

Tuesday, April 21, 2015, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

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

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

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

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

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

1. CONSENT CALENDAR

- A. Council Minutes – Special meeting minutes of March 31, 2015.
- B. Approve an Offsite Improvement Agreement with Prologis L.P., a Delaware Limited Partnership for the Cordes Ranch – Phase 1B Offsite Waterline Improvements on Hansen Road, and New Schulte Road, and Authorization for the Mayor to Execute the Agreement on Behalf of the City
- C. Declare the 2.78 Acre City-Owned Property Located at the Southwest Corner of Naglee Road and Pavilion Parkway (APN 212-290-39) as Surplus Property, Authorization of a Purchase and Sale Agreement Between the City of Tracy and BCP Tracy, LLC (BCP), a California Corporation, and Authorization for the Mayor to Execute the Purchase and Sale Agreement and Related Documents
- D. Approve Amendment No. 2 to the Services Agreement Between the City of Tracy and Tracy Material Recovery and Solid Waste Transfer, Inc.; Approve the Budget for the Operation of the Tracy Material Recovery Facility and Solid Waste Transfer Station for the Period of May 1, 2015 through December 31, 2015; and Approve Funding Appropriation
- E. Approve Amendment No. 3 to the Professional Services Agreement Between the City of Tracy and HF&H Consultants, LLC and Approve Funding Allocation

2. ITEMS FROM THE AUDIENCE

3. RECEIVE HISTORICAL OVERVIEW AND UPDATE ON MILESTONES OF THE PUBLIC SAFETY RADIO COMMUNICATIONS TOWER PROJECT

4. RECEIVE STATUS REPORT ON THE (1) JOE WILSON POOL RECONSTRUCTION SCHEDULE AND (2) CITY'S SUMMER AQUATICS PROGRAMMING USING THE WEST HIGH SCHOOL POOL

5. ITEMS FROM THE AUDIENCE

6. COUNCIL ITEMS

- A. Discuss and Provide Direction on the Formation and Purpose of a Two Member Council Subcommittee Associated with the Construction of Legacy Fields

7. ADJOURNMENT

JOINT TRACY CITY COUNCIL / TRACY RURAL FIRE PROTECTION DISTRICT
SPECIAL MEETING MINUTES

March 31, 2015, 5:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

1. Call to Order – Mayor Maciel called the meeting to order at 5:00 p.m.
2. Roll call found Council Members Mitracos, Vargas, Mayor Pro Tem Rickman, and Mayor Maciel present. Council Member Young absent.

Roll call found Tracy Rural Fire Protection District Board Members Ahmad, Reece, Vieira, Vice Chairperson Muniz, and Chairperson Smith present.
3. ITEMS FROM THE AUDIENCE – None.
4. REVIEW THE PROPOSED FISCAL YEAR 2015-16 FIRE DEPARTMENT BUDGET AND THE COST SPLIT BETWEEN THE CITY OF TRACY AND THE TRACY RURAL FIRE PROTECTION DISTRICT – Gary Hampton, Public Safety Chief, introduced Fire Division Chief Dave Bramell, who presented the staff report and Powerpoint presentation. The joint meeting of the Tracy City Council and the Tracy Rural Fire Protection District Board of Directors was held to review the proposed City of Tracy Fiscal Year 2015-16 Fire Department Budget. The City's Fire Department Budget becomes the budget for the South County Fire Authority. The Fire Authority Board of Directors will officially adopt the budget. Division Chief Bramell provided background regarding the South County Fire Authority (SCFA), Mountain House Community Service District (MHCS D) contract impact, operational changes (Station 92), SCFA cost allocation formula, and FY 2015/16 proposed SCFA operating budget.

The Tracy Rural Fire Protection District Board requested staff provide a line item breakdown of the proposed Fiscal Year 2015-2016 Fire Department Budget and cost split. Public Safety Chief Hampton and Division Chief Bramell to meet with Tracy Rural Fire Protection District Board to review and provide details related to the amendments to the Joint Power Authority Agreements, regarding Fire Stations 91 and 92.
5. ADJOURNMENT – It was moved by Tracy Rural Fire Protection District Chairperson Smith and seconded by Board Member Ahmad to adjourn. It was moved by City Council Mayor Pro Tem Rickman and seconded by Council Member Vargas to adjourn. Voice vote found all in favor; passed and so ordered. Time: 6:56 p.m.

The above agenda was posted at the Tracy City Hall on March 30, 2015. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.B

REQUEST

APPROVE AN OFFSITE IMPROVEMENT AGREEMENT WITH PROLOGIS L.P., A DELAWARE LIMITED PARTNERSHIP FOR THE CORDES RANCH - PHASE 1B OFFSITE WATERLINE IMPROVEMENTS ON HANSEN ROAD, AND NEW SCHULTE ROAD, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY

EXECUTIVE SUMMARY

Approval of the Offsite Improvement Agreement will allow Prologis L. P., a Delaware limited partnership (Developer), to proceed with the construction of offsite waterlines on Hansen Road and New Schulte Road, which are necessary for the construction and business operation of the Medline Industrial building within the Cordes Ranch Business Park.

DISCUSSION

On October 23, 2014, the Development Services Director approved a Development Review application for the construction of an industrial distribution facility known as Medline Industrial Distribution Facility approximately 1,005,480 square feet which will be located east of Hansen Road and north of New Schulte Road in the Cordes Ranch area.

Approval of the project was subject to certain conditions of approval. The Developer was required to construct certain offsite waterline improvements which include the extension of a 16-inch diameter water main on Hansen Road from Old Road "E" to south of the future Capital Park Drive and on New Schulte Road from Hansen Road to Road "H", to provide potable water to the building for fire protection and construction use. These waterline improvements are required to be in place prior to the construction of the building.

The Developer has completed the design of the offsite waterline improvements and has submitted the Improvement Plans, Specifications and Cost Estimates (PSE). City staff has reviewed the PSE and found them to be complete. The Developer has executed the Offsite Improvement Agreement and submitted the required security to guarantee completion of the offsite waterline improvements. The Offsite Improvement Agreement and Improvement Plans are on file with the City Engineer and are available for review upon request.

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

FISCAL IMPACT

There will be no fiscal impact to the General Fund. The Developer will pay for the cost of inspection and processing the agreement.

STRATEGIC PLAN

This agenda item is consistent with the Council's Economic Development Strategy, to ensure physical infrastructure necessary for development are constructed.

RECOMMENDATION

That City Council, by resolution, approve the Offsite Improvement Agreement with Prologis L.P., a Delaware limited partnership for Cordes Ranch – Phase 1B Offsite Waterline Improvements on Hansen Road and New Schulte Road, and authorize the Mayor to execute the Offsite Improvement Agreement.

Prepared by: Criseldo Mina, P. E., Senior Civil Engineer

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

Approved by: Troy Brown, City Manager

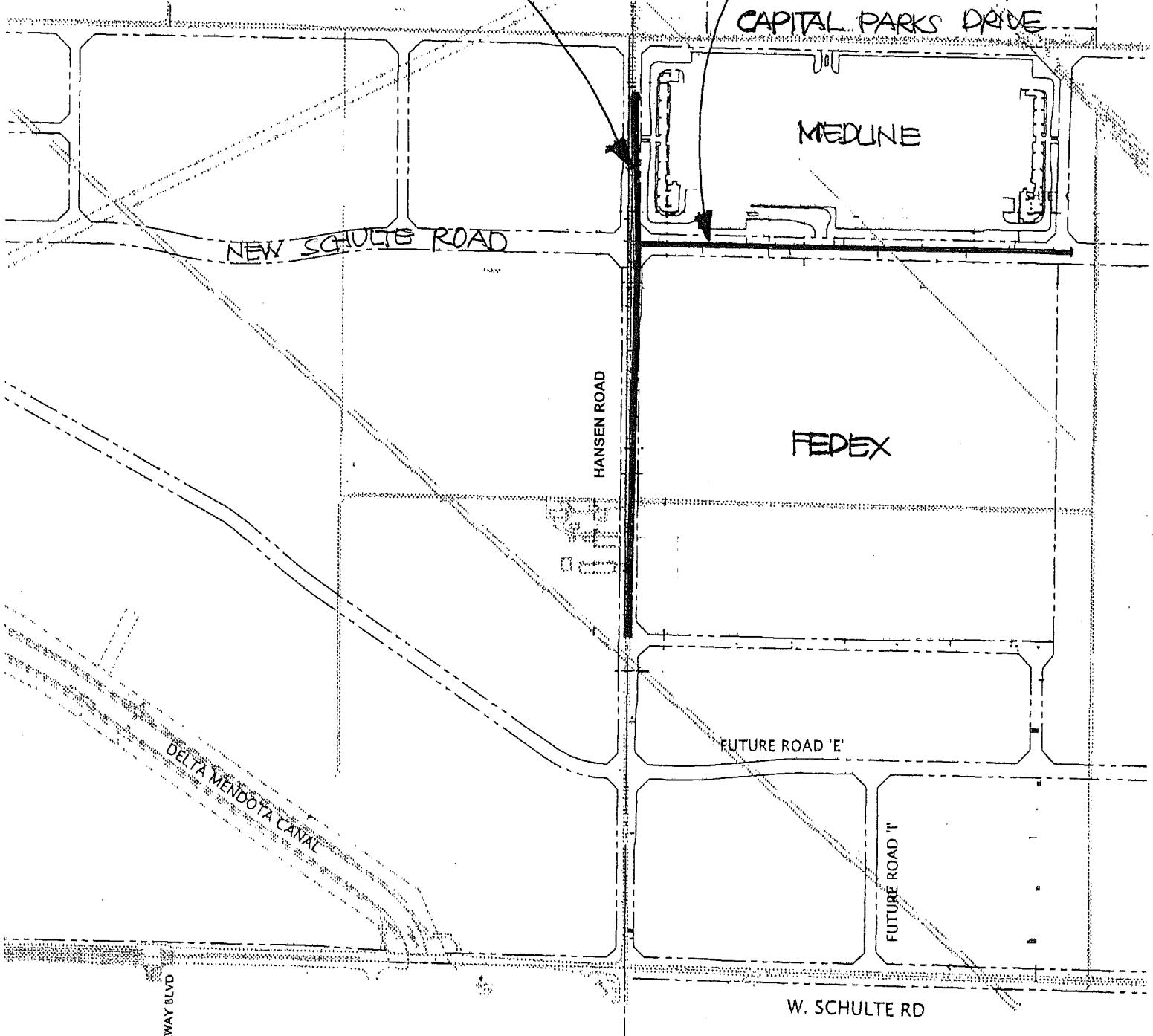
Attachment A: Location Map

LOCATION MAP
NOT TO SCALE



PROPOSED 16" Ø WATERLINE
ON HANSEN ROAD

PROPOSED 12" WATERLINE
ON NEW SCHULTE ROAD



LOCATION MAP

SCALE: 1" = 500'



RESOLUTION 2015-_____

APPROVING AN OFFSITE IMPROVEMENT AGREEMENT WITH PROLOGIS L.P., A DELAWARE LIMITED PARTNERSHIP FOR THE CORDES RANCH - PHASE 1B OFFSITE WATERLINE IMPROVEMENTS ON HANSEN ROAD, AND NEW SCHULTE ROAD, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, On October 23, 2014, the Development Services Director approved a Development Review application for the construction of an industrial distribution facility known as Medline Industrial Distribution Facility approximately 1,005,480 square feet which will be located east of Hansen Road and north of New Schulte Road in the Cordes Ranch area, and

WHEREAS, The Developer was required to construct certain offsite waterline improvements, and

WHEREAS, As a requirement to receiving funding under this agreement, the City of Tracy agreed to maintain the site for commuter parking for a minimum of 10 years from the date of opening of the facility for commuter operations, and

WHEREAS, The Developer has completed the design of the offsite waterline improvements and has submitted the Improvement Plans, Specifications and Cost Estimates, and

WHEREAS, The Developer has executed the Offsite Improvement Agreement and submitted the required security to guarantee completion of the offsite waterline improvements, and

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

WHEREAS, There will be no fiscal impact to the General Fund. The Developer will pay for the cost of inspection and processing the agreement;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves the Offsite Improvement Agreement with Prologis L.P., a Delaware limited partnership for Cordes Ranch – Phase 1B Offsite Waterline Improvements on Hansen Road and New Schulte Road, and authorizes the Mayor to execute the Offsite Improvement Agreement.

* * * * *

The foregoing Resolution 2015-_____ was passed and adopted by the Tracy City Council on the 21st day of April, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST

CITY CLERK

AGENDA ITEM 1.C

REQUEST

DECLARE THE 2.78 ACRE CITY-OWNED PROPERTY LOCATED AT THE SOUTHWEST CORNER OF NAGLEE ROAD AND PAVILION PARKWAY (APN 212-290-39) AS SURPLUS PROPERTY, AUTHORIZATION OF A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF TRACY AND BCP TRACY, LLC (BCP), A CALIFORNIA CORPORATION, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS

EXECUTIVE SUMMARY

The City is the owner of the 2.78-acre real property located on the southwest corner of Naglee Road and Park and Ride Drive, currently in use as the Tracy Park and Ride lot. BCP is currently marketing the property under an Exclusive Negotiating Rights Agreement (ENRA) and has received fully executed Letters of Intent from Chipotle Mexican Grill and Panera Bread, both new restaurant uses for the City of Tracy, which plan to develop and occupy on a portion of the site.

DISCUSSION

On April 15, 1997, the City of Tracy and the San Joaquin County Transportation Authority entered into a cooperative agreement for the purpose of funding the construction of the Tracy Park and Ride Lot. As a requirement to receiving funding under this agreement, the City of Tracy agreed to maintain the site for commuter parking for a minimum of 10 years from the date of opening of the facility for commuter operations. The facility began commuter operations around November 1997. Therefore, the City's obligation to maintain the site for commuter parking required under the cooperative agreement has been fulfilled.

As the I-205 Specific Plan Area builds out and fewer freeway retail sites are available, staff has received developer and retailer interest in the City-owned Tracy Park and Ride location. Becker Commercial Properties Tracy, LLC (BCP) is currently marketing the property under an Exclusive Negotiating Rights Agreement (ENRA) and has received fully executed Letters of Intent from Chipotle Mexican Grill and Panera Bread, both new restaurant uses for the City of Tracy, which plan to develop and occupy on a portion of the site. In order for development of the property to move forward, the subject property must be conveyed to the new property owner upon the execution of a purchase and sale agreement.

On April 8, 2015, in accordance with State Government Code Section 65402(a), the Planning Commission reported that the disposal of the subject property was in conformance with the City's adopted General Plan. This section requires that any disposition of surplus property, defined in Section 54221 as land owned by any local agency that is determined to be no longer necessary for the agency's use, requires a report of conformity to the agencies General Plan. The City initiated this disposal of real property because it has been determined that the subject property can be better utilized as a restaurant or retail use consistent with the results from the 2013 Retail Survey.

The use of this facility as a Park and Ride lot would cease. The approximately 180 parking spaces for commuters could be accommodated downtown near the Transit Station. There are also approximately 45 Park and Ride spaces currently available at the Shops at Northgate Village, the former Tracy Outlet Center site, which could be maintained, although it is not a requirement. Staff has had a few discussions with the new owner of the Northgate Village Center regarding expanding their number of designated park and ride spaces. Staff is also reaching out to other retail areas (West Valley Mall, etc.) to see if there is any interest to provide additional park and ride spaces, in order to provide a smooth transition.

Staff believes this is a good use for the site. Both Chipotle Mexican Grill and Panera Bread are unique users for Tracy. Results from the 2013 Retail Survey ranked Chipotle Mexican Grill and Panera Bread in the top 10 most desired restaurants in Tracy, ranking them #5 and #7, respectively.

STRATEGIC PLAN

This agenda item supports Goal 2, Objective 2a of the Economic Development Strategic Plan by focusing recruitment efforts on retailers and restaurants that meet the desires of the Tracy community.

FISCAL IMPACT

There is no fiscal impact to the City of Tracy as a result of this staff item. The proceeds from the sale will be placed in the City's General Fund.

RECOMMENDATION

That City Council declare the 2.78 acre city-owned property located at the southwest corner of Naglee Road and Pavilion Parkway (APN 212-290-39) as surplus property, authorize a purchase and sale agreement between the City of Tracy and BCP Tracy, LLC, a California Corporation, and authorize the Mayor to execute the purchase and sale agreement and related documents.

Prepared by: Barbara Harb, Management Analyst

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

Approved by: Troy Brown, City Manager

ATTACHMENTS

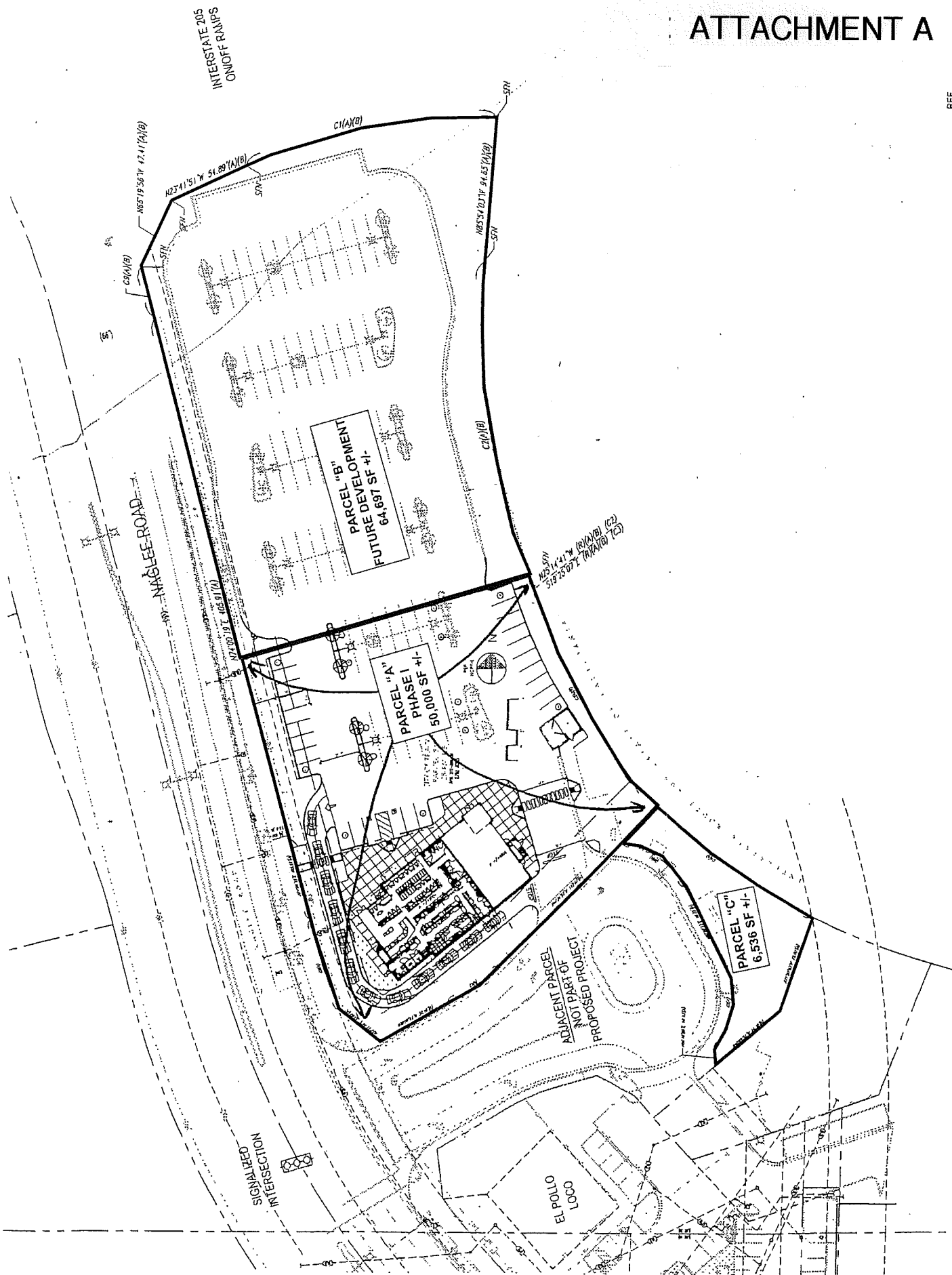
Attachment A – Location Map

Attachment B – Purchase and Sale Agreement between BCP Tracy, LLC and the City of Tracy

Attachment C – Confirming Letters of Interest

ATTACHMENT A

REF.
NORTH



AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

This Agreement for Purchase and Sale of Real Property ("*Agreement*"), effective as of the date last signed below, is entered into between **BCP Tracy LLC**, a California limited liability company, its nominee or assigns ("*Buyer*"), and the **CITY OF TRACY**, a California general law city ("*City*").

RECITALS

A. City owns a certain parcel of real property ("*City Parcel*") located at the southwest corner of Naglee Road and Park & Ride Drive, in the City of Tracy, San Joaquin County, California, containing approximately 121,097 square feet of land area, as more particularly described in Exhibit A, attached.

B. The City Council has determined that the Park & Ride facility on the City Parcel should be relocated and that the City Parcel is surplus land.

