved a resolution to establish the authority to collect a development fee for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). That fee was established in 2001, and updated in 2005,2007,2008,2009,2010,2011,2012,2013 and 2014.

The formula for updating the fee was categorized into three distinct components to better calculate an accurate fee per acre [FEE= Category A (acquisition)+ Category B (assessment and enhancement)+ Category C (management and administration)]. The final mitigation fees reflect true costs in each category and other real costs associated to fulfill the goals of the plan.

Category A (acquisition)-This category is directly related to land valuation based on comparables which occur in specific zones of the plan. The final weighted cost per acre of each zone is calculated into a blended rate under Category A (acquisition) figure for each habitat type. The criteria used to determine the weighted calculation results in an

increase to the Agricultural/Natural Habitat type of Category A component from \$8,288.74 to \$9,427.21.

Category B (assessment and enhancement)- This category is an average of the California Consumer Price Index (CPI), as reported by the California Department of Finance, for a 12 month period following a fiscal year (July-June) to keep up with inflation on a yearly basis. The California CPI calculation increased 2.2%. The calculation results in an increase to the Category B component from \$3,189.59 last year to \$ 3,259.76.

Category C (management and administration)- This category is an average of the California Consumer Price Index (CPI), as reported by the California Department of Finance, for a 12 month period following a fiscal year (July-June) to keep up with inflation on a yearly basis. The California CPI calculation increased 2.2%. The calculation results in an increase of the Category C component to \$1,856.24, up from \$1,816.28 in 2014.

All land within and adjacent to the current City limits is classified as Open Space or AG/Natural. The 2014 per-acre fees are \$6,656 per acre for Open Space, and \$13,295 for AG/Natural. The mitigation fee to be adopted for 2015 is \$7,281 per acre for Open Space and \$14,543 for AG/Natural.

In addition, the SJMSCP is required to monitor the plan to address funding shortfalls. SJCOG, Inc. undertakes an internal review of the SJMSCP funding plan every three years to evaluate the adequacy of each funding source identified in the plan, identify existing or potential funding problems, and identify corrective measures, should they be needed in the event of actual or potential funding shortfalls. This will be reported to the permitting agencies for review in Annual Reports.

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

Motion made by Mayor ProTem Maciel, seconded by Council Member Rickman to adopt Resolution 2014-182, Approving amended development fees for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan. Voice vote found all in favor; passed and so ordered.

5. RECEIVE PUBLIC TESTIMONY FROM PUBLIC HEARING FOR ANNUAL UNMET TRANSIT NEEDS, CITY OF TRACY, FISCAL YEAR 2014-15 EXECUTIVE SUMMARY  
Ed Lovell, Management Analyst II, Public Works Department, presented the staff report. Under provisions of the State of California Transportation Development Act (TDA), local public hearings must be held annually to review any unmet transit needs prior to the allocation of TDA funds. The hearings were held on October 21, 2014, at 10:30 a.m. in the Tracy Transit Station Conference Room 105, and again at 7:00 p.m. in City Hall Council Chambers during the regularly scheduled City Council meeting. The City requested TDA funds for Fiscal Year 2013-14 amounting to \$4,114,452.

The TRACER Public Transit System provides Fixed Route and Paratransit Bus services Monday through Friday from 7:00a.m. until 8:00p.m., and Saturdays from 9:00a.m. to 6:00p.m. The Paratransit Subsidized Taxi service operates during the days and hours that the Paratransit Bus service is not in operation.



The purpose of the public hearing is for the Council to receive public testimony concerning any unmet transportation needs which may exist for the Tracy community. The minutes of the public hearing on October 21, 2014, shall be forwarded to the San Joaquin County Council of Governments (SJCOG) which has the responsibility of determining whether transit needs remain unmet and would be reasonable to meet by the applicable jurisdiction. Staff members from SJCOG attended the Tracy public hearings to witness the community responses and to answer specific questions concerning the TDA process.

Council Member Rickman inquired if funding was available to purchase additional busses. Mr. Lovell responded the City has received funding through FTA grants which should be available within 18 months.

Mayor Ives opened the public hearing.

Dave Helm stated the numbers in the staff report for the total claim for 2013-14 did not add up, and there was a discrepancy of approximately \$69,000. Mr. Lovell explained the total figure for the FY13-14 TDA claim was listed in the staff report as \$4,114,452 while it should have read \$4,183,867. The difference of \$69,415 is the amount the City claimed under State Transit Assistance (STA) and was inadvertently left off when transferring the data from the TDA claim to the staff report. The City did in fact receive all of the money from the submitted FY13-14 TDA claim.

Mayor Ives closed the public hearing.

Motion made by Mayor Pro Tern Maciel, seconded by Council Member Manne to accept the report. Voice vote found all in favor; passed and so ordered.

6. PUBLIC HEARING TO CONSIDER AN APPLICATION TO AMEND THE GENERAL PLAN, APPROVE A VESTING TENTATIVE SUBDIVISION MAP ON A 10.15-ACRE SITE TO CREATE 51 LOTS AND AN AMENDMENT TO THE CONCEPT DEVELOPMENT PLAN FOR THE STERLING PARK AND SAN MARCO PLANNED UNIT DEVELOPMENTS FROM A SCHOOL SITE TO A 51 LOT RESIDENTIAL SUBDIVISION KNOWN AS BARCELONA INFILL, AND APPROVAL OF THE CONCEPT, PRELIMINARY AND FINAL DEVELOPMENT PLANS FOR THE BARCELONA INFILL PLANNED UNIT DEVELOPMENT; THE PROJECT IS LOCATED AT THE NORTHWEST CORNER OF BARCELONA DRIVE AND TENNIS LANE, ASSESSOR'S PARCEL NUMBERS 252-520-44 AND 240-390-33; THE APPLICANT AND PROPERTY OWNER IS TVC TRACY HOLDCO, LLC; APPLICATION NUMBERS GPA14-0003, PUD14-0002 AND TSM14-0002 EXECUTIVE SUMMARY- Vicki Lombardo, Senior Planner, Development Services Department, presented the staff report. The subject property consists of two parcels of vacant land totaling 10.15-acres at the intersection of Barcelona Drive and Tennis Lane. The property is bordered by the Sterling Park residential subdivision to the north and the San Marco residential subdivision to the south. The northerly five acres of the site is contained within the Sterling Park Planned Unit Development (PUD), and the southerly five acres is in the San Marco PUD, both of which were approved in the late 1990's.

The total 10.15-acre site was designated for a K-6 school in the respective PUDs at the request of the Tracy Unified School District. In 1994, the City annexed the Sterling Park

and San Marco areas and designated both properties Residential Low in the General Plan. In 2006, the City updated the General Plan and designated the subject 10.15-acre site and other planned or developed public school sites citywide as Public Facilities. To maintain the reservation of a school site, the School District must enter into a binding agreement to purchase the land at the approval of the final map (Per Government Code Section 66480). That agreement reserves the land for the School District for two years. The final maps creating the two lots that make up the site were approved on July 5, 2000 (San Marco Unit 1) and July 2, 2002 (Sterling Park Unit 6). The School District did not enter into any agreements with the property owners, and the two-year time frames have long lapsed.

On April 9, 2014, the property owner submitted an application to amend the land use designation from Public Facilities to the Residential Low designation and to amend the Sterling Park and San Marco Concept Development Plans (COP) from a school site to a residential subdivision known as Barcelona Infill. The application included a Concept Development Plan, Preliminary Development Plan (PDP), a Final Development Plan (FOP); and a Vesting Tentative Subdivision Map for 51 lots.

City staff referred the application to TUSD and has received no objection to the proposed project. With the site no longer reserved to be a school, a General Plan amendment to Residential Low to accommodate the developer's proposal for single-family homes is required. This designation is consistent with the surrounding neighborhood. The applicant has requested to amend the Sterling Park and San Marco COPs from a school site to a residential site and wishes to establish a separate PUD comprised of a COP, PDP, and FDP for the purposes of constructing 51 single-family homes. The proposed project would be consistent with the density allowed under the Residential Low designation, which ranges from 2.1 to 5.8 units per gross acre. The average density of the proposed Barcelona Infill subdivision is 5.03 dwelling units per gross acre.

The proposed development plan is consistent with the City's Design Goals and Standards and the following General Plan policies for residential design.

The proposed residential land use is compatible with the residential neighborhoods in the Sterling Park and San Marco subdivisions. The proposed lots range between 5,500 and 16,954 square feet with an average lot size of 6,818 square feet. The lots are sized to be similar to the surrounding subdivisions, with particular attention to lots adjacent to existing homes. The Barcelona Infill subdivision proposes minimum lot sizes of 55 feet in width by 100 feet in depth. In consideration of the homes that back up to the proposed subdivision, the applicant proposes deeper rear yards than typical to provide greater privacy to the existing homes. These lots are between approximately 121 feet and 191 feet in depth, which is significantly deeper than most residential lots in the city.

The subdivision would have its primary access from Corral Hollow Road by way of Tennis Lane or Cypress Drive.

Upon submittal of a vesting tentative subdivision map, as well as a PUD, the applicant is required by Tracy Municipal Code Sections 12.28.040(b)(2) and 10.08.1830 to submit architectural floor plans and elevations for review and approval by the Planning Commission and City Council. The proposed architecture for the 51 lots contains four floor plans. Each of the four plan types would have four distinct elevation styles,

giving the subdivision 16 different exterior house designs. The proposal includes one single-story plan and three two-story plans with sizes ranging between approximately 2,126 and 3,369 square feet of living space (2,563-4,288 total square feet). The proposed architectural styles are Spanish, Craftsman, English Country, Italian and Farmhouse. The garages are deemphasized with all four plans designed with garage facades five or more feet behind the leading edge of the house. At least one of the plans features a garage that is even more recessed, allowing the project to meet the requirements of the City's Design Goals and Standards that some garages be set back 30 feet from the street. The proposed architecture is consistent with the City's Design Goals and Standards and applicable General Plan policies for residential design.

The proposed project is located within the Tracy Unified School District. To mitigate the proposed developments' impacts on school facilities, Memorandums of Understanding (MOU) were executed with the Tracy Unified School District when the Sterling Park and San Marco subdivisions were developed, which included this 10.15-acre site. Per the MOUs, a per-unit fee will be charged for each of the 51 units constructed.

Parks are required to be established within residential neighborhoods and projects are either required to build their own park or pay park in-lieu fees. In this case, staff has determined that no dedication of park acreage is desired within the proposed project because the parks established for the Sterling Park and San Marco subdivisions already exceed the City's requirement for park land. In lieu of providing park land, the applicant would be required to pay the park in-lieu fees which would provide funds for the creation and maintenance of parks and recreation facilities consistent with the Parks Master Plan and the City's General Plan.

The applicant conducted several private meetings and two neighborhood-area meetings on August 26, 2014, at the Sports Complex meeting room, and on September 7, 2014, at Verner Hanson Park to introduce the proposed project to nearby residents and to collect feedback. According to the applicant, the primary interests of the neighbors in attendance related to development timing, density, lot size, architecture, and home price.

Concerns related to vehicular speeding on Tennis Lane adjacent to the vacant subject site were raised. When the new subdivision is constructed, nine homes will face onto Tennis Lane, and the future through-street will intersect Tennis Lane. These improvements will increase cross-traffic and encourage more careful driving that will cause traffic to slow down along Tennis Lane. According to the applicant, no comments were offered related to traffic congestion.

The project is exempt from the California Environmental Quality Act per Section 15162 pertaining to projects with a certified Environmental Impact Report (EIR) where the project does not propose substantial changes that will result in a major revision of the previous EIR. The project does not propose new significant changes to the environment that was not analyzed in the General Plan EIR, including the areas of traffic, air quality, and aesthetics. Therefore, no further documentation is needed.

The Planning Commission held a public hearing to consider the project on September 24, 2014, and discussed traffic, architecture, and a neighbor's concerns. Some traffic concerns already exist within the neighborhood, including speeding on Tennis Lane and turning movements at the Barcelona and Cypress intersection. Those concerns will be addressed with a traffic study to be completed and its mitigation measures implemented

during construction of the project. Commissioner Vargas provided architectural suggestions for enhancements on some front and side elevations that the developer agreed to implement. Finally, a neighboring property owner noted that he would prefer to have single story homes built adjacent to his existing house. The Commission suggested that this request would be best addressed by the developer rather than required per the project approval.

This agenda item will not require any expenditure of funds. The applicant paid the application fees for the staff time that was required for review of the proposed project. The applicant will also pay approximately \$2.7 million in building permit and development impact fees upon the commencement of construction of the dwelling units and other improvements.

In response to a question from Mayor Ives regarding public outreach Ms. Lombardo gave an overview of the outreach conducted by the applicant and the City.

Mayor Ives opened the public hearing.

Chris Tyler, 3208 White Cliff Drive, Modesto, applicant, gave a brief overview of the project and offered to answer questions. In response to the question posed by Mayor Ives regarding public outreach, Mr. Tyler stated two public outreach sessions had been held and a flyer offering to meet with residents at any time had been sent to neighbors adjacent to the project.

Mayor Ives closed the public hearing.

Motion made by Mayor Pro Tern Maciel, seconded by Council Member Rickman to adopt Resolution 2014-183, Approving a General Plan land use designation amendment of a 10.15-acre site for the Barcelona Infill Subdivision (APNs 240-520-44 and 240-390-33) from Public Facilities to Residential Low. The applicant and owner is TVC Tracy Holdco, LLC. Application Number GPA 14-0003. Voice vote found all in favor; passed and so ordered.

Motion made by Mayor Pro Tern Maciel, seconded by Council Member Rickman to adopt Resolution 2014-184, Approving the 51-Lot Barcelona Infill Vesting Tentative Subdivision Map and Amendment to the Concept, Preliminary and Final Development Plans for a 10.15-acre site located at the northwest corner of Barcelona Drive and Tennis Lane- Application Numbers TSM14-0002 and PUD 14-0002. Voice vote found all in favor; passed and so ordered.

7. COUNCIL DISCUSSION AND DIRECTION REGARDING THE TRANSFER OF FEDERAL USE RESTRICTIONS AND REVERSIONARY RIGHTS FROM THE SCHULTE ROAD PROPERTY, APN 209-230-29 AND 30, TO THE UNDEVELOPED 300 ACRES OF LEGACY FIELDS APN 212-150-04- Andrew Malik, Director, Development Services Department, presented the staff report. The Schulte Road property is approximately 200 acres and is located on the south side of Schulte Road, west of Lammers Road. In 1998, the United States Congress authorized the General Services Administration ("GSA") to convey 200 acres to the City via special legislation 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 purchased 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, 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 project 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 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 (appraised value of \$1,100,000, and the appraisal expense of \$5,250).

On September 18, 2012, Council appropriated \$1,105,250 RSP funds to pay the cost to remove use restrictions and Federal reversionary rights on 150 acres of the 200 acre City-owned Schulte Road property. A Request for Proposals was issued by the City in early 2013 to determine if there was interest from alternative energy companies to purchase the site for solar or other alternative energy uses. While there was some private interest, no proposal included fronting funds to pay the GSA to remove the use restrictions and allow alternative energy facilities on the site. At the September 18, 2012, Council meeting, Council directed staff to appropriate the \$1,105,250 and to continue to work with GSA to try to reduce the amount requested to remove the use restrictions.

Following numerous discussions between GSA and the City to reduce the cost to remove the use restrictions on the Schulte Road property, GSA and staff have identified a concept whereby the use restrictions and reversionary rights recorded on the Schulte Road property could be transferred to other undeveloped park property in the City. On July 22, 2014, staff provided a tour of Legacy Fields to Clark Van Epps, GSA Regional Director, and his support staff. On September 10, 2014, the City received a letter from GSA outlining certain requirements and documents necessary to proceed with the transfer concept. The following represent those requests:

1. Confirmation from the City Council to proceed with the use restrictions and reversionary interest transfer from the Schulte Road property to 300 acres of the undeveloped Legacy Field project.

2. Provide a public use plan that details the City's plans for the entire replacement property with a development schedule.
3. Complete a Phase I Environmental Site Assessment to determine whether the property is environmentally safe and not contaminated.
4. Provide a title report and legal description of the replacement property.

Staff is currently working on items 2-4 above. Item 1 is the subject of this discussion.

Following receipt of the requested documentation, GSA will commission a market appraisal of both parcels to ensure the replacement property is of equal or greater fair market value than the current park property. Once the market analysis is complete GSA will draft the deeds and a Memorandum of Agreement (MOA) to finalize the transfer/abrogation. It is anticipated that a new abrogation agreement, removing the use restrictions on the Schulte Road site, can be executed by December 2014, provided GSA can expedite their market analysis/appraisal of the Legacy Fields site and the City and the GSA are in agreement on the MOA.

Mr. Malik stated the goal is not to give GSA the property but to effectuate the development of these properties.

There is no impact to the General Fund. If the City and GSA can agree on this transfer concept there is a balance of \$565,000 of unused funds which would go back to RSP.

Mr. Malik concluded his presentation by recommending that Council support the concept of transferring the use restrictions and revisionary rights from the City's Schulte Road property to the undeveloped 300 acre Legacy Field property and direct staff to work with GSA on the next steps in the process.

Mayor ProTem Maciel asked whose idea this was. Mr. Malik stated it came from a concept proposed by GSA that they could sell this idea to the National Parks Service.

Mayor Ives invited public comment.

Steve Nicolaou, 1068 Atherton Drive, stated he agreed this was a good way to resolve the issue, but questioned whether by dealing with the Federal government there could be restrictions placed on the property in the future. Mr. Nicolaou asked if changing the use would still have to go to a vote of the people, for example, to convert Legacy Fields to a shopping center.

Dan Sodergren, City Attorney, responded State law would prevail.

Motion made by Council Member Manne, seconded by Council Member Rickman to adopt Resolution 2014-185 supporting the concept of transferring the Use Restrictions and Reversionary Rights from the City's Schulte Road property to the undeveloped 300 acre Legacy Field property. Voice vote found all in favor; passed and so ordered.

8. APPOINT AN APPLICANT TO THE TRANSPORTATION ADVISORY COMMISSION FROM THE COMMISSION'S ELIGIBILITY LIST- Troy Brown, City Manager, presented the staff report. There is a vacancy on the Transportation Advisory Commission due to Commissioner Frankel resigning on October 8, 2014. The last time appointments were

made to the Transportation Advisory Commission was April 15, 2014. At that time the subcommittee nominated two applicants to fill vacancies on the Transportation Advisory Commission and recommended three applicants be placed on an eligibility list. Council confirmed the subcommittee's nomination and the creation of an eligibility list. Resolution 2004-152 includes direction on the "Selections Process for Appointee Bodies," and also states that if an appointee will fill an un-expired term with six months or less remaining, the appointment shall be deemed to be for the new term. Staff recommended Council either appoint Mr. Ball to the Transportation Advisory Commission to serve the remainder of Commissioner Frankel's term commencing on October 22, 2014, and expiring on April 30, 2017, or direct staff to open a new recruitment.

Mayor Ives invited public comment-None

Motion made by Council Member Young, seconded by Council Member Rickman to appoint Mr. Ball to the Transportation Advisory Commission. Voice vote found all in favor; passed and so ordered.

- 10.A CITY MANAGER'S REPORT-Troy Brown, City Manager presented the report. Mr. Brown began with business activity related to new construction and expansions, continued with community-wide informational updates, and closed his presentation with special events at the Grand Theatre.

Commercial construction activity remains active in Tracy, including the Amazon Expansion and Grace Baptist Church.

Business improvements include Delta Brews (downtown brew pub), Red Robin (new Building replacing Chevy's in the 1-205 area), Sweethearts Bakery (downtown on B Street), Sports Clips (1-205 area), I Live for Desserts (downtown on Central), Hair Club for Men, Extreme Pita & Ono Hawaiian BBQ,

A Resident Survey will be issued to a randomly selected pool of Tracy residents during the Fall 2014. The National Research Center, Inc. will administer The National Citizen Survey™ (The NCS) on behalf of the City. The NCS measures resident opinion across eight aspects including public safety, community engagement, recreation, and mobility. Results of the survey will be used to measure the quality of City services, help to establish the budget and set future priorities and direction for the City.

The City has begun pre-storm maintenance clearing trash and debris from storm drains and channels. Beginning on November 17, 2014, a limited quantity of sandbags and plastic sheeting will be available to residents to help protect homes from storm related damage. Materials will be available for pickup at the Public Works Department, Boyd Service Center, 520 N. Tracy Boulevard, when inclement weather is forecast.

Work continues on the new Tracy Animal Shelter. The project is on schedule with an anticipated opening date of early this December.

"Tracy's Child," one of Tracy's first public commissioned sculptures, was re-installed at William Larsen Park today. The commissioned bronze statue depicting a girl flying a kite suffered extensive damage after it was vandalized and removed from the park in 2012.

Finally, upcoming performances at the Grand Theatre include a "Haunting Masquerade Ball" on November 1, 2014. The Grand Theatre will be transformed into a haunting castle with guests arriving in medieval ball gowns, classy men's attire and gorgeous masks. Tickets cost \$25 and include music, entertainment, dancing, appetizers and two drink tickets.

On November 8, 2014, Joni Morris & the After Midnight Band will perform at the Grand Theatre. Joni Morris of Stockton, California, will pay tribute to "Legendary Ladies in Country Music" including Patsy Cline, Kitty Wells, Loretta Lynn, Tammy Wynette and more. Tickets cost \$18-\$22 and the show begins at 7:30 p.m.

Council accepted the update.

11. COUNCIL ITEMS –

Council Member Rickman commended the Bulldog project which has been recognized at the state level for their anti-bullying efforts.

Council Member Young pointed out that since November 4 is election day the Council meeting will be held on November 5, and pointed out that anti-bullying events will be held at Kimball High on November 5. Council Member Young also stated that the opening ceremonies for Make a Difference Day begin at 8:00a.m. on Saturday, outside City Hall

Mayor Ives stated that recently the City applied for funding from the Safe Routes to School programs for the Mount Oso and Mount Diablo area. The Council of Governments has awarded funding in the amount of \$950,000, and the project has been forwarded to the CDC for approval.

12. ADJOURNMENT-Motion made by Council Member Manne and seconded by Council Member Rickman to adjourn. Voice vote found all in favor, passed and so ordered. Time 8:24 p.m.

The above agenda was posted at the Tracy City Hall on October 16, 2014. The above are summary minutes. A recording is available at the office of the City Clerk.

\_\_\_\_\_  
Mayor

ATTEST:

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



**PROCEDURES FOR PREPARATION, POSTING  
AND DISTRIBUTION OF AGENDA  
AND THE CONDUCT OF PUBLIC MEETINGS**

(Exhibit "A" to Resolution No. ~~2008 140; July 15, 2008~~ \_\_\_\_\_)

Applicability

The procedures outlined below relating to the preparation, posting and distribution of agendas apply to the City Council, the [Successor Agency to the](#) Community Development Agency, the South County Fire Authority, the Public Facilities Corporation, the Tracy Operating Partnership Joint Powers Authority, and all City Boards, Commissions, and Committees. The procedures outlined below relating to the conduct of Council meetings apply only to the City Council. All City Council meetings shall be open to the public; however, the City Council may hold closed sessions as authorized by state law.

A. Preparation, Posting and Distribution of Agenda

Purpose of Agenda

The agenda process serves four purposes:

- As a communication mechanism, the agenda informs City staff, City Council, the public and the press.
- As a compliance mechanism, the agenda process ensures compliance with mandated state laws.
- As a decision-making mechanism, the agenda process regularly brings City business to the City Council for consideration and action. Agenda items should contain enough background information so City Council can obtain a full understanding of the issues. The agenda item should conclude with a staff recommendation so City Council has the benefit of staff input prior to making a final decision.
- As a historical reference that can be kept as a record of proceedings and actions as needed for future actions and/or litigation.

Agenda

As set forth above, the purpose of the agenda is to provide a framework within which Council meetings can be conducted and to effectively implement the approved Council programs, goals and budget. Staff shall work within the policies established by Council and not place matters on the agenda that are outside the scope of existing work programs and priorities except as approved by a majority of the Council, or ~~to inform the Council of~~ matters necessary to the proper operation and well-being of the City.

The agenda shall contain a brief general description of each item of business to be transacted or discussed at the meeting.

### Distribution of Agenda

At a minimum the posting and distribution of all agendas shall be done in accordance with the Ralph M. Brown Act ("Brown Act") (California Government Code sections 54950 et seq.). Agendas for regular meetings shall be posted 72 hours prior to the meeting; special meeting agendas shall be posted not less than 24 hours prior to the meeting. All agendas shall be posted in the following locations: City Hall, ~~the Community Center~~, the library, the City's website, and other locations as may be required by a particular Board or Commission's Bylaws. Posting of agendas at City Hall shall be the official location for purposes of Brown Act compliance.