C. City wishes to subdivide the City Parcel into three parcels, A, B and C, as shown on the Site Plan attached as Exhibit B. Proposed Parcel A will be approximately 50,000 square feet, and is referred to here as the Property (or Proposed Parcel A). City further wishes to sell fee title interest in said Property.

D. City and Buyer entered into an Exclusive Negotiating Rights Agreement dated February 10, 2015 (and that Agreement superseded an Exclusive Negotiating Rights Agreement dated May 17, 2013, extended by City letter dated September 29, 2014). Following negotiations, City wishes to sell the Property and Buyer wishes to purchase the Property from City under the terms set forth in this Agreement.

NOW, THEREFORE, considering the foregoing and the mutual covenants contained here, the parties agree as follows:

AGREEMENT

1. Purchase and Sale.

(a) Agreement. City agrees to sell and convey to Buyer, and Buyer agrees to purchase from City all of City's interest in the Property on the terms set forth in this Agreement. The "*Effective Date*" is the date on which the last party executes the Agreement.

(b) Nonwaivable Condition. The parties acknowledge that the Property is currently not a legal parcel that may be sold under the California Subdivision Map Act ("*SMA*") and therefore agree that the sale of Property contemplated by this Agreement is expressly conditioned upon the City's initiating and approving a parcel map that makes the Property a legal parcel under the SMA. The parties may not waive this condition.

2. Purchase Price. The purchase price ("**Purchase Price**") for the Property is Five Hundred Fifty Thousand Dollars (\$550,000). The Purchase Price shall be payable by Buyer to City through Escrow at the Close of Escrow.

3. Escrow.

(a) Opening of Escrow. On or before the third business day following the Effective Date, City shall open an escrow ("**Escrow**") with Old Republic Title Company, 150 W. 10th Street, Tracy, CA 95376 (Tel: 209-835-1331) ("**Escrow Holder**"). Buyer and City agree to execute and deliver to Escrow Holder, in a timely manner, all escrow instructions and other documents necessary to consummate the transaction contemplated by this Agreement. Any such instructions and other documents shall not conflict with, amend or supersede this Agreement. If there is any inconsistency between such instructions and other documents and this Agreement, this Agreement shall control.

(b) Close of Escrow. The Close of Escrow shall occur, subject to the satisfactions of the conditions precedent, within 30 days following satisfaction of the conditions precedent, but not later than 365 days following the Effective Date, unless otherwise extended by the mutual written consent of the parties, which date is referred to herein as the "**Scheduled Closing Date.**" If Buyer is satisfied as to all conditions set forth in Section 5 (a) (Conditions to Buyer's Obligations) sooner than 365 days, Buyer shall send written notice to the City, and City shall submit the necessary documents into Escrow within ten working days after that. For purposes of this Agreement, "**Close of Escrow**" is defined as the date that the Grant Deed to the Property is recorded in the Official Records of San Joaquin County.

(c) Buyer's Inspections and Due Diligence. From the date that Escrow is opened (the "**Opening of Escrow**") until 5:00 p.m. Pacific Time ten days before the Scheduled Closing Date or such other date agreed to by the parties for Close of Escrow (the "**Due Diligence Period**"), Buyer may conduct examinations, inspections, testing, studies and investigations of the Property. Within five business days following the Opening of Escrow, City shall provide Buyer with any and all existing reports, studies and other related information in its possession or under its control that reasonably relate to the Property, including, without limitation, any Phase I and Phase II environmental reports, surveys, and geotechnical studies. Buyer may conduct such due diligence activities, inspections, and studies of the Property as it deems necessary or appropriate, and examine and investigate to its full satisfaction all facts, circumstances, and matters relating to the Property. Buyer shall notify City before conducting any invasive testing of the Property. Buyer shall repair any damage to the Property caused by Buyer's inspections and tests and shall restore the Property to substantially the condition existing as of the date of the inspection. Buyer agrees to defend, indemnify and hold City harmless from and against any and all claims, liens, demands, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, and all costs incurred in connection therewith, including without limitation actual attorneys' fees and costs of experts and consultants (collectively "**Claims**") arising directly out of the conduct of any investigative activities of Buyer or its agents or representatives on the Property at any time following the Effective Date, but not as to any such Claims as may arise out of any factual information that may be disclosed by such investigation, such as, but not limited to any environmental problems with the Property.

4. Conditions of Title. It shall be a condition to the Close of Escrow and a covenant of City that title to the Property be conveyed to Buyer by City by a Grant Deed, which shall be in the form customarily used by Escrow Holder in the County ("*Grant Deed*"), subject only to:

(a) those exceptions shown in a preliminary title report to be ordered by Buyer (the "*Preliminary Report*"), if approved by Buyer; and

(b) such other title matters affecting the Property created by or with the written consent of Buyer (collectively, "*Approved Conditions of Title*").

City covenants and agrees (and it shall be a condition to the Close of Escrow) that between the Effective Date and the Close of Escrow, it will not, except as specifically provided in this Agreement, cause or permit the condition of title to the Property to differ from that disclosed by the Preliminary Report. Subject to the foregoing, any liens, encumbrances, encroachments, easements, restrictions, conditions, covenants, rights, rights-of-way or other matters which appear of record or are revealed after the date of the Preliminary Report are subject to Buyer's approval, which approval may be withheld in Buyer's sole and absolute discretion. If the Buyer objects to any exception to title, City, within five business days after receipt of Buyer's objection, shall notify Buyer in writing whether City elects to (i) cause the exception to be removed of record, (ii) obtain a commitment from Escrow Holder for an appropriate endorsement to the policy of title insurance reasonably acceptable to Buyer to be issued to the Buyer, insuring against the objectionable exception, or (iii) terminate this Agreement unless the Buyer elects to take title subject to such exception.

5. Conditions to Close of Escrow.

(a) Conditions to Buyer's Obligations. The Close of Escrow and Buyer's obligations to consummate the transactions contemplated by this Agreement are subject to the satisfaction of the following conditions (or Buyer's waiver thereof), which are for Buyer's benefit, on or before the Close of Escrow in absence of a specified date:

(i) Title. Buyer shall have the right to receive fee title to the Property subject only to the Approved Conditions of Title.

(ii) Title Insurance. As of the Close of Escrow, Escrow Holder shall have issued or shall have committed to issue the Title Policy (defined below) to Buyer.

(iii) Lease. Buyer shall have entered into a lease with Panera, LLC ("*Panera*"), or another tenant approved by the City, on such terms and conditions as are satisfactory to Buyer in its sole and absolute discretion, and all conditions to the Panera lease which can be satisfied before Close of Escrow have been satisfied.

(iv) Governmental Permits. All governmental permits, approvals, licenses and authorizations required for construction and operation of a Panera restaurant on the Property, including, without limitation, a building permit, any required encroachment permits, and architectural review approval (collectively

“*Governmental Permits*”), shall have been issued and all applicable appeal periods shall have expired with no appeals then outstanding. This condition to Buyer’s Obligations does not commit the City to any particular decision regarding the Governmental Permits.

(v) Parcel Map. Seller shall take all actions and process all documents necessary to record a parcel map so as to convert the City Parcel into two (2) separate legal parcels (identified as “**Parcel A**” and “**Parcel B**” on the Site Plan attached as Exhibit B), and otherwise satisfy the condition set forth in Section 1(b) above.

(vi) Reciprocal Easements and Restrictive Covenant Agreement. City and Buyer shall execute for recording at the Close of Escrow that certain Reciprocal Easements and Restrictive Covenant Agreement (“**REA**”) in substantially the form of Exhibit C attached hereto and made a part hereof, for Parcel A and Parcel B as shown on the Site Plan.

(vii) City’s Fulfillment of its Obligations. As of the Close of Escrow, City shall have performed all of the obligations required to be performed by City under this Agreement.

(viii) Physical Condition of the Property. Buyer has the right to approve or disapprove the physical condition of the Property, as long as Buyer does so within 90 days of the Effective Date of this Agreement.

(b) Conditions to City’s Obligations. The Close of Escrow and City’s obligations to consummate the transaction contemplated by this Agreement are subject to Buyer having timely performed all of the obligations required by the terms of this Agreement to be performed by Buyer.

(c) Failure of Condition to Close of Escrow. Except as provided by subsection (a) or (b) of this section, if any of the conditions set forth in subsection (a) or (b) are not timely satisfied or waived, for a reason other than the default of City or Buyer, this Agreement shall terminate, and the parties shall have no further obligations hereunder.

6. Deposits By City. At least one business day before the Close of Escrow (See Section 3(b)), City shall deposit with Escrow Holder the following documents:

(a) Grant Deed. The Grant Deed, duly executed and acknowledged in recordable form by City, conveying fee title to the Property to Buyer subject only to the Approved Conditions of Title.

(b) REA. The REA, duly executed and acknowledged in recordable form by City and Buyer, subject only to the Approved Conditions of Title.

(c) FIRPTA Certificate. If deemed to be required by Escrow Holder, a certification, acceptable to Escrow Holder and duly executed by City under penalty of perjury setting forth

City's address and federal tax identification number in accordance with and/or for the purpose of the provisions of Sections 7701 and 1445, as may be amended, of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.

7. Deposits By Buyer. At least one business day prior to the Close of Escrow, Buyer shall deposit or cause to be deposited with Escrow Holder (a) the Purchase Price, (b) Buyer's share of Title Policy costs under Section 8, (c) Costs under Section 9, (d) any prorations payable by Buyer under Section 10, and (e) the REA duly executed and acknowledged in recordable form by City and Buyer.

8. Issuance of Title Insurance. At the Close of Escrow, City shall cause Old Republic Title Company to issue to Buyer its standard form CLTA Owner's Policy of Title Insurance or at Buyer's option an ALTA Owner's Policy of Title Insurance showing fee title to the Property vested in Buyer subject only to the Approved Conditions of Title, with any endorsements reasonably requested by Buyer ("**Title Policy**"). The Title Policy shall be issued with liability in an amount equal to the Purchase Price. Buyer and City shall each pay equally for the expense of the Title Policy. However, if Buyer requests an ALTA policy, Buyer shall be solely responsible for the cost of the Title Policy to the extent that it exceeds the cost of a CLTA policy.

9. Costs and Expenses. Except as otherwise specified in this Agreement, Buyer shall pay all escrow fees and recording charges.

10. Prorations.

(a) Taxes/Assessments. If applicable, all non-delinquent real estate taxes on the Property shall be prorated as of 11:59 p.m. on the day prior to the Close of Escrow based on the actual current tax bill, but if such tax bill has not yet been received by City by the Close of Escrow, then the current year's taxes shall be deemed to be 100% of the amount of the previous year's tax bill for the Property. All delinquent taxes and all assessments, if any, on the Property shall be paid at the Close of Escrow by City. All supplemental taxes billed after the Close of Escrow for periods before the Close of Escrow shall be paid promptly by City.

(b) Corrections. If any errors or omissions are made regarding adjustments and prorations as set forth here, the parties shall make the appropriate corrections promptly upon discovery. If any estimates are made at the Close of Escrow regarding adjustments or prorations, the party shall make the appropriate correction promptly when accurate information becomes available. Any corrected adjustment or proration shall be paid in cash to the party entitled to it.

11. Representations and Warranties. In consideration of this Agreement, City and Buyer as applicable make the following representations and warranties, each of which is material and is being relied upon by the other party:

(a) Each party has the legal power, right and authority to enter into this Agreement and the instruments referenced here, and to consummate the transaction contemplated by this Agreement;

(b) All requisite corporate or partnership action has been taken by the applicable party in connection with the entering into this Agreement, the instruments referenced here, and the consummation of the transaction contemplated by this Agreement. No consent of any member, partner, shareholder, trustee, trustor, beneficiary, creditor, investor, judicial or administrative body, governmental authority or other party is required; and

(c) The individuals executing this Agreement and the instruments referenced here on behalf of each party have the legal power, right, and actual authority to bind the party to these terms.

12. Buyer's Acknowledgements.

(a) "AS IS" PURCHASE. Buyer specifically acknowledges and agrees that City is selling and Buyer is buying the Property on an "as is with all faults" basis and that Buyer is not relying on any representations or warranties of any kind whatsoever, express (except as expressly set forth in this Agreement) or implied, from City, its agents, or brokers as to any matters concerning the Property, including without limitation:

- (i) the quality, nature, adequacy and physical condition of the Property (including, without limitation, topography, climate, air, water rights, water, gas, electricity, utility services, grading, drainage, sewers, access to public roads and related conditions);
- (ii) the quality, nature, adequacy, and physical condition of soils, geology and groundwater,
- (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property,
- (iv) the development potential of the Property, and the Property's use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose,
- (v) the zoning or other legal status of the Property or any other public or private restrictions on the use of the Property,
- (vi) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity,
- (vii) the presence or absence of hazardous materials on, under or about the Property or the adjoining or neighboring Property, and
- (viii) the condition of title to the Property.

Buyer affirms that Buyer has not relied on the skill or judgment of City or any of its respective agents, employees or contractors to select or furnish the Property for any

particular purpose, and that City makes no warranty that the Property is fit for any particular purpose. Buyer acknowledges that it shall use its independent judgment and make its own determination as to the scope and breadth of its due diligence investigation which it shall make relative to the Property and shall rely upon its own investigation of the physical, environmental, economic and legal condition of the Property (including, without limitation, whether the Property is located in any area which is designated as a special flood hazard area, dam failure inundation area, earthquake fault zone, seismic hazard zone, high fire severity area or wild land fire area, by any federal, state or local agency). Buyer undertakes and assumes all risks associated with all matters pertaining to the Property's location in any area designated as a special flood hazard area, dam failure inundation area, earthquake fault zone, seismic hazard zone, high fire severity area or wild land fire area, by any federal, state or local agency.

(b) Survival. The terms and conditions of this Section 12 shall expressly survive the Close of Escrow, shall not merge with the provisions of the deed or any other closing documents and shall be deemed to be incorporated by reference into the deed. City is not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Property furnished by any contractor, agent, employee, servant or other person. Buyer acknowledges that the purchase price reflects the "as is" nature of this sale and any faults, liabilities, defects or other adverse matters that may be associated with the Property. Buyer has fully reviewed the disclaimers and waivers set forth in this Agreement with Buyer's counsel and understands their significance and effect.

13. Legal and Equitable Enforcement of this Agreement. If the Close of Escrow and the consummation of the transaction contemplated by this Agreement does not occur as a result of any default by City or Buyer, the non-defaulting party shall have the right to pursue any remedy available at law or in equity, including the specific performance of this Agreement.

14. Condemnation. If, before the Close of Escrow, any material portion of the Property is taken or if the access is taken, by eminent domain or otherwise (or is the subject of a pending, threatened or contemplated taking which has not been consummated), City shall immediately notify Buyer of such fact. In such event, Buyer shall have the option, in its sole and absolute discretion, to terminate this Agreement upon written notice to City given not later than ten days after receipt of City's notice. If this Agreement is so terminated, the provisions of Section 5(c) shall govern. If Buyer does not exercise this option to terminate this Agreement, or if there has not been a material taking by eminent domain or otherwise to give rise to such option, neither party shall have the right to terminate this Agreement, but the City shall assign and turn over, and the Buyer shall be entitled to receive and keep, all awards for the taking of the Property by eminent domain which accrue to City and the parties shall proceed to the Close of Escrow under the terms of this Agreement, without modification of the terms and without any reduction in the Purchase Price. Unless or until this Agreement is terminated, City shall take no action with respect to any eminent domain proceeding without Buyer's prior written consent.

15. Broker's Commission. Buyer and City each represent to the other that they have dealt with no real estate broker or agent other than Chris Sill of Lee & Associates, who represents Buyer ("**Buyer's Broker**"). Buyer shall pay a commission to Buyer's Broker under the terms of

a separate commission agreement between Buyer and Buyer's Broker. Buyer and City each agree to indemnify and hold the other harmless from all expense, loss, damage and claims, including the attorneys' fees, if necessary, arising out of a breach of this Section 15.

16. Notices. All notices or other communications required or permitted under this Agreement shall be in writing, and shall be personally delivered or sent by registered or certified mail, postage prepaid, return receipt requested, or sent by nationally recognized courier service that provides written confirmation of delivery (such as FedEx or UPS) and shall be deemed received upon the earlier of (i) if personally delivered, the date of delivery to the address of the person to receive such notice, or (ii) if mailed or sent by courier service, on the date of receipt or refusal by the addressee, as shown on return receipt or delivery confirmation. However, any notice of default or other notice which is received on a Saturday, Sunday, national holiday, or City closed day shall be deemed received on the next succeeding business day.

TO CITY: Development Services Director
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
E-Mail: Andrew.Malik@ci.tracy.ca.us

TO BUYER: BCP Tracy LLC
c/o Becker Commercial Properties
P.O. Box 590
Wilton, CA 95693
E-Mail: jon.becker@bcprop.net

ESCROW HOLDER: Old Republic Title Company
150 W. 10th Street
Tracy, CA 95376
(209) 835-1331

Notice of change of address shall be given by written notice in the manner described in this Paragraph.

17. Execution of Documents. Each of the parties shall execute the documents reasonably necessary to affect the purpose of this Agreement and do all acts necessary to carry out the terms of this Agreement.

18. Miscellaneous.

(a) Partial Invalidity. If any term or provision of this Agreement or the application to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and each such term and provision of this Agreement shall be valid, and shall be enforced to the fullest extent permitted by law.



(b) Waivers. No waiver of any breach of any provision in this Agreement shall be deemed a waiver of any preceding or succeeding breach, or of any other provision. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act except those of the waiving party, which shall be extended by a period of time equal to the period of the delay.

(c) Survival of Representations. The representations and warranties made by each party shall survive: (1) the Close of Escrow and shall not merge into the Grant Deed and its recordation; and (2) the termination and/or cancellation of this Agreement.

(d) Successors and Assigns. This Agreement is binding upon and inures to the benefit of the successors and assigns of the parties.

(e) Professional Fees. If either party commences an action against the other regarding this Agreement, the losing party shall pay to the prevailing party reasonable attorneys' fees, costs and expenses and court costs and other costs of action incurred in connection with the prosecution or defense of the action, whether or not the action is prosecuted to a final judgment. For the purpose of this Agreement, the terms "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties, which may include printing, photocopying, duplicating and other expenses, delivery charges, and fees billed for law clerks, paralegals, librarians and others not admitted to the bar but performing services under the supervision of an attorney. The terms "attorneys' fees" or "attorneys' fees and costs" shall also include, without limitation, all such fees and expenses incurred with respect to appeals, arbitrations and bankruptcy proceedings, and whether or not any action or proceeding is brought with respect to the matter for which the fees and expenses were incurred.

(f) Entire Agreement. This Agreement (including all Exhibits) is the final expression of, and contains the entire agreement between, the parties with respect to the subject matter, and supersedes all prior understandings. This Agreement may not be modified, nor may any obligations be waived, except by written instrument signed by the party. The parties do not intend to confer any benefit under this Agreement on any person, firm or corporation other than the parties and their lawful assignees.

(g) Time of Essence. Buyer and City acknowledge that time is strictly of the essence and that failure to timely perform any term constitutes a material breach of and a non-curable (but waivable) default under this Agreement.

(h) Construction. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared it. Unless otherwise indicated, all references to paragraphs, sections, subparagraphs and subsections are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference.

(i) Governing Law. The parties acknowledge that this Agreement has been negotiated and entered into in the State of California, and shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California.

(j) Possession of Property. Buyer is entitled to the possession of the Property immediately following the Close of Escrow.

(k) Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original.

(l) Days of Week. If any date for performance herein falls on a Saturday, Sunday or holiday, the time for such performance shall be extended to 5:00 p.m. on the next business day.

(m) Exchange. Each party agrees upon the request of the other to cooperate with the other in consummating this transaction as an exchange pursuant to Internal Revenue Code Section 1031 provided: (a) the cooperating party shall incur no additional expense or liability in connection therewith; (b) there shall be no delay in the Close of Escrow; and (c) the requesting party shall not be released from its obligation hereunder if the exchange fails for any reason, and the requesting party shall remain liable for all its duties and obligations under this Agreement.

** INTENTIONALLY LEFT BLANK **

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates set forth below.

CITY:

THE CITY OF TRACY,
a California general law city

BUYER:

BCP Tracy LLC,
A California limited liability company

By: _____
Name: _____
Title: _____
(Authorized by City Council Resolution No. _____)

By: Jonathan P. Becker
Name: Jonathan P. Becker
Title: Managing Member
Date: 4/7/15

Date: _____

Attest:

City Clerk

Approved as to Form:

By: _____
Name: _____
Title: City Attorney

EXHIBIT A
LEGAL DESCRIPTION OF PARCEL

gm

**PARK AND RIDE PARCEL
LEGAL DESCRIPTION**

**EXHIBIT A
PAGE 1 OF 1**

THAT CERTAIN REAL PROPERTY SITUATED IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

A PORTION OF 39 OF "NAGLEE BURK TRACT," ACCORDING TO THE OFFICIAL MAP THEREOF, FILED FOR RECORD MARCH 7, 1911, AND RECORDED IN VOLUME 5 OF MAPS AND PLATS AT PAGE 18, SAN JOAQUIN COUNTY RECORDS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF PARCEL "D", AS SHOWN UPON THAT CERTAIN PARCEL MAP, FILED FOR RECORD JULY 13, 2005, IN BOOK 23 OF PARCEL MAPS, AT PAGE 125 OF THE SAN JOAQUIN COUNTY RECORDS.

CONTAINING 2.78 ACRES OR 121,097 SQUARE FEET, MORE OR LESS.

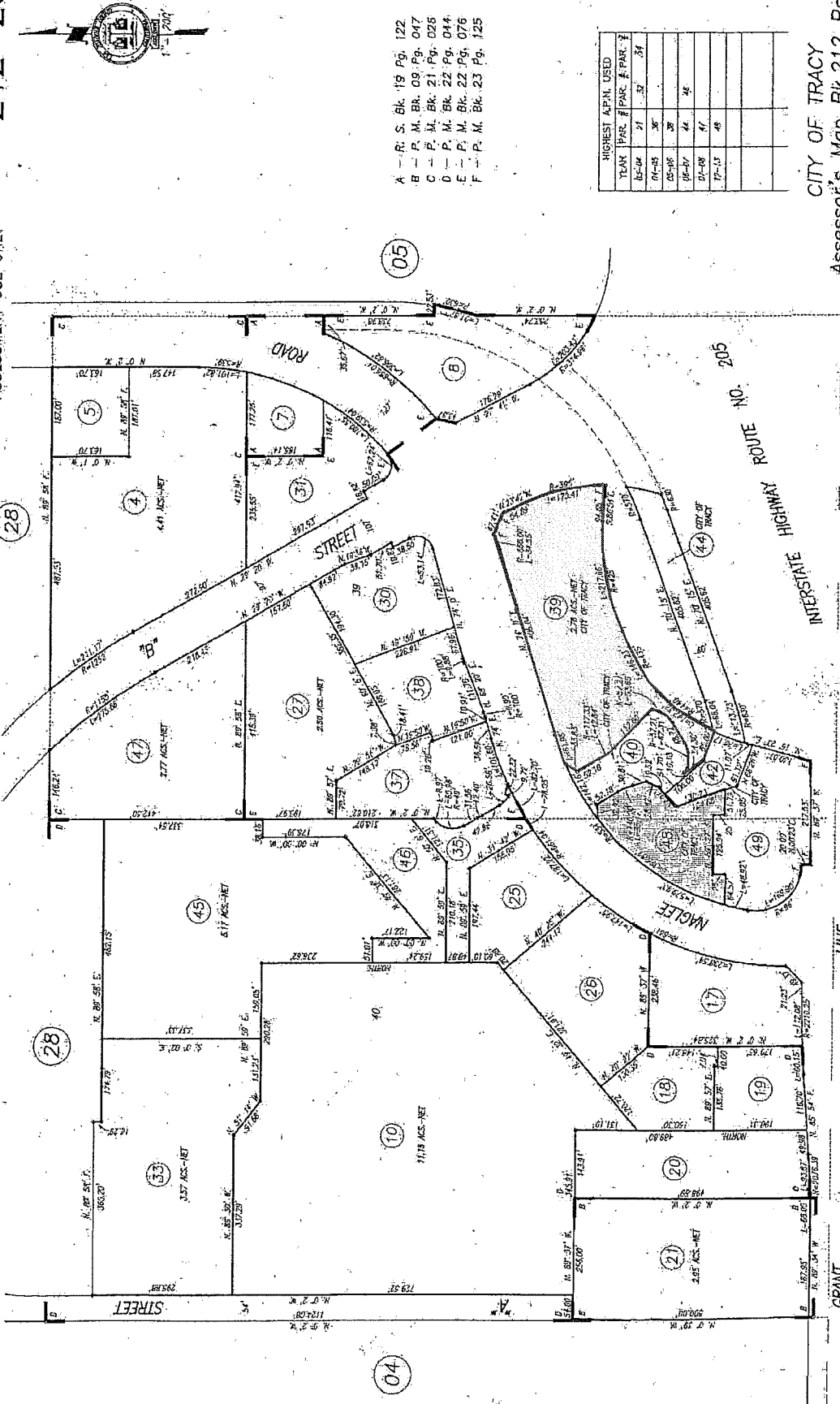
02-040615cm

JPR

212-29

THIS MAP IS FOR
ASSESSMENT USE ONLY

POR. NAGLEE BURK TRACT



- A - R. S. Blk. 19 Pg. 122
- B - R. M. Blk. 09 Pg. 047
- C - P. M. Blk. 21 Pg. 026
- D - P. M. Blk. 22 Pg. 014
- E - P. M. Blk. 22 Pg. 076
- F - P. M. Blk. 23 Pg. 125

TEAM	PARC.	# PARC.	PARC. #
15-04	21	37	54
01-03	36		
05-06	28		
06-07	44	26	
07-08	47		
09-10	48		

CITY OF TRACY
Assessor's Map Bk. 212 Pg. 29
County of San Joaquin, Calif.

03-04

NOTE: Assessor's Parcel Numbers Shown in Circles.
Assessor's Block Numbers Shown in Ellipses.

Bk. 238

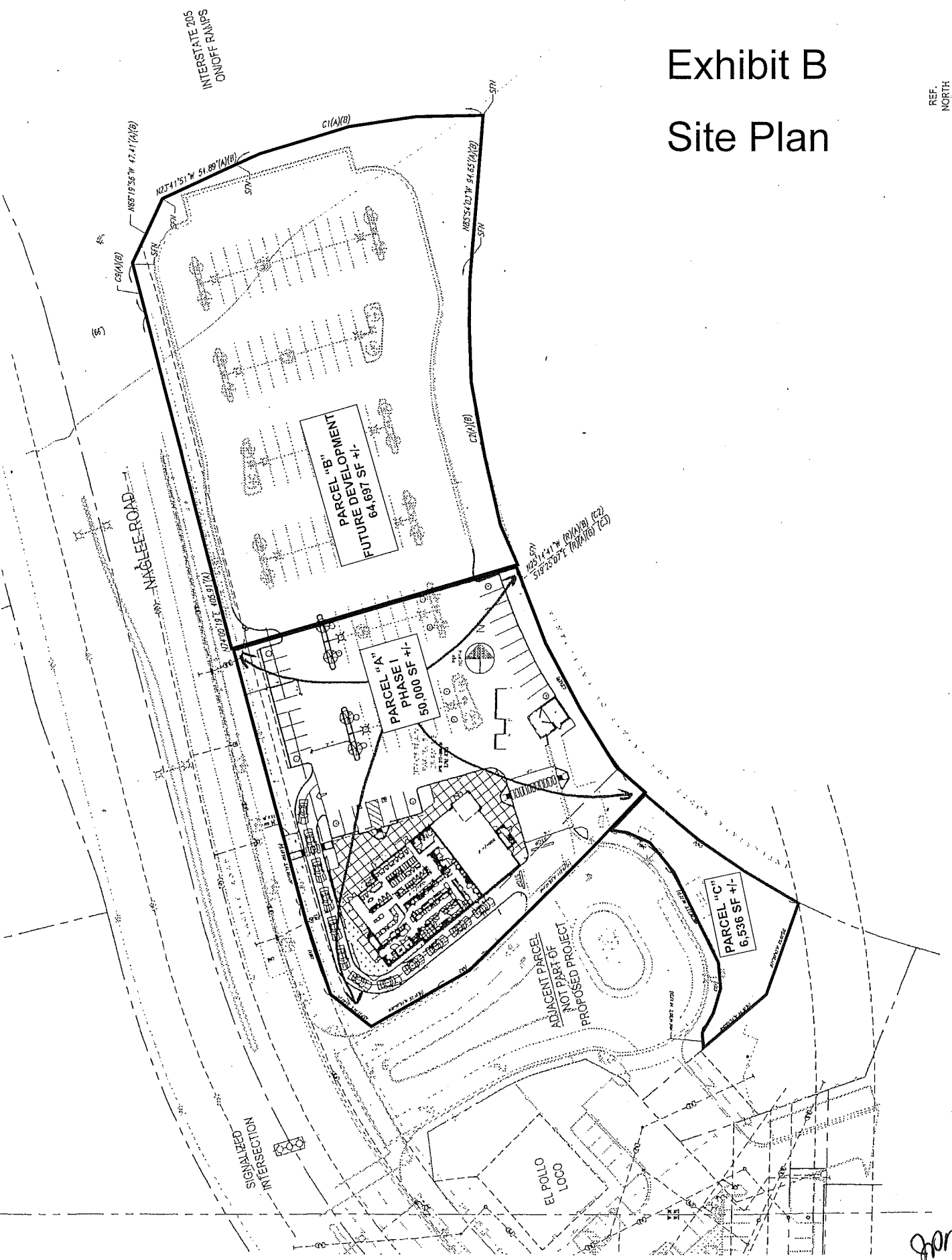
JOB

EXHIBIT B

Site Plan

Exhibit B Site Plan

REF.
NORTH



200

EXHIBIT C

Reciprocal Easement and Restrictive Covenant Agreement

Handwritten signature or initials in the bottom right corner of the page.

Exhibit C

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

City Clerk
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

(SPACE ABOVE RESERVED FOR RECORDER'S USE ONLY)

RECIPROCAL EASEMENTS AND RESTRICTIVE COVENANT AGREEMENT

THIS RECIPROCAL EASEMENTS AND RESTRICTIVE COVENANT AGREEMENT (“**Agreement**”) is entered into this _____, 201____, between the CITY OF TRACY, a California general law city (“**City**”), and BCP TRACY, LLC, a California limited liability company, and any successor or assign thereof (collectively “**BCP**”).

RECITALS

A. City is the owner in fee simple of certain real property located in the City of Tracy, San Joaquin County, California as more particularly described on **Exhibit A** attached hereto and incorporated herein for all purposes (“**Parcel A**”). BCP is the owner in fee simple of certain real property located in the City of Tracy, San Joaquin County, California as more particularly described on **Exhibit B** attached hereto and incorporated herein for all purposes (“**Parcel B**”). *[After recording of Parcel Map creating the parcels, substitute revised property descriptions based on that Parcel Map reference.]* Both parcels are located on Naglee Road and are shown in a diagram as Exhibit C.

B. BCP and City have entered into an Agreement for Purchase and Sale of Real Property (“**PSA**”) dated _____ 2015 whereby BCP will purchase Parcel A from City, and City will continue to own Parcel B.

C. As a condition of the PSA, and as a material inducement to City’s agreement to sell Parcel A to BCP and BCP’s agreement to purchase Parcel A, BCP and City have agreed to enter into this Agreement, effective immediately after the transfer of Parcel A from City to BCP, as evidenced by the recordation of the Grant Deed for Parcel A in the official records of San Joaquin County, California. This Agreement shall be recorded concurrently with the recordation of the Grant Deed.

D. City and BCP may each be individually referred to herein as an “**Owner**” or collectively as the “**Owners**”, and Parcel A and Parcel B may each be individually referred to herein as a “**Parcel**” and collectively as the “**Parcels**”.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, BCP and City hereby agree as follows:

ARTICLE 1 RESTRICTIVE USES

1.1 City shall not permit the operation of a “Bakery-Café” restaurant, including, but not limited to, Corner Bakery, on Parcel B. This exclusive shall only be in effect as long as Panera, LLC is operating a Panera Bread Bakery Café on Parcel A. If Panera, LLC, discontinues the operation of a Panera Bread Bakery Café on Parcel A, this restriction shall terminate and shall thereafter be of no further force or effect. In this Agreement, “Bakery-Café” means use as a Bakery Café concept, a sandwich shop concept, or a coffee house concept. Examples of Bakery Café concepts include Corner Bakery, Cosi, Boudin, and Atlanta Bread. Examples of sandwich shop concepts include Mendocino Farms, Jimmy John’s, and Jersey Mike’s. Examples of coffee house concepts include Starbucks, Peet’s Coffee, Einstein Bagels, and Coffee Bean Tea and Leaf.

1.2 The foregoing shall not apply in any way to any full service sit- down style restaurant located on Parcel B.

ARTICLE 2 RECIPROCAL GRANT OF EASEMENTS

2.1 BCP hereby grants, bargains, sells and conveys a perpetual, irrevocable, non-exclusive right to City, its successors and assigns, and their occupants, employees, agents, contractors, vendors, customers, guests and invitees, for the purpose of and vehicular and pedestrian ingress and egress (but not for parking) over Parcel A, to and from Parcel B and Park & Ride Drive (a public street), over and across the paved drive lane portions that are not otherwise used for buildings, parking or loading as they may exist from time to time on Parcel A.

2.2 City hereby grants, bargains, sells and conveys a perpetual, irrevocable, non-exclusive right to BCP, its successors and assigns, and their occupants, employees, agents, contractors, vendors, customers, guests and invitees, for the purpose of and vehicular and pedestrian ingress and egress and turn arounds (but not for parking) over Parcel B, to and from Parcel A and Parcel B, over and across the paved drive lane portions that are not otherwise used for buildings, parking or loading as they may exist from time to time on Parcel B.

2.3 Each Parcel Owner shall maintain in good condition and repair, at its sole cost and expense (subject to any obligation of the other Owner pursuant to Section 2.5 below), the paved drive lanes on its Parcel so as to permit the unobstructed use of such area for the purposes set forth herein. All such maintenance shall be performed in a good and workmanlike manner in accordance with all applicable ordinances, rules and regulations of duly constituted governmental authority.

2.4 The easements described in this Article 2 shall be subordinate to the actual construction of any buildings or other improvements on a Parcel, and each Owner shall have the right to relocate any buildings, driveways or paved areas within its Parcel, provided any change in the access points along the common boundary of the Parcels shall be subject to the other Owner's reasonable approval (and provided a route for vehicular access through Parcel A between Parcel B and a public street shall be maintained). Nothing in this Agreement is intended to limit the manner in which either Parcel is developed or used, so long as a vehicular access route is maintained through each Parcel. Upon the actual construction of improvements to a Parcel, these easements shall be limited with respect to such Parcel to the use of paved surfaces and/or pedestrian ways that support such access and do not in any way interfere with the use or operation of such improvements or the use of the Parcel. Notwithstanding anything to the contrary herein, each Parcel shall be developed and improved in such a manner that it shall contain sufficient parking for such Parcel's development and use, and in no event shall any Parcel have an easement, license or any other right to park vehicles on the other Parcel.

2.5 Each Owner shall be liable only for damage to any improvements within another Owner's Parcel caused by the active negligence of, or willful damage by the Owner, or the Owner's agents or employees, arising out of or related to the Owner's agent's or employee's use of this reciprocal easement. An Owner shall not be liable to another Owner for damage caused by guests or invitees of such Owner or due to normal wear and tear.

2.6 At all times during the term of this Agreement, each Owner shall, at its sole expense, continuously maintain or cause to be continuously maintained a commercial general liability policy of insurance on an occurrence basis providing coverage in an amount not less than Two Million Dollars (\$2,000,000), endorsed to cover property damage and personal injury on its Parcel, and naming the other Owner as an additional insured. Each Owner shall provide the other Owner with a certificate of insurance evidencing its policy required herein (and upon an occurrence, and at the request of the other Owner, a copy of such policy), and such insurance shall provide that the same shall not be canceled, or reduced in amount or coverage below the requirements of this Agreement, without at least thirty (30) days' prior written notice to the named insureds, and each additional insured. Said policy limit may be adjusted from time to time to reflect commercial standards then in effect with the mutual approval of the Owners which approval shall not be unreasonably withheld or delayed.

ARTICLE 3 MISCELLANEOUS

3.1 The covenants, easements and agreements set forth in this Agreement shall run with the Parcels, and shall apply to the successors-in-interest to each Parcel for the benefit of the other Parcel and the Owner thereof. This Agreement shall be binding upon, and inure to the benefit of, the respective successors, assigns and transferees of the Owners. The covenants, easements and agreements set forth in this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the Parcels pursuant to applicable law, including, without limitation, sections 1468, 1469 and 1470 of the California Civil Code.

3.2 This Agreement shall be recorded in the official records of San Joaquin County, California, and shall serve as notice to and shall be binding upon and inure to the benefit of, as applicable, BCP, City and the successive owners of the Parcels.

3.3 If either party defaults in the performance of any of its obligations under this Agreement, the non-defaulting party shall be entitled to all rights and remedies at law or in equity including, without limitation, injunctive relief.

3.4 Should either party employ attorneys to enforce any of the provisions of this Agreement, the prevailing party in such action shall be entitled to collect from the other party, in addition to any other amounts awarded to such prevailing party, all reasonable costs, charges and expenses, including attorney's fees, expended or incurred connection therewith, or with executing upon or appealing any judgment.

3.5 This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings with respect to the matters contemplated herein. This Agreement may be amended or terminated only by an instrument in writing, executed by BCP and City or their respective successors and assigns.

3.6 All notices, demands and requests which may be given or which are required to be given by either party to the other by this Agreement, shall be in writing and shall be deemed effective either (a) on the date personally delivered to the address below, as evidenced by written receipt therefor, whether or not actually received by the person to whom addressed, (b) upon receipt by U.S. express or registered mail, return receipt requested, addressed to the intended recipient at the address specified below, or (c) on the first (1st) business day after being deposited into the custody of a nationally recognized next business day delivery service such as Federal Express Corporation, Emery or Purolator, addressed to such party at the address specified below. For purposes of this Section 3.6, the addresses of the parties for all notices are as follows:

If to City	Development Services Director City of Tracy 333 Civic Center Plaza Tracy, CA 95376
------------	---

If to BCP	Jon Becker BCP Tracy, LLC P.O. Box 590 Wilton, CA 95693
-----------	--

Anyone entitled to receive notice hereunder may, from time to time, change its address for receiving notices by giving written notice thereof in the manner outlined above. In the event any notice using an address provided in accordance with this Section 3.6 is returned undeliverable, such notice shall be effective five (5) days after being mailed to the Owner at the address as shown on the most recent records of the County Tax Assessor for such Owner's Parcel.

3.7 This Agreement shall, in all respects, be governed, construed, applied and enforced in accordance with the laws of the State of California.

3.8 This Agreement may be executed in counterparts, each of which shall be deemed an original and when taken together constitute one agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date first above written.

Property Owner
CITY:

CITY OF TRACY,
a California general law city

By: _____
Name: _____
Title: _____

Property Owner
BCP:

BCP TRACY, LLC,
a California limited liability company

By: _____ *
Name: Jonathan P. Becker
Title: Managing Member

*Notarial acknowledgment required

Attest:

City Clerk

APPROVED AS TO FORM:

By: _____
Name: _____
Title: City Attorney



EXHIBIT A
LEGAL DESCRIPTION OF PARCEL A

To be provided upon completion of parcel split.

EXHIBIT B
LEGAL DESCRIPTION OF PARCEL B

To be provided upon completion of parcel split.

EXHIBIT C

DIAGRAM OF PARCELS A AND B

To be provided upon completion of parcel split.



Mr. Andrew Malik
Director Development Services
333 Civic Center Plaza
Tracy, CA 95376

April 15, 2015

Dear Mr. Malik:

It has been some time since we spoke in regards to the Park N Ride property that Jon Becker is working to develop. I was encouraged to hear that the Planning Commission agreed that the change of use from a Park N Ride to a retail/restaurant was consistent with the General Plan. I understand that reviewing with the City Council is the next major step.

I wanted to write this letter to reaffirm Panera Bread's interest in opening a café at this site. We have a signed letter of intent with Mr. Becker and are ready to move forward with the deal. While we are excited to be coming to Tracy; we are particularly excited about this specific site. We think the easy access and visibility from highway 205's off ramp will be a major contributor to the overall success of our café. Over the last 5 years that I have been with Panera Bread, we have discussed potential sites in the City of Tracy, but this Park N Ride re-development is the only available site that we have reviewed to this point, that we feel has the site attributes to maximize Panera's success in Tracy.

Further to the site location and the site attributes, we have worked with Mr. Becker on 2 other deals, and we have confidence in his ability to get this done.

I am hoping for a successful City Council meeting, and I thank you for your ongoing support of Panera Bread.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert Kluger', written over a circular stamp or mark.

Robert Kluger
Sr. Real Estate Manager
Panera Bread, LLC



MEXICAN GRILL

CHIPOTLE MEXICAN GRILL, INC.
1401 WYNKOOP STREET, SUITE 500
DENVER, CO 80202

www 303.595.4000
www chipotle.com

April 14, 2015

Andrew Malik
City of Tracy
Director Development Services
333 Civic Center Plaza
Tracy, CA 95376

Re: Naglee Road/Interstate Hwy 205, Park & Ride (Parcel "A")

Dear Mr. Malik-

I am writing this letter to confirm that Chipotle has entered into an Agreement with Becker Commercial Properties to locate a restaurant at the above mentioned project in Tracy, CA. Senior Management within Chipotle has given corporate approval to both this site and the proposed co-tenancy and we look forward to seeing this project come to fruition.