The agenda packets are provided to City Council Members on the Thursday (or Friday) prior to City Council meeting. Distribution to the staff, public and media shall occur immediately after distribution to the City Council. The City will provide, by mail, a copy of the agenda cover sheet and the specific item relating to any individual and/or company which has an item on any given Council agenda.

Agenda subscriptions are available from the ~~receptionist at City Hall~~ City Clerk's Office, 333 Civic Center Plaza, Tracy, (Tel: 209/831-~~6000~~105). Copies of the agenda, and of individual agenda items, are available at costs established in the City's Master Fee Schedule. ~~A paperless version of the agenda is available at a cost of \$2 per disc; a paper copy costs \$35 per month (\$17.50 per agenda) to be pre-paid not less than 10 days prior to any regular Council meeting. A full copy of the agenda shall be provided in an indexed binder and shall be available for review by the public at City Hall during normal operating hours. Copies of individual agenda items will be provided at a cost of \$ .15 per page.~~ Copies of the agenda are also available at the Library and the agenda is posted on the City's website [www.ci.tracy.ca.us](http://www.ci.tracy.ca.us).

### Public Access to Written Materials after the Agenda has been Posted or Distributed at Council Meetings

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## B. Conduct of Council Meetings

### Council Meetings

Council meetings are held on the first and third Tuesdays of the month, unless the meeting date falls on a holiday as defined in California Government Code Section 6700. No meeting shall be held on such a holiday, but a regular meeting shall be held at 7:00 p.m. on the next business day thereafter, as required by California Government Code Section 54954. Special meetings are scheduled as necessary.

Council meetings are broadcast live on Channel 26. Reruns of the preceding Council meeting are shown every Wednesday at 8:00 p.m. and every Saturday at 9:00 a.m. on Channel 26. Videotapes and DVD recordings of City Council meetings are available at costs established in the City's Master Fee Schedule.

~~Videotapes cost \$3 per tape and DVDs cost \$2.~~  
Order of Business

The suggested order of business of Council meetings shall be as follows. However, the City Manager may make exceptions to the order as needed.

1. Roll Call
2. Pledge of Allegiance
3. Invocation
4. Proclamations and Awards
5. Consent Calendar
6. Items from the Audience
7. Continued Public Hearings
8. New Public Hearings
9. Regular Items including Introduction and Second Readings of Ordinances
10. Items from the Audience
11. Staff Items
12. Council Items
13. Adjournment

The regular order of business may be changed or suspended for any purpose at any particular meeting by the Mayor.

The Council may determine whether it will consider any new items after 11:00 p.m. and shall determine which specific items will be considered. If an item is continued due to the lateness of the hour, the item shall be automatically placed on the agenda for the next regularly scheduled City Council meeting unless otherwise scheduled by motion action of the Council.

Consent Calendar

All items listed on the Consent Calendar are considered to be routine matters or consistent with previous City Council direction. One motion, a second and a roll call vote may enact the items listed on the Consent Calendar. ~~There will be n~~No separate discussion of Consent Calendar items shall take place unless members of the City Council, City staff or the public request discussion on a specific item at the beginning of the meeting.

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It is the policy of the City Council that members of the public be allowed to address the Council on any agenda item or other matter within the Council's jurisdiction. Each member of the public will be allowed a maximum of five (5) minutes for public input or testimony. At the Mayor's discretion, additional time for testimony may be granted. The Mayor shall request that individuals addressing the Council ~~shall~~ state their names and addresses for the record, to ensure accuracy in the minutes and for contact information. An individual's failure to state his or her name or address shall not preclude the individual from addressing the Council. The public shall be given an opportunity to speak on "Items of Interest to the Public." Agendas for regular meetings will have two opportunities for "Items from the Audience." The first opportunity will be limited to a 15-minute maximum period. The second opportunity will not have a maximum time limit. The five (5) minute maximum time limit per speaker will apply to all "Items from the Audience." The City Clerk shall be the timekeeper.

Non-Agendized Items (Items from the Audience and Council Items)

No matters, other than those on the posted agenda, shall be acted upon by the Council. However, items may be added to the agenda (such as emergency matters) as permitted in the Brown Act. Brief announcements, brief responses or questions for clarification, may be made to statements or questions raised on items not on the agenda.

Action on any item not on the agenda shall be deferred until the item is properly listed on the agenda for a subsequent Council meeting unless added due to an immediate need ~~as if~~ permitted under state law.

Council Member Request for Matters to be Discussed by Council

The intent of this policy is to provide an orderly means through which an individual Council Member can raise an issue for discussion and possible City Council direction ~~or action by the City Council~~. The policy described below has two parts. The first part is to enable the Council Member to place a matter in front of the Council. The second part is to enable the Council to determine whether staff time should be spent on the issue.

Part 1: Council Members wishing to have a matter discussed by the City Council may do so by one of two means:

1. During a Council meeting, under "Council Items," a Council Member may request that a matter be placed on a future agenda for discussion. The Council Member will state the meeting date for which he/she wishes the item to be agendized.
2. In advance of a Council meeting, a Council Member may contact the City Manager, or his/her designee, via telephone, email, or in person and convey the desired title of the agenda item and desired meeting date. The desired title must be conveyed before 12:00 p.m. on the Wednesday prior to the Council meeting. This will give the City Clerk's Office time on the following Thursday to finalize the agenda and post it within the required timeframe. Requests received after this deadline shall be placed on the agenda for the following regularly-scheduled meeting. The item will then be added under the "Council Items" section of the agenda in the order it was received. It is the Council Member's option to prepare a one page summary report for the City Clerk's Office to include in the Council agenda packet. The one page summary will identify the Council Member who made the request and briefly describe the nature of the item.

Staff will not spend time preparing any reports or analyses on the requested item. The only staff assistance provided at this initial stage would be to help the Council Member frame the issue, if needed, so that the Council and public clearly understand the request.

Part 2: Consideration of the Council Member's Request: When the item is called at the Council meeting, the Council Member who made the request will describe the item. The Council discussion will be limited to determining whether staff time and City

resources should be spent researching the particular agenda item and whether to direct staff to conduct further analysis on the item. Council will not take action on the item itself.

Concurrence that staff time and City resources will be devoted to the item does not signify approval of the item. It only indicates that the Council wishes to have it studied further. Additionally, the Council may, at any time, decide to drop the matter, even after the matter has been analyzed by staff.

Upon the concurrence of a majority of the Council that the item should be researched and agendaized, the City Manager will determine when to place the item on a future agenda based on time necessary to complete the research and staff workload considerations and the effect on City Council established priorities.

#### Members of the Public - Request for Agenda Items

When a member of the public raises an item at a Council meeting which requires attention, such items shall be referred to staff for follow-up. If the requesting member of the public is not satisfied with staff's response to his/her question, the member of the public may request a Council Member to sponsor his/her item for discussion at a future Council meeting. In such cases, the sponsoring Council Member shall follow those procedures described under "Council Member Request for Agenda Items." Placing an item from a member of the public on a Council agenda does not imply or guarantee a decision or action different from that taken by staff in the initial follow-up to the question or request.

#### Public Hearings

Public hearings are required for a variety of City Council actions such as most changes to the Tracy Municipal Code, zoning revisions, some annexations, street vacations, weed abatement, liens, fee increases, etc. Whenever the law provides that publication of a notice shall be made, such notice shall be published in a newspaper of general circulation for the period prescribed, the number of times, and in the manner required. Each speaker will be allowed a maximum of five (5) minutes for public input or testimony. At the Mayor's discretion, additional time for testimony may be granted. The City Clerk shall be the timekeeper.

#### Presentations to the Council

Letters and written communications: ~~– Speakers 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. Letters submitted with a request that they be read into the record will be done so only upon a request of the majority of the Council.

PowerPoint (or similar): Staff and members of the public who wish to make PowerPoint, Video or similar presentations to the Council will utilize the City's audio/visual equipment. Staff and members of the public are required to provide the City Clerk's Office with the DVD/CD/Video (or email copy) of the presentation no later than 24 hours prior to the Council meeting.

Additionally, eight ~~(8)~~ hard copies of the presentation material shall be provided to the City Clerk's Office for inclusion in the record of the meeting and for distribution to Council, City Attorney and City Manager.

#### Americans with Disabilities Act

The City of Tracy is in compliance with the Americans with Disabilities Act and will make all reasonable accommodations for the disabled. To allow for such reasonable accommodations, persons requiring assistance or auxiliary aids to participate at a City meeting, should contact the City Manager's Office at (209) 831-6000 at least 24 hours prior to the meeting.

#### Workshops

The purpose of a workshop is to inform the policy body on complex issues. Workshops provide an opportunity for the Council to review documents and request additional information.

However, no final Council action shall be taken during the workshop on workshop items.

#### Procedure for Invocations

Any member of the public who wishes to offer an invocation prior to the opening of a regular City Council meeting shall contact the City Clerk. The City Clerk shall select a mutually agreeable City Council meeting date for the invocation.

#### Minutes

The City Clerk's office shall be responsible for the preparation and distribution of the Council minutes. The minutes shall include a public report on any action taken and the vote or abstention on such action of each Council Member present for the action. ~~be summary minutes and shall reflect the sense of the discussion and any action taken, or recommendation made, with respect to each item considered at the meeting. A written report or written communication presented at a City Council meeting will be referenced in the minutes with the name and title of the author, date of the report or communication, subject of the communication or title of report, and the action taken on the matter.~~ Unless a reading of the minutes is requested by a Council Member, the minutes may be approved as a Consent Calendar item.

No minutes or written record of closed sessions of the City Council shall be kept, except as required by state law or as directed by the majority vote of the City Council. The Council shall report at a public meeting any action taken in closed session, as required by Government Code Section 54957.1.

The City Clerk shall include a report on posting of the agenda in the minutes.

#### Rules of Decorum – Enforcement

While the Council is in session, all persons shall preserve the order and decorum of the session. The standards of order and decorum shall be governed by common sense. Any person who disrupts the orderly course of the meeting is guilty of an infraction and may be called out of order by the Mayor and barred from further participation during that session of the Council in accordance with the Brown Act and the California Penal Code.

Procedures for Preparation, Posting and Distribution of Agenda  
and the Conduct of Public Meetings  
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| (Exhibit "A" to Resolution No. [2008-140](#)\_\_\_\_\_)

| [ca:dec:cc:Policies and Procedures \(rev. 7-15-08\).doc](#)

RESOLUTION 2015-

RESCINDING RESOLUTION 2008-140 AND  
ESTABLISHING UPDATED COUNCIL POLICIES AND PROCEDURES

WHEREAS, On July 15, 2008, the Council adopted Resolution 2008-140 which revised the "Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings, and

WHEREAS, On January 20, 2015, Council desired to amend the City Council Policy related to procedures for preparation, posting and distribution of agenda and the conduct of public meetings and move from summary to action minutes, and

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

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby rescinds Resolution 2008-140 and adopts the "Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings" attached as Exhibit "A."

\* \* \* \* \*

The foregoing Resolution 2015-\_\_\_\_ was adopted by the Tracy City Council on the 20<sup>th</sup> day of January 2015, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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



**PROCEDURES FOR PREPARATION, POSTING  
AND DISTRIBUTION OF AGENDA  
AND THE CONDUCT OF PUBLIC MEETINGS**  
(Exhibit "A" to Resolution No. 2015 - )

Applicability

The procedures outlined below relating to the preparation, posting and distribution of agendas apply to the City Council, the Successor Agency to the Community Development Agency, the South County Fire Authority, the Public Facilities Corporation, the Tracy Operating Partnership Joint Powers Authority, and all City Boards, Commissions, and Committees. The procedures outlined below relating to the conduct of Council meetings apply only to the City Council. All City Council meetings shall be open to the public; however, the City Council may hold closed sessions as authorized by state law.

A. Preparation, Posting and Distribution of Agenda

Purpose of Agenda

The agenda process serves four purposes:

- As a communication mechanism, the agenda informs City staff, City Council, the public and the press.
- As a compliance mechanism, the agenda process ensures compliance with mandated state laws.
- As a decision-making mechanism, the agenda process regularly brings City business to the City Council for consideration and action. Agenda items should contain enough background information so City Council can obtain a full understanding of the issues. The agenda item should conclude with a staff recommendation so City Council has the benefit of staff input prior to making a final decision.
- As a historical reference that can be kept as a record of proceedings and actions as needed for future actions and/or litigation.

Agenda

As set forth above, the purpose of the agenda is to provide a framework within which Council meetings can be conducted and to effectively implement the approved Council programs, goals and budget. Staff shall work within the policies established by Council and not place matters on the agenda that are outside the scope of existing work programs and priorities except as approved by a majority of the Council, or matters necessary to the proper operation and well-being of the City.

The agenda shall contain a brief general description of each item of business to be transacted or discussed at the meeting.

### Distribution of Agenda

At a minimum the posting and distribution of all agendas shall be done in accordance with the Ralph M. Brown Act ("Brown Act") (California Government Code sections 54950 et seq.). Agendas for regular meetings shall be posted 72 hours prior to the meeting; special meeting agendas shall be posted not less than 24 hours prior to the meeting. All agendas shall be posted in the following locations: City Hall, the library, the City's website, and other locations as may be required by a particular Board or Commission's Bylaws. Posting of agendas at City Hall shall be the official location for purposes of Brown Act compliance.

The agenda packets are provided to City Council Members on the Thursday (or Friday) prior to City Council meeting. Distribution to the staff, public and media shall occur immediately after distribution to the City Council. The City will provide, by mail, a copy of the agenda cover sheet and the specific item relating to any individual and/or company which has an item on any given Council agenda.

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## Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings

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Procedures for Preparation, Posting and Distribution of Agenda  
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The intent of this policy is to provide an orderly means through which an individual Council Member can raise an issue for discussion and possible City Council direction or action. The policy described below has two parts. The first part is to enable the Council Member to place a matter in front of the Council. The second part is to enable the Council to determine whether staff time should be spent on the issue.

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## Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings

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Procedures for Preparation, Posting and Distribution of Agenda  
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Workshops

The purpose of a workshop is to inform the policy body on complex issues. Workshops provide an opportunity for the Council to review documents and request additional information. However, no final Council action shall be taken during the workshop on workshop items.

Procedure for Invocations

Any member of the public who wishes to offer an invocation prior to the opening of a regular City Council meeting shall contact the City Clerk. The City Clerk shall select a mutually agreeable City Council meeting date for the invocation.

Minutes

The City Clerk's office shall be responsible for the preparation and distribution of the Council minutes. The minutes shall include a public report on any action taken and the vote or abstention on such action of each Council Member present for the action. Unless a reading of the minutes is requested by a Council Member, the minutes may be approved as a Consent Calendar item.

No minutes or written record of closed sessions of the City Council shall be kept, except as required by state law or as directed by the majority vote of the City Council. The Council shall report at a public meeting any action taken in closed session, as required by Government Code Section 54957.1.

The City Clerk shall include a report on posting of the agenda in the minutes.

Rules of Decorum – Enforcement

While the Council is in session, all persons shall preserve the order and decorum of the session. The standards of order and decorum shall be governed by common sense. Any person who disrupts the orderly course of the meeting is guilty of an infraction and may be called out of order by the Mayor and barred from further participation during that session of the Council in accordance with the Brown Act and the California Penal Code.

(Exhibit "A" to Resolution No. 2015- )

AGENDA ITEM 3

REQUEST

**CONDUCT A PUBLIC HEARING AND ADOPT A RESOLUTION OF NECESSITY AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE PERMANENT AND TEMPORARY CONSTRUCTION EASEMENTS ON CERTAIN REAL PROPERTIES FOR CONSTRUCTION OF A WASTEWATER EFFLUENT DISCHARGE PIPELINE FROM THE WASTEWATER TREATMENT PLANT TO THE OLD RIVER AND AUTHORIZE THE DEPOSIT OF \$200 FOR THE ALVES PARCEL, \$3,800 FOR THE PERRY PARCELS, AND \$11,900 FOR THE HOLLY COMMERCE CENTER PARCEL WITH THE STATE OF CALIFORNIA – CONDEMNATION DEPOSIT FUND**

EXECUTIVE SUMMARY

The construction of a second wastewater effluent pipeline from the Wastewater Treatment Plant (WWTP) to the Old River is an approved Capital Improvement Project CIP 74083. Construction of this project requires temporary and permanent construction easements from 14 properties.

The City had completed appraisals, made offers and negotiated with these property owners for acquisition of temporary and permanent easements for this project. The City completed friendly acquisition of such easements from 10 property owners.

Since the City is unable to secure permanent and temporary easements from the remaining four parcels owned by three property owners, it is requested that City Council adopt a Resolution of Necessity to initiate eminent domain proceedings to acquire the subject easements.

DISCUSSION

The existing 33 inch diameter wastewater effluent pipe from the existing WWTP to the Old River is comprised of asbestos cement and is approximately 40 years old. The pipe is deteriorated and is prone to cracking due to its brittle materials. The failure of this pipeline would create significant problems for the disposal of wastewater effluent and may create environmental issues. A second effluent pipeline is required to be constructed to serve the existing and future needs of the City's WWTP without taking the existing line out of service. This is consistent with the City's previous Wastewater Master Plans and the recent Wastewater Master Plan approved in 2013. This project is an approved Capital Improvement Project CIP 74083.

The proposed pipeline is 42 inches in diameter to serve the City's existing and future needs. This pipe runs approximately 3.5 miles and crosses under the Tom Paine Slough and Paradise Cut and will have discharge capacity of 16 million gallons per day (mgd). The City's existing permit from the Water Quality Control Board allows 16 mgd outfall discharge at the Old River.

The City of Tracy completed the project Environmental Impact Report (EIR) to comply with California Environmental Quality Act (CEQA) regulations in 2000 and since then there are no changes in the project description. The City has obtained permits from State and Federal agencies such as:

US Fish and Wildlife Service  
US Army Corps of Engineers  
State Fish and Wildlife  
Central Valley Flood Protection Board  
Central Valley Regional Water Quality Control Board  
State Lands Commission (determination of Jurisdiction)

The City has designed the project in such a manner that a minimum amount of private property is impacted. The pipeline will be constructed underground, and after completion of the project the property owners will be allowed to maintain their existing surface use of the permanent easement areas (other than structures and buildings).

Construction of the new pipeline requires the acquisition of permanent and temporary construction easements from 14 parcels. The City completed appraisals, made offers to each of the owners of the parcels. The City has secured required easements from 10 parcels. The City has reached an impasse with the remaining four parcels owned by three property owners.

The remaining 4 parcels to obtain required easements are as follows:

The Owners of Record are:

1. Mary R. Perry, two parcels located at 8121 Delta Avenue, Tracy, California, (APN 213-020-03 and 20). A 20,038 square foot permanent easement from APN 213-020-03 and 62,726 square foot temporary construction easements are required from both parcels. (Exhibit A)
2. Diana L. Alves and Edward G. Alves parcel located at 7901 Delta Avenue, Tracy California, (APN 213-020-04). A 4,356 square foot temporary construction easement on a 912,582 square feet parcel is required. (Exhibit B)
3. Holly Commerce Center, LLC parcel located at 9409 West Arbor Avenue, Tracy, California, (APN 212-160-10). A 10,890 square foot permanent easement and 14,810 square foot temporary construction easement are required. (Exhibit C)

The City has obtained an appraisal of all subject properties by an independent licensed appraiser. The owners of records of APN 213-020-04, APN 213-020-02, 03 and APN 212-160-10 have been sent a summary of the appraisal and an offer to purchase the property. All parties were also sent an information handbook explaining the process and their rights. All parties were also informed of the proposed adoption of the attached Resolution of Necessity and their right to speak at this meeting. To date, negotiations conducted by City staff and the City's right of way agents have not resulted in agreed prices for the required properties.



A check of records with the San Joaquin County Recorder on November 25, 2014, ascertained that all property owners are still owners of record for these properties. Staff recommends that a Resolution of Necessity be adopted at this time. This will allow for the filing of eminent domain proceedings to acquire the required properties. Should the owner/s of record/s, wish to enter into negotiations to allow the City to purchase the property, such negotiations can occur even after filing the eminent domain action.

In order to adopt a Resolution of Necessity, a total of four affirmative votes are required. In addition, the Council must find and determine as follows:

- The public interest and necessity require the proposed project;
- The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- The properties described in the resolution are necessary for the proposed project; and
- That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

The purpose of the hearing is not to determine value of the property, but to determine whether the requirements for adopting the resolution have been met. As discussed above, the project is necessary in order to provide reliable and safe effluent disposal. The project has been carefully designed to minimize the amount of private property necessary to construct the project, and the property owners will be allowed to continue their existing use of the properties after the project is completed.

### STRATEGIC PLAN

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

### FISCAL IMPACT

The City will need to deposit the appraised value of the properties with the State of California – Condemnation Deposits Fund. These funds have been budgeted in CIP 74083, for FY 14-15 and are within the project's budgeted amount.

### RECOMMENDATION

That the City Council conduct a public hearing and Adopt a Resolution of Necessity to acquire designated easements on the properties located at:

1. 8121 Delta Avenue, Tracy, California, (APN 213-020-02 and 03)
2. 7901 Delta Avenue, Tracy California, (APN 213-020-04)
3. 9409 West Arbor Avenue, Tracy, California, (APN 212-160-10)

by eminent domain for the purpose of constructing a second effluent pipeline between the Wastewater Treatment Plant and Old River and authorize the deposit of \$200 for the Alves parcel and \$3,800 for the Perry's parcels and \$11,900 for the Holly Commerce Center parcel with the State of California – Condemnation Deposits Fund.

Prepared by: Zabih Zaca – Senior Civil Engineer

Reviewed by: Kuldeep Sharma, Utilities Director/Interim City Engineer  
Andrew Malik, Development Services Director  
Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager

#### ATTACHMENTS

Exhibit A – Pipeline and Access Easement (Perry)  
Exhibit B – Temporary Construction Easement (Alves)  
Exhibit C – Permanent and Access Easement Deed (Holly Commerce)

**PIPELINE AND ACCESS EASEMENT (Perry)**

A non-exclusive easement ("Easement") for the right to lay down, construct, alter, operate, maintain, clean and repair such wastewater pipeline facility or lines and appurtenances thereto in such sizes and configurations as the City of Tracy ("City") deems necessary over, along, upon, in, above, through and across all that real property situate in the County of San Joaquin, State of California, described in the accompanying legal description and plat map.

The Easement granted herein includes incidental rights of maintenance, cleaning, repair and replacement of said wastewater pipeline facility or lines and appurtenances together with the free right of ingress and egress over, along, upon, in, above, through and across the remaining portion of the real property of which the Easement is a part ("Larger Parcel"), insofar as such right of ingress and egress is necessary to the proper use of the rights granted herein.

The owner of the Larger Parcel ("Owner") shall not allow anything which may interfere with the full enjoyment by the City of the rights herein granted. The Owner shall have the right to landscape or make such other use of the lands included within the surface easement which is consistent with the City's use; however, such use by Owner shall not include the planting of trees or construction of permanent structures, including but not limited to buildings or other architectural concrete structures within the easement(s).

Upon the completion of any of its works hereunder, the City shall restore as near as possible the surface of the ground to the condition in which it was prior to the commencement of said work.

The Easement shall bind and inure to the benefit of the successors and assigns of the City and the Owner.