We have looked for over 10 years at various sites in the Tracy market and this is the only site we have seen that fits our criteria. We would like very much to have Chipotle become a part of your community and are hopeful that this project will receive final approval. If you would like to speak with me, I can be reached at 626.826.1693.

Best regards,

Ginny DiBias
Real Estate Director, Southwest
Chipotle Mexican Grill

RESOLUTION 2015-_____

DECLARING THE 2.78 ACRE CITY-OWNED PROPERTY LOCATED AT THE SOUTHWEST CORNER OF NAGLEE ROAD AND PAVILION PARKWAY (APN 212-290-39) AS SURPLUS PROPERTY, AUTHORIZING A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF TRACY AND BCP TRACY, LLC (BCP), A CALIFORNIA CORPORATION, AND AUTHORIZING THE MAYOR TO EXECUTE THE PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS

WHEREAS, The City is the owner of the 2.78-acre real property located on the southwest corner of Naglee Road and Park and Ride Drive, currently in use as the Tracy Park and Ride lot, and

WHEREAS, On April 15, 1997, the City of Tracy and the San Joaquin County Transportation Authority entered into a cooperative agreement for the purpose of funding the construction of the Tracy Park and Ride Lot, and

WHEREAS, As a requirement to receiving funding under this agreement, the City of Tracy agreed to maintain the site for commuter parking for a minimum of 10 years from the date of opening of the facility for commuter operations, and

WHEREAS, The facility began commuter operations around November 1997, and therefore, the City's obligation to maintain the site for commuter parking required under the cooperative agreement has been fulfilled, and

WHEREAS, Becker Commercial Properties Tracy, LLC (BCP) is currently marketing the property under an Exclusive Negotiating Rights Agreement (ENRA) and has received fully executed Letters of Intent from Chipotle Mexican Grill and Panera Bread, both new restaurant uses for the City of Tracy, which plan to develop and occupy on a portion of the site, and

WHEREAS, In order for development of the property to move forward, the subject property must be conveyed to the new property owner upon the execution of a purchase and sale agreement, and

WHEREAS, On April 8, 2015, in accordance with State Government Code Section 65402(a), the Planning Commission reported that the disposal of the subject property was in conformance with the City's adopted General Plan, and

WHEREAS, The City initiated this disposal of real property because it has been determined that the subject property can be better utilized as a restaurant or retail use consistent with the results from the 2013 Retail Survey, and

WHEREAS, There is no fiscal impact to the City of Tracy as a result of this item. The proceeds from the sale will be placed in the City's General Fund;

NOW, THEREFORE, BE IT RESOLVED, That City Council declares the 2.78 acre city-owned property located at the southwest corner of Naglee Road and Pavilion Parkway (APN 212-290-39) as surplus property, authorizes a purchase and sale agreement between the City of Tracy and BCP Tracy, LLC, a California Corporation, and authorizes the Mayor to execute the purchase and sale agreement and related documents.

* * * * *

The foregoing Resolution 2015-_____ was passed and adopted by the Tracy City Council on the 21st day of April, 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 AMENDMENT NO. 2 TO THE SERVICES AGREEMENT BETWEEN THE CITY OF TRACY AND TRACY MATERIAL RECOVERY AND SOLID WASTE TRANSFER, INC.; APPROVE THE BUDGET FOR THE OPERATION OF THE TRACY MATERIAL RECOVERY FACILITY AND SOLID WASTE TRANSFER STATION FOR THE PERIOD OF MAY 1, 2015 THROUGH DECEMBER 31, 2015; AND APPROVE FUNDING APPROPRIATION

EXECUTIVE SUMMARY

The 20-year Service Agreement with Tracy Material Recovery and Solid Waste Transfer Inc. (Tracy MRF) expires on May 1, 2015. On October 16, 2012 Council directed staff to enter into negotiations with Tracy MRF. Negotiations were initially extended due to Tracy MRF replacing its legal counsel resulting in significant modifications to the Agreement. Now, given that the City has a new City Manager, a new Council, and has lost its primary negotiator (Jenny Haruyama), staff requests an extension of the existing Tracy MRF Agreement through December 31, 2015 and for Council approval of the Tracy MRF Budget from May 1, 2015 through December 31, 2015 for the amount noted in Attachment 2-A of the proposed Amendment.

This will allow the City's new negotiators time to evaluate the negotiated Agreement's terms to date so that staff can warrant to Council that it is in the best economic interest of the rate payers--while also meeting legal and operational timelines of other necessary City operations (budget preparation, Assessment District/Tax roll preparation, City-wide Master Fee Schedule preparation, and implementing Credit Card training for example). A workshop for Council is proposed for June 16, 2015 to provide information on the process and proposed agreement as well to confirm Council's desired direction before bringing a final Agreement for consideration and approval. The proposed budget appropriation for the eight-month extension term is \$7,565,595 which will be funded from the Solid Waste Fund.

DISCUSSION

The current Tracy MRF agreement which was executed in 1994 expires on May 1, 2015. When the City entered into the current Service Agreement nearly 20 years ago, the City Council had desired that Tracy MRF be given the ability to be the owner and operator of the MRF which was to be constructed in lieu of contracting with the County.

Tracy MRF was a new company having been formed separately from Tracy Disposal (although owned by the same principals). Dealing with a new company embarking on a new venture (the recovery and recycling of materials as opposed to solid waste collection) and tasked with financing the construction of a new MRF facility presented challenges to securing financing by Tracy MRF. The Service Agreement resulted in the City being involved in certain key areas such as the rate covenant for financing the facility and approving the annual operating budget of the facility per the terms of the bond documents.

Now after nearly 20 years of operating the MRF, and the City having paid-off the bond debt¹, the company has the experience to enter into a new agreement with the City which will be traditional and similar to other service contracts with the City.

It was hoped that negotiations with Tracy MRF would conclude prior to the current Agreement's expiration on May 1, 2015. However, negotiations were initially extended due to Tracy MRF replacing its legal counsel resulting in significant modifications to the Agreement; and now, due to concerns regarding contract terms negotiated under the former City Manager, current staff would like to re-evaluate contract issues that are deemed significant and would like an opportunity to brief Council to confirm its direction before presenting Council with a potentially long-term Agreement. After re-evaluating the terms and meeting with Council, there is a possibility that further negotiations will be necessary.

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 and Goal 3: Identify resources to promote communication and civic engagement, enhance city services, and promote organizational productivity.

FISCAL IMPACT

The appropriation will not impact the General Fund. An amount not to exceed \$7,565,595 will be appropriated from the Solid Waste Fund for the MRF budget during the extension period through December 31, 2015. Per the terms of the Agreement, Council is required to review the budget and allocate funds. Detail of the requested appropriation amount is provided on Attachment 2-A.

The new proposed budget estimate for the period between May and December, 2015 has been reviewed by the Public Works Director. The existing Agreement includes a budget reconciliation whereas adjustments to payments will be in order based upon whether actual expenses exceed or are less than the budget estimates.

Based on the outcome of negotiations, staff will be returning to Council with a new contract amount to reflect the new Agreement's terms and conditions.

RECOMMENDATION

It is recommended that the City Council adopt a resolution to approve Amendment No. 2 to the Service Agreement between the City of Tracy and Tracy Material Recovery and Solid Waste Transfer, Inc.; approve the budget for the operation of the Tracy Material Recovery Facility and Solid Waste Transfer Station for the period of May 1, 2015 through December 31, 2015; and approve a funding appropriation up to \$7,565,595.

¹ The bonds had been secured by a rate covenant of the City e.g., through Tracy rate payers, although ownership of the material recovery facility and operations were retained by Tracy MRF

Agenda Item 1.D
April 21, 2015
Page 3

Prepared by: Anne H. Bell, Management Analyst II, Administrative Services Department

Reviewed by: Ray Durant, Management Partners
Reviewed by: Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENT

Amendment No. 2 to the Service Agreement between the City of Tracy and Tracy Material Recovery and Solid Waste Transfer, Inc. and its attachment A-2 ("Forecasted Service Fee Calculation/Budget" for 8 months ending December 31, 2015).

**CITY OF TRACY
AMENDMENT NO. 2 TO
SERVICE AGREEMENT**

This Amendment No. 2 ("Amendment") to the Service Agreement is entered into between the City of Tracy, a municipal corporation ("City"), and Tracy Material Recovery and Solid Waste Transfer, Inc. ("Company").

RECITALS

- A. The City and Company entered into a Service Agreement ("Agreement") for the material recovery facility ("MRF"), dated August 1, 1994 which was approved by the City Council on July 5, 1994 under Resolution No. 94-212.
- B. On August 1, 1999, the First Amendment to the Service Agreement was executed to recognize the refinancing of the costs of acquiring and constructing the Tracy material recovery facility (MRF).
- C. The Agreement expires on May 1, 2015. At the direction of the City Council in 2012, the parties began negotiation of a new agreement for the continued use of the MRF and those negotiations have not yet concluded.
- D. The Company has agreed to extend the Agreement based on the understanding of the parties that final negotiations in good faith will be commenced at the earliest possible date.
- E. In order to allow for such final negotiations, while continuing current solid waste and recycling service to the citizens and businesses of the City of Tracy, the parties have determined that an extension of the Agreement is necessary.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 1. **Incorporation by Reference.** This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. The terms which are not specifically modified by this Amendment shall remain in effect.
- 2. **Terms of Amendment.**

A. Section 12, Subsection J. Budget Approval is hereby deleted in its entirety and amended to read as follows:

"The City and the Company have met and conferred on the budget presented by the Company for the remainder of calendar year 2015 and City agrees with the Budget as provided and attached hereto as Attachment 2-A. The revised Service Fee and the collection rates so

CITY OF TRACY

Amendment No. 1 to Service Agreement

Tracy Material Recovery and Solid Waste Transfer

Page 2 of 3

approved shall take effect on May 1, 2015 and the Company shall be entitled to receive the revised Service Fee for May and each month thereafter during the term of this Agreement as extended pursuant to this 2nd Amendment unless another budget is approved and rates reset as provided herein. In the event of dispute as to the reasonableness of the budget or the assumptions contained therein, it shall be resolved by the Independent Engineer no later than December 31st of 2015. In such event, the City shall set rates based on the resolution of the budget dispute and such rates shall include sufficient funds to reimburse the Company of the difference, if any, between the revised Service Fee and the Service Fee actually received for the extended Amendment period. Notwithstanding the provisions of the subparagraph, however, the City shall have the sole responsibility for the determination and setting of the collection rates provided that it shall do so at a level reasonably expected to provide enough funds to pay in a timely manner the Service Fee installments as they become due.

1. **Credits. Debits.** The parties agree that the Company shall pay to the City the amount due for 2014 due to O&M savings, as provided in Section 12.G hereof and the City shall pay to the Company amounts resulting from the recycling incentive for 2014 as provided in Section 12.D. After the expiration of this Agreement and receipt of 2015 financial results, the parties shall pay to each other any sums due pursuant to Sections 12.D and 12.G or other sections of this Agreement as consistent with past practice between the parties and this mutual obligation shall survive such expiration.

B. Section 22, Term of Agreement, is hereby deleted in its entirety and amended to read as follows:

“This Agreement shall terminate at 12:00 midnight on the date of December 31, 2015 or upon execution of a new Agreement, whichever occurs first. It may be extended for an additional period upon agreement by both Parties in writing in which event the provisions of the original Agreement and this Amendment, as modified by the Parties, shall remain in full force and effect.”

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

4. **Severability.** 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.

CITY OF TRACY
Amendment No. 1 to Service Agreement
Tracy Material Recovery and Solid Waste Transfer
Page 3 of 3

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

Tracy Material Recovery and Solid Waste
Transfer, Inc.

By: _____
Michael Maciel
Title: Mayor
Date: _____

By: Michael Repetto
Michael Repetto
Title: Chief Executive Officer
Date: 4/13/15

Attest:

By: _____
Nora Pimentel
Title: City Clerk
Date: _____

Approved as to form

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

Attachment 2-A

Tracy Material Recovery and Solid Waste Transfer, Inc.

Forecasted Service Fee Calculation

Eight Months Ending December 31, 2015



**TRACY MATERIAL RECOVERY
& SOLID WASTE TRANSFER, INC.**

Tracy Material Recovery and Solid Waste Transfer, Inc.

Contents

a. Forecasted service fee calculation worksheet (budget)	1
b. Forecasted tonnage	3
c. Forecasted salaries and wages	4
d. Forecasted employee benefits	5
e. Forecasted equipment replacement reserve	6
f. Forecasted recyclable materials	7
g. Forecasted revenue self-haul	8
h. Forecasted revenue San Joaquin County Service Area F and Mountain House	9
i. Operator's fee	10
j. Analysis of City of Tracy containers and pickups	11
k. Forecasted City of Tracy revenue from rate payers by service category	12

Attachment 2 - A
Tracy Material Recovery and Solid Waste Transfer, Inc.
Forecasted Service Fee Calculation
2015

Expenses	2015	Current Contract	Extended Contract
	Forecasted Budget	4 Months 2015 Forecasted Budget	8 Months 2015 Forecasted Budget
Debt Service	\$ -	\$ -	\$ -
Operating and Maintenance			
Salaries	2,680,000	781,449	1,898,551
Contract Labor	245,000	92,551	152,449
Employee Benefits			
Payroll Taxes	241,200	81,000	160,200
Health, Dental, Life Insurance	536,000	171,000	365,000
Workers' Compensation	214,400	66,667	147,733
401K	20,000	6,667	13,333
Hauling Expenses			
Fuel (Hauling and Onsite)	710,000	238,333	471,667
Repairs and Maintenance			
Transfer Trucks	84,000	28,000	56,000
Transfer Trailers	45,000	15,000	30,000
Secondary Haul	70,000	23,333	46,667
Maintenance			
Shop/Office Equipment	5,200	1,733	3,467
MRF Equipment	395,000	126,667	268,333
Buildings and Site	150,000	50,000	100,000
Repairs/Office	3,000	1,000	2,000
Landscape	39,375	13,125	26,250
Utilities			
Gas, Electric, and Propane	209,000	69,667	139,333
Water			
Sewer	2,205	735	1,470
Telephone	24,150	8,050	16,100
Insurance - Liability/Pollution/Property	220,000	73,333	146,667
Plant Generated Waste Hauling/Disposal	20,475	6,825	13,650
Plant Supplies - MRF and Shop	163,000	54,333	108,667
Office Supplies			
Printed Materials	6,300	2,100	4,200
Other (Software, Shop, MRF, Visitor Center)	11,400	3,367	8,033
Accounting/Consulting/Safety	40,000	13,333	26,667
Payroll/Human Resource	15,500	5,167	10,333
Audit	13,000	13,000	-
Legal	15,750	5,250	10,500
Engineer	4,200	1,400	2,800
Computer & Software Support (Network Admin)	30,000	10,000	20,000
Security	82,950	27,650	55,300
Education and Training	1,500	500	1,000
Public Awareness	6,500	2,167	4,333
Equipment Rental - Tractor	-	-	-
Equipment Rental - Shop/MRF	5,250	1,750	3,500
Equipment Rental - Copier	7,000	2,333	4,667
License Renewals	44,000	14,667	29,333
Compliance, Permits, Bit Program	69,000	23,000	46,000
Bank Fees-US Bank & BNY	26,250	8,750	17,500
Travel/Meetings/Conventions	1,050	350	700
Interest Expense - Loan	50,000	16,667	33,333
Dues and subscriptions	6,825	2,275	4,550
Property taxes - non pass through	200	67	133
Disposal Fees - non pass through			
Universal / E Waste Disposal	2,625	875	1,750
Freon	4,200	1,400	2,800
Tires	8,500	2,367	6,134
Concrete	14,000	6,615	7,385
Wood	4,000	1,330	2,670
Medical	3,150	1,050	2,100
Compost Testing/Air Quality Issues	24,000	8,000	16,000
Water Compliance Issues	22,000	7,333	14,667
Equipment Replacement Reserve	900,000	300,000	600,000
Traffic Mitigation Fee	6,800	2,167	4,633
Solid Waste Facility Permit Related Costs	30,000	10,000	20,000
Franchise Fee - City of Tracy			
Miscellaneous (contingency)	75,000	25,000	50,000
	<u>7,607,955</u>	<u>2,429,397</u>	<u>5,178,559</u>

Tracy Material Recovery and Solid Waste Transfer, Inc.
 Forecasted Service Fee Calculation
 2015

	2015 Forecasted Budget	Current Contract 4 Months 2015 Forecasted Budget	Extended Contract 8 Months 2015 Forecasted Budget
Pass Through Costs			
Landfill Disposal Costs	3,075,000	995,750	2,079,250
Property Taxes	165,000	55,000	110,000
	<u>3,240,000</u>	<u>1,050,750</u>	<u>2,189,250</u>
Operators Fee	296,679	98,893	197,786
Total Expenses	<u>11,144,634</u>	<u>3,579,040</u>	<u>7,565,595</u>

Revenues

Revenue from Recycled Materials			
Sale of Material	(1,571,600)	(366,667)	(1,204,933)
Purchase of Material	201,600		201,600
	<u>(1,370,000)</u>	<u>(366,667)</u>	<u>(1,003,333)</u>
Other Revenues			
Public Revenue - Self-haul - Weighed	(842,200)	(249,300)	(592,900)
Public Revenue - Self-haul - Weighed - greenwaste	(56,100)	(22,100)	(34,000)
Public Revenue - Self-haul - Wood	(184,800)	(54,700)	(130,100)
Public Revenue - Self-haul - Minimum Fee	(264,000)	(78,100)	(185,900)
San Joaquin County - Service Area F	(851,000)	(249,300)	(601,700)
Mountain House	(464,400)	(134,000)	(330,400)
Interest Revenue			
Depository	(1,000)	(333)	(667)
Miscellaneous			
Rental income	(108,000)	(36,000)	(72,000)
	<u>(2,771,500)</u>	<u>(823,833)</u>	<u>(1,947,667)</u>
Total revenues to be remitted to the City of Tracy	<u>(4,141,500)</u>	<u>(1,190,500)</u>	<u>(2,951,000)</u>

Service Fee - City of Tracy	\$ 7,003,134	\$ 2,388,540	\$ 4,614,595
Tons	<u>113,590</u>	<u>33,686</u>	<u>79,904</u>
Annualized Service Fee - City of Tracy		<u>7,165,619</u>	<u>6,921,892</u>
Annualized Total tons processed		<u>101,058</u>	<u>119,856</u>
Monthly payment	<u>\$ 658,720</u>	<u>\$ 632,072</u>	<u>\$ 672,043</u>

Forecasted revenue required - service fee	\$ 7,003,134	\$ 2,388,540	\$ 4,614,595
Forecasted revenue from current rates	<u>7,773,581</u>	<u>2,591,194</u>	<u>5,182,387</u>
Forecasted revenue excess - solid waste fund	<u>\$ 770,447</u>	<u>\$ 202,654</u>	<u>\$ 567,793</u>

	Tons Forecast Budget 12/31/2015	Tons Forecast Budget Four Months Ended April 30, 2015	Tons Forecast Budget Eight Months ended Dec 31, 2014
Forecasted Tons			
Municipal	72,300	23,036	49,264
County Service Area F	11,520	3,525	7,995
Mountain House	7,250	2,241	5,009
Self-haul			
Weighed - refuse	9,570	2,833	6,737
Weighed - greenwaste	850	334	516
Weighed - wood	2,800	829	1,971
Minimum fee - refuse	3,000	888	2,112
Recyclables	6,300		6,300
	<u>113,590</u>	<u>33,686</u>	<u>79,904</u>

Tracy Material Recovery and Solid Waste Transfer, Inc.

Forecasted Tonnage

For the year ending December 31, 2015 and the eight months ending December 31, 2015

	Year Ending December 31, 2015	Four Months Ending April 30, 2015	Eight Months Ending December 31, 2015
<u>City of Tracy</u>			
Refuse	53,420	17,041	36,379
Greenwaste	9,900	3,158	6,742
Recycle	5,850	1,866	3,984
Wood	1,600	510	1,090
Public Works	1,530	461	1,069
	<hr/> 72,300	<hr/> 23,036	<hr/> 49,264
<u>Mountain House</u>			
Refuse	4,675	1,445	3,230
Greenwaste	1,150	309	841
Recycle	1,025	317	708
Wood	400	170	230
	<hr/> 7,250	<hr/> 2,241	<hr/> 5,009
<u>San Joaquin County</u>			
Refuse	10,350	3,167	7,183
Greenwaste	50	15	35
Wood	1,120	343	777
	<hr/> 11,520	<hr/> 3,525	<hr/> 7,995
<u>Self Haul</u>			
Refuse - Weighed	9,570	2,833	6,737
Refuse - Minimum Fee	3,000	888	2,112
Greenwaste	850	334	516
Wood	2,800	829	1,971
Recyclables	6,300		6,300
	<hr/> 22,520	<hr/> 4,884	<hr/> 17,636
	<hr/> <hr/> 113,590	<hr/> <hr/> 33,686	<hr/> <hr/> 79,904

Tracy Material Recovery and Solid Waste Transfer, Inc.

Schedule of Forecasted Salaries and Wages
For the Eight Months ending December 31, 2015

	<u># of Employees</u>	<u>2015 Base Salaries</u>	
Base Salaries and Wages			
Operations Manager	1.0	\$ 88,162	
Recycle Coordinator	1.0	\$ 29,854	
Station Manager	1.0	\$ 109,131	
Finance	1.0	\$ 87,000	
Human Resources	1.0	\$ 25,150	
Mechanic Supervisor	1.0	\$ 24,101	
Scalehouse Attendant	1.0	\$ 23,855	
Load Checker	1.0	\$ 15,418	
Controller	1.0	\$ 51,649	
Transfer Supervisor/Driver	1.0	\$ 89,678	
Transfer Supervisor/Driver Assistant	1.0	\$ 56,513	
Transfer Drivers	4.0	\$ 162,530	
Mechanic	1.0	\$ 37,871	
Mechanic	2.0	\$ 75,742	
Mechanic	1.0	\$ 37,871	
Mechanic	1.0	\$ 18,936	
Welder	1.0	\$ 18,214	
Baler Operator	1.0	\$ 31,592	
Baler Operator	1.0	\$ 19,622	
Baler Operator	1.0	\$ 22,804	
Wood Attendant	1.0	\$ 22,075	
Wood Attendant/Sorter/Painter/Welder	1.0	\$ 25,159	
Sorting Line	6.0	\$ 75,686	
Sorting Line	6.0	\$ 77,705	
Sorting Line	1.0	\$ 4,560	
Sorting Line	2.0	\$ 27,275	
Sorting Line	3.0	\$ 42,132	
Sorting Line	1.0	\$ 14,394	
Sorting Line	1.0	\$ 14,619	
Sorting Line	1.0	\$ 15,698	
Sorting Line	1.0	\$ 19,104	
Sorting Line	2.0	\$ 37,563	
Sorting Line	1.0	\$ 20,155	
Sorter/Tipping Floor	1.0	\$ 16,819	
Sorter/Tipping Floor	2.0	\$ 41,684	
Sorter/Tipping Floor	1.0	\$ 22,075	
Sub-Total	55.0		1,502,395
Contract Employees - Permanent Part-Time			
Janitorial	1.0	\$ 10,200	
Janitorial	1.0	\$ 10,200	
Janitorial	1.0	\$ 9,350	
Scalehouse Attendant	1.0	\$ 2,895	
Sorting Line(P/T)	1.0	\$ 8,641	
New Sorting Line(P/T)	2.0	\$ 6,402	
Sorting Line	1.0	\$ 9,384	
Sorting Line	1.0	\$ 4,590	
Total	64.0	\$ 1,564,057	
Employees - New hires and replacement of vacant positions			
Sorters	5.0	\$ 15,606	
Sorter/Tipping Floor	10.0	\$ 94,180	
Additional Costs			
Overtime @ 6% based on historical		112,661	
Holiday Pay @ 2.02% based on historical		\$ 32,870	
Unused Sick Days (PAYOUT ONLY)	1.0%	\$ 15,174	
Vacation Pay (PAYOUT ONLY)	3.0%	\$ 45,523	
Bonus		\$ 18,500	
Rounding		\$ (20)	
Total Salaries and Wages		\$ 1,898,551	

Tracy Material Recovery and Solid Waste Transfer, Inc.

Schedule of Forecasted Employee Benefits
For the Eight Months ending December 31, 2015

WORKERS COMPENSATION INSURANCE

Total Wages	\$ 1,898,551
Workers Comp. Ins. Rate - net of experience modification (Mod. Rate at 74%)	7.78%
Rounding	26
	<u><u>\$ 147,733</u></u>

PAYROLL TAXES

Total Wages	\$ 1,898,551
Payroll Taxes	8.40%
	159,478
Rounding	722
	<u><u>\$ 160,200</u></u>

HEALTH INSURANCE

	<u>Employees</u>	<u>Current Rate per month</u>	<u>Total</u>
Single (HMO)	40.5	\$ 582.22	\$ 188,639
Single (H.S.A.)	1.0	934.53	\$ 7,476
Family (HMO)	5.0	1,892.24	\$ 75,690
Family (H.S.A.)	0.8	3,037.25	\$ 19,438
Dependent S(HMO)	1.0	1,106.23	\$ 8,850
Dependent S(H.S.A.)	0.4	1,775.62	\$ 5,463
Dependent (HMO 2P)	5.5	1,309.97	\$ 57,639
Dependent (H.S.A. 2P)	0.8	2,102.70	\$ 13,019
Employee Portion (At Current Rate)			(42,309)
New Employees (3-month waiting period)	9.0		
Rounding			
	<u>55.0</u>		<u><u>\$ 333,905</u></u>

DENTAL & VISION INSURANCE (GUARDIAN)

	<u>Employees</u>	<u>Current Rate per month</u>	<u>Total</u>
Single	37.0	\$ 52.63	\$ 15,578
Family or Emp/Ch	9.2	169.98	12,490
Dependent	8.8	101.73	7,141
Employee Portion (At Current Rate)			(5,648)
New Employees (3-month waiting period)	9.0		
	<u>55.0</u>		<u><u>\$ 29,562</u></u>

LIFE INSURANCE

	<u>Employees</u>	<u>Rate per month</u>	<u>Total</u>
Employees only	55.0	\$ 3.70	\$ 1,627
Rounding			(93)
			<u><u>\$ 1,534</u></u>
Rounding			
Total			<u><u>\$ 365,000</u></u>

Tracy Material Recovery and Solid Waste Transfer, Inc.
Forecasted Equipment Replacement Reserve
For the Four Months Ending April 30, 2015 and the Eight Months Ending December 31, 2015

	2014/2015 Account Reconciliation	2015 Budget Deposits to be Applied
Estimated Cash balance - December 31, 2014	\$ 838,252	
Equipment deposits (\$74,750 monthly) through April 30, 2015	299,000	\$ 299,000
Interest revenue	1,000	1,000
<u>Capital - carryover from 2014</u>		
Conveyor for sortline (provide for additional sort of residual waste) Balance remaining 2015	(20,000)	
Compost screener	(400,000)	
Trailer refurbish	(37,000)	
<u>Capital - Four Months Ending April 30, 2015</u>		
Compost Turner	(300,000)	
Construction debris sort line Balance on contract	(302,310)	
Construction debris sort line electrical/installation	(30,000)	
MRF tip floor expansion - push walls	(15,000)	
Shop/office	(39,000)	
Overdraft	5,058	
Cash balance - April 30, 2015	<u>\$ -</u>	
Reserve Requirement - April 30, 2015		<u>\$ 300,000</u>
Equipment deposits (75,000 monthly) through December 31, 2015	\$ 600,000	\$ 600,000
<u>Capital - Eight Months Ending December 31, 2015</u>		
Compost Screener - additional (Contract total \$443,100)	(43,100)	
Compost Turner - additional (changed model to stack pile high)	(150,000)	
Trailer refurbish	(34,000)	
Two new trailers with onboard scales	(198,000)	
One new Peterbilt Truck	(150,000)	
Shop/office/overages	(24,900)	
	<u>\$ -</u>	
		<u>\$ 600,000</u>
<u>Facility Improvements:</u>		
Phase III - Expand tip floor size for public dumping - self haul - 12,000 square feet (deferred)		

Tracy Material Recovery and Solid Waste Transfer, Inc.

Recyclable Materials Forecast

For the year ending December 31, 2015 and the eight months ending December 31, 2015

	Inbound Waste (Tons)	MRF Diversion (Tons)	Recycle Revenue Rate	Year Ending Dec. 31, 2015	Four Months Ending Apr. 30, 2015	Eight Months Ending Dec. 31, 2015
Paper						
Corrugated	-	2,510	\$ 95.00	\$ 238,450	\$ 39,600	\$ 198,850
Newsprint	-	1,117	100.00	111,700	19,800	91,900
Mixed Paper/Super Mix	-	2,059	68.00	140,012	29,700	110,312
Plastics						
PET	-	475	1,030.00	489,250	63,000	426,250
HDPE neutral/colored	-	339	500.00	169,500	26,400	143,100
RIGID	-	128	100.00	12,800	3,000	9,800
Glass	-	1,148	95.00	109,060	24,000	85,060
Scrap Metal	-	1,304	50.00	65,200	36,300	28,900
Aluminum	-	24	2,400.00	57,600	21,000	36,600
Tin	-	94	120.00	11,280	3,960	7,320
Yard and Garden Waste	11,000	-	-	-	-	-
Compost	-	4,450	7.50	33,375	10,463	22,912
Shrinkage	-	4,450	-	-	-	-
Rock, concrete and dirt	-	2,700	-	-	-	-
Other Organics						
Tires	30	66	-	-	-	-
Wood	4,000	8,500	14.00	119,000	35,700	83,300
Pallets	-	21	30.00	630	540	90
Residual	-	-	-	-	-	-
Cannery Waste	-	-	-	-	-	-
Electronic Waste	-	77	210	16,170	5,040	11,130
Batteries	-	15	-	-	-	-
Other						
Inert	88,840	-	-	-	-	-
Purchased Recyclables	5,040	-	-	-	-	-
Residential Recyclables - commingled	4,680	-	-	-	-	-
(potential increase/decrease in recycle tons and/or pricing)					48,164	(48,164)
Rounding				(2,427)		(2,427)
	<u>113,590</u>	<u>29,477</u>		<u>\$ 1,571,600</u>	<u>\$ 366,667</u>	<u>\$ 1,204,933</u>
Percent diversion	<u>25.95%</u>					
Tons per day	<u>437</u>					
Tons disposed	<u>84,113</u>					
Less spring/fall cleanup	<u>-</u>					
	<u>84,113</u>					
Tons per day disposed	324					
Tonnage (San Joaquin County						
rate increase estimate 1/1/15 - from 34.65 to 35.76)	84,113					
Disposal rate	\$ 35.76					
Rounding/flex in tonnage (2% of landfill)	<u>67,119</u>					
Disposal cost	<u>\$ 3,075,000</u>			<u>\$ 3,075,000</u>	<u>\$ 995,750</u>	<u>\$ 2,079,250</u>
		<i>Tons</i>	<i>Tons</i>			
		Forecast	Forecast			
		Budget	Budget			
		Four Months	Eight Months			
		12/31/15	Ended April 30, 2015	Ended Dec 31, 2015		
Forecasted Tons						
Municipal	72,300	23,036	49,264			
County Service Area F	11,520	3,525	7,995			
Mountain House	7,250	2,241	5,009			
Self-haul						
Weighed - refuse	9,570	2,833	6,737			
Weighed - greenwaste	850	334	516			
Weighed - wood	2,800	829	1,971			
Minimum fee - refuse	3,000	888	2,112			
Recyclables	6,300		6,300			
	<u>113,590</u>	<u>33,686</u>	<u>79,904</u>			

Tracy Material Recovery and Solid Waste Transfer, Inc.
 Forecasted Revenue Self Haul
 For the year ending December 31, 2015 and eight months ending December 31, 2015

Year Ending December 31, 2015

Self Haul						
	Refuse Weighed	Refuse Minimum Fee	Greenwaste	Wood	Recyclables	Total
Forecasted Tonnage	9,570	3,000	850	2,800	6,300	22,520
Rate - January 2015	88	88	66	66	32	
Revenue	\$ 842,160	\$ 264,000	\$ 56,100	\$ 184,800		\$ 1,347,060
	\$ 842,200	\$ 264,000	\$ 56,100	\$ 184,800		\$ 1,347,100
Expense					\$ 201,600	\$ 201,600

Four Months Ending April 30, 2015

Self Haul						
	Refuse Weighed	Refuse Minimum Fee	Greenwaste	Wood		Total
Forecasted Tonnage	2,833	888	334	829		4,884
Rate - January 2015	88	88	66	66		
	\$ 249,279	\$ 78,144	\$ 22,044	\$ 54,701		\$ 404,168
	\$ 249,300	\$ 78,100	\$ 22,100	\$ 54,700		\$ 404,200

Eight Months Ending December 31, 2015

Self Haul						
	Refuse Weighed	Refuse Minimum Fee	Greenwaste	Wood	Recyclables	Total
Forecasted Tonnage	6,737	2,112	516	1,971	6,300	17,636
Rate - January 2015	88	88	66	66	32	
Revenue	592,856	185,856	34,056	130,086		942,854
	\$ 592,900	\$ 185,900	\$ 34,000	\$ 130,100		\$ 942,900
Expense					\$ 201,600	\$ 201,600

Tracy Material Recovery and Solid Waste Transfer, Inc.
 Forecasted Revenue San Joaquin County Service Area F and Mountain House
 For the year ending December 31, 2015 and eight months ending December 31, 2015

Year Ending December 31, 2015		Year Ending December 31, 2015			
San Joaquin County Service Area F		Mountain House			
Refuse	Greenwaste	Recycle	Greenwaste	Wood	Total
10350	50	1025	1150	400	7250
88	66	66	66	25	
\$ 819,700	\$ 3,300	\$ -	\$ 75,900	\$ 10,000	\$ 464,400

Forecasted Tonnage

Rate - January 2015

Four Months Ending April 30, 2015		Four Months Ending April 30, 2015			
San Joaquin County Service Area F		Mountain House			
Refuse	Greenwaste	Recycle	Greenwaste	Wood	Total
3,167	15	317	309	170	2,240
88	66	66	66	25	
239,698	1,010	-	20,394	4,250	133,981
\$ 239,700	\$ 1,000	\$ -	\$ 20,400	\$ 4,300	\$ 134,000

Forecasted Tonnage

Rate - January 2015

Eight Months Ending December 31, 2015		Eight Months Ending December 31, 2015			
San Joaquin County Service Area F		Mountain House			
Refuse	Greenwaste	Recycle	Greenwaste	Wood	Total
7,183	35	708	841	230	5,009
88	66	66	66	25	
579,990	2,310	-	55,506	5,750	330,457
\$ 580,000	\$ 2,300	\$ -	\$ 55,500	\$ 5,700	\$ 330,400

Forecasted Tonnage

Rate - January 2015

Tracy Material Recovery and Solid Waste Transfer, Inc.

Operator's Fee

For the year ending December 31, 2015 and the eight months ending December 31, 2015

Base Fee		\$ 282,777
Engineering News-Record City Cost Index for San Francisco		
ENR Cost Index - June 30, 2013	10,388.84	
ENR Cost Index - June 30, 2014	<u>10,899.59</u>	
Increase in Index	510.75	
Percentage / Dollar Increase	4.92%	13,902
Operator's Fee - Year Ending December 31, 2015		<u>\$ 296,679</u>
Operator's Fee - Four Months Ending April 30, 2015		<u>\$ 98,893</u>
Operator's Fee - Eight Months Ending December 31, 2015		<u>\$ 197,786</u>

Tracy Material Recovery and Solid Waste Transfer, Inc.
Analysis of City Containers and Pickups -2015

	Previous Rate Model Statistics - 2014		Statistics Company - 2014		Current Rate Model 2015		
	1 Month	12 Months	1 Month	12 Months	1 Month	12 Months	
Residential							
60 gallon	20,330	243,960	18,535	222,423	18,749	224,988	E
60 gallon (LIRA)							
60 gallon manual rate							
90 gallon	5,242	62,904	4,403	52,831	4,448	53,376	E
90 gallon manual rate							
Y/W CARTS							
	<u>25,572</u>	<u>306,864</u>	<u>22,938</u>	<u>275,254</u>	<u>23,197</u>	<u>278,364</u>	
Commercial and Industrial							
32 gallon	-	-	-	-	-	-	C
60 gallon	-	-	-	-	-	-	C
90 gallon	-	-	-	-	-	-	C
	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	
Permanent Boxes							
1 1/2 yd hopper	915	10,980	985	11,821	916	10,994	F
2 yd hopper	792	9,504	858	10,298	798	9,577	F
3 yd hopper	1,101	13,212	1,317	15,799	1,224	14,693	F
4 yd hopper	1,385	16,620	1,438	17,260	1,338	16,052	F
6 yd hopper	762	9,144	970	11,640	902	10,825	F
8 yd hopper	1	12	0	0	-	0	F
10 yd hopper	-	-	-	-	-	0	F
20 yd hopper	52	624	66	791	61	736	F
30 yd hopper	7	84	7	88	7	82	F
40 yd hopper	16	192	32	386	30	359	F
	<u>5,031</u>	<u>60,372</u>	<u>5,675</u>	<u>68,083</u>	<u>5,275</u>	<u>63,318</u>	
Temporary Boxes							
1 1/2 yd hopper	6	72	13	157	12	146	F
2 yd hopper	9	108	9	104	8	97	F
3 yd hopper	18	216	16	196	15	182	F
4 yd hopper	24	288	19	227	18	211	F
6 yd hopper	19	228	51	614	48	571	F
8 yd hopper	-	-	-	-	-	0	F
10 yd hopper	29	348	27	326	25	303	F
20 yd hopper	32	384	20	241	19	224	F
30 yd hopper	9	108	8	97	8	90	F
40 yd hopper	17	204	42	503	39	468	F
	<u>163</u>	<u>1,956</u>	<u>206</u>	<u>2,465</u>	<u>190</u>	<u>2,292</u>	
Permanent Compactors							
10 yd stationary	-	-	-	-	-	-	F
20 yd stationary	-	-	-	-	-	-	F
25 yd stationary	-	-	-	-	-	-	F
30 yd stationary	-	-	-	-	-	-	F
35 yd stationary	-	-	-	-	-	-	F
40 yd stationary	65	780	64	773	60	719	F
2 yd self-contained	9	108	16	197	15	183	F
3 yd self-contained	-	-	-	-	-	-	F
4 yd self-contained	4	48	4	52	4	48	F
6 yd self-contained	25	300	30	365	28	339	F
8 yd self-contained	-	-	-	-	-	-	F
10 yd self-contained	-	-	-	-	-	-	F
20 yd self-contained	6	72	6	77	6	72	F
25 yd self-contained	25	300	25	296	23	275	F
30 yd self-contained	25	300	33	399	31	371	F
35 yd self-contained	6	72	6	74	6	69	F
40 yd self-contained	-	-	-	-	-	-	F
	<u>165</u>	<u>1,980</u>	<u>186</u>	<u>2,233</u>	<u>173</u>	<u>2,078</u>	

Source of Information

- A. Based on Statistics for June 2014 - Company.
- B. Based on 12 month average through June 2014 - Company.
- C. Breakdown between residential, commercial and industrial not available - all included in residential.
- D. Breakdown between stationary & self-contained estimated. (Not estimated FY 2015)
- E. To remain conservative, we have factored a minimal growth %.
- F. Factored in a 7% reduction.
- G. Factored in a 7% reduction.