3/28/2013  
C02211A  
213-020-003p

**DESCRIPTION OF EASEMENT**

Being a 20.00 wide Easement lying in Lot 55 as shown on "Map of Unit No. 2A of Pescadero Colony", recorded in Volume 10 of Map and Plats at page 123, San Joaquin County Records, and shown on "Record of Survey Map", recorded in Book 15 of Surveys at page 113, San Joaquin County Records, being more particularly described as follows:

**BEGINNING** at a point on the north right of way line of Delta Avenue as shown on said "Map of Unit No. 2A of Pescadero Colony" that bears South 86° 49' 43" West, 13.31 feet from the intersection of said north right of way line and the west line of the 21.55 acre parcel as shown on said "Record of Survey Map";

Thence South 86° 49' 43" West, 20.05 feet along the said north right of way line;

Thence North 00° 53' 25" East, 526.98 feet;

Thence North 45° 53' 25" East, 21.21 feet;

Thence North 00° 53' 25" East, 472.52 feet more or less to the north line of said Lot 55;

Thence North 79° 41' 38" East, 20.39 feet along the said north line of Lot 55;

Thence South 00° 53' 25" West, 484.76 feet;

Thence South 45° 53' 25" West, 21.21 feet;

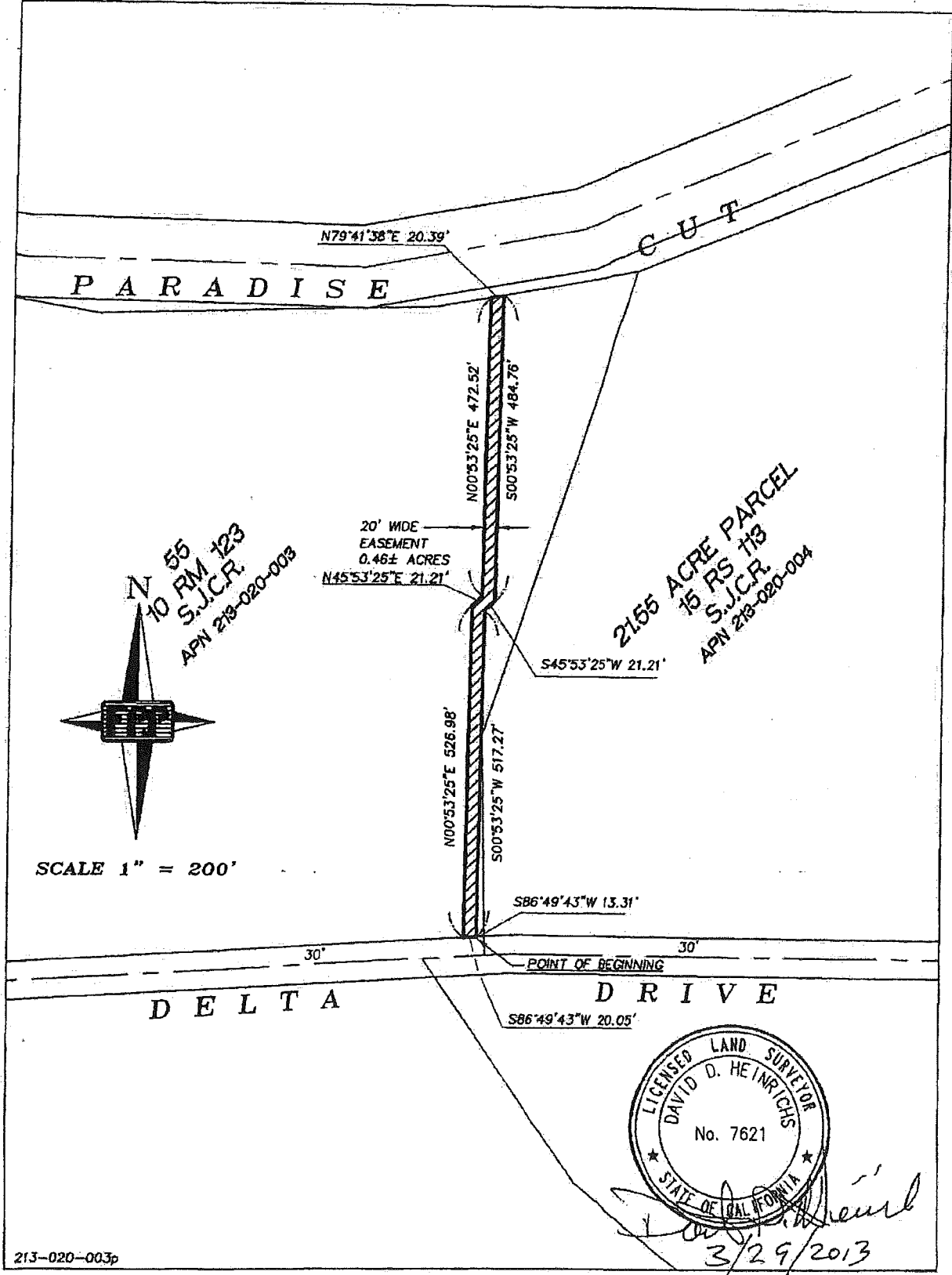
Thence South 00° 53' 25" West, 517.27 feet to **POINT OF BEGINNING**;

Containing 0.46 acres, more or less.

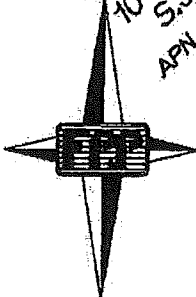


*David D. Heinrichs*  
3/29/2013

**EXHIBIT A**



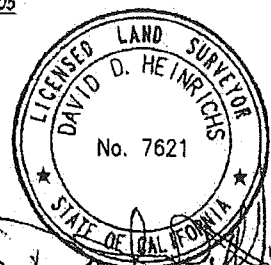
N 55  
 10 PM 123  
 S.J.C.R.  
 APN 213-020-003



SCALE 1" = 200'

20' WIDE  
 EASEMENT  
 0.46± ACRES  
 N45°53'25"E 21.21'

21.55 ACRE PARCEL  
 15 RS 118  
 S.J.C.R.  
 APN 213-020-004



*David D. Heinrichs*  
 3/29/2013

213-020-003p

EXHIBIT A

## TEMPORARY CONSTRUCTION EASEMENT (Perry)

A Temporary Construction Easement ("TCE"), over, across, under and through the real property situated in the County of San Joaquin, State of California, described in the accompanying legal descriptions and plat maps ("Easement Area") for construction and conformance purposes related to the Waste Water Treatment Plant Project ("Project").

The City of Tracy's ("City") rights under the TCE shall include, without limitation, the right of City, its officers, agents, contractors, and employees, and other governmental agencies responsible for review or construction of any portion of the Project and such agencies' officers, agents, contractors, and employees, to enter upon the Easement Area with personnel, vehicles and equipment for construction of the Project, and all other activities related thereto, to remove all improvements, trees and vegetation thereon that interfere with the purpose for which this easement is granted, to conform the Easement Area to the Project, and do any and all other actions necessary and appropriate to the construction of the Project.

The TCE is for a period of thirty-six (36) months, to commence upon thirty (30) days written notice from CITY to the owner ("Owner") of the real property of which the Easement Area is a part ("Larger Parcel"), and shall terminate thirty-six (36) months after such commencement. In no event shall the TCE extend beyond the completion of construction, or December 31, 2017. At no additional cost to City, City shall have the right to enter upon the Larger Parcel, where necessary, to reconstruct or perform any warranty or conformance works during the TCE and any extension thereto. Said works shall include conforming driveways, walkways, lawn, landscaped and hardscaped areas, irrigation systems, sidewalks or any area where reconstruction or warranty work on the Larger Parcel is necessary.

All work performed by City in the Easement Area shall conform to applicable building, fire, and sanitary laws, ordinances and regulations relating to such work and shall be done in a good and workmanlike manner.

**EXHIBIT A**

3/28/2013  
C02211A  
213-020-003t1

DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT

Being a Temporary Construction Easement lying in Lot 55 as shown on "Map of Unit No. 2A of Pescadero Colony", recorded in Volume 10 of Map and Plats at page 123, San Joaquin County Records, and shown on "Record of Survey Map", recorded in Book 15 of Surveys at page 113, San Joaquin County Records, being more particularly described as follows:

**BEGINNING** at a point on the north right of way line of Delta Avenue as shown on said "Map of Unit No. 2A of Pescadero Colony" that bears South 86° 49' 43" West, 33.36 feet from the intersection of said north right of way line and the west line of the 21.55 acre parcel as shown on said "Record of Survey Map";

Thence South 86° 49' 43" West, 40.10 feet along the said north right of way line;

Thence North 00° 53' 25" East, 580.00 feet;

Thence North 89° 06' 35" West, 55.00 feet;

Thence North 00° 53' 25" East, 351.94 feet;

Thence North 86° 53' 02" East, 110.27 feet;

Thence South 00° 53' 25" West, 394.82 feet;

Thence South 45° 53' 25" West, 21.21 feet;

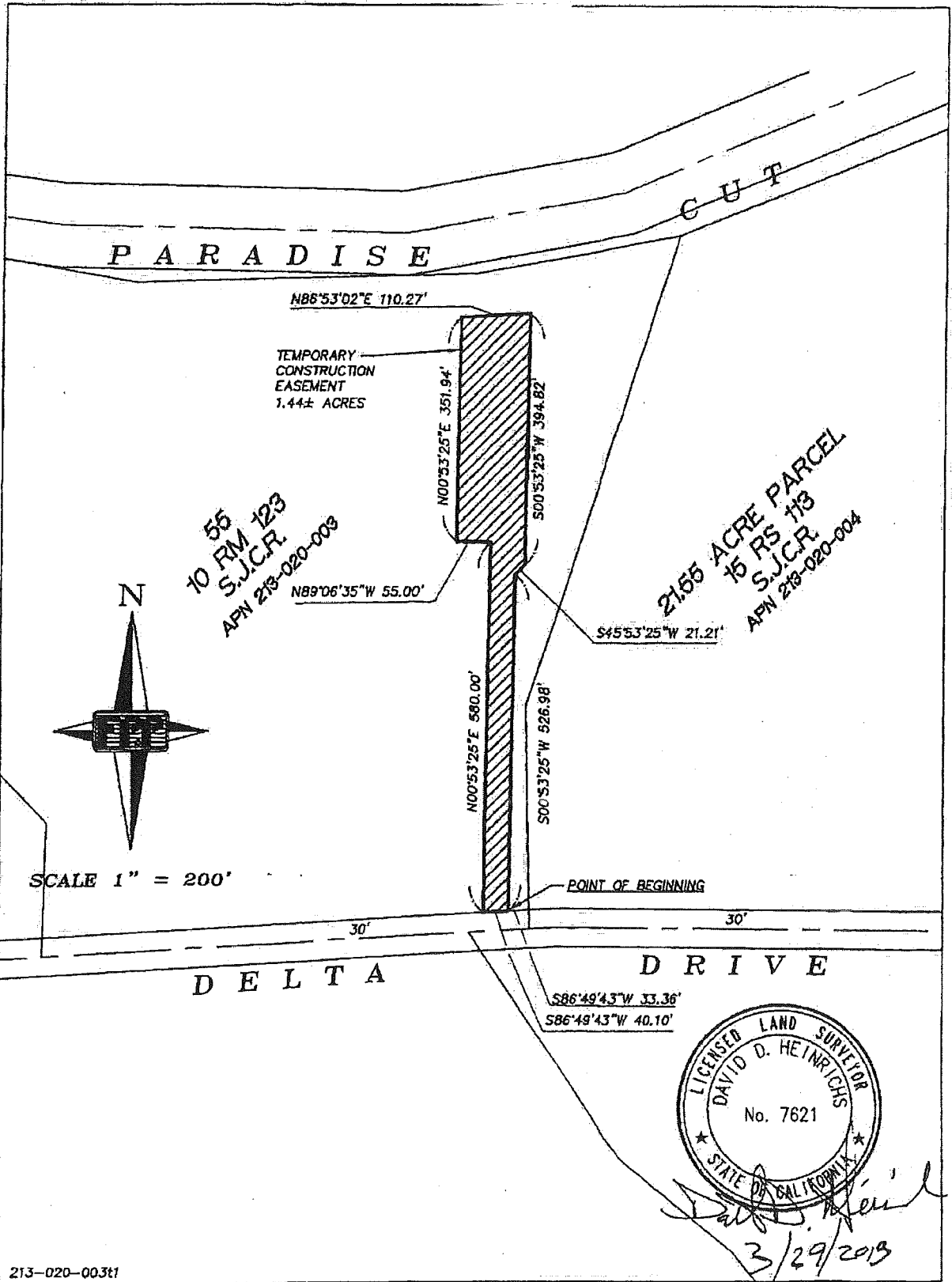
Thence South 00° 53' 25" West, 526.98 feet to **POINT OF BEGINNING**;

Containing 1.44 acres, more or less.



*David D. Heinrichs*  
3/29/2013

EXHIBIT A



**EXHIBIT A**



3/28/2013  
C02211A  
213-020-003t2

DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT

Being a Temporary Construction Easement lying in Lot 55 as shown on "Map of Unit No. 2A of Pescadero Colony", recorded in Volume 10 of Map and Plats at page 123, San Joaquin County Records, and shown on "Record of Survey Map", recorded in Book 15 of Surveys at page 113, San Joaquin County Records, being more particularly described as follows:

**BEGINNING** at the intersection of north right of way line of Delta Avenue as shown on said "Map of Unit No. 2A of Pescadero Colony" and the west line of the 21.55 acre parcel as shown on said "Record of Survey Map";

Thence South 86° 49' 43" West, 13.31 feet along the said north right of way line;

Thence North 00°53' 25" East, 517.27 feet;

Thence North 45°53' 25" East, 21.21 feet;

Thence North 00°53' 25" East, 406.10 feet;

Thence North 82° 24' 05" East, 20.22 feet;

Thence South 00°53' 25" West, 417.37 feet;

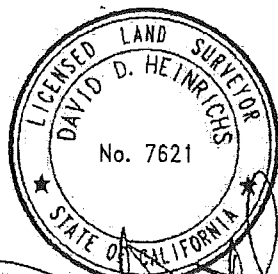
Thence South 45°53' 25" West, 21.21 feet;

Thence South 00°53' 25" West, 129.97 feet to the west line of said 21.55 acre parcel;

Thence South 18° 19' 20" West, 60.56 feet along the said west line of the 21.55 acre parcel;

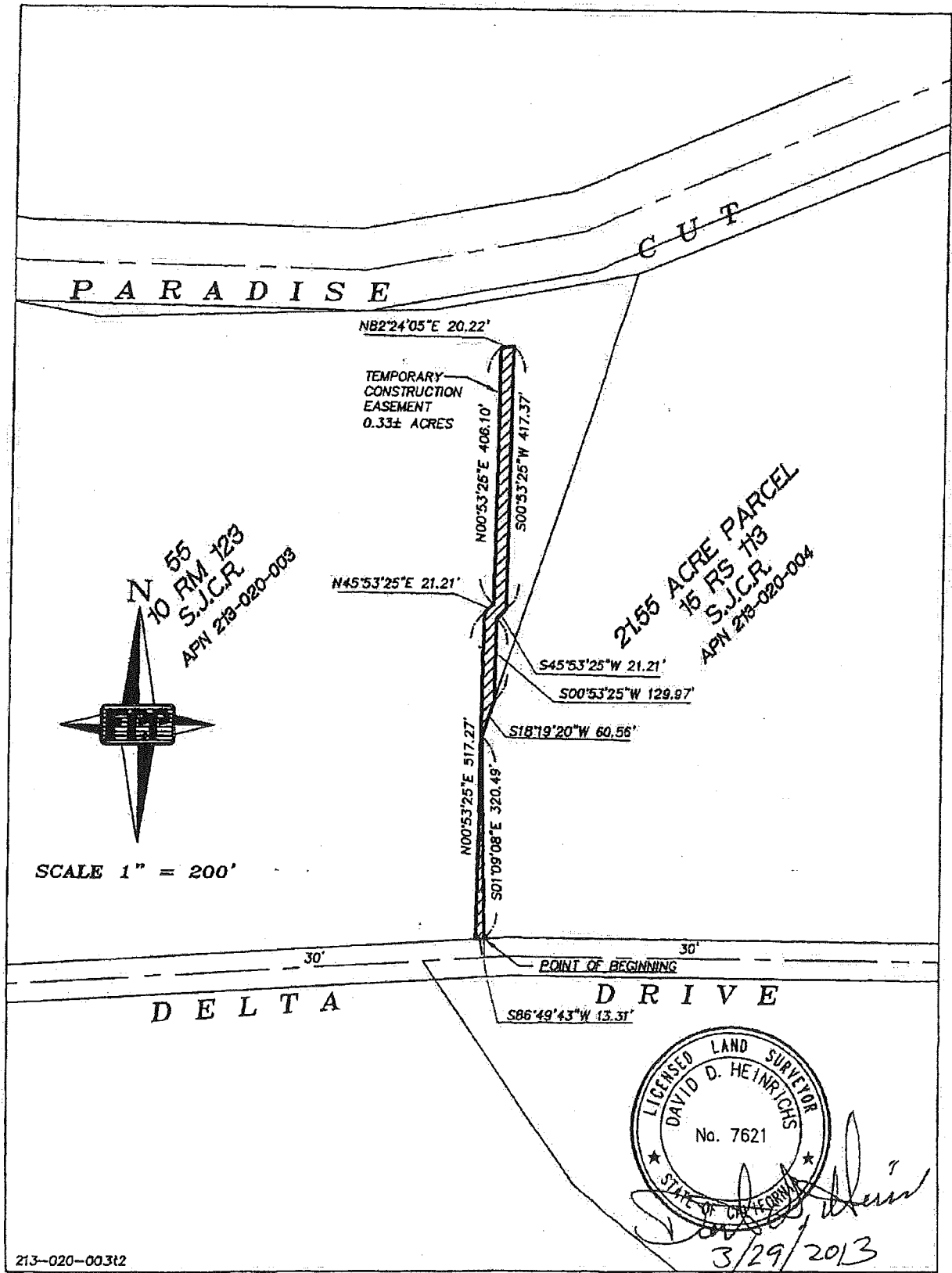
Thence South 01° 09' 08" East, 320.49' feet along the said west line of the 21.55 acre parcel to **POINT OF BEGINNING**;

Containing 0.33 acres, more or less.



*David D. Heinrichs*  
3/29/2013

EXHIBIT A



213-020-003t2

EXHIBIT A

## TEMPORARY CONSTRUCTION EASEMENT (Perry)

A Temporary Construction Easement ("TCE"), over, across, under and through the real property situated in the County of San Joaquin, State of California, described in the accompanying legal description and plat map ("Easement Area") for construction and conformance purposes related to the Waste Water Treatment Plant Project ("Project").

The City of Tracy's ("City") rights under the TCE shall include, without limitation, the right of City, its officers, agents, contractors, and employees, and other governmental agencies responsible for review or construction of any portion of the Project and such agencies' officers, agents, contractors, and employees, to enter upon the Easement Area with personnel, vehicles and equipment for construction of the Project, and all other activities related thereto, to remove all improvements, trees and vegetation thereon that interfere with the purpose for which this easement is granted, to conform the Easement Area to the Project, and do any and all other actions necessary and appropriate to the construction of the Project.

The TCE is for a period of thirty-six (36) months, to commence upon thirty (30) days written notice from CITY to the owner ("Owner") of the real property of which the Easement Area is a part ("Larger Parcel"), and shall terminate thirty-six (36) months after such commencement. In no event shall the TCE extend beyond the completion of construction, or December 31, 2017. At no additional cost to City, City shall have the right to enter upon the Larger Parcel, where necessary, to reconstruct or perform any warranty or conformance works during the TCE and any extension thereto. Said works shall include conforming driveways, walkways, lawn, landscaped and hardscaped areas, irrigation systems, sidewalks or any area where reconstruction or warranty work on the Larger Parcel is necessary.

All work performed by City in the Easement Area shall conform to applicable building, fire, and sanitary laws, ordinances and regulations relating to such work and shall be done in a good and workmanlike manner.

**EXHIBIT A**

8/02/2012  
C02211A  
213-020-020t

DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT

Being a 50.00 wide Temporary Construction Easement lying in Lot 57-A of "Map of Unit No. 2A of Pescadero Colony", recorded in Volume 10 of Map and Plats at page 123, San Joaquin County Records, being more particularly described as follows:

The south 50.00 feet of the north 80.00 feet (measured along the south right of way line of Delta Avenue), the north line said 50.00 wide easement being the same as the south right of way line of Delta Avenue as shown on said map.



*David D. Heinrichs*  
8/20/2012

EXHIBIT A

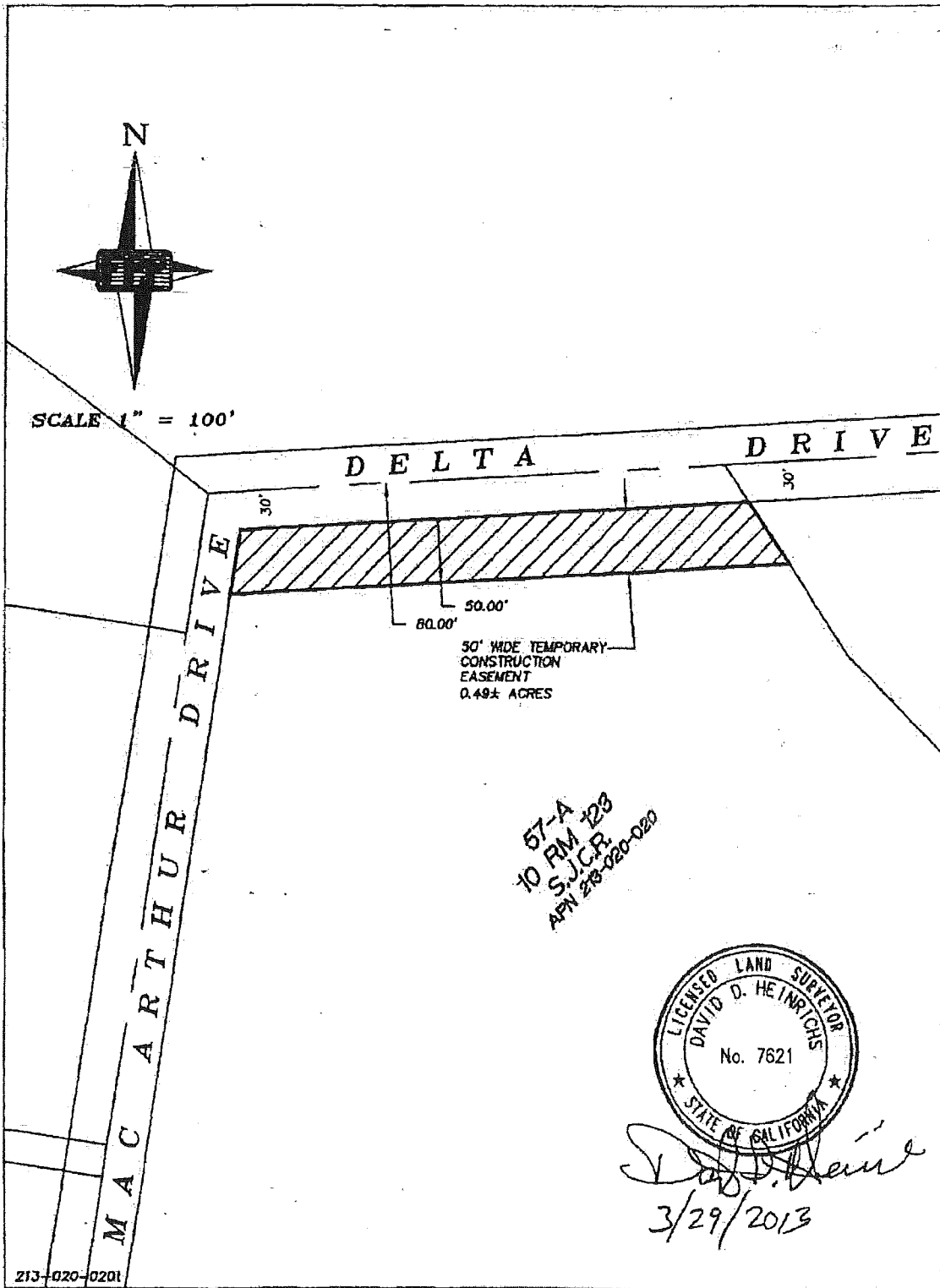


EXHIBIT A

### TEMPORARY CONSTRUCTION EASEMENT (Alves)

A Temporary Construction Easement ("TCE"), over, across, under and through the real property situated in the County of San Joaquin, State of California, described in the accompanying legal description and plat map ("Easement Area") for construction and conformance purposes related to the Waste Water Treatment Plant Project ("Project").

The City of Tracy's ("City") rights under the TCE shall include, without limitation, the right of City, its officers, agents, contractors, and employees, and other governmental agencies responsible for review or construction of any portion of the Project and such agencies' officers, agents, contractors, and employees, to enter upon the Easement Area with personnel, vehicles and equipment for construction of the Project, and all other activities related thereto, to remove all improvements, trees and vegetation thereon that interfere with the purpose for which this easement is granted, to conform the Easement Area to the Project, and do any and all other actions necessary and appropriate to the construction of the Project.

The TCE is for a period of thirty-six (36) months, to commence upon thirty (30) days written notice from CITY to the owner ("Owner") of the real property of which the Easement Area is a part ("Larger Parcel"), and shall terminate thirty-six (36) months after such commencement. In no event shall the TCE extend beyond the completion of construction, or December 31, 2017. At no additional cost to City, City shall have the right to enter upon the Larger Parcel, where necessary, to reconstruct or perform any warranty or conformance works during the TCE and any extension thereto. Said works shall include conforming driveways, walkways, lawn, landscaped and hardscaped areas, irrigation systems, sidewalks or any area where reconstruction or warranty work on the Larger Parcel is necessary.

All work performed by City in the Easement Area shall conform to applicable building, fire, and sanitary laws, ordinances and regulations relating to such work and shall be done in a good and workmanlike manner.