Tracy Material Recovery and Solid Waste Transfer, Inc.
 Analysis of Forecasted City Revenue
 For the Year Ending December 31, 2015

	Containers 12 Months	Pickups 12 Months	Pickups for one wk (total loads)	MRF Rates	MRF Revenue	Curbside Pickup Rates	Curbside Revenue	Curbside Recycling Revenue	Curbside Recycling Revenue	Curbside Yardwaste Revenue	Curbside Yardwaste Revenue	Franchise Fee	City of Tracy Fee	Total Rate Per Month/ Pickup	Total Revenue
Residential															
60 gallon	224,988			12.45	\$ 2,801,101	9.70	\$2,182,384	4.25	\$ 956,199	4.15	\$ 933,700	5.95	\$ 1,338,679	36.50	\$ 8,212,062
60 gallon (LIRA)	-			7.50	-	9.70	-	4.25	-	4.15	-	5.90	-	31.50	-
60 gallon manual rate	-			12.45	-	15.95	-	7.05	-	6.90	-	7.50	-	49.85	-
90 gallon	53,376			19.15	1,022,150	9.70	517,747	4.25	226,848	4.15	221,510	5.95	317,587	43.20	2,305,843
90 gallon manual rate	-			19.15	-	15.95	-	7.05	-	6.90	-	7.50	-	56.55	-
Commercial and Industrial															
32 gallon	-			12.15	-	5.25	-	-	-	-	-	3.45	-	20.85	-
60 gallon	-			25.15	-	9.70	-	-	-	-	-	4.85	-	39.70	-
90 gallon	-			31.25	-	9.70	-	-	-	-	-	4.90	-	51.85	-
Permanent Boxes															
1 1/2 yd hopper		10,994	2,539	75.90	192,704	54.75	139,006	-	-	-	-	17.55	44,558	148.20	376,268
2 yd hopper		9,577	2,212	97.95	216,647	71.15	157,370	-	-	-	-	22.75	50,319	191.85	424,336
3 yd hopper		14,693	3,393	138.95	471,502	87.60	297,255	-	-	-	-	31.00	105,193	257.55	873,949
4 yd hopper		16,052	3,707	185.60	688,040	98.55	365,336	-	-	-	-	38.50	142,724	322.65	1,196,100
6 yd hopper		10,825	2,500	278.90	697,263	109.50	273,755	-	-	-	-	52.15	130,377	440.55	1,101,395
8 yd hopper		-	-	371.90	-	176.85	-	-	-	-	-	74.35	-	623.10	-
10 yd hopper		-	-	131.10	-	109.40	-	-	-	-	-	36.40	-	276.90	-
20 yd hopper		736	176	241.30	177,508	109.40	80,478	-	-	-	-	45.25	33,287	395.95	291,273
30 yd hopper		82	82	354.50	29,012	109.40	8,953	-	-	-	-	54.15	4,432	518.05	42,397
40 yd hopper		359	359	464.75	166,836	109.40	39,272	-	-	-	-	62.95	22,598	637.10	228,706
Temporary Boxes															
1 1/2 yd hopper		146	146	22.55	3,293	13.30	1,942	-	-	-	-	4.80	701	40.65	5,935
2 yd hopper		97	97	29.00	2,805	19.35	1,872	-	-	-	-	6.75	653	55.10	5,329
3 yd hopper		182	182	38.90	7,091	28.60	5,213	-	-	-	-	10.20	1,839	77.70	14,163
4 yd hopper		211	211	48.65	10,271	37.50	7,917	-	-	-	-	13.65	2,882	99.80	21,069
6 yd hopper		571	571	66.30	37,859	53.50	30,550	-	-	-	-	20.25	11,563	140.05	79,971
8 yd hopper		-	-	87.95	-	80.00	-	-	-	-	-	28.15	-	196.10	-
10 yd hopper		303	303	131.10	39,747	109.40	33,168	-	-	-	-	36.40	11,036	276.90	83,951
20 yd hopper		224	224	241.30	54,083	109.40	24,520	-	-	-	-	45.25	10,142	395.95	88,744
30 yd hopper		90	90	354.50	31,979	109.40	9,869	-	-	-	-	54.15	4,885	518.05	46,733
40 yd hopper		468	468	464.75	217,405	109.40	51,176	-	-	-	-	62.95	29,447	657.10	298,029
Permanent Compactors															
10 yd stationary		-	-	157.90	-	121.55	-	-	-	-	-	40.90	-	320.35	-
20 yd stationary		-	-	306.85	-	121.55	-	-	-	-	-	52.70	-	481.10	-
25 yd stationary		-	-	381.30	-	121.55	-	-	-	-	-	58.70	-	561.55	-
30 yd stationary		-	-	453.80	-	121.55	-	-	-	-	-	64.55	-	641.90	-
35 yd stationary		-	-	530.25	-	121.55	-	-	-	-	-	70.50	-	722.30	-
40 yd stationary		719	719	604.70	434,713	121.55	87,381	-	-	-	-	76.40	54,923	802.65	577,017
2 yd self-contained		183	183	49.15	9,005	137.95	25,274	-	-	-	-	35.35	6,476	222.45	40,755
3 yd self-contained		48	48	61.80	3,600	137.95	6,671	-	-	-	-	36.35	1,806	236.10	4,476
4 yd self-contained		339	339	74.45	36,406	137.95	46,827	-	-	-	-	37.55	1,806	249.75	12,078
6 yd self-contained		-	-	107.25	-	137.95	-	-	-	-	-	39.30	13,340	284.50	96,574
8 yd self-contained		-	-	132.60	-	137.95	-	-	-	-	-	41.25	-	311.80	-
10 yd self-contained		-	-	157.90	-	137.95	-	-	-	-	-	43.10	-	338.95	-
20 yd self-contained		72	72	306.85	21,974	137.95	9,879	-	-	-	-	54.90	3,931	499.70	35,784
25 yd self-contained		275	275	381.30	104,964	137.95	37,975	-	-	-	-	60.90	16,765	580.15	159,704
30 yd self-contained		371	371	453.80	169,134	137.95	51,189	-	-	-	-	66.75	24,769	660.50	245,092
35 yd self-contained		69	69	530.25	36,492	137.95	9,494	-	-	-	-	72.70	5,003	740.90	50,989
40 yd self-contained		-	-	604.70	-	137.95	-	-	-	-	-	78.60	-	821.25	-
				604.70	\$ 7,683,581		\$4,502,472		\$1,183,047		\$1,155,211		\$ 2,389,933		\$16,914,246

Excess weight additional revenue - Estimate

90,000
 \$ 7,773,581

90,000
 \$17,604,246

RESOLUTION _____

APPROVING AMENDMENT NO. 2 TO THE SERVICE AGREEMENT BETWEEN THE CITY OF TRACY AND TRACY MATERIAL RECOVERY AND SOLID WASTE TRANSFER, INC.; APPROVING THE BUDGET FOR THE OPERATION OF THE TRACY MATERIAL RECOVERY FACILITY AND SOLID WASTE TRANSFER STATION FOR THE PERIOD OF MAY 1, 2015 THROUGH DECEMBER 31, 2015; AND APPROVING A FUNDING APPROPRIATION

WHEREAS, The City and Company entered into a Service Agreement for the material recovery facility ("MRF"), dated August 1, 1994 which was approved by the City Council on July 5, 1994 under Resolution No. 94-212, and

WHEREAS, On August 1, 1999, the First Amendment to the Service Agreement was executed to recognize the refinancing of the costs of acquiring and constructing the Tracy MRF, and

WHEREAS, The Agreement expires on May 1, 2015 and The City anticipates continued review of the new proposed Agreement and possible continued negotiation of key terms, and therefore the parties wish to extend the existing Agreement;

NOW, THEREFORE, BE IT RESOLVED, That the City Council does hereby approve Amendment No. 2 to the Service Agreement between the City of Tracy and Tracy Material Recovery And Solid Waste Transfer, Inc., authorizes the Mayor to execute the Amendment, approves the operations budget for the material recovery facility and solid waste transfer station and approves a funding appropriation up to \$7,565,595 from the Solid Waste Fund.

* * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 21st day of April 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

CITY CLERK

AGENDA ITEM 1.E

REQUEST

APPROVE AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TRACY AND HF&H CONSULTANTS, LLC AND APPROVE FUNDING ALLOCATION

EXECUTIVE SUMMARY

Council previously approved appropriations of \$95,815 for a solid waste financial consultant to prepare financial analyses and assist the City in contract negotiations with Tracy Material Recovery and Solid Waste Transfer Inc. (Tracy MRF). HF&H Consultants, LLC (HF&H) was retained to perform those services on behalf of the City due to its expertise within the industry. The Agreement with HF&H was previously extended when Tracy MRF replaced its legal counsel and proposed significant modifications to the draft Agreement necessitating further negotiations.

Given that the City's former City Manager (whom provided direction for negotiations) and its primary negotiator (the former Administrative Services Director) are no longer with the City, City staff would like to re-evaluate contract issues that are deemed significant and would like an opportunity to brief Council¹ and confirm its direction before presenting Council with a potentially long-term Agreement. HF&H has been a consistent presence in negotiations and its expertise is required. Depending upon the extent of additional services required to perform new analyses, prepare and present workshops, meet, and to continue possible negotiations, its fees under this proposed extension may range from \$65,310-\$75,047 as noted on Attachment 3-A to Amendment 3. Only services provided will be billed.

DISCUSSION

Council previously authorized staff to negotiate a new Agreement with Tracy MRF since its current agreement expires on May 1, 2015. The current Agreement was for a 20 year-term. Recognizing that industry regulations have changed since the Agreement was executed 20 years ago, and due to City staff not being familiar with industry standards, HF&H Consultants, a financial consultant with expertise in this area was authorized and hired to prepare financial analyses and assist the City with contract negotiations.

Negotiations have been prolonged due to special circumstances such as Tracy MRF replacing its legal counsel resulting in significant modifications to the Agreement; and now, the replacement of the City's key personnel involved in negotiations--the former City Manager, and the former Administrative Services Director.

Given the transition of City staff (and new Council) and due to concerns regarding contract terms negotiated under the former City Manager and former Administrative Services Director, the City's current negotiating staff would like to re-evaluate contract

¹ A workshop/study session is tentatively scheduled to be presented to Council in June.

issues that are deemed significant and would like an opportunity to brief Council to confirm its direction before presenting Council with a potentially long-term Agreement². After re-evaluating the terms and meeting with Council, there is a possibility that further negotiations will be necessary. HF&H's expertise, experience, and consistent presence through this process are necessary to conclude negotiations.

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 and Goal 3: Identify resources to promote communication and civic engagement, enhance city services, and promote organizational productivity.

FISCAL IMPACT

The appropriation will not impact the General Fund. The additional \$75,047 will be allocated from the Solid Waste Fund.

RECOMMENDATION

It is recommended that the City Council approve Amendment No. 3 to the Professional Services Agreement between the City of Tracy and HF&H Consultants, LLC and approve a funding appropriation of \$75,047.

Prepared by: Anne H. Bell, Management Analyst II, Administrative Services Department

Reviewed by: Ray Durant, Management Partners
Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENT

Amendment No. 3 to the Professional Services Agreement between the City of Tracy and HF&H Consultants, LLD and its attachment A-3 (Fee and Performance Schedule)

² Staff, under separate action, will be requesting an extension of the Tracy MRF existing Agreement.

**CITY OF TRACY
AMENDMENT NO. 3 TO THE
PROFESSIONAL SERVICES AGREEMENT FOR
MATERIAL RECOVERY AND SOLID WASTE TRANSFER FINANCIAL
ANALYSES AND NEGOTIATION SERVICES**

This Amendment No. 3 (“Amendment”) to the Professional Services Agreement for Material Recovery And Solid Waste Transfer Financial Analyses And Negotiation Services is entered into between the City of Tracy, a municipal corporation (“City”), and HF&H Consultants, LLC, a California Limited Liability Company (hereinafter “Consultant”).

RECITALS

- A. The City and Consultant entered into a Professional Services Agreement (“Agreement”) for Material Recovery and Solid Waste Transfer Financial Analyses and Negotiation Services which was authorized by the City Council on October 16, 2012, under Resolution No. 2012-212.
- B. Tracy Material Recovery and Solid Waste Transfer Inc. (Tracy MRF) retained new legal counsel whom significantly modified the negotiated draft agreement between the City and Tracy MRF necessitating additional analyses and agreement negotiations. Amendments No. 1 and No. 2 for additional negotiation and analyses services were approved by Council on April 1, 2014, under Resolution No. 2014-045; and on December 16, 2014 under Resolution No. 2014-205.
- C. With the transition of City staff (and new Council) and due to concerns regarding contract terms negotiated under the former City Manager and former Administrative Services Director, the City’s current negotiating staff desires to re-evaluate contract issues that are deemed significant and brief Council to confirm its direction before presenting Council with a new Tracy MRF Agreement. HF&H’s expertise, experience, and consistent presence through this process are necessary to brief Council and to conclude negotiations.

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 Amendments No. 1 and No. 2, 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 Material Recovery and Solid Waste Transfer Financial Analyses and Negotiation Services is hereby amended to include the services described in Attachment “A-3” attached hereto and incorporated herein by reference.

CITY OF TRACY

Amendment No. 3 to Agreement with HF&H Consultants, Inc.

Page 2 of 2

Section 5.1. COMPENSATION of the Agreement is hereby amended to increase the Agreement by \$75,047 for a total of \$170,862.

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

HF&H Consultants, LLC

By: _____
Michael Maciel

Title: Mayor

Date: _____

By: Robert D. Hilton
Robert D. Hilton

Title: President

Date: April 8, 2015

Attest:

By: _____
Nora Pimentel

Title: City Clerk

Date: _____

By: John W. Farnkopf
John W. Farnkopf

Title: Secretary

Date: 8 April 2015

ATTACHMENT 3-A

Scope of Work and Schedule of Values

	R D Hilton	M. Sheehan	D Hilton	K Erwin	Total	Proposed	Meetings	Work Products
	\$265	\$245	\$145	\$100	Hours	Cost		

Task 1 Discussions with TMRF

1a	8	0	0	4	12	\$2,520	1 Conference call	Document list of issues with desired language.
1b	8	4	8	2	22	\$4,460		Examples from similar agreements demonstrating reasonableness of City positions. Meeting notes.
1c	10	8	0	2	20	\$4,830	1 Meeting	
1d	8	4	8	2	22	\$4,460		Documents and analysis.
1e	10	0	0	2	12	\$2,850	1 Meeting	Meeting notes.
					88	\$19,100		

Task 2 Council Workshop

2a	16	2	2	8	28	\$5,820		One draft and one final each of staff report and presentation materials
2b	6	0	0	0	6	\$1,590		
					34	\$7,410		

	R D Hilton	M. Sheehan	D Hilton	K Erwin	Total	Proposed	Meetings	Work Products
	\$265	\$245	\$145	\$100	Hours	Cost		

Task 3	Final Discussions TMRF								
3a	10	0	0	2	12	\$2,850	1 Meeting	Meeting notes.	
3b	16	8	8	16	48	\$8,960		Final draft of agreement and exhibits	
3c	10	0	0	2	12	\$2,850	1 Meeting	Meeting notes.	
3d	16	4	4	16	40	\$7,400		Final agreement and exhibits	
Task 3					52	12	36	112	\$22,060

Task 4	Council Approval									
4a	16	2	2	8	28	\$5,820		One draft and one final each of staff report and presentation materials		
4b	6	0	0	0	6	\$1,590				
4c	16	2	2	2	22	\$5,220				
Task 3					38	4	4	10	56	\$12,630

Engagement Management

Contingency at 15%

Total Costs								
Labor	170	34	34	66	304	\$74,647		
Out-of-Pocket Expenses						\$400		
Total Budget						\$75,047		

RESOLUTION _____

APPROVING AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TRACY AND HF&H CONSULTANTS, LLC, AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT AND APPROVING A FUNDING ALLOCATION OF \$75,047

WHEREAS, On October 16, 2014 the City Council approved the hiring of a solid waste financial consultant to prepare financial analyses and assist the City in negotiations with Tracy Material Recovery and Solid Waste Transfer Inc. (Tracy MRF), and approved funding appropriations of \$49,500 from the Solid Waste Fund, and

WHEREAS, In March, 2012, the City of Tracy entered into a Professional Services Agreement with HF&H Consultants, LLC to perform said services, and

WHEREAS, On April 1, 2014 and December 16, 2014 the City Council approved Amendments Nos. 1 and 2 to the Professional Services Agreement Between the City of Tracy and HF&H Consultants, LLC, and approved funding appropriations together totaling \$46,315 from the Solid Waste Fund, and

WHEREAS, HF&H has performed satisfactory services per the terms of the Professional Services Agreement and Amendments Nos. 1 and 2, and

WHEREAS, Continued review of, and possible negotiations on, the Tracy MRF Agreement are anticipated which is extending the process;

NOW, THEREFORE, BE IT RESOLVED, That the City Council does hereby approve Amendment No. 3 to the Professional Services Agreement between the City of Tracy and HF&H Consultants, LLC, authorizes the Mayor to execute the Amendment, and approves a funding appropriation of \$75,047 from the Solid Waste Fund.

* * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 21st day of April 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3

REQUEST

RECEIVE HISTORICAL OVERVIEW AND UPDATE ON MILESTONES OF THE PUBLIC SAFETY RADIO COMMUNICATIONS TOWER PROJECT

EXECUTIVE SUMMARY

The Tracy Police Department has been directed by Council to provide a historical overview and update of milestones of the Public Safety Radio Communications Tower Project.

DISCUSSION

The Public Safety Radio Communications Tower is intended to serve the Regional Public Safety needs as part of the Master Radio Communications Plan for the San Joaquin Operational Area. Over the last several years, the City and County have been addressing the need to provide critical radio communications between public safety and field units in newly developed areas. These discussions were expedited when the housing development started to recover following the economic downturn. The Plan was to assist the County and agencies within the County who did not currently have the capability to communicate with each other because they operated on different radio frequencies.

The Public Safety Communications Tower is not intended to provide inter-operability among all City departments. There is a plan to establish a low level digital system to allow for future expansion that can accommodate the communications needs of all public safety and general government agencies within the County. Such a system could be used independently during day-to-day operations and rapidly made interoperable between separate jurisdictions for Homeland Security and disaster response needs. The system would also have the capability of operating in the conventional mode to establish interoperability with outside government agencies.

In October 2013, the Police Department began meeting with land developers to discuss the potential impacts of new development in specific areas within the City of Tracy. The police department expressed concerns that the current radio communications system did not adequately cover the areas identified. Specifically, the discussions were related to proposed development of Tracy Hills and Cordes Ranch.

The need for public safety radio coverage in these areas was not new to the City or developers. Discussions were originally initiated in the late 1990s when Tracy Hills was first proposed. As a result, a Capital Improvement Project (CIP) for a Communications Tower and Expansion of Radio System was identified in the CIPs for the City in 2004. The timing and trigger of annexing land that creates an impact with a 25% land mass to the City was cause to address the communications concerns.

The purpose of the meetings was to ensure the needs of Health and Safety would be addressed in the future development of the City of Tracy. Police and Fire Department Staff began working with the City's Development Services Department, Radio System

Professionals and San Joaquin County to identify and address potential impacts created by new development throughout the City. Staff identified areas of concern regarding the impacts of new development areas on the current emergency communications system and how to provide emergency responses to these areas.

Initially, the Police Department staff assumed that the Communications issues would need to be resolved prior to the first occupancy certificate being issued to the new areas. However, following complaints by developers to the City Council and City Manager of the potential impacts to their development, flexibility regarding the Police Department conditions of approval was considered. The developers expressed their concerns that adequate radio coverage as demanded by the Police Department was impeding growth. In response to their concerns, the Police Department researched several options, which included both temporary fixes and interim solutions.

The Police Department still needed the tower; however, Police Department staff and Development Services staff worked with the developers to identify the fair share of the costs associated with the tower and equipment and the benefits to the community.

Police Department staff identified the Communications Tower as a priority project in an effort to assist with the developers' aggressive timeline. In addition, the County was willing to move this project up as a priority and to allow the system to be integrated into the County system through the Master Radio Communications Plan (Attachment A) and the Joint Use Agreement (Attachment B). The Master Radio Communications Plan was adopted by the San Joaquin Operational Area in January 2005. The mission of the Master Radio Communications Plan was to meet the goals established in the plan on the strategy of (1) using a Public Safety trunked radio system and (2) sharing existing resources of all jurisdictions as the basis for accomplishing plan goals.

In March 2008, the County of San Joaquin and the City of Tracy entered into a Joint Use Agreement for Communications. The Joint Use Agreement serves to facilitate services for the implementation of the Master Radio Communications Plan. This existing collaboration of both entities allowed the Communications Tower to commence construction earlier than first anticipated.

The City's current emergency radio communications system is a VHF/UHF System consisting of one transmitter/receiver site at the Tracy Police Department and five receiver sites placed on roof tops of fire stations within the City. The system was designed to serve the geographical area of the City as established prior to the annexation of the area west of Corral Hollow Road and south of Interstate 205.

The following sites serve the system and provide coverage within the City:

Transmitter/Receiver Site:	Tracy Police Department-	100 foot Monopole
Receiver Sites:	Station 96	Roof Top
	Station 97	Roof Top
	Station 98	40 foot Tower
	Station 94	Roof Top
	Station 93	Roof Top

The current VHF/UHF system shares the same facilities and infrastructure with the Fire Department's VHF system.

An evaluation was conducted on the current performance of the system and indicated the system had reached the maximum capacity it was designed to serve. Additionally, simply placing additional receivers in the field to increase the radio coverage is infeasible due to space limitations. Specifically, adequate floor space is not available in the police department's radio equipment room or on the 100 foot monopole tower to accommodate the needed additional equipment. In addition, any future expansion to the system or radio equipment room would have an impact on the existing air conditioning system, which is unable to accommodate the additional heat load created by the additional electronics.

Staff researched the feasibility of developing an "interim" communications solution with engineers and the County. The engineers conducted an analysis on the system and the potential of adding or relocating equipment, but determined that the system was not capable of expanding to accommodate the new growth. The City and County began discussing the options available to expand the coverage for both entities.

The City's existing Citywide Public Safety Master Plan ("Master Plan") (Resolution No. 2013-56), adopted on April 16, 2013, details and discloses the above-described need for new emergency radio communications facilities. Specifically, the Master Plan identified the need for a radio communications tower and appurtenances ("Radio Tower") to serve new development. The Master Plan points out that, as the topography of new development areas change with the addition of buildings and population, additional emergency radio coverage will be needed in these areas. The Master Plan also anticipated that, without the Radio Tower, critical contact between emergency field units and the communications center would be impacted by new development.

As the City of Tracy expands with the developments to the east and west of Corral Hollow Road, staff determined that the current communications system would not adequately cover the new geographical area. As topography of these new development areas changes with the addition of buildings and increased population, the radio coverage in these areas would be critically diminished, undermining public health and safety for both future residents and the emergency service responders such as Police, Fire, and medical personnel providing emergency services to those areas. Without the Radio Tower, new development would adversely impact critical contact between field units and the communications center.

Staff analyzed the options available to provide coverage to the new areas proposed for future development. The studies indicated the best option was to build a 2 Site Simulcast System. This option would expand the coverage area of the system through the addition of the new Radio Tower.

- The proposed 2 Site Simulcast System would have several advantages over the existing system. It would deliver a consistently stronger signal to system receivers throughout the system and the coverage area, and eliminate existing "dead spots" in the current system.
- It would also improve building penetration of the signal to portable (on-hip) radios used by emergency service providers. And the Radio Tower proposal is a more

cost effective method of achieving these advantages, as compared to incremental improvements to the system.