**EXHIBIT B**

3/28/2013  
C02211A  
213-020-004t

**DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT**

Being a Temporary Construction Easement lying in Lot 55 as shown on "Map of Unit No. 2A of Pescadero Colony", recorded in Volume 10 of Map and Plats at page 123, San Joaquin County Records, and also lying in the 21.55 Acre Parcel as shown on "Record of Survey Map", recorded in Book 15 of Surveys at page 113, San Joaquin County Records, being more particularly described as follows:

**BEGINNING** at the intersection of north right of way line of Delta Avenue as shown on said "Map of Unit No. 2A of Pescadero Colony" and the west line of the said 21.55 acre parcel as shown on said "Record of Survey Map";

Thence North 86° 49' 43" East, 6.74 feet along the said north right of way line;

Thence North 00° 53' 25" East, 377.60 feet the west line of said 21.55 acre parcel;;

Thence South 18° 19' 20" West, 60.56 feet along the said west line of the 21.55 acre parcel;

Thence South 01° 09' 08" East, 320.49 feet along the said west line of the 21.55 acre parcel to **POINT OF BEGINNING**.

Containing 0.10 acres, more or less.

  
*David D. Heinrichs*  
3/29/2013

**EXHIBIT B**

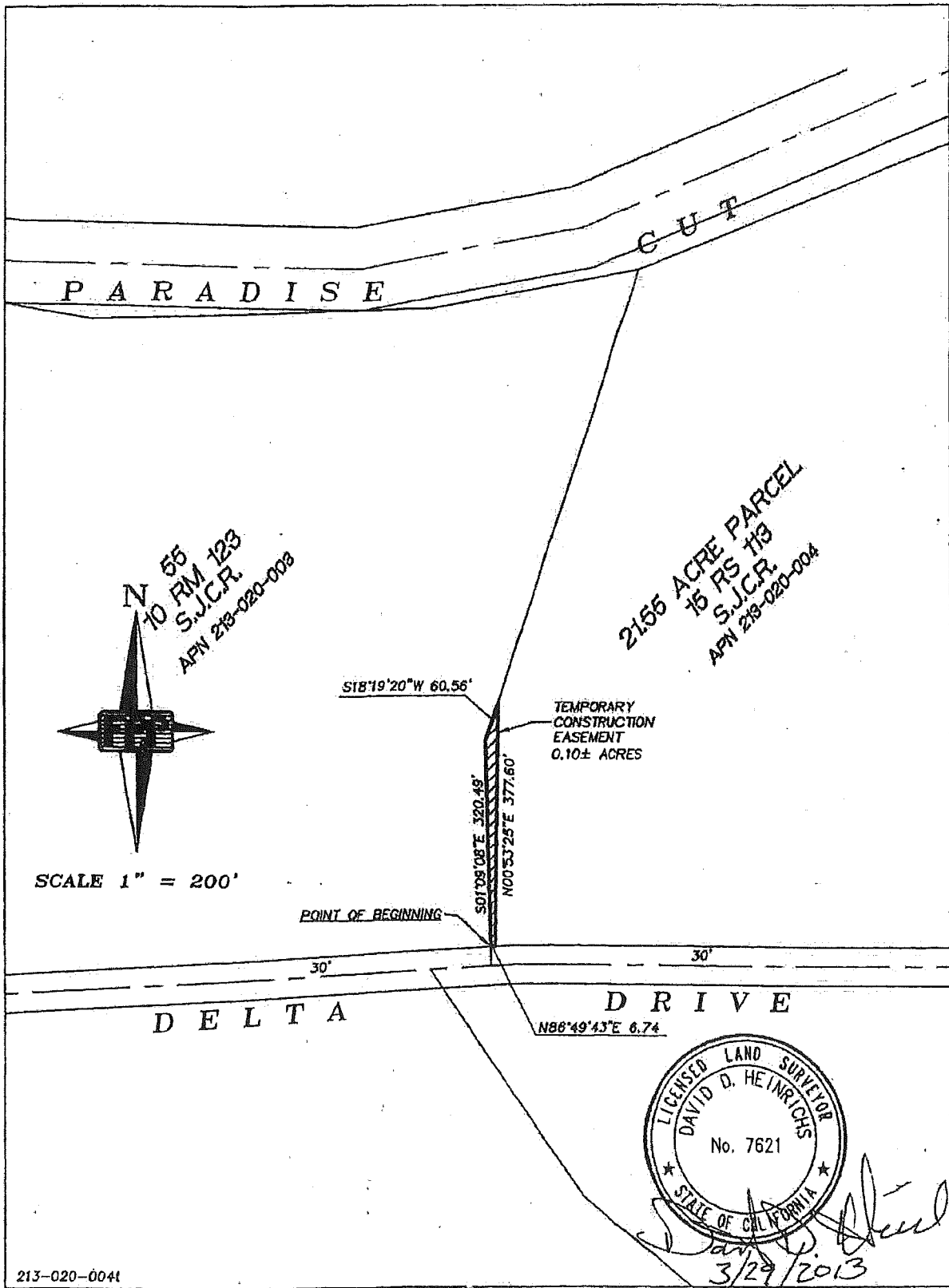


EXHIBIT B



## TEMPORARY CONSTRUCTION EASEMENT (Holly Commerce)

A Temporary Construction Easement ("TCE"), over, across, under and through the real property situated in the County of San Joaquin, State of California, described in the accompanying legal description and plat map ("Easement Area") for construction and conformance purposes related to the Waste Water Treatment Plant Project ("Project").

The City of Tracy's ("City") rights under the easement granted hereby shall include, without limitation, the right of the City, its officers, agents, contractors, and employees, and other governmental agencies responsible for review or construction of any portion of the Project and such agencies' officers, agents, contractors, and employees, to enter upon the Easement Area with personnel, vehicles and equipment for construction of the Project, and all other activities related thereto, to remove all improvements, trees and vegetation thereon that interfere with the purpose for which this easement is granted, to conform the Easement Area after completion of the Project, and do any and all other actions necessary and appropriate to the construction of the Project.

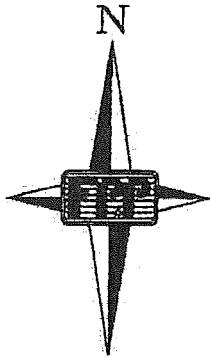
City shall maintain access for the benefit of the owner ("Owner") of the real property of which the Easement Area is a part ("Larger Parcel"), between Arbor Road and the remainder of the Larger Parcel, including but not limited to pedestrian, vehicular and railroad access, during the pendency of the TCE. Any railroad access shall be limited to crossings of the Easement Area, of not less than 70°, including the existing railroad crossing.

The TCE is for a period of thirty-six (36) months, to commence upon sixty (60) days written notice from City to Owner, and shall terminate thirty-six (36) months after such commencement. In any event, the TCE shall terminate December 31, 2017.

City shall have the right to enter upon the Larger Parcel, if and only to the extent necessary, to reconstruct or perform any warranty or repair work during the TCE and any extension thereto.

All work performed by City in the Easement Area shall conform to applicable building, fire, and sanitary laws, ordinances and regulations relating to such work and shall be done in a good and workmanlike manner.

EXHIBIT C



SCALE 1" = 100'

34 SURVEYS 37

LOT 1  
BLOCK 2  
8 MAP 1  
APN 212-160-010

LOT 7  
BLOCK 2  
8 MAP 1  
APN 212-160-010

EASEMENT  
0.25± ACRES

S00°31'46"W  
20.00'

N89°28'14"W 452.20'

NB9°28'14"W 55.44'  
S45°31'46"W  
14.14'

N00°22'21"E  
30.00'

S89°28'14"E 517.72'

N00°22'21"E  
30.00'

A R B O R

A V E N U E

TRUE POINT OF BEGINNING

POINT OF COMMENCING



*David D. Heinrichs*  
3/29/2013

3/28/2013  
C02211A  
212-160-010p

**DESCRIPTION OF PERMANENT EASEMENT**

All that portion of Lots 1 and 7 of Block 2 of "Tracy Gardens Farms", recorded in Volume 8 of Map and Plats at page 1, San Joaquin County Records, as shown on "Record of Survey", recorded in Book 34 of Surveys at page 37, San Joaquin County Records, being more particularly described as follows:

**COMMENCING** at the intersection of the centerline of Arbor Avenue and the east line of said Lot 7;  
Thence North  $00^{\circ} 22' 21''$  East, 30.00 feet along said east line to the north right of way line of said Arbor Avenue also being the **TRUE POINT OF BEGINNING**;  
Thence North  $00^{\circ} 22' 21''$  West, 30.00 feet along said east line to its intersection with a line parallel with and 30.00 feet north of said north right of way line;  
Thence North  $89^{\circ} 28' 14''$  West, 55.44 feet along said line parallel with and 30.00 feet north of said north right of way line;  
Thence South  $45^{\circ} 31' 46''$  East, 14.14 feet;  
Thence North  $89^{\circ} 28' 14''$  West, 452.20 feet along said line parallel with and 20.00 feet north of said north right of way line;  
Thence South  $00^{\circ} 31' 46''$  West, 20.00 feet to said north right of way line;  
Thence South  $89^{\circ} 28' 14''$  East, 517.72 feet along said north right of way line to **POINT OF BEGINNING**.

Containing 0.25 acres, more or less.


  
*David Heinrich*  
3/29/2013

EXHIBIT C

**PERMANENT PIPELINE AND ACCESS EASEMENT DEED (Holly Commerce)**

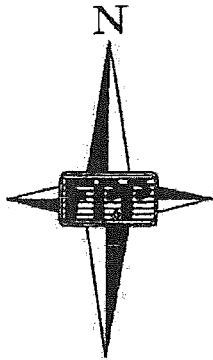
A non-exclusive easement ("Easement") for the right to lay down, construct, alter, operate, maintain, clean and repair a subsurface wastewater pipeline facility or lines and appurtenances thereto in such sizes and configurations as the City of Tracy ("City") deems necessary over, along, upon, in, through and across all that real property situate in the County of San Joaquin, State of California, described in the accompanying legal description and plat map.

The Easement includes incidental rights of maintenance, cleaning, repair and replacement of said wastewater pipeline facility or lines and appurtenances together with the free right of ingress and egress over, along, upon, in, above, through and across the remaining portion of the real property of which the easement is a part ("Larger Parcel"), insofar as such right of ingress and egress is necessary to the proper use of the rights granted herein.

The owner of the Larger Parcel ("Owner") shall not allow anything which may interfere with the full enjoyment by the City of the rights herein granted. The Owner shall have the right to make use of the lands included within the Easement which is consistent with the City's use, including but not limited to landscaping, parking lots, driveways, access roads, and railroad tracks and rail access crossing the easement at not less than 70° (including but not limited to the existing railroad crossing). However, such use by Owner shall not include the planting of trees or construction of permanent structures, including but not limited to buildings or other architectural concrete structures within the Easement.

Upon the completion of any of its works hereunder, the City shall restore as near as possible the surface of the ground to the condition in which it was prior to the commencement of said work.

The Easement described herein shall bind and inure to the benefit of the successors and assigns of the City and the Owner.



SCALE 1" = 100'

34 SURVEYS 37

LOT 1  
BLOCK 2  
8 MAP 1  
APN 212-160-010

LOT 7  
BLOCK 2  
8 MAP 1  
APN 212-160-010

S00°31'46"W  
30.00'

TEMPORARY CONSTRUCTION EASEMENT  
0.34± ACRES

N45°31'46"E  
14.14'

N00°22'21"E  
20.00'

N89°28'14"W 517.58'

N00°22'21"E  
60.00'

S89°28'14"E 452.20'

S89°28'14"E 55.44'  
TRUE POINT OF BEGINNING

A R B O R

A V E N U E

POINT OF COMMENCING



*David D. Heinrichs*  
3/29/2013

212-160-010t

EXHIBIT C

3/28/2013  
CO2211A  
212-160-010t

**DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT**

All that portion of Lots 1 and 7 of Block 2 of "Tracy Gardens Farms", recorded in Volume 8 of Map and Plats at page 1, San Joaquin County Records, and as shown on "Record of Survey", recorded in Book 34 of Surveys at page 37, San Joaquin County Records, being more particularly described as follows:

**COMMENCING** at the intersection of the centerline of Arbor Avenue and the east line of said Lot 7;  
Thence North 00° 22' 21" West, 60.00 feet along said east line to a line parallel with and 30.00 feet north of said Arbor Avenue also being the **TRUE POINT OF BEGINNING**;  
Thence North 00° 22' 21" West, 20.00 feet along said east line to its intersection with a line parallel with and 50.00 feet north of said north right of way line;  
Thence North 89° 28' 14" West, 517.58 feet along said line parallel with and 50.00 feet north of said north right of way line;  
Thence South 00° 31' 46" West, 30.00 feet to line parallel with and 20.00 feet north of said north right of way line;  
Thence South 89° 28' 14" East, 452.20 feet along said line parallel with and 20.00 feet north of said north right of way line;  
Thence North 45° 31' 46" West, 14.14 feet to line parallel with and 30.00 feet north of said north right of way line;  
Thence South 89° 28' 14" East, 55.44 feet along said line parallel with and 30.00 feet north of said north right of way line to **POINT OF BEGINNING**.

Containing 0.34 acres, more or less.

  
*David Heinrichs*  
3/29/2013

EXHIBIT C

RESOLUTION 2015- \_\_\_\_\_

RESOLUTION OF NECESSITY OF THE CITY OF TRACY TO CONDEMN REAL PROPERTY IN CONNECTION WITH THE WASTEWATER EFFLUENT DISCHARGE PIPELINE PROJECT; MAKE FINDINGS AND DETERMINATIONS; AUTHORIZE EMINENT DOMAIN PROCEEDINGS AND APPLICATIONS FOR POSSESSION PRIOR TO JUDGMENT; DRAW AND DEPOSIT WARRANT (PORTIONS OF ALVES, APN 213-020-04, PERRY, APN 213-020-03 AND 20, AND HOLLY COMMERCE CENTER, LLC, APN 212-160-10)

WHEREAS, The City of Tracy wishes to acquire certain permanent and temporary easements in real property described herein below for public use by the exercise of the power of eminent domain, and

WHEREAS, The property is required for public effluent disposal facilities required for the City of Tracy's Wastewater Treatment Plant ("Project"), and

WHEREAS, Pursuant to Chapter 4, Title 7, Part 3 of the Code of Civil Procedure, written notices of the intent to consider the adoption of this resolution of necessity were sent on September 24, 2014, October 7, 2014, October 13, 2014, and October 24, 2014 to the owners of record of the said properties, and

WHEREAS, Due consideration of all oral and documentary evidence introduced has been given;

NOW, THEREFORE, by vote of two-thirds or more of its members, the City Council of the City of Tracy does find and resolve as follows:

1. The findings and declarations contained in this resolution are based upon the record before the City Council on January 20, 2015, when the City Council received and discussed the staff report accompanying this resolution, and the testimony, records and documents produced at the hearing, all of which are incorporated by this reference;

2. On \_\_\_\_\_, the City Council certified an Environmental Impact Report for the Project. The Staff Report, and the testimony, records and documents produced at said hearing are incorporated by this reference;

3. The real properties which contain the permanent and temporary construction easements to be acquired for the Project are located in Tracy, California, at 8121 Delta Avenue (213-020-03), 18334 S. MacArthur Drive, Tracy (APN 213-020-20), 7901 Delta Avenue, Tracy (213-020-04), and 9409 West Arbor Avenue, Tracy (APN 212-160-10). The permanent and temporary easements to be acquired are more specifically described in Exhibits "A," "B" and "C" attached hereto and made a part hereof.

4. The easements are to be acquired for the Project, pursuant to the authority granted in Government Code sections 37350.5, 40401, 40404 and 66462.5; Title 7, Part 3 of the Code of Civil Procedure; and other provisions of law;

5. The public interest and necessity require the Project;

6. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;

7. The easements described herein are necessary for the Project; and

8. The offer required by Section 7267.2 of the Government Code has been made to the owners of record.

Special counsel, Price, Postel & Parma LLP are hereby AUTHORIZED AND EMPOWERED:

To acquire in the name of the City of Tracy, by condemnation, said easements in accordance with the provisions of the eminent domain law, the Code of Civil Procedure, the Government Code and the Constitution of California;

To prepare and prosecute in the name of the City of Tracy, such proceedings in the proper court as are necessary for such acquisition; and

To deposit the probable amount of compensation based on an appraisal, and to apply to said court for an order permitting the City of Tracy to take immediate possession and use said property for said public uses and purposes.

The foregoing Resolution 2015-\_\_\_\_\_ was adopted by the Tracy City Council on the 20<sup>th</sup> day of January, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST

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



**PIPELINE AND ACCESS EASEMENT (Perry)**

A non-exclusive easement ("Easement") for the right to lay down, construct, alter, operate, maintain, clean and repair such wastewater pipeline facility or lines and appurtenances thereto in such sizes and configurations as the City of Tracy ("City") deems necessary over, along, upon, in, above, through and across all that real property situate in the County of San Joaquin, State of California, described in the accompanying legal description and plat map.

The Easement granted herein includes incidental rights of maintenance, cleaning, repair and replacement of said wastewater pipeline facility or lines and appurtenances together with the free right of ingress and egress over, along, upon, in, above, through and across the remaining portion of the real property of which the Easement is a part ("Larger Parcel"), insofar as such right of ingress and egress is necessary to the proper use of the rights granted herein.

The owner of the Larger Parcel ("Owner") shall not allow anything which may interfere with the full enjoyment by the City of the rights herein granted. The Owner shall have the right to landscape or make such other use of the lands included within the surface easement which is consistent with the City's use; however, such use by Owner shall not include the planting of trees or construction of permanent structures, including but not limited to buildings or other architectural concrete structures within the easement(s).

Upon the completion of any of its works hereunder, the City shall restore as near as possible the surface of the ground to the condition in which it was prior to the commencement of said work.

The Easement shall bind and inure to the benefit of the successors and assigns of the City and the Owner.

3/28/2013  
C02211A  
213-020-003p

**DESCRIPTION OF EASEMENT**

Being a 20.00 wide Easement lying in Lot 55 as shown on "Map of Unit No. 2A of Pescadero Colony", recorded in Volume 10 of Map and Plats at page 123, San Joaquin County Records, and shown on "Record of Survey Map", recorded in Book 15 of Surveys at page 113, San Joaquin County Records, being more particularly described as follows:

**BEGINNING** at a point on the north right of way line of Delta Avenue as shown on said "Map of Unit No. 2A of Pescadero Colony" that bears South 86° 49' 43" West, 13.31 feet from the intersection of said north right of way line and the west line of the 21.55 acre parcel as shown on said "Record of Survey Map";

Thence South 86° 49' 43" West, 20.05 feet along the said north right of way line;

Thence North 00° 53' 25" East, 526.98 feet;

Thence North 45° 53' 25" East, 21.21 feet;

Thence North 00° 53' 25" East, 472.52 feet more or less to the north line of said Lot 55;

Thence North 79° 41' 38" East, 20.39 feet along the said north line of Lot 55;

Thence South 00° 53' 25" West, 484.76 feet;

Thence South 45° 53' 25" West, 21.21 feet;

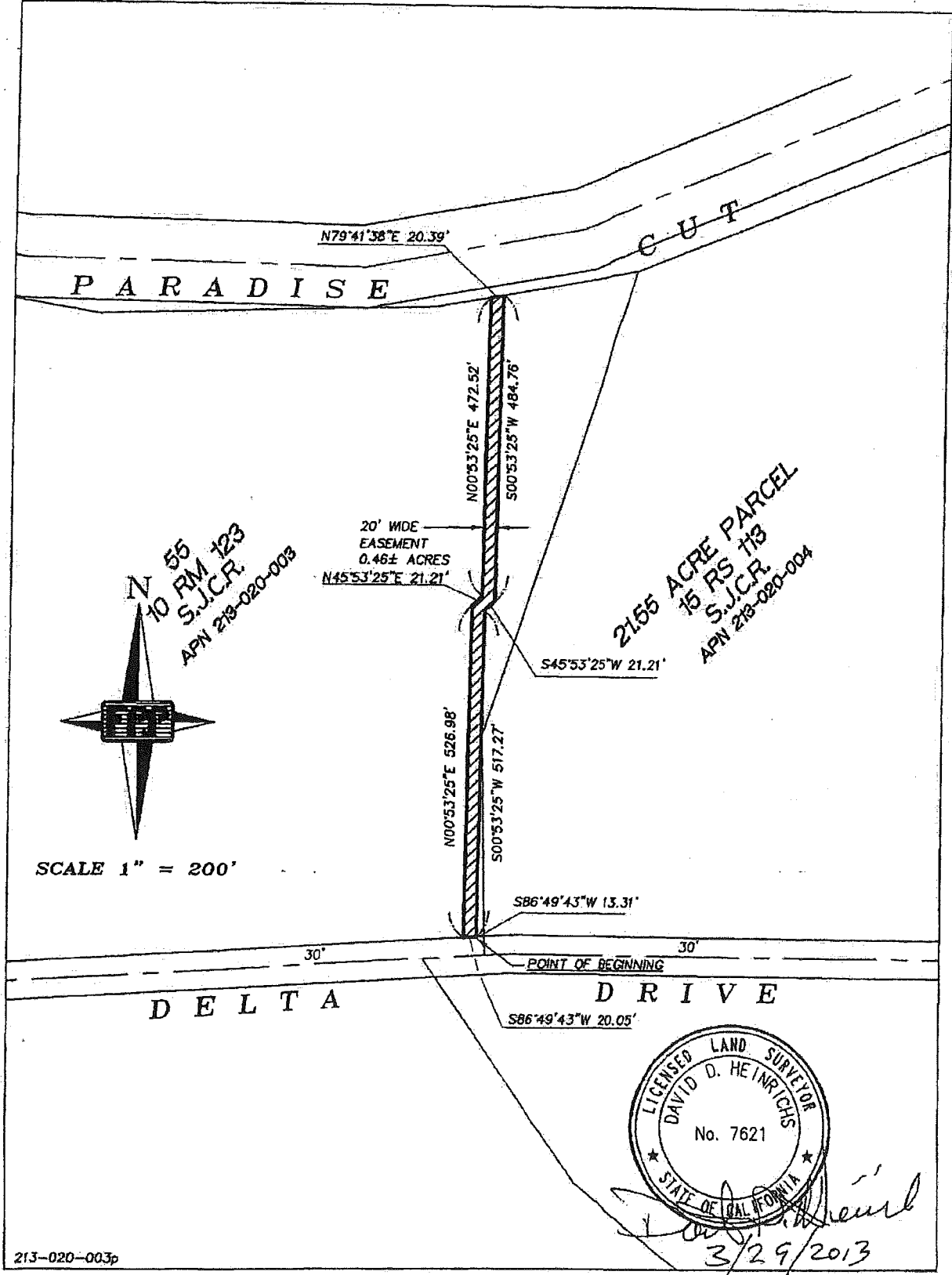
Thence South 00° 53' 25" West, 517.27 feet to **POINT OF BEGINNING**;

Containing 0.46 acres, more or less.

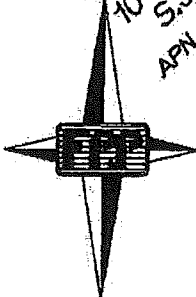


*David D. Heinrichs*  
3/29/2013

**EXHIBIT A**



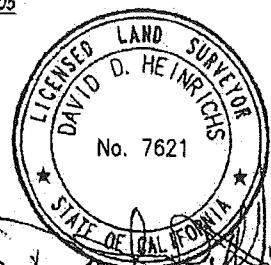
N 55  
 10 PM 123  
 S.J.C.R.  
 APN 213-020-003



SCALE 1" = 200'

20' WIDE  
 EASEMENT  
 0.46± ACRES  
 N45°53'25"E 21.21'

21.55 ACRE PARCEL  
 15 RS 118  
 S.J.C.R.  
 APN 213-020-004



*David D. Heinrichs*  
 3/29/2013

213-020-003p

EXHIBIT A

## TEMPORARY CONSTRUCTION EASEMENT (Perry)

A Temporary Construction Easement ("TCE"), over, across, under and through the real property situated in the County of San Joaquin, State of California, described in the accompanying legal descriptions and plat maps ("Easement Area") for construction and conformance purposes related to the Waste Water Treatment Plant Project ("Project").

The City of Tracy's ("City") rights under the TCE shall include, without limitation, the right of City, its officers, agents, contractors, and employees, and other governmental agencies responsible for review or construction of any portion of the Project and such agencies' officers, agents, contractors, and employees, to enter upon the Easement Area with personnel, vehicles and equipment for construction of the Project, and all other activities related thereto, to remove all improvements, trees and vegetation thereon that interfere with the purpose for which this easement is granted, to conform the Easement Area to the Project, and do any and all other actions necessary and appropriate to the construction of the Project.