Preliminary studies indicated that a 180-ft tower, built as a three leg structural steel self-supported radio communications tower with a 30-ft x 10-ft equipment communications shelter with utility connections, fencing, and a 70-ft foundation pad, would meet or exceed the standards established in the San Joaquin County Radio Master Plan and the City's Master Plan.

As part of the Master Plan, estimates were provided for the cost of a radio communications tower and equipment at \$2.8 million. This project includes but was not limited to a 180-ft tower, 30-ft x 10-ft equipment shelter with connections, fencing, and a 70-ft x 34-ft foundation pad, microwave, conventional simulcast system. 2 -sites, and 2-channels. This enhanced radio system immediately creates interoperability between police and fire and the backbone of the system will support the Tracy Fire Radio System.

The following Milestones have been achieved over a time period of 1999 to 2015:

- | | |
|----------------|--|
| 1999 | Discussions with Development Services for the expansion of planned growth and impact on the radio communications system. |
| 2004 | Development of the Capital Improvement Plan (CIP) for a Communications Tower and expansion of radio system. |
| January 2005 | Adoption of the San Joaquin Master Radio Communications Plan |
| March 2008 | Adoption of the Joint Use Agreement for Communications Facilities between San Joaquin County and the City of Tracy. |
| April 2013 | Adoption of the Citywide Public Safety Master Plan identifying the need for new emergency radio communications facilities. |
| October 2013 | Meeting with developers to discuss proposed construction in the new developments and the impacts on radio communications. Researched interim solutions, strategies for funding and system design. |
| September 2014 | City Council approved the Land Lease Agreement for installation, maintenance, and operations of County owned tower and equipment between the City of Tracy and County of San Joaquin, and funding for the Radio Communications Equipment. Funding of the tower was comprised of several sources to include grant funding secured by the County through the Department of Homeland Security, City of Tracy and approved developers. |
| December 2014 | Design of Tower and related radio equipment purchased. |
| January 2015 | Installation of mobile dual band radios into the patrol fleet. Mobile Units now have the opportunity to communicate with Tracy Fire using the dual |

band UHF/VHF radios. Command Staff will have dual band portable radios to provide communications to Tracy Fire during a critical incident.

- March 2015 Site work in the police department underway to expand the radio room and address sprinkler and cooling modifications. Due to the lack of space in the existing radio room for the new equipment staff has been repurposing a storage closet to serve as the annex radio room. This required work to retrofit the room is needed to meet the updated fire code standards of replacing wet sprinklers with a dry suppression system and adding an air conditioning unit to maintain controlled temperatures.
- April 2015 Bids out for site work of preparing the site with an access road and fencing and construction of the tower.
- June 2015 Installation of the radio consoles into the Communications Center.
- July 2015 Construction of the 180' Radio Communications Tower and equipment room.
- September 2015 Completion of the Tower.
- November 2015 San Joaquin County will be working with the local partners and fire entities to test the functionality of the new trunking system to allow agencies to learn the system and identify any issues during a pilot program prior to a full system implementation. As part of the Assistance to Fire Fighters Grant, the County has begun to build out the first site of the 3 Trunk Sites consisting of Tracy, Ripon and French Camp.

FISCAL IMPACT

The cost of a radio communications tower and equipment was projected to be \$2.8 million. This project includes but was not limited to a 180-ft tower, 30-ft x 10-ft equipment shelter with connections, fencing, and a 70-ft x 34-ft foundation pad, microwave, conventional simulcast system. 2 -sites, and 2- channels.

STRATEGIC PLAN

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

RECOMMENDATION

That City Council receive the historical overview and update on milestones of the Public Safety Radio Communications Tower Project.

Agenda Item 3
April 21, 2015
Page 6

Prepared by: Lani Smith, Division Manager, Support Operations Division

Reviewed by: Gary R. Hampton, Chief of Police
Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager

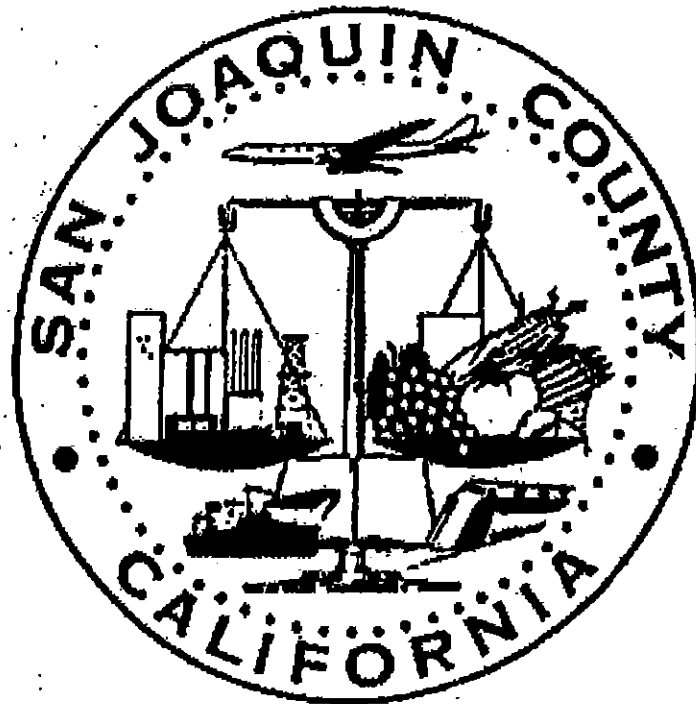
ATTACHMENTS

- Attachment A: Master Radio Communications Plan San Joaquin Operational Area
- Attachment B: Joint Use Agreement for Communications Facilities between San Joaquin County and the City of Tracy
- Attachment C: Memorandum to City Council for the Public Safety Emergency Radio Communications System

**MASTER RADIO COMMUNICATIONS PLAN
SAN JOAQUIN OPERATIONAL AREA**

Supporting the Jurisdictions of:

**San Joaquin County, City of Stockton, City of Ripon,
City of Lodi, City of Tracy, City of Manteca, City of
Lathrop, City of Escalon and 13 Rural Fire Districts**



January 7, 2005

INTRODUCTION

Geography

The County of San Joaquin was established by an act of the State Legislature on February 18, 1850 as one of California's original 27 Counties. Situated in the Central Valley portion of the State, the County covers 1,448 square miles. The County seat is located in the City of Stockton.

San Joaquin County is located in north central California in the Great Central Valley between the Diablo Mountain range and the Sierras. The County is flat farmland broken by foothills in the east and Mt. Boardman in the west.

There are seven incorporated cities in the County and a number of unincorporated communities. The cities of Escalon, Lathrop, Lodi, Manteca, Ripon, Stockton, Tracy and unincorporated communities of French Camp, Farmington, Linden, Lockeford, Thornton, Clements make up the population base of 623,000.

The flatland surrounded by foothills creates a challenge for developing emergency communications systems that support the Public Safety infrastructure.

MASTER COMMUNICATIONS PLAN STEERING COMMITTEE

The San Joaquin Operational Area Master Communications Plan has been developed, and is being implemented, through an executive steering committee. The County of San Joaquin, along with all incorporated cities and public safety special districts, have representatives on the Master Communications Planning Committee. The County provides administrative and technical support to the committee. The mission of the committee is to meet the goals established in this plan. Approval of this Master Plan by the committee included agreement on the strategy of 1) using a Public Safety trunked radio system and 2) sharing existing resources of all jurisdictions as the basis for accomplishing plan goals.

MASTER COMMUNICATIONS PLAN GOALS

- A. Address the Federal Communications Commission (FCC) mandated migration to the digital communications platform (APCO Project 25) by January 1, 2013.
- B. Provide interoperable communications between public safety and general government agencies for emergency communications in daily activities and disaster situations.

COMMUNICATIONS SYSTEM BACKGROUND

The County and agencies within the County do not currently have the capability to communicate with each other because they operate on different radio frequencies. In addition, all analog equipment within the County operating at 25khz bandwidth is not compliant to the new digital standards. (APCO Project 25)

San Joaquin County operates its Public Safety Communications System through a backbone of communications sites located at the following locations:

French Camp	Oak Grove Park	Ripon Fire Department
City of Manteca	City of Tracy	Clements Fire Department
City of Stockton	Farmington	Escalon Fire Department
Mount Oso	Bear Mountain	County Courthouse
City of Lodi		

A SONET ring microwave system connects the communications sites to city dispatch centers and the Sheriff's Communication Center located in French Camp. The current microwave system is located at French Camp, Oak Grove Park, City of Manteca, County Courthouse, Bear Mountain, Mount Oso, City of Tracy, City of Lodi, and Farmington. The system needs to be expanded to include Ripon and Clements Fire Districts. This will provide an infrastructure that supports a higher level of communications coverage in the extreme north and south ends of the County.

The primary radio frequency spectrum used by the County is 450mhz. Radio repeaters located at high level mountain top sites on Mount Oso in Stanislaus County and Bear Mountain in Calaveras County provide countywide coverage for the Sheriff's Office dispatch on two main channels. The third dispatch channel uses a recently installed four-site low level digital simulcast radio communications system. Elements of this low level system were obtained through previous Homeland Security Grants. The high level sites operate in the analog mode which is not Project 25 compliant and needs to be upgraded to the FCC digital standards. The low level digital simulcast system is scalable to 6.25khz bandwidth and is Project 25 compliant. The establishment of the low level digital system allows for future expansion that can accommodate the communications needs of all public safety and general government agencies within the County. Such a system could be used independently during day-to-day operations and rapidly made interoperable between separate jurisdictions for Homeland Security and disaster response needs. The system would also have the capability of operating in the conventional mode to establish interoperability with outside governmental agencies.

Current radio systems in operation within the County are as follows:

San Joaquin County	-	450mhz analog, digital scalable to 6.25khz
City of Stockton	-	450mhz analog, digital scalable to 6.25khz
City of Lodi Police	-	450mhz analog, 25khz scalable to 12.5khz
City of Lodi Fire	-	150mhz analog, 25khz only
City of Manteca Police & Fire	-	150mhz analog, 25khz only
City of Tracy Police & Fire	-	150mhz analog, 25khz only
City of Ripon Police & Fire	-	150mhz analog, 25khz only
City of Lathrop Police	-	450mhz analog/digital, scalable to 6.25khz
City of Lathrop Fire	-	150mhz analog, 25khz only
City of Escalon Police & Fire	-	150mhz analog, 25khz only
13 Rural Fire Districts	-	150mhz analog, 25khz only
EMS/Ambulance	-	150mhz and 450mhz analog, 25khz only

All agencies currently share communications sites and infrastructure resources.

MASTER PLAN INTERMEDIATE OBJECTIVES WITH IMPLEMENTATION STRATEGIES/TASKS

Objective #1: Identify a pre-implementation strategy and assign working sub-committees.

- Task: Implement engineering studies to define coverage and performance to identify communications site and equipment requirements.
- Task: Define phases for implementation over future budget years based on reasonable expectations of funding.
- Task: Develop channel utilization policies and disaster communications plans for ensuring rapid and effective interoperable, multi-jurisdictional, communications when needed.
- Task: Develop channel utilization policies for day-to-day operation.
- Task: Develop disaster communications plans for rapid, controlled, and effective transition to interoperable, multi-jurisdictional, communications as required by the event or situation.
- Task: Develop and implement a training program for dispatch centers and field operators to implement interoperable protocols and procedures.
- Task: Establish a Joint Users group comprised of a representative from each agency to develop policies that govern the operation and configuration of the communications system.

Objective #2: Build a communications infrastructure to support licensed interoperable and reliable communications for all agencies within the County. Share current assets and future resources as funding becomes available.

Strategy: Integrate existing equipment into expanded County microwave system as backbone for transport. Use established communications sites.

Task: Expand the County microwave system to include Ripon and Clements Fire Districts to improve radio coverage in the north and south county areas. COMPLETED.

Task: Replace the City of Manteca communications tower to meet the need to host additional equipment supporting radio interoperability. COMPLETED.

Task: Establish a new communication site using the City of Stockton's facilities.

Objective #3: Expand and complete Low Level Digital System

Task: Add Sheriff Channel 4 to existing low level digital system.

Task: Upgrade Sheriff Channel 5 to existing low level digital system.

Task: Upgrade three (3) Sheriff's Custody Channels to low level digital system.

Task: Add Farmington, Lodi, and Manteca communications sites to the low level digital system design.

Task: Add the City of Stockton's 10 UHF 450mhz channels to the low level sites.

Objective #4: Upgrade County Public Safety field equipment to digital equipment and establish standards for integration into trunked 450mhz radio system.

Task: Purchase equipment that meets the FCC mandates (Project 25) for bandwidth requirements.

Task: Add City of Manteca to the system

Task: Add City of Ripon to the system

Task: Add City of Tracy to the system .

Task: Add City of Lathrop to the system.

Task: Add City of Lodi to the system.

Task: Add City of Escalon to the system.

Task: Add 13 Rural Fire Districts to the system.

Add City of Lathrop Fire Department.

Add City of Manteca Fire Department.

Add City of Lodi Fire Department.

Add City of Tracy Fire Department.

Task: Upgrade the City of Stockton's equipment to trunking technology.

Objective #5: Establish a 450mhz radio frequency spectrum scaleable to 6.25khz as the digital radio platform for migration to an interoperable system.

Task: Establish a 450mhz trunked low level radio system backbone.

Task: Upgrade existing field equipment to trunking technology.

Task: Transition agencies that operate on 150mhz (VHF) to 450mhz (UHF).

Task: Add digital trunking capability to the low level sites developed in Objective #2.


Task: Upgrade field equipment as necessary to become interoperable through integration in the trunked system.


Task: Upgrade two existing mountain top repeaters to digital standards as a backup for the low level sites.

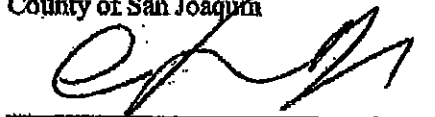
FUNDING CONSIDERATIONS AND CONCLUSION


Multiple funding sources are being accessed for implementation of the Master Communications Plan. Local jurisdictions are already contributing through their general fund budgets. Congressional appropriations are being sought through the Federal representatives of local jurisdictions. Elements of the Master Plan will be implemented through Homeland Security Grants. Past Homeland Security grants have provided additions to the low level digital communications system and digital capable field equipment. Agency inventories are included in "Attachment A".

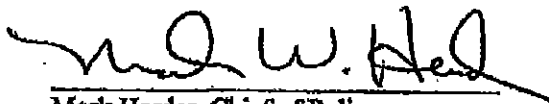
All agency representatives listed below approve and accept the Master Radio Communications Plan in concept and agree to take the plan to their governing bodies for approval.


Clark Bennett
Director of Information Systems
County of San Joaquin



Steve Moore, Assistant Sheriff
County of San Joaquin



Charles Halford, Chief of Police,
City of Manteca


George Quaresma, Fire Chief
City of Manteca


Mark Herder, Chief of Police
City of Stockton


Gary Gillis, Fire Chief
City of Stockton



David L. Krauss, Chief of Police
City of Tracy

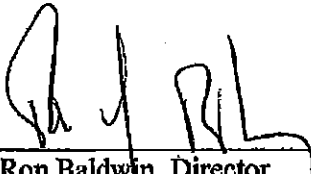

Terrell Estes, Fire Chief
City of Tracy

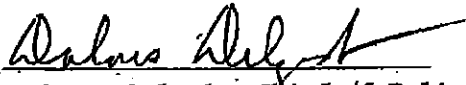

Richard Bull, Chief of Police
City of Ripon

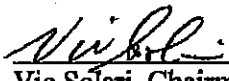

Dennis Bitters, Fire Chief
City of Ripon

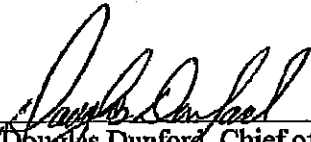
All agency representatives listed below approve and accept the Master Radio Communications Plan in concept and agree to take the plan to their governing bodies for approval.



Darrell Cramporn, EMS Coordinator
County of San Joaquin


Ron Baldwin, Director
Office of Emergency Services
County of San Joaquin


Dolores Delgado, Chief of Police
City of Lathrop


Vic Solari, Chairman San Joaquin
County Joint
Radio Users Authority


Douglas Dunford, Chief of Police
City of Escalon


Blair King, City Manager
City of Lodi

All agency representatives listed below approve and accept the Master Radio Communications Plan in concept and agree to take the plan to their governing bodies for approval.

Darrell Cramphorn, EMS Coordinator
County of San Joaquin

Ron Baldwin, Director
Office of Emergency Services
County of San Joaquin

David Levesey, Chief of Police
City of Lathrop

Vic Solari, Chairman San Joaquin
County Joint
Radio Users Authority

Douglas Dunford, Chief of Police
City of Escalon



Blair King, City Manager
City of Lodi

A-08-294

APR 29 2008

**JOINT USE AGREEMENT FOR COMMUNICATION FACILITIES
BETWEEN SAN JOAQUIN COUNTY AND THE CITY OF TRACY**

This Joint Use Agreement is made and entered into by and between the County of San Joaquin (hereinafter "COUNTY") and the City of Tracy (hereinafter "CITY").

RECITALS:

WHEREAS, to facilitate joint use of radio communication services and implement the goals set fourth in the Master Radio Communications Plan for the San Joaquin Operational Area, it will be necessary for the CITY to utilize property owned by the COUNTY to operate communications infrastructure.

WHEREAS, COUNTY and the CITY each own and operate a communications infrastructure; and

WHEREAS, COUNTY and CITY desire to enter into an agreement whereby COUNTY and CITY have joint use of communications facilities, sites and equipment within the COUNTY and CITY.

IT IS HEREBY AGREED BETWEEN THE TWO PARTIES:

1. DEFINITIONS:

- a). ACCESS means reasonable entry onto designated facilities for installation, maintenance, testing or repair of communications equipment and extends to authorized outside agencies and personnel acting under direction of the contracting parties.
- b). COMMUNICATIONS EQUIPMENT includes, but is not limited to any realty, facility, building, room, tower, antenna, repeater, receiver, transmitter, generator, microwave, cable, or other area, structure, system or equipment used for communications.

2. RESPONSIBILITIES:

- a). COUNTY will provide and grant to CITY access to, and use of, COUNTY'S radio communications facilities and sites for installation of equipment located in the City of Tracy, California, and other COUNTY communication sites, as needed, subject to prior notice and approval of COUNTY.
- b). CITY will provide and grant to COUNTY access to, and use of, CITY'S radio communications facilities and sites for installation of equipment located in the City of Tracy, California, and other County communication sites, as needed, subject to prior notice and approval of CITY.

- c). In accordance with Section 90.179 of the Federal Communications Commission's Rules [47 C.F.R. s 90.179] COUNTY agrees that CITY may share the use of radio communications frequencies licensed to the COUNTY as follows:

156.120 Mhz – Mobiles Countywide
154.070 Mhz – Mobiles Countywide
154.235 Mhz – Mobiles Countywide

COUNTY and CITY both recognize that COUNTY is held responsible by the Federal Communications Commission for proper technical and operational compliance with applicable rules and statutes, and agree that in any event of non-compliance on the part of CITY, COUNTY may order such operation to cease until it is brought into compliance.

- d). The parties agree to the exclusive use of Motorola certified technicians and a Motorola certified service facility. Service providers shall demonstrate product or system competence with a manufacturer training certification. Motorola R56 standards and guidelines shall be followed at all sites. All service providers used by the parties shall have a valid State of California C7 electrical contractor's license.
- e). CITY and COUNTY each shall pay all costs for installation, maintenance, repair, taxes or fees for their respective communications equipment. Any increase in such costs caused by or resulting from any use or activity by the other party shall be borne by the party responsible for such added costs. The COUNTY shall provide at no cost to the CITY electricity sufficient for operation of the communications equipment installed under this Agreement.
- f). LIMITATIONS. Any communications equipment installation or use by the CITY under this Agreement is subject to prior approval by an authorized agent of the COUNTY, and must not degrade or interfere with use of existing communications equipment of the COUNTY. Any communications equipment installation or use by the COUNTY located on or attached to the communications equipment of the CITY under this Agreement is subject to prior approval by an authorized agent of the CITY, and must not degrade or interfere with use of existing communication equipment.

3. TERM OF AGREEMENT AND TERMINATION PROCEDURES:

This Agreement shall remain in effect until terminated by the parties. This Agreement may be terminated by either party without cause upon the giving of two (2) months' notice. This Agreement may be terminated without complying with the two-month notice requirement for the sole cause of nonperformance by the other party. Upon termination of this Agreement, CITY and COUNTY shall have the option of removing any of their Communications Equipment installed under this Agreement. Any Communications Equipment the CITY opts not to remove within 60 days of the last day of the contract shall become the property of the COUNTY. Any Communications Equipment the COUNTY opts not to remove within 60 days of the last day of the contract shall become the property of the CITY.

4. RELATIONSHIP OF THE PARTIES:

Neither party to this Agreement is the agent, employee, partner, joint venturer, contractor or sub-contractor of the other party. Each party shall be responsible for its own workers' compensation insurance and other obligations consistent with law and this Agreement. Each party shall require any independent contractor or sub-contractor allowed to work on or in contact with the communications equipment covered under this Agreement to provide its own Workers' Compensation and liability insurance.

5. INDEMNIFICATION:

CITY agrees to defend and hold harmless COUNTY for and on account of any damage or injury to any person or property of any person which is due to any fault of CITY, its officers, agents, or employees. COUNTY agrees to defend and hold CITY free and harmless for and on account of any damage or injury to any person or property of any person which is due to any fault of COUNTY, its officers, agents, or employees. The indemnification called for under this section shall not extend to workers' compensation payments or workers' compensation claims involving employees of either party.

6. INSURANCE:

CITY and COUNTY shall secure and maintain at their own expense during the life of this Agreement workers' compensation and other insurance coverage in the forms and amounts acceptable to each party. The parties may satisfy this insurance requirement through self insurance.

7. NOTICES:

Any notice, tender, delivery, or notice to be given hereunder by either party to the other may be effected by personal delivery, in writing, or by mail, and shall be deemed communicated as of the date of actual receipt. Mailed notices shall be addressed as set forth below, but each party may change its address by delivery of written notice in accordance with this paragraph:

TO CITY: City of Tracy
Attn: City Manager
333 Civic Center Plaza
Tracy, CA 95376

With a copy to:

City Attorney
333 Civic Center Plaza
Tracy, CA 95376

TO COUNTY: County of San Joaquin
Attn: Information Systems Director
24 S. Hunter Street
Stockton, CA 95202

8. ATTORNEY'S FEES:

In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation or arbitration of the dispute shall be entitled to recover reasonable attorney's fees, costs and expenses of litigation or arbitration from the party who does not prevail.

9. TRANSFERABILITY:

This Agreement shall be nontransferable.

10. APPLICABLE LAW:

This Agreement shall be governed by the laws of the State of California.

11. VENUE:

Venue for any dispute arising under this agreement shall be in the county of San Joaquin.

12. SEVERABILITY:

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

13. CAPTIONS:

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any questions of interpretation or intent.

COMMUNICATIONS EQUIPMENT AND PROPERTY JOINT USE AGREEMENT

14. ENTIRE AGREEMENT:

This Agreement represents the entire and integrated agreement between CITY and COUNTY and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by CITY and COUNTY.

15. AUTHORITY:

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.


16. EFFECTIVE DATE OF SERVICE:

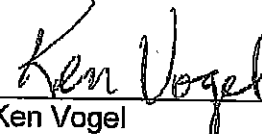
The Agreement shall become effective on March 10, 2008.

IN WITNESS WHEREOF, this Agreement has been executed by the respective parties hereto through their respective authorized officers.

CITY OF TRACY

SAN JOAQUIN COUNTY

By: 
City Manager

By: 
Ken Vogel
Chairman of the Board of Supervisors

Date: 3/4/08

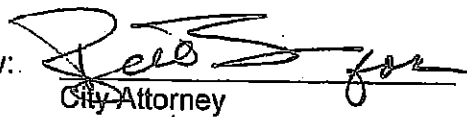
Date: APR 29 2008

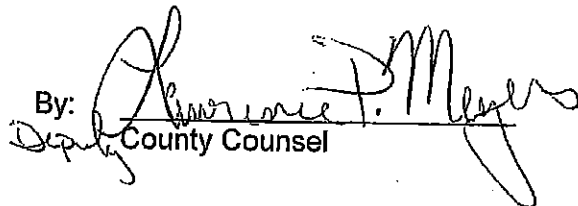
Approved As To Form:

Approved As To Form:

CITY ATTORNEY'S OFFICE

COUNTY COUNSEL'S OFFICE

By: 
City Attorney

By: 
Deputy County Counsel

Date: 3/3/08

Date: _____

Memorandum

Date: March 19, 2015
To: City Council Members
From: Gary R. Hampton, Chief of Police
Lani Smith, Support Operations Manager
Subject: Public Safety Emergency Radio Communications System

I. BACKGROUND

Staff has been directed by Council to provide a historical overview and update of milestones of the Public Safety Radio Communications Tower Project.

In October 2013, the Police Department began meeting with land developers to discuss the potential impacts of new development in specific areas within the City of Tracy. The police department expressed concerns that the current radio communications system did not adequately cover the areas identified. Specifically, the discussions were related to proposed development of Tracy Hills and Cordes Ranch.

The need for radio coverage in these areas were not new to the City or developers. Discussions were originally initiated in late 1990's when Tracy Hills was first proposed. As a result, a Capital Improvement Project (CIP) for a Communications Tower and Expansion of Radio System was identified in the CIP in 2004. The timing and trigger of annexing land that creates an impact with a 25% land mass to the City was cause to address the communications concerns.

The purpose of the meetings was to ensure the needs of Health and Safety would be addressed in the future development of the City of Tracy. Police and Fire Department Staff began working with the City's Development Services Department and Radio System Professionals and San Joaquin County to identify and address potential impacts created by new development throughout the City. Staff identified areas of concern regarding the impacts new development areas would have on the current emergency communications system in providing emergency responses to these areas and began identifying a solution.

Initially, the police department did assume a position that the Communications issues would need to be resolved prior to the first occupancy certificate being issued. However, following the complaints by the developer to City Council and City Manager of the potential impacts this would cause their development, a push for flexibility on the police departments conditions were considered. The developers expressed their concerns that adequate radio coverage demanded by the police department was impeding the growth. In response to their concerns, the police department exercised flexibility in researching several options to include temporary fixes to interim solutions. The flexibility was not the police department waiving the

need for the tower. It was the police department taking a step back to work with the developers and City to identify the fair share of the costs associated with the tower and equipment and the benefits to the community.

The process was identified as a priority project by the police department in an effort to not be an impediment to the aggressive timeline of the developers. In addition, the relationship with the County and their willingness to support the adjustment to their timeline by moving this project up as a priority and allowing the system to be integrated into the County system through the Joint Use Agreement was maximized. This partnership of both entities allowed the tower to outpace the developers.

II. THE CITY'S CURRENT EMERGENCY RADIO COMMUNICATIONS SYSTEM

The City's current emergency radio communications system is a VHF/UHF System consisting of one transmitter/receiver site at the Tracy Police Department and five receiver sites placed on roof tops of fire stations within the City. The system was designed to serve the geographical area of the City as established prior to the annexation of the area west of Corral Hollow Road and south of Interstate 205.

The following sites serve the system and provide coverage within the City:

Transmitter/Receiver Site:	Tracy Police Department- 100 foot Monopole
Receiver Sites:	Station 96 Roof Top
	Station 97 Roof Top
	Station 98 40 foot Tower
	Station 94 Roof Top
	Station 93 Roof Top

The current VHF/UHF system shares the same facilities and infrastructure with the Fire Department's VHF system.

An evaluation was conducted on the current performance of the system and indicated the system had reached the maximum capacity it was designed to serve. Additionally, simply placing additional receivers in the field to increase the radio coverage is infeasible due to space limitations. Specifically, there was not adequate floor space available in the police department's radio equipment room or on the 100 foot monopole tower to accommodate the needed additional equipment. In addition, any future expansion to the system or radio equipment room would have an impact on the existing air conditioning system, which is unable to accommodate the additional heat load created by the additional electronics.

Staff had researched the feasibility of developing an "interim" communications solution with engineers and the County. The engineers conducted an analysis on the system and the potential of adding or relocating equipment, but determined that the system was not capable of expanding to accommodate the new growth. The City and County began discussing the options available to expand the coverage for both entities.



III. THE NEED FOR A NEW RADIO TOWER

The City's existing Citywide Public Safety Master Plan ("Master Plan") (Resolution No. 2013-56), adopted on April 16, 2013, details and discloses the above-described need for new emergency radio communications facilities. Specifically, the Master Plan identified the need for a radio communications tower and appurtenances ("Radio Tower") to serve new development. The Master Plan points out that, as the topography of new development areas change with the addition of buildings and population, there would be an additional need for emergency radio coverage in these areas. The Master Plan also anticipated that, without the Radio Tower, critical contact between emergency field units and the communications center would be impacted by new development.

As the City of Tracy expands with the developments to the east and west of Corral Hollow Road, staff had determined that the current communications system would not adequately cover the new geographical area. As topography of these new development areas changes with the addition of buildings and increased population, the radio coverage in these areas would be critically diminished, undermining public health and safety for both future residents and the emergency service responders such as Police, Fire and medical personnel, providing emergency services to those areas. Without the Radio Tower, critical contact between field units and the communications center would be adversely impacted by the new development.

Staff analyzed the options available to provide coverage to the new areas proposed for future development. The studies indicated the best option was to build a 2 Site Simulcast System. This option would expand the coverage area of the system through the addition of the new Radio Tower.

- The proposed 2 Site Simulcast System would have several advantages over the existing system. It would deliver a consistently stronger signal to system receivers throughout the system and the coverage area, and eliminate existing "dead spots" in the current system.
- It would also improve building penetration of the signal to portable (on-hip) radios used by emergency service providers. And the Radio Tower proposal is a more cost effective method of achieving these advantages, as compared to incremental improvements to the system.

Preliminary studies indicated that a 180-ft tower, built as a three leg structural steel self-supported radio communications tower with a 30-ft x 10-ft equipment communications shelter with utility connections, fencing, and a 70-ft foundation pad, would meet or exceed the standards established in the San Joaquin County Radio Master Plan and the City's Master Plan.

As part of the Master Plan, estimates were provided for the cost of a radio communications tower and equipment at \$2.8 million. This project includes but was not limited to a 180-ft tower, 30-ft x 10-ft equipment shelter with connections, fencing, and a 70-ft x 34-ft foundation pad, microwave, conventional simulcast system. 2 -sites, and 2- channels.



IV. RECOMMENDATION

To ensure the health and safety of both the residents and users of the new development areas and the emergency personnel providing emergency services to those areas, staff recommended that all new development projects contribute their fair share towards the Radio Tower.

VI. THE TOWER

The City of Tracy and San Joaquin County have a Joint Use Agreement that was updated in September 2014. The original agreement was adopted in 2005 in an effort to provide radio communications services throughout the San Joaquin Operational Area. As part of the plan, there were goals set forth in the Master Radio Communications Plan to establish a county wide public safety digital simulcast infrastructure to serve as a building block for inter-operability. This infrastructure allows public safety agencies to have emergency communications in disaster situations, and daily tactical activities to communicate on a single county wide inter-operability channel.

The County had been researching and evaluating various sites to expand their coverage into Tracy. Discussions were initiated to collaborate with the City and County to maximize the limited resources and identify a location that would meet the goals of the communications plan. Several locations throughout the City were evaluated to determine the optimal location. It was agreed and coverage tests confirmed that the City owned property on West Schulte Road was the best location suited for the tower.

In September 2014, the City and County entered into a Land Lease and Use Agreement to construct the 180' communications tower and install the required equipment to expand the radio coverage in the area of new development.

The police department had expressed their support to identify a solution and not hold up the process while a plan was developed to address the communications concerns and identifying how the tower would be funded.

The Tower has outpaced the development due to the extensive staff work that has been done and the partnership with the County.

VII. MILESTONES

The City Council approved the funding and agreements for the Tower in September 2014. The funding strategy of the Tower was comprised of several sources to include grant funding secured by the County through the Department of Homeland Security, City of Tracy and approved developers.

The design of the Tower and related equipment was purchased from Motorola Incorporated in December 2014. In March, the completion of the installation of the mobile and portable radios was completed for the patrol fleet. The mobile radios in the patrol cars are a



dual band UHF/VHF and capable of communicating with Tracy Fire. There will also be portable radios for the Command Staff to provide inter-operability with Tracy Fire and other VHF Agencies. This was not feasible before on the older technology. The radio consoles and infrastructure have been ordered and received. The projected install time will be in June or July 2015.

Due to the lack of space in the existing radio room for the new equipment staff has been repurposing a storage closet to serve as the annex radio room. This required work to retrofit the room to meet the updated fire code standards of replacing wet sprinklers with a dry suppression system and adding an air conditioning unit to maintain the controlled temperature. The projected completion date of the retrofitting is June 2015.

The site preparation work is underway with the development of an access roadway to the site. The County has put the bid out for the construction of the tower. The projected timeline to build the tower is August 2015.

VIII. Conclusion

The Radio Communications Tower is an accomplishment of a collaborative partnership between the Developers, City of Tracy and San Joaquin County. This project was shifted to a priority by the impacts of new development. In an effort to remove barriers and exercise flexibility and take innovative measures the City and County partnered to accomplish a significant task in a compressed time. This partnership has provided an opportunity for the City and County to maximize their limited resources in addressing the critical communications needs of the future users of Police, Fire, EMS and Public Works.



AGENDA ITEM 4

REQUEST

RECEIVE STATUS REPORT ON THE (1) JOE WILSON POOL RECONSTRUCTION SCHEDULE AND (2) CITY'S SUMMER AQUATICS PROGRAMMING USING THE WEST HIGH SCHOOL POOL

EXECUTIVE SUMMARY

The purpose of this staff report is to provide Council with an update on the (1) Joe Wilson Pool reconstruction schedule and (2) the City's summer aquatics programming using the West High School pool.

DISCUSSION

Over the course of the last two years, the City pursued a total aquatics solution that included three strategies to address the City's Aquatics needs. These strategies included modifying the Pinkie Phillips Aquatics Center (West High Pool), seeking a private public partnership, and reconstructing Joe Wilson Pool.

On November 5, 2014, after receiving an update from staff, the pursuit of a private/public partnership with Wild Rivers ceased due to lack of interest from Wild Rivers at this time. Additionally Council directed staff to continue its discussions with the Tracy Unified School District (TUSD) on the use of Pinkie Phillips Aquatics Center given the TUSD Board of Trustees' decision to terminate its joint use agreement with the City. The City and TUSD have been developing a transition plan for the 2015 aquatic programming season. An update was also given on the design process for the reconstruction of the Joe Wilson pool, including public input from community workshops.

The following sections of this report provide an update on the status of the Joe Wilson Pool Reconstruction project and anticipated timeline in addition to an update on the City's Summer 2015 aquatics programming at the West High School pool.

Update on Joe Wilson Pool Reconstruction:

On November 18th, 2014, Council received a presentation on the design for the Joe Wilson Pool reconstruction. The design presented was the result of two public workshops soliciting feedback and input. The design presentation also included suggestions from the Parks and Community Services Commission that would alter the design of the pool. Council approved the design and asked that some of the Parks Commission's suggested design changes be incorporated into the design and that others be put in as bid additives. Additionally, since that time the consultant and staff conducted an inspection of the plumbing in the building which confirmed that it is in need of replacement. This inspection then required additional changes to the design which has impacted the schedule. This 4 month extension to the schedule does not impact the programming schedule, given that the pool use programming is not scheduled to begin until May, 2016. Additionally, this revised timeline outlined below

could result in lower bid amounts for construction, and defray in maintenance costs until the pool is open for public use. The new timeline for the completion of the pool is as follows:

DATE	MILESTONE	STATUS
10/02/14	Collect Site Survey information	Completed
10/07/14	Preliminary Design meeting with staff	Completed
10/22/14	1 st Public Workshop to receive input on preliminary design	Completed
11/06/14	2 nd Public Workshop @ Parks Commission	Completed
11/18/14	Design presented to City Council	Completed
05/04/15	Invitation for Bids (IFB) Released	Scheduled
06/16/15	Bid Opening	Scheduled
07/7/15	Award Contract	Scheduled
07/20/15	Begin Construction	Scheduled
March 2016	Construction Complete	Scheduled
May 2016	Grand Opening	Scheduled

Update on City's Summer 2015 Aquatics Programming at Pinkie Phillips Aquatics Center (West High Pool):

The City and TUSD representatives have negotiated a transition plan to ensure the planned programs and classes scheduled for summer 2015 continue with minimal impact to the community. TUSD discussed two key transition points during the evaluation for the use of the Pinkie Phillips Aquatics Center in 2015. These included (1) balancing the use needs of the various stakeholders (i.e. Kimball High aquatics programming needs, City programming via the YMCA's contract, Swim Team needs, and other renters) and (2) completing a Facility Fee Assessment to evaluate current rates. Staff previously anticipated that, at current rates, it will cost approximately \$24,420 to rent the pool for the summer which will require no additional general fund allocation. However, on March 24, 2015 at their regular board meeting, TUSD discussed the proposed fee increase which the board will continue to review and potentially approve the fees at the April 28, 2015 meeting. Based on the proposed increase the anticipated new cost is approximately \$36,000. The new proposed fee also includes additionally rental hours for staff development training in June and an increase in rental hours to allow staff to prepare before the start of programming and offer an additional hour of swim lessons. The additional increase in rental fees include, \$39.23 per hour (an increase of \$3.21 per hour without lights) for daily operational use, a daily custodial fee of \$66.58 (which was not calculated in the original estimation) and a new daily maintenance fee of \$73.92 per day for use of the Pinkie Philips Pool. The City will be using the budgeted \$49,000 previously allocated for annual maintenance and operations in the previous MOU with TUSD and re-allocating it to rent the West High Pool for the summer of 2015 to continue the various classes and recreation swim. The increase in rental fees will not impact the general fund.

On January 29, 2015, the City and TUSD representatives met to discuss various community and City programmatic needs and interest in renting West High pool at the current TUSD hourly rental rate. The rental would cover approximately 690 hours for

2015 summer swim programming to ensure a smooth transition while the Joe Wilson pool is reconstructed. The proposed programming hours include the following days and times:

- Staff Development Training: June 1 to 5, 2015
- Programming run June 6 to August 7, 2015 (includes Classes & Rec Swim)
- Additional Rec Swim (Weekends Only):
 - August 8 & 9
 - August 15 & 16
 - August 22 & 23
 - August 29 & 30

The City will continue to contract with the YMCA for Summer 2015 to offer classes and recreational swim. The City will have access to the West High Pool to offer aquatics programming from 7:30am to 10am and 12pm to 8:30pm. Per the rental agreement with TUSD, West High Swim team will utilize the West High pool from 10am to 12pm. Staff has been strategic to utilize the times available to continue to offer the same amount of classes with little impact to the community.

Acceptance of 16 Acres of Land from the Surland Communities:

Per the Amended and Restated Development Agreement between the City and Surland Communities, LLC, the City has until September 15, 2015 to accept Surland's land dedication offer of 16 acres. City staff will schedule a future agenda item to discuss details regarding the land dedication offer and acceptance.

STRATEGIC PLAN

This agenda item supports the Economic Development Strategic Plan goal of attracting retail and entertainment uses that offer resident's quality dining, shopping, and entertainment experiences, and specifically implements the following Action/Task:

Action/Task: 2.b.2: Outreach to developers and/or operators to determine if a market exists for the private development and operation of a regional waterpark in Tracy.

FISCAL IMPACT

There is no fiscal impact in receiving this status update.

RECOMMENDATION

Staff recommends City Council receive the status report on the (1) Joe Wilson Pool reconstruction schedule and (2) the City's summer aquatics programming using the West High School pool.

Agenda Item 4
April 21, 2015
Page 4

Prepared by: Bill Dean, Development Services Assistant Director
Andrew Malik, Development Services Director
Jolene Jauregui-Correll, Recreation Supervisor
Ed Lovell, Management Analyst II

Reviewed by: David Ferguson, Director of Public Works
Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager

AGENDA ITEM 6.A

REQUEST

DISCUSS AND PROVIDE DIRECTION ON THE FORMATION AND PURPOSE OF A TWO MEMBER COUNCIL SUBCOMMITTEE ASSOCIATED WITH THE CONSTRUCTION OF LEGACY FIELDS

EXECUTIVE SUMMARY

Per the council policies, two members of the city council may place an item on the agenda. This agenda item requests that Council contemplate the formation of a Council subcommittee to work with staff and representatives of various nonprofit organizations on the development of legacy fields. If Council determines a Council subcommittee will be formed, staff requests that Council discuss and finalize the parameters of the subcommittee.

DISCUSSION

The current City Policy related to placing agenda items on the Council agenda when Councilmembers requests matters are discussed by Council states partly that:

“Council Members wishing to have a matter discussed by the City Council may request that it be placed on a future City Council agenda during a Council meeting, under “Council Items,” or by contacting the City Manager, or his/her designee, via telephone, email, or in person. Upon the request of a Council Member, the item will be placed on a future City Council agenda as long as one other Council Member concurs with the request. 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.”

Council member Vargas and Mayor Pro Tem Rickman requested that the City Manager add an item on the agenda to discuss the formation of a Council subcommittee to work on the development of legacy fields.

If the Council elects to form a Council subcommittee, it is recommended that the subcommittee be limited to the roles identified by the Council, exist only for a duration of time to effectively carry out its responsibilities, and that the Council subcommittee sunset upon completion of its scope.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no fiscal impact with this agenda item.

RECOMMENDATION

That the City Council discuss and provide direction on the formation and purpose of a two member Council subcommittee associated with the construction of legacy fields.

Prepared by: Maria A. Hurtado, Assistant City Manager

Reviewed by: Andrew Malik, Acting Assistant City Manager

Approved by: Troy Brown, City Manager