The TCE is for a period of thirty-six (36) months, to commence upon thirty (30) days written notice from CITY to the owner ("Owner") of the real property of which the Easement Area is a part ("Larger Parcel"), and shall terminate thirty-six (36) months after such commencement. In no event shall the TCE extend beyond the completion of construction, or December 31, 2017. At no additional cost to City, City shall have the right to enter upon the Larger Parcel, where necessary, to reconstruct or perform any warranty or conformance works during the TCE and any extension thereto. Said works shall include conforming driveways, walkways, lawn, landscaped and hardscaped areas, irrigation systems, sidewalks or any area where reconstruction or warranty work on the Larger Parcel is necessary.

All work performed by City in the Easement Area shall conform to applicable building, fire, and sanitary laws, ordinances and regulations relating to such work and shall be done in a good and workmanlike manner.

**EXHIBIT A**

3/28/2013  
C02211A  
213-020-003t1

**DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT**

Being a Temporary Construction Easement lying in Lot 55 as shown on "Map of Unit No. 2A of Pescadero Colony", recorded in Volume 10 of Map and Plats at page 123, San Joaquin County Records, and shown on "Record of Survey Map", recorded in Book 15 of Surveys at page 113, San Joaquin County Records, being more particularly described as follows:

**BEGINNING** at a point on the north right of way line of Delta Avenue as shown on said "Map of Unit No. 2A of Pescadero Colony" that bears South 86° 49' 43" West, 33.36 feet from the intersection of said north right of way line and the west line of the 21.55 acre parcel as shown on said "Record of Survey Map";

Thence South 86° 49' 43" West, 40.10 feet along the said north right of way line;

Thence North 00° 53' 25" East, 580.00 feet;

Thence North 89° 06' 35" West, 55.00 feet;

Thence North 00° 53' 25" East, 351.94 feet;

Thence North 86° 53' 02" East, 110.27 feet;

Thence South 00° 53' 25" West, 394.82 feet;

Thence South 45° 53' 25" West, 21.21 feet;

Thence South 00° 53' 25" West, 526.98 feet to **POINT OF BEGINNING**;

Containing 1.44 acres, more or less.



*David D. Heinrichs*  
3/29/2013

**EXHIBIT A**

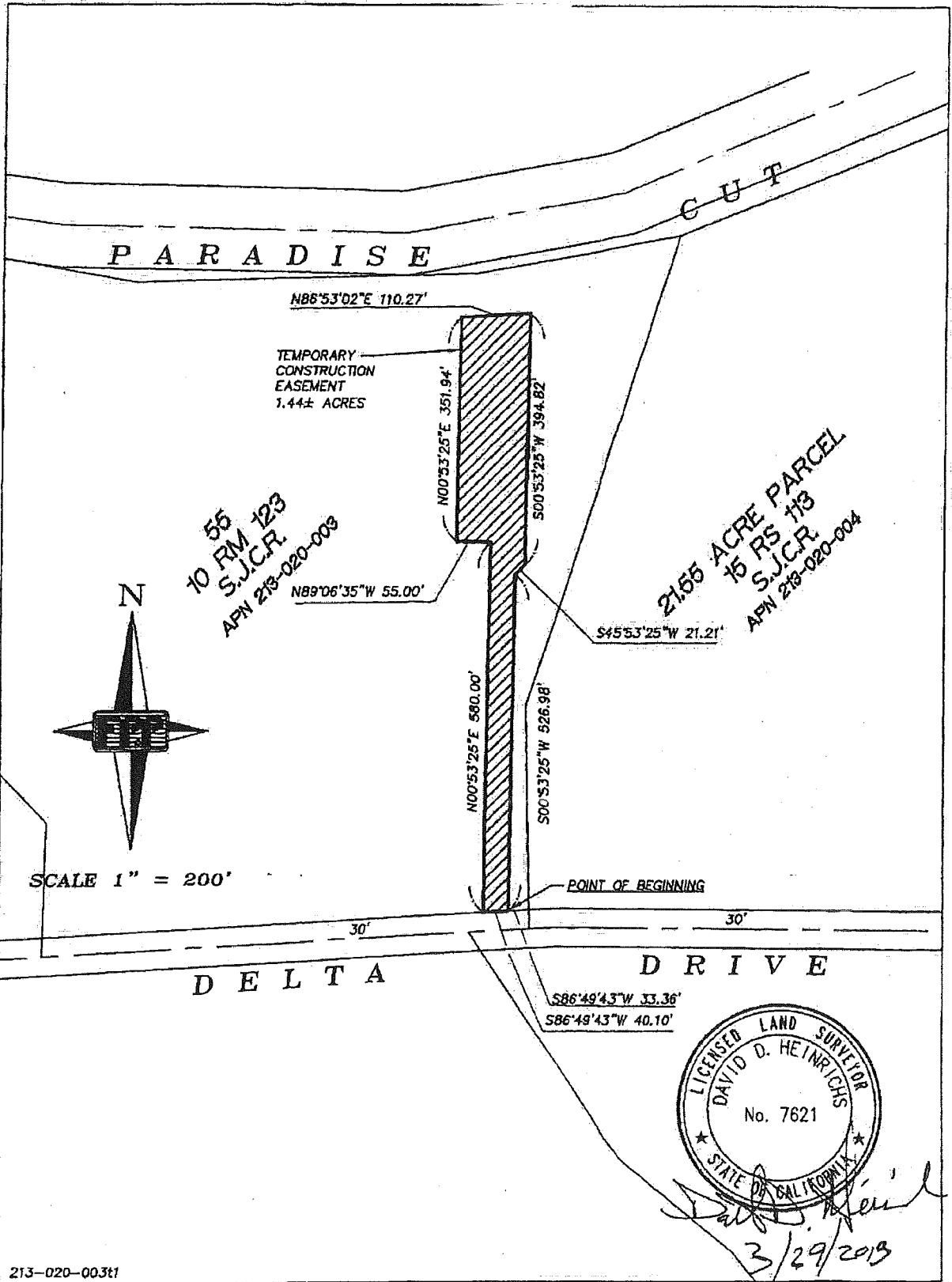


EXHIBIT A

3/28/2013  
C02211A  
213-020-003t2

DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT

Being a Temporary Construction Easement lying in Lot 55 as shown on "Map of Unit No. 2A of Pescadero Colony", recorded in Volume 10 of Map and Plats at page 123, San Joaquin County Records, and shown on "Record of Survey Map", recorded in Book 15 of Surveys at page 113, San Joaquin County Records, being more particularly described as follows:

**BEGINNING** at the intersection of north right of way line of Delta Avenue as shown on said "Map of Unit No. 2A of Pescadero Colony" and the west line of the 21.55 acre parcel as shown on said "Record of Survey Map";

Thence South  $86^{\circ} 49' 43''$  West, 13.31 feet along the said north right of way line;

Thence North  $00^{\circ} 53' 25''$  East, 517.27 feet;

Thence North  $45^{\circ} 53' 25''$  East, 21.21 feet;

Thence North  $00^{\circ} 53' 25''$  East, 406.10 feet;

Thence North  $82^{\circ} 24' 05''$  East, 20.22 feet;

Thence South  $00^{\circ} 53' 25''$  West, 417.37 feet;

Thence South  $45^{\circ} 53' 25''$  West, 21.21 feet;

Thence South  $00^{\circ} 53' 25''$  West, 129.97 feet to the west line of said 21.55 acre parcel;

Thence South  $18^{\circ} 19' 20''$  West, 60.56 feet along the said west line of the 21.55 acre parcel;

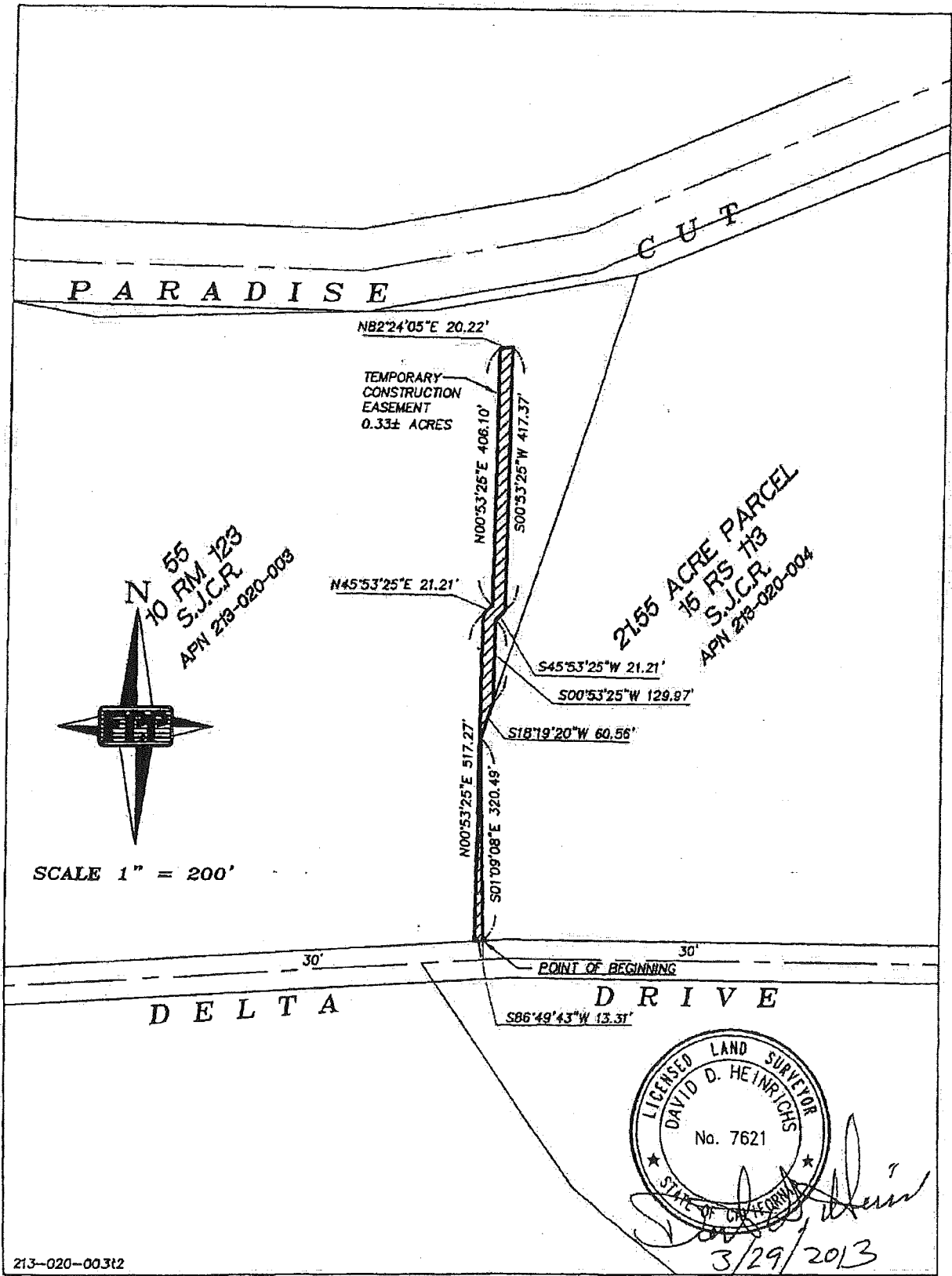
Thence South  $01^{\circ} 09' 08''$  East, 320.49 feet along the said west line of the 21.55 acre parcel to **POINT OF BEGINNING**;

Containing 0.33 acres, more or less.



*David D. Heinrichs*  
3/29/2013

EXHIBIT A



213-020-003t2

EXHIBIT A



## TEMPORARY CONSTRUCTION EASEMENT (Perry)

A Temporary Construction Easement ("TCE"), over, across, under and through the real property situated in the County of San Joaquin, State of California, described in the accompanying legal description and plat map ("Easement Area") for construction and conformance purposes related to the Waste Water Treatment Plant Project ("Project").

The City of Tracy's ("City") rights under the TCE shall include, without limitation, the right of City, its officers, agents, contractors, and employees, and other governmental agencies responsible for review or construction of any portion of the Project and such agencies' officers, agents, contractors, and employees, to enter upon the Easement Area with personnel, vehicles and equipment for construction of the Project, and all other activities related thereto, to remove all improvements, trees and vegetation thereon that interfere with the purpose for which this easement is granted, to conform the Easement Area to the Project, and do any and all other actions necessary and appropriate to the construction of the Project.

The TCE is for a period of thirty-six (36) months, to commence upon thirty (30) days written notice from CITY to the owner ("Owner") of the real property of which the Easement Area is a part ("Larger Parcel"), and shall terminate thirty-six (36) months after such commencement. In no event shall the TCE extend beyond the completion of construction, or December 31, 2017. At no additional cost to City, City shall have the right to enter upon the Larger Parcel, where necessary, to reconstruct or perform any warranty or conformance works during the TCE and any extension thereto. Said works shall include conforming driveways, walkways, lawn, landscaped and hardscaped areas, irrigation systems, sidewalks or any area where reconstruction or warranty work on the Larger Parcel is necessary.

All work performed by City in the Easement Area shall conform to applicable building, fire, and sanitary laws, ordinances and regulations relating to such work and shall be done in a good and workmanlike manner.

**EXHIBIT A**

8/02/2012  
C02211A  
213-020-020t

DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT

Being a 50.00 wide Temporary Construction Easement lying in Lot 57-A of "Map of Unit No. 2A of Pescadero Colony", recorded in Volume 10 of Map and Plats at page 123, San Joaquin County Records, being more particularly described as follows:

The south 50.00 feet of the north 80.00 feet (measured along the south right of way line of Delta Avenue), the north line said 50.00 wide easement being the same as the south right of way line of Delta Avenue as shown on said map.



*David D. Heinrichs*  
8/20/2012

EXHIBIT A

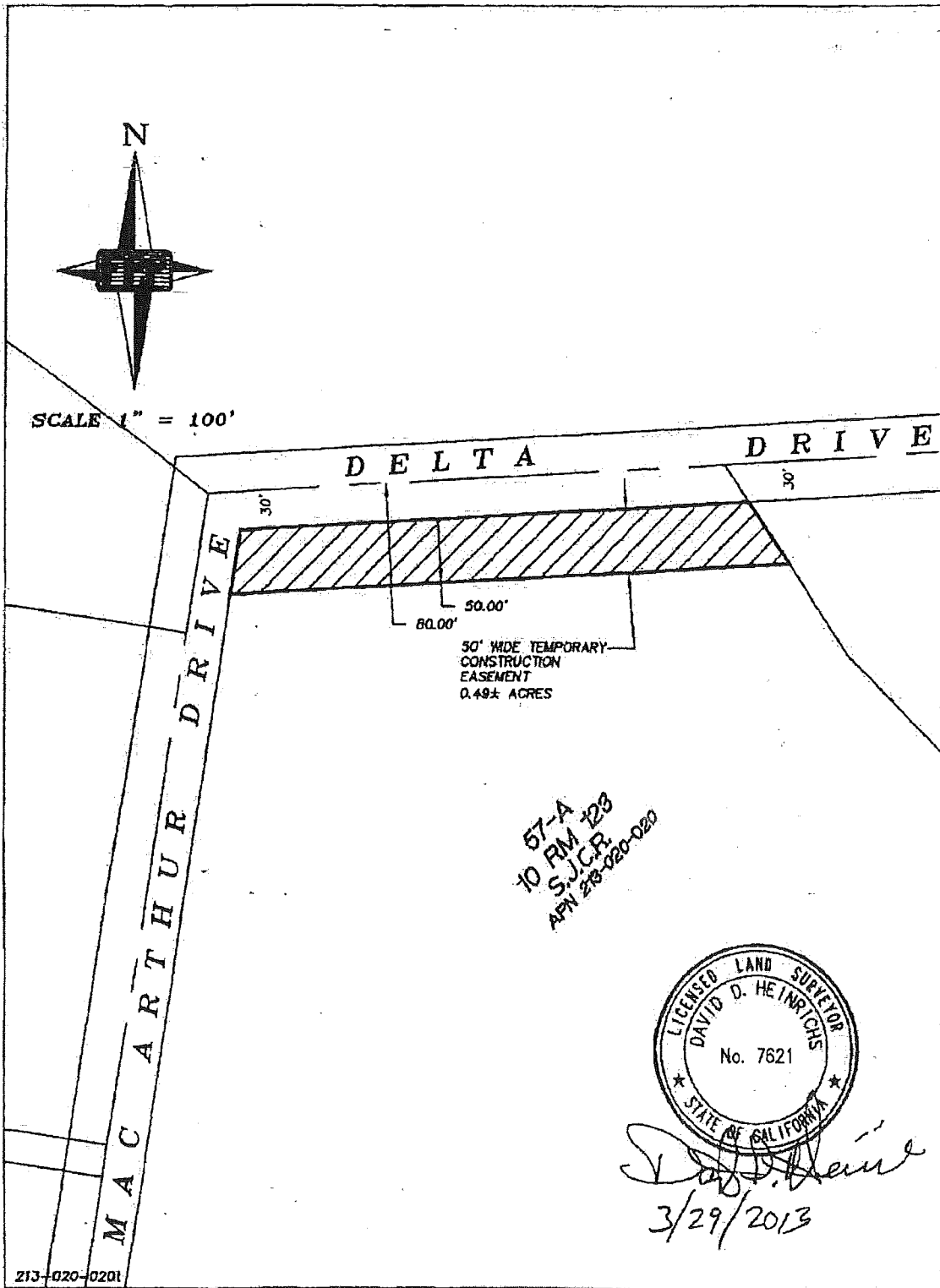


EXHIBIT A

### TEMPORARY CONSTRUCTION EASEMENT (Alves)

A Temporary Construction Easement ("TCE"), over, across, under and through the real property situated in the County of San Joaquin, State of California, described in the accompanying legal description and plat map ("Easement Area") for construction and conformance purposes related to the Waste Water Treatment Plant Project ("Project").

The City of Tracy's ("City") rights under the TCE shall include, without limitation, the right of City, its officers, agents, contractors, and employees, and other governmental agencies responsible for review or construction of any portion of the Project and such agencies' officers, agents, contractors, and employees, to enter upon the Easement Area with personnel, vehicles and equipment for construction of the Project, and all other activities related thereto, to remove all improvements, trees and vegetation thereon that interfere with the purpose for which this easement is granted, to conform the Easement Area to the Project, and do any and all other actions necessary and appropriate to the construction of the Project.

The TCE is for a period of thirty-six (36) months, to commence upon thirty (30) days written notice from CITY to the owner ("Owner") of the real property of which the Easement Area is a part ("Larger Parcel"), and shall terminate thirty-six (36) months after such commencement. In no event shall the TCE extend beyond the completion of construction, or December 31, 2017. At no additional cost to City, City shall have the right to enter upon the Larger Parcel, where necessary, to reconstruct or perform any warranty or conformance works during the TCE and any extension thereto. Said works shall include conforming driveways, walkways, lawn, landscaped and hardscaped areas, irrigation systems, sidewalks or any area where reconstruction or warranty work on the Larger Parcel is necessary.

All work performed by City in the Easement Area shall conform to applicable building, fire, and sanitary laws, ordinances and regulations relating to such work and shall be done in a good and workmanlike manner.

**EXHIBIT B**

3/28/2013  
C02211A  
213-020-004t

**DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT**

Being a Temporary Construction Easement lying in Lot 55 as shown on "Map of Unit No. 2A of Pescadero Colony", recorded in Volume 10 of Map and Plats at page 123, San Joaquin County Records, and also lying in the 21.55 Acre Parcel as shown on "Record of Survey Map", recorded in Book 15 of Surveys at page 113, San Joaquin County Records, being more particularly described as follows:

**BEGINNING** at the intersection of north right of way line of Delta Avenue as shown on said "Map of Unit No. 2A of Pescadero Colony" and the west line of the said 21.55 acre parcel as shown on said "Record of Survey Map";

Thence North  $86^{\circ} 49' 43''$  East, 6.74 feet along the said north right of way line;

Thence North  $00^{\circ} 53' 25''$  East, 377.60 feet the west line of said 21.55 acre parcel;;

Thence South  $18^{\circ} 19' 20''$  West, 60.56 feet along the said west line of the 21.55 acre parcel;

Thence South  $01^{\circ} 09' 08''$  East, 320.49 feet along the said west line of the 21.55 acre parcel to **POINT OF BEGINNING**.

Containing 0.10 acres, more or less.

  
*David D. Heinrichs*  
3/29/2013

**EXHIBIT B**

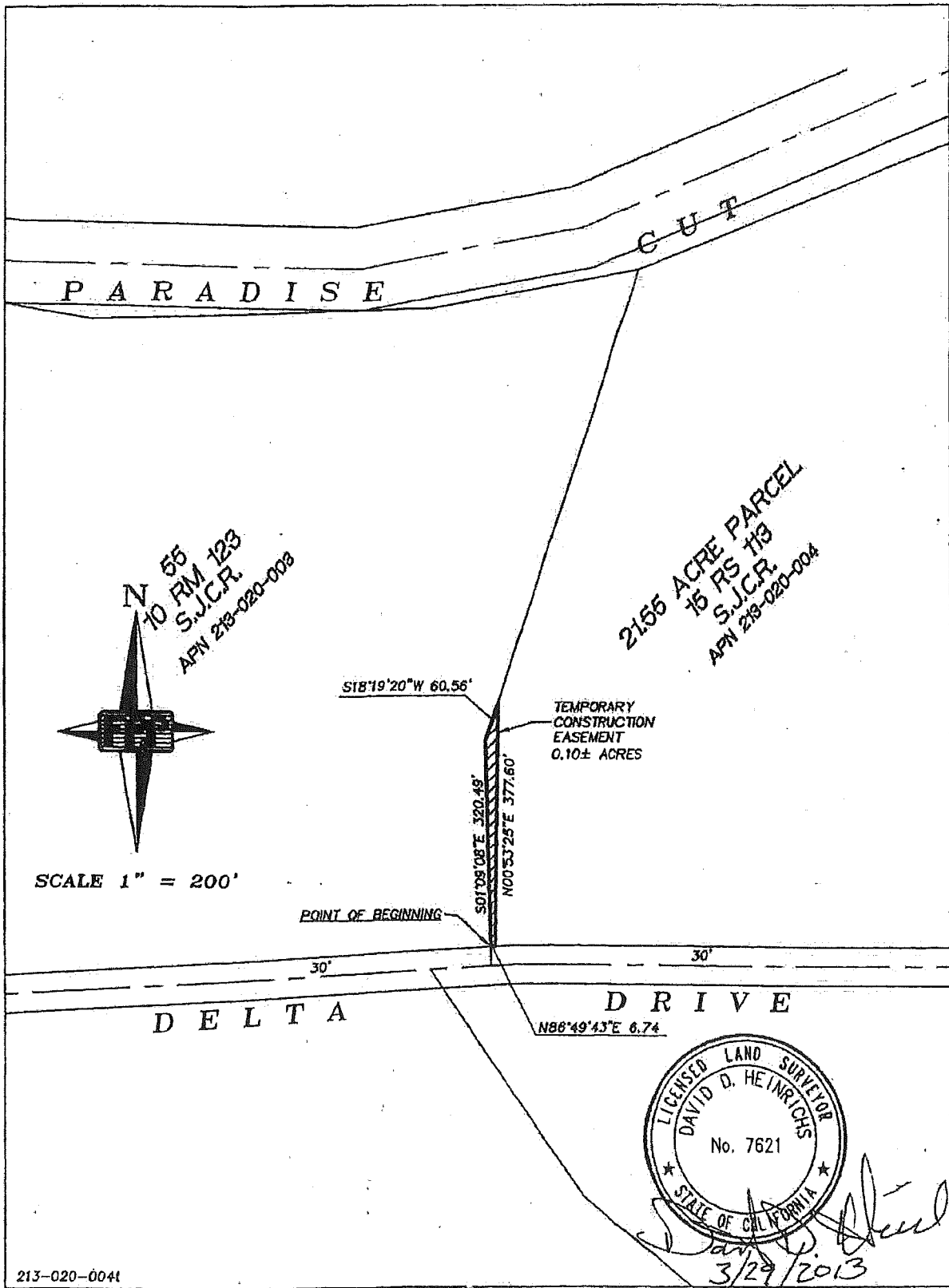


EXHIBIT B

## TEMPORARY CONSTRUCTION EASEMENT (Holly Commerce)

A Temporary Construction Easement ("TCE"), over, across, under and through the real property situated in the County of San Joaquin, State of California, described in the accompanying legal description and plat map ("Easement Area") for construction and conformance purposes related to the Waste Water Treatment Plant Project ("Project").

The City of Tracy's ("City") rights under the easement granted hereby shall include, without limitation, the right of the City, its officers, agents, contractors, and employees, and other governmental agencies responsible for review or construction of any portion of the Project and such agencies' officers, agents, contractors, and employees, to enter upon the Easement Area with personnel, vehicles and equipment for construction of the Project, and all other activities related thereto, to remove all improvements, trees and vegetation thereon that interfere with the purpose for which this easement is granted, to conform the Easement Area after completion of the Project, and do any and all other actions necessary and appropriate to the construction of the Project.

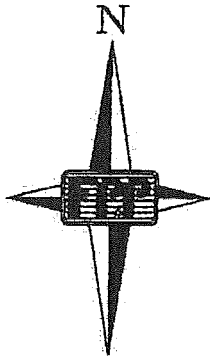
City shall maintain access for the benefit of the owner ("Owner") of the real property of which the Easement Area is a part ("Larger Parcel"), between Arbor Road and the remainder of the Larger Parcel, including but not limited to pedestrian, vehicular and railroad access, during the pendency of the TCE. Any railroad access shall be limited to crossings of the Easement Area, of not less than 70°, including the existing railroad crossing.

The TCE is for a period of thirty-six (36) months, to commence upon sixty (60) days written notice from City to Owner, and shall terminate thirty-six (36) months after such commencement. In any event, the TCE shall terminate December 31, 2017.

City shall have the right to enter upon the Larger Parcel, if and only to the extent necessary, to reconstruct or perform any warranty or repair work during the TCE and any extension thereto.

All work performed by City in the Easement Area shall conform to applicable building, fire, and sanitary laws, ordinances and regulations relating to such work and shall be done in a good and workmanlike manner.

EXHIBIT C



SCALE 1" = 100'

34 SURVEYS 37

LOT 1  
BLOCK 2  
8 MAP 1  
APN 212-160-010

LOT 7  
BLOCK 2  
8 MAP 1  
APN 212-160-010

EASEMENT  
0.25± ACRES

S00°31'46"W  
20.00'

N89°28'14"W 452.20'

NB9°28'14"W 55.44'  
S45°31'46"W  
14.14'

N00°22'21"E  
30.00'

S89°28'14"E 517.72'

N00°22'21"E  
30.00'

A R B O R

A V E N U E

TRUE POINT OF BEGINNING

POINT OF COMMENCING



*David D. Heinrichs*  
3/29/2013



3/28/2013  
C02211A  
212-160-010p

**DESCRIPTION OF PERMANENT EASEMENT**

All that portion of Lots 1 and 7 of Block 2 of "Tracy Gardens Farms", recorded in Volume 8 of Map and Plats at page 1, San Joaquin County Records, as shown on "Record of Survey", recorded in Book 34 of Surveys at page 37, San Joaquin County Records, being more particularly described as follows:

**COMMENCING** at the intersection of the centerline of Arbor Avenue and the east line of said Lot 7;  
Thence North  $00^{\circ} 22' 21''$  East, 30.00 feet along said east line to the north right of way line of said Arbor Avenue also being the **TRUE POINT OF BEGINNING**;  
Thence North  $00^{\circ} 22' 21''$  West, 30.00 feet along said east line to its intersection with a line parallel with and 30.00 feet north of said north right of way line;  
Thence North  $89^{\circ} 28' 14''$  West, 55.44 feet along said line parallel with and 30.00 feet north of said north right of way line;  
Thence South  $45^{\circ} 31' 46''$  East, 14.14 feet;  
Thence North  $89^{\circ} 28' 14''$  West, 452.20 feet along said line parallel with and 20.00 feet north of said north right of way line;  
Thence South  $00^{\circ} 31' 46''$  West, 20.00 feet to said north right of way line;  
Thence South  $89^{\circ} 28' 14''$  East, 517.72 feet along said north right of way line to **POINT OF BEGINNING**.

Containing 0.25 acres, more or less.


  
*David Heinrich*  
3/29/2013

EXHIBIT C

**PERMANENT PIPELINE AND ACCESS EASEMENT DEED (Holly Commerce)**

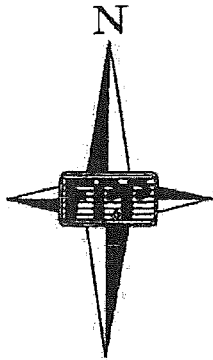
A non-exclusive easement ("Easement") for the right to lay down, construct, alter, operate, maintain, clean and repair a subsurface wastewater pipeline facility or lines and appurtenances thereto in such sizes and configurations as the City of Tracy ("City") deems necessary over, along, upon, in, through and across all that real property situate in the County of San Joaquin, State of California, described in the accompanying legal description and plat map.

The Easement includes incidental rights of maintenance, cleaning, repair and replacement of said wastewater pipeline facility or lines and appurtenances together with the free right of ingress and egress over, along, upon, in, above, through and across the remaining portion of the real property of which the easement is a part ("Larger Parcel"), insofar as such right of ingress and egress is necessary to the proper use of the rights granted herein.

The owner of the Larger Parcel ("Owner") shall not allow anything which may interfere with the full enjoyment by the City of the rights herein granted. The Owner shall have the right to make use of the lands included within the Easement which is consistent with the City's use, including but not limited to landscaping, parking lots, driveways, access roads, and railroad tracks and rail access crossing the easement at not less than 70° (including but not limited to the existing railroad crossing). However, such use by Owner shall not include the planting of trees or construction of permanent structures, including but not limited to buildings or other architectural concrete structures within the Easement.

Upon the completion of any of its works hereunder, the City shall restore as near as possible the surface of the ground to the condition in which it was prior to the commencement of said work.

The Easement described herein shall bind and inure to the benefit of the successors and assigns of the City and the Owner.



SCALE 1" = 100'

34 SURVEYS 37

LOT 1  
BLOCK 2  
8 MAP 1  
APN 212-160-010

LOT 7  
BLOCK 2  
8 MAP 1  
APN 212-160-010

S00°31'46"W  
30.00'

TEMPORARY CONSTRUCTION EASEMENT  
0.34± ACRES

N45°31'46"E  
14.14'

N00°22'21"E  
20.00'

N89°28'14"W 517.58'

N00°22'21"E  
60.00'

S89°28'14"E 452.20'

S89°28'14"E 55.44'  
TRUE POINT OF BEGINNING

A R B O R

A V E N U E

POINT OF COMMENCING



*David D. Heinrichs*  
3/29/2013

212-160-010t

EXHIBIT C

3/28/2013  
CO2211A  
212-160-010t

**DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT**

All that portion of Lots 1 and 7 of Block 2 of "Tracy Gardens Farms", recorded in Volume 8 of Map and Plats at page 1, San Joaquin County Records, and as shown on "Record of Survey", recorded in Book 34 of Surveys at page 37, San Joaquin County Records, being more particularly described as follows:

**COMMENCING** at the intersection of the centerline of Arbor Avenue and the east line of said Lot 7;  
Thence North 00° 22' 21" West, 60.00 feet along said east line to a line parallel with and 30.00 feet north of said Arbor Avenue also being the **TRUE POINT OF BEGINNING**;  
Thence North 00° 22' 21" West, 20.00 feet along said east line to its intersection with a line parallel with and 50.00 feet north of said north right of way line;  
Thence North 89° 28' 14" West, 517.58 feet along said line parallel with and 50.00 feet north of said north right of way line;  
Thence South 00° 31' 46" West, 30.00 feet to line parallel with and 20.00 feet north of said north right of way line;  
Thence South 89° 28' 14" East, 452.20 feet along said line parallel with and 20.00 feet north of said north right of way line;  
Thence North 45° 31' 46" West, 14.14 feet to line parallel with and 30.00 feet north of said north right of way line;  
Thence South 89° 28' 14" East, 55.44 feet along said line parallel with and 30.00 feet north of said north right of way line to **POINT OF BEGINNING**.

Containing 0.34 acres, more or less.

  
3/29/2013

EXHIBIT C

January 20, 2015

## AGENDA ITEM 4

### REQUEST

#### **INTRODUCTION OF AN ORDINANCE AMENDING TITLE 9, CHAPTER 9.52 OF THE TRACY MUNICIPAL CODE, KNOWN AS FLOODPLAIN REGULATIONS AND SETTING A PUBLIC HEARING DATE AND TIME FOR ADOPTION OF THE ORDINANCE**

### EXECUTIVE SUMMARY

The Federal Emergency Management Agency (FEMA) conducted an ordinance review for the City of Tracy in the Spring of 2011. Natural Hazards Program Specialist, Jane Hopkins, provided a letter and checklist for changes required to be made to the Floodplain Regulations as specified in the City's adopted Ordinance Chapter 9.52 of the Tracy Municipal Code. Staff has completed the requested changes and seeks Council approval for the modifications to Title 9 of the Tracy Municipal Code.

### DISCUSSION

FEMA conducts surveys of local ordinances on an infrequent basis. The purpose of these surveys is to determine if the local agencies have adopted Floodplain Regulations and to review the process by which these regulations are enforced. Ms. Hopkins' letter to then Mayor, Brent Ives, on June 29, 2011, commends the City of Tracy for properly enforcing its Floodplain regulations.

*"FEMA's evaluation of Tracy's floodplain management program indicates that the City is appropriately and effectively enforcing floodplain requirements. The City's administrative practices and procedures should effectively ensure full compliance with NFIP construction standards."*

The report continues to indicate that there are, however, improvements that need to be made to the current program. A ten item list of improvements was provided to the City. The basis for the changes came from the evaluator's comparison of the Tracy Municipal Code, Title 9, Section 9.52, to the "California Model Floodplain Ordinance", the underlying state regulations, and the related FEMA (Federal) standards.

These issues are mostly administrative in nature; however, due to evolving regulations at both the State and Federal levels, changes are to be expected after 20 years. Some examples of these items are:

*"Amend the definition of 'Development' to include the phrase, 'storage of equipment and materials', as specified in the Code of Federal Regulations Section..."*

*"Notification of Other Agencies Section". This section is missing. Please correct this omission, as per Code of Federal Regulations..."*

*"Section 9.52.120 – Establishment of development permits is incomplete. There must*

*be mention of base flood elevation, utilities, grading plans, lowest floor, storage of equipment, etc., as per CFR...”*

Staff has coordinated the changes to the Tracy Municipal Code with Ms. Hopkins to ensure that the proposed changes would be in compliance with State and Federal requirements, and properly coordinated with the provisions of the California Model Floodplain Ordinance.

Staff is recommending that the currently adopted Floodplain Ordinance be deleted in its entirety and that the revised Floodplain Ordinance be adopted in its entirety, replacing the existing document. This is done for administrative simplicity. Conducting an ordinance deletion and adoption by section would be an excessive and overly complicated process since minor changes were made to a number of sections.

The original letter from Ms. Hopkins has been provided for review as an attachment for Council to better understand the administrative nature of the requested changes.

Furthermore, staff has determined that the entire existing ordinance, TMC 9.52, would not be replaced by the “California Model Floodplain Ordinance”. The Tracy Municipal Code’s floodplain regulations have served the community well for over two decades and while they require an update for administrative purposes, staff believes that the document need not be discarded to properly serve the City.

#### STRATEGIC PLAN

This agenda item supports the Public Safety Strategy in relation to the adoption of the 2013 California Codes and specifically implements the following goal:

Goal 2: Promotes public health, safety and community welfare.

#### FISCAL IMPACT

Adoption of the ordinance should have a neutral fiscal impact. The changes to the ordinance have required an investment of staff time. However, these are off-set by our statutory requirement to provide adequate floodplain management. Additionally, proper management of floodplain requirements should help keep insurance costs from increasing in an unreasonable manner which could directly affect the operation of local businesses and the finances of local property owners.

#### RECOMMENDATION

Staff recommends that City Council introduce an ordinance repealing the existing Floodplain Ordinance and adopting the revised Floodplain Ordinance of Title 9, Section 9.52, of the Tracy Municipal Code and set a public hearing date and time for adoption of the proposed ordinance.

Prepared by: Kevin Jorgensen, Chief Building Official, Fire Code Official

Reviewed by: William Dean, Assistant Development Services Director  
Andrew Malik, Development Services Director  
Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENT

Attachment A - Letter from Jane Hopkins

U.S. Department of Homeland Security  
1111 Broadway, Suite 1200  
Oakland, CA 94607-4052



**FEMA**

June 29, 2011

The Honorable Brent Ives  
Mayor, City of Tracy  
City Hall  
333 Civic Center Plaza  
Tracy, CA 94566-0802

Dear Mayor Ives:

Thank you for the courtesy extended by City staff during the recent Community Assistance Visit on May 2, 2011. The purpose of the meeting was to provide your staff with the most current information on the National Flood Insurance Program (NFIP), give them an opportunity to discuss concerns they might have had, and assess the city's enforcement of the local floodplain management ordinance that was adopted to meet requirements of the NFIP.

FEMA's evaluation of Tracy's floodplain management program indicates that the City is appropriately and effectively enforcing floodplain requirements. The City's administrative practices and procedures should effectively ensure full compliance with NFIP construction standards. There are, however two serious deficiencies in Tracy's Floodplain Management Program. The ordinance requires follow-up actions, and a written procedure needs to be developed for substantial damage/substantial improvement determinations. There are a few other highly-recommended changes to the City's ordinance, and for additional procedural documentation. Ordinance language suggestions have been provided to the appropriate City staff and a draft ordinance is due to FEMA Region IX by October 1, 2011. After the necessary changes have been adopted by the City Council, a signed and dated copy of the new ordinance is due to this office.

Currently 87 policies are in force for residential and commercial buildings in Tracy representing \$27,334,400.00 in coverage. Loss payments totaling \$ \$18,652.00 have been made on 7 claims since Tracy joined the NFIP. There have been no repetitive losses.

If you have any questions, or if I can be of any assistance, please call 510-627-7183.



Sincerely,

Jane Hopkins  
Community Compliance  
National Flood Insurance Program

Cc: Mr. Kevin Jorgensen, Chief Building Official, City of Tracy  
Mr. Leon Churchill, City Manager, City of Tracy  
Mr. Ray Lee, CA Department of Water Resources

Attachments

**FEDERAL EMERGENCY MANAGEMENT AGENCY  
COMMUNITY ASSISTANCE VISIT (CAV) REPORT**

**SECTION I**

1. NAME OF COMMUNITY Tracy	2. STATE CA	3. COMMUNITY ID NUMBER 060303	4. COUNTY San Joaquin
5. VISIT CONDUCTED BY Jane Hopkins		6. AGENCY FEMA	7. DATE OF VISIT May 2, 2011

**SECTION II**

8. NAME OF LOCAL OFFICIAL Kevin Jorgensen, Chief Building Official	9. TELEPHONE NUMBER (209) 831-6415
10. ADDRESS OF LOCAL OFFICIAL City of Tracy, 333 Civic Center Plaza, Tracy, CA 95376	

**SECTION III - FINDINGS**

PART A

QUESTIONS – Select appropriate response	RESPONSE		
	Serious	Minor	None
1. Are there problems with the community's floodplain management regulations?		X	
2. Are there problems with the community's administrative/enforcement procedures?			X
3. Are there engineering or other problems with the maps or Flood Insurance Study?			X
4. Are there any other problems in the community's floodplain management program?			X
5. Are there problems with the Biennial Report data?	N/A	YES	NO
6. Are there any programmatic issues or problems identified?	X	YES	NO
7. Are there any potential violations of the community's floodplain management regulations? None.			
___ A potential violation or violations has/have been identified.			
_X_ No violations have been identified.			
_X_ Actions are being taken on the part of the community to remedy the violation(s) identified during the CAV.			

**LIST OF ATTENDEES**

Jane Hopkins – FEMA

Kevin Jorgensen – Chief Building Official

Later in meeting:

Andrew Malik- Director of Development & Engineering Services

Bill Dean- Assistant Director of Development & Engineering Services

Cris Mina- Senior Civil Engineer, Development & Engineering Services

**BACKGROUND**

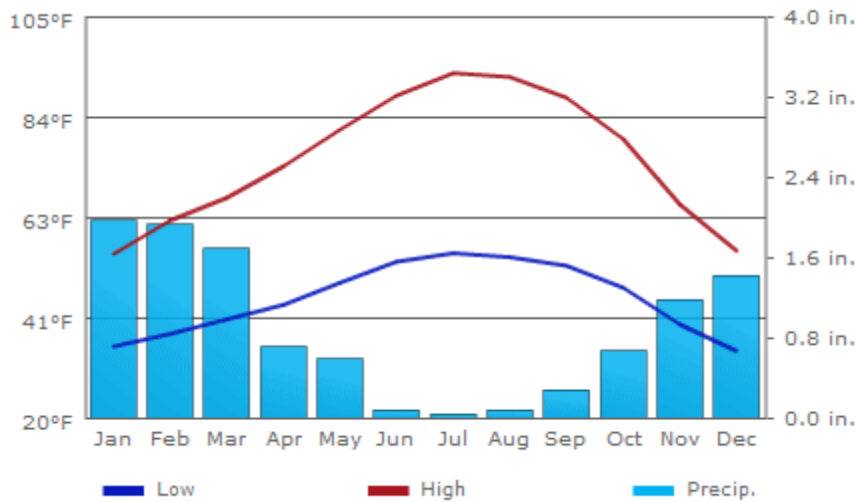
The City of Tracy first entered the National Flood Insurance Program (NFIP) on June 29, 1973 through the Emergency Program, then on December 22, 1980 through the Regular Program, when the City's initial Flood Insurance Rate Maps (FIRMS) were issued. The most recent FIRM and Flood Insurance Study are dated 10/16/2009. Currently, there are 86 flood insurance policies in effect in Tracy, totaling \$27,130,900.00 in coverage. Since joining the NFIP, there have been seven paid losses totaling \$18,652.12 and no substantial damage claims. There have been no repetitive loss claims.

**Population & Climate**

The City of Tracy is an exurb of the San Francisco Bay Area and the second largest city in San Joaquin County. As of the 2010 census, the population is 82,082, up by about 10,000 from the 2003 population estimate of 72,456. From 1990 to 2000, the population grew 65.5 %. Though residential growth throughout California has stagnated, Tracy has an ambitious economic development plan, which consists of 8 goals summarized in the vision statement posted on the City website:

*Tracy seeks to create an integrated, balanced economy that benefits all residents and businesses by strengthening our positive business climate, proactively planning our future, and responding to economic opportunities. We will foster economic development through collaborative partnerships, sustainable fiscal management, and supportive City services.*

For the foreseeable future, growth will be commercial or industrial. Though the City encourages growth to expand local employment opportunities and expand the tax base, the planning department stated that floodplain development is not encouraged. Tracy has an area of 21 square miles, with approximately 0.48 square miles as designated Special Flood Hazard Area (SFHA) located along its northern border. Most of that area is divided between commercial/industrial and agricultural uses. There is not much area left in SFHA that could be developed, and the cost of importing fill is prohibitive.

**Tracy Climate Graph - California Climate Chart**

(Source: <http://www.usclimatedata.com/climate.php?location=USCA1155>)

According to the Flood Insurance Study for San Joaquin County, California and Incorporated Areas (FIS), “the average annual precipitation of 17 inches in Tracy is somewhat higher than the average annual figure for the central portion of San Joaquin County. There is practically no precipitation during summer; most falls during the period between December through April”. This study may be accessed at the FEMA Map Service Center website, or by the following link: <http://www.sjgov.org/pubworks/Docs/FLOOD%20INFO/flood%20study%201A.pdf>

### **Flood Issues**

The primary flooding threat to the community originates from the lower reaches of the San Joaquin River, which is in turn affected by tidal action, tributary basin runoff, and meteorological conditions. Areas adjacent to the river are afforded some flood protection directly or indirectly by every flood control storage project in that region. Table 7b of the FIS has a list of the seven storage projects affecting flood flows in the San Joaquin River. The FIS identifies two potential threats near Tracy: the left bank levee along the Old River, which could become unstable in the event of the 1-percent chance flood, and an unstable section of the left bank levee at mile 61 on the San Joaquin River, 7 miles east of Tracy and 2.4 miles upstream of Paradise Dam. As requested, a link for levee certification status follows. A spreadsheet for previously accredited levee status was forwarded to the City. There is not yet a complete database for all levees in state, and there are multiple ways to get information about levee status in San Joaquin County. Note that the link below does not include levees that were never certified.

[www.bakeraecom.com/index.php/california/san-joaquin-county](http://www.bakeraecom.com/index.php/california/san-joaquin-county)

There is also a map with levee status and identification number that can be accessed at the link below:

[www.R9map.org](http://www.R9map.org)

If additional information is desired, Kathy Schaefer is the FEMA engineer assigned to San Joaquin County. Her contact information follows:

Telephone: (510) 627- 7129

Email: Kathleen.K.Schaefer@fema.gov

There has been no flooding since the Chief Building Official began working for the City in 2001. An internet search yielded an account of flooding in Tracy in 1997. The flooding was a result of a combination of factors: seasonal rainfall supplemented by more rainfall due to an unseasonably early Pineapple Express, while warm sub-tropical moisture caused rapid melting of the Sierra Mountain snowpack. This resulted in initial damages due to flash flooding, but after a week of rain, reservoirs filled to capacity, automatic emergency overflow gates added water to already swollen streams. Finally, rivers subsequently overflowed their banks. In addition, levees along the American, Feather, Tuolumne, San Joaquin, and Sacramento rivers failed. Additional details may be accessed by link below.

<http://www.colorado.edu/hazards/research/qr/qr97.html>

No other incidents were found for Tracy. The emergency plan for the City was developed and is maintained by the Battalion Chief of the Fire Department. The plan includes mutual aid agreements.

Finally, the drainage and storm water management plan is summarized below and was prepared by Stantec Consulting, Inc.:

*Storm drainage is conveyed via City storm drains, open channels and West Side Irrigation District (WSID) closed conduits and open channels to four outfalls that discharge to Old River and ultimately to the San Joaquin Delta. The outfalls consist of the WSID Main Drain, West Side Channel Outfall, the Old River Force Main, and the Sugar Cut Outfall. Due to capacity limitations of WSID facilities, City storm water discharges are metered, via detention basins prior to discharge to these facilities.*

A schematic follows:

Post-FIRM						
	Policies in Force	Premium	Insurance in Force	Number of Closed Paid Losses	\$ of Closed Paid Losses	Adjustment Expense
A01-30 & AE Zones	5	\$2,854	\$1,926,000	0	\$0.00	\$0.00
A Zones	0	\$0	\$0	0	\$0.00	\$0.00
AO Zones	0	\$0	\$0	0	\$0.00	\$0.00
AH Zones	0	\$0	\$0	0	\$0.00	\$0.00
AR Zones	0	\$0	\$0	0	\$0.00	\$0.00
A99 Zones	0	\$0	\$0	0	\$0.00	\$0.00
V01-30 & VE Zones	0	\$0	\$0	0	\$0.00	\$0.00
V Zones	0	\$0	\$0	0	\$0.00	\$0.00
D Zones	0	\$0	\$0	0	\$0.00	\$0.00
B, C & X Zone	40	\$15,489	\$13,078,000	1	\$1,560.00	\$275.00
Standard	1	\$911	\$250,000	0	\$0.00	\$0.00
Preferred	39	\$14,578	\$12,828,000	1	\$1,560.00	\$275.00
Grand Total	45	\$18,343	\$15,004,000	1	\$1,560.00	\$275.00

From the tables above, it is evident that the Tracy residents understand flood threats and their potential consequences because the majority of these policies are not compulsory. Furthermore, there were nearly as many flood insurance policies in place before the NFIP existed as there are now.

### **Past CAV reports**

The notes from past CAV meetings follow & have been copied from the FEMA Community Information System (CIS) database.

State CAV 1993: No problems found with community's floodplain management regulations, administrative and enforcement procedures, maps, flood insurance study, and overall floodplain management program.

FEMA CAV 1999: No problems found with community's floodplain management regulations, administrative and enforcement procedures, maps, flood insurance study, and overall floodplain management program.

State CAV 2004: Minor problems found with community's floodplain management regulations, administrative and enforcement procedures, maps, flood insurance study, and no problems with the overall floodplain management program and floodplain management regulations. In addition, potential violations were noted. The narrative follows:

- A) Within 30 days of the date of the cover letter, the Floodplain Administrator needs to provide DWR staff with the following:

Written standard operating procedures for the permitting of post-FIRM development and pre-FIRM structures experiencing substantial improvement/damage in accordance with Sections 9.52.140 and 9.52.150 of the City's requirements.

- (B) As-built elevation documentation demonstrating how the development identified in Part B, Section 2 [2] was designed to reduce flood damage.

During the CAV interview, it was discovered that the City needs to develop a written procedure for permitting substantial damage/substantial improvements as described. It is also recommended to develop a means to track incremental improvements over time that individually may be less than 50 percent, but cumulatively equal or exceed 50 percent. In order to facilitate this process, a model worksheets and sample language are attached to this report. The City has tracking software (TrakIt by CRW) that tracks valuation wherein a subject address can be chosen and a report drafted that totals the permit valuations in order to determine a cumulative total equaling or exceeding 50 percent. However, the definition in the Tracy municipal code for "substantial improvement" does not include cumulative totals, but this is a recommended practice.

During the previous CAV, it became evident that there had been virtually no development recordkeeping before the tenure of the current Floodplain Administrator (FPA). As a result of that meeting, forensic reconstruction of records for past development became the main object of the current FPA. Through extensive, sustained, and persistent effort, these records have been recovered, and now reside in a binder and in the electro fiche database. The current system of record keeping is addressed in the "Administrative and Enforcement" section of this report.

#### **FLOODPLAIN MANAGEMENT REGULATIONS**

The City's floodplain management ordinance regulations are found in the Tracy Code of Ordinances, Title 9- Building Regulations, in Chapter 9.52. This ordinance must be updated to be compliant. Two documents are attached to this report in order to facilitate revision:

1. The California Ordinance Review Checklist, which relates required regulatory provisions of Federal and State regulations to the applicable sections of the Tracy's local ordinance.
2. A memo that summarizes the requested changes documented on the checklist matrix listed above.

In addition, the community has adopted the California Building Code plus Appendix K. It has also incorporated the California Residential Code plus Appendix R. Appendix G has not been adopted because those provisions already exist within the local ordinance, and the addition of this text could cause confusion. In this case, the Chief Building Official is the floodplain manager; he is a member of the International Code Council and does enforce the code in his jurisdiction. There have been no edits made related to flood provisions. The codes

have been distributed to several staff, including legal counsel, permit technicians, plan examiners, code enforcement officers, and inspectors. Finally, there are three sections of the Tracy ordinance that are more conservative than the corresponding Federal and State regulations.

1. Development may not cumulatively create any rise in the base flood elevation (BFE) (§ 9.52.140.a.4).
2. The Standards for subdivision section does not have a lower limit on the number of units within a development nor a specified minimum acreage (§ 9.52.170.a).
3. The Floodway section does not allow for any rise in BFE due to development, including fill, new construction, substantial improvement, or any other sort of development (§ 9.52.200).

#### **ADMINISTRATIVE AND ENFORCEMENT PROCEDURES**

Prior to development, the Planning Department reviews the proposed project plans at the front counter with the applicant and determines if the project is in the special flood hazard area (SFHA). The project zone is also determined and checked against preexisting lists of permitted and conditionally permitted uses associated with individual zones. In addition, the applicant is also provided with a broad list of agencies that may require permits. After that, plans are routed to the engineering department for review and approval, which includes consideration of the storm drainage system. Following the engineering review, the plans go to the building department for their review, which includes inspection for potential code violations, including all flood-related requirements. Finally, there are three mandatory inspections for a given project, and inspectors check construction against the plans. The applicant must submit an as-built elevation certificate to the City before the final inspection and certificate of occupancy will be granted. The final inspection includes installation of electrical and mechanical equipment placement, and anchoring of structures. These measures would initially have been checked in plans by building and engineering departments. It should be noted that the engineering and planning departments collaborate on development of a sheet that contains a list of requirements specified for each project and is attached to that document throughout the life of the project. The City adopted a "Records Retention Schedule" by resolution, which ensures that conditions associated with permits are kept on record on electro fiche. It is strongly recommended that the permit review determinations are also recorded and maintained, unless this is already part of that process.

The statement of work provided by a licensed engineer must document the lowest floor elevations; these elevations are confirmed during an inspection of forms; the second piece of documentation is developed after inspection of the finished slab; and the third results from the final inspection, which is the copy that is retained for the city's records. This documentation is logged into the City's electronic laser fiche system, and the Chief Building Official retains the hard copy in a binder.



The City requires elevation certificates for projects within the SFHA. The review for subdivisions would follow this same procedure, though there hasn't been a single application in the past five years. For capital improvements, the permit review process is nearly identical except that the only departments involved are building and engineering; planning does not participate in review of capital improvements. Planning does not participate in the review of other development, such as cut/fill. This type of project has its own special requirements. The first is a habitat mitigation fee per acre for a biological survey. Projects exceeding an acre are required to deliver a stormwater prevention plan before a permit can be issued. The site is inspected throughout the life of project development to ensure proper implementation of erosion-control measures. Violations of these measures can amount to thousands of dollars per day. Thus, the type of project determines who has the responsibility for logging project data into the electro fiche system. Finally, though there are variance sections in the local ordinance, there have been no applications, nor have any variances ever been issued. Since 2001, the City has been through the Letter of Map Change (LOMC) application process eight times. It was agreed that additional information would be provided, and the link follows:

[http://www.fema.gov/plan/prevent/fhm/dl\\_mt-1.shtm#1](http://www.fema.gov/plan/prevent/fhm/dl_mt-1.shtm#1)

The link contains the following information: Endangered Species Act information; where to send LOMC requests and processing fees; and a link to the application forms. Once the application forms have been accessed by using the above link, the front matter of the application forms contains a lot of detailed information to aid the application process, including step-by-step instructions on completing the forms, and instructions for communities as well as for individual applicants. In addition, if there is an existing elevation certificate for a property, then that can be used in lieu of the second form. It is important to note that there are special considerations for AO Zones.

In terms of tracking cumulative development and associated BFE rise, all development is tracked on laser fiche, and data can be filtered by search to yield all development within SFHA. In reality, the cost of fill for developing in lower-lying areas is prohibitive, and has imposed its own limit on development in the SFHA. Although floodproofing measures are in the local ordinance, all commercial development in SFHA has relied on elevation. None opted for floodproofing. In addition, there are no basements any buildings within city limits, at least that are known.

Enforcement has never been an issue because the chance for violations to occur is prevented by the existing inspection process. In the event that there was a violation, a stop-work order would be issued, and no work would be allowed until the violation was corrected.

There is no written procedure for substantial improvements in Tracy and requests are very rare, and have yet to be seen for what pre-FIRM structures are located in SFHA.

**OTHER PROBLEMS WITH THE COMMUNITY'S PROGRAM**

There are none.

**PROGRAMMATIC ISSUES OR PROBLEMS IDENTIFIED**

Other problems are programmatic and include a lack of funds and understaffing. The city has recently lost 19 % of its staff, and is slated to lose an additional 30-40 position in the immediate future in order to maintain solvency. Many staff have to expand their job description(s) and assume additional responsibilities. This is now typical of many California communities. As an example, the Chief Building Official, who also serves as the FPA, will now have duties in the fire prevention department.

There is another programmatic issue that is not problematic, but that could, and has, served as a model for other communities. There is an exceptionally high level of cooperation and reciprocal awareness between the various City departments. All departments meet twice monthly to discuss and review development in progress and any associated issues. Additional meetings are held as needed to accommodate any interested parties, such as developers, businesses, and/or contractors. Every permit application is assigned to a team consisting of a planner and an engineer who collaborate to ensure that project is processed in a timely and compliant fashion.

During this CAV meeting, the members of the team were spoken to serially rather than all at once because of various commitments at different times, and the previously mentioned low staffing. This afforded a unique opportunity to observe the level(s) of understanding that staff of one department had of the functions and procedures of another department. There was not a single instance of contradiction. What was observed was complete consistency, with a lot of overlapping and supportive information, which served as testimony to all members' declarations of being collaborators with no tolerance for "working in silos". This reputation is public enough that other communities have been requesting visits, and in some cases actually visiting to observe how business is conducted internally. Their collaborative work ethic also applies externally, as evidenced by their partnerships with several other local cities and San Joaquin County businesses, educational institutions, and other entities listed in their economic development plan, which is based on plans to enhance transportation, educational and business opportunities on both a local and regional basis.

[http://www.ci.tracy.ca.us/departments/economic\\_development/strategy/](http://www.ci.tracy.ca.us/departments/economic_development/strategy/)

Although the permitting and development processes function well and include participation of all concerned departments, it is strongly

recommended that these procedures are preserved and documented for the benefit of the community and future staff.

#### **FLOOD MITIGATION PROJECTS, ISSUES OR CONCERNS**

While there are no levees within Tracy's boundaries, the storm drainage system requires extensive maintenance of pipelines, manholes, and sediment removal from open channels. The City is unable to afford the staff, time, and equipment necessary to properly maintain this system. Therefore, the City hires contractors to perform this work.

#### **FIELD REVIEW**

A drive of the SFHA in December 2010 produced no evidence of potential violations of the community's floodplain management regulations.

#### **ENGINEERING FLOOD MAPS AND STUDY**

Flood Insurance Rate Maps were first issued on June 18, 1987; the current index is dated October 13, 2009. No new studies are underway. According to the FPA, the SFHA seems to be mapped appropriately and there is no need to redraw city limits. There was a large "Clover" annexation that was scheduled, but this is not an option for the foreseeable future. There are no other locally known unique flood hazards or related conditions to be taken into account. As previously mentioned, FIRMs are kept at front counter for benefit of the public and because they are used whenever there is a permit application. Other maps are publically available on their GIS public domain.

The City had been working on this project for past three years, and there are approximately 185 data layers available. As previously agreed to, the link for the FEMA Map Service Center is below:

<http://www.fema.gov/business/nfip/mscjumppage.shtm>.

Finally, all staff are adept at using these maps and no training is necessary.

**BIENNIAL REPORT**

Although this requirement has been suspended, there is a chance that it may resurface in the future. For the time being, it is recommended that this sort of recordkeeping is performed, provided that there is actually any development that occurs.

**COMMUNITY ACTION NEEDED**

FEMA requests developing a written procedure for permitting substantial damage/substantial improvements as described above and requested during previous CAV. It is also recommended that these be tracked cumulatively, as previously described in this report.

In addition, the local ordinance must be amended as described in the attached California Ordinance Review Checklist and associated memo. FEMA strongly recommends formalizing permitting and development processes by documenting them for the benefit of the community and future staff.

**REQUESTED INFORMATION**

FEMA has provided all requested information through web links and contact information about the levee database(s), LOMCs, model worksheet for substantial damage/substantial improvement, and map service center.

For the next CAV cycle, it is recommended that a Community Assistance Call (CAC) be the method of contact for several reasons: the SFHA area is very small, and largely already developed; the most recent field work identified no potential violations of the local ordinance; the permitting process is very well developed and fully coordinated; and, there are no annexations of a large SFHA area in the foreseeable future. A CAV could always be conducted if there is a major change in the SFHA area, or at the request of the City.

If any information is needed in regards to compliance with the NFIP, please contact Jane Hopkins at (510) 627-7183. If any information is needed regarding technical questions about mapping, please contact Kathy Schaefer at (510) 627-7129.



DATE: May 25, 2011

MEMORANDUM FOR: File

FROM: Jane Hopkins  
Natural Hazards Program Specialist

SUBJECT: Ordinance Review, City of Tracy  
Findings of Title 9, Chapter 9.52, Tracy Code of Ordinances,  
Floodplain Regulations

1. Definitions:

- a. Amend the definition of "Development" to include the phrase "storage of equipment and materials", as specified in the Code of Federal Regulations Section (44 CFR § 59.1) and in California State Model Ordinance Section (SMO § 2.0).
- b. Amend the definitions of "Existing manufactured home park or subdivision", "New construction", "New manufactured home park or subdivision" to include the actual date (01/24/1991) that the City of Tracy was reinstated into the National Flood Insurance Program (NFIP). Normally, this date would be the original date of the ordinance adoption as per 44 CFR § 59.1 and SMO § 2.0. Because the reason for suspension was a failure to adopt the ordinance, the date of entry becomes the reinstatement date.
- c. Consider including the phrase "Flood Insurance Rate Map" in the definition of "Flood Insurance Study" as per 44 CFR § 59.1 and SMO § 2.0.
- d. Include the definition of "Floodproofing", as per 44 CFR § 59.1 and SMO § 2.0.
- e. Consider specifying the applicable non-elevation design requirements in the definition of "Lowest floor", as per 44 CFR § 59.1 and SMO § 2.0.
- f. Amend the definition of "Special Flood Hazard Area" to include the phrase "area in the floodplain subject to a 1

- percent or greater chance of flooding in any given year”, as per 44 CFR § 59.1 and SMO § 2.0.
- g. Include the definition for “Violation”, as per 44 CFR § 59.1 and SMO § 2.0.
2. Flood Insurance Rate Map Reference/Adoption Section. This section does not reference the flood maps. Correct this omission as per 44 CFR § 60.2(h) and SMO § 3.2.
  3. Compliance Section. It is strongly recommended to amend this section to replace “infraction” by “misdemeanor”, as per SMO § 3.3.
  4. Notification of Other Agencies Section. This section is missing. Please correct this omission, as per 44 CFR § 60.6(a) and SMO § 4.2.D.2.
  5. After these edits have been made, please ensure that FEMA receives a copy of the revised ordinance, including the signatures of the appropriate officials, date of adoption, effective date, and certification.
  6. Section 9.52.120-Establishment of development permits is incomplete. There must be mention of base flood elevation, utilities, grading plans,, lowest floor, & storage of equipment, as per 44 CFR § 60.3(b)(1) & SMO § 4.2.
  7. Section 9.52.170-Standards for subdivision is incomplete. There must be clarification of lowest floor in relation to surveyed structures, and mention of Letter of Map Revision based of Fill, and lowest adjacent grade, as per 44 CFR § 60.6(b)(3) and SMO § 5.3.A.
  8. For the documentation of floodplain development section, specify “lowest floor elevations”, as per 44 CFR § 60.6(b)(5) and SMO § 4.2.E.1.
  9. For the flood opening section, the “either/or” language refers to nonengineered openings versus engineered openings. In addition, flood openings must be on different sides of a structure, as per 44 CFR § 60.6(c)(5) and SMO § 5.1.C.3.
  10. The standards for the recreational vehicle section needs to specify the definition of “ready for highway use”. Instead of referencing

§ 9.52.140, insert § 9.52.120, after changes are made as per comment #6 of this ordinance review memo. This section corresponds to 44 CFR § 60.3(c) (14) and SMO § 5.5.

ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE CITY OF TRACY REPEALING CHAPTER 9.52 OF THE TRACY MUNICIPAL CODE KNOWN AS THE FLOODPLAIN ORDINANCE AND ADOPTING A REVISED VERSION OF CHAPTER 9.52 OF THE TRACY MUNICIPAL CODE WHICH WILL BE KNOWN AS THE FLOODPLAIN ORDINANCE ADOPTING REGULATIONS FOR PROPER PRACTICES FOR CONSTRUCTION WITHIN THE FLOODPLAIN

The City of Tracy does hereby ordain as follows:

SECTION 1: Repealed Section. The Tracy Municipal Code Chapter 9.52 is hereby repealed in its entirety.

SECTION 2: Adopted Section. The Tracy Municipal Code Chapter 9.52 as printed below is hereby adopted.

Chapter 9.52 FLOODPLAIN REGULATIONS

**Sections:**

9.52.010 Statutory authorization.

9.52.020 Findings of fact.

9.52.030 Statement of purpose.

9.52.040 Methods of reducing flood losses.

9.52.050 Definitions.

9.52.060 Lands to which this chapter applies.

9.52.070 Compliance.

9.52.080 Abrogation and greater restrictions.

9.52.090 Interpretation.

9.52.100 Warning and disclaimer of liability.

9.52.110 Severability.

9.52.120 Establishment of development permits.

9.52.130 Designation of the floodplain administrator.

9.52.140 Duties and responsibilities of the floodplain administrator.

9.52.150 Standards of construction.

9.52.160 Standards for utilities.

9.52.170 Standards for subdivision.

9.52.180 Standards for manufactured homes.

9.52.190 Standards for recreational vehicles.

9.52.200 Floodways.



[9.52.210 Variance procedure.](#)

[9.52.220 Conditions for variances.](#)

[9.52.230 Appeals.](#)

[9.52.240 Violations—Penalties.](#)

### **9.52.010 Statutory authorization.**

Government Code sections 65302, 65560 and 65800 confers upon local government authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

*(Prior code § 9-13.01)*

### **9.52.020 Findings of fact.**

The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and Governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

*(Prior code § 9-13.02)*

### **9.52.030 Statement of purpose.**

It is the purpose of chapter 13 to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (a) To protect human life and health;
- (b) To minimize expenditure of public money for costly flood control projects;
- (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) To minimize prolonged business interruptions;
- (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

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

*(Prior code § 9-13.03)*

#### **9.52.040 Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter includes methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazard or which result in damaging increases in flood height or velocities;
- (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

*(Prior code § 9-13.04)*

#### **9.52.050 Definitions.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year (also called the "100-year flood").

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, storage of equipment and/or materials, mining, dredging, filling, grading, paving, excavation or drilling operations.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by the City of Tracy, January 24, 1991.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency's Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report provided by the Federal Emergency Management Agency's Insurance Administration that includes flood profiles and the water surface elevation of the base flood and the Flood Insurance Rate Map.

"Flood Administrator" means the individual appointed to administer and enforce the floodplain management regulations within the community.

"Flood-Proofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation. Also referred to as a "regulatory floodway."

"Floodway encroachment lines" means the lines marking the limits of floodways on Federal, State and local floodplain maps.

"Floodway fringe" is the areas of a floodplain on either side of the designated floodway where encroachment may be permitted.

"Fraud and victimization" related to Section 9.52.210, "Variances," of this chapter means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Building Board of Appeals will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred (50-100) years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased

risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconveniences, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"Hardship" as related to Section 9.52.210 of this chapter means the hardship that would result from a failure to grant the requested variance.

The Appeal Board requires that variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as exceptional hardships. All of these problems can be resolved through other means, without granting a variance. This is so even if the alternative means are more extensive or complicated than building with a variance, or if they require the property owner to put the parcel to a different use than originally intended, or to building elsewhere.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district registered historic district; (c) individually listed on the California inventory of historic places; or (d) individually listed on a local inventory of historic places in communities with historic preservation program that have been certified either: (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states with approved programs.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 9.52.150 of this chapter.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent

foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Minimum necessary" related to Section 9.52.210 of this chapter means the minimum necessary to afford relief to the applicant of a variance with a minimum deviation from the requirements of this chapter. In the case of variances to an elevation requirement, this means the Variance Board need not grant permission for the applicant to build at grade, for example, or even to whatever elevation the applicant proposes, but only that level that the Board believes will both provide relief and preserve the integrity of the local chapter.

"New construction," for floodplain management purposes, means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the City of Tracy, January 24, 1991 and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the City of Tracy, January 24, 1991.

"Public safety and nuisances" as related to Section 9.52.210 of this chapter, means the granting of a variance must not result in additional threats to public safety or create nuisances. This chapter is intended to help protect the health, safety, well-being, and property of the local citizens. This is a long-range community effort made up of a combination of approaches such as adequate drainage systems, warning and evacuation plans, and keeping new property above the flood levels. These long-term goals can only be met if exceptions to the requirements of this chapter are kept to a bare minimum.

"Recreational vehicle" means a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

"Special Flood Hazard Area (SFHA)" means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year therefore having special flood or flood-related erosion hazards, and shown on a Flood Insurance Rate Map as Zone A, AO, A1-A30, AE, A99, AH, VI-V30, VE or V.

"Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. "Structure" for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50%) percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty (50%) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations or State or local health, sanitary, or safety code specifications which have been identified by the local code

enforcement official and which are the minimum necessary to assure safe living conditions; or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure".

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

"Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

*(Prior code § 9-13.05)*

#### **9.52.060 Lands to which this chapter applies.**

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City. Areas of special flood hazard are those identified by the Federal Emergency Management Agency in the scientific and engineering report entitled The Flood Insurance Study of the City of Tracy, dated January 24, 1991, and all subsequent amendments and/or revisions, are adopted by reference and declared to be a part of this chapter. This Flood Insurance Study and Flood Insurance Rate Map is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City Council by the Floodplain Administrator. The study and maps are on file in the office of the Development Services Director, 333 Civic Center Plaza, Tracy, California.

*(Prior code § 9-13.06)*

#### **9.52.070 Compliance.**

No new construction, or substantial improvement of a structure or other development that would require a building or grading permit pursuant to the applicable provisions of the California Building Code as adopted and modified in Title 9 of the Code shall take place in an area of special flood hazard without full compliance with the terms of this chapter and other applicable flood control regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute an infraction. Nothing herein shall prevent the City from taking such lawful action as is necessary to prevent or remedy any violation.

*(Prior code § 9-13.07)*

### **9.52.080 Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate, or impair any existing easement, covenant, or deed restriction. However, where this chapter or another chapter, ordinance, easement, covenant, or deed restriction conflicts or overlaps, whichever imposes the more stringent restriction shall prevail.

*(Prior code § 9-13.08)*

### **9.52.090 Interpretation.**

In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes.

*(Prior code § 9-13.09)*

### **9.52.100 Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the City, any officer or employee thereof, or the Federal Insurance Administration of the Federal Emergency Management Agency for any flood damage that results from reliance on this chapter or any administrative decision lawfully made thereunder.

*(Prior code § 9-13.10)*

### **9.52.110 Severability.**

This chapter and the various parts thereof are declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter or as a whole, or any portion thereof, other than the section so declared to be unconstitutional or invalid.

*(Prior code § 9-13.11)*

### **9.52.120 Establishment of development permits.**

A development permit shall be obtained before any construction or development begins within an area of special flood hazard established by [Section 9.52.060](#) of this chapter.



Applications for development permits shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (a) The proposed elevations, in relation to mean sea level and base flood elevation , of the lowest floor elevations (including basement) of all structures;
- (b) Proposed elevation, in relation to mean sea level and base flood elevation, to which any structure will be flood-proofed;
- (c) All appropriate certifications listed in subsection (d) of [Section 9.52.140](#) of this chapter; and
- (c) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (d) A complete grading plan for the site showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, utilities including electricity, phone, cable, gas, water and sewer, drainage facilities, floodways; and the locations of the foregoing.

*(Prior code § 9-13.12)*

#### **9.52.130 Designation of the floodplain administrator.**

The Director of Development Services of the City, or his/her designee, is appointed as the Floodplain Administrator to administer and implement this chapter by granting or denying development permits in accordance with the provisions of this chapter.

*(Prior code § 9-13.13)*

#### **9.52.140 Duties and responsibilities of the floodplain administrator.**

The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

- (a) Review development permits as follows:
  - (1) Review all development permits to determine that the permit requirements of this chapter have been satisfied;

- (2) All other required state and federal permits have been obtained;
  - (3) The site is reasonably safe from flooding; and
  - (4) The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this chapter, "adversely affect" means that the cumulative effect of the chapter, proposed development, when combined with all other existing and anticipated development, will increase the water surface elevation of the base flood;
- (b) When base flood elevation data has not been provided in accordance with [Section 9.52.060](#) of this chapter, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source in order to administer [Section 9.52.150](#) through [9.52.200](#) of this chapter. Any such information shall be submitted to the City Council for adoption;
- (c) Notification of other agencies
1. Alteration or relocation of a watercourse:
    - a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
    - b. Submit evidence of such notification to the Federal Emergency Management Agency; and
    - c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
  2. Base Floor Elevation changes due to physical alterations:
    - a. Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).
    - b. All LOMR's for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based upon Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed floor control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based upon current data.

3. Changes in corporate boundaries:  
Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of the community clearly delineating the new corporate limits.
- (d) Obtain and maintain for public inspection and make available as needed:
  - (1) The certification required by subsection (1) of subsection (c) of [Section 9.52.150](#) of this chapter indicating the lowest floor elevation (Elevation and Floodproofing);
  - (2) The certification required by subsection (c)(2) of [Section 9.52.150](#) of this chapter indicating the lowest floor elevation (Elevation and Floodproofing of nonresidential structures);
  - (3) The certification required by subsection (c)(3) and (4) of [Section 9.52.150](#) of this chapter (wet floodproofing standards);
  - (4) The certification of elevation required by subsection (b) of [Section 9.52.170](#) of this chapter (subdivision standards); and
  - (5) The certification required by subsection (a) of [Section 9.52.200](#) of this chapter (floodway encroachments);
- (d) Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Sections 9.52.210, 9.52.220 and [9.52.230](#) of this chapter; and
- (e) Make action to remedy violations of this chapter as set forth in [Section 9.52.070](#) of this chapter.

*(Prior code § 9-13.14)*

### **9.52.150 Standards of construction.**

In all areas of special flood hazard, the following standards shall be required:

- (a) Anchoring.
  - (1) All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral

movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

- (2) All manufactured homes shall meet the anchoring standards set forth in [Section 9.52.180](#) of this chapter.
- (b) Construction Materials and Methods.
- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
  - (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities which are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (c) Elevation and Floodproofing.
- (1) New construction and substantial improvements shall have the lowest floor elevation, including basement, elevated to or above the base flood elevation. Nonresidential structures may meet the standards set forth in subsection (3) of this subsection. Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered professional engineer or verified by the community building inspector to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator.
  - (2) Nonresidential construction shall either be elevated to conform with subsection (1) of this subsection or, together with attendant utility and sanitary facilities:
    - i. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
    - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
    - iii. Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the Floodplain Administrator.

- (3) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - i. Either a minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Fifty Percent (50%) of the provided openings shall be located on each of two separate wall lines (sides). Openings may be equipped with screens, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; or
  - ii. Be certified to comply with a local floodproofing standard Federal Insurance Administration of Federal Emergency Management Agency.
- (4) Manufactured homes shall also meet the standards set forth in [Section 9.52.180](#) of this chapter.

*(Prior code § 9-13.15)*

#### **9.52.160 Standards for utilities.**

- (a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and the discharge of untreated effluent from sanitary systems into floodwater.
- (b) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

*(Prior code § 9-13.16)*

#### **9.52.170 Standards for subdivision.**

- (a) All preliminary subdivision proposals shall identify the flood hazard area and the base flood elevation. The documents shall clearly indicate the Lowest Adjacent Grade and the Highest Adjacent Grade prior to the alteration of the existing topography before grading (cut or fill).

- (b) All final subdivision plans will provide the lowest floor elevation of proposed structures and pads. If the site is filled above the base flood, the final pad elevation shall be certified by a registered professional engineer and provided to the Floodplain Administrator and a Letter of Map Revision will be submitted to FEMA in accordance with Section 9.52.140(c).
- (c) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (d) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (e) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

*(Prior code § 9-13.17)*

#### **9.52.180 Standards for manufactured homes.**

- (a) All manufactured homes that are placed or substantially improved within a special flood hazard area on the community's Flood Insurance Rate Map: (1) outside of a manufactured home park or subdivision, (2) in a new and manufactured home park or subdivision, (3) in an expansion to an existing manufactured home park or subdivision, (4) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood:
  - (1) Be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement.
- (b) All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision on the community's Flood Insurance Rate Map that are not subject to the provisions of this section will be elevated so that either:
  - (1) The lowest floor of the manufactured home is at or above the base flood elevations; or
  - (2) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36") inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

*(Prior code § 9-13.18)*

### **9.52.190 Standards for recreational vehicles.**

All recreational vehicles placed on sites within a floodplain shown on the community's Flood Insurance Rate Map will either:

- (a) Be on the site for fewer than 180 consecutive days;
- (b) Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- (c) Meet the permit requirements of [Section 9.52.120](#) of this chapter and the elevation and anchoring requirements for manufactured homes in [Section 9.52.180](#) of this chapter.

*(Prior code § 9-13.19)*

### **9.52.200 Floodways.**

Located within areas of special flood hazard established in [Section 9.52.060](#) of this chapter are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (a) Prohibit encroachments, including fill, new construction, substantial improvement, and other new development, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge; and
- (b) If the provisions of subsection (a) of this section are satisfied, all new construction and substantial improvements shall comply with all other applicable flood hazard reduction provisions of Sections [9.52.150](#) through [9.52.190](#) of this chapter and this section.

*(Prior code § 9-13.20)*

### **9.52.210 Variance procedure.**

The variance criteria set forth in this section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. Though these standards vary from jurisdiction to jurisdiction, in general, a properly issued variance is granted for a parcel of property with physical characteristics so unusual

that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the City Council to help protect its citizens from flooding. This need is so compelling, and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood chapter are quite rare. Therefore, the variance guidelines provided in this chapter are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.


- (a) The Development Services Director shall hear and decide appeals and requests for variance from the requirements of this chapter.
- (b) In passing upon such requests, the City Director of Development Services shall consider all evaluations and all relevant factors, all standards specified in other sections of this chapter; and:
  - (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger of life and property due to flooding;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, where applicable;
  - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (9) The safety of access to the property in time of flood for ordinary and emergency vehicles;
  - (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood water expected at the site; and
  - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and



facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

- (b) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that: (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as Twenty-Five and no/100ths (\$25.00) Dollars for One Hundred and no/100ths (\$100.00) Dollars of insurance coverage; and (2) such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Board in the Office of the San Joaquin County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- (d) The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

*(Prior code § 9-13.21)*

9.52.220 Conditions for variances. 

- (a) Generally, variances may be issued for new construction, substantial improvement and other proposed new development to be erected on a lot of one-half ( $\frac{1}{2}$ ) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that all of the provisions of this chapter have been fully considered. As the lot size increases beyond one-half ( $\frac{1}{2}$ ) acre, the technical justification required for issuing the variance increases.
- (b) Variances may be issued for the repair or rehabilitation of "Historic Structures" (as defined in Section 9.56.040 of this chapter) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (c) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (d) Variances shall only be issued upon a determination that the variances are the "minimum necessary," as defined in [Section 9.52.050](#) of this chapter, considering the flood hazard, to afford relief.
- (e) Variances shall only be issued upon: (1) a showing of good and sufficient cause; (2) a determination that failure to grant the variance would result in exceptional "hardship" to the applicant (as defined in [Section 9.52.050](#) of this chapter); and (3) a

determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create "nuisances" (as defined in [Section 9.52.050](#) of this chapter) of the public, or conflict with existing local laws or ordinances.

- (f) Variances may be issued for new construction, substantial improvement and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of subsections (a) through (e) of this section are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- (g) Upon consideration of the factors of Section 9.52.210 and the purposes of this chapter, the City Development Services Director may attach such conditions to the granting of variances as he or she deems necessary to further the purposes of this chapter.

*(Prior code § 9-13.22)*

### **9.52.230 Appeals.**

When it is alleged there is an error in any requirement, decision or determination made by the Development Services Director in the enforcement or administration of this chapter, an aggrieved person may appeal the decision or determination to the City Manager under section 1.12.010.

*(Ord. 1111 § 4 Exh. A (part), 2007: prior code § 9-13.23)*

### **9.52.240 Violations—Penalties.**

*(Ord. 1040 § 5 Exh. E (part), 2002: prior code § 9-13.24)*

SECTION 3: Title, chapter and section headings. Title, chapter, and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of any title, chapter, or section hereof.

SECTION 4: Constitutionality. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance.

SECTION 5: Effective date. This Ordinance shall take effect thirty days after its final passage and adoption.

SECTION 6: Publication. A summary of this ordinance shall be published and a certified copy of the full text posted in the office of the City Clerk at least five days before the City Council meeting at which the proposed ordinance is to be adopted. Within 15 days after adoption, the City Clerk shall publish a summary, and shall post in her office a certified copy,

of the ordinance with the names of those Council Members voting for and against the ordinance. (Government Code Section 36933(c)(1).)

\*\*\*\*\*

The foregoing Ordinance \_\_\_\_\_ was introduced at a regular meeting of the Tracy City Council on the 20<sup>th</sup> day of January 2015, and finally adopted on the 3<sup>rd</sup> day of February, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 5

REQUEST

**RECEIVE STATUS REPORT AND PROVIDE DIRECTION ON POTENTIAL CITY/SAN JOAQUIN COUNTY PARTNERSHIP FOR DEVELOPMENT OF A SOUTH COUNTY REGIONAL PARK SOUTH OF LEGACY FIELDS AND NORTH OF I-205**

EXECUTIVE SUMMARY

On August 19, 2014, staff presented a report to the City Council for potential City/San Joaquin County Partnership for the development of a South County Regional Park north of I-205 and south of the City's Legacy Fields. The report provided the history of the proposed partnership and highlighted the process. The City Council accepted the report and directed staff to proceed with negotiations with San Joaquin County.

This agenda item provides an update of the ongoing negotiations and requests City Council to accept the report.

DISCUSSION

Staff presented a report to the City Council at its August 19, 2014, meeting for a potential City/San Joaquin County Partnership for development of a South County Regional Park in the northern part of town, south of Legacy Fields.

The proposal involves the exchange of a City-owned, approximately 103 acre parcel south of Legacy Fields located between Corral Hollow Road and Tracy Boulevard with the County-owned 100 acre parcel farther north, east of Tracy Boulevard as shown in the attached Exhibit A. San Joaquin County intends to develop the exchanged property as a South County Park after receiving the land exchange with available grant and future funding. Since the property is located near the City, south of Legacy Fields, it will be readily accessible and used by residents of the City and San Joaquin County.

The park development process by the County on the exchanged property involves several steps, including the appraisal of both properties; developing a Concept Plan for the new property; completing due diligence, and approval from the State and Federal agencies. The County purchased the property with state park grants, therefore the County must obtain approval from the California Department of Parks and Recreation, Office of Grants and Local Services, and Federal National Park Service to exchange their property for development of the park.

After receiving direction from Council, staff has been negotiating the proposed land exchange with County staff. City staff met with San Joaquin County representatives in two separate meetings. During negotiations, the following points were discussed:

- Completion of appraisals of both City-owned and County-owned properties in accordance with State and Federal requirements
- Exchange of properties on land to land basis or value to value basis

- Sharing of cost for processing of parcel maps for recordation purposes
- Completion of environmental documentation in a timely manner to make use of the County's existing grant funds for construction of the Park
- Need for public input for conceptual design of the Park
- Design and construction of the Park by County in a timely manner
- Maintenance of Park by City
- Approval and execution of a Memorandum of Understanding (MOU) by both the City and County

During negotiations, it was clear that the County wanted the City to bear all costs of the land exchange including recordation of the parcel map since the City initiated the request. In return, the County will work with State and Federal agencies to allow the use of existing grant monies (approximately \$960,000) towards the environmental document, planning, design and construction of the Park. The City will provide and assist the County with available information developed during concept design of the Legacy Fields and this land.

While both City and County staff agree with the process leading from the proposed exchange and development of the park, the following points need further clarification and staff will continue working towards its successful resolution:

- Value to value exchange instead of acre to acre exchange
- Reversion of exchanged properties if Park is not fully developed within a certain time line
- Park Development
- Cost of maintenance of an approximately 100 acre park will be an additional burden on City services and its General Fund

The estimated cost for the proposed land exchange and maintenance of the Regional Park are listed as follows:

<u>Item</u>	<u>Cost (approx.)</u>
1) Cost associated with Land Exchange	
Preparation of legal description and cost of recordation of properties/parcels	\$ 15,000
2) Annual Maintenance Costs	
Maintenance of 50-acre park	\$ 500,000/yr
Maintenance of 100 acre park	\$1,000,000/yr

Since the above items may have significant, long term impacts on the City budget and services, staff requests direction from City Council to continue to negotiate with San Joaquin County towards resolution of these issues and provide an update to City Council in March 2015.

STRATEGIC PLAN

This agenda item supports the City Council approve Quality of Life Strategy;

Goal 1: Improve current recreation and entertainment programming and services to reflect the community and match trending demands

Goal 2: Address City amenities and facility usage with an emphasis on accessibility and streamlined services.

FISCAL IMPACT

There is no fiscal impact associated with the acceptance of this status report.

RECOMMENDATION

That City Council accept the status report and provide direction on the potential City/San Joaquin County Partnership for development of a South County Regional Park, south of Legacy Fields and north of I-205.

Prepared by: Kuldeep Sharma, Utilities Director/Interim City Engineer  
David Ferguson, Public Works Director

Reviewed by: Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager

AGENDA ITEM 7.A

REQUEST

CONSIDER WHETHER AN ITEM RELATED TO DEVELOPMENT AGREEMENTS, APPROVED AND AMENDED, TOGETHER WITH A PRESENTATION BY STAFF, SHOULD BE INCLUDED ON A FUTURE CITY COUNCIL AGENDA FOR DISCUSSION

EXECUTIVE SUMMARY

Determine whether an item should be placed on a future Council agenda to discuss development agreements.

DISCUSSION

At the City Council meeting held on December 16, 2014, Council Member Vargas requested Council consider placing an item on a future Council agenda to discuss the status of development agreements, approved and amended, with a brief presentation by staff.

The purpose of this agenda item is to provide an opportunity for Council to discuss whether staff time and City resources should be devoted to research and outreach, and to determine whether an item related to an update and discussion on development agreements should be placed on a future agenda. An item placed on a future agenda would enable the City Council to discuss the item in detail.

STRATEGIC PLAN

This item does not relate to the Council's Strategic Plans.

FISCAL IMPACT

None.

RECOMMENDATION

Staff recommends that the City Council determine whether an item related to development agreements, approved and amended, together with a presentation by staff should be included on a future City Council agenda for discussion.

Prepared by: Carole Fleischmann, Interim City Clerk

Reviewed by: Maria Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager

AGENDA ITEM 7.B

REQUEST

**REVIEW APPOINTMENTS TO COUNCIL COMMITTEES**

EXECUTIVE SUMMARY

Annual review of Council committees.

DISCUSSION

Appointments to Council subcommittees are reviewed on an annual basis. The appointments were last reviewed on January 21, 2014. Attached is the list of appointments approved by the Council for 2014 (Exhibit A).

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

With regard to the San Joaquin Council of Governments One Voice Trip to Washington, D.C., up to two Council Members may volunteer.

STRATEGIC PLAN

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

FISCAL IMPACT

None.

RECOMMENDATION

That the City Council, by motion, deletes or adds to the attached list of committees, and makes appointments to the remaining committees as appropriate.

Prepared by: Carole Fleischmann, Interim City Clerk

Reviewed by: Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager

**ATTACHMENTS:**

Attachments: Exhibit A - List of Council Appointments for 2014 (Rev)



### 2014 - COUNCIL COMMITTEES/COMMISSIONS

Committee/Commission	Meetings Held	Council Members
City/Chamber Liaison	Quarterly	Mayor Ives (Former) Council Member Young
City/Schools Liaison	Every other month	Council Member Rickman Mayor Maciel
Investment Review Committee	Quarterly	Council Member Manne Mayor Maciel
South County Fire Authority	Quarterly	Mayor Maciel Council Member Rickman
*Tracy Area Public Facilities Financing Agency	As needed, with an annual meeting in May	Council Member Manne Council Member Young
**City Selection Committee	Annually, additional meetings as needed	Mayor Ives (Former) Mayor Maciel - Alternate
**Community Development Block Grant Policy Advisory Committee	As needed, in conjunction with the distribution of the CDBG grants.	As needed
**Council of Governments	Monthly, in Stockton at 5:00 p.m. on the fourth Thursday of the month.	Mayor Ives (Former) Mayor Maciel - Alternate
**Duel Vocational Institution, Advisory Committee	Alternate Months	Mayor Maciel
**San Joaquin County Water Advisory Commission	Monthly	Mayor Ives, (Former) - Alternate
**San Joaquin Partnership	Monthly, on the fourth Thursday of each month	Mayor Ives (Former) Mayor Maciel - Alternate
**San Joaquin Regional Rail Commission	Monthly	Mayor Ives (Former)
**Solid Waste Management Plan Advisory Task Force	As needed	Council Member Young
**Special City Selection Committee, SJVAPCD	As needed	Council Member Manne Mayor Maciel - Alternate
**League of California Cities, Central Valley Division Executive Committee	Quarterly	Mayor Maciel
***Oversight Board of the Successor Agency to the City of Tracy Community Development Agency	First Tuesday of Each Month at 3:30 p.m.	Mayor Maciel Mayor Ives (Former) - Alternate
Joint City/County Criminal Justice Task Force (Appointed at 08/20/2013 Council Meeting)	As needed	Mayor Maciel Council Member Rickman Charles Manne (Alternate)
San Joaquin Council of Government's One Voice - Washington	Annual Meeting – April 19 – 25, 2015	1. 2.
Altamont Regional Traffic Authority (JPA)	As needed	

\*Ad Hoc Committee

\*\*Outside Agencies

## COUNCIL COMMITTEES – 2014

Following is a current list of both standing committees and ad hoc committees. Some of these appointments are City of Tracy appointments to a larger body, while others are City directed activities only.

### I. STANDING COMMITTEES

#### A. **City/Chamber Liaison Committee**

1. Brent H. Ives, Mayor (Former)
2. Nancy Young, Council Member
3. City Manager

Meets quarterly typically on the third Monday of the designated month at 4:00 p.m. at the Chamber to discuss issues of concern to both the City and the Chamber, i.e. Fourth of July activities, Downtown activities, Bean Festival, etc.

#### B. **City/Schools Liaison Committee**

1. Michael Maciel, Mayor
2. Robert Rickman, Council Member
3. City Manager
4. Police Chief Hampton
5. Kuldeep Sharma, City Engineer
6. Andrew Malik, Director of Development and Engineering Services
7. Maria Hurtado, Assistant City Manager

Meets every other month with School District officials to discuss issues of mutual concern, i.e. school pedestrian routes, bus routes, facilities, crossing guards, etc.

#### C. **Community Access Committee** – (Disbanded by Council - City Council meeting 03/06/07)

#### D. **Economic Development Committee** (Disbanded by Resolution 2007-207 – City Council meeting 8/21/07)

#### E. **Investment Review Committee**

1. Charles Manne, Council Member
2. Michael Maciel, Mayor
3. Ray McCray, Treasurer
4. Administrative Services Department Director
5. City Manager

Meets on a quarterly basis to address issues involving investment of the City's funds and management of the City's portfolio. Meetings are usually held on the last Monday of the quarter at 5:30 p.m. in Room 109 at City Hall.

#### F. **South County Fire Authority (SCFA)**

1. Michael Maciel, Mayor
2. Robert Rickman, Council Member
3. Alternate

The SCFA consists of four members - two Council Members appointed annually by the City Council, and two Board Members of the Tracy Rural Fire Protection District appointed annually by the Board. The Board of Directors meets on a quarterly basis, and has the responsibility to manage and administer the fire protection services provided to the jurisdictional area of the South County Fire Authority.

G. **Tracy Tomorrow and Beyond** (Disbanded by Resolution 2007-081, May 1, 2007)

II. AD HOC COMMITTEES

A. **Downtown Revitalization Task Force** – (Disbanded by Council - City Council meeting 01/06/09)

B. **Community Park Design Subcommittee** (Disbanded by Council - City Council meeting 01/02/07)

C. **Tracy Area Public Facilities Financing Agency (TAPFFA)**

1. Charles Manne, Council Member
2. Nancy Young, Council Member
3. Administrative Services Department Director

TAPFFA was formed as a Joint Power Authority between the City, Tracy School District, and Jefferson School District. The JPA was authorized to issue Mello-Roos bonds primarily to build new schools in the Residential Specific Plan area. With the ultimate build out of the TAPFFA area usually only a brief annual meeting of the TAPFFA Board of Directors is necessary in order to approve the budget and levy the necessary tax for the duration of the bonds. The annual meeting is normally held in May.

III. THIRD AGENCY MEMBER APPOINTMENTS

A. **City Selection Committee**

1. Michael Maciel, Mayor
2. Alternate

This committee is composed of the Mayors of the cities in San Joaquin County and addresses issues related to membership and appointments to regional boards, such as LAFCO, Delta Protection Agency, and the San Joaquin Valley Unified Air Pollution Control District, etc.

B. **Community Development Block Grant Policy Advisory Committee**

- 1.

Meets as needed in conjunction with the distribution of the CDBG grants.

C. **Council of Governments (COG)**

1. Brent H. Ives, Mayor (former)
2. Michael Maciel, Mayor (Alternate)

The Council of Governments meets monthly and deals with regional issues, including transportation, habitat mitigation, regional rail, and airport land use matters, etc. Meetings are held in Stockton at 5:00 p.m. on the fourth Thursday of the month.

D. **Deuel Vocational Institution, Citizens Advisory Committee**  
Contact: Martina Virrey, Community Partnership Manager (209/830-3891) or  
martina.virrey@cdcr.ca.gov

1. Michael Maciel, Mayor

This subcommittee serves in an advisory capacity to Deuel Vocational Institution, a state prison located to the southeast of Tracy. The subcommittee's primary objective is to promote effective communication between the Institution and the community at large. California Penal Code Section 5056 requires two persons shall be appointed for two year terms from nominations submitted by the local City Council in whose district the prison is located. Individuals nominated may be elected officials or involved residents of the City. Meetings are normally held on the second Thursday of odd numbered months from 9:00 a.m. to 10:00 a.m.

E. **Local Transportation Authority Citizens Advisory Committee**  
(COG) Contact: COG (468-3913)

1. Vacant (Citizen appointed by Mayor)

F. **San Joaquin County Library Task Force** – (Disbanded by Council - City Council meeting 01/06/09)

G. **San Joaquin County Water Advisory Commission**  
Contact: Mel Lytle, San Joaquin County Public Works Dept. (468-3000)

1. David Ferguson, Director of Public Works
2. Brent H. Ives, Mayor (Former) (Alternate)

Appointed by the Board of Supervisors, this Commission acts in an advisory capacity to the San Joaquin County Flood Control and Water Conservation District. Consists of 22 members from the various cities and water agencies in San Joaquin County. Meets monthly.

H. **San Joaquin Partnership**  
Contact: Chris Youngsma, (956-3380)

1. Brent H. Ives, Mayor
2. Michael Maciel, Mayor Pro Tem (Alternate)

The San Joaquin Partnership is a non-profit, private-public economic development corporation assisting business and industry to locate into San Joaquin County. Meets on the fourth Thursday of each month.

I. **San Joaquin Regional Rail Commission**  
Contact: Rail Commission staff (468-3025)

1. Brent H. Ives, Mayor (Former)

The San Joaquin Regional Rail Commission oversees the development of rail services on a regional basis. Meets monthly.

J. **Solid Waste Management Plan Advisory Task Force**  
Contact: Tom Horton, SJC Public Works Department – (209/468-3066)

1. Nancy Young, Council Member
2. David Ferguson, Director of Public Works

This task force is comprised of elected representatives of the governmental agencies responsible for preparing the County Integrated Waste Management Plan. The duties of the task force include: identifying solid waste management issues of County-wide or regional concern; facilitating the development of multi-jurisdictional arrangements for the marketing of recyclable materials; developing goals, policies and procedures consistent with guidelines and regulations adopted by the Department of Resources Recycling and Recovery, and advising the Board of Supervisors on matters pertaining to the County-wide Household Hazardous Waste Program. Meets as needed.

**K. Special City Selection Committee, SJVAPCD**  
Contact: Sayed Sadredin, Executive Director – (559/230-6036)

1. Michael Maciel, Mayor Pro Tem
2. Charles Manne, Council Member (Alternate)

The Committee is charged with making appointments of city representatives to the San Joaquin Valley Air Pollution Control District's Governing Board.

**L. League of California Cities, Central Valley Division Executive Committee**

1. Michael Maciel, Mayor
2. City Manager (Alternate)

Meets Quarterly

**M. Oversight Board of the Successor Agency to the City of Tracy Community Development Agency**

1. Michael Maciel, Mayor Pro Tem
2. Brent Ives, Mayor (Former)(Alternate)

Meets on the first Tuesday of each month at 3:30 p.m.

**N. Joint City/County Criminal Justice Task Force**

1. Michael Maciel, Mayor
2. Robert Rickman, Council Member
3. Charles Manne, Council Member (Alternate)

Meets when needed.

**O. San Joaquin Council of Government's One Voice Trip to Washington**

- 1.
- 2.

Representatives from Tracy join the San Joaquin County delegation in calling upon leaders in the Administration and Congress in Washington, D.C. to discuss specific policy issues and projects of importance to the region. The trip takes place annually.

**P. Altamont Regional Traffic Authority (JPA)**  
Contact: Kul Sharma, Director of Utilities, City of Tracy – (209/831-6400)

- 1.
2. (Alternate)

The Joint Powers Authority Board, comprised of representatives from Livermore, Tracy and Alameda County, was formed to govern the collection and expenditure of regional

traffic fees, to undertake studies and analyses of regional transportation issues arising from residential development in east Alameda County, Tracy and west San Joaquin County, and to identify and implement trip reduction and transportation systems management practices for major development projects.

Meets when needed.

AGENDA ITEM 7.C

REQUEST

**APPOINTMENT OF MAYOR PRO TEMPORE**

EXECUTIVE SUMMARY

Council appointment of a mayor pro tempore.

DISCUSSION

Government Code sections 34905 and 36801 require that the City Council choose one of its members as mayor pro tempore. In the absence of the mayor, the mayor pro tempore exercises the powers and duties of the mayor.

Since the year 2000, and every even numbered year thereafter, the mayor pro tempore has been appointed at the first City Council meeting in December, following the procedural item declaring the results of the election. The appointment has been made following a request by the mayor for a nomination from the Council and a vote. The mayor pro tempore serves a two year term.

This year the appointment was held over until the Council seat left vacant by the election of the mayor pro tempore to the mayor's seat had been filled.

STRATEGIC PLAN

This item does not relate to the Council's Strategic Plans.

FISCAL IMPACT

None.

RECOMMENDATION

Staff recommends that the Council appoints a mayor pro tempore to serve a two year term ending in December 2016.

Prepared by: Carole Fleischmann, Interim City Clerk

Reviewed by: Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